

There should be recognition and protection of the privacy of children's identity and freedom for them to narrate their own online identity.

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Declaration of Originality

I, Sheila Donovan, certify that all of the work described within this thesis is the original work of the author. Any published (or unpublished) ideas and/or techniques from the work of others are fully acknowledged in accordance with the standard referencing practices.

Signed: 

Date: 30/09/2022

Abstract

Sharenting is a compound word derived from the words ‘parent’ and ‘sharing’ and, is defined as ‘the online posting of a child’s images and private details by parents with or without the child’s consent’.¹ Parents share stories and images which may include that of their unborn child’s first ultrasound scan. Parents who share their children’s images may do so with the view that their children are extensions of themselves.² While some parents may have privacy concerns, many of those sharing their children’s photographs are struggling to understand the complexities of laws, rights, and the technology issues that relate to social media sites. This increased social media engagement can potentially expose children who are the subject of sharenting to identity compromise and theft, privacy erosion, autonomy denial, datafication, dataveillance and the right to self-determine and craft their own identity narrative.

The General Data Protection Regulation, 2016 (GDPR) focuses specifically on the safe supervision of adolescents’ online engagement and protection against unauthorised processing of their data by business enterprises.³ The GDPR places the responsibility for consent to the processing of the data of children under the age of 16 years (in Ireland) into the hands of their parents. It fails, however, to address the online safety and privacy of minor children who are the subject of sharenting. Recital 18 of the GDPR exempts the online sharing of household and personal activities from its constraints and protective measures with regard to the processing of minors’ personal data. Minor children, in contrast, are presumed to have their safety and privacy vested solely in the safe hands of their parents. This means that the

¹ Stacey B. Steinberg, ‘Sharenting: Children’s Privacy in the Age of Social Media’ (2016–2017) 66 *Emory Law Journal* 839.

² Russell W. Belk, ‘Possessions and the Extended Self’ (1988) 15 *The Journal of Consumer Research* 139.

³ ‘General Data Protection Regulation (GDPR)’ (*General Data Protection Regulation (GDPR)*, 2016) <<https://gdpr-info.eu/>> accessed 5 January 2022.

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safeguarding of the private data of minor children who are the subjects of sharenting is at the discretion of parents without any external oversight. This unfettered discretion may be a matter of concern in cases where parents do not engage with security measures when sharing online.

In recognition of the prevalence and potential ramifications associated with sharenting, this study examines the practice of sharenting with a view to exploring the belief that “There should be recognition and protection of the privacy of children’s identity and freedom for them to narrate their own online identity.” This investigation addresses questions regarding parents’ understanding of the concept of privacy, engagement with social media privacy measures, the relevance of consent, and views as to where the responsibility for the safeguarding of the privacy of their child’s identity lay. It also looks at how sharenting has impacted the online engagement of young adults, how they view privacy and consent and how they regard the right of the child to a blank digital canvas. In an attempt to answer such questions, empirical research was undertaken to gather information on the prevalence, nature and frequency of sharenting and awareness of the potential ramifications of sharenting.

This investigation looks at the best interests of minors, the evolving capacities of the child and the capabilities approach as a theoretical framework, in addition to the level of parental compliance with consent. Young adults’s views are included because having been subjected to sharenting, their input is significant. Furthermore, their participation embraces the spirit of Article 12 of the Convention on the Rights of the Child, which upholds the right of the child to have their voice heard (younger children were unavailable due to covid-19 health and safety restrictions).

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Data gathered from this body of research revealed that parents believe that the privacy of minors' identity is a horizon issue which assumes importance only when children reach their teenage years. There is little or no engagement with consent, even when children are capable of consent. While parents recognise that there are dangers associated with sharenting, the level of knowledge regarding the potential ramifications of sharenting is limited. Their concern with regard to the ramifications of sharenting does not always translate into active engagement with privacy measures. Young adults acknowledge and accept the failure of their parents to engage with consent and privacy measures. They tolerate parents' low-level engagement with privacy measures, although they fear the possible ramifications of sharenting. Despite their tolerance with their parents' failure to safeguard their privacy as minors, young adults firmly believe that children should be entitled to the right to craft their own online narrative. Young adults are resolute in their conviction never to share the private information of their children, in the event of themselves becoming parents.

In light of the evidence uncovered during this investigation, it is established that there is a need to pinpoint a proactive trajectory towards the adoption of measures that will safeguard the privacy of children's identity and the need for self-determination of minor children whose images are being shared on the worldwide web by their parents. This body of research is welcomed by parents and minors as it raises awareness, opens a discussion and provides evidence-based guidance on how best to promote the adoption of proactive measures that embrace the rights of both parties by establishing a demarcation line between the parents' right to freedom of expression and the right of the child to the privacy of their identity and self-determination. The evidence extrapolated from the collected data provides an evidential base upon which to build future policy and protection measures designed to safeguard the privacy of the identity and self-determination of minor

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children. It is not, however, the intention that these findings should curtail the freedom and rights of parents or the holders of parental authority. It is however designed to encourage all parties to take ownership and to buy into the concept of proactive safe digital engagement and recognition of the right of a child to protection of the privacy of their identity and self-determination. In full recognition of the continuing positive role of online engagement in everyday life, this thesis aims to address the need for securing the privacy and protecting the identity of children who are the subject of sharenting. The contention of this thesis is that sharenting and the protection of the privacy of one's identity need not be mutually exclusive.

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I would like to thank my family Tadhg, Tadhg Óg and Áine for their support and encouragement. I would like to dedicate the thesis to the memory of my late parents Denis & Annie O'Donovan.

List of Abbreviations

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ECHR European Convention for the Protection of Human Rights and Fundamental Freedoms

ECtHR European Court of Human Rights

ICCPR International Covenant on Civil and Political Rights

ICESCR International Covenant on Economic, Social and Cultural Rights

UDHR Universal Declaration of Human Rights

GDPR General Data Protection Regulation

UNCRC United Nations Convention on the Rights of the Child

Table of Statutes

Ireland

Constitution of Ireland 1937

Data Protection 1988

Communications (Retention of Data) Act 2011

Data Protection Act 2018

Communications (Retention of Data) (Amendment) Act 2022

Online Safety and Media Regulation Bill 2022

France

French Privacy Act No 70-643 1970 (No 70-643)

Act n°78-17 of 6 January 1978 on Data Processing, Data Files and Individual Liberties 1978

Article 1382 - Civil Code, Now Article 1240 2016

Article 1382 (nouveau 1240) du Code Civil (2017)

LOI n° 2020-1266 du 19 octobre 2020 visant à encadrer l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne (1) 2020 (2020-1266)

Europe

Digital Services Act: Council and European Parliament provisional agreement for making the internet a safer space for European citizens (2022)

EUR-Lex - 32018L1808 - EN - EUR-Lex Audiovisual Media Services Directive 2018

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Murphy v IRTC [1999] [1999] 1 IR 120, [1998] 2 ILRM 360

Europe

Ahmet Yildirim v Turkey [2012] Application No 3111/10

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Dynamic Medien Vertriebs GmbH v Avides Media AG [2006] Case C-244/06

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‘European Convention on Human Rights’ (2003) <<https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c>> accessed 25 July 2022

‘General Data Protection Regulation (GDPR)’ (*General Data Protection Regulation (GDPR)*, 2016) <<https://gdpr-info.eu/>> accessed 5 January 2022

‘Universal Declaration of Human Rights’ (*OHCHR*, 1948) <<https://www.ohchr.org/en/universal-declaration-of-human-rights>> accessed 22 August 2022

‘Convention on the Rights of the Child’ (*OHCHR*, 1989) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 20 July 2022

General Comments of the United Nations

General Comment No. 7 (2005): ‘Implementing Child Rights in Early Childhood’ (*Refworld*, 2005) <<https://www.refworld.org/docid/460bc5a62.html>> accessed 29 August 2022

General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para. 1) (2013) <https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf> CRC/C/GC, ‘General Comment No. 25 (2021) Children’s Rights in Relation to the Digital Environment Glossary’ (2021)

‘General Comment No. 25 (2021) on Children’s Rights in Relation to the Digital Environment’ (2021) <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>> accessed 28 August 2022

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[ohchr.org/Treaties/CRC/Shared%20Documents/1_Global/INT_CRC_INF_9314_E.pdf](https://www.ohchr.org/Treaties/CRC/Shared%20Documents/1_Global/INT_CRC_INF_9314_E.pdf)

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Introduction

The coming together of online sharing and parenting has become a common practice in today's society. Sharenting is a compound word derived from the words 'parent' and 'sharing' and, is defined as 'the online posting of a child's images and private details by parents with or without the child's consent'.¹ The practice of Sharenting is widespread and is used by parents for a number of reasons, not least, as a means of self-validation. It may represent ephemeral moments of pleasure for parents, but, children, as a result of sharenting gain a permanent online presence and may subsequently be subjected to potential and serious ramifications. Sharenting has the potential to create much tension within the family dynamic as the parents' right to the freedom of expression can compromise the child's right to the privacy of their identity and to craft their own identity narrative in the public arena. While sharenting represents a means of familial and social communication for parents, it also represents an unwarranted intrusion into the identity of minors. The ramifications, however, may be extensive, not least, in the denial of the child's right to self-determination but also their ability to craft their own identity in the public domain. Given the fluid and rapid evolving nature of technology, there is, in addition, the potential threat of dataveillance and data mining and the exposure of the child to paedophiles, grooming, sextortion and subjection to targeted advertising and marketing.

This research estimates the prevalence of parental online activities, in particular the extent to which parents engage in sharenting. It examines and critically evaluates the extent to which parents are aware of their children's right to privacy and how, if at all, they perceive and obtain consent prior to the online sharing of their children's personal data. In addition, this research

¹ Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' (2017) 66 Emory Law Journal 829.

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provides an insight into young adults' views on sharenting, the issue of consent and their view on the impact of sharenting on the privacy of their identity and online engagement.

Currently, the safeguarding of the private information and online protection of young people is secured by the General Data Protection Regulation, 2016,² the Data Protection Legislation, 2018,³ and potential measures under the forthcoming Online Safety Media Regulation Bill⁴ and Digital Services Act.⁵ These measures offer a suite of protections which will be discussed in chapter three. Noticeably absent from the cover of existing and proposed safeguards, however, are young children whose images are shared online by their parents.

This raises the question as how best to protect the privacy of the identity of three particular groups of minors: those who are incapable of consent by reason of age or understanding, those who are capable of consent, but may not understand the concept fully and, finally, those who are capable of consent and who understand the concept of consent but who are not given the opportunity to consent. It is argued that those who are incapable of consent by reason of age or understanding should be entitled to a blanket ban on the online sharing of their images. It is argued that minors who are capable of consent but may not fully understand the concept should be entitled to an explanation and consultation as to whether or not, they wish to have their images shared and that these images should be shared within a limited friend-group. Finally, it is argued that those who are capable of consent and who fully understand the implications should be invited to consent prior to each individual sharing of their images.

² General Data Protection Regulation 2016.

³ Data Protection Act, 2018.

⁴ Online Safety and Media Regulation Bill 2022.

⁵ Digital Services Act: Council and European Parliament provisional agreement for making the internet a safer space for European citizens 2022.

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These extra layers of protection for minors raise the question as to how one balances the right of the child to privacy with respect to their identity with that of parents' right to freedom of expression. This issue has not been previously addressed. While the awareness regarding the ramifications of sharenting is moderate, the fact remains that the protection of the identity of young children remains unaddressed despite the introduction of numerous legislative measures relating to the safeguarding of online engagement. Not only is their online identity being crafted by someone else but children are, according to Kidron, being used as the 'click bait of Silicon Valley'.⁶ This creates the difficulty as how to extricate the parental right to freedom of expression from the child's right to the privacy of their identity and self-determination.

This investigation is designed to contribute to the body of knowledge in a number of ways. It is the first empirical evidence-based research (apart from a brief consideration of sharenting in a larger investigation into online engagement by families)⁷ into sharenting in this jurisdiction. Secondly, it provides evidence to broaden the current debate on online safety to include that of sharenting. Thirdly, it investigates the role of consent as being central to sharenting (apart from children who are incapable of consent by reason of age or understanding) and this opens the debate on the right of the child to self-determination. Fourthly, it opens discussion on the merit of introducing a legal right to a blank digital canvas for children who are incapable of consent by reason of age or understanding. Finally, the decision to ascertain the views of young adults gives a voice to those who are best placed to air their views about sharenting.

⁶ Baroness Beeban Kidron, 'Are Children More than the "clickbait" in the 21st Century?' (2018) 23 Communications Law 25.

⁷ National Advisory Council, 'Report of a National Survey of Children, Their Parents and Adults Regarding Online Safety' (2021) <<https://www.gov.ie/en/publication/1f19b-report-of-a-national-survey-of-children-their-parents-and-adults-regarding-online-safety/>> accessed 15 February 2023.

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Currently, parents are free to share images related to personal and household activities and they are entitled to do so, because as citizens, they enjoy the right to freedom of expression under the Constitution of Ireland. In addition, Recital 18 of the GDPR, as previously mentioned exempts online engagement that relates to personal and household activities from the regulatory guidelines laid down by the GDPR in relation to the processing of children's data. However, the reality is that children's images and personal data are being shared, with and without their consent, on the most public of fora.

Much of the difficulty relating to the child's right to private identity and self-determination is based on the debate as to whether children are citizens or citizens in preparation.⁸ The recognition of rights for children is focused on society's view on their level of competency. The right to privacy and protection of one's identity and providing children with the freedom to craft their own identity is closely aligned with concepts such as: childhood, identity, privacy, autonomy and self-determination.

Human rights are a form of empowerment and are age generic. They are universal, applying to adults and children. Human rights enable individuals to achieve total fulfilment. Arguably, the word 'right' is difficult to define, but rights are important as an 'advocacy tool' and entitle rights bearers to seek appropriate remedies.⁹ This research seeks to establish an evidential base to broaden the current online safety debate to support the establishment of an active online code of practice that embraces and promotes the child's right to craft their own online identity.

⁸ Marc Jans, 'Children as Citizens: Towards a Contemporary Notion of Child Participation' (2004) 11 *Childhood* 27.

⁹ Michael Freeman, 'Why It Remains Important to Take Children's Rights Seriously' (2007) 15 *The International Journal of Children's Rights* 5.p.8

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This research provides empirical evidence to inform the adoption of a policy and practice that respects the child's right to a private identity and freedom of expression in a society which is dominated by an open access approach to private data. This work adds to the existing body of children's rights, in that, it addresses specifically the rights of minors who have not yet reached the age of consent or that level of understanding at which they can distinguish between the benefits and shortcomings of sharenting. It emphasises the importance of children's human rights, while being cognisant of their evolving capacity and within that their understanding of consent. While there has been some research done elsewhere on the rights of minor children who have been the subjects of sharenting,¹⁰ there has been no known

¹⁰ Ulla Autenrieth, "Family Photography in a Networked Age" in *Digital Parenting: The Challenges for Families in the Digital Age*, *Digital Parenting. The Challenges for Families in the Digital Age* (Goteborg: Nordicom 2018); Merike Lipu and Andra Siibak, "Take It down!": Estonian Parents' and Pre-Teens' Opinions and Experiences with Sharenting' (2019) 170 *Media International Australia* 57; Alicia Blum-Ross and Sonia Livingstone, "Sharenting," Parent Blogging, and the Boundaries of the Digital Self" (2017) 15 *Popular Communication* 110; Anna Sarkadi and others, 'Children Want Parents to Ask for Permission before "Sharenting"' (2020) 56 *Journal of Paediatrics and Child Health* 981; Giovanna Mascheroni, 'Datafied Childhoods: Contextualising Datafication in Everyday Life' (2018) 68 *Current Sociology* 1; Raluca A Briazu, Caroline Floccia and Yaniv Hanoch, 'Facebook Sharenting in Mothers of Young Children: The Risks Are Worth It but Only for Some' (2021) 2 <<https://tmb.apaopen.org/pub/ts5xzfnd/release/1>> accessed 22 April 2022; Catherine Archer and Kai-Ti Kao, 'Mother, Baby and Facebook Makes Three: Does Social Media Provide Social Support for New Mothers?' (2018) 168 *Media International Australia* 122; Carol Moser, Tianying Chen and Sarita Y Schoenebeck, 'Parents' and Children's Preferences about Parents Sharing about Children on Social Media', *Proceedings of the 2017 CHI Conference on Human Factors in Computing Systems* (2017) <<https://dl.acm.org/doi/10.1145/3025453.3025587>> accessed 1 July 2021; Clare Madge and Henrietta O'Connor, 'Parenting Gone Wired: Empowerment of New Mothers on the Internet?' (2006) 7 *Social & Cultural Geography* 199; Leah Plunkett, *Sharenthood* (Massachusetts Institute of Technology 2019); Claire Bessant, 'Sharenting: Balancing the Conflicting Rights of Parents and Children' (2018) 23 *Communications Law* 7; Amina Wagner and Lisa Alina Gasche, 'Sharenting: Making Decisions about Other's Privacy on Social Networking Sites' (2018) *Publications of Darmstadt Technical University, Institute for Business Studies (BWL)*; Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' 66 *Emory Law Journal* 839; Gaëlle Ouvrein and Karen Verswijvel, 'Sharenting: Parental Adoration or Public Humiliation? A Focus Group Study on Adolescents' Experiences with Sharenting against the Background of Their Own Impression Management' (2019) 99 *Children and youth services review* 319.

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research (apart from a brief report) ¹¹ carried out in this jurisdiction, a jurisdiction where the family has such a deep rooted and solid constitutional underpinning. It is argued that there should, thus, be recognition and protection of the privacy of children's identity and freedom for them to narrate their own online identity.

Research question(s):

The overarching research question examines: What is the prevalence of Sharenting in this jurisdiction and is there an understanding of the consequences? To answer this, a number of sub-questions need to be addressed: How prevalent is the practice of Sharenting? Are parents aware of and engaged with privacy measures and consent? How do parents interpret privacy and how do they view their child's perspective on privacy? Where do parents believe that the responsibility for the safeguarding of online privacy lies?

To fully examine the prevalence and impact of sharenting additional questions were posed to a sample of young adults, who as minors may have had their personal data shared on the worldwide web by their parents. These questions included: How do young adults view privacy and consent? Do they believe that children should be entitled to create their own online narrative? Should children be entitled to inherit a blank digital canvas? How has the parental sharenting impacted young adults' own online engagement?

Definition of key Terms:

Facebook and Meta are interchangeable, as Facebook has been rebranded as Meta in October 2021, late last year.

¹¹ National Advisory Council (n 7).

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A blank digital canvas is understood to mean a non-presence on social media platforms.

The crafting of a digital presence is understood to mean the creation of a social media account and the posting of information of one's choice.

Child is defined under the United Nations Convention on the Rights as anyone under the age of 18,¹² the General Data Protection Regulation refers to a child as someone under the age of sixteen, which is the age decided as being the age of digital competency in this jurisdiction.¹³

Cyber-aggression refers to acts of harm by individuals or groups, online or through the use of digital technology, often with the intention of causing offence or hurt.¹⁴

Dark patterns are defined as elements of a manipulative interface designed to persuade the user into taking actions that they might not have done freely.¹⁵

Digital literacy is the ability to use information and communication technologies to find, evaluate, create, and communicate.¹⁶

Data minimisation is the process of collecting the minimal amount of relevant personal data necessary to the purpose for which it is being

¹² Convention on the Rights of the Child 1989.

¹³ General Data Protection Regulation.

¹⁴ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (*OHCHR*) <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>> accessed 30 September 2022.

¹⁵ Digital Services Act.

¹⁶ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

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processed, and retaining that data only so far as it is necessary to the purpose.¹⁷

Disinformation is the knowingly sharing of false information whereas misinformation refers to the sharing of false information without any ill intent.¹⁸

Identity theft refers to the fraudulent impersonation of another individual to access their online contacts or data.¹⁹

Privacy-by-design is the practice of designing online services to protect users' privacy as much as possible. This includes the setting the accounts of underage users to be private-by-default or by minimising the amount of data collected.²⁰

Processor means an individual who, or a legal person, public authority, agency or other body that, processes personal data on behalf of a controller.²¹

Profiling means any form of automated processing of personal data consisting of the use of the data to evaluate certain personal aspects relating to an individual, including to analyse or predict aspects concerning the individual's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements.²²

¹⁷ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

¹⁸ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

¹⁹ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

²⁰ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

²¹ Data Protection Act, 2018.

²² Data Protection Act, 2018.

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Safety-by-design is the design of online services such as the setting of accounts of underage users or by preventing adults from contacting underage users.²³

Targeted advertising is the targeting of users based on data collected about them.²⁴

Outline of Thesis

Chapter One sets out the theoretical framework underpinning the research. It examines theories related to the privacy of identity and self-determination, it considers human rights and in particular their significance for children as rights bearers. It examines childhood and the role of the family in childhood. It looks at the concept of identity, privacy, in particular that of the right to maintain the privacy of one's identity, establishing the most significant threats to identity. It examines key concepts such as: autonomy, agency and self-determination and the role of consent in the safeguarding of one's private identity. Of the theories considered, Nussbaum's capability approach was chosen as the theoretical framework deemed most appropriate to support the child's right to the privacy of their identity.²⁵

Chapter Two reviews existing literature on the extent of sharenting, contextualisation of sharenting, the reasons underlying sharenting and the ramifications of sharenting, identifying the failure to recognise the child's right to the privacy of their online identity and their inability to consent to matters that impact on them. It examines views on the manner in which sharenting impacts on the identity, privacy, autonomy, agency, freedom of expression and self-determination of the child.

²³ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

²⁴ 'OHCHR | General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 14).

²⁵ Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Belknap Press of Harvard University Press 2013).

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Chapter three considers the current data protection measures that have been introduced by the General Data Protection Regulation, 2016 and the Data Protection Act 2018. It reflects on the recommendations advocated by General Comment No. 25 of the UN Committee on the Rights of the Child to safeguard minors and questions the need to introduce a legal right to a blank digital canvas for children who are incapable of consent by reason of age or understanding.

It observes the French approach (while cognisant that France, unlike Ireland, is a Civil Law Jurisdiction) as an example of international best practice with regard to examining measures undertaken by France to safeguard minors' private identity in the online arena. It considers the manner in which the European Court of Human Rights addresses the issue of identity. It reflects on how France encourages parents to take ownership of the protection of their minors' identity by acting responsibly in their role as custodians and gatekeepers of their children's private identity.

Chapter four outlines the methodological approach which encompasses a doctrinal and empirical approach. The doctrinal approach examines the legal principles, conventions, regulations, primary and secondary legislation and judicial decisions. The empirical approach adopts a mixed methods approach (quantitative and qualitative), thereby, allowing the researcher to tackle a more complete range of research questions. In addition, the strength of one method of research counteracts the weaknesses in the other method and incorporates the concept of complementarity.

Questionnaires were used to determine the level of engagement with social media, the extent of sharenting in Irish society and the content shared and, in turn, shaped the focus of the questions posed in the interviews. Themes were derived using a thematic analysis approach. To add balance to the investigation, the voices of the young adults who have been the subjects of

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sharenting were also heard through semi-structured interviews. The challenges accompanying the transition of the interviews from offline to online were outlined. The efforts made to minimise potential biases were identified. Finally, the limitations of the current research were acknowledged.

Chapter five outlines the key findings that emerge from the quantitative and qualitative research methods. The quantitative findings give an outline of the level of online engagement by parents. The qualitative findings address issues pertaining to the concept of privacy as understood by parents and young adults along with issue of the child's consent. The findings that emerge from the young adults' questionnaires and interviews are examined with a view to answering the research questions.

Chapter six interprets the findings and the implications of these findings for the private identity and self-determination of minors. The interpretation and implications of the findings are followed with recommendations on how best for parents to share in a manner that fully embraces the child's right to the privacy of their identity and self-determination. In identifying the limitations of this research, the conclusion highlights areas for further research.

Chapter seven concludes this body of research. It synthesises the results and identifies key findings and emerging themes. It outlines the contribution of this body of research to knowledge on the topic of sharenting.

Chapter 1 Core Concepts and Theoretical Framework

“The test of the morality of a society is what it does for its children.”

(D. Bonhoeffer)

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In exploring the contention that “There should be recognition and protection of the privacy of the child’s identity and freedom for them to narrate their own online identity,” this thesis focuses on key concepts such as; identity and the role of privacy in the advancement and protection of an individual’s identity. It considers the importance of prior consent when breaches of privacy occur in the name of freedom of expression. It looks at how the creation of a public narrative by parents might impact on the child’s identity, self-determination, autonomy and agency. Secondly, in recognition of the existence of human rights and the right of the child to an active enjoyment of the same rights as adults, this investigation considers childhood, the child as a rights-bearer and, the child as a dependent and a member within the family. This is followed by consideration of the best interests and the evolving capacities of the child. It concludes with an evaluation of the ‘capabilities approach’ and adopts this approach as the theoretical framework upon which to examine the research questions posed in this thesis. Implicit in this research is the understanding that children have an unenumerated right (which flows from Article 40.3) to privacy,¹ while seeking to balance this with parents’ constitutional right to freedom of

¹*Mc Gee v AG* [1971] [1971 No 2314 P].

expression under article 40.6.1(i) in the Irish constitution.² There is also recognition of the degree to which the lives of children and parents are intermingled, particularly, in view of the special recognition given to the family unit in the Irish Constitution, and the difficulties of extricating the right of one member from the right of another without compromising the rights of either party.

Section 1 Identity and Privacy

1.1 Significance and Essence of Identity

The definition of identity is somewhat difficult as identity is a broad and somewhat vague concept that can be subjective and context specific. It is the right to be different, that is, the right to be unique and therefore, can depend on how individuals define who they are. Evidently, therefore, the concepts that are associated with personal identity are varied. How one defines one's personal identity is closely aligned to the concepts that are important to the individual.³

Identity is that which distinguishes us from others. It encompasses the memories, experiences, relationships, and values that create one's sense of self. ⁴ Identity is defined as:

[a] person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers.⁵

²'Constitution of Ireland' (1937) <<https://www.irishstatutebook.ie/eli/cons/en/html>> accessed 21 July 2022.

³James D. Fearon, *What Is Identity?* (Bright Publisher 2020).

⁴*Reklos and Davourlis v Greece* [2009] (Application no 1234/05).

⁵*Reklos and Davourlis v Greece* (n 4).par.40

It is argued that identity is changeable and multidimensional.⁶ Personal identity may be considered as that which distinguishes one individual from all other individuals. Vignoles is of the view that identity is both personal and social and that it is difficult to distinguish between them.⁷ Identity can be broadly defined as characteristics such as appearance, name, character, voice and life history, characteristics that are unique to a particular person and which are recognised and respected by others. Individuals are believed to have multiple identities, all of which are recognisable by the individual's various roles within different contexts.⁸ Personal identity may include personal characteristics such as physical attributes and are believed to range from membership in social categories to beliefs, aims, wishes, moral principles and personal style.⁹

Identity may constitute attributes of which the individual is conscious and that which distinguishes one individual from another. While personal identity consists of information such as biographical data and physical characteristics which begin, arguably, at the moment of conception, it also incorporates factors resulting from the influence of family members, cultures, or religious beliefs. These personal attributes inform one's social identity. Individuals regard personal identity as that aspect of themselves upon which they base their self-esteem. Consequently, identity may be regarded as that which motivates an individual to pursue a particular course of action and may engender deep and powerful emotions. Actions that

⁶Vivian L. Vignoles, 'Identity: Personal and Social', in *Oxford Handbook of Personality and Social Psychology* Editors Kay Deaux & Mark Snyder (2nd edn, Oxford University Press 2018).

⁷Vivian L. Vignoles (n 6).p.289

⁸Blake Ashforth and Scott Johnson, 'Which Hat to Wear? The Relative Salience of Multiple Identities in Organizational Contexts Chapter 3', *Social Identity Processes in Organisational Contexts* (Psychology Press 2001).

⁹James D. Fearon (n 3).

undermine a person's basis for thinking well of themselves may be rejected irrespective of their material consequences.¹⁰

Goffman argues that identity is not a collection of attributes but that it is a dynamic process in which the individual plays an active and central role in creating the identity that he wants to reveal.¹¹ Taylor intimates that individuals define identity as being who they are and all that which is necessary in enabling them to become orienteered and, to having a personal code or moral compass.¹² However, this does not preclude people from including things that do not refer to morality and commitment. Individuals take pride in things that are important to them, and which help to assert their individuality.¹³ Taylor's idea of identity consists of commitments and identifications which provide the benchmark to determine that which is significant and worthy of endorsement.¹⁴ Individuals may view any change to their identity as dramatic and life-changing and may regard their identity as that which is essential to their existence and that which they are powerless to change.

Individuals attribute huge importance to their image. Image forms a significant part of one's identity. As human beings, we exert considerable control over the image that we wish to present to the public. However, this control is not guaranteed and the effort to maintain such control is becoming increasingly difficult.

¹⁰Blake Ashforth and Scott Johnson (n 8).

¹¹Erving Goffman, *The Presentation of Self in Everyday Life*. (Doubleday 1959). P.28

¹²Charles Taylor, *Sources of the Self: The Making of the Modern Identity by Taylor, Charles* (1992).p.30

¹³Charles Taylor (n 12).

¹⁴Charles Taylor (n 12).p.27

1.2 Identity and Independence

Identity is believed to represent a compromise between the needs of the individual and those of society. Individuals' effort to achieve unique identity is the goal of their personal development.¹⁵ Webster supports the philosopher Kierkegaard's view that the individual has self-freedom which can be used to determine the relationship between oneself and one's environment. Webster observes Kierkegaard's claim that personal identity is a "task or a process and not a predetermined condition imposed by others."¹⁶ One's identity develops as one adapts to one's environment, identity does not change but it responds to changes in society.¹⁷

Taylor argues that identity is based on one's relationship within a particular community in which there are particular frameworks of reference. One uses the framework which best meets one's requirements.¹⁸ However, individuals may find it difficult to decide on those aspects which are most relevant to them. A second difficulty is to accept the idea that individuals lack choice over that which they wish to disclose. The defining of the sort of relationships that we are allowed to have with others and the existence of constraints on those relationships may represent a substantial interference with freedom of association and our identity. Irrespective of the influence of one's environment on one's identity, there is an expectation that identity should be free from external influence or at the most, a limited intrusion from external sources.

¹⁵Roy F Baumeister and Mark Muraven, 'Identity as Adaptation to Social, Cultural, and Historical Context' (1996) 19 *Journal of Adolescence* 405.p.413

¹⁶R. Scott Webster, 'Personal Identity: Moving beyond Essence' (2005) 10 *International Journal of Children's Spirituality* 5. p.8

¹⁷ Baumeister and Muraven (n 15). P.405

¹⁸Charles Taylor (n 12).p.27

1.3 External Influences and Transitory Nature of Identity

Identity is a self-constructed concept, based on our personal views, our social background and the image that we are trying to portray, which can vary in different contexts. It also includes that which we value in our effort to keep our sense of self-respect. It can also be influenced by our culture, people around us and it can change over time.¹⁹ Thus, one could argue that personal identity is the social category that is most important to a person's way of life. One develops an identity that works best to one's advantage, but this identity is a compromise between the self and one's culture, it is unique to each individual.²⁰ Ronen distinguishes between the child's need to "become" and the need to "be".²¹ The need to "become" refers to the individual's development and the constant recreation of one's identity, whereas the need to "be" focuses on the individual's need to be true to one's own self and the need for society to appreciate and respect the individual. These two needs can often be in conflict, in that social pressure opposing the individual's authentic identity may change or adapt the individual's identity.²²

Irrespective of the various anomalies associated with the definition of identity, identity reflects the individual and exists prior to birth. Identity develops as the child develops and identity should be viewed through a broad perspective that respects fully the evolving capacity and views of the child. This idea of the individual's influence on his/her identity is supported by the belief that young children's identities are in a state of transition, in other words, children experience many different childhood experiences and

¹⁹Vivian L. Vignoles, 'Identity: Personal and Social', *The Oxford Handbook of Personality and Social Psychology* edited by Kay Deaux & Mark Snyder (Oxford University Press 2018).

²⁰Baumeister and Muraven (n 15).p.413

²¹Ya'ir Ronen, 'Redefining the Child's Right to Identity' (2004) 18 *International Journal of Law Policy and the Family* 147.p.150

²²Ronen (n 21).

thereby may construct transitory identities based on their background, gender, and age.²³ These transitions are believed to occur within early childhood settings as children interact with their classmates, teachers and society in general.²⁴ Additionally, young adults on leaving school may discover new social situations which will further impact their ideal identity. Technological innovations are believed to represent further influence over the user's personal information and identity.²⁵

1.4 The Significance of Privacy in the Protection of Identity

1.4.1 Privacy and Identity

Privacy protects one's right to control, disclose, and allows one to decide on the preferred use of one's information.²⁶ In these terms, privacy can only be breached when third parties become acquainted (without permission) with one's private information. There is a tendency to confuse the right to privacy with the right to identity. The protection of privacy becomes more significant when faced with increasing external influences and the possibility of the additional compromise of one's privacy.²⁷ Such a perspective is linked to the rationale of data protection and supports the idea that if one controls the access to one's personal information, then it follows that one, equally, controls that aspect of one's identity that one presents to the public.

²³ Candace Kuby and Margaret Vaughn, 'Young Children's Identities Becoming: Exploring Agency in the Creation of Multimodal Literacies' (2015) 15 *Journal of Early Childhood Literacy* 433.

²⁴ Kuby and Vaughn (n 23), p.436

²⁵ Richard Warner, 'Surveillance and the Self: Privacy, Identity, and Technology' (2005) 54 *Journal of Early Childhood Literacy* 847, p.858

²⁶ Clare Sullivan, 'Digital Identity - From Emergent Legal Concept to New Reality' (2018) 34 *Computer Law & Security Review* 723, pgs.729 & 730

²⁷ Richard Warner and Robert Sloan, 'Self, Privacy, and Power: Is It All Over?' (2014) 17 *Tulane Journal of Technology and Intellectual Property* 62, p.70

Identity incorporates that which distinguishes an individual from others. The right to a private identity is infringed if one individual uses another individual's identity in a manner contrary to the wishes of the former. This may include the use/misuse of some aspect of one's identity or a portrayal of an erroneous image of their personality.²⁸ In recognition of the importance of identity in the life of individuals and, in view of the increasing obligatory and voluntary opportunities that result in the conversion of private actions into public actions, the right to privacy is of paramount importance.

As regards the relationship between privacy and identity, one should note that the marginal role played by identity and the need for a harmonious relationship in which privacy protects the right to identity. Agre and Rotenberg note the increasing need for privacy tools to protect one's identity.²⁹ It is noted that while the public are aware of the possible harm following the circulation of their information, they find it difficult to comprehend the link between cause and effect. It is further noted that the public concern for privacy is not matched by a safeguarding mobilisation.³⁰ The difference between identity and privacy is based on the different types of information that are protected by each of these rights. It follows that privacy and identity work together, in that, they define the private information of the individual and enables him to protect it.

However, despite their common ground, identity and privacy represent and protect different interests. Given that privacy and identity refer to different personal interests and given their difference in respect of harmful breaches, the distinction between the two rights is significant.³¹ The right to privacy is

²⁸Clare Sullivan (n 26).p.730

²⁹Philip Agre and Marc Rotenberg, *Technology and Privacy: The New Landscape* (MIT Press 1997). p.6

³⁰Agre and Rotenberg (n 29).

³¹Clare Sullivan (n 26).

infringed if the true private facts related to an individual are revealed to the public. In this regard, it is important to stress that the right to a private identity concerns all of those personal facts that portray an image of one's identity, whereas, the right to privacy consists of those private facts that are unknown to others. In addition, the infringement of one's privacy could lead to the abuse, misuse, or theft of one's identity. The right to control the privacy of one's identity does not commence at any particular age, it exists prior to birth and the decision to make aspects of one's identity public should remain the right of the individual. The rights to privacy and identity are personal rights and support the right to self-determination. Furthermore, they are substantive rights, in that they protect the specific interests of the individual.

There has been a lot of debate around the definition of privacy. Solove refers to privacy being in disarray and under assault. He noted that one of the difficulties in developing a theory of privacy is how to deal with the variability of attitudes and beliefs about privacy. He noted that understanding privacy as a pluralistic concept would add clarity to a concept that has been shrouded in confusion for too long.³² Fried referred to privacy as being more about control over our information.³³ Privacy is defined as pertaining to information that is both personal in nature and not documented anywhere in the public domain,³⁴ while elsewhere it has been simply defined as the protection against external intrusion.³⁵ This concept of control has been extended to include control over one's information.³⁶ An attempt was

³²Daniel Solove, *Understanding Privacy* (Harvard University Press 2008).

³³Charles Fried, 'Privacy' (1968) 77 *The Yale Law Journal* 475.

³⁴WA Parent, 'Privacy, Morality, and the Law' (1983) 12 *Philosophy & Public Affairs* 269.p.269

³⁵Roger Toulson, 'Freedom of Expression and Privacy' (2007) 41 *The Law Teacher* 139.

³⁶C.Fried, 'Privacy'(1968)Vol.77*Yale Law Journal* 475 p.482

made in *Von Hannover v Germany*,³⁷ to define identity and its protection which is referred to as a balance of control between privacy and freedom of expression.

A person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics, whose protection is of particular importance, as the photos may contain very personal or even intimate information about an individual. The right to the protection of one's images is thus one of the essential components of personal development.³⁸

In recognition of the way in which global online sharing may impact an individual's identity, the right to privacy and control over the sharing of identifiable images and personal information is central to the protection of identity. Issues pertaining to privacy are said to be both "empirically ubiquitous and theoretically elusive."³⁹ Privacy is difficult to define, it is regarded by most as having control and it is context-specific. The definition of privacy is considered difficult when making a decision as there may be other personal and contextual factors such as the relationship between the persons or the level of understanding.⁴⁰ Privacy supports the idea that one's actions are determined by one's preference as opposed to the preferences of others. If one's actions are determined by oneself, then it follows that one is free from any external influence. According to Mills, privacy can be divided into four spheres: namely, the autonomy to make decisions; the protection of one's personal data; the protection of one's private property and the

³⁷*Von Hannover v Germany (No 2)* [2012] VON HANNOVER v GERMANY (No 2) (Applications nos 40660/08 and 60641/08).

³⁸*Von Hannover v Germany (No. 2)* (n 37).para. 96

³⁹Katayoun Baghai, 'Privacy as a Human Right: A Sociological Theory' (2012) 46 *Sociology* 951.p.962

⁴⁰Agre and Rotenberg (n 29). p.67

control of one's personal space.⁴¹ Given that these relate to identity, it follows that one has a right to protect one's private identity. While openness is important, in that, it is central to the democratic right of the public to access information and the right to be kept safe, the structures to safeguard privacy do not control behaviour.⁴² Privacy for adults tends to be overvalued, whereas the opposite applies to the privacy of the child.⁴³

1.4.2 Privacy for Children

There is a difference in outlook when the privacy in question refers to the privacy of a child. Such is the current level of concern for the online privacy of minors, that the European Commission has, in 2022, adopted a new European strategy to improve age-appropriate digital services and to ensure that every child enjoys protection, empowerment and respect in the online environment.⁴⁴ This signifies that there is recognition that children are in need of a comprehensive suite of protective measures if they are to enjoy the benefits offered by online connectivity. These measures (to be discussed in chapter three) contribute little to the protection of younger children, but are significant, in that, they are contributing to and opening up the discussion on the online protection of the child's private identity. While Article 16 of the United Nations Convention on the Rights of the Child calls for the protection of the child's privacy, the need for online privacy would not have been a concern at the time of the framing of the Convention. At the time of the inception of the Convention on the Rights of the Child in 1989, social media and the internet did not have its current presence. While a child's privacy is important, there is a view that society has a role/obligation to

⁴¹John Mills, *Privacy The Lost Right* (Oxford University Press 2008).p.13

⁴²Katayoun Baghai (n 39).p.961

⁴³Benjamin Shmueli and Ayelet Blecher, 'Privacy for Children' (2011) 42 Columbia Human Rights Law Review 759.p.762

⁴⁴European Union, 'New European Strategy for a Better Internet for Kids' (2022) Text <https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_2826> accessed 20 July 2022.

intervene and ensure the child's protection in situations where the child may be in potential physical or emotional danger.⁴⁵ However, there are occasions of intervention and infringement of a child's privacy, even when there is no threat of harm posed to the child.⁴⁶ In these particular situations, the child's privacy is disregarded and given little consideration.

The reason for this lack of oversight lies in the failure to recognise a privacy problem, in situations that involve children. If there is a failure to recognise a child's vested interest in privacy and the invasion of privacy is unacknowledged, then any opposing interest will prevail, and there will be no requirement to balance the right to privacy with any opposing interest.⁴⁷ As previously referenced, privacy discourse has developed mainly regarding adults' privacy with minimal reference to children's privacy. However, children are now more visible entities and the child is considered as a rights-bearing individual, who is, no longer, subsumed into the family as a 'dependent'.⁴⁸ However, Wyness argues that this "newly recognised visibility of children may at a minimum lead to more ambiguous responses regarding the position of children."⁴⁹ With regard to children, privacy is considered to be dangerous and inherently associated with risk. The difficulty in recognising a "privacy problem" for children in the family relates to the parent-child relationship, in addition to the privacy of the family as one unit and the privacy of each member within the family, more so, if the members in question are minors.⁵⁰ With regard to the idea of children's privacy within the parent-child relationship, the importance of individual privacy between family members, in particular the child's

⁴⁵Shmueli and Blecher (n 43).

⁴⁶Shmueli and Blecher (n 43).p.762

⁴⁷Shmueli and Blecher (n 43).

⁴⁸Michael G. Wyness, *Childhood and Society* (Macmillan International Higher Education 2019).p.248

⁴⁹Michael G. Wyness (n 48).p.248

⁵⁰Shmueli and Blecher (n 43).p.762

privacy from the parents is significant.⁵¹ It is argued that “individual privacy is at the core of personal identity and personal freedom”.⁵² Allowing children the right to some degree of privacy is not the same as abandoning children.⁵³

It is noteworthy that the opposition between family and state is less relevant if the child’s status as an individual is located outside of the family. Rather than being regarded as a family member, the child can be viewed as an independent party, thereby creating a dynamic that incorporates a relationship that is obliged to contend with the interests of the state, parents and children.⁵⁴ Privacy, as we know it, was born following a call by Warren and Brandeis for protection against intrusions by journalists of that era, who were armed with the latest technological invention of the day. The message of Warren and Brandeis still remains relevant in the midst of the current explosive use of the social media technology.⁵⁵

1.4.3 Online Privacy

Privacy-related decisions for internet users are quite onerous. The main purpose of the internet has been to develop and support connectivity and internet providers supply the requisite tools to do so.⁵⁶ Users connect with others, they create content, share and receive information. Anonymity is not encouraged, there are more benefits to be achieved from disclosures of personal data. Disclosure, encouraged by digital social media is often a condition of connectivity. However, this open disclosure has created

⁵¹Shmueli and Blecher (n 43).p.762

⁵²John Mills (n 41).p.13

⁵³Shmueli and Blecher (n 43).p.791

⁵⁴Nigel Parton, *Safeguarding Childhood: Early Intervention and Surveillance in a Late Modern Society* (2005).

⁵⁵Irwin Kramer, ‘The Birth of Privacy Law: A Century since Warren and Brandeis’ (1990) 39 *Catholic University Law Review* 703.p.724

⁵⁶Guy Merchant, ‘Unravelling the Social Network: Theory and Research’ (2012) 37 *Learning, Media and Technology* 4.p.6

additional challenges for the safeguarding of privacy. The use of Facebook applications requires that the users of these applications allow them access to their data. There is no follow-up disclosure by social media as to how the accessed data is used.⁵⁷

Social Media connectivity functions on full and open disclosure and the disclosed information becomes accessible immediately and it is not accompanied by any of the same protective constraints that are enjoyed in the offline communication spheres. Boyd classifies online communication in terms such as: “persistence, searchability, replicability and invisible audiences.”⁵⁸ Unlike offline communication, one cannot control the actual and potential audiences. There is the additional possibility that online communication is archived, in addition to the possibility that the communication may be copied and forwarded to other audiences. The challenges to one’s private information and images are immediate, far-reaching and enduring. The posting of information on social media sites is equivalent to permitting the host site to use the information. The convergence of different groups results in work colleagues and family members having access to the information, thereby, destroying any effort to separate the various aspects of one’s identity.

1.4.4 The Role of Consent in the Safeguarding of Privacy

Consent is defined as:

any freely given, specific, informed and unambiguous indication of the data’s subject’s wishes by which he or she,

⁵⁷Stefania Manca and Maria Ranieri, ‘Identity, Credibility, and Trust in Social Networking Sites: Old Issues, New Mechanisms, and Current Challenges for Privacy and Security’, *Social Network Engineering for Secure Web Data and Services* (2013).p.8

⁵⁸Danah Boyd, , ‘*It’s Complicated: The Social Lives of Networked Teens*’; in *Internet Law: Cases & Problems*. (9th ed., Yale University Press 2019).

by a statement or clear affirmative action, signifies agreement to the processing of personal data relating to him or her.⁵⁹

Imposing a consent requirement prior to sharenting may be regarded as a means to safeguard one's privacy. Consent protects the right to decide on our desired level of privacy. The right to make this decision empowers the individual to control that which they wish to disclose. Consent gives us the freedom to make an independent choice. It is an integral component of privacy as it acts as both an aid and an impediment to the protection of privacy. However, consent does not represent a complete solution.⁶⁰ The consent requirement may be a solution to the privacy problem created by technology. While it may be similar to treating privacy like property, the consent requirement gives us a right to exclude others from access to our personal information, but the right is not inalienable.⁶¹ We can if we so wish allow third parties access to and use of our personal information. There are two types of objections to the consent requirement, one is based on the fact that it cannot prevent the accumulation of data visible to the public and the other is that it fails to adequately protect privacy.⁶²

Children, by reason of age or understanding, may not have the capacity to consent and, if so, there is a need to adopt an alternative method of protection until such time as when children are capable of consent. Perhaps it is timely to argue for the introduction of a legal right to a blank digital canvas for those who are incapable of consent by reason of age or understanding. The privacy of the child's identity is in need of some form of protection up until such time as when the child reaches the required level of competency to make an informed decision that is necessary prior to consent.

⁵⁹General Data Protection Regulation 2016 Article 4 (11).

⁶⁰Elisabeth Denham, 'Consent Not a "Silver Bullet" for GDPR, Says Information Commissioner' (2016)' (16 August 2016).

⁶¹Warner (n 25).p.860

⁶²Warner (n 25).p.868

Furthermore, such protection would safeguard the right of the child to craft their own online identity in the future.

There are many variations of consent in the online context. For adults, consent in the form of clickwrap and/or browse wrap does not represent an ideal method of consent. The consent requirement allows consumers to assume responsibility for disclosure. Social media clickwraps give the user a link to the consent policies.⁶³ The tendency by social media providers to expedite consent often results in users being unaware of policies and practices with regard to the management of their data.⁶⁴ The click-wrap represents a trade-off between efficiency and privacy and is a relinquishment of control.

Consent, as it currently stands on social network sites does not allow for negotiation, it is a “take it or leave it” deal. There are no alternatives. Consumers rely on digital platforms to gain entrance into digital societies. Social media networks change privacy settings frequently and quite often a refusal to consent to new rules may result in a reduced or a cessation of online connection with services. Furthermore, there is a noticeable imbalance between consumers and technological providers, they are on different levels. Most consumers find it difficult to comprehend the complexities of privacy policies and, to navigate complex technical measures. Consent, as it, currently stands, fails to address the power imbalances between users and online platforms. There is an argument in favour of making consent more effective as a valid choice option.

⁶³J Obar and Oeldorf-Hirsch, ‘The Clickwrap: A Political Economic Mechanism for Manufacturing Consent on Social Media’ [2018] *Social Media & Society* 1.p.4

⁶⁴J Obar and Oeldorf-Hirsch (n 63).p.11

1.4.5 The Impact of a Public Narrative on Identity

While interferences with identity are present in many forms and are far-reaching, this research is focusing specifically on online interference, in particular, that of Sharenting with the identity of young children. Sharenting is described by Plunkett as the transmission of private details about a child via digital channels. Plunkett argues that these adult decisions accelerate a child's entry into "digital life" and the subsequent creation of a digital dossier.⁶⁵ Plunkett focuses here on the issue of a parent's commencement of the child's online journey, whereas others such as Maltz consider their attention more on the size of the audience with whom the information and images are shared.⁶⁶ A consideration of the extent of digital participation is essential in the evaluation of its impact on the identity of the individual.

There is a huge impetus towards online connectivity, and everyone is encouraged to connect with others, be it on a personal or professional level. Individuals are encouraged to connect with family and colleagues. In addition, social media is organised in such a way that connectivity is its key focus. The social media providers establish a connectivity forum which functions on the global exposure of the identifiable features of one's identity. Disclosure of data is the currency of connectivity and shared data may be manipulated in countless ways which include various incursions into one's private identity resulting in identity theft, profiling, surveillance,

⁶⁵ Leah Plunkett, *Sharenthood* (Massachusetts Institute of Technology 2019).

⁶⁶ Phoebe Maltz Bovy, 'The Ethical Implications of Parents Writing About Their Kids' (*The Atlantic*, 15 January 2013) <<https://www.theatlantic.com/sexes/archive/2013/01/the-ethical-implications-of-parents-writing-about-their-kids/267170/>> accessed 4 January 2023.

bullying, extortion, data mining, target advertising and image manipulation.⁶⁷

Social media is based on identity exposure both in practice and in principle. The increased social media engagement of older children has resulted in increased parental surveillance in an effort to safeguard children. Monitoring has come to be regarded as good parenting, and the surveillance of older children's online activities has been fuelled by the objectives of protection and care.⁶⁸ Online connectivity results in children being drawn into social media at a younger age. To date much of the focus, however, has been on the parental monitoring of older children's social media activity on the grounds of safety.

Equally prevalent, however, is the issue of sharenting which is the parental sharing of children's images and data with and without their consent.⁶⁹ This has grown exponentially in recent times and has contributed to an increased exposure of children's private data on the worldwide web. Parents feel that they are increasingly encouraged and coerced into digital participation.⁷⁰ The current z generation is the first generation to have become datafied prior to birth.⁷¹ The external measures that may impact the child's identity following the exposure of his/her identity in the global public arena are present and real.

⁶⁷Ankit Kumar Jain, Jyoti Kaubiyal, and Ranjan Sahoo, 'Online Social Networks Security and Privacy: Comprehensive Review and Analysis' (2021) 7 *Complex & Intelligent Systems* 2157. p.2164

⁶⁸Shmueli and Blecher (n 43). p.760

⁶⁹Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' (2017) 66 *Emory Law Journal* 839.p.842

⁷⁰Veronica Barassi, 'Datafied Citizens in the Age of Coerced Digital Participation' (2019) 24 *Sociological research online* 414.p.415

⁷¹Barassi (n 70).p.426

1.4.6 The Impact of a Public Narrative on Autonomy

The decision of parents to share their children's images and personal information impacts on the child's autonomy. Autonomy is understood to mean the right to "make choices regarding one's own life without interference by the state, to develop one's own personality and to establish relations with others and to communicate."⁷²

Autonomy is the control over one's own self to the point that one is free from the control of others. Garnett interprets autonomy as that of being free from others' rules.⁷³ Squires describes an individual as being autonomous to the degree to which he can critically evaluate the pressures and norms with which he is confronted, and is able to make informed decisions following independent reflection.⁷⁴ She refers to 19th-century liberals from Mills to Raz, who regarded autonomy as the clever balancing of "courageous decision-making and independent thought."⁷⁵ She also notes that the effort to resist the pressure to conform as being challenging,⁷⁶ and that concern for autonomy is based on a desire to keep one's individuality.⁷⁷ Mackenzie, in agreement with Benson's view that an autonomous agent must act "in accordance with his/her practical identity",⁷⁸ argues that "an autonomous agent "must also regard himself/herself as ...able and authorised to speak for

⁷²European Convention on Human Rights' (2003) Article 8 The right to a private Life includes the right to personal autonomy. <<https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c>> accessed 25 July 2022.

⁷³Michael Garnett, 'Taking the Self out of Self-Rule' (2013) 16 Ethical Theory and Moral Practice 21.p.32

⁷⁴Judith Squires, 'Private Lives, Secluded Places: Privacy as Political Possibility' (1994) 12 Environment and Planning D: Society and Space 387.p.390

⁷⁵Judith Squires (n 74).

⁷⁶Judith Squires (n 74).

⁷⁷Judith Squires (n 74).

⁷⁸Paul Benson, 'Feminist Intuitions and the Normative Substance of Autonomy' in J. Stacey Taylor (ed), *Personal Autonomy: New Essays on Personal Autonomy and its Role in Contemporary Moral Philosophy* (Cambridge University Press 2005).p.128

himself/herself”.⁷⁹ Westlund, on the other hand, held that an autonomous being must be answerable to external, critical responses regarding his/her commitment to a specific choice or practice.⁸⁰

The recognition of autonomy for the child should also include the transition from welfare protection to full autonomy. As the individual becomes autonomous, there is a gradual and measured shift away from positive welfare rights. There is a view that education should promote and facilitate autonomy and ensure that children develop into self-governing individuals.⁸¹ Mullin believes that the argument that “autonomous agents must be self-aware and articulate about their reasons, and confident that they are capable of acting on their own reasoning”, sets the “bar high” for children.⁸² This requires a substantial investment by parents into their child’s development to ensure that their child develops his/her own autonomous viewpoint.⁸³ It is believed that parents as the initial influencers of the child play an important role in the motivation that children need to succeed.⁸⁴ Children’s autonomy is linked to their gradually “emerging capacity that develops through relationships.”⁸⁵ If children are believed to lack capacity, it follows that their autonomy will be considered limited.

However, the distinction between childhood and adulthood fails to recognise that life is in a state of continuous development. Autonomy is associated with the end of childhood and is linked to independence. While

⁷⁹Catriona MacKenzie, ‘Relational Autonomy, Normative Authority and Perfectionism’ (2008) 39 *Journal of Social Philosophy* 512.p.514

⁸⁰Andrea C. Westlund, ‘Rethinking Relational Autonomy’ (2009) 24 *Hypatia* 26.p.26

⁸¹Stefaan E Cuypers and Ishtiyaque Haji, ‘Educating for Well-Being and Autonomy’ (2008) 6 *Theory and Research in Education* 71.p.72

⁸²Amy Mullin, ‘Children’s Hope, Resilience and Autonomy’ (2019) 13 *Ethics and Social Welfare* 230.p.236

⁸³Wendy S Grolnick, ‘The Role of Parents in Facilitating Autonomous Self-Regulation for Education’ (2009) 7 *Theory and Research in Education* 164.p.170

⁸⁴Grolnick (n 83).p.165

⁸⁵Neil S. Binder, ‘Taking Relationships Seriously: Children, Autonomy, and the Right to a Relationship’ (1994) 69 *New York University Law Review* 1150.p.1157

Mackenzie and Westlund may set the bar high for children with regard to the prerequisites for autonomy, it was commonly believed that children were not capable of autonomous actions. Bou-Habib and Olsaretti challenge the ‘becomings’ view of childhood, on the grounds that this particular view of childhood fails to “take the autonomy of children seriously”.⁸⁶ This view is changing as it is believed that children should be enabled to develop the autonomy that they need as adults. It recognises that they start out with a particular degree of autonomy that deserves recognition while they are still children.⁸⁷

1.4.7 The Impact of a Public Narrative on Agency

With regard to the impact of a public narrative on one’s agency, agency is an individual’s personal expression and active participation in the decision-making process with regard to matters affecting them. Mizen and Ofofu-Kusi argue that “children’s agency is routinely conflated with their ability to do things.”⁸⁸ Despite Article 14 of the United Nations Convention on the Rights of the Child’s support of the child’s right to personal control, the affordance of agency remains at the discretion of adults.⁸⁹ A personal agency can be regarded as being aware and being in control of the outcome.⁹⁰ Perceived agency involves achieving that which the individual wants but also reinforces the view that the individual has the capacity to exert

⁸⁶Paul Bou-Habib and Serena Olsaretti, ‘Autonomy and Children’s Well-Being’ in Bagattini, Alex Macleod, and Colin (eds), *The Nature of Children’s Well-Being* (Springer 2015).p.27

⁸⁷Amy Mullin (n 82).p.237

⁸⁸Phillip Mizen and Yaw Ofofu-Kusi, ‘Agency as Vulnerability: Accounting for Children’s Movement to the Streets of Accra’ (2013) 61 *The Sociological Review* 363.p.365

⁸⁹‘Convention on the Rights of the Child,1989’ Article 14 <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 1 August 2022.

⁹⁰Sevtap Gurdal, Jennifer E. Lansford, and Emma Sorbring, ‘Parental Perceptions of Children’s Agency: Parental Warmth, School Achievement and Adjustment’ (2016) 186 *Early Child Development and Care* 1203. P.1203

influence over the outcome.⁹¹ Childhood is perceived as a “condition in which the child, as an agent, is not yet in a position to speak her own voice.”⁹² The parent/child relationship is expected to enable children to express agency. There is, however, the possibility that the parental input may amount to an interference with the child’s privacy. The shift from passive to active agency for the child is welcomed and encouraged as it promotes independence and recognises the child as a social actor.⁹³ Wyness notes that agency alone does not free children, there is a need to work with children and create space for their contributions.⁹⁴

While the United Nations Convention on the rights of the Child promotes the inclusion of children in decision making and policy development, the agency of children to participate in their society and contribute valid opinions depends on adults.⁹⁵ It is contended that there are numerous occasions when young people are denied the right to participate, even though it would be expedient to regard children as rights-bearers and as participants in order to promote their interests.⁹⁶ Holloway et al. argue that in an ideal world, theory and politics should collaborate to overcome any potential difficulties.⁹⁷

⁹¹Sevtap Gurdal, Jennifer E. Lansford, and Emma Sorbring (n 90).

⁹²Tamar Schapiro, ‘What Is a Child?’ (1999) 109 *Ethics* 715.p.729

⁹³Ute Haring, Reesa Sorin, and Nerina Caltabiano, ‘Reflecting on Childhood and Child Agency in History’ (2019) 5 *Palgrave Communications* 52.

⁹⁴Michael G. Wyness (n 48). p.254

⁹⁵‘Convention on the Rights of the Child,1989’ (n 89) Article 5 recognises the evolving capacities of the child.

⁹⁶Sarah L Holloway, Louise Holt and Sarah Mills, ‘Questions of Agency: Capacity, Subjectivity, Spatiality and Temporality’ (2019) 43 *Progress in Human Geography* 458.p.472

⁹⁷Holloway, Holt and Mills (n 96).

1.4.8 The Impact of a Public Narrative on Freedom of Expression and Self-determination

Children like adults are entitled to the privacy of their identity and personal and private information. In addition, children like their parents are entitled to enjoy the privilege of deciding which information that they wish to disclose. Parents may believe that their children appreciate the creation of their detailed online childhood biography and quite possibly believe that disclosures are, by and large, harmless. However, in the words of Shulman, “the expressive liberty of parents becomes despotic when the child is given no real opportunity to embrace other values and to believe other beliefs.”⁹⁸

In the event of the freedom of expression clashing with the need to protect private life, the value of free speech should be considered, and measures of redress need to evaluate the value of the particular publication instead of applying a blanket protection over all forms of speech. Freedom of expression is also important for children as it enables them to participate and develop their capacities. It gives the child a vested interest in matters pertaining to them. Children are entitled to the necessary support to enable them to enjoy and engage in the freedom to express themselves. The family, as the initial and the most influential relationship in the life of the child, bears the responsibility of enabling the child to enjoy the right to freedom of expression and the creation of their own identity narrative.⁹⁹

Wehmeyer refers to self-determination as a “volitional action that enables one to act as the main agent in one’s life.”¹⁰⁰ The view is that that self-determination evolves as children learn skills that enable them to be agents

⁹⁸Jeffrey Shulman, ‘The Parent as (Mere) Educational Trustee: Whose Education Is It, Anyway?’ (2010) 89 Nebraska Law Review 290. p.297

⁹⁹Sevtap Gurdal, Jennifer E. Lansford, and Emma Sorbring (n 90). p.1204

¹⁰⁰Michael Wehmeyer, ‘Self-Determination and Individuals with Severe Disabilities: Re-Examining Meanings and Misinterpretations’ (2005) 30 Research and Practice for Persons with Severe Disabilities 113.p.117

in their own lives.¹⁰¹ Furthermore, there is reference to the manner by which self-determination evolves through the interaction of cognitive and behavioural elements and that the families who embrace individualism and independence embrace self-determination goals more readily.¹⁰² Self-determination incorporates autonomy, self-regulation, and attitudes.¹⁰³ Heller et al. argue that young children can be supported by adults to make choices and decisions, and this ability to control actions and their effects is positive and proactive.¹⁰⁴

Young children are not regarded as being self-determined, as they are not deemed developmentally or emotionally capable of acting autonomously and self-regulating their behaviour. This pinpoints the need to enable children to learn and develop the attitudes and abilities that are central to becoming self-determined. Self-determination allows one to become a “casual agent over one’s life.”¹⁰⁵ Self-regulation of behaviour and activities, making active choices and every-day problem-solving decisions all build up one’s self-determination. Self-determination at a young age leads to capacity building over time. Palmer et al. contend that children’s engagement is an important aspect of self-determination.¹⁰⁶ Cognisant of an individual’s vested interest in their self-determination, this right has to be viewed from a broad human rights perspective. The right to protect one’s image and the right to control the use of that image are part of one’s self-determination.

¹⁰¹Michael Wehmeyer (n 100).

¹⁰²Michael Wehmeyer (n 100).

¹⁰³Louise Dunn and Lindsay Thrall, ‘Development of Self-Determination across Childhood and Adolescence’ (2012) 5 *Journal of Occupational Therapy, Schools, & Early Intervention* 165.p.166

¹⁰⁴Tamar Heller and others, ‘Self-Determination across the Life Span: Issues and Gaps’ (2011) 19 *Exceptionality* 31.p.32

¹⁰⁵Michael Wehmeyer (n 100).p.118

¹⁰⁶Susan B Palmer and others, ‘Foundations for Self-Determination in Early Childhood: An Inclusive Model for Children With Disabilities’ (2013) 33 *Topics in Early Childhood Special Education* 38.p.45

Section 2 Children as Rights Bearers

2.1 Origin and Function of Human Rights

Looking at the concept of privacy as a means to safeguard the identity of the child leads to the question as to the role of human rights in the life of the child.

There are many views surrounding the origin of human rights. One view is that human rights descend from natural law and refer to what is fair and just. Human rights are considered to be a “distinctive way to realise social values such as justice and human flourishing,”¹⁰⁷ and remain the “only means to guarantee human dignity.”¹⁰⁸ Lisska is of the view that human rights are based on human nature.¹⁰⁹ Garcia concludes that human rights derive from the disposition of individuals.¹¹⁰ He refers to philosophers such as Maritain, Finnis, and Lisska and their support of the Catholic understanding of human rights based on natural law.¹¹¹ While there is acknowledgment that human rights should not be overemphasised, research indicates that “human rights play a significant role in the struggle for social justice and human dignity.”¹¹² The natural rights theory acknowledges the existence of a higher authority to support the protection of human rights. It secures freedom and equality on which all other human rights depend.¹¹³ This suggests that human rights represent all that is right and just and that they do not operate in isolation. The problem associated with natural rights is how to determine

¹⁰⁷Jack Donnelly, ‘The Relative Universality of Human Rights’ (2007) 29 *Human Rights Quarterly* 281.p.284

¹⁰⁸Jack Donnelly (n 107).p.288

¹⁰⁹Anthony J Lisska, ‘Human Rights Theory Rooted in the Writings of Thomas Aquinas’ (2013) 38 *Diametros* 134.

¹¹⁰Alexander Gonzalez Garcia, ‘Natural Law and Human Rights’ (2017) 2 *ADVOCATUS* 1.

¹¹¹Alexander Gonzalez Garcia (n 110).p.4

¹¹²Jack Donnelly (n 107).p.306

¹¹³Jerome J Shestack, ‘The Philosophic Foundations of Human Rights’ (1998) 20 *Human Rights Quarterly* 201. P.208

the parts that related to the law of nature, which according to Shestack, were argued by Locke to include life, liberty and property.¹¹⁴

Human rights are thus “universal” in the sense that they are held by all human beings and are important because they recognise the respect to which their bearers are entitled.¹¹⁵ Human rights apply equally to both adults and children.¹¹⁶ Arguably, the word ‘rights’ is difficult to define, and accordingly, there are many diverse and different interpretations of human rights.¹¹⁷ As previously noted, a right is regarded as an individual’s entitlement, either by virtue of being human or because they are citizens of a particular state. Human rights support the individual’s claim to dignity, privacy, freedom of expression, and protection against exploitation. Irrespective of the believed or accepted source of human rights, there is a view that although rights may be vague and, may not represent a panacea for the world’s problems, they remain valuable in the struggle for social justice and human dignity.¹¹⁸ Donnelly maintains that human rights are necessary to provide remedies against interferences.¹¹⁹ According to Donnelly, “human rights, today, remain the sole effective means to assure human dignity” and individual governments need to foster and protect such rights in a manner that is fully compliant with international best practices.¹²⁰ In conclusion, while there is considerable debate around the issue of human rights, the recognition of human rights for everyone has been central to ensuring the protection of citizens’ dignity

¹¹⁴Shestack (n 113).

¹¹⁵Jack Donnelly (n 107).p.283

¹¹⁶Michael Freeman, ‘Why It Remains Important to Take Children’s Rights Seriously’ (2007) 15 *The International Journal of Children’s Rights* 5.

¹¹⁷Michael Freeman, ‘Why It Remains Important to Take Children’s Rights Seriously’ (n 116).p.7

¹¹⁸Jack Donnelly (n 107).p.306

¹¹⁹Jack Donnelly (n 107).p.306

¹²⁰Jack Donnelly (n 107).p.283

2.2 Human Rights and Dignity

Human dignity contributes to the interpretation and adjudication of human rights. It refers to the individual's entitlement to respect that is enjoyed by all human beings. Human dignity is believed to be fundamental to all other human rights.¹²¹ Violation of human rights is a violation of human dignity. Individuals belonging to vulnerable groups have a particular need for their human dignity to be held in high regard. Rights have to be interpreted in the light of other rights in order to promote the human dignity of the individual. In addition, given that children may be marginalised and disadvantaged, they need the protection that is afforded by human dignity. O' Mahony argues that as human dignity is inherent in every human being, it follows that there cannot be a right to dignity.¹²² As individuals enjoy rights because of their human dignity, it cannot be concluded that those who are denied a right lack human dignity. A positive right to protection, a right that embraces the child's dignity assumes that protective measures should be in place to safeguard the rights of the child. Freeman regards rights as, "just claims or entitlements that derive from moral and/or legal rules."¹²³

Moreover, Ezer argues that respecting children's right to dignity is regarded as more about the construction of a barrier against invasive interference with their autonomy than the creation of a "false and porous wall" of privacy.¹²⁴ Minor children are regarded as not having the same intellectual skills as adults, thereby, lacking the same freedom as adults, especially the freedom to make free choices. However, despite the possible lack of intellectual

¹²¹Christopher McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 *European Journal of International Law* 655.p.681

¹²²C O'Mahony, 'There Is No Such Thing as a Right to Dignity' (2012) 10 *International Journal of Constitutional Law* 551.p.574

¹²³Michael Freeman, *Human Rights* (2nd edn, Oxford Polity Press 2002).p.7

¹²⁴Tamar Ezer, 'A Positive Right to Protection for Children' (2004) 7 *Yale Hum. Rts. & Dev. L.J.* 1.p.50

skills and limited experience, children hold their own views with regard to personal matters. It is not up to the child to prove her or his capacity. One does not have to justify one's opinion.

2.3 Human Rights for Children

While it has been previously acknowledged that the word 'rights' is difficult to define, this is even more so when it applies to rights for the child. There are many diverse and discordant views dominating the whole debate surrounding the concept of human rights for children. Chief among these views is the argument as to, whether, children should enjoy human rights to the same degree as adults do, this argument being linked closely to society's view of the child and childhood. Acknowledging the importance of universal human rights, it is difficult to appreciate the reluctance to recognise the right of the child to enjoy human rights in the same manner as adults do. Much of the difficulty may be linked to the adult's perception of the child as an equal.

Campbell identifies that the difficulty in separating children's rights from adults is based on children's need for additional protection.¹²⁵ Eekelaar views childhood as part of the process of forming the adults of the next generation.¹²⁶ He focuses on the idea that childhood is an important and integral part of the formation of an adult. Freeman describes children's rights as "just claims or entitlements" and contends that rights, in particular, the rights of the child are significant in that they entitle the child to respect and dignity."¹²⁷ However, children are viewed as an anomaly, in that, concepts that may work in other areas of human rights break down in the

¹²⁵Tom D Campbell, 'The Rights of the Minor:As Person,as Child, as Juvenile,as Future Adult' (1992) 6 International Journal of Law, Policy and the Family 1.p.21

¹²⁶John Eekelaar, 'The Importance of Thinking That Children Have Rights' (1992) 6 International Journal of Law, Policy and the Family 221.p.234

¹²⁷Michael Freeman, *Human Rights* (Third edition, Polity 2017).p.7

context of children, as society struggles with the recognition of children as fully rational and autonomous individuals capable of exercising free choice.

Such is the difficulty and confusion around the issue of human rights for children that Alexander likens the discussion on children's rights to that of "plaiting with fog and knitting with treacle."¹²⁸ Children are regarded as lacking, as they are perceived to be without developed rational capabilities. Ezer refers to Locke's view of children as being in need of "parental subjugation", on the grounds that children lack the capacity to be rational.¹²⁹ Montague was of the view that neither Hart nor Benn believed that very young children were capable of having control over rights and obligations and that they were therefore incapable of holding rights.¹³⁰ Furthermore, unlike the term 'individual', the term 'child' does not imply independence from others, but it suggests the existence of a dependent relationship.¹³¹

Woodhouse observes that while the perception of children as being needy is an excuse not to consult with children, the child's rights are present at birth and entitle the child to the necessary help to grow into an autonomous being.¹³² Woodhouse argues that childhood is a "journey to autonomy" and that dependency and autonomy represent the "two sides of the same coin."¹³³ Arguably, the difficulty in recognising children as rights-holders is linked to the perception of childhood and children's ability to exercise agency. Sociologists examining the concept of childhood argue that childhood and its construction can vary in different times and places.¹³⁴ Betzler refers to the

¹²⁸Bob Franklin (ed), *The New Handbook of Children's Rights: Comparative Policy and Practice* (Routledge 1995).

¹²⁹Tamar Ezer (n 124). p.1

¹³⁰Phillip Montague, 'A Child's Right to Privacy' (1988) 2 *Public Affairs Quarterly* 17.p.21

¹³¹Tamar Ezer (n 124).p.2

¹³²Barbara Bennett Woodhouse, 'Children's Rights' (2000) SSRN Scholarly Paper ID 234180 <<https://papers.ssrn.com/abstract=234180>> accessed 26 June 2021.p.3

¹³³Barbara Bennett Woodhouse (n 132).p.3 & 4

¹³⁴Michael G. Wyness (n 48).

parental obligation to enhance the child's autonomy depends on the child's development and that there is no precise point that marks the transition from childhood to adulthood.¹³⁵

The words 'children' and 'future' are often interlinked with the view of children as 'adults in waiting' and this view disempowers and marginalises children resulting in them being viewed as a silent disenfranchised class.¹³⁶ Given that there is much difficulty regarding the attribution of human rights to children in the private sphere, this raises questions as to the level of protection, if any, that is afforded to the child's identity in the public sphere. A positive right to protection, a right that embraces the child's dignity assumes that protective measures should be in place to safeguard the rights of the child. Freeman regards the accordance of rights to children as a positive affirmation of the child's dignity.¹³⁷ The recognition of rights for children need not undermine either the rights of parents or those of society. Children's rights do not threaten parents' rights, but, in fact, underpin them. Parents' rights are empty and meaningless when isolated from the needs of children.¹³⁸ Not only do positive rights for children not create conflict between children and their parents, but they, in fact, affirm the child's connections with their community. Woodhouse argues that "a truly child-centered perspective would also expose the fallacy that children can thrive while their carers struggle."¹³⁹ In conclusion, the enjoyment of human rights by one sector should not be at the expense of another sector. In recognition of the child's limitations, children need assistance and direction to enjoy the

¹³⁵Monika Betzler, 'Enhancing the Capacity for Autonomy: What Parents Owe Their Children to Make Their Lives Go Well', *The Nature of Children's Well-being* (Springer 2014).p.67

¹³⁶Mary John, *Children's Rights and Power: Charging Up for a New Century* (Jessica Kingsley Publishers 2003).p.75

¹³⁷Michael Freeman, *Human Rights* (n 123).

¹³⁸Tamar Ezer (n 124).p.43

¹³⁹Barbara Bennett Woodhouse, 'Hatching the Egg: A Child-Centered Perspective on Parent's Rights' (1992) 14 *Cardozo Law Review* 1747.p.1824

fulfilment and protection of their rights until such time as they reach that level of competency that is necessary for them to act independently.

2.4 Childhood

It follows that the debate around privacy, consent, and the child's right to the privacy of their identity is based on the need to recognise that childhood is an important period in the child's life, a period of learning in which the child and adult are interdependent.¹⁴⁰ The various and varying views on children and childhood, and the associated interpretations of the meaning of citizenship all form part of this debate. The recognition of rights for the child is linked to society's view on the child and his/her level of competency. There is a presumption that parents always act in the child's best interests. This signifies a huge reliance on parents who are expected to possess or acquire the requisite parenting competencies.

Much of the narrative on the child and childhood has focused on the limited capacity of the child. Traditionally, children were largely seen as being incompetent and in need of protection. Children have been viewed as an extension of their parent's property.¹⁴¹ Some regard the child as 'not-yet-being',¹⁴² Matthews and Limb referred to children as being "powerless, uninfluential"¹⁴³ but, they also acknowledged the growing debate regarding children's competencies.¹⁴⁴ Opportunity to exert agency is connected to

¹⁴⁰Marc Jans, 'Children as Citizens: Towards a Contemporary Notion of Child Participation' (2004) 11 *Childhood* 27.p.40

¹⁴¹Russell W. Belk, 'Possessions and the Extended Self' (1988) 15 *The Journal of Consumer Research* 139.

¹⁴²Eugeen Verhellen, *Convention on the Rights of the Child: Background, Motivation, Strategies, Main Themes* (Coronet Books Incorporated 2000).p. 9

¹⁴³Hugh Matthews and Melanie Limb, 'The Right to Say: The Development of Youth Councils/Forums within the UK' (1998) 30 *Area* 66.

¹⁴⁴Matthews and Limb (n 143).

being “responsible participants in society”,¹⁴⁵ this suggests that one’s agency is determined on the basis of one’s beneficial contribution to society. Traditionally, the ‘not-yet-fully-formedness’ of the child has been considered an obstacle to their recognition as citizens.¹⁴⁶ Ennew believes that “modern childhood mutes children’s voices, denies their personhood and limits their potential.”¹⁴⁷ Roche believes that participation and empowerment of children need to be accompanied by advocacy and representation.¹⁴⁸

As previously referenced, discussion around the child has centred largely on the child’s state of becoming. Verhellen referred to the child as ‘not-yet-being’,¹⁴⁹ likewise, Matthews and Limb described children as ‘adults in waiting’¹⁵⁰ and Zinnecker regarded childhood as a ‘moratorium’ on adulthood, a period in which children get ready for adulthood,¹⁵¹ where they are protected until they reach the maturity and wisdom associated with adulthood. Uprichard argues that it is more important to focus on the positives rather than the shortcomings of childhood as childhood determines and shapes the future adult.¹⁵²

Plunkett argues that “play empowers, protects childhood and adolescence and fosters democratic participation.”¹⁵³ Society needs to recognise that play

¹⁴⁵Lotta Brantefors and Ann Quennerstedt, ‘Teaching and Learning Children’s Human Rights: A Research Synthesis’ (2016) 3 *Cogent Education* 1.

¹⁴⁶Jeremy Roche, ‘Children: Rights, Participation and Citizenship’ (1999) 6 *Childhood* 475.p.489

¹⁴⁷ Ennew, J. (1994) ‘Time for Children or Time for Adults’, in: J. Qvortrup et al., eds. *Childhood Matters: Social Theory, Practice and Politics* (Aldershot: Avebury), pp.125-143. p.125

¹⁴⁸Jeremy Roche (n 146).p.489

¹⁴⁹Eugeen Verhellen (n 142).p.17

¹⁵⁰Matthews and Limb (n 143).

¹⁵¹J Zinnecker, ‘Childhood and Adolescence as Pedagogic Moratoria’ [2000] *Zeitschrift für Padagogik* 36.

¹⁵²Emma Uprichard, ‘Children as “Being and Becomings”’: *Children, Childhood and Temporality*’ (2008) 22 *Children & Society* 303. p.304

¹⁵³Leah A. Plunkett, *Sharent hood: Why We Should Think Before We Talk about Our Kids Online* (MIT Press 2020).p.142

is a vital part of childhood and childhood is the gateway to adulthood. It is through play that children learn to share and make decisions. Schapiro argues that childhood is a “normative predicament” wherein the child is lacking the independent desire and capability to independently articulate their wishes.¹⁵⁴ Schapiro believes that childhood is not a loss, but it is, in the words of Archard: “a necessary albeit-inferior, preliminary stage to better things.”¹⁵⁵ Children are believed to lack certain cognitive abilities to acquire and assimilate information that will enable them to comprehend and evaluate the significance of choices and corresponding consequences. However, it is through listening and engaging with the child that we come to understand and judge what is best for them. Furthermore, those who are capable of forming a view deserve to be heard.¹⁵⁶ Goldstein saw childhood as a period of incompetence, a time when parents should have authority.¹⁵⁷ These views with a few exceptions all concur that children are “incompetent, unstable, credulous, unreliable, emotional”, attributes that are not always readily associated with rights.¹⁵⁸ These viewpoints regard children as dependents and parents as the determinants of what is in their best interests and welfare as opposed to children being autonomous rights-bearers.

There are many different schools of thought with regard to rights for children. Those who are reluctant to recognise children as rights-bearers field a very restricted belief in children’s competencies. These include O’Neill who believes that if we as a society care about children’s lives, we

¹⁵⁴Tamar Schapiro (n 92).p.729

¹⁵⁵David Archard, ‘Children, Adults, Autonomy and Well-Being’ in Alexander Bagattini and Colin Macleod (eds), *The Nature of Children’s Well-Being: Theory and Practice* (Springer Netherlands 2015).p.13

¹⁵⁶‘Convention on the Rights of the Child,1989’ (n 89) Article 12.

¹⁵⁷Joseph Goldstein, ‘Medical Care for the Child at Risk: On State Supervention of Parental Autonomy’ (1977) 86 *The Yale Law Journal* 645.

¹⁵⁸Berry Mayall, ‘The Sociology of Childhood in Relation to Children’s Rights’ (2000) 8 *The International Journal of Children’s Rights* 243.p.246

should be more forceful in identifying the particular obligations of parents, teachers, and the community towards children and ensuring that they fulfil their obligations.¹⁵⁹ Others, while opposed to the view of children as independent rights-bearers, believe that children should be enabled to acquire rights. Giesinger referred to Kant's view that the role of education is to awaken a capability for intellectual and moral autonomy in children.¹⁶⁰ Mayall argues that childhood is structured and controlled by adults.¹⁶¹ Children's roles are viewed as members of groups and not as individuals.¹⁶²

In the limited interpretations of childhood and in an "adult-centric society," children end up lacking what Wall noted as that which Arendt referred to as "the right to have rights".¹⁶³ These views represent a somewhat deficit model of childhood and according to Freeman, they underestimate the capacities and maturity of many children.¹⁶⁴ These views contravene the modern view of childhood under which children are regarded as social and active agents with a right to participate in the shaping of their childhood experiences, and beliefs as are represented in Bronfenbrenner's bioecological model of development. This model supports the idea that an individual's development is influenced by his interaction with various aspects of his environment.¹⁶⁵

¹⁵⁹Onora O'Neill, 'Children's Rights and Children's Lives' (1988) 98 *Ethics* 445.p.448

¹⁶⁰Johannes Giesinger, 'Kant on Dignity and Education' (2012) 62 *Educational Theory* 609.p.609

¹⁶¹Berry Mayall (n 158).p.248

¹⁶²Berry Mayall (n 158).p.256

¹⁶³John Wall, 'Human Rights in Light of Childhood' (2008) 16 *The International Journal of Children's Rights* 523 p.530.

¹⁶⁴Michael Freeman, *Human Rights* (n 127).

¹⁶⁵U Bronfenbrenner, 'Ecology of the Family as a Context for Human Development: Research Perspectives' (1986) 22 *Developmental psychology* 723.p.723

2.5 The Child as a Rightsholder

Holt believed that childhood was, in itself, an invention, a means of suppressing children.¹⁶⁶ Children should not only have the same rights as adults but should be allowed to exercise their rights in a similar manner. These views achieved little for children's rights because they did not consider that children need to grow and develop both mentally and physically. They also failed to consider how to reconcile this idea with the views of parents and the family as a whole.

The views of the liberationists were central to commencing the debate on children's right perspective. Liberationists believe that children should have the same rights as adults. Rhetorical Liberationists regard the demand for equal rights as a means, not only, to highlight the discrimination suffered by children but also as a means to improve their position.¹⁶⁷ Rhetorical liberationists did not believe that children should have the same rights as adults, but, by expressing this view, they can advance the children's interests.¹⁶⁸ A real liberationist, in contrast, views children as being equal to adults. Alternatively, there are those who think that children should have some but not all of the rights possessed by adults.¹⁶⁹

Finally, there is the view that children should not have any rights, as children are not as qualified as adults are to have rights, and the attribution of rights to children is inappropriate because it does not appreciate the concept of childhood. Children, it is argued, can be assured adequate moral

¹⁶⁶John Holt, *Escape from Childhood* (Pelican Books 1974).

¹⁶⁷David William Archard, 'Children's Rights' in Edward N. Zalta (ed), *The Stanford Encyclopedia of Philosophy* (Winter 2018, Metaphysics Research Lab, Stanford University 2018) <<https://plato.stanford.edu/archives/win2018/entries/rights-children/>> accessed 16 August 2022.

¹⁶⁸Archard (n 167).

¹⁶⁹Archard (n 167).

protection by other means.¹⁷⁰ In conclusion, there appears to be considerable divergence in opinion as to the entitlement of children to rights.

2.6 The Position of the Child within the Family & the Role of the Parent as a Gatekeeper

If children are viewed as having the same rights as adults, they may still need additional supports until such time as they are capable as asserting those rights for themselves. This applies to all aspects of life, including the protection of the privacy of the child's identity. Tobin referred to the value of a constitution in challenging parent-centric legislation, where children are neither seen nor heard and are not accorded any special treatment or recognition but are, however, given "special protection" because of their vulnerability and need for additional care and protection.¹⁷¹ This view pays homage to paternalism and welfare-oriented approaches. However, Tobin describes a "children's rights" constitution as one in which the special recognition of children is addressed in terms of children's rights rather than through a welfare approach.¹⁷² Irrespective of the views as to whether a child is dependent or not, it is the family who lays the foundation and determines the outcome for the child. The family is the fundamental group and the home is the natural environment for the development of children, and they should be supported in their duties towards the child. Every child is entitled to be raised in a family environment.¹⁷³ Parents have responsibilities and

¹⁷⁰Archard (n 167).

¹⁷¹John Tobin, 'Increasingly Seen and Heard: The Constitutional Recognition of Children's Rights:' (2005) 21 South African Journal of Human Rights 86.p.125

¹⁷²John Tobin (n 171).p.126

¹⁷³Convention on the Rights of the Child 1989 Article 9 supports the right of the child not to be separated from their parents.

duties to appropriately direct and guide the child to arrive at a fully autonomous status.¹⁷⁴

Family life and practices are based on clearly defined roles and duties, traditions, and beliefs. These practices, in addition to the child's internal resources lay the foundation for the child's later life. During childhood and adolescence, the family is the child's initial and most important socialising influence. It is argued that the initial formation of young people's identity is based on their interaction with their parents, although it becomes more diverse and more varied as the child's circle of friends and colleagues grow as they mature and as they advance through education.¹⁷⁵

The family, therefore, contributes significantly to the formation of the child's identity.¹⁷⁶ Grotevant and Cooper observed that parents influence their children to develop their own individuality if the family power is shared in a fair manner.¹⁷⁷ Parents who interact positively with their children facilitate their children's identity development in different social contexts.¹⁷⁸ Family interaction that encourages children to question and remain true to themselves encourages the child to explore their identity and commitment as they mature. High levels of parental control result in adolescents and young adults experiencing difficulties in identity development. Individuals who

¹⁷⁴Convention on the Rights of the Child Article 18; electronic Irish Statute Book (eISB), 'Electronic Irish Statute Book (EISB)' Article 40.1.1 <<https://www.irishstatutebook.ie/eli/cons/en/html>> accessed 20 July 2022.

¹⁷⁵Bronfenbrenner (n 165).p.727

¹⁷⁶Ronald L Mullis, John C Brailsford and Ann K Mullis, 'Relations between Identity Formation and Family Characteristics among Young Adults' (2003) 24 *Journal of Family Issues* 966.p.966

¹⁷⁷Harold D Grotevant and Catherine R Cooper, 'Individuation in Family Relationships' (1986) 29 *Human Development* 82.p.84

¹⁷⁸Mullis, Brailsford and Mullis (n 176).p.968

experience more enhanced identity development come from supportive families.¹⁷⁹

The general view is that the role of the family must be a positive role if the family is to exert a positive influence in the child's life. It is within the family unit, with the family as the main influence and the home as the initial location of socialisation, where children gain values, attitudes, and learn acceptable behaviour. This process prepares children for interaction outside the family arena. The experiences within the family are unique and the relationship between the child and parents and other family members is critical to the child's social development. Once, a child is born, the process of individual development starts within the family where the child learns values that will make him unique, and different. Family interaction is vital to prepare the child for life outside of the family. According to Bronfenbrenner, the child is majorly influenced by their parents' work and the social networks and community in which the family resides.¹⁸⁰

Children learn through their relationships and interactions with their parents. These act as filters that will influence a child's response to others. Maccoby is of the view that that the parental influence impacts positively on the child's experience at each stage and that upbringing is crucial in enabling children to discriminate between acceptable and non-acceptable behaviour.¹⁸¹ The family is significant in the cultivation of awareness and respect for human values. There is a need to facilitate appropriate ways of ensuring an equitable balance between parental authority and the realisation of the child's rights, including that of privacy and the right to craft their own public identity. In conclusion, the family is the child's chief nurturer and

¹⁷⁹DR Papini, RA Seby and S Clark, 'Affective Quality of Family Relations and Adolescent Identity Exploration' (1989) 24 *Adolescence* 457.p.458

¹⁸⁰Bronfenbrenner (n 165).p.728

¹⁸¹Eleanor E. Maccoby, 'The Role of Parents in the Socialization of Children: An Historical Overview' (1992) 28 *Developmental Psychology* 1006.p.1007

parents nurture, teach and enable the child to develop into a competent and autonomous adult who respects privacy and freedom of expression.

Parenthood is regarded as a form of trusteeship in which the parents as adult fiduciaries hold the rights of their child in trust and parents are obliged to act in the child's best interests in accordance with their role as a fiduciary.¹⁸² This idea of the parent-child relationship upholds the belief that children have rights, and it is expected that parents protect these rights.¹⁸³ It recognises the parent's role as being that of responsibility for their children as opposed to being in a position of control over their children.¹⁸⁴ Likewise, parents in their position as trustees are expected to recognise and respect the evolving capacities of the child, including their right to self-determination. Woodhouse argues that undermining the moral accountability in a child's earliest experiences does not further the child's understanding of justice, dignity, and equality.¹⁸⁵ The parental responsibility is to ensure that the best interests of the child are recognised and met in every stage in the life of the child.

Section 3 Recognition of the Rights of the Child as enshrined in the UNCRC & the Capabilities Approach

3.1 The Best Interests and Evolving Capacities of the Child

There is a presumption that parents will always act in their child's best interests. The Convention on the Rights of the Child under Article 3 states that:

¹⁸²Barbara Bennett Woodhouse, 'Dark Side of Family Privacy' (1998) 67 *George Washington Law Review* 1247.p.1256

¹⁸³Woodhouse (n 182).

¹⁸⁴Woodhouse (n 182).

¹⁸⁵Barbara Bennett Woodhouse (n 139).p.1819

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.¹⁸⁶

Central to determining the best interests of the child is hearing the voice of the child. The child's inability to have his/her voice heard and, the non-recognition of his/her evolving capacities pose the greatest challenge to the child's development as an autonomous being. There is a general perception that children must be protected, until children reach a level of cognitive capacity. Opportunities need to be fostered for the child to be heard and to stimulate and develop their evolving capacities.

Article 12.1 of the Convention on the Rights of the Child provides that:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.¹⁸⁷

General Comment No.14 supports the contention that the voice of the child needs to be heard in matters pertaining to the best interests of the child:

Assessment of a child's best interests must include respect for the child's right to express his or her views freely and due weight given to said views in all matters affecting the child.¹⁸⁸

¹⁸⁶Convention on the Rights of the Child,1989' (n 89).

¹⁸⁷Convention on the Rights of the Child,1989' (n 89) Article 12 supports the right of the child to have their voice heard.

¹⁸⁸CRC/C/GC, 'General Comment No. 14 (2013) on the Right of the Child to Have His or Her Best Interests Taken as a Primary Consideration (Art. 3, Para. 1)' (2013) para.43 <https://www2.ohchr.org/english/bodies/crc/docs/gc/crc_c_gc_14_eng.pdf>.

Any decision taken regarding the best interests of the child is the subjective decision of the parent. The difficulty that remains is whether the decision is based on the child's best interests or does it lean towards a welfare view or paternalistic view. The promotion of the child's welfare need not be paternalistic if parent listens to the child and recognises the evolving capacities of the child.

Article 5 of the United Nations Convention on the Rights of the Child seeks to encourage respect for children's capacity to exercise their rights and involve them in decisions, while balancing this with their relative lack of experience to protect them from harm, such as violence and economic exploitation.¹⁸⁹ Article 5 of the UNCRC states that:

State Parties shall respect the responsibilities, rights and duties of parents or responsible adults to provide for the child in a manner consistent with the evolving capacities of the child.

Article 5 encourages and nurtures rights relating to children's autonomy. The concept of evolving capacities acknowledges that children's development is a journey and, together with the right to be heard (Article 12), they are entitled to be involved in decisions affecting them from the earliest possible age. The United Nations Convention on the Rights of the Child challenges the idea that parents have absolute rights over children. It indicates that parents should provide the appropriate support to ensure that children enjoy all their rights provided for in the Convention.¹⁹⁰ Article 5 seeks to promote respect for children's capacity to exercise their rights and to include them in decisions, while it also recognises children's lack of experience regarding harms such as violence and economic exploitation. It

¹⁸⁹'Convention on the Rights of the Child,1989' (n 89).

¹⁹⁰'Convention on the Rights of the Child,1989' (n 89).

encourages and nurtures rights relating to children's autonomy. The right to be heard is fundamental to autonomy.

The United Nations on the Convention on the Rights of the Child asserts the value of children's views and stresses the merit of giving them weight in accordance with their age and maturity. This approach advocates taking account of children's individual characteristics and experiences, thereby rejecting a strictly age-based approach. The UNCRC supports the need to consider children's views and of giving their views weight in accordance with their age and maturity. This approach advocates the recognition and respecting of children's unique and individual characteristics and experiences and it rejects the artificial age-based approach.

3.2 The Capabilities Approach

The Capabilities Approach as proposed by Nussbaum recognises the sense in attributing rights to children, with particular regard for their welfare and agency.¹⁹¹ It is different for all individuals and different levels of nurturing are required for individuals. It does not require individuals to reach a certain level of attainment prior to engaging in decision-making. The achievement of competency must be accompanied by a period of preparation. The recognition of evolving capacities is central to the achievement of competency.

The key issue being explored in this thesis is the extent to which children have a right to the privacy of their identity whether they have the right to craft the identity that they themselves wish to share and, to what extent can others, namely parents interfere with this right. In addressing how best to facilitate the evolving capacity of the child, Nussbaum advocates the

¹⁹¹Rosalind Dixon and Martha C Nussbaum, 'Children's Rights and a Capabilities Approach: The Question of Special Priority' (2012) 97 Working Paper No. 384 <<http://www.ssrn.com/abstract=2060614>> accessed 19 September 2022.

capability approach which supports the idea that one uses one's capabilities to achieve one's potential freedom and to fulfill one's expectations.¹⁹² It focuses on the means to achieve an end result and justifies it on the basis that resources and goods alone do not ensure that people are able to convert expectations into actual achievements. Amartya Sen, the pioneer of the capabilities approach, did not refer to any particular capability and, was of the view that rights are intrinsically connected to freedom.¹⁹³ Nussbaum refers to particular capabilities and has argued that all individuals are entitled to equal rights because of their human dignity.¹⁹⁴ Freeman is of the view that the capabilities theory is positive, in that, a person's "capabilities are their abilities to be and do things that are fundamentally important to human life."¹⁹⁵ Children are overlooked in the freedom concept, as children are believed to be under the control of parents and are not free, equal and independent.¹⁹⁶

This difference between theories in the freedom tradition and the Capabilities Approach is apparent when it comes to the rights of very young children as the capabilities approach explains why all children are entitled to be treated as rights-bearers. It acknowledges that human beings have a variety of capacities at birth that require development up to the point at which they reach the requisite threshold of capability. Biggeri et al. maintain

¹⁹²Martha Nussbaum, *Creating Capabilities: The Human Development Approach* (Belknap Press of Harvard University Press 2013).

¹⁹³Ingrid Robeyns and Morten Fibieger Byskov, 'The Capability Approach' in Edward N Zalta (ed), *The Stanford Encyclopedia of Philosophy* (Winter 2021, Metaphysics Research Lab, Stanford University 2021) <<https://plato.stanford.edu/archives/win2021/entries/capability-approach/>> accessed 12 September 2022.

¹⁹⁴Martha Nussbaum (n 192).

¹⁹⁵Michael Freeman, *Human Rights* (n 123).p.70

¹⁹⁶John Locke, 'Locke on Parental Power' (1989) 15 *Population and Development Review* 749.p.752

that the application of the capability approach to children entails taking a decision with regard to their capacity for self-determination.¹⁹⁷

The Capabilities Approach, in recognition of the human dignity of each individual, supports the concept of agency and autonomy, thereby, identifying why children should be recognised as rights-bearers. It recognises that rights are only fully secured if capabilities are present. It acknowledges the need for positive government leadership to guarantee the enjoyment of rights for every individual. The Capabilities Approach acknowledges that we should recognise that individuals have different requirements, based on physical and cognitive differences. Children and adults have different needs, children require additional support to develop and enjoy their capabilities.

The capabilities approach is supported by Article 12 of the Convention on the Rights of the child which recognises the right of the child to have a say in matters pertaining to the child.¹⁹⁸ The Committee on the Rights of the child in General Comment No. 7 defines evolving capacities as:

an enabling principle that addresses the process of maturation and learning through which children progressively acquire competencies, understanding and increasing levels of the agency to take responsibility and exercise their rights.¹⁹⁹

¹⁹⁷Jérôme Ballet, Mario Biggeri and Flavio Comim, 'Children's Agency and the Capability Approach: A Conceptual Framework' in Mario Biggeri, Jérôme Ballet and Flavio Comim (eds), *Children and the Capability Approach* (Palgrave Macmillan UK 2011), p.22

¹⁹⁸'Convention on the Rights of the Child, 1989' (n 89).

¹⁹⁹United Nations High Commissioner for Refugees, 'Refworld | General Comment No. 7 (2005): Implementing Child Rights in Early Childhood' (*Refworld*) <<https://www.refworld.org/docid/460bc5a62.html>> accessed 31 July 2022.

The cultivation of the child's freedom to participate is central to the formation of capabilities that will be required in later life. The nurturing and freedom to communicate one's ideas are fundamental for children's transition into competent adults.²⁰⁰ Society, in its promotion of participation during childhood, acknowledges children's needs and aspirations.

As regards a possible alternative to the capabilities approach, the will theory is based on individuals/children having free will to make decisions. The 'Will' theory which stipulates that the ability to make rational choices is central to having rights infers that children, in particular, young children cannot have rights, as they lack the competency to claim or waive them, depending on their particular choice.²⁰¹ Cowden observed that the 'Will' theory fails to understand that while children may not have the required competency, they do have capacity.²⁰² Hart believed that children should have a representative to exercise these rights on their behalf, but the question remains as to who should take on that role and what happens in the event of a difference in opinion between the representative and the child? This raises the question as to level of influence of the representative.²⁰³ This requires that the representative of the child need to be fully aware of the needs and wishes of the child. However, the right to a private identity rests on the principle of self-determination with limited intrusion. It is also identified with the right to freedom of expression and the crafting of one's own identity.

There is the difficulty that when represented by others, that the actual choice of the child may be influenced in favour of other elements. This contradicts the very essence of the Will theory, which is that of free will and freedom of

²⁰⁰Ballet, Biggeri and Comim (n 197).

²⁰¹Campbell (n 125).

²⁰²Mhairi Cowden, 'Capacity, Claims and Children's Rights' (2012) 11 Contemporary Political Theory 362.p.370

²⁰³David. Archard, *Children: Rights and Childhood* (2nd ed., Routledge 2004).

choice. If the will theory is to apply, then the child should have freedom, but parents, also, as noted by Mac Cormick are obliged to protect and that the duty to care for children is not discretionary, it cannot be waived. His conclusion is, then, that children do have rights, irrespective of their ability to waive or claim them.²⁰⁴

There is also the interest theory of rights, which was introduced by Bentham who argued that an individual has a human right and others have corresponding duties to protect the individual's interests.²⁰⁵ The interest theory bestows some control on the right-holder and aims to protect the right-holder's interests. However, it does not confer a legal right on one to be used against the other. The difficulty as noted by Campbell is that children's interests are often unclear, and there is a tendency on the part of adults to behave paternalistically towards children.²⁰⁶

The Interest theory strives to find a solution to the conceptual difficulty of including children and other 'incompetent' individuals.²⁰⁷ The Interest theory expects that there is the existence of needs or interests that require protection. This implies that the child is a rights holder, and the adult should be the upholder of the child's rights. The child as a citizen (maybe not always capable of exercising their rights) is entitled to be enabled to challenge exclusion and oppression.²⁰⁸ While, decisions made by adults may be driven by the child's best interests, Eekelaar argues that the voice of the

²⁰⁴Neil Maccormick, 'Children's Rights : A Test-Case for Theories of Right' (1976) 62 ARSP: Archiv für Rechts- und Sozialphilosophie / Archives for Philosophy of Law and Social Philosophy 305 <<https://www.jstor.org/stable/23679212>> accessed 27 June 2021.p.316

²⁰⁵Matthew H. Kramer, 'Refining the Interest Theory of Rights' (2010) 55 The American Journal of Jurisprudence 31.

²⁰⁶Campbell (n 125).

²⁰⁷Campbell (n 125).

²⁰⁸Katherine Federle, 'Do Rights Still Flow Downhill?' (2017) 25 The International Journal of Children's Rights 273. p.282

child needs to be heard in these decisions.²⁰⁹ Cowden notes one of the most important difference between the will theory and interest theory is that one does not need to be able to waive or enforce an interest claim.²¹⁰

The Capabilities Approach focuses on human dignity and the requisite measures to guarantee full respect. The capabilities approach considers the capacity of the child, it recognises individuals as being in need of support in order to become aware of available choices. It recognises that competency is an ongoing process with no definite commencement or end date. It is different for all individuals and different levels of nurturing are required for individuals. Under this approach individuals are not required to reach a certain level of attainment prior to engaging in decision-making. The achievement of competency is preceded by a period of preparation during childhood. The recognition of evolving capacities is central to the achievement of competency.

4. Conclusion

In considering the claim that, “There should be recognition and protection of children's right to the privacy of their identity and freedom for them to narrate their online identity,” this chapter explores the concepts that support the right to identity and freedom of expression and the capabilities approach as a theoretical basis and framework to support the child’s right to the privacy of their identity and self-determination. It also considers the extent to which the creation of a public online narrative may infringe an individual’s identity, in particular their sense of autonomy and agency. Identity is broadly defined as the characteristics that are particular to an individual.

²⁰⁹Eekelaar (n 126).p.228

²¹⁰Cowden (n 202).p.370

Given the level of interference with identity, privacy is crucial to the protection of the right to an identity. There are recognisable differences in the level of privacy offered to adults and children. In the event of the safety of children being an issue, privacy can, however, be disregarded, if necessary to ensure the safety and protection of the child. Interference to identity is present in many ways and the most notable is the incursion on the individual's right to a private identity and self-determination.

In recognising identity and freedom of expression as human rights, the general view is that dignity and human rights are essential and universal and apply equally to every individual irrespective of age. Children are not always readily accepted as fully rational and autonomous individuals who can exercise free choice and who are entitled to freedom from governmental interference. Children are believed to be lacking developed rational capabilities. The family is the initial and predominantly the most influential aspect of a child's life. Parents facilitate the growth of their children into autonomous beings. The parent/child relationship is recognised as the one relationship that, more often than not, facilitates the child to a free expression of agency.

The inequality in the power balance is regarded as a dominant influence in the child/adult relationship. The capabilities approach in recognition of the human dignity and evolving capacities of minors supports a graduated approach that allows the child's development into a discerning adult.

Chapter 2 Literature Review

2.1 Introduction

The term Sharenting was introduced by Leekart in a Wall Street Journal in 2012 and it exists in the Collins English Dictionary since 2016 where it is defined as “the habitual use of social media to share news, images, etc. of one’s children.”¹ Sharenting is defined by Steinberg as ‘the online posting of a child’s images and private details by parents with or without the child’s consent’.² Whereas Blum-Ross and Livingstone define “Sharenting” as sharing representations of one’s parenting or children online. This practice in which parents share comments on life situations or images and videos of their children on social networks is called sharenting.³ This raises the issue of the parental freedom of expression and the difficulty of extricating the parents’ life and parenting practices from the child’s life. Brosch defines it as the publishing of detailed information in the form of photos, videos and posts about their children in the public sphere through social media, which violates children’s privacy.⁴ There is the added difficulty that sharenting may not apply to parents alone. Fox and Grubbs argue that sharenting is not limited only to parents. Grandparents, other family members, and friends share personal information about children who are involved in their lives on

¹ Allison Lichter, ‘Oversharenting: Parents Juggle Their Kids’ Lives Online’ *Wall Street Journal* (16 May 2012) <<https://www.wsj.com/articles/BL-JB-15164>> accessed 7 December 2022.

² Stacey B Steinberg, ‘Sharenting: Children’s Privacy in the Age of Social Media’ (2017) 66 *Emory Law Journal* 829.

³ Alicia Blum-Ross and Sonia Livingstone, “‘Sharenting,’ Parent Blogging, and the Boundaries of the Digital Self” (2017) 15 *Popular Communication: Self-(Re)presentation Now* 110.

⁴ Anna Brosch, ‘When the Child Is Born into the Internet: Sharenting as a Growing Trend among Parents on Facebook’ (2016) 43 *The New Educational review* 225.

social media'.⁵ Maltz identifies the presence of an audience, and the possibility of identifying the child as chief components of sharenting.⁶ This raises the issue as to the size of the group with whom the images and information are shared. It is possible that the friends of one's friend group may have access to images and information. Is this the only factor that one needs to be concerned about? There is also the issue that images may be screenshot and copied. While there are various and varying views as regards the methods and reach of sharenting, they are all based on the concept of sharing. While there has been recognition that Facebook/Meta, Instagram, Tik Tok are widely used social media platforms, there has been much discussion as to whether or not WhatsApp constitutes social media, it is recognised as the third most influential and widely used social media platform.⁷ The parents who participated in the interviews in this study were divided in their views regarding the use of Whatsapp.

This chapter, in its consideration of the degree to which sharenting impacts the child's right to the privacy of their identity and self-determination, examines the current body of literature with regard to the prevalence of sharenting and its implication for the child, his/her childhood and the parent/child relationship. This is followed by a reflection on the views regarding the nature of shared material and the potential impact that the sharing of the child's private data may have on: the privacy of identity, autonomy, agency and self-determination of the child. The potential ramifications of sharenting on the right to privacy are reviewed, along with

⁵ Alexa K. Fox and Marica Grubbs Hoy, 'Smart Devices, Smart Decisions? Implications of Parents' Sharenting for Children's Online Privacy: An Investigation of Mothers' (2019) 38 *Journal of Public Policy & Marketing* 414.

⁶ Phoebe Maltz Bovy, 'The Ethical Implications of Parents Writing About Their Kids' (*The Atlantic*, 15 January 2013) <<https://www.theatlantic.com/sexes/archive/2013/01/the-ethical-implications-of-parents-writing-about-their-kids/267170/>> accessed 4 January 2023.

⁷ 2022 May 30 and others, 'The Top 10 Social Media Sites & Platforms 2022' (*Search Engine Journal*) <<https://www.searchenginejournal.com/social-media/biggest-social-media-sites/>> accessed 4 January 2023.

views on freedom of expression, in particular, the right of the child to craft their own online narrative in a free and non-prejudicial manner. The conclusion, while considering the various perspectives on sharenting considers views expressed on the potential of consent to act as a safeguard of the privacy of identity and self-determination of the child.

2.2.1 Sharenting and Parenthood

Article 16 of the United Nations Convention on the Rights of the Child, 1989 acknowledges the importance of the privacy of the family unit and children's rights within the family group.⁸ Article 3 of the United Nations Convention on the Rights of the Child upholds the 'best interests' of the child as a guiding principle in all decisions pertaining to the child.⁹ As parents are the gatekeepers/custodians of their children's personal information, they are expected to protect their children's private data.¹⁰ They, alone, are allowed to decide if, and how much of the child's personal information will be shared online. The decision as to whether or not Sharenting represents 'interference' is subjective, it depends on the view of the affected individual and, whether or not, he or she believes that his or her right to privacy has been infringed. In the case of very young children, this depends on the view of the child's parents as they are responsible for the protection of the rights of the child.¹¹ If parents believe that sharing their children's photographs does not impinge on the rights of the child, then they are effectively sanctioning their own online sharenting. Accordingly, children who are incapable of deciding, by reason of age or understanding are very much dependent on their parents to make a choice that is in the

⁸ Convention on the Rights of the Child 1989.

⁹ Convention on the Rights of the Child. Article 3

¹⁰ Benjamin Shmueli and Ayelet Blecher, 'Privacy for Children' (2011) 42 Columbia Human Rights Law Review 759.

¹¹ Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' 66 Emory Law Journal 839.

child's best interests. While parents do not share information with the intended consequence of harming their children, the posting of one inappropriate photo may be enough to humiliate a child.¹² The right of the child to the privacy of their identity and self-determination is pitched against the right of the parent to freedom of expression.

In recognition that children should have a right to privacy, outside of the protection provided by their parents, this right is influenced by age and evolving capacities.¹³ The expectation is that parents must, therefore, protect their child's best interests. The boundary between public and private life is delicate and may be crossed by parents, who through sharenting, inadvertently or otherwise, increase their children's visibility in the public arena and a loss for the child within the family and home.¹⁴ The ability to share information online has presented "new opportunities"¹⁵ to parents while simultaneously generating additional responsibilities. Sharenting affords parents the opportunity to control and disseminate their children's private data.¹⁶ Parents who engage in sharenting frequently reveal their children's identities on a public forum, even before the children can distinguish between a private and public life. Children's interest in privacy is often trumped by the parental right to dictate the upbringing of their children and the parental freedom of expression.¹⁷

¹² Stacey B Steinberg (n 11).

¹³ Shmueli and Blecher (n 10),p.763

¹⁴ Jelena Gligorijević, 'Children's Privacy: The Role of Parental Control and Consent' (2019) 19 Human Rights Law Review 201.p.204

¹⁵ Stacey B Steinberg (n 11),p.846

¹⁶ Kamil Kopecky and others, 'The Phenomenon of Sharenting and Its Risks in the Online Environment. Experiences from Czech Republic and Spain' (2020) 110 Children and Youth Services Review 1.

¹⁷ Stacey B Steinberg (n 11).

2.2.2 Prevalence of Sharenting

Recent years have experienced an unprecedented growth in online social networking sites. The ever-increasing advent of new technologies had been met by a commensurate growth in information sharing. In 2016, 1.18 billion people were using Facebook, 500 million tweets were sent and 95 million photos and videos are posted on Instagram.¹⁸ Research reveals that parents, mothers in particular, regard social media as an “ubiquitous” part of parenting.¹⁹ Reviewed literature referred to the large and ever-increasing instances of sharenting. Steinberg observes that 92% of two year olds in the USA have an online presence.²⁰ Similar findings were reported by AVG Technologies (2010) who, following a survey carried out in USA, Australia, Canada, New Zealand, Japan France and the United Kingdom found that 81% of children under the age of two years have a digital footprint created by parents.²¹ Bessant notes that parents in the United Kingdom will have, on average, posted hundreds of photographs of their children by the time their children have reached their fifth birthday.²² Hiniker et al note that parents share online their children’s information despite the subsequent unease experienced by children.²³ While, there is little disagreement in the reviewed

¹⁸ Max Mills, ‘Sharing Privately: The Effect Publication on Social Media Has on Expectations of Privacy’ (2017) 9 *Journal of Media Law* 45.p.45

¹⁹ Catherine Archer and Kai-Ti Kao, ‘Mother, Baby and Facebook Makes Three: Does Social Media Provide Social Support for New Mothers?’ (2018) 168 *Media International Australia* 122.p.122

²⁰ Stacey B Steinberg (n 11).p.849

²¹ ‘Digital Abilities Overtake Key Development Milestones for Today’s Connected Children’ (*Digital Abilities Overtake Key Development Milestones for Today’s Connected Children*) <digital-abilities-overtake-key-development-milestones-for-todays-connected-children> accessed 2 January 2022.

²² Claire Bessant, ‘Sharenting: Balancing the Conflicting Rights of Parents and Children’ (2018) 23 *Communications Law* 7.p.7

²³ Alexis Hiniker, Sarita Y. Schoenebeck, and Julie A. Kientz, ‘Not at the Dinner Table: Parents’ and Children’s Perspectives on Family Technology Rules’, p.1385 *Proceedings of the 19th ACM Conference on Computer-Supported Cooperative Work & Social Computing* (ACM 2016) <<https://dl.acm.org/doi/10.1145/2818048.2819940>> accessed 27 August 2022.

literature as to the prevalence of sharenting, most of the literature on sharenting relates to the online posting of data and images.

2.2.3 Sharenting and Childhood

Sharenting occurs more frequently when children are very young and unaware of the actions of their parents.²⁴ Goldstein refers to the right of the child for support in meeting his/her needs, but also to the potential for the parental authority to be abused.²⁵ Children are regarded as being incompetent and lacking stability and, this view according to Mayall makes it difficult to revise the concept of childhood.²⁶ This viewpoint regards children as dependents and parents as determinants of what is in the best interests and welfare of the child as opposed to recognising children as right-bearers with evolving capacity and autonomy. Tobin acknowledges the significance of recognising children's rights, in that it allows the child to be heard and seen in matters that concern the child.²⁷

In recognition of the viewpoint that regards childhood as a period that poses many challenges to the child, sharenting poses an additional challenge for children and young adults as they are obliged to contend with media glare and public attention and this may lead to mistrust in parents.²⁸ Sharenting poses a new interference to childhood and adolescence, in that, their identity may be shaped by the comments of other users, as online identity is a "co-

²⁴ Brosch (n 4).

²⁵ Joseph Goldstein, 'Medical Care for the Child at Risk: On State Supervention of Parental Autonomy' (1977) 86 *The Yale Law Journal* 645.p.647

²⁶ B. Mayall, 'The Sociology of Childhood in Relation to Children's Rights' (2000) 8 *The International Journal of Children's Rights* 243.p.246

²⁷ John Tobin, 'Increasingly Seen and Heard: The Constitutional Recognition of Children's Rights' (2005) 21 *South African Journal on Human Rights* 86.p.86

²⁸ Keltie Haley, 'Sharenting and the (Potential) Right to Be Forgotten' (2020) 95 *Indiana Law Journal* 1005.

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creative process.”²⁹ Children, as a result of sharenting, may grow up confused and unable to distinguish between public and private aspects of their identity.³⁰ There is the possibility that sharenting may impact on the child’s creation, imagination, learning with enduring consequences for the child’s privacy and self-determination.³¹ Children have limited choice by way of recourse against parental oversharing, as parents are believed to know best.³² Furthermore, children are denied the opportunity to express their true feelings with regard to sharenting and, in the case of young children, they may not understand the implications of their parents’ online activities.³³

While it is accepted that a parent may want to share their children’s lives with their family and friends, the size of the friend group may not always be clear. Plunkett’s primary concern with sharenting is that, it essentially results in “childhood being moved from a protected play and exploration period into a phase that is surveilled and tracked.”³⁴ While this may be concerning for adults, it is even more serious for children, as it effectively turns a child into a marketable commodity for social media.³⁵ Plunkett’s argument is that sharenting accelerates the child’s entry into “digital life” and that “childhood is a unique life stage” that should encompass “play and experimentation” for the child’s enjoyment.³⁶

²⁹ Anne Helmond, ‘Identity 2.0: Constructing Identity with Cultural Software.’ <https://www.annehelmond.nl/wordpress/wp-content/uploads/2010/01/helmond_identity20_dmiconference.pdf>.

³⁰ Giulia Ranzini, Gemma Newlands, and Christoph Lutz, ‘Sharenting, Peer Influence, and Privacy Concerns: A Study on the Instagram-Sharing Behaviors of Parents in the United Kingdom’ (2020) 6 *Social Media + Society* 1.

³¹ Giulia Ranzini, Gemma Newlands, and Christoph Lutz (n 30).

³² Stacey B Steinberg (n 11).p.868

³³ Stacey B Steinberg (n 11).

³⁴ Leah Plunkett, *Sharenthood* (Massachusetts Institute of Technology 2019).p.45

³⁵ Deborah Lupton and Ben Williamson, ‘The Datafied Child: The Dataveillance of Children and Implications for Their Rights’ (2017) 19 *New Media Soc.* 780.

³⁶ Leah Plunkett (n 34).p.44

However, innocuous posts, by parents can create real-world outcomes, as screenshots or hashtags can result in posts being reframed in the future. This may result in difficulties in school, acceptance by peers or a community. It can also cause bullying, difficulties with regard to college and professional reputation.³⁷ In addition, it can create challenges for relationship prospects and the crafting of one's own story and sense of self.³⁸ Plunkett is of the view that adults are abdicating their responsibilities with regard to the protection of minors in favour of technology and robots.³⁹ Ali observes that Facebook as the modern day panopticon and observes that despite the architectural differences between Facebook and the Panopticon, their functionality remains the same.⁴⁰ Sharenting highlights the vulnerability and exposure of children to dangers that may have far-reaching and longstanding effects. The shared content frequently relates to the child's image and identity. The photograph is regarded as effective in maintaining connection.⁴¹ However, there is limited discussion in existing literature on the merit of giving the child a say in the choice of content to be shared. Likewise, there is no discussion on what should be done in the case of children who are incapable of voicing their consent by reason of age or understanding. Goggin and Ellis note that advocates of children's rights have called for the voice of the child to be heard in discussions on sharing in the digital environment.⁴² There is

³⁷ Nadine Davidson-Wall, "Mum, Seriously!": Sharenting the New Social Trend with No Opt-out. – Debating Communities and Social Networks 2018 OUA Conference' (2018) <<https://networkconference.netstudies.org/2018OUA/2018/04/22/mum-seriously-sharenting-the-new-social-trend-with-no-opt-out/>> accessed 27 August 2022.

³⁸ Nadine Davidson-Wall (n 37).

³⁹ Leah Plunkett (n 34).p.47

⁴⁰ Zaynab Ali, 'Facebook: The Modern Day Panopticon' (2018) 4 *Journal of Anthropology* 61.p.67

⁴¹ Anne Oeldorf-Hirsch and S. Shyam Sundar, 'Social and Technological Motivations for Online Photo Sharing' (2016) 60 *Journal of Broadcasting & Electronic Media* 624.p.637

⁴² Gerard Goggin and Katie Ellis, 'Privacy and Digital Data of Children with Disabilities: Scenes from Social Media Sharenting' (2020) 8 *Media and Communication* 218.

limited attention in the literature on how the sharing of images and private data may impact on the physical and mental health of young children.

Conversely, social media also offers some positives. It offers a new channel of social communication. Sharenting allows for the sharing of content with friends and family.⁴³ Parents through sharenting build up a digital dossier for their children. It is a means to create memories. It helps children to build up a social connection and to remain connected with families and friends who they rarely meet.⁴⁴ While, children may benefit from a public presence, the chronological account of milestone celebrations and contact with family members,⁴⁵ the child's lack of choice regarding the shared information still remains an issue.

2.2.4 Shared Information

As regards the nature of the shared content, the general view is that the sharing of the joys and challenges associated with parenthood has become the new social norm, with parents sharing photographs of family events, birthdays and personal data.⁴⁶ Some literature referred to sharenting as that which Autenrieth describes as the creation of an "online biography" for children.⁴⁷ Brosch revealed that parents share on average 116 baby photographs per account in an attempt to "chronicle the most important events in their children's lives."⁴⁸ Expectant mothers announce their pregnancies on social media by sharing prenatal ultrasound images.⁴⁹ In the

⁴³ Stacey B Steinberg (n 11).

⁴⁴ Stacey B Steinberg (n 11).

⁴⁵ Stacey B Steinberg (n 11).

⁴⁶ Brosch (n 4),p.226

⁴⁷ Ulla Autenrieth, "Family Photography in a Networked Age" in Digital Parenting The Challenges for Families in the Digital Age', *Digital Parenting. The Challenges for Families in the Digital Age* (Goteborg: Nordicom 2018).p.220

⁴⁸ Brosch (n 4),p.226

⁴⁹ Stacey B Steinberg (n 11). p.849

words of Lupton, the sharing of the first ultrasound images on social media has become a “rite of passage for many women.”⁵⁰

While much of the reviewed literature referred to the content shared being that of happy events and celebrations, a new study recorded that in a survey of 569 parents with a child or children aged 0-4, 54% mothers and 34% of fathers discuss child health and parenting issues on social media.⁵¹ Reviewed literature revealed that some of the most popular sharenting topics featured: getting children to sleep, cited by 28% of respondents; nutrition and eating tips (26%); discipline (19%); daycare and preschool (17%), and behaviour problems (13%).⁵² While some shared material represents happy and positive events, parents also rely on social media for parenting and health advice. Reviewed literature focuses extensively on the benefits or otherwise to parents with limited focus on the benefits of sharenting to children.

2.2.5 Social Media Challenges

A review of existing literature on the subject of sharenting reveals that literature focuses on the prevalence of sharenting, the nature of shared content, the reasons, and, the potential ramifications of sharenting for minors. There has been some reference to the challenges posed by the struggles that parents experience in their engagement with online activities.

⁵⁰ D Lupton, *The Social Worlds of the Unborn* (Palgrave Macmillan UK 2013).p.42

⁵¹ C.S. Mott Children’s Hospital National Poll, ‘Parents on Social Media: Likes and Dislikes of Sharenting’ (2015) Poll Vol. 23, Issue 2 <<https://mottpoll.org/reports-surveys/parents-social-media-likes-and-dislikes-sharenting>>.

⁵² C.S. Mott Children’s Hospital National Poll (n 51).

Context Collapse and Identity

The child's right to preserve his/her a private identity is upheld by Article 8 of the United Nations Convention on the Rights of the Child.⁵³ Hamming referred to the innumerable decisions that parents may make regarding their children and, how the decision to share personal information and photographs has the greatest effect.⁵⁴ The posting of photographs and personal information by parents are identity-shaping practices. Young adults, by and large, have no desire to be defined by their image as a minor.⁵⁵ Adolescents attribute a lot of importance to their image and they value their right to consent.⁵⁶ The European Court of Human Rights concluded that:

[a] person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics and distinguishes the person from his or her peers.⁵⁷

The interaction between freedom of expression and the right to control one's private identity is based on a balancing exercise as outlined in the case of *Von Hannover v. Germany* (no. 2), where the courts ruled that:

[A] person's image constitutes one of the chief attributes of his or her personality, as it reveals the person's unique characteristics, whose protection is of particular importance,

⁵³ 'Convention on the Rights of the Child' <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 1 August 2022.

⁵⁴ Kate Hamming, 'A Dangerous Inheritance: A Child's Digital Identity' (2020) 43 *International Journal of Network Security* 1033.p.1036

⁵⁵ Niamh Ní Bhroin and others, 'The Privacy Paradox by Proxy: Considering Predictors of Sharenting' (2022) 10 *Media and Communication* 371.

⁵⁶ Anna Sarkadi and others, 'Children Want Parents to Ask for Permission before "Sharenting"' (2020) 56 *Journal of Paediatrics and Child Health* 981.

⁵⁷ *Reklos and Davourlis v Greece* [2009] (Application no 1234/05).para.40

as the photos may contain very personal or even intimate information about an individual...⁵⁸

However, today's digital world is based on the premise that information is shared and once shared, it travels extensively. The information disclosure strategies depend on the users' specific aim. The "unsanctioned narrative" is cultivated by the parent with little consideration being afforded to the establishment of the "child's inveterate digital identity".⁵⁹ The shared information may result in the child being subjected to judgments and predictions being made on the future of the child.⁶⁰ The shared information represents a snapshot in time and given that identity is continuously changing, it is possible that children would prefer not to be defined by one particular posting. As a result of sharenting, the shared identity of the child moves from a private and protected space to an open and public platform.⁶¹

Once a parent shares their child's images, they may be exposed on a wide forum. Children, whose images are shared in the online arena may end up having their identity compromised and in the view of Hamming, they may through the 'inheritance of a digital identity' be inhibited from developing their own sense of self as a result of the previous exposure that arises from sharenting.⁶² While the General Data Protection Regulation, 2016 entitles one to the right to be forgotten and the right to erasure,⁶³ this right does not safeguard the child's identity against the multitude of infringements that can potentially happen between the time of posting and erasure. Bessant and

⁵⁸ *Von Hannover v Germany (No 2)* [2012] VON HANNOVER v GERMANY (No 2) (Applications nos 40660/08 and 60641/08), para.96

⁵⁹ Nadine Davidson-Wall, "'Mum, Seriously!': Sharenting the New Social Trend with No Opt-Out." (2018)

<<http://networkconference.netstudies.org/2018OUA/2018/04/22/mum-seriously-sharenting-the-new-social-trend-with-no-opt-out/>> accessed 14 April 2022.

⁶⁰ Hamming (n 54).

⁶¹ Leah Plunkett (n 34).p.45

⁶² Hamming (n 54).p.1047

⁶³ General Data Protection Regulation 2016 Articles 17 & 19.

Schnebbe observe the need for clarification on whether the household exemption under the GDPR should be interpreted broadly or narrowly. They observe that if a narrow interpretation is applied, then parents who share their children's private data need to be able to clarify that they are sharing with friends in a personal nature.⁶⁴

2.2.6 Reasons for Sharenting

While a vast range of information is shared, literature has focused on the various reasons for sharenting. There are several reasons why parents share their children's photographs and personal data. Parents are motivated to share in an attempt to generate positive 'likes' and, these likes encourage parents to share more information.⁶⁵ The impact of the social media presence of users is quantified in terms of the size of the friend group and likes. In addition, parents are believed to use online posts as a carrot and/or stick discipline approach to generate good behaviour among their children.⁶⁶ This particular finding has not been replicated in the results from this research.

Social Connectivity

Social networks have become the primary centres of socialisation for many, allowing them the freedom to create and manage a persona of their personal choice.⁶⁷ There is that element of invincibility, wherein, they feel in control as they produce and manage their own profiles. There are several reasons why parents engage in sharenting, which include: social contact, parental

⁶⁴ Claire Bessant and Schnebbe, 'Does the GDPR Offer a Solution to the Problem of "Sharenting"?' (2022) 6 *Datenschutz und Datensicherheit* 352.p.356

⁶⁵ Kamil Kopecky and others (n 16).

⁶⁶ Stacey B Steinberg (n 11).p.853

⁶⁷ Brian Miller and Peter Munday, 'Follow the Rules and No One Will Get Hurt: Performing Boundary Work to Avoid Negative Interactions When Using Social Network Sites' (2015) 18 *Information, Communication & Society* 187.p.188

advice, the archiving of information and impression management.⁶⁸ Sharenting facilitates integration into communities and this integration is very much dependent on disclosure of personal information. While reviewed literature highlights the reasons and benefits of sharenting to parents, there has been limited reference, if any, to the way children may directly benefit from sharenting.

While, some authors refer to the benefits of sharenting in facilitating children to develop a positive network of family and friends,⁶⁹ the maintenance of an online record to allow children to learn about themselves⁷⁰ and the manner in which it facilitates children to construct a positive image,⁷¹ Mills observes that social media is “both a theatre and a community,” in which we are allowed to enhance our experiences in an uninhibited manner.⁷² The collection of memories can create an identity narrative and sense of belonging for a child. This is important to a child who may be separated from their family. As Hoyle explained, “The development of stable, explicable life narratives about where we come from and what has happened to us is recognised as essential to the construction of self” .⁷³

Parents share their children’s photos to showcase experience, socially connect and as a means of reaching out to other parents.⁷⁴ Others refer to sharenting as an economic tool in the world of blogging and vlogging,⁷⁵

⁶⁸ Michael Walrave, Karen Verswijvel, Gaëlle Ouvrein, Luna Staes, Lara Hallam, Kris Hardies, ‘The Limits of Sharenting: Exploring Parents’ and Adolescents’ Sharenting Boundaries Through the Lens of Communication Privacy Management Theory’ <<https://www.frontiersin.org/articles/10.3389/feduc.2022.803393/full>>.

⁶⁹ Stacey B Steinberg (n 11), p.855

⁷⁰ Alicia Blum-Ross and Sonia Livingstone, “‘Sharenting,’ Parent Blogging, and the Boundaries of the Digital Self” (2017) 15 *Popular Communication* 110.

⁷¹ Stacey B Steinberg (n 11), p.855

⁷² Max Mills (n 18), p.47

⁷³ Victoria Hoyle and others, ‘Recordkeeping and the Life-Long Memory and Identity Needs of Care-Experienced Children and Young People’ (2020) 25 *Child & Family Social Work* 935, p.935

⁷⁴ Anne Oeldorf-Hirsch and S. Shyam Sundar (n 41), p.631

⁷⁵ Alicia Blum-Ross and Sonia Livingstone (n 70).

whereby, the child is used as a ‘click-bait’⁷⁶ to attract followers. The justification of this unregulated use of child labour has been questioned by Abidin.⁷⁷ France introduced legislation to protect the rights of children who participate with their families in the generation of online content.

In conclusion, social media offers a new channel of social interaction because in the words of C.S. Lewis, “We live in a world starved for solitude, silence and privacy and therefore starved for mediation and true friendship.”⁷⁸ Sharenting allows parents to circulate private information and images among friends and family. Photographs are famously worth a thousand words and by posting them online, parents, not only, communicate with a wide audience, but they use their children’s photographs as a form of ‘social currency’.

Self-Validation

Goffman referred to ‘dramatic realisation’, whereby, people consciously portray specific attributes to their audience.⁷⁹ Parents, in a similar fashion, use online postings to present curated images of themselves. Facebook is regarded as the new “baby book” and, Kumar and Schoenebeck note the manner in which parents strive to create a positive public image of themselves as good mothers who are raising attractive and happy children, embracing happiness, and showcasing their children’s milestones, all of which indicate a healthy and happy family.⁸⁰ Positive attention on the child reflects favourably on the parent's role as parents. Goffman's self-

⁷⁶ Baroness Beeban Kidron, ‘Are Children More than “Clickbait” in the 21st Century?’ (2018) 23 Communications Law 3.

⁷⁷ Crystal Abidin, ‘#familygoals: Family Influencers, Calibrated Amateurism, and Justifying Young Digital Labor’ (2017) 3 Social Media + Society 1.p.11

⁷⁸ C.S Lewis, *The Weight of Glory* (Harper Collins 1941).

⁷⁹ Erving Goffman, *The Presentation of Self in Everyday Life* (Doubleday 1959).

⁸⁰ Priya Kumar and Sarita Schonenbeck, ‘The Modern Day Baby Book | Proceedings of the 18th ACM Conference on Computer Supported Cooperative Work & Social Computing’, *ACM Conferences* (2015) <<https://dl.acm.org/doi/abs/10.1145/2675133.2675149>> accessed 26 June 2022.

presentation theory implies that individuals adopt and present the “officially accredited values of society” rather than their behaviour as a whole.⁸¹ This, Goffman refers to as an effort, whereby, people may present an idealised version of themselves, the impression that they give to others being their preferred image or behaviour rather than the reality of their behaviour.⁸² Likewise, on social media, photographs allow the user to engage in Goffman's “impression management”. The online users manipulate their social media profile to portray a desired perception of themselves, the uploaded content provides evidence of a positive portrait of the user's personality.⁸³ Happy images of children depict the parents as capable and loving caregivers. The view is that parents engage in sharenting to receive positive affirmation and social support, to demonstrate their capabilities as good parents and to construct a curated collection of memories.⁸⁴

Participation Coercion

While social media may provide a medium through which the parent can convey their individualism and personality, Barassi observes that some parents feel coerced into online engagement.⁸⁵ Some parents feel obliged and pressurised to share photographs in an effort to community build and to consolidate relationships with other parents.⁸⁶ While sharenting can create positivity, it can also create feelings of insecurity and hostility among parents, adding to the pressure of parenting.⁸⁷ Parents may feel incapable of meeting the standards laid down by other parents who engage in

⁸¹ Erving Goffman (n 79).p.45

⁸² Erving Goffman (n 79).

⁸³ Erving Goffman (n 79).p.40

⁸⁴ Jessica L. Collett, ‘What Kind of Mother Am I? Impression Management and the Social Construction of Motherhood’ (2005) 28 *Symbolic Interaction* 327.

⁸⁵ Veronica Barassi, ‘Datafied Citizens in the Age of Coerced Digital Participation’ (2019) 24 *Sociological Research Online* 414.p.415

⁸⁶ Giulia Ranzini, Gemma Newlands, and Christoph Lutz (n 30).p.5

⁸⁷ ‘Some of the Parents in the Interviews Welcomed the Opportunity to Articulate Their Frustration with Social Media.’

sharenting.⁸⁸ Parents want to be perceived as being good parents and will show their competency by sharing content about their children.⁸⁹ There is a particular group of parents who use apps to enable them to micro-manage family events and family members. Authors such as Barassi and Leaver referred to the use of apps such as pregnancy apps and infant wearables which harvest data from the unborn and born.⁹⁰ While the parents are not actively engaged in sharenting, they are agreeing, without conscious awareness, to the use of apps to improve parenting practices. Ali refers to Facebook as having a “hidden gaze to surveil the private life of others.”⁹¹ Jain et al refer to the increasing challenges to “continuously and iteratively review and upgrade” privacy measures in the face of online threats.⁹² While literature cover a wide range of reasons as to why parents engage with sharenting, there is very limited research that supports the contention that sharenting directly benefits the child, it does, however, represent major implications for the autonomy, agency and self-determination of the child.⁹³

Parenting Support

While engagement with digital media represents a challenge for some parents, the worldwide web represents an important support for new parents who are overwhelmed by their new responsibilities.⁹⁴ Some authors have noted the reliance by parents of sick children on social media for support and the need

⁸⁸ Eva Latipah and others, ‘Elaborating Motive and Psychological Impact of Sharenting in Millennial Parents’ (2020) 8 4807. p.4815

⁸⁹ Jessica L. Collett (n 84).p.329

⁹⁰ Veronica Barassi, ‘The Child as Datafied Citizen’, *Digital Parenting: The Challenges for Families in the Digital Age* (Goteborg: Nordicom 2018); Tama Leaver, ‘Intimate Surveillance: Normalizing Parental Monitoring and Mediation of Infants Online’ (2017) 3 Social Media + Society 1.

⁹¹ Zaynab Ali (n 40).p.66

⁹² Ankit Jain, Somya Sahoo, and Kaubiyal, ‘Online Social Networks Security and Privacy: Comprehensive Review and Analysis’ (2021) 7 Complex & Intelligent Systems 2157.p.2173

⁹³ Keltie Haley (n 28).

⁹⁴ Davide Cino, ‘Beyond the Surface: Sharenting as a Source of Family Quandaries: Mapping Parents’ Social Media Dilemmas’ (2022) 86 Western Journal of Communication 128. p.131

to be cautious against the access to potentially dangerous misinformation.⁹⁵ A study undertaken by C.S. Mott Children's Hospital revealed that 67% of parents said they use social media to get advice from more experienced parents, and 62% said that membership of these social media groups alleviate their stress.⁹⁶ Ironically, according to Goggin and Ellis, the private identity of children with disabilities is viewed as public by all the invested parties, who include parents, medics and charitable organisations. The information is shared publicly in an attempt to fund raise and promote further research.⁹⁷ Livingstone and Blum-Ross acknowledged the limited choice faced by parents of children with Special needs, their struggle to gather support from organisations with "competing agendas" and the effort to deal with "intense unwanted attention."⁹⁸ Despite the arguable need for support, the private identity of children with disabilities is said to be lost within the focus on disabilities. The tendency to share health related matters appears to be gathering momentum.⁹⁹ Individuals are becoming more accustomed to sharing health-related information relating to their sick children. All children have a right to an open future and children with Special needs who have had their disabilities disclosed on social media run the risk of being defined by their disabilities.¹⁰⁰ Furthermore, the child's experience regarding their disability is based solely on the parent's perspective.¹⁰¹ The child has no control over the narrative which creates an inextricable link between the child's identity and

⁹⁵ Gerard Goggin and Katie Ellis (n 42).

⁹⁶ C.S. Mott Children's Hospital National Poll (n 51).

⁹⁷ Gerard Goggin and Katie Ellis (n 42).p.221

⁹⁸ Sonia Livingstone and Alicia Blum-Ross, *Parenting for a Digital Future. How Hopes and Fears about Technology Shape Children's Lives*. (Oxford Scholarship Online 2020).p.137

⁹⁹ Jennifer L. Bevan, Ruth Gomez, and Lisa Sparks, 'Disclosures about Important Life Events on Facebook: Relationships with Stress and Quality of Life' (2014) 39 *Computers in Human Behavior* 246.p.248

¹⁰⁰ Elise Burn, '#warriors: Sick Children, Social Media and the Right to an Open Future' (2022) 48 *Journal of Medical Ethics* 566.

¹⁰¹ Elise Burn (n 100).

his/her particular health challenge. This particular public narrative has an enduring presence in the child's life which may continue into adulthood.¹⁰²

Parents of children with Special needs may feel obliged by their children's schools, health services and medical professionals to engage with an established network supporting children with particular health challenges. This decision does not rest easy with all parents. The child's disabilities and his/her health challenges become the chief focus of the discussion and will subsequently become public property.¹⁰³ Burn argues that parents, in particular, parents of children with health challenges who are unable to assert their own autonomy, are responsible for the protection of the child's privacy, identity and open future.¹⁰⁴

2.2.7 Sharenting and Child's Autonomy/ Agency

In recognition of the evolving capacities of children as upheld by Article 5 of the United Nations Convention on the Rights of the Child, children are recognised as being autonomous, independent beings as opposed to being appendages of their parents.¹⁰⁵ Sharenting may challenge the agency of the child and there are few life skills that are as important and essential as agency.¹⁰⁶ Even when an adult who is sharing a child's information looks on the information as being positive, the child may be of a different opinion with regard to the shared information.¹⁰⁷ These online posts by parents and other adults may impact the sense of agency and autonomy that the child may experience as they come of age and become competent. Sharenting

¹⁰² Elise Burn (n 100).

¹⁰³ Gerard Goggin and Katie Ellis (n 42),p.224

¹⁰⁴ Elise Burn (n 100).

¹⁰⁵ 'Convention on the Rights of the Child' (n 53).

¹⁰⁶ Colin Macleod, 'Agency, Authority and the Vulnerability of Children' in Alexander Bagattini and Colin Macleod (eds), *The Nature of Children's Well-Being: Theory and Practice* (Springer Netherlands 2015).

¹⁰⁷ Michael Walrave, Karen Verswijvel, Gaëlle Ouvrein, Luna Staes, Lara Hallam, Kris Hardies, (n 68).

may result in our children viewing themselves as products of their parents' and other adults' reflections of them, this represents a substantial intrusion into the autonomy and agency of the child.¹⁰⁸

Children have the right to be free to develop their sense of autonomy and to be able to make more autonomous decisions about effectively protecting themselves online, they need to gain the requisite expertise to deal with unforeseen situations. This process can begin within family settings and digital technology has a key role in the development of children's autonomy.¹⁰⁹ The freedom to make mistakes will increase their sense of autonomy. The parents' online presentation of the child is often in direct contrast to the construction of the "autonomous identity" desired by adolescents. The creation of an autonomous identity is a fundamental task for all teenagers.¹¹⁰ Self-rule is central to becoming autonomous.¹¹¹

Literature has referred to the manner in which algorithms are embedded in the social media infrastructure. Social media through the operation of algorithms, manipulate that which is visible to the user on the online platform.¹¹² Algorithms determine the content that is visible and that which is hidden. These algorithmic choices determine one's exposure to opinion and fact. Algorithms can passively control the individual's online choices. The manipulation of one's preferences may not interfere directly with an individual's options, but, it does manipulate the manner in which we arrive

¹⁰⁸ Nadine Davidson-Wall (n 59).

¹⁰⁹ Sonia Livingstone and Alicia Blum-Ross (n 98).p.54

¹¹⁰ Giovanni Mascheroni, J Vincent, and E Jiminez, 'View of "Girls Are Addicted to Likes so They Post Semi-Naked Selfies": Peer Mediation, Normativity and the Construction of Identity Online | Cyberpsychology: Journal of Psychosocial Research on Cyberspace' (2015) 9 Psychosocial Research on Cyberspace 1.

¹¹¹ Michael Garnett, 'Taking the Self out of Self-Rule' (2013) 16 Ethical Theory and Moral Practice 21.

¹¹² Michele Willson, 'Raising the Ideal Child? Algorithms, Quantification and Prediction' (2019) 41 Media, Culture & Society 620.

at decisions.¹¹³ In the long-term, data sets are created and these form databases which can potentially impact future actions and decisions.¹¹⁴ Algorithms may be “deficient, causing errors and manipulation and the potential amplification of erroneous content.”¹¹⁵ Negotiating these algorithms pose additional difficulties for children, who may already feel pressurised by existing societal challenges.

Evidence indicates that the privacy knowledge and privacy-conscious behaviour of children may increase if children receive appropriate training.¹¹⁶ Children, having the same rights as adults, are entitled to additional supports until such time as they attain these necessary capabilities. Plunkett supports the idea that childhood is a unique life stage that allows for the development of the authentic self. She adds that adult decisions with regard to digital technology are causing “fissures” from which there may be no recovery.¹¹⁷

2.2.8 Sharenting and Self-Determination

Parents, who share their minors’ photographs determine the online identity and choices of their minor children. This represents a difficult situation for teenagers who are trying to gain independence from their parents.¹¹⁸ For many teenagers, their parents have shared their lives online since infancy, some from before birth. This makes it more difficult for teenagers to forge their public identity. The idea that the family should be left to govern itself,

¹¹³ Michele Willson (n 112).p.621

¹¹⁴ Michele Willson (n 112).p.625

¹¹⁵ Florian Saurwein and Charlotte Spencer-Smith, ‘Automated Trouble: The Role of Algorithmic Selection in Harms on Social Media Platforms’ (2021) 9 Media and Communication 222. p.228

¹¹⁶ Leah Zhang-Kennedy, Khadija Baig and Sonia Chiasson, ‘Engaging Children About Online Privacy Through Storytelling in an Interactive Comic’ (2017) <<https://scienceopen.com/document?vid=63d72bc9-c01f-4840-b355-0bef3feb9d41>> accessed 30 December 2021.

¹¹⁷ Leah Plunkett (n 34).pgs.49 & 50

¹¹⁸ Michael Walrave,Karen Verswijvel,Gaëlle Ouvrein,Luna Staes,Lara Hallam,Kris Hardies, (n 68).

free from state interference is strongly underpinned by the Irish Constitution.¹¹⁹ This concept of non-interference in familial matters is further reinforced in the General Data Protection Regulation, 2016 under Recital 18 which exempts family social media engagement from the processing constraints imposed by the GDPR,¹²⁰ although Recital 38 specifies that:

children merit specific protection with regard to their personal data, as they may be less aware of the risks.¹²¹

This principle of non-interference in family life is cautiously welcome, but, some interference may be necessary to ensure that the welfare of the child is protected. The GDPR failed to address the nature of ‘specific protection’ for children whose images are shared online by parents. The Constitution of Ireland acknowledges the need for the State to intervene when parents are unable to care for children.¹²² Sharenting leads to external interference from a vast worldwide and largely unknown audience. This unknown audience may influence teenagers’ choices.¹²³ This leads to further erosion of the right of the child to self-determination. Barassi observes that this generation of children are the first generation of citizens to be datafied from birth.¹²⁴

2.2.9 Ramifications of Sharenting

A report by Barclay’s financial services in 2018 predicted that sharenting will account for two-thirds of online identity theft and will produce 7.4

¹¹⁹ *Irish Constitution* (1937).

¹²⁰ General Data Protection Regulation.

¹²¹ General Data Protection Regulation.

¹²² *Irish Constitution* (n 119) Article 42A.

¹²³ Barassi (n 90).

¹²⁴ Barassi (n 90).p.415

million incidents per year of identity theft by the year 2030.¹²⁵ One survey found that the average Facebook user does not know one fifth of their Facebook friends, meaning any number of strangers can access seemingly private pictures.¹²⁶ While sharenting may be used by parents to give children a chronological summary of their childhood milestones, Zuboff refers to the process as being that of “rendition”, whereby, the human experience is claimed as raw material for datafication.¹²⁷ The recognition of identifiable harmful tangible effects in the form of bullying, identity theft, dataveillance and profiling are present. The violation of the child’s right to privacy and freedom of expression may be exacerbated by online sharing. Hildebrandt argues that the posting of personal and household information leads to the disclosure of valuable information that is susceptible to profiling.¹²⁸ The existence of harms such as disinformation, content of a sexual nature, violent images, impersonation and cyber aggression have been reported by participating countries in the European EU Kids online report.¹²⁹ Furthermore, the report carried out by the Joint Research Centre on the increased in risks experienced by children during the Covid-19 lockdown documented a marked increase in cyberbullying, cyberhate, disinformation

¹²⁵ David Scott, ‘Scots Parents Risk Identity Theft by Social Media Over-Sharing’ *Express.co.uk* (2019) <<https://www.express.co.uk/news/uk/962715/identity-fraud-parents-social-media-images-barclays>> accessed 14 April 2022.

¹²⁶ Heidi Cohen, ‘Facebook: Why We Friend’ (2011) <<https://heidicohen.com/facebook-why-we-friend-research/>> accessed 31 December 2021.

¹²⁷ Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (First edition, PublicAffairs 2019).p.233

¹²⁸ Mireille Hildebrandt, ‘Who Is Profiling Who? Invisible Visibility’ in Serge Gutwirth and others (eds), *Reinventing Data Protection?* (Springer Netherlands 2009). p.251

¹²⁹ D Smahel,H, Machackova, G Mascheroni, S Livingstone,and U Hasebrink, ‘EU Kids Online 2020: Survey Results from 19 Countries. EU Kids Online.’ (2020) <[10.21953/lse.47fdeqj01of0](https://doi.org/10.21953/lse.47fdeqj01of0)>.

and misuse of personal data.¹³⁰ The potential for such harms are challenging for the protection of children's identity, privacy, autonomy and agency.¹³¹

Follett cautions against the ephemeral benefits associated with sharenting when he argues that something posted online now may not be appropriate in the future as, "Not only might these images be used to embarrass them in their delicate teenage years, they could also be accessed by potential employers or third level educational departments".¹³² Most of the reviewed literature highlights the negative ramifications of sharenting, ranging from the potential interference with privacy to the possibility and probability that private data can be extrapolated from metadata.¹³³ Livingstone and Blum-Ross refer to parents' different strategies to protect their children. Such strategies vary between helicoptering to full exposure in an effort to shield their children from the ravages of the risk society.¹³⁴ Literature referred to parents' struggle with visualisation and privacy, despite visualisation being central to the online arena.¹³⁵

Wilson has noted that the contemporary child is increasingly monitored and manipulated through technological processes,¹³⁶ and childhood has become in the view of Mascheroni, a significant site wherein children may experience datafication and dataveillance.¹³⁷ The risks resulting from datafication range from developmental risks to children's self-identity, autonomy, trust,

¹³⁰ Bojana Lobe and others, 'How Children (10-18) Experienced Online Risks during the Covid-19 Lockdown - Spring 2020' (2021) <<https://publications.jrc.ec.europa.eu/repository/handle/JRC124034>> accessed 24 May 2022.

¹³¹ Hamming (n 54).

¹³² Daily, 'Sharing Snaps of Your Children Online "Could Cost Them a Job"' (*Mail Online*, 8 February 2014) <<https://www.dailymail.co.uk/news/article-2554438/Sharing-snaps-children-online-cost-job-employers-embarrassing-photos.html>> accessed 31 December 2021.

¹³³ Michele Willson (n 112).

¹³⁴ Sonia Livingstone and Alicia Blum-Ross (n 98).p.18

¹³⁵ Autenrieth, (n 47). p.228

¹³⁶ Michele Willson (n 112).

¹³⁷ Giovanna Mascheroni, 'Datafied Childhoods: Contextualising Datafication in Everyday Life' (2020) 68 *Current Sociology* 798.p.798

potential embarrassment and bullying.¹³⁸ Facial recognition is another means by which individuals can be tracked and identified and, which eradicates any expectation of anonymity in the digital arena. The latest attempts to introduce the use of facial recognition technology to be used by Gardaí in Ireland have been halted, on the grounds that it represented a rushed and undemocratic attempt to curtail the right to consent.¹³⁹ Biometric sensors monitor individuals tracking their beliefs, and behaviour, thereby reducing any expectation of freedom from external interference.¹⁴⁰

Parenthood is a form of trusteeship in which the parents hold children's rights in trust, acting in the child's best interests. Hamming, while acknowledging the vulnerability of children, notes that parents offer the initial layer of protection, and are best suited to act as stewards over their children's rights and interests until children acquire the requisite maturity.¹⁴¹ Woodhouse is of the view that there is a need for clear social and legal expectations so that parents will clearly understand that which is expected of them in their care of their children.¹⁴²

While personal data may be anonymised, artificial intelligence can be employed to de-anonymise this data,¹⁴³ this challenges the distinction between personal and non-personal data and the purpose of the current data protection. Profile cloning is viewed as a potential interference. This is where an existing profile is cloned and requests are sent to the victim's friends, thereby accessing private and sensitive information of a much larger

¹³⁸ Keltie Haley (n 28).p.1010

¹³⁹ James Cox, 'Facial Recognition Technology "cannot Be Safely Rolled out" in Ireland' *BreakingNews.ie* (4 June 2022) <<https://www.breakingnews.ie/ireland/facial-recognition-technology-cannot-be-safely-rolled-out-in-ireland-1315630.html>> accessed 23 July 2022.

¹⁴⁰ Mark G Milone, 'Biometric Surveillance: Searching for Identity' (2001) 57 *The Business Lawyer* 497.

¹⁴¹ Hamming (n 54).p.1062

¹⁴² Barbara Bennett Woodhouse, 'Dark Side of Family Privacy' (1998) 67 *George Washington Law Review* 1247.p.1256

¹⁴³ Ankit Jain, Somya Sahoo, and Kaubiyal (n 92).p.2164

network.¹⁴⁴ Cross-site profile attacks include the cloning of identity of a victim in a particular site and rebuilding the social network of the victim in an alternative site.¹⁴⁵

While literature has revealed an extensive list of the potential interferences posed by sharenting to young people, there is no reference to the right of the child to create their own online narrative. There is no research on the long-term effects of having one's identity compromised. The ramifications that are researched are of a physical nature. There is little reference to the psychological impact of sharenting, apart from a recent report on the internet-related psychological issues experienced by adolescents.¹⁴⁶

2.2.10 Sharenting and Privacy

While the issue of privacy has been given some consideration in the reviewed literature, there is no direct consideration given to the right of the child to a blank online canvas upon which they can craft their own identity. This failure represents an identifiable lacuna in the current body of literature. The child's right to privacy is upheld by Article 16 of the United Nations Convention on the Rights of the Child. The dignity and respect of the child are also incorporated in the privacy of the child.¹⁴⁷ Private space to experiment, to make decisions and choices is necessary for children. As previously mentioned in chapter one, scholars have argued that "children should have an individual right for privacy against their parents" but that this right "should be qualified according to the child's age and evolving

¹⁴⁴ Fatemeh Salehi Rizi, Mohammad Reza Khayyambashi and Morteza Yousefi Kharaji, 'A New Approach for Finding Cloned Profiles in Online Social Networks' (2014) 6 International Journal of Network Security 25.p.27

¹⁴⁵ Rizi, Khayyambashi and Kharaji (n 144).p.28

¹⁴⁶ Sonia Livingstone and others, 'Adolescents Experiencing Internet-Related Mental Health Difficulties: The Benefits and Risks of Digital Skills. KU Leuven, Leuven: YSKILLS.' (2022).

¹⁴⁷ 'Convention on the Rights of the Child' (n 53).

capacities.”¹⁴⁸ However, this leaves minor children without any right to privacy against their parents as parents are expected to assume responsibility for the protection of their minor children. Privacy is essential to trust and sharenting without consent compromises the trust between the parent and child.¹⁴⁹ Gligorijevic is of the view that sharenting represents a loss to children and their sense of privacy.¹⁵⁰

The protection from and the reduction of external interference to privacy has been one of biggest challenges in the current era of digital connection.¹⁵¹ The online platforms have encouraged transparency and sharing from the outset. Zuckerberg, the founder of Facebook said that, “the days of having a different image of your friends or co-workers or other people that you know are coming to an end.”¹⁵² Privacy is not considered a right to secrecy or control, but a right to regulate the disclosure of personal information.¹⁵³ All interferences with privacy are significant given that privacy is fundamental to the exercise of other human rights, such as freedom of expression, association, personal autonomy and freedom of choice. While there are no specific laws to protect the privacy of a child before he/she becomes competent enough to make an informed choice, the safeguarding of their images and personal information remain the responsibility of the parent.¹⁵⁴

¹⁴⁸ Shmueli and Blecher (n 10).p.763

¹⁴⁹ Keltie Haley (n 28).p.1011

¹⁵⁰ Jelena Gligorijevic, ‘Children’s Privacy: The Role of Parental Control and Consent.’ (2019) 19 Human Rights Law Review 201.p.204

¹⁵¹ Stefania Manca and Maria Ranieri, ‘Identity, Credibility, and Trust in Social Networking Sites: Old Issues, New Mechanisms, and Current Challenges for Privacy and Security’, *Social Network Engineering for Secure Web Data and Services* (2013).

¹⁵² D Kirkpatrick, *The Facebook Effect: The Inside Story of the Company That Is Connecting the World* (New York: Simon & Schuster 2010). P.199

¹⁵³ Helen Fay Nissenbaum, *Privacy in Context: Technology, Policy, and the Integrity of Social Life* (Stanford Law Books 2010).

¹⁵⁴ Hamming (n 54).p.1062

Shmueli and Blecher-Prigat acknowledge the difficulty in protecting the right of the child to privacy in the digital era of sharenting.¹⁵⁵ As stated in the previous chapter, the internet is designed to promote connectivity, anonymity is not encouraged. There is a move towards homogeneity and polarisation as filter bubbles embed us in specific echo chambers.¹⁵⁶ Disclosure is a prerequisite to online connectivity and, the ability to search, replicate, and to touch invisible audiences is central to the functionality of online communication.¹⁵⁷ Everyday images of children shared on social media may seem meaningless and innocent however, these posts contain an array of metadata which may be mined with long-term and lasting effects for the child whose images have been shared.¹⁵⁸ Although the global explosion of digital sharing has resulted in increased visibility for our minor children, parents still believe that their children's shared data will not be seen beyond a 'select audience'.¹⁵⁹ Screenshots, hashtags and the extended friend groups may result in a much larger dissemination of images and information. The lack of a positive feedback from posts can increase anxiety and lack of self-esteem.¹⁶⁰

Data is often termed the new oil,¹⁶¹ but unlike oil, data is a replenishing source of revenue, waiting to be collected, processed, mined, analysed, scrutinised, and monetised. This has an everlasting impact on privacy. Sharenting has not, as yet, been subjected to legal analysis by the European Court of Human Rights. It is anticipated that the Court might

¹⁵⁵ Shmueli and Blecher (n 10).

¹⁵⁶ Matteo Cinellia and others, 'The Echo Chamber Effect on Social Media' (2021) 118 PNAS 1.

¹⁵⁷ Danah Boyd, *It's Complicated The Social Life of Networked Teens* (Yale University Press 2015).

¹⁵⁸ Veronica Barassi, 'Datafied Citizens in the Age of Coerced Digital Participation' (2019) 24 Sociological Research Online 414.

¹⁵⁹ Stacey B Steinberg (n 11).p.850

¹⁶⁰ Jennifer L. Bevan, Ruth Gomez, and Lisa Sparks (n 99).

¹⁶¹ Clive Humby, "'The Term 'Data Is the New Oil' Was Coined in 2006 by Clive Humby (UK Mathematician and Architect of Tesco Clubcard).'" (2006).

engage in a balancing exercise between the child's right to privacy and the parent's right to freedom of expression, as the publication of photographs is a recognised component of freedom of expression.¹⁶² Importantly, the status of the child as a member of the public affords the child a greater degree of privacy.¹⁶³

Sharenting represents an additional challenge to securing the child's privacy. It is widely accepted that parents do not share their children's image with the intention of causing any hurt to the child.¹⁶⁴ Whilst parents and legal guardians are presumed to present their children in a positive way, interpretation of photographs may be subjective, thus providing grounds for the contention that privacy has been breached. A cute image of a four-year old may not be so regarded when the individual in question reaches adulthood. Some parents are of the belief that information about the child is of no significance to the public. While the shared information may cease to have significance for the public, it may continue to impact the identity of the young person, whose image has been shared.¹⁶⁵

2.2.11 Perspectives on Sharenting

Many of the viewpoints in the reviewed literature are from an adult's perspective with less focus on the child's viewpoint. Online communication represents a solution to parents, in particular, new mothers, who are faced with a degree of social isolation following the birth of their child. Madge and O'Connor refer to the fact that first time mothers are overwhelmed by the responsibility of motherhood and online engagement offers a support mechanism in an unknown world. They refer to the internet as providing an

¹⁶² Convention on the Rights of the Child.

¹⁶³ Shmueli and Blecher (n 10).

¹⁶⁴ Stacey B Steinberg (n 11).

¹⁶⁵ Keltie Haley (n 28).

important virtual space for new mothers helping them to avoid the shrinkage of social connections experienced by some women in early motherhood.¹⁶⁶ Literature reveals that parents are concerned with the privacy issue but the option of not having the benefit of an online engagement does not appeal to them.¹⁶⁷ There is a recognisable struggle to engage with the complexities of online safety. Parents struggle to strike a balance between privacy-protective behaviour to protect their children's privacy¹⁶⁸ and the benefits associated with sharenting. However, while parents acknowledge that they have a responsibility to engage in the safe management of their family's online presence,¹⁶⁹ they find it difficult to actively address the responsibility. Mothers strive to balance perceived risks with the pleasure of sharing their children's developments with family and friends. However, their concern does not result in a reduction of online engagement and sharing of personal data.¹⁷⁰

Combined Parent/Child Studies

While little research has been carried out on children's views on sharenting, there have been few studies on the combined views of parent/s and their children on sharenting. Moser et al. revealed that research with both parents and children on the issue of sharenting revealed that both groups were agreed on the benefits of sharing positive information.¹⁷¹ However, there was

¹⁶⁶ Clare Madge and Henrietta O'Connor, 'Parenting Gone Wired: Empowerment of New Mothers on the Internet?' (2006) 7 *Social & Cultural Geography* 199.p.213

¹⁶⁷ Charlotte Chalklen and Heather Anderson, 'Mothering on Facebook: Exploring the Privacy/Openness Paradox' (2017) 3 *Social Media + Society* 1.p.9

¹⁶⁸ Tawfiq Ammari and others, 'Managing Children's Online Identities: How Parents Decide What to Disclose about Their Children Online' (SIGCHI 2015).

¹⁶⁹ Tawfiq Ammari and others (n 168).

¹⁷⁰ Raluca A Briazu, Caroline Floccia and Yaniv Hanoch, 'Facebook Sharenting in Mothers of Young Children: The Risks Are Worth It but Only for Some' (2021) 2 <<https://tmb.apaopen.org/pub/ts5xzfnd/release/1>> accessed 22 April 2022.

¹⁷¹ Carol Moser, Tianying Chen and Sarita Y Schoenebeck, 'Parents' and Children's Preferences about Parents Sharing about Children on Social Media', *Proceedings of the 2017 CHI Conference on Human Factors in Computing Systems* (2017) <<https://dl.acm.org/doi/10.1145/3025453.3025587>> accessed 1 July 2021.

disagreement on the issue of consent. Parents, in particular younger parents agreed that they should request consent more frequently. This viewpoint was supported by recent research which indicated that children prefer their parents to request their consent and to listen to their preferences, before proceeding to sharing stories about them on social media.¹⁷² Based on data taken from the study EU Kids Online, Ní Bhroin et al reported that 49% of parents admitted that they did not request consent prior to posting. This particular cohort (49%) included parents, who implied that they were technologically adept and actively involved in their children's online supervision and considered themselves to be more concerned about their children's privacy.¹⁷³ Children, who participated in the study expressed negative feelings towards sharenting, in particular, sharenting on social media. They were less opposed towards sharing with family members. The research undertaken by Sarkadi et al. not only included a quantitative method, it also included interviews thereby openly acknowledging the importance of the views of young adults.¹⁷⁴ The views of the young people in this research concurred with the views in my research, in that, both groups strongly emphasised their interest in consent.

2.2.12 Literature Summary

The majority of the reviewed literature on sharenting focused on the opinions, experiences and practices of parents. Literature has revealed that research into sharenting has concentrated mainly on the prevalence, reasons and ramifications of sharenting with the issue of privacy receiving some acknowledgement. Research portraying children's views and experiences has been meagre.¹⁷⁵ Apart from studies completed by Moser et al., and Lipu

¹⁷² Anna Sarkadi and others (n 56).p.982

¹⁷³ Niamh Ní Bhroin and others (n 55).p.380

¹⁷⁴ Anna Sarkadi and others (n 56).

¹⁷⁵ Anna Sarkadi and others (n 56); Moser, Chen and Schoenebeck (n 171).

et al. there has been little research incorporating the views of children and parents together.¹⁷⁶ The study by Lipu and Siibak deals with the difference in opinion between parents and adolescents with regard to content shared and the issue of consent.¹⁷⁷ In addition, these studies are based on the adolescents' views, there has been less engagement with the views of younger children, that particular cohort who are most affected by sharenting.

Furthermore, some of the studies incorporating the parent and child's view did not include interviews with the young people. An interview would have given young people that much needed voice.¹⁷⁸ To date, there has been no research carried out on specific difficulties encountered by young people who have had their identity exposed in an online arena. While, parents may endeavour to act in their child's best interests, there are many parents who fail to do so for whatever reason.¹⁷⁹ The child's vulnerability is accentuated by the lack of protection available to protect the child against the manipulation of their autonomy and agency by algorithms.¹⁸⁰ Technology use biometrics on facial features, fingerprints, and retinal patterns identify individuals.¹⁸¹ Although, the Internet has generated a practice of global

¹⁷⁶ Merike Lipu and Andra Siibak, "'Take It down!': Estonian Parents' and Pre-Teens' Opinions and Experiences with Sharenting' (2019) 170 *Media International Australia* 57; Moser, Chen and Schoenebeck (n 171).

¹⁷⁷ Merike Lipu and Andra Siibak (n 176).p.59

¹⁷⁸ Tawfiq Ammari and others (n 168); Amina Wagner and Lisa Alina Gasche, 'Sharenting: Making Decisions about Other's Privacy on Social Networking Sites' 977 </paper/Sharenting%3A-Making-Decisions-about-Other%27s-Privacy-Wagner-Gasche/cfafd0c80ed96340b79048cb356dba83892b2742> accessed 8 August 2021; Charlotte Chalklen and Heather Anderson, 'Mothering on Facebook: Exploring the Privacy/Openness Paradox' (2017) 3 *Social Media + Society* 1.

¹⁷⁹ Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' (2017) 66 *Emory Law Journal* 839.

¹⁸⁰ Florian Saurwein and Charlotte Spencer-Smith, 'Automated Trouble: The Role of Algorithmic Selection in Harms on Social Media Platforms' (2021) 9 *Media and Communication* 222.

¹⁸¹ Milone (n 140).

surveillance, literature indicates that there is a limited degree of choice with regard to privacy and consent.¹⁸²

2.3 Sharenting and Freedom of Expression

Given that freedom of expression may be in direct opposition to privacy, it is interesting to note that the parental right to freedom of expression may interfere with the child's right to privacy, but it may also deny children their right to carve out their own online identity. Much of the debate on freedom of expression focuses on the degree to which the argument against sharenting interferes with the parental freedom of expression, there is less focus on the degree to which sharenting might hinder the child's freedom to craft their own public identity narrative.¹⁸³

2.3.1 Freedom of Expression-Challenges

The general view is that freedom of expression is not an absolute right and given that it permeates many other rights, there is a need to balance this right responsibly with other human rights in an effort to avoid curtailment of other rights.¹⁸⁴ Any defence of freedom of expression should be measured. Freedom of expression cannot be absolute and unlimited. However, the courts have examined the right to freedom of expression and take a view that proportionality should be the deciding factor. In *Holland v. The Governor of Portlaoise Prison*, McKechnie J. held that any restriction on freedom of expression for any duration should be justified by the individual instigating the restriction.¹⁸⁵ However, it is acknowledged that there are

¹⁸² J Obar and Oeldorf-Hirsch, 'The Clickwrap: A Political Economic Mechanism for Manufacturing Consent on Social Media' [2018] *Social Media & Society* 1.

¹⁸³ Steinberg (n 2).

¹⁸⁴ Mandla Seleokane, 'Freedom of Expression: A Comparative Analysis' (2002) 23 *Ecquid Novi: African Journalism Studies* 232 p.236 <<https://doi.org/10.1080/02560054.2002.9653249>> accessed 1 July 2021.

¹⁸⁵ *Holland v Governor of Portlaoise Prison* [2004] [2004] IEHC 97.

situations which may warrant the withholding of news and information for a limited duration.

In *Ahmet Yıldırım v. Turkey* the Court's decision to block access to Google Sites hosting the internet site of an accused, resulted in access to all other sites hosted by the service being blocked.¹⁸⁶ The applicant complained that this measure was ordered in the context of criminal proceedings and, as such, infringed his freedom to receive and impart information and ideas. The Court held that there had been a violation of Article 10 (freedom of expression) of the Convention and, determined that the blanket curtailment of access to information had not been proportional and was in fact arbitrary.

In *Murphy v IRTC*, Barrington J. held that;

the right to communicate is an unenumerated right protected by Article 40.3.1, which embraces the right that is most fundamental to man's survival besides the right to nurture and as such it embraces words and gestures as well as rational discourse.¹⁸⁷

In a similar vein, the ECtHR held that no restriction on the freedom of expression is compatible with Article 10 unless it satisfies the test of necessity in Article 10 (2), however, contracting states have a certain margin of appreciation when it comes to deciding what is necessary in a democratic society.¹⁸⁸

Social media resembles to a large degree Bentham's panopticon design of a model prison, in which everything is visible at all times.¹⁸⁹ A Foucaultian favoured perspective on social media implies that when we share content on

¹⁸⁶ *Ahmet Yıldırım v Turkey* [2012] Application No 3111/10.

¹⁸⁷ *Murphy v IRTC* [1999] [1999] 1 IR 120, [1998] 2 ILRM 360. para.38

¹⁸⁸ 'European Convention on Human Rights' (2003) <<https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c>> accessed 25 July 2022.

¹⁸⁹ Zaynab Ali (n 40).p.62

social media services, we do it knowingly and transparently, that is in the presence of a crowd.¹⁹⁰ However, this openness may come with a price as freedom of expression may be subjected to potential interferences as the digital age has spawned many new datafication and data mining techniques. Erikson identifies the possible hacking of private data associated with online recording of personal information as one such interference.¹⁹¹ In 2010, Cambridge Analytica Consulting Company accessed a substantial amount of personal data of Facebook users without their consent and this data was subsequently used for political advertising.¹⁹² Algorithmic transparency and accountability are more difficult to achieve, but the maintenance of a check over these, which although not a complete belt and braces approach, may offer a safeguard.

Different applications and uses of artificial intelligence can affect the right to privacy in different ways. Lupton and Williamson refer to the numerous ways in which individuals are surveilled and datafied.¹⁹³ Immense amounts of data are collected regardless of the knowledge or consent of the user. This collected information is used to make calculations about individuals, the effects of which may incur profound and longstanding effects.¹⁹⁴

The ability of artificial intelligence in the form of algorithms to manipulate online data poses a threat to the private information of the individual, whose private data is being shared and to the user of online services. This can

¹⁹⁰ Zaynab Ali (n 40).p.62

¹⁹¹ Jon Erickson, *Hacking: The Art of Exploitation* (2nd ed., No Starch Press 2008).

¹⁹² Carole Cadwalladr and Emma Graham-Harrison, 'Revealed: 50 Million Facebook Profiles Harvested for Cambridge Analytica in Major Data Breach' *The Guardian* (17 March 2018) <<https://www.theguardian.com/news/2018/mar/17/cambridge-analytica-facebook-influence-us-election>> accessed 21 July 2022.

¹⁹³ Deborah Lupton and Ben Williamson, 'The Datafied Child: The Dataveillance of Children and Implications for Their Rights' (2017) 19 *New Media Soc.* 780. p.786

¹⁹⁴ Deborah Lupton and Ben Williamson (n 35).p.787

influence public debate and preferences.¹⁹⁵ This challenges the expectation of privacy and curtails the freedom of expression of individuals.¹⁹⁶ The impact of artificial intelligence may well be unknown to the ‘ordinary’ users of social media platforms, including the parents of minor children, who engage in sharenting. While there is general consensus that privacy and freedom of expression may be in contention with each other, artificial intelligence is also in contention with both privacy and freedom of expression.¹⁹⁷ This raises issues such as: Is the threat of datamining enough of a justification to restrict the parental freedom of expression? Should all information shared and received be of equal importance? Should more restrictions be applied to information that contains a higher content of personal data? These questions have not been previously considered and are worthy of consideration in the justification of a legal right to a blank digital canvas.

Although the freedom of expression is regarded as the cornerstone of democracy, in that, it promotes additional rights, it is not without its limitations and curtailments. Freedom of expression is protected by Article 10 and by Article 8 of the European Convention on Human Rights.¹⁹⁸ While freedom of expression, as a right, may have constitutional and international underpinnings,¹⁹⁹ it can be subjected to restrictions as its interference with other rights such as the right to privacy is significant. It is universally accepted that freedom of expression provides us with ideas that allows us to develop and self-fulfill.²⁰⁰ Freedom of expression protects not only the right

¹⁹⁵ Matteo Cinellia and others (n 156).p.5

¹⁹⁶ Florian Saurwein and Charlotte Spencer-Smith (n 180).p.224

¹⁹⁷ Florian Saurwein and Charlotte Spencer-Smith (n 180).

¹⁹⁸ ‘European Convention on Human Rights’ Article 8 upholds the right to respect for private and family life and Article 10 upholds the right to Freedom of Expression.

¹⁹⁹ ‘European Convention on Human Rights’ (n 198) Article 10 Irish Constitution Article 40.6.1.

²⁰⁰ W. J. van Vollenhoven, ‘The Right to Freedom of Expression: The Mother of Our Democracy’ (2015) 18 Potchefstroom Electronic Law Journal (PELJ) 2299.p.2307

to exchange information, but also the right to receive information. Freedom of expression may include sharing life's experiences with friends and family, this is a part of social living as people as sociable human beings tend to interact with those who are close to them.

In addition, the person to whom the information is imparted may have a particular interest or involvement and, as such, there may be no reasonable or legitimate reason that the matter should be kept private from them. They have a right to receive the information. Freedom of opinion and expression are fundamental rights that contain both a personal and a social dimension. These rights are central to the full development of the individual and are essential for every free and democratic society.

The freedom to access information that might help individuals to develop and to express themselves is an essential human activity. However, although freedom of expression is regarded as a core human right in a democratic society, even this right can be subjected to restrictions and limitations.²⁰¹ The right to express one's own opinions, even if these differ from the opinions of others, is essential for individual self-fulfilment. Freedom of expression facilitates the revelation of one's true identity. If a person's right to express himself/herself is violated, the development of his/her potential is impeded. The right to freedom of expression of the individual person should outweigh the interests of society but may be limited if it infringes other rights or poses a potential risk to society.

2.3.2 Freedom of Expression for the Child

Sharenting can potentially jeopardise a minor's intrinsic right to determine his own identity. Sharenting has long-term and far-reaching effects.²⁰² The

²⁰¹ W. J. van Vollenhoven (n 200).p.2308

²⁰² Hamming (n 54).p.1036

inheritance of an already crafted digital identity from one's parents can impact on a child's independent development of a sense of identity because an already existing excessive public online exposure can make it very difficult for a child to erase and restart by creating the child's own personal digital identity. This could lead to feelings of insecurity and confusion for the child and the child's future.²⁰³ Adolescents' search for increased autonomy focuses on their distancing themselves from their parents, they may do so by beginning their online journeys only to discover that their digital presence has been already crafted by their parents.²⁰⁴ On the other hand, minors who are able to independently form strong personal identities are more likely to form intimate relationships when they begin to reach adulthood. By the time a child reaches this stage in development, the child's personal identity is typically shaped by the child's experiences with others. The oversharing throughout the child's upbringing can unknowingly shape the opinions and beliefs of others about the child, hindering opportunity for the child to craft their own experiences with people as they already have a sense of the child's identity due to online postings.²⁰⁵

2.4 Consent as a Safeguard

The child's right to having a voice in matters pertaining to them is upheld by Article 12 of the United Nations Convention on the Rights of the Child.²⁰⁶ In sharing information about their children without consent, parents become the narrators of their child's stories, which effectively leaves children vulnerable and without protection. It is possible that the current generation of young children may not be happy in the future when they will

²⁰³ Michele Willson (n 112).

²⁰⁴ Michel Walrave and others, 'The Limits of Sharenting: Exploring Parents' and Adolescents' Sharenting Boundaries Through the Lens of Communication Privacy Management Theory' (2022) 7 *Frontiers in Education* 1.

²⁰⁵ Keltie Haley (n 28).

²⁰⁶ Convention on the Rights of the Child Article 12.

find that their right to self-determination has been compromised without their consent by their parents' online engagement. The argument can be made that children's privacy is sacrificed in favour of an increased online presence.²⁰⁷

Literature reveals that children's consent does not feature strongly in sharenting in fact, sharenting diminishes the belief that consent counts for something.²⁰⁸ Requesting consent prior to sharenting could potentially help children to become familiar and versed in media literacy and privacy-related skills. Children face privacy decisions and risks long before they enter the digital arena, long before their media literacy prepares them to make decisions in their own best interests. Consent is of no value to children who are incapable of consent by reason of age or understanding. This eventuality, in recognition of the child's evolving capacities as upheld by Article 5 of the United Nations Convention on the Rights of the Child demonstrates the need for interactive learning with regard to privacy-related issues.²⁰⁹ The case of *Reklos and Davourlis v Greece* demonstrates that the ECtHR currently considers parents to be capable of such consent on their children's behalf.²¹⁰ This judgment supports the rights of parents to take responsibility for the dissemination of their children's images and information. It found that the Greek courts had not taken sufficient steps to guarantee the right to protection of private life and was in breach of Article 8.²¹¹ Consent by default, as it currently stands on social media platforms offers users little or no opportunity to actively give one's consent. This is representative of how privacy trade-offs are conceived by current data-driven business models. Mc Peak referred to the manner in which the

²⁰⁷ Sheila Donovan, "'Sharenting': The Forgotten Children of the GDPR' (2020) 4 Peace Human Rights Governance 35.

²⁰⁸ Barbara Bennett Woodhouse (n 142); Stacey B Steinberg (n 11).

²⁰⁹ Zhang-Kennedy, Baig and Chiasson (n 116).

²¹⁰ *Reklos and Davourlis v Greece* (n 57).

²¹¹ 'European Convention on Human Rights' (n 188).

malfunctioning and revamping of privacy controls add to the challenges of safeguarding private information.²¹²

Participation in a digital ecosystem is, by itself, regarded as consent to relinquish control over the use of one's data. There has been some significant judicial rulings related to sharenting with regard to the issue of consent and size of friend groups in the Netherlands. The Court of First Instance of Gelderland ruled that photographs posted on Facebook could be distributed and become the property of third parties and, ruled in favour of the removal of the photos posted in the absence of permission by the minors' legal representative.²¹³ This judgment strengthens the position of consent to feature as an issue of significance in the future. Similarly, a Court of the Hague likewise ordered a mother to remove photographs of her children from all social media on the understanding that the mother is allowed to post images, videos and announcements only on her personal internet pages, including Facebook pages, as long as access to the account is limited to 250 visitors known to, and authorised by, the mother.²¹⁴ This judgment could potentially pave the way to the application of a limitation on the number on friends in the online accounts of sharenting parents. Bessant and Schnebbe raised the issue of Recital 18 of the GDPR not relating to material shared by parents whose friend group may not be known to them on a personal basis.²¹⁵ In Ireland, a minor who was photographed without consent was awarded an out of court settlement of a sum of 20,000 euro.²¹⁶ While this award was made against a public third party, unknown to the

²¹² Agnieszka Mc Peak, 'The Facebook Digital Footprint: Paving Fair and Consistent Pathways to Civil Discovery of Social Media Data' (2013) 48 *Wake Forest Law Review* 101.p.112

²¹³ *ECLI:NL:RBDHA:2018:13105, Rechtbank Den Haag, C/09/557604 / FA RK 18-5598* [2018] Rb Den Haag *ECLI:NL:RBDHA:2018:13105*.

²¹⁴ *ECLI:NL:RBGEL:2020:2521-C/05/368427 KG ZA 20-106*.

²¹⁵ Claire Bessant and Schnebbe (n 64).

²¹⁶ Ray Managh, 'Child Covertly Photographed in Home on Behalf of Irish Life Settles Case for €20,000' *The Irish Times* (12 July 2022) <<https://www.irishtimes.com/crime-law/courts/2022/07/12/child-covertly-photographed-in-home-on-behalf-of-irish-life-settles-case-for-20000/>> accessed 14 July 2022.

plaintiff's family and, while the photographs were related to an ongoing compensation claim, this could potentially open the door to claims being made against family members, friends and members of the public who photograph and post (without consent) images of minors.

2.5 Conclusion

This review reveals that sharenting generally can take place when children are very young, sometimes occurring prior to their birth.²¹⁷ The online posting of a child's image represents a considerable intrusion that results in the exposure of the child's information, images and behaviour on the worldwide web.²¹⁸ Sharenting which is widespread and the ramifications of which are unquantifiable, given the increasing capacity of technology may be used by parents for various reasons, not least the desire to validate their position as a good parent.²¹⁹ Sharenting impacts substantially on the rights of the child and, any failure to acknowledge the impact may be linked to the restricted views on the competencies of children and childhood.²²⁰ Notwithstanding the very restricted views of children's capacities, it is within the family dynamic that the child develops social skills and the ability to determine right from wrong.

Literature, while recognising the widespread nature of sharenting, acknowledges its substantial impact on the child. It is very difficult for children to craft their own identity if the parent has already exposed the child's identity.²²¹ Children whose identities have been shared by parents may feel compromised and obliged to act in a particular fashion to meet and comply with parental expectations. However, it is concluded that within

²¹⁷ Lupton (n 50).

²¹⁸ Stacey B Steinberg (n 11).

²¹⁹ Jessica L. Collett (n 84).

²²⁰ Keltie Haley (n 28).

²²¹ Hamming (n 54).p.1036

family units, there are competing individuals and the difficulty in maintaining a balance and ensuring an equal and measured access to the right of privacy and freedom of expression can prove difficult.

Having considered privacy in the previous chapter and, despite the various views around the right to privacy, privacy is recognised as a protective barrier against control and domination. The centrality of consent is noted as being fundamental to the protection of one's privacy as the threat of technology to the protection of privacy is recognised as being real. Children's regard for privacy may not be considered as a major concern at a young age, the significance of safeguarding one's privacy becomes an issue for them as they get older, by which time, it may be too late if their images have been shared online.

As children mature, privacy takes on a new meaning, in the form of active choice in the management of interaction and information. Accordingly, as children approach adolescence, privacy becomes important as a marker of independence and self-determination.²²² Any interference with the privacy of school-aged children may be construed as threats to self-esteem. Parents, through sharenting create their child's online identity, thereby denying children of their autonomous and agentic right to create their own identity. Literature highlights that children should be free to develop their sense of autonomy and to make decisions about their effective online protection. They are entitled to the freedom to craft their own identity, the ability to self-create is central to autonomy.

The previous chapter presents views that depict childhood as an inactive period in the child's life, as a period of 'incompetency', sharenting increases this sense of incompetency as the child lacks control over the parents'

²²² Michael Walrave, Karen Verswijvel, Gaëlle Ouvrein, Luna Staes, Lara Hallam, Kris Hardies, (n 68).

decision to create an online narrative for the child. An unwarranted social media presence poses an additional challenge for children and young adults as they are obliged to contend with media glare and public attention. Article 3 of the United Nations of the Convention on the Rights of the Child supports the ‘best interests’ of the child as a guiding principle in all decisions pertaining to the child.²²³ Parents as gatekeepers of their children’s personal information are obliged to protect their children’s personal data and images. The sharing of one photograph may represent a substantial interference to a minor’s privacy.

The whole debate in favour of sharenting centres around the parent’s right to freedom of expression as opposed to the child’s right to privacy, there is little attention paid to the right of the child to craft his/her own online identity. The failure to recognise the right of the child (who is incapable of consent by reason of age or understanding) to be free to create their own online narrative represents one of the most identifiable lacunae in the current body of literature.

²²³ Convention on the Rights of the Child Article 3.

Chapter Three Domestic, European and International Best Practice

3.1 Introduction

In recognition of the ever-increasing presence of minors' images in the online arena as a result of sharenting, chapter three looks at the current legislative frameworks in Ireland and at the European regulatory framework on the protection of the online privacy of minors, identifying lacunae within the current framework. It examines the merit of establishing a legal right for children to a blank canvas. It considers the measures adopted by France as part of a constructive endeavour to protect the privacy of the minor child's identity in the online arena.

3.2 Data Privacy Framework

The right to privacy is recognised as an unenumerated right under Article 40.3.1 of the Constitution of Ireland.¹ In *Mc Gee v. AG*, the Supreme Court recognised the right to marital privacy.² It recognised that privacy inheres in an individual by reason of the human personality. The State is not allowed to interfere with an individual's privacy. In *Kennedy & Others v. Ireland*, it was held that the unlawful phone tapings by agents of the State amounted to a breach of the right to privacy of a journalist.³ The right to privacy may be restricted by reasons such as: public interest, common good and limitations arising from other constitutional freedoms. In legal actions involving the media, the courts give precedence to freedom of expression over the right to privacy. The outcome is determined by means of a

¹ Constitution of Ireland 1937.

² *Mc Gee v AG* [1971] [1971 No 2314 P].

³ *Kennedy and Arnold v Ireland* [1987] [1987] IR 587.

balancing exercise between the competing interests. The right to the privacy of one's data has been upheld in a recent CJEU decision which ruled that although the EU law permits the general and indiscriminate retention of traffic and location data for national security purposes can be justified, in certain circumstances, it is not, however, permitted for the prevention, investigation, detection and prosecution of a serious criminal offence. The *Communication (Retention of Data) Act of 2011*⁴ having been found to be inconsistent with EU law is now being amended in the Houses of the Oireachtas (Parliament) to comply with European Law in 2022.⁵ The conviction of Dwyer in 2015 for the murder of O'Hara in 2012 rested on the evidence gathered from Dwyer's mobile phone data.

In Ireland, the *Data Protection Act, 2018* (DPA,2018)⁶ amended, for the main part, the *Data Protection Acts 1988-2003*,⁷ however, these Acts still apply in relation to matters pertaining to national security and defence. DPA 2018 provides for the establishment of a new Data Protection Commission as the official data protection authority of the state. The Data Commission oversees the implementation of the Data Law Enforcement Directive and the addressing of procedural aspects of Data Law Enforcement in Ireland. Under the 2018 Act, personal data is defined as being data relating to a person who is identifiable either from the data itself or in conjunction with other information.⁸ It confers rights on individuals with regard to the protection of their personal data as well as imposing additional responsibilities on those persons holding and processing such personal data. The Data Protection Act, 2018 prohibits the micro-targeting

⁴ Communications Act 2011.

⁵ 'ECJ Rules in Favour of Irish Murderer Graham Dwyer in Phone Data Dispute | Ireland | The Guardian' <<https://www.theguardian.com/law/2022/apr/05/mobile-phone-data-retention-in-graham-dwyer-case-broke-eu-law>> accessed 17 August 2022.

⁶ Data Protection Act, 2018.

⁷ Data Protection 1988.

⁸ General Data Protection Regulation 2016.

and profiling of children.⁹ It provides for the adoption of specific codes of conduct¹⁰ and the right for children to be forgotten.¹¹ Furthermore, the child, as a result of the thirty first amendment to the Constitution and the subsequent insertion of Article 42.A in the constitution is entitled to stand alone rights.¹² It provides for the right of the child to be heard and for the child's best interests to take centre place in all child centred decisions.

The General Data Protection Regulation, 2016 (GDPR) puts in place protective measures on the processing of individuals' data by Companies. The Regulation was to be implemented in Member States by 2018, defines

'personal data' which means any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.¹³

Its introduction into Irish law meant that a Data Controller has a legal responsibility to: obtain and process personal data lawfully, fairly and in a transparent manner;¹⁴ keep it only for one or more specified and explicit lawful purpose(s);¹⁵ process it only in ways compatible with the purpose of which it was initially given;¹⁶ keep data accurate, relevant and not

⁹ Data Protection Act, 2018; Data Protection Act, 2018 s 30.

¹⁰ Data Protection Act, 2018 s 32.

¹¹ Data Protection Act, 2018 s 33.

¹² Constitution of Ireland.

¹³ 'GDPR Article 4 : Definitions' (2016) <<https://www.gdpr.org/regulation/article-4.html>> accessed 6 January 2022.

¹⁴ General Data Protection Regulation art 5.

¹⁵ General Data Protection Regulation art 6.

¹⁶ General Data Protection Regulation art 5(1)b.

excessive;¹⁷ retain it no longer than is necessary for the specified purpose or purposes;¹⁸ and keep personal data safe and secure.¹⁹ A data subject has the following rights under the GDPR and *Data Protection Acts 1988-2018*: the right to be informed,²⁰ the right of access,²¹ the right to rectification,²² the right to erasure/right “to be forgotten”,²³ the right to restrict processing,²⁴ the right to data portability,²⁵ the right to object,²⁶ and rights in relation to automated decision making and profiling.²⁷ This effectively means that every individual is entitled to have their personal information protected,²⁸ used in a fair and legal way,²⁹ and made available to them when they request a copy.³⁰ In order to process personal data, organisations must have a lawful reason for processing personal data as set out under Article 6 of the GDPR.³¹

However, Article 2 of the GDPR, in dealing with the material scope of the GDPR stipulates that the GDPR does not apply to the processing of personal data by “a natural person in the course of purely personal or household activities.”³² Recital 18 of the GDPR explains that “Personal or household activities could include social network or online activity undertaken within the context of such activity.”³³ This exception, although seeking to exempt personal and household data from the processing requirements that are laid

¹⁷ General Data Protection Regulation art 5(e).

¹⁸ Data Protection Act, 2018.

¹⁹ Data Protection Act, 2018 s 71; General Data Protection Regulation art 13/14.

²⁰ Data Protection Act, 2018 s 71; General Data Protection Regulation art 15.

²¹ Data Protection Act, 2018 s 71; General Data Protection Regulation art 15.

²² Data Protection Act, 2018 s 92(1); General Data Protection Regulation arts 16 & 19.

²³ Data Protection Act, 2018 s 33 (applies to children); General Data Protection Regulation art 17.

²⁴ General Data Protection Regulation art 20.

²⁵ General Data Protection Regulation art 21.

²⁶ General Data Protection Regulation art 22.

²⁷ General Data Protection Regulation art 22.

²⁸ General Data Protection Regulation art 8.

²⁹ General Data Protection Regulation art 18.

³⁰ General Data Protection Regulation arts 13 & 15.

³¹ General Data Protection Regulation art 6.

³² General Data Protection Regulation.

³³ General Data Protection Regulation.

down by the GDPR, 2016 has resulted in the online sharing of children's personal data being excluded from the GDPR's protective measures. The confusion with regard to the scope of this measure has been highlighted and acknowledged by Bessant and Schnebbe, who argued that parents might be regarded as data controllers if followers on a parent's private account with whom information is shared cannot be definitively identified as part of their personal or household environment.³⁴

3.3 Identifiable Lacunae

Sharenting, as identified within the literature review is widespread. Parents share their children's images on public fora. There is no external oversight. The rules laid down in the GDPR regarding the processing of children's information by companies do not apply to household and personal activities and, thereby, leave minors in a vulnerable position. Currently, minors have no protection against parents who may decide to share their images and personal data on the worldwide web. This raises the question regarding the need for children to have a legal right to a blank digital canvas. Nissenbaum argues that as "the violations of privacy are self-motivated and the parties are of unequal power, then it follows that the violations assume political significance, thereby, necessitating a political response."³⁵ This suggests that there is a need to address the protection of private data. It could be argued that the legal right to a blank canvas may be supported by Article 3 of the United Nations Convention on the Rights of the Child which upholds the best interests of the child. Furthermore, Article 7 of the UNCRC supports the right of every child to his/her identity³⁶ and, Article 8 of the UNCRC

³⁴ Claire Bessant and Schnebbe, 'Does the GDPR Offer a Solution to the Problem of "Sharenting"?' (2022) 6 *Datenschutz und Datensicherheit* 352.

³⁵ Helen Nissenbaum, 'Privacy as Contextual Integrity' (2004) 79 *Washington Law Review* 119.p.139

³⁶ Convention on the Rights of the Child 1989.

requires States to respect the right of the child to preserve his/her identity.³⁷ In addition, Article 8 of the European Convention on Human Rights supports the right of all individuals to respect for his private and family life and interference should be allowed only in limited circumstances.³⁸ Article 12 of the UNCRC upholds the right of children to have a say in matters pertaining to them.³⁹

However, given that the lives of parents and their children are closely aligned, this raises the issue of whether such a legal right may impact on the parental right to freedom of expression. The issue of extricating the individual rights may require a balancing exercise. The balancing exercise may be based on the level of interference and the degree of intrusiveness posed by the sharing of the child's image. Article 19 of the UNCRC upholds the right of the child to dignity.⁴⁰ Children have the right to be protected from the threat of interference and violence. This raises the question as to whether the right should be a complete or graduated right and how the right might be upheld and by whom. Should the responsibility lie with the Gardaí or a Children's Data Protection Commissioner? The empirical findings revealed by this research will clarify the level of interference posed by sharenting. The level of interference will clarify the extent of remedial measures that may be required to safeguard the private identity of a minor.

3.4 Recommendations under General Comment No.25 of the UN Committee on the Rights of the Child

General Comment No.25 (2021) on 'children's rights in relation to the digital environment' identified parents sharing images of their children as

³⁷ Convention on the Rights of the Child.

³⁸ 'European Convention on Human Rights' (2003) <<https://www.echr.coe.int/Pages/home.aspx?p=basictexts&c>> accessed 25 July 2022.

³⁹ Convention on the Rights of the Child.

⁴⁰ Convention on the Rights of the Child.

one of potential interferences with the child's privacy.⁴¹ In addition, it stipulates that the protection of a "child's privacy in the digital environment is significant in circumstances where parents or caregivers themselves pose a threat to the child's safety."⁴² In such circumstances, intervention in the form of family counselling or other services may be necessary to protect the child's right to privacy.⁴³ It emphasises that children's online safety should be based on the principles of: best interests, non-discrimination, right to life, survival and development and the right to be heard.⁴⁴ It advises that State Parties should ensure that children's online engagement be integrated, and co-ordinated. The General Comment recommends that there should be regular research, independent oversight and that information should be readily available to promote transparency.⁴⁵ It advocates that State Parties provide awareness-raising and training and that business enterprises undertake due diligence to ensure compliance with prohibition on the profiling of minors. It proposes that appropriate and effective remedies be undertaken in the event of children's rights being violated.⁴⁶ General Comment 25 and its' recommendations are significant, in that, they open up the debate on the right of the child to be protected against the arbitrary sharing of their private information.

⁴¹ 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>> accessed 22 June 2022, para.67

⁴² 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 41), para.77

⁴³ 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 41).

⁴⁴ 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 41).

⁴⁵ 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 41).

⁴⁶ 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 41).

3.5 Forthcoming Legislation

In addition to the protections afforded by the *Data Protection Act, 2018* and the General Data Protection Regulation, 2016, the forthcoming Online Safety and Media Regulation Bill⁴⁷ which is currently being debated in the Houses of the Oireachtas (Irish Parliament) consists of a suite of proposed measures which include: online safety codes and robust compliance, enforcement and sanction powers, all of which are designed to tackle harmful online content such as cyberbullying. This Bill, if enacted as currently drafted will transpose the revised European Audio-visual Media Services Directive, which governs the coordination of national legislation on audiovisual media.⁴⁸ The narrative in this Bill could have been extended to include sharenting. Not doing so represents a lost opportunity for the protection of young children. However, it is positive in that it is focusing much needed attention on online safety. Furthermore, the forthcoming *European Digital Services Act* will impose additional obligations on Companies to guarantee the protection of minor users on any social media platform in the EU.⁴⁹ These measures will oblige platforms to mitigate risks such as disinformation, cyber violence or harms to minors online and to provide transparent information on the use of algorithms. These measures will also include a ban on the use of dark patterns and targeted advertising. Again, this could have included sharenting under its protection discourse. It applies specifically to online users. This represents another missed opportunity for the protection of minor children who have an online presence as a result of sharenting. In addition, in May 2022, the European Commission adopted a new European strategy for a better internet for

⁴⁷ Online Safety and Media Regulation Bill 2022.

⁴⁸ EUR-Lex - 32018L1808 - EN - EUR-Lex Audiovisual Media Services Directive 2018.

⁴⁹ Digital Services Act: Council and European Parliament provisional agreement for making the internet a safer space for European citizens 2022.

children.⁵⁰ This strategy highlighted the call for member states to ensure that children can navigate the internet in a safe and secure manner. It seeks to balance the digital protection, empowerment and participation of minors' online experience and engagement in a secure manner. This strategy is welcomed as it represents a growing level of concern with regard to the digital safety of children. The failure of current and forthcoming legislation to specifically address the protection of children who are the subjects of sharenting is an identifiable lacuna and it represents a lack of awareness or unwillingness by regulators. The proactive stance with regard to the protection of all other private data is welcomed as a positive move which may culminate in a legislative measure to guarantee the private identity of children whose images are been shared online by their parents.

3.6 European Framework

Data protection is a fundamental right. Article 8 of the EU Charter of Fundamental Rights, provides that:

Each one has the right to the protection of their personal data, that data must be processed fairly for specified purposes and on the basis of the consent of the person concerned or some other legitimate legal basis.⁵¹

Everyone has a right of access to their personal data which has been collected and, furthermore, they have the right to have it rectified if there is

⁵⁰ European Union, 'New European Strategy for a Better Internet for Kids' (2022) Text <https://ec.europa.eu/commission/presscorner/detail/en/QANDA_22_2826> accessed 20 July 2022.

⁵¹ 'European Charter of Fundamental Rights' (2000) <<https://eur-lex.europa.eu/summary/EN/legisum:l33501>> accessed 5 January 2022.

any inaccuracy in the collected data.⁵² Compliance is subject to control by an independent authority.⁵³

The European Courts' rulings have added much clarity to the rights of the child.. In *Johansson v. Finland*,⁵⁴ the authorities refused to register the forename "Axl Mick", because the spelling did not comply with the Finnish naming practice. The EctHR, while acknowledging both the child's best interests, and that the preservation of the national naming practice, found that while this name may have negatively affected the cultural and linguistic identity of the state, that the public-interest considerations did not outweigh the interest of the child and there had been a violation of Article 8 of the ECHR. This ruling recognises the right of the child to be identified by a name of choice. This ruling adds weight to the content that the child should be entitled to the privacy of their identity.

In the case of *Joseba Andoni Aguirre Zarraga v. Simone Pelz*⁵⁵ concerning the removal of a minor child from Spain to Germany in breach of custody rulings. The child had opposed the return when she expressed her views within proceedings before the German court. The CJEU argued that while the right of a child to be heard is not an absolute right, a court if it decides that it is in the child's best interests, must offer the child an opportunity to express his or her views. This ruling adds strength to the argument that children should be afforded the right to have their voice be heard in matters pertaining to them. It strengthen the contention that the consent of the child should take centreplace in decisions pertaining to sharing personal information and images. In *Dynamic Medien Vertriebs GmbH v Avides*

⁵² 'European Charter of Fundamental Rights' (n 51).

⁵³ 'European Charter of Fundamental Rights' (n 51).

⁵⁴ *Mika and Jaana Johansson against Finland* [2002] Application no 10163/02 (EctHR).

⁵⁵ *Joseba Andoni Aguirre Zarraga v Simone Pelz*, [2010] Case C-491/10 PPU, (CJEU).

Media AG,⁵⁶ the European Court of Justice held that “although the protection of the child is a legitimate interest which, in principle, justifies a restriction on a fundamental freedom guaranteed by the EC Treaty, such as the free movement of goods ... such restrictions may be justified only if they are suitable for securing the attainment of the objective pursued and do not go beyond what is necessary in order to attain it.”⁵⁷ This ruling strengthens the belief that children should be protected from exposure to potential harmful content and actions. Sharenting can potentially lead to the exposure of the child to material and unwarranted intrusions.

In *Mikulic’ v. Croatia*,⁵⁸ a child sought to establish the identity of her father. The Court ruled that private life can include a person’s physical and psychological integrity and can sometimes include aspects of an individual’s physical and social identity. Where the national courts previously ruled that the alleged father’s avoidance of scheduled DNA tests was not sufficient to establish the man’s fatherhood, the ECtHR, however, ruled that as there was no effective means to oblige JH to undergo DNA testing, this, together with the absence of alternative available means to establish the plaintiff’s identity resulted in a violation of Article 8. In conclusion, the Court noted that:

In determining an application to have paternity established, the courts are required to have regard to the basic principle of the child’s interests. The Court finds that the procedure available does not strike a fair balance between the right of the applicant to have her uncertainty as to her personal identity eliminated without unnecessary delay and that of her

⁵⁶ *Dynamic Medien Vertriebs GmbH v Avides Media AG* [2006] Case C-244/06.

⁵⁷ *Dynamic Medien Vertriebs GmbH v Avides Media AG* (n 56) para 42.

⁵⁸ *Mikulic v Croatia* (53176/99) [2002] 2 WLUK 216 [2002] (53176/99).

supposed father not to undergo DNA tests, and considers that the protection of the interests involved is not proportionate.⁵⁹

This ruling strengthens the argument that the child should be entitled to exert control over their identity and that which they wish to share and to decide with whom they wish to share any personal information.

On the European platform, the judicial decisions of the ECtHR have added significantly to clarity on the concept of identity and privacy.

Despite the introduction of protective measures by the data protection Act in Ireland and the GDPR across Europe, there remains a lack of protection for the private identity of minors who are the subject of sharenting. There is a strong reliance on the goodwill of parents to act in their children's best interests, but there is no provision for those occasions where parents may not be technologically competent or aware of the dangers associated with the online exposure that may accompany sharenting.

It is the view of Donovan that the:

GDPR, in seeking to address the security and safety of the private identity of minors who engage in social networking, places the oversight of minors' digital privacy into parental hands, regardless of their digital competency.⁶⁰

The GDPR, while it aims to protect the online activities of minors, exempts 'personal and household activities' from the constraints imposed on the general processing of minors' information.⁶¹ However, France in its

⁵⁹ *Mikulic v Croatia* (53176/99) [2002] 2 WLUK 216 (n 58).para.65

⁶⁰ Sheila Donovan, "Sharenting": The Forgotten Children of the GDPR' (2020) 4 Peace Human Rights Governance 35.p.35

⁶¹ General Data Protection Regulation Recital 18 The Regulation does not apply to personal or household activities such as social networking or online activities.

longstanding struggle to protect the right to a private identity and freedom of expression has itself addressed the protection of children who are the subjects of sharenting by legislative and policy measures.

3.7 Image Rights

In France, image rights have been recognised since 1858 however, the distinction between privacy and property interests has proved itself to be a stumbling block.”⁶² In the words of Fougerol, “Physiognomy reflects the soul and distinguishes the man from his fellow-man.”⁶³ There has been some resistance against the adoption of a legal right for image. This has been a direct result of France’s efforts to balance the opposite interests in the recognition of this right.⁶⁴

While there is consensus on the need for the legal protection of a person’s image, there has been a reluctance to recognise this image as a property right in order to prevent the unauthorised exploitation of the image or personal rights of an individual. In 1991, a Court of Appeal in Paris granted an injunction against the unauthorised use of a photograph in posters and postcards.⁶⁵ This case concerned a photograph taken by Doisneau for the promotion of a specific exhibition. Consent relating to the publicity publication specific to the exhibition was obtained from Corbassière, who was the artist.⁶⁶ The subsequent use of the photograph in posters which were unrelated to the promotion of the exhibition was held by the Courts to amount to an unauthorised commercial exploitation of the photograph.

⁶²Wencelas J Wagner, ‘The Right To One’s Own Likeness in French Law’ (1970) 46 *Indiana Law Journal* 1.p.1

⁶³ Wencelas J Wagner (n 62).p.1

⁶⁴ Elisabeth Logeais and Jean-Baptiste Schroeder, ‘The French Right of Image: An Amiguous Concept Protecting the Human Persona’ (1998) 18 *Loyola of Los Angeles Entertainment Law Review* 511.p.512

⁶⁵,*Rapho v. Yves Corbassière* CA Paris, le ch. A, Feb. 26, 1991, *Gaz. Pal.* 1991

⁶⁶ Logeais and Schroeder (n 64).p.527

While punitive damages are generally not available in image cases, courts in France often award enhanced damages in the case of exploited images to cover the economic and moral harms suffered. The recognition of the right of image (*droit à l'image*), implies the right to privacy, the right to protect one's reputation, and the right to decide on the use of one's image.⁶⁷ French law affords several defences to the unauthorised use of a person's image. These include consent, express consent for a specific purpose, photographs taken in public places, freedom of speech, news and information of public interest.⁶⁸

The right to an image may be transferred by written consent. The Courts regard the unauthorised use of another person's image as a wrongdoing, the vindication of which does not require proof of fault. The modern perception of the right to one's image recognises its dual nature, encompassing both a negative and positive right which prohibits the reproduction of one's image, as well as a positive and economic right to commercially exploit one's image. In France, a photographer (having obtained consent from only one parent) displayed a photograph of a child in the window of his studio.⁶⁹ The court held that given that the father was vested with parental authority, the right to display the child's photograph was "properly exercised."⁷⁰

3.8 Privacy-Legislative and non-Legislative Measures

Although image and the right to one's likeness did not feature until the invention of the camera, France, being one of the first countries to pass a

⁶⁷ Logeais and Schroeder (n 64).

⁶⁸ Logeais and Schroeder (n 64).

⁶⁹ T.P.I. Poitiers, Oct. 21, 1935, D.H. 1936, 45.

⁷⁰ Logeais and Schroeder (n 64).p.515

data protection law in 1978,⁷¹ has led the way to protect the private image of the individual. French legislation has had a strong influence on the 1995 European Privacy Directive.⁷² The privacy of family life in France is protected under Article 9 of the Civil Code of the *1970 Act* which provides that everyone has a right to respect for their private life and provides victims of privacy violation with the right to claim damages and request the cessation of the violation of their privacy.⁷³ The Criminal Code also provides sanctions for offences against privacy, in that any violation such as the intercepting, recording or transmitting of private/confidential conversations and images of an individual taken within a private place without the individual's permission is punishable by a custodial sentence and/or a monetary sanction.⁷⁴ Article 226-1 of the French Criminal Code subjects anyone who is found guilty of violating the intimacy of another's privacy to a custodial sentence and/or a monetary sanction.

French Civil and Criminal Penal Codes provide protection against the unauthorised use of the individual's image. Article 1382 of the Civil Code (now Article 1240 as amended)⁷⁵ has established the general principle that any person regardless of background or current status is entitled to prevent the unauthorised publication and use of his or her image. Article 226-8 of the Criminal Code⁷⁶ criminalises the publication of knowingly false stories or manipulated images of a person without the person's consent and prior disclosure of manipulation.

⁷¹ Act N°78-17 1978 on Information Technology, Data Files and Civil Liberties 1978 45.

⁷² European Directive 95/46/EC 1995 [31995L0046].

⁷³ French Privacy Act No 70-643 1970 (No 70-643).

⁷⁴ Article 226-1, Criminal Code, Ordinance No. 2000-916 of 19 September 2000 Article 3 Official Journal of 22 September into force 1 January 2002)

⁷⁵ 'French Civil Code: Book I: Of Persons, Title V' (1803) <https://www.napoleon-series.org/research/government/code/book1/c_title05.html> accessed 6 January 2022.

⁷⁶ Article 226-8 of the Criminal Code

French privacy Legislation has led the way and has been strongly influenced by International and European Human Rights Regulations, most notably; the United Nations Universal Declaration of Human Rights 1948,⁷⁷ the European Convention of Human Rights, 1950⁷⁸ and the Charter of Fundamental Rights of the European Union.⁷⁹ The 1978 Legislation applied to the processing, automated or otherwise, of personal data that was part of a personal data filing system. The law expressly excludes the processing for private purposes and the production of copies of data.⁸⁰ France has amended existing legislation to incorporate the suite of measures introduced by the GDPR.⁸¹

The National Assembly in France has recently voted in favour of legislation (Loi n^o 2020-1266 du 19 octobre 2020)⁸² designed to protect juveniles who participate in family-created online content and whose work generates an income, which, under the new legislation is now placed in a bank account and becomes accessible to them when they reach sixteen years. Under this new legislation, which came into force on April 20, 2021, the rights of children who participate in family-created online content will be protected in a manner similar to children who are models and actors.

Non-regulatory Measures

In addition to the legislative measures, France has adopted a suite of soft regulatory measures to safeguard minors' online privacy. The *Data*

⁷⁷ 'Universal Declaration of Human Rights' (OHCHR, 1948) <<https://www.ohchr.org/en/universal-declaration-of-human-rights>> accessed 22 August 2022.

⁷⁸ 'European Convention on Human Rights' (n 38).

⁷⁹ 'European Charter of Fundamental Rights' (n 51).

⁸⁰ Act N^o78-17 1978 on Information Technology, Data Files and Civil Liberties.

⁸¹ Law No. 2018-493 of June 20, 2018. Article 32 of Law No. 2018-493. Decree No. 2019-536.

⁸² LOI n^o 2020-1266 du 19 octobre 2020 visant à encadrer l'exploitation commerciale de l'image d'enfants de moins de seize ans sur les plateformes en ligne (1) 2020 (2020-1266).

*Protection Act No 78-17*⁸³ protects individuals against violation of their personal data. While it did not specifically address the privacy rights of minors, it did, however, establish the Commission Nationale de l'informatique et des libertés which is an independent administrative authority funded by the State budget with extensive powers which were further increased following the 2004 amendment to include the assurance that technology information remains at the service of each citizen and does not impact identity, or public liberties. It also provided for penal sanctions in the event of an infringement. The primary objective of the legislation is to educate individuals and data controllers on their rights and obligations and to monitor adherence to the *1978 Act*.⁸⁴

While the *1978 Act* did not contain any specific rules regarding internet application, it did, however, provide information related to PC security, bloggers, internet marketing, search engines, IP Addresses and Social Networks. In addition, it provides guidance on security, antivirus software, cookies and GPS or Wi-Fi management to protect personal data and location.

While France has embraced the GDPR, it also relies on soft non-regulatory measures to uphold the privacy rights of individuals. In 2010, the Commission Nationale de l'informatique et des libertés (CNIL) organised major online education campaigns for children, parents, and teachers. CNIL has been effective in levying fines in the event of French data privacy laws being contravened. In December 2020, CNIL imposed substantial penalties on Google and Amazon for alleged cookie violations and, in doing so, is the

⁸³ Act N°78-17 1978 on Information Technology, Data Files and Civil Liberties.

⁸⁴ Act N°78-17 1978 on Information Technology, Data Files and Civil Liberties.

first European data protection regulator to win a GDPR case against a US technological provider.⁸⁵

France has been the front runner in its introduction of measures which favour informing, educating and engaging with parents and children about responsible internet use. France is a member of the ‘Safer Internet Program’⁸⁶ which includes Internet Sans Crainte,⁸⁷ Net Écoute Famille⁸⁸ and Point de contact.⁸⁹ Internet Sans Crainte reaches minors directly through their parents and educators. It provides awareness kits to teachers and other professionals to organise information on internet safety workshops in schools, and in educational and leisure centres.

France is thus leading the way in both statutory and non-statutory measures to safeguard children’s right to privacy. This desire to protect privacy and images has been born out of longstanding judicial efforts. It has adopted a proactive stance in its online campaign directed towards parents encouraging against the online sharing of children’s data and images. In recognition that the GDPR does not fully address the protection of children who are the subject of sharenting, France has thus instigated a proactive online advisory and cautionary ‘engage and educate’ campaign on the dangers of sharenting. Under the Pénal criminal Code 226-1, minors have

⁸⁵ ‘France: CNIL Fines Google and Google Ireland €100M for Cookie Violations on Google.Fr’ (*DataGuidance*, 10 December 2020) <<https://www.dataguidance.com/news/france-cnil-fines-google-and-google-ireland-%E2%82%AC100m>> accessed 16 July 2022.

⁸⁶ ‘The European Commission’s “Safer Internet” Programme Commenced in 1999 and Aimed at Promoting the Safer Use of the Internet and New Online Technologies. From 2005, It Covered All New Online Technologies Including Mobile and Broadband Content, Online Games, and Chat Rooms and Instant Messaging. The 2009-2013 Phase Included Emerging Online Technologies and Conduct, like Grooming and Cyberbullying.’

⁸⁷ Internet Sans Crainte is an awareness project

⁸⁸ Net Écoute Famille is a telephone assistance program

⁸⁹ Point de contact is an online service to notify the authorities of illegal websites.

the capacity to bring a legal action against his/her parent but this measure is reactive and at best serves as a deterrent.

In addition, it is a requirement in France that there must be a prior legal or de facto authorisation with regard to surveillance activities. The establishment of control measures by independent institutions such as CNIL and the specialised training of particular members of the judiciary within the Council of State has created a digital ecosystem, designed to regulate and respect all matters relating to privacy and personal data. There is strong collaboration between online providers, educators and the French Gendarmerie to promote safety and security. Online information on the risks associated with sharenting is frequently updated.

3.9 Conclusion

Sharenting represents a potential threat to the privacy of minors' identity. Although, the *Data Protection Act, 2018* in Ireland replicates much of the measures of protection afforded by the GDPR, the protection of the digital privacy of minors who are the subject of sharenting remains very much the responsibility of parents. Recent developments including the General Comment No.25 have led the call for the specific protection of the child's right to privacy.⁹⁰ The European Court of Human Rights has been very clear on the significance of a private identity in its judicial decisions.

France is leading the way in their efforts to safeguard minors' digital privacy. It is clear that even where image rights have been recognised since 1858, however, the dual aspects with respect to privacy and property interests pose difficulties. In some instances, the Courts in France have recognised the extra-patrimonial nature of a person's image and the legal protection of a person's image under Article 9 of the French Civil Code. In

⁹⁰ 'General Comment No. 25 (2021) on Children's Rights in Relation to the Digital Environment' (n 41).

addressing the issue of sharenting, France has chosen to encourage parents to take ownership of the protection of their minors' privacy and private identity by engaging in responsible online engagement in matters pertaining to their children. Parents are encouraged as custodians of their children's private identity and freedom of expression to take the appropriate measures to safeguard the private identity of their children. Parents and carers bear the full weight of this responsibility until children are old enough to advocate for themselves.

Chapter 4 Methodology

4.1 Introduction

Until the findings from this study, there was no other known empirical research into sharenting in Ireland. In addressing this gap, this research examines particular research questions with regard to the practice of sharenting in Ireland and its impact on the privacy of the child's identity and freedom of expression. The overarching research question examines: What is the prevalence of Sharenting in this jurisdiction and is there an understanding of the consequences? To answer this, a number of sub-questions need to be addressed: How prevalent is the practice of Sharenting? Are parents aware of, and engaged with, privacy measures and consent? How do parents interpret privacy and how do they view their child's perspective on privacy? Where do parents believe that the responsibility for the safeguarding of online privacy lies? To fully examine the prevalence and impact of sharenting additional questions were posed to a sample of young adults, who as minors may have had their personal data shared digitally by their parents. These questions included: How do young adults view privacy and consent? Do they believe that children should be entitled to create their own online narrative? Should children be entitled to inherit a blank digital canvas? How has the parental sharenting they experienced, if any, impacted young adults' own online engagement? This socio-legal research into sharenting incorporates both doctrinal analysis and empirical methodologies: quantitative and qualitative analysis.

Chapter Four Methodology

This chapter outlines the methodology and the reasons why this methodology was chosen. It examines quantitative and qualitative inquiry methods and analysis. It explains the sampling process for those participating in the research and how the sample was recruited. Ethical approval for this study was obtained from the Research Ethics Committee at the National University of Galway Ireland, as it then was, now University of Galway. This is followed by an outline of the recruitment processes and the format of the subsequent inquiries for parents and young adults. The limitations of the mixed methods approach including measures taken to overcome any potential bias either in the research methods or analysis are outlined. Finally, the challenges of undertaking interviews in an online format due to the impact of Covid 19 are considered.

4.2 Research Design

The main focus of the doctrinal research has been on a desk-based analysis of statutes, legislation, judicial decisions and, in particular, the General Data Protection Regulation 2016, the Data Privacy Legislation and the Constitution of Ireland. It also included an examination of the judicial decisions of the European Court of Human Rights, European and International human rights treaties and General Comment No.25 of the UN Committee on the Rights of the Child. The doctrinal research also included an examination of the concepts underpinning the study - privacy, identity, self-determination, autonomy and the theoretical underpinnings of the research. In addition, it focuses on the protection of private data under the French Civil and Criminal Codes as an example of international best practice. While doctrinal research is manageable and, given that the outcomes are predictable, it is, however, theoretical and technical.

It is based on the assumption that the law exists in an objective doctrinal vacuum. Empirical research embraces the human dimension and fills this gap, in that, it gives an insight into the identifiable lacunae, strengths and weaknesses that exist within the system, as it currently stands. As a researcher, I have approached this study from the perspective of a pedagogue and an advocate for children's rights and these roles have informed the manner in which I undertook the study and the range of questions posed in the questionnaires and interviews.

4.3 Research Methods- Mixed Methods Approach- Strengths and Limitations

Having examined literature on research methodologies,¹ a mixed-method approach was used to address the proposed research questions. Mixed Methods refer to the combination of the quantitative and qualitative methods within a single investigation.² Quantitative and qualitative research approaches clearly differ in terms of how data are collected and analysed.³ Quantitative research results in the reduction of phenomena to numerical values in order to carry out the statistical analysis.⁴ In quantitative research, variables are essential because it is the phenomenon that is classified and quantified. By contrast, qualitative research involves the collection of non-numerical data, in the form of interviews, texts, pictures, videos.⁵ The basic premise of mixed methods is that the combination of quantitative and qualitative methods yields a more complete set of data results.⁶ Mixed methods can potentially increase rigor, depth and richness. It allows for the

¹ Zina O'Leary, *The Essential Guide to Doing Your Research Project* (SAGE Publications 2010).

² R Burke Johnson and Anthony Onwuegbuzie, 'Mixed Methods Research: A Research Paradigm Whose Time Has Come' (2004) 33 *Educational researcher* 14.

³ Burke Johnson and Onwuegbuzie (n 2).

⁴ Burke Johnson and Onwuegbuzie (n 2).

⁵ Burke Johnson and Onwuegbuzie (n 2).

⁶ Burke Johnson and Onwuegbuzie (n 2).

potential generalisation of results, thereby, improving the validation, interpretation and generalisation of results.⁷ However, the aim of combining the quantitative and qualitative research methods should not be focused totally on the possible generalisation of results, rather the focus should be on the optimal contribution of each method to the understanding of a complex social phenomenon.⁸

Greene acknowledges that ‘a mixed methods approach offers greater possibilities than a single methods approach’.⁹ A mixed methods approach is effective as it uses all the tools of data collection rather than being restricted to the types of data collection that are generally associated with either qualitative or quantitative research. Mixed methods involve the reduction, display, transformation, correlation, comparison and integration of data.¹⁰ Mixed methods are believed to bring about the collaboration of the two opposite methods, minimising any weaknesses, while maximising the reliability of the results, thereby, leading to improved consistency, dependability and replicability.¹¹

Bryman indicated that there are few guidelines on how, when and why different methods of research can be combined.¹² The use of the mixed methods approach is appropriate in this study as the research questions required answers that could not be ascertained by quantitative research alone, as it would only represent a snapshot of the current level of parental online engagement. It is envisaged that the mixed methods approach would result in a broader overview, which, may identify key issues and influence

⁷ Burke Johnson and Onwuegbuzie (n 2).

⁸ Jane Ritchie, Jane Lewis, Carol McNaughton Nichols, Rachel Ormston, *Qualitative Research Practice* (2nd edn, Sage Publications Sage UK: London, England J 2014). P.

⁹ Jennifer C Greene, ‘The Generative Potential of Mixed Methods Inquiry’ (2005) 28 *International Journal of Research & Method in Education* 207.

¹⁰ Burke Johnson and Onwuegbuzie (n 2). p.22

¹¹ Mohammad Zohrabi, ‘Mixed Method Research: Instruments, Validity, Reliability and Reporting Findings’ (2013) 3 *Theory and Practice in Language Studies* 254. p.261

¹² Alan Bryman, ‘Integrating Quantitative and Qualitative Research: How Is It Done?’ (2006) 6 *Qualitative Research* 97. p.99

policy and legislative reform measures. This study aims to identify the extent of and the reasons for parents' online engagement and the extent to which it impacted on the privacy of children's identity and self-determination. It seeks to identify the extent to which parents gave consideration to children's consent and privacy. With the focus of this research in mind, these questions are designed to elicit the requisite information which may provide the evidential basis on whether, there is a need to establish a framework to guarantee minors the right to the privacy of their identity in the form of a blank digital canvas until they reach that particular point of understanding where, if consulted, they can give an informed consent.

As this research aims to capture the experiences of both young adults and adults who are parents, the interviews give all participants an opportunity to articulate their views. While qualitative research poses additional challenges and obstacles, the richness of data to be gleaned more than compensates for the additional challenges associated with qualitative research.¹³ Qualitative research, according to Bryman, is regarded as being an open-ended research method which is innovative, whereas, quantitative research is mistakenly regarded as a mechanical process. He, further, added that the combination of both methods can result in the multiplication of unanticipated outcomes.¹⁴

4.4 Methodological Philosophies

The aim of methodology according to Kaplan is to increase one's understanding of, not only the focus of the scientific enquiry but the process itself.¹⁵ This research combines quantitative analysis through questionnaires and qualitative analysis through semi-structured interviews. This mixed

¹³ David Silverman, *Qualitative Research* (SAGE 2020).

¹⁴ Bryman (n 12).p.112

¹⁵ Abraham Kaplan and Charles Wolf, *The Conduct of Inquiry: Methodology for Behavioral Science* (1st ed., Routledge 2017).

method approach can potentially lead to high standards of validity and reliability as it allows for convergence and corroboration of results.¹⁶ The validity of the quantitative research method is one of the key strengths of this approach. Inferences may be drawn from relationships between independent variables and dependent variables.¹⁷ They identify how a dependent variable (in this study sharenting is the dependent variable) may be influenced by an independent variable (number of sites used by the sharenter, frequency of use and daily checks). Correlational techniques pinpoint the existence of a relationship between the direction and magnitude of two variables.¹⁸ The effectiveness of data collection and analysis rests on the ability to replicate the same phenomenon or event for different groups or subgroups.¹⁹ The extrapolated results are reliable and this reliability paves the way to a conclusion.

Positivism is a methodological philosophy, which employs scientific methods to discover results.²⁰ It is believed that as “human behaviour is governed by law-like regularities, it is possible to carry out independent, objective and value free social research.”²¹ The limitation being that since positivism generalises the research results, there may be a possibility that the personal understanding and the individual views may not be considered. It may be challenging to apply a general research outcome to understanding phenomena in a specific societal context.²² Furthermore, the views expressed represent those of the participant group and cannot be generalised apart

¹⁶ R. Burke Johnson and Anthony J. Onwuegbuzie, ‘Mixed Methods Research: A Research Paradigm Whose Time Has Come’ (2004) 33 *Educational Researcher* 14.p.21

¹⁷ William M. K. Trochim, ‘Inferential Statistics’ <<https://conjointly.com/kb/inferential-statistics/>> accessed 8 January 2023.

¹⁸ Louis Cohen, Lawrence Manion, and Keith Morrison, *Research Methods in Education* (6th ed, Routledge 2007).p.193

¹⁹ Burke Johnson and Onwuegbuzie (n 2).

²⁰ Michael Crotty, *The Foundations of Social Research* (1st edn, Sage London 1998).p.27

²¹ Jane Ritchie, Jane Lewis, Carol McNaughton Nichols, Rachel Ormston (n 8).p.24

²² Burke Johnson and Onwuegbuzie (n 2).p.19

from the extent to which the results converge within the collected quantitative data and other studies internationally. However, this paradigm is limited as it is impossible to quantify phenomena that relate to intention, attitudes and thoughts. Concepts measured without evidence may be regarded as being subjective.²³

The qualitative data is interpreted through an interpretivist lens. In qualitative research, one's understanding of phenomena is measured and supported by evidence.²⁴ In qualitative research, the interpretation of a phenomenon by researchers and participants is significant.²⁵ Interpretivism claims that researchers have to explore the social world through their own perspectives at the level of meaning rather than cause.²⁶ The adoption of an interpretivist perspective is designed to acquire a more in-depth understanding of the complexity of a phenomenon. Disregarding or rejecting attitudes on the basis that they are irrational and objectionable is not an option.²⁷ Hammersley emphasises that since multiple interpretations are formed in human relationships, it follows that there are multiple ways of seeing and experiencing the world and that there is a need to avoid studying the events and people from a single perspective.²⁸ It is important to recognise that events are being described and understood within their particular social setting.²⁹ It is in this regard that the interactive interview allows the researcher the freedom to investigate issues that may not be otherwise observable. The interview presents the interviewer with an opportunity to become acquainted with the thoughts, values, prejudices,

²³ Martyn Hammersley, *What Is Qualitative Research?* (Continuum/Bloomsbury 2013), p.11

²⁴ Martyn Hammersley (n 23), p.10

²⁵ Jane Ritchie, Jane Lewis, Carol McNaughton Nichols, Rachel Ormston (n 8), p.11

²⁶ Jane Ritchie, Jane Lewis, Carol McNaughton Nichols, Rachel Ormston (n 8), p.24

²⁷ Martyn Hammersley (n 23), p.29

²⁸ Martyn Hammersley (n 23), p.29

²⁹ Nick Fox, 'Using Interviews in a Research Project' [2009] The NIHR RDS for the East Midlands / Yorkshire & the Humber.

perceptions, and mindset of the interviewees.³⁰ The interview is of particular use in this research because it allows us to gain an insight of views relating to sharenting.

Interpretivists recognise the manner in which we use our human capacities to understand phenomena within a particular situation rather than on a more general basis³¹ and, this makes it difficult to verify the validity of the research outcome. Secondly interpretivism is very subjective and, as a result, Mack highlights the need for the researcher to bracket his/her assumptions.³² While many research methods have been linked to particular research paradigms, this linkage between research paradigms and research methods may be regarded as unnecessary.³³

4.4.1 Quantitative Inquiry and Analysis

Quantitative inquiry is based on the collection and analysis of data. Information is gathered in a systematic, controlled and empirical manner resulting in a significant investigation of facts about natural phenomena.³⁴ Questionnaires are regarded as being useful to collect factual data from large groups. Questionnaires, completed by parents in this investigation are used to gain an insight into the extent and frequency of parental social network practices along with the nature of material shared. In this study, the questionnaires create a landscape on the extent of parental engagement with social media and, in particular, that of sharenting. In addition, the

³⁰ Raymond Opdenaker, 'Advantages and Disadvantages of Four Interview Techniques in Qualitative Research' (2006) 7 Forum:Qualitative Social Research.

³¹ Martyn Hammersley (n 23),p.26

³² Lindsay Mack, 'The Philosophical Underpinnings of Educational Research' (2010) 19.p.8

³³ Katrina McChesney Aldridge Jill, 'Weaving an Interpretivist Stance throughout Mixed Methods Research' (2019) 2 INTERNATIONAL JOURNAL OF RESEARCH & METHOD IN EDUCATION 225.

³⁴ Carrie Williams, 'Research Methods' (2007) 5 Journal of Business & Economic Research 65.

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questionnaires completed by young adults illustrate their views with regard to their parents' online engagement with sharenting.

SPSS was used to analyse the quantitative data. The collected data was analysed using both descriptive and inferential tests. Descriptive statistics generate descriptive coefficients which include the mean, mode, median, standard deviation, range and frequency³⁵ of online engagement along with the gender and age of the respondents engaging in the online activities. Descriptive statistics permit the researcher to view the entire data establishing the highs and the lows and areas of concentration.³⁶ Inferential statistics are used to draw conclusions between different variables, for example, this study investigates the relationship between sharenting and factors such as gender, age, motivations and social media sites.³⁷ It investigates differences between groups and explores the existence of a correlative relationship between particular variables.³⁸ While, correlation coefficients may describe the strength and direction of an association between variables, but it is important to note that correlation does not imply causation.³⁹

³⁵ Parampreet Kaur, Stoltzfus Jill and Yellapu Vikas, 'Descriptive Statistics' (2018) 4 International Journal of Academic Medicine 60.

³⁶ S Manikandan, 'Frequency Distribution' (2011) 2 Journal of Pharmacology & Pharmacotherapeutics 54.

³⁷ Gill Marshall and Leon Jonker, 'An Introduction to Inferential Statistics: A Review and Practical Guide' (2011) 17 Radiography 1 <<https://linkinghub.elsevier.com/retrieve/pii/S1078817409001436>> accessed 10 January 2023.

³⁸ Marshall and Jonker (n 37).

³⁹ Patrick Schober, Christa Boer and Lothar A Schwarte, 'Correlation Coefficients: Appropriate Use and Interpretation' (2018) 126 Anesthesia & Analgesia 1763.

4.4.2 Qualitative Inquiry and Thematic Analysis

Primarily, qualitative research is exploratory research. It is used to create an understanding of underlying reasons, opinions, and motivations.⁴⁰ The qualitative research uncovers patterns in thoughts and opinions. The qualitative research investigates beliefs, attitudes and concepts around the issue of sharenting.⁴¹ It generates information with regard to meanings, understandings and experiences that would be difficult to quantify under the quantitative method alone. The techniques that are used in the qualitative method explore phenomena, observe, question and come to an understanding. Ritchie et al. describe the interview process as being similar to cartography, in that the interview itself is like the mapping of an uncharted 'island'.⁴² The interaction between the interviewer and the interviewee is believed to contribute significantly to the outcome.⁴³ Qualitative research permits the study of things in their natural settings, making sense of and interpreting phenomena in terms of people's understanding.⁴⁴ Interviewees are invited to share their reflections of their experiences and beliefs.⁴⁵ Furthermore, qualitative research methods give the participants a sense of respect, control and investment in the research.

The qualitative research methods proved particularly useful in this project as it can be used to inform quantitative studies and can also be used to interpret and evaluate the findings, for example in determining how and why sharenting exists, in addition, the extent of parents' regard for its possible

⁴⁰ Ellie Fossey and others, 'Understanding and Evaluating Qualitative Research' (2002) 36 *Australian and New Zealand Journal of Psychiatry* 717.

⁴¹ Joseph Maxwell and Barbara Miller, 'Categorizing and Connecting Strategies in Qualitative Data Analysis', *Handbook of emergent Methods* (Guildford Press 2008).

⁴² Jane Ritchie, Jane Lewis, Carol McNaughton Nichols, Rachel Ormston (n 8).p.190

⁴³ Jane Ritchie, Jane Lewis, Carol McNaughton Nichols, Rachel Ormston (n 8).

⁴⁴ Norman K. Denzin and Yvonna S. Lincoln, *The Sage Handbook of Qualitative Research* (4th ed., Sage 2011).

⁴⁵ Opdenaker (n 30).

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ramifications. It permits the researcher to gather data by means of a dialogue. Qualitative studies can potentially produce additional understanding as the interaction between the interviewer and the interviewee gives the interviewer the opportunity to clarify data.⁴⁶ It delivers an in-depth volume of data which could potentially add significantly to credible results. The qualitative data was analysed using an inductive, comparative approach aided by NVivo qualitative analyses software. Following the steps proposed by Braun and Clarke,⁴⁷ the thematic analysis involved a step-by-step process beginning with the transcriptions of the recorded interviews. The transcriptions allowed the researcher to become familiar with the data, and to notice issues that might be relevant to the research questions.⁴⁸ The transcriptions were uploaded and the interview responses to open ended questions were analysed through Nvivo.

The initial inquiry involved open coding. Codes are regarded by Braun and Clarke as the “building blocks of analysis.”⁴⁹ Patterns in the data were noted and coded with relevant excerpts supporting the codes. The codes were then collated and examined to identify ways in which they were related and to come up with common themes which are regarded by Braun and Clarke as the walls and roof of the building.⁵⁰ The themes were then revised and reviewed to gain a more comprehensive understanding of the meanings embedded therein; for example, where the participant refers to a general theme of privacy, what does privacy actually mean to that interviewee.

The final phase involved validating the data once again to ensure that the findings represented a true account of the participants’ contribution to the

⁴⁶ Silverman (n 13).

⁴⁷ Virginia Braun and Victoria Clarke, ‘Thematic Analysis’, *APA handbook of research methods in psychology, Vol 2: Research designs: Quantitative, qualitative, neuropsychological, and biological* (American Psychological Association 2012).

⁴⁸ Virginia Braun and Victoria Clarke (n 47).

⁴⁹ Virginia Braun and Victoria Clarke (n 47).

⁵⁰ Virginia Braun and Victoria Clarke (n 47).

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research. This involves working back and forth looking at particular comments made, individually, and then examining these comments in the context of the interview as a whole. Identified themes were then divided into topic themes which detailed issues that the participants were specifically asked about in order to address the key research questions and themes that emerged as being important to the participants during the course of the interviews. This avoided the inaccurate categorisation of expected findings as emergent themes.

Background information was compiled for each participant so that themes and emerging themes could be evaluated across factors such as gender and age. These themes were then examined through the lens of the theoretical framework, namely, the capabilities approach and the existing literature on sharenting. The final phase involved the validation of the data once again to ensure that the findings represented a credible interpretation of the participants' contribution to the research. This included looking at particular individual comments and then examining these comments in the context of the interview as a whole. Thematic analysis is useful for organising data as it demands a well-structured approach.⁵¹ However, Holloway and Todres note that the flexibility of thematic analysis can lead to inconsistency which can be avoided if the researcher adopts an epistemological position which agrees with the empirical claims proposed by the study.⁵² Thematic analysis is of particular use in this research as it allows the researcher to break the text into parts that allow for a more minute examination of the content.⁵³

⁵¹ Lorelli Nowell Moules Jill Norris, Deborah White, Nancy, 'Thematic Analysis: Striving to Meet the Trustworthiness Criteria' (2017) 16 *International Journal of Qualitative Methods* 1.

⁵² Immy Holloway and Les Todres, 'The Status of Method: Flexibility, Consistency and Coherence' (2003) 3 *Qualitative Research* 345.

⁵³ Mojtaba Vaismoradi, Hannele Turunen and Terese Bondas, 'Content Analysis and Thematic Analysis: Implications for Conducting a Qualitative Descriptive Study' (2013) 15 *Nursing & Health Sciences* 398.

However, thematic analysis is challenging in that it is difficult to decide on which aspects of the data to focus on.⁵⁴

4.5 Recruitment of Parents and Format of Inquiry

Purposive and snowball sampling were used to construct the sample for both sets of questionnaires.⁵⁵ Purposive sampling ensured that the questionnaires were forwarded to parents of children aged 12/13 years and under. Snowball sampling, on the other hand, was used to ensure that the sample captured a wide range of different participants as the sharing of the questionnaires in the summer camps resulted in access to participants who might not otherwise be accessible.

Employing a purposive strategy, one hundred physical copies of the questionnaires were sent to both rural and urban (this divide is common as Ireland is predominantly rural with a larger urban population) and geographically dispersed primary schools. The questionnaire was emailed to the school principals. Purposive sampling was employed as it focuses the sample to the objectives of the research, thereby increasing the potential to acquire trustworthy data and results.⁵⁶ The questionnaires were forwarded (during the summer months) by primary school principals to staff members who were organising summer camps in their area. Given that questionnaires were also shared online, it was difficult to ascertain the level of response, but the return of 108 questionnaires met the original intention of distributing 100 questionnaires. The questionnaire consisted of 12 questions and was distributed to parents of children under the age of 12/13 years. The majority

⁵⁴ Michelle E Kiger and Lara Varpio, 'Thematic Analysis of Qualitative Data: AMEE Guide No. 131' (2020) 42 *Medical Teacher* 846 <<https://www.tandfonline.com/doi/full/10.1080/0142159X.2020.1755030>> accessed 31 January 2023.

⁵⁵ Aldridge (n 33).

⁵⁶ Steve Campbell and others, 'Purposive Sampling: Complex or Simple? Research Case Examples' (2020) 25 *Journal of Research in Nursing: JRN* 652.

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of parents had preschool children and/or post primary school children. The age was set at 12/13 years/ pre-teenage as teenagers begin their own online journey at that age. While children may use Tik Tok at a younger age, they, typically become more self-conscious of their image and identity when they reach the teenage years. It was anonymous, in that there was no obligation to reveal identity and the questions followed a logical sequence with the express intention of creating a complete picture on the level of parental social media usage. It was originally scheduled to hold face to face interviews, but due to Covid 19, and in the interests of health and safety, it was decided to hold online interviews. James and Busher referred to the belief that online interviews, like face-to-face interviews can provide spontaneous interactions.⁵⁷ Online interviews can also allow for verbal and nonverbal cues.⁵⁸ Furthermore, some researchers argue that the anonymity of online interactions and the fact that people engage in self-presentation on social media may heighten the presentation of self and authenticity.⁵⁹ The respondents were therefore invited to participate in an interview by Zoom. The interview allowed parents an opportunity to discuss their concerns and reasons for online engagement, in particular, sharenting.

This investigation examined the extent of parental online interaction by means of a questionnaire. There is, however, limited scope in Questionnaires for respondents to answer questions their own way and they do not achieve the same depth as an interview. The parental quantitative inquiry, having been informed by the works of Oppenheim⁶⁰ and the research questions was designed to estimate: the extent of parental online

⁵⁷ Nalita James Busher Hugh, 'Online Interviewing Chapter 15', *Qualitative Research Methods* (edited by David Silverman, SAGE 2016).

⁵⁸ Jessica R Sullivan, 'Skype: An Appropriate Method of Data Collection for Qualitative Interviews?' (2012) 6 *The Hilltop Review* 54.

⁵⁹ Sullivan (n 58).

⁶⁰ AN Oppenheim and AN Oppenheim, *Questionnaire Design, Interviewing, and Attitude Measurement* (New ed, Pinter Publishers ; Distributed exclusively in the USA and Canada by St Martin's Press 1992).

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activity, the proportion of online activity in the form of sharenting, the nature of the child-posted content, the frequency of posting and, the motivation for sharenting.

Three different interview formats were considered, namely, structured interviews in which there are fixed questions, semi-structured interviews, where particular questions are posed and probes are used to respond to participants' comments; and unstructured interviews in which the interviewees share their views on a topic. Semi-structured interviews were decided on, having been informed by the literature of DiCicco et al, who maintain that the interviewee's responses allow the researcher to be more flexible in the ensuing questions.⁶¹ Semi-structured interviews were suitable for this study as there were a number of issues that needed to be addressed, while at the same time the semi-structured interview allowed the interviewees a degree of latitude in their discussion. The interviews, which were informed by the literature of King, Horrocks and Brooks⁶² sought to establish the extent of parental engagement with privacy controls, their understanding of privacy and how they might regard their children's views on privacy. The interview questions were designed to ascertain the degree to which parents seek consent from children prior to sharenting. The questions were constructed to elicit parents' understanding of the ramifications of sharenting and their views as regards the responsibility for digital safety and private identity, in addition to the impact of the covid pandemic on the digital privacy of minors. Furthermore, it sought to ascertain parents' views on the right to a blank digital canvas.

⁶¹ Barbara DiCicco-Bloom and Benjamin F Crabtree, 'The Qualitative Research Interview' (2006) 40 *Medical Education* 314.

⁶² Nigel King, Christine Horrocks and Joanna Brooks, *Interviews in Qualitative Research* (2nd edn, Sage Publications Ltd 2018).

The questions were designed to quantify parental responses regarding the impact that 'sharenting' may have on the life of the child. In designing these questions, eight pilot questionnaires/interviews were undertaken to avoid ambiguous or leading questions and to recognise and avoid any potential subjective expression of opinions which might skew the results. Pilot studies can be used to refine and develop research methods and evaluate potential bias.⁶³ The pilot interviews were effective in that they allowed the researcher in this project to refine the questions.

Full details of the research along with consent forms were forwarded to the participants in advance of the interviews. All interviews were recorded (permission to record was sought prior to the interview) and were transcribed. Interviews typically took from 50 minutes to over one hour.

The questions were broad, giving participants the necessary scope to expand on issues that were relevant to them. It gave interviewees the freedom to explain their viewpoints, a freedom that was not available under the quantitative method. The interview consisted of a limited number of open questions allowing the participants to express their views. In view of the fact that qualitative research seeks to describe, explore, understand and explain phenomena through methods of inquiry that elicit qualitative, non-numerical data, the interview questions are phrased in such a way that they allow for a degree of latitude but to maintain the interviewee on a particular trajectory.

4.6 Recruitment of Young Adults and Format of Inquiry

Questionnaires were distributed using a purposive sampling method.⁶⁴ Initially, the questionnaires were sent to known contacts involved in young adults sport clubs. There was a need to target a particular cohort under a

⁶³ E Teijlingen Hundley AM Rennie, W Graham, V, 'The Importance of Pilot Studies' (2001) 34 *Journal of Advanced Nursing* 289.

⁶⁴ King, Horrocks and Brooks (n 62).

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specific age. The upper age limit was set at 24 years as sharenting has been in existence ten years, sharenting would not impact members over the age of 24 years. Given the need to identify other participants who were of a similar age and who may have had their images shared as children, the questionnaires were shared with other sports clubs using the snowballing effect.⁶⁵ This method was used as it was difficult to access that particular age group due to Covid and cyber attacks. Given that the questionnaires were shared online, it was felt that the return of 68 questionnaires was adequate under the circumstances. It has been noted that paper and digital response rates are on par, but that the level of completeness on paper questionnaires does not match the level of completeness to be found in digital questionnaires.⁶⁶

The questionnaires and subsequent interview questions were informed by the literature of Oppenheim⁶⁷ and research questions related to young adults' views on privacy, consent and the entitlement of children to create their own online narrative, to inherit a blank digital canvas and how parental sharenting has impacted young adults' own online engagement. The quantitative questionnaires were completed online and the collected data was then uploaded onto SPSS. While the number of young adults who participated in the interviewees was limited, those who participated addressed a number of issues. The questions posed at the follow-up interview sought to ascertain information about parents' online engagement, whether or not images were posted with/without consent and their feelings with regard to the parental sharing of their personal information and images. Young adults were also questioned regarding their views on the roles of schools and sports clubs given that these were identified by parents as being

⁶⁵ Fossey and others (n 40).

⁶⁶ Jonas Fynboe Ebert and others, 'Paper- or Web-Based Questionnaire Invitations as a Method for Data Collection: Cross-Sectional Comparative Study of Differences in Response Rate, Completeness of Data, and Financial Cost' (2018) 20 *Journal of Medical Internet Research* e24.

⁶⁷ Oppenheim and Oppenheim (n 60).

coercive in their approach to urge parents to consent to their sharing of their children's material and images. It sought to identify young adults' views regarding the right of the child to a blank digital canvas. The questions posed were informed by a need to know, amongst other things, whether the young adults shared similar views to those of their parents. The follow up interviews were transcribed. The collected material was then combined and NVIVO was used to organise the gathered data.

Additional issues addressed included: parents' competence with privacy controls and concerns about the ramifications of sharenting and, finally, whether or not, individuals should be entitled to create their own digital presence. Young adults were asked to share their understanding of privacy. This question was also posed to parents. This particular question on privacy was posed in an attempt to gauge the extent to which parents and children's views on privacy may differ. The responses to each question were noted. These ideas were reviewed to identify any repetitions. Themes were identified. Sometimes a theme may include more than one main idea. Quotations that illustrate each theme were identified. In the discussion section the results were interpreted with regard to the implications and the implications formed the basis for the recommendations.

4.7 Limitations of Mixed Methods Approach

Mixed method designs clearly have theoretical and practical strengths in terms of the stakeholder's involvement in the research process.⁶⁸ Much of the focus regarding the limitations of the mixed methods has been based on the incompatibility of the two methods.⁶⁹ Creswell and Plano Clark argue against the merit of combining them on the grounds that there is a

⁶⁸ Louise Doyle, Anne-Marie Brady, Gobnait Byrne, 'An Overview of Mixed Methods Research' (2009) 14 *Journal of Research in Nursing* 175.

⁶⁹ Louise Doyle, Anne-Marie Brady, Gobnait Byrne (n 68).

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dichotomy of views and research methods.⁷⁰ While mixed method research is costly and time-consuming and requires expertise in a range of methods, there is also the possibility that the results may be published in a fragmented way. The quantitative responses are self-reported, therefore, there is the need to consider possible error and bias due to imprecise recollections or social desirability.⁷¹ Qualitative research is demanding and difficult as the data is in narrative form and subjective, yet, important insights can be gleaned from the specific interactions that take place during interviews as the discussion unfolds.⁷² Interactions can reveal tensions and ambiguities that complicate or influence responses to particular questions. Specific interactions in interviews may uncover surprising and unexpected reactions to a question. They may, therefore, spark new ideas about the research matter under consideration.⁷³ Qualitative research poses additional challenges and obstacles. However, the richness of data to be gleaned more than compensates for the demands associated with qualitative research.⁷⁴ While qualitative research has considerable merits as a research method, McLeod questions how transferable are the results, given the central role played by the researcher.⁷⁵ The mixed methods approach suited this project as this research is the first research into this topic in this jurisdiction and there was a need to address the subject matter in a comprehensive manner.

⁷⁰ John W. Creswell and Vicki L. Plano Clark, *Designing and Conducting Mixed Methods Research* (SAGE 2007).

⁷¹ André Queirós Almeida Daniel Faria , Fernando, 'Strengths and Limitations of Qualitative and Quantitative Research Methods' (2017) 3 *European Journal of Education Studies* 369.

⁷² Almeida (n 71).

⁷³ Almeida (n 71).

⁷⁴ Almeida (n 71).

⁷⁵ Saul McLeod, 'Qualitative vs Quantitative Research' <<https://www.simplypsychology.org/qualitative-quantitative.html>> accessed 3 February 2023.

Challenges of Researching during the Pandemic

The outbreak of the Covid 19 pandemic necessitated that the research be undertaken online. Cognisant of the need to embrace this method of research, the researcher was aware of the difficulties and the benefits associated with this method. It required additional preparation as each participant needs to be provided with a user guide to facilitate ease of participation. The participant needed a quiet designated space and internet access without interruption. There was also a recognition that online participation may result in the exclusion of a particular cohort of participants due to poor internet connection or technology awareness. Kessa Roberts et al argue that “switching to a virtual modality” impacted all aspects of the research process, from designing our research questions to recruitment, data collection, analysis, and dissemination. They also acknowledge that despite the challenges, it also presented unique opportunities to ensure that the research process was rigorous and equitable.⁷⁶

The benefits included that freedom to participate in online interviews in one’s home can be relaxing and more conducive to improved sharing of knowledge and views. Some participants may feel that they are on ‘stage’ and this may have the potential to impact negatively on their interviews. The success of online interviewing is very much in the hands of the interviewer. A face-to-face interview has the potential to capture verbal and non-verbal gestures, such as body language, which can indicate a level of discomfort with the questions. This body language can also help the researcher to gauge the level of enthusiasm for the topics being discussed in the interview. The interviewer is the one that has control over the interview and can keep the

⁷⁶ J Kessa Roberts, Alexandra E Pavlakis and Meredith P Richards, ‘It’s More Complicated Than It Seems: Virtual Qualitative Research in the COVID-19 Era’ (2021) 20 *International Journal of Qualitative Methods* 1.

interviewee focused and on track to completion. As the interviews were conducted online, the interviewer engaged in five minutes general conversation to help the interviewee relax before commencing the interview.

4.8 Research Ethics Consideration

Data collection followed the ethical guidelines and procedures for research set down by the University of Galway Ethics Committee. The initial ethics application for research was granted with the understanding that research was taking place offline. Due to the outbreak of the pandemic and, in line with public health advice, additional permission was requested, firstly, to send the questionnaires by email to candidates wishing to complete the questionnaires and, secondly to transfer the follow-up interviews to an online platform, namely, Zoom. An amendment to the original ethics application was lodged with the University of Galway Ethics Committee. This application was approved by the University of Galway. Permission was also sought to conduct child focus group. Due to public restrictions on access to schools, however, it was decided to focus the research towards young adults.

While a child's focus group could add immensely to the value of collected data, the facilitator is required to downplay their role as an authoritarian figure and the atmosphere needs to be redefined so as to encourage spontaneous contribution.⁷⁷ Morgan et al referred also to the potential influence of the dynamics within the group such as the relationship between group members, conflict and tension and dominance of some members compared with the reticence of others.⁷⁸ The young adults who participated in this project shared their views of how they felt as children and, how they

⁷⁷ Myfanwy Morgan and others, 'Hearing Children's Voices: Methodological Issues in Conducting Focus Groups with Children Aged 7-11 Years' (2002) 2 *Qualitative Research* 5.

⁷⁸ Morgan and others (n 77).

feel now as young adults. It is difficult to quantify the potential impact of children focus groups. It might have been beneficial, had it been possible to have both children and young adults participate in the project.

Permission was then sought to distribute online questionnaires and to carry out follow-up online interviews with young adults. In conclusion, the application for ethics permission to undertake this investigation was lengthy and exacting and was designed to ensure that the researcher was fully aware of the importance attributed to the sensitivity of the information being shared by the participants.

4.9 Strategies adopted to minimise potential Bias

In acknowledgement of the exacting nature of this exploratory project, I, as researcher addressed my preconceived beliefs and prejudices in matters relating to sharenting before and during this research journey. The aim is to “conduct research that is well-designed and well-conducted and to generate well-founded and trustworthy evidence.”⁷⁹ In general, Lincoln and Guba and Merriam suggest that the dependability of the results can be ensured through the use of three techniques: the investigator’s position, triangulation and audit trial.⁸⁰ With this advice in mind, efforts were made at each step to ensure that that the results would be dependable.

In recognition of the potential biases that might arise in areas of design, recruitment, inclusion, analysis and data write up, every effort was made at each stage of the process to avoid the occurrence of bias. Advice was sought from experts in social science research methodologies prior to designing and distributing the questionnaires and surveys. The questionnaires included a

⁷⁹ Jane Ritchie, Jane Lewis, Carol Mcnaughton Nichols, Rachel Ormston (n 8).p.23

⁸⁰ Y.S Lincoln and E.G. Guba (1985) ‘But is it rigorous? Trustworthiness and authenticity in naturalistic evaluation’ in D. D. Williams (Ed.), *Naturalistic evaluation* (pp. 73–84).

broad range of questions designed to capture a landscape of online activities and sharenting.

Design of Questionnaires and Semi-structured Interviews

Both quantitative and qualitative sets of questions were informed and directed by the theoretical framework, reviewed literature,⁸¹ the thesis proposal and the research questions. Both questionnaires were designed to garner as much information as possible to form an overall picture of the level of online engagement, the frequency of use, the nature of shared material and the reasons that led parents to share the material.⁸² A standardised questionnaire ensures that all participants are asked the same questions and that responses are recorded in a uniform manner, thereby, potentially increasing reliability.⁸³ The questionnaire was informed by research questions relating to the prevalence of Sharenting and the level of understanding of privacy measures and consent, in addition to parents' interpretation of privacy and as to where the responsibility for the safeguarding of online privacy lies. A question on the posting of additional material relating to children was included in the questionnaire to gather an overall impression of parents' general online postings. The response options were varied enough to cover a broad range of responses.⁸⁴

The interview questions were likewise broad and were designed to give the interviewees the freedom to articulate their opinions and concerns.⁸⁵ The language in the questions was conversational language with little or no emphasis on technical terms. The questions were brief and easy to

⁸¹ Petra Lietz, 'Research into Questionnaire Design: A Summary of the Literature' (2010) 52 *International Journal of Market Research* 249.

⁸² Petra M Boynton and Trisha Greenhalgh, 'Selecting, Designing, and Developing Your Questionnaire' (2004) 328 *BMJ* 1312.

⁸³ Boynton and Greenhalgh (n 82).

⁸⁴ Boynton and Greenhalgh (n 82).

⁸⁵ M Easwaramoorthy and Fataneh Zarinpoush, 'Interviewing for Research' [2006] *Imagine Canada* 1.

understand. The questions were non-leading. The same questions were posed to all interviewees. Interviewees were invited to give examples to substantiate their viewpoints. In the event of the interviewee branching off in a particular direction, the interviewer having given them an opportunity to speak, refocused the interviewee by posing a particular follow-up question.

Recruitment Strategy

It was decided to use purposive sampling as there was a need to send the questionnaires to parents of children who were of a specific age.⁸⁶ Questionnaires were sent to parents of primary school children. Children under the age of 12/13 are aware and conscious of social media and are capable of informing their parents with regard to their sharing preferences. I decided on this group as preschool children would not have the ability to make choices and adolescents would be using social media themselves. Most of the parents had either preschool children and/or adolescents in addition to the group that focused in this study. Questionnaires were sent to primary school Principals who forwarded them to staff members who were in charge of summer camps. To avoid exclusion, physical copies of the questionnaires were made available to parents who were not comfortable with the digital means of completing questionnaires. Parents who were not comfortable with Zoom, or those whose internet connection was weak were given the option of conducting the interview by phone. While telephone interviews may have been previously used as a last resort, telephone interviews are now regarded as having merit in that, they are inclusive. In-depth telephone interviews are viable and equivalent to in-person interviews.⁸⁷ Those who participated in

⁸⁶ Campbell and others (n 56).

⁸⁷ Azadé Azad and others, 'Conducting In-Depth Interviews via Mobile Phone with Persons with Common Mental Disorders and Multimorbidity: The Challenges and Advantages as Experienced by Participants and Researchers' (2021) 18 *International Journal of Environmental Research and Public Health* 11828.

the phone interviews were relaxed and vocal as this method of communication is an everyday practice whereas, the use of zoom was novel exercise to some of the interviewees.

Pilot Trials

Prior to undertaking the empirical research, the researcher attended training on interview techniques with the Social Research Association, which is based in the United Kingdom. This training proved helpful. The completion of pilot questionnaires helped to identify the need to broaden the range of answers to some of the questions in the questionnaires. Undertaking the pilot interviews, can potentially provide greater understanding of the interview process and the need to make necessary modifications. The piloting process identifies the effectiveness and the transferability of the model.⁸⁸ Eight pilot interviews were conducted with the parent group and three with the young adult interviewees in a measure to test the clarity of the questions. As regards the interviews, the initial pilot interview questions addressed specific sharenting issues at the outset. On reflection, it was decided that it would be more beneficial to build a rapport with the participants by asking less specific and open-ended questions before asking specific questions. The same principle was applied to the questionnaires for both adults and young adults.

Pre-Interview Preparation

Background data such as: age of interviewee, gender and ages of children was provided to establish the context of the study and detailed description of phenomenon in question to allow comparisons to be made. Full details of the research were given to the participants in advance of the interviews. All

⁸⁸ Johan Malmqvist and others, 'Conducting the Pilot Study: A Neglected Part of the Research Process? Methodological Findings Supporting the Importance of Piloting in Qualitative Research Studies' (2019) 18 *International Journal of Qualitative Methods* 1609406919878341.

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interviewees were volunteers and consent forms were signed in advance of the interview. All interviews were recorded, and consent was requested in advance of each interview. In addition, an information sheet detailing all relevant information pertaining to the handling of personal information, anonymity, confidentiality and data security information were provided to each participant in line with the data protection National and European legislation to which all participants agreed.

Interviewer and Interview

The interviewer refrained from interjection and allowed the interviewee adequate time to address the question to his/her satisfaction. The interviewees were told at the outset that they could take a break or terminate the interview at any time if they felt uncomfortable or upset during the interview. The questions posed were open, in that, there was no indication of the possible existence of a correct or incorrect answer. The interviewer used words such as 'we' to indicate that the interviewer and interviewee were all part of the conversation. The interviewer gave no indication of her views on the subject which was being discussed. The interviewer refrained from displaying reaction to particular answers and refrained from commenting during the interview. During the course of the research, efforts were made to develop familiarity with the mindset of interviewees. Iterative questioning was used within the various dialogues. There was a tendency by a small proportion to talk about their role as gatekeepers of their children's online engagement. I, respectfully, reminded them that while I acknowledged and appreciated the enormity of this role, I really wanted to hear about their own online sharing.

Analysis of Results

The recordings of the interviews were transcribed and a copy of transcription was forwarded to each interviewee. Interviewees were invited

to read back over the transcript of their interview and make any adjustment, correction or change of mind. Finally, data was validated by examining individual comments within the interview as a whole.

Triangulation of Results

The participation of two different groups, one being the parent group and the other being that of the young adults in this investigation allowed for the potential to find common ground in the results from the two groups. In addition, quantitative and qualitative were used for both groups and this allowed for comparisons to be made between the quantitative and qualitative results. In addition, it was possible to triangulate the results of this investigation with research findings from other jurisdictions. However, the researcher is aware that the sample size is limited and that there is a need to adopt a cautious approach with regard to the generalisation of results. Furthermore, the researcher is aware that there are different questions posed and this limits the potential to triangulate the results.

Write-Up of Results

The researcher avoided ambiguous language in the write up of results. The results were reported as they were uncovered. The researcher avoided generalised terminology and implied assertions. There was a concerted effort to remain with the specifics and factual evidence and to avoid unsubstantiated and sweeping statements.

4.10 Limitations of Current Body of Research

This research has encountered particular challenges, not least the covid pandemic which necessitated the relocation of interviews to an online arena. Firstly, it is correct to acknowledge the limited numbers of interviewees, but, it is anticipated that the size of the quantitative response will help to

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address the limited qualitative response. With regard to the recruitment of both parental and young adult interviewees, there is the possibility that the interviewees having had previously completed the questionnaires might approach the interview with a different viewpoint.

The investigation may have benefited from a more gender balanced sample. As it stands, the gender balance in the questionnaires was two to one in favour of females and the interviewees was three to one in favour of female respondents. In addition, the investigation may have benefited if it had focused on the views within a family to establish the existence of convergence or divergence of views within the same family. However, such an approach could be construed as sample manipulation. This research was initially designed (in an effort to embrace the spirit of Article 12 of the UNCRC) to include child focus groups, the restrictions on access to schools necessitated a rethink and it was decided to include the views of a limited sample of young adults. In hindsight, the perspective of young adults is particularly valuable, in that, young adults tend to be more vocal and critical in their views. They were still young enough to share their recollections of how they felt with regard to sharenting and would also have had an opportunity to reflect on their experience. The majority (90%) of the young adult interviewees had younger siblings whose images are currently being shared by their parents. As a result, they were able to articulate their views of sharenting, both from a historical and present day perspective.

In respect of the data collection, the data is cross-sectional and represents a snapshot in time. This investigation may have benefited from a consideration of sharenting over a prolonged period of time, in the form of a longitudinal study. Finally, the quantitative method relies on a self-reported account of sharenting and privacy. While this allows for more generalisability and the statistical description of sharenting, certain aspects do not allow for an indepth study. In addition, given that sharenting is a

relatively novel parental practice, the majority of young adults who have had their images shared online are currently in their late teens or early twenties and may have very different perspectives with regard to having had their images shared on online fora if interviewed in five years time. Future research on sharenting should adopt a mixed-methods approach, studying sharenting across the various platforms through a combination of self-reported data (interviews, surveys) and observational data (digital traces).

Despite these limitations, this study represents the first exploration into sharenting in this jurisdiction, a first step in the investigation of how the sharing of children-related content is perceived by both parents and young adults.

4.11 Conclusion

This chapter details the use of the mixed methods approach and the use of thematic analysis to analyse the qualitative data. It reflects on the use of the quantitative and qualitative research methods and the recruitment and design of questionnaires. It documents the strategies used to minimise biases. While it acknowledges the limitations of this research, it recognises that it is the first such piece of research into this subject in this jurisdiction and, it represents a valuable contribution to the understanding around the issue of data privacy of minor children. It is envisaged that these findings which will be documented in chapter five will inform the adoption of a more balance and safer online experience for children and their parents.

Chapter 5 Empirical Results

5.1 Introduction

This chapter presents the collected data from questionnaires and subsequent interviews with parents. The quantitative data include descriptive results such as the mean, minimum, maximum, mode, median and standard deviation along with possible correlations that exist between sharenting and other factors such as the number of online sites and frequency of social media daily checks. The measures of central tendency mean, mode and median are calculated to give a measurable image of the collected data. The standard deviation measures the degree of variance that exists in the data. The Spearman correlation test measures the strength of association between sharenting and other factors such as site visitations, quantity of time spent on social media sites and number of years spent using social media sites. The qualitative results detail the parental perception of consent and privacy along with their view as to how their children perceive privacy. The interviews address parents' views as to where accountability lies for the safeguarding of digital privacy and safety.

The second part of the chapter documents the responses arising from the questionnaires completed by young adults. The data focuses on the experiences and recollections of young adults with regard to the sharenting practices of their parents and, how, if at all, the parental sharenting may have impacted the online engagement of these young adults. It addresses the views of young adults on the right of the child to create their online narrative and inherit a blank digital canvas. Young adults used the interviews to share their views on the right of the child to determine their own online identity, along with their views of the impact of covid and

cyber-attacks on the public's subsequent online digital behaviours and practices.

5.2 Limitations of Sample Selection

In acknowledgement of possible limitations in the empirical study, and as previously noted, the outbreak of the pandemic curtailed access to schools, thereby, leading to alternative methods of distribution. This resulted in questionnaires being distributed via summer camps and sport groups. While there have been less male respondents, it is difficult to determine whether this is due to mothers being the main caregivers with regard to the day to day extra curricular activities of their children. Given that the questionnaires were completed online, it is difficult to say whether the uptake may have been more gendered balanced, had the respondents completed a physical copy. It is equally difficult to quantify the response rate given that the questionnaires were distributed online.

5.3 Quantitative Results - Descriptive Statistics

The questionnaire aimed to ascertain information on the level of parental engagement with social media, along with the gender and age group of parents, the number of social media sites used in addition to the number of years using social media by parents and their daily checks of social media. The questions were designed to elicit information as to, whether or not, there was a correlation between parents' engagement with sharenting and other factors such as: social media engagement, time spent on social media sites, daily social network checks, daily time on social media, motivation for sharing on social media sites and the posting of additional child related information.

Profile of Respondents – Gender and Age

There were 108 respondents in total, 72 females and 36 males. The median and mode stood at 1.00, whereas the standard deviation was 0.474. With regard to the age profile of the respondents, figure 5.3.1 shows that 7.4% of the total number of respondents were aged less than 35 years, those between the ages of 35 and 40 years made up 12% of the sample, 31.5% were aged between the ages 40-45, 27.8% were between the ages of 45 and 50 and those over the age of 50 years made up 21.3% of the sample population who completed the questionnaires. The mean age of respondents was 4.44 (40-50 years), whereas, the median and modal ages stood at 4.00 (40-45 years) and the standard deviation at 1.260. All the respondents had children in primary school (aged between 4 and 12/13 years). Approximately, 30% of these respondents also had pre-school children. An additional 50% of them had children at post-primary schools.

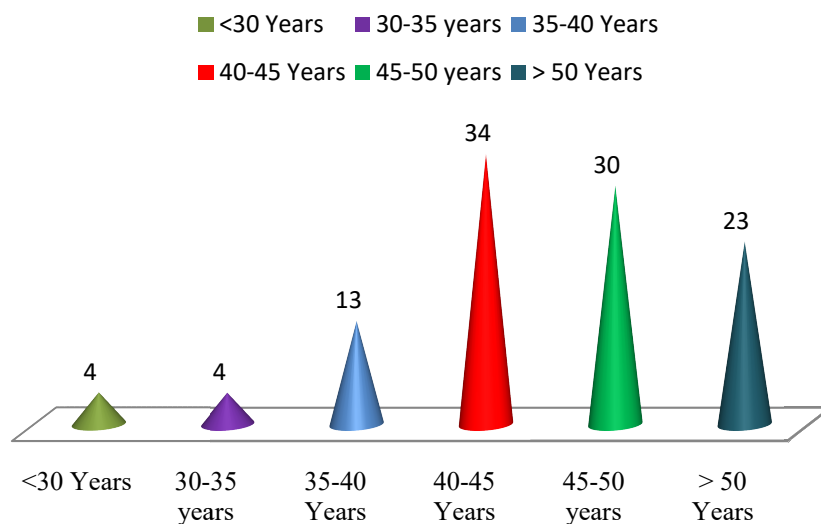


Figure 5.3.1 Age Profile

Sites and Duration of Use

Figure 5.3.2 show that 27 of the 108 respondents used 1 site, whereas 78 respondents used between two and four sites and 2 respondents used more than 4 sites. The minimum number of sites used is 1 site whereas the maximum number of sites used is 3 (>4 sites), whereas the mean number of sites used stood at 1.77, with a median and mode of 2.00 (2-4 sites) and a standard deviation of 0.467.

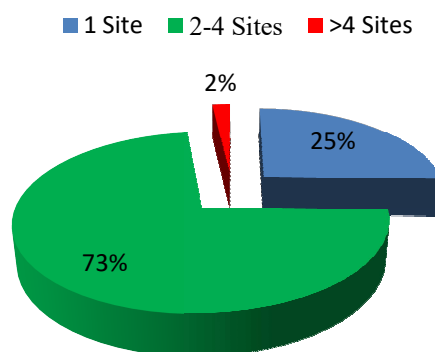


Figure 5.3.2 Sites used

With regard to the duration of social media use, 18.5% of all the sample population have been using social media sites between 2 and 5 years, whereas 81.5% of the sample population have been using the sites 6 years and more. The minimum length is 2-5 years and the maximum number being 6 years and more. The mean amount of time using social media sites was 3.81, the median and mode stood at 4 and the standard deviation at 0.390.

Daily Use and Frequency of Social Media Checks

Figure 5.3.3 shows that 17.6% of the sample population spent 10-15 minutes daily on social media sites, 53.7% spent up to 1 hour on social

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media sites, 20.4% spent from 2-3 hours on social media sites, whereas, 8.3% spent more than 3 hours on social media sites. The daily period of time spent by respondents on social media averaged at 2.19 hours with a standard deviation of 0.826, the median and mode at 2 (up to 1 hour) and the minimum duration being 10-15 minutes and the maximum duration of time spent on social media being more than 3 hours.

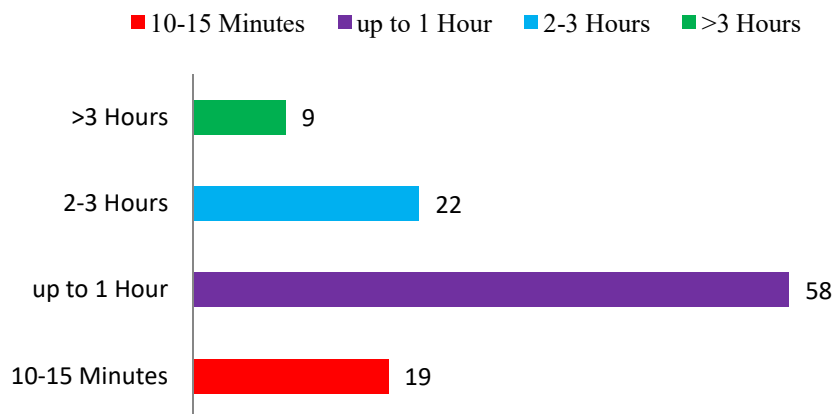


Figure 5.3.3 Daily time spent on Social Media Sites

With regard to the average checks of social media sites, 80.6% checked social media sites frequently per day, whereas 15.7% checked once a day, while 3.7% checked once a week. The minimum daily check of social media was 1 (frequently per day) and the maximum was 3 (once a week or more), the mean stood at 1.23, the median and modal daily social media checks stood at 1 (once a day) and the standard deviation at 0.504.

Social Media Engagement, Additional Material Shared –Nature of such Shared Material

Figure 5.3.4 shows that 18.6% of the population sample shared information relating to themselves or the environment, 38.1% made comments on others' posts, 40.2% relate to both of the previous two,

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whereas 1% of shared material did not relate to either of the previous two and 2% did not share or post any material. As regards the measures of central tendency, the mean stood at 2.30, the median at 2 (comments on posts) and the mode at 3 (environment/themselves and comments on other posts) and the standard deviation was 0.856. The minimum was 1, whereas the maximum was 5.

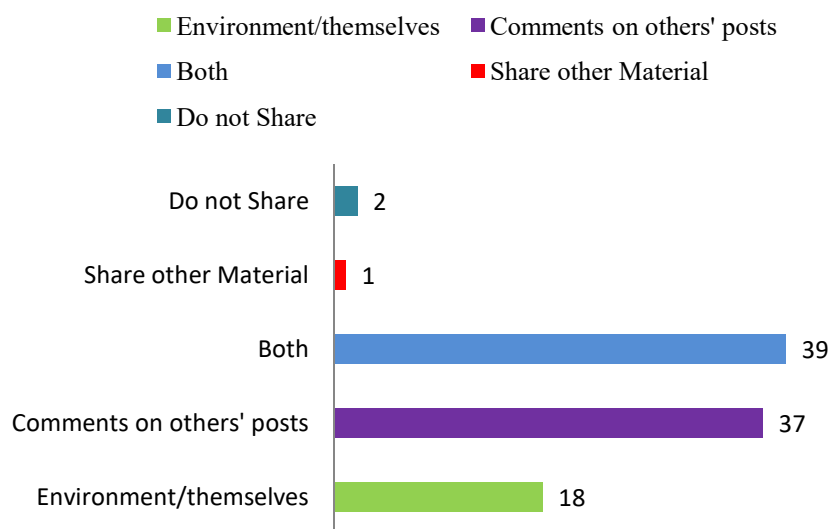


Figure 5.3.4 Nature of Posts

Seventy-six respondents did not share additional information, whereas 29 did share additional information. In relation to the nature of the shared information, 25.9% of the total number of those who completed the questionnaires posted additional posts which referred to violence against children, 14.8% of posted information concerned educational malpractice, and 59.3% of shared information related to health and social activities. Of the number who shared additional material/recommendations, the mean stood at 2.33, the median of those who shared additional information pertaining to children was 3 and the modal number stood at 3 (children's health and social activities) and the standard deviation was 0.877.

5.4 Summary of Results

The majority (66.7%) of the 108 respondents who completed the questionnaire were female. The age profile of participants ranged from less than 30 to 50+ years of age with 27.8% of respondents were in the 40-45 age group. Of those respondents, who completed the survey questionnaire, 72.9% used between two and four social media sites. With regard to the amount of time using social media, 81.5% of respondents have been using the online sites 6 years and more, with 53.7% of the respondents spend up to one hour daily on social media sites. As regards the frequency of online checks, 80.6% of respondents checked frequently per day. With respect to the sharing of additional products and recommendations for children, 72.4% of respondents said that they did not share products and recommendations. Of those who shared additional information, the most frequent posts (59.3%) referred to health and social activities. Most respondents cited a reason for sharing information, whereas a small percentage of respondents offered no particular reason for sharing information, with 61.2% citing 'social interaction' as a motivation.

5.5 Sharenting

Profile of Respondents

Of those who completed the questionnaires, figure 5.4.1 reveals that 72.9% of the total number of respondents engaged in sharenting. The mean number of respondents who shared information relating to their child/children was 1.28, whereas, the median and mode stood at 1 and the standard deviation was .472.

Figure 5.4.1 show that of the total number (72.9%) who shared images of their children, 53 were female, whereas 25 were male. Of those (27.1%)

who did not share, 22 were female and 6 were male. The mean number of female respondents who shared personal data relating to their children averaged at 1.29, the median stood at 1 and the standard deviation at 0.488. The mean number of male respondents who shared personal data stood at 1.26, the median and minimum were 1, whereas the maximum was 2 and the standard deviation was 0.443.

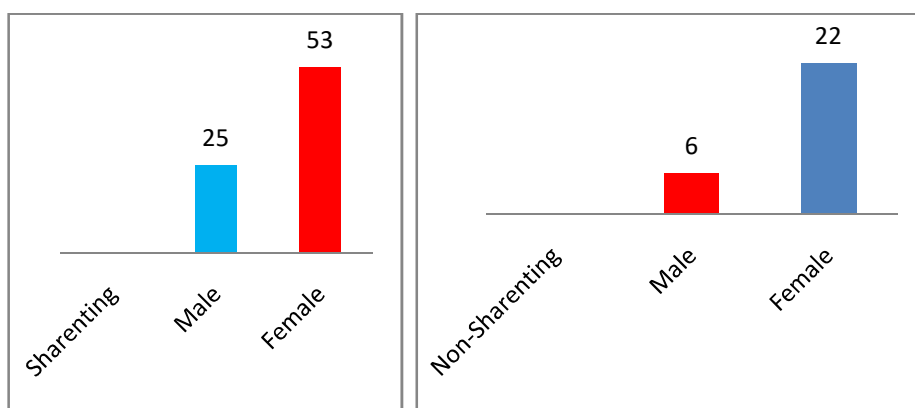


Figure 5.4.1 Gender of Respondents who engaged in Sharenting

As seen in figure 5.4.1.1, the age profile of parents who engaged in sharenting ranged as follows: 3.8% were less than 30 years, 5.1% were aged between 30-35 years, 14.1% were aged between 35-40 years, 28.2 % were aged between 40-45 years, whereas 20.5% were older than 50 years. The mean age of those who shared images and personal data relating to their children averaged at 4.33 (40-50 years), whereas the standard deviation was 1.306.

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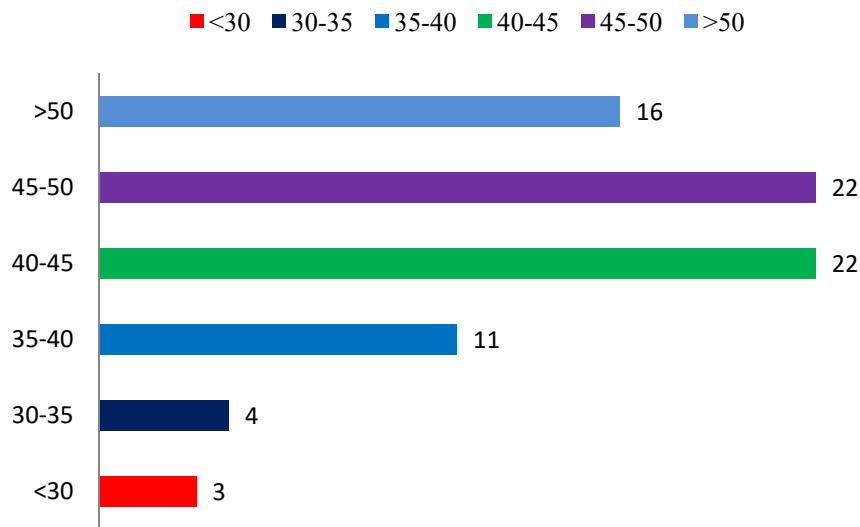


Figure 5.4.1.1 Age of Sharenters

Sharenting Frequency and Social Media Sites

Figure 5.4.2 reveals that 2.7 % share everyday, 6.8 % share every week, whereas 90.5 % share when there is anything worth sharing. The mean frequency of sharing by those who shared images and personal data relating to their children stood at 1.15, while the standard deviation was .397.

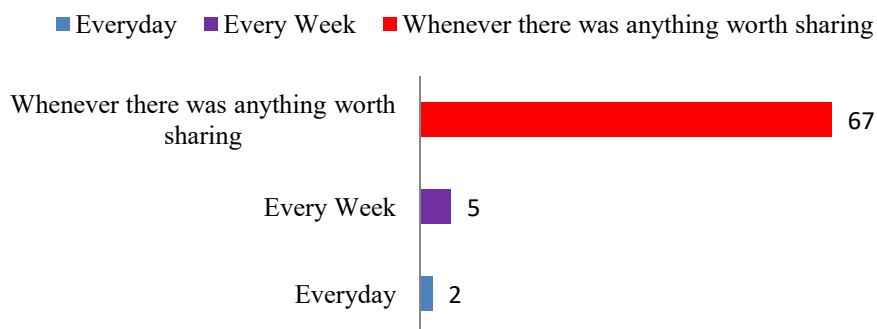


Figure 5.4.2 Frequency of Sharenting

With reference to sharenting and the frequency of social media sites checks, 87% checked the social media sites frequently per day, whereas 13% checked once a day and 1.3% checked once a week. The mean frequency of social media use by those who shared images and personal data relating to their children averaged at 2.26, whereas the standard deviation stood at 0.707. Figure 5.4.2.1 reveals that 20.8% of those engaged in sharenting said that they used 1 site, 76.6% used 2-4 sites and 2.5% used more than 4 sites. The mean number of sites used by those who shared images and personal data relating to their children was 1.82, while the standard deviation was .451.

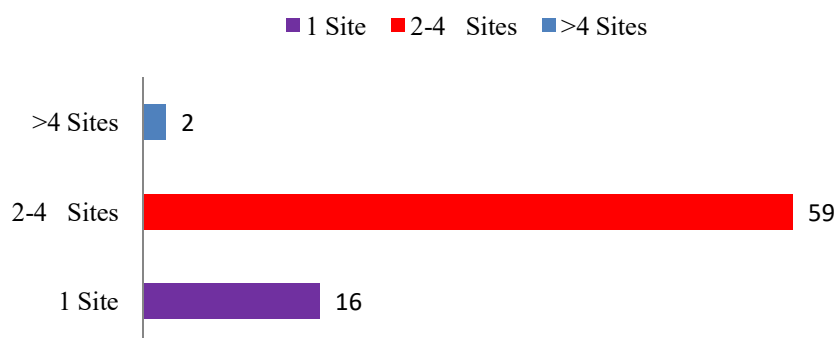


Figure 5.4.2.1 Number of Sites used by Sharenters

General and Specific Content of Posts

With regard to the general nature of posts by those who engage in sharenting, 10.8% share information regarding their children’s achievements, 43.2% share information on family celebrations, 1.4% share their children’s educational attainment, 12.16% share information pertaining to their family’s social activities, 1.35% share information pertaining to speech and health issues and 31.08% said that they shared information for more than one of the aforementioned reasons. The mean general content shared by those who shared images and personal data relating to their children stood at 3.43, while the standard deviation was

1.924. Regarding the specific content of the posts shared by respondents, figure 5.4.3 shows that 35.2% shared information related to play, 2.8% shared information related to art, 5.6% share information connected with education, 43.66% of those engaged in sharenting share other information and 12.6% shared information due to more than one of these reasons. The mean number of specific content shared by those engaged in sharenting was 2.96, while the standard deviation was 1.553.

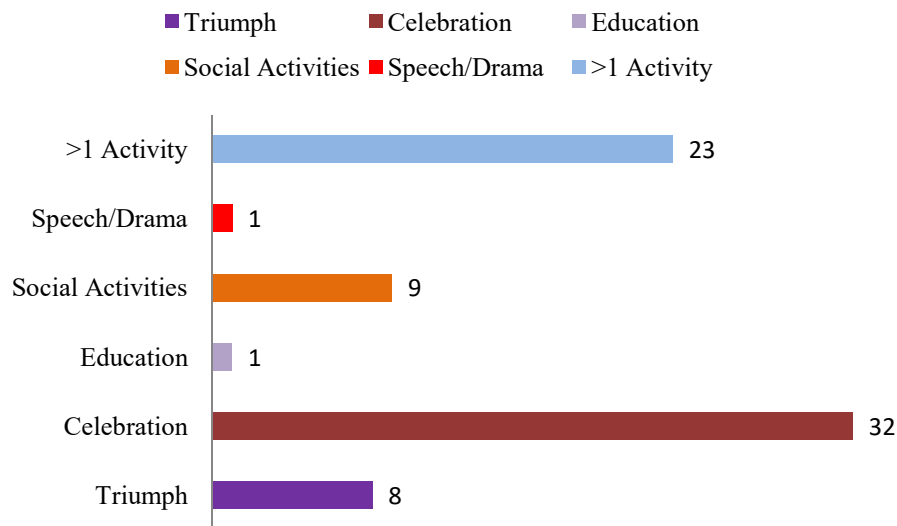


Figure 5.4.3 Specific Content of Posts

In relation to those who engaged in sharenting, figure 5.4.3.1 shows that 20% shared information about oneself and one’s environment, 32% commented on others’ posts, whereas 46.6% referred to both and 1.3% did not engage in comments.

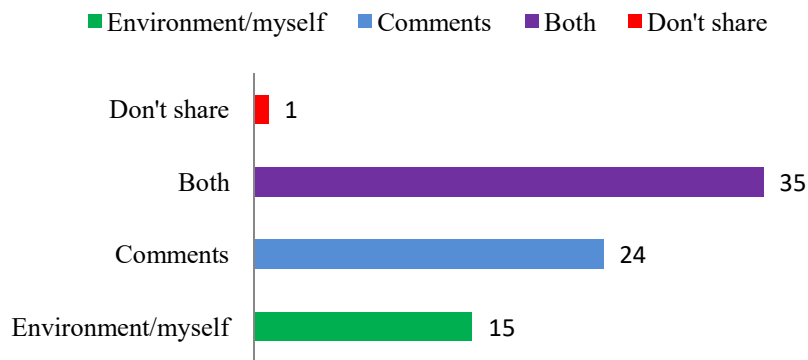


Figure 5.4.3.1 Nature of other posts

Duration of Use and Additional Posts

Figure 5.4.4 shows that 16.7% of those engage in sharenting have spent 2-5 years on social media, whereas 83.3% have spent more than 6 years on social media.

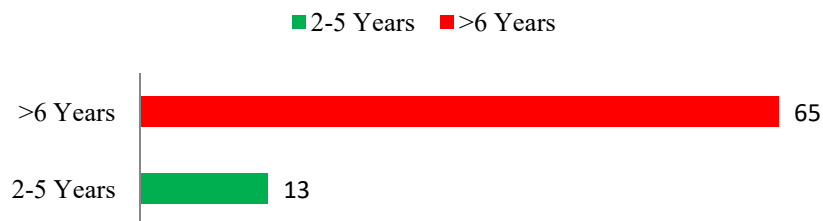


Figure 5.4.4 Duration of Social Media Use

Regarding the additional sharing of products and recommendations for children by those engaged in sharenting, 31.6% said that they shared products and recommendations, whereas 68.4% did not share any products. In relation to the nature of these additional posts, figure 5.4.4.1 reveals that 26.1% of the posts of additional information by those engaged in sharenting

referred to violence against children, 13% of posts referred to educational malpractice, whereas 60.9 % referred to health and social activities.

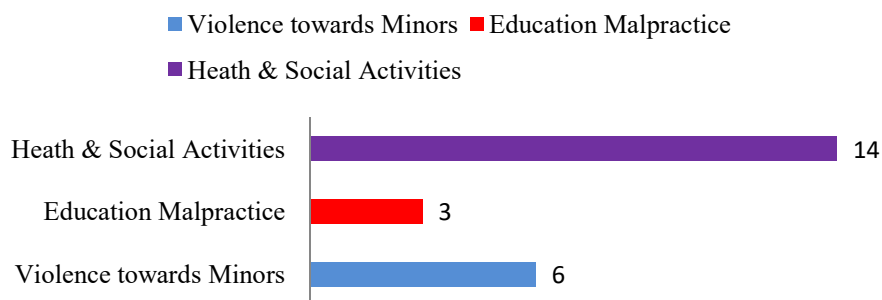


Figure 5.4.4.1 Nature of additional Shares

Sharenting Motivation

Concerning the motivation behind sharenting, figure 5.4.5 shows that 8.1% said that they like to share children’s information, 62.2% said that they shared as a means of social interaction, 5.4% shared to highlight issues of concern, 1.4% shared as a means to generate likes, 20.3% shared for no specific reason and 2.7% shared for more than two reasons.

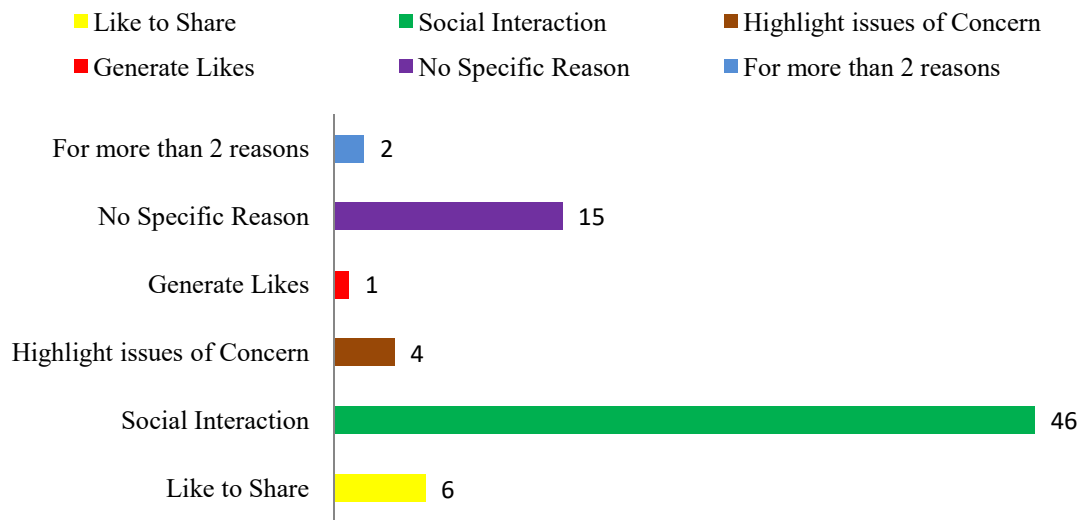


Figure 5.4.5 Motivation

5.6 Inferences

Having calculated and presented the descriptive statistics results on online engagement along with parental sharing of minors' personal details, this section looks at possible correlations that may exist between sharenting and other factors such as: number of sites used, frequency of social media checks, time spent on social media, duration and frequency of social media usage. It is important to note at this point that correlation does not imply causation. There are significant correlations between sharenting and the number of sites used, the frequency of sharenting, the frequency of online engagement and the content shared. Equally significant is the absence of a correlation between sharenting and gender, age, length of use and content shared. An examination of the relationship between sharenting and the gender of those engaged in sharenting did not reveal a statistically significant relationship, given the existence of a weak negative correlation ($p = -0.026$). (Table 5.5.1)

Table 5.5.1 Correlation between Sharenting and other Factors

Correlation between Sharenting and	Spearman <i>P</i>	Sig.(2-tailed)
Gender	-.026	.794
Social Media Sites	.195*	.046
Age	.060	.539
Frequency of Sharenting	.231*	.040
Motivation	.151	.171
Frequency of Online Use(Social Media Checks)	.250**	.009
Additional Posts	-.053	.792
Length of Use	-.082	.404
Daily use of Social Media	-.157	.107
Content shared	.243*	.033

** Correlation is significant at the .01 level (2-tailed)

*Correlation is significant at the .05 level (2-tailed)

Table 5.5.1 reveals that, based on the Spearman test, there was a weak but significant correlation ($p = 0.195$) at the 95% level between sharenting and the daily time spent on social media. An examination of sharenting and, the age profile of those who engaged in sharenting reveals a weak positive correlation ($p = 0.060$) statistically insignificant relationship between the two. Analysis shows that there was a moderately weak correlation ($p = 0.231^*$), but statistically significant correlation at the 95% level between sharenting and the frequency of posting in the online arena.

In relation to sharenting and the frequency of Social Media Sites checks, the Spearman test shows that there was a moderately weak ($p = 0.250^{**}$) but

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significant correlation at the 99% level between sharenting and the frequency of social media sites checks. Likewise, the Spearman test revealed a weak negative correlation ($p = -0.093$) between sharenting and the material shared.

However, analysis revealed a negative and weak but insignificant relationship between sharenting and the nature of material shared in posts. The Spearman test shows that there was a weak but significant correlation ($p = 0.243$) at the 95% level between sharenting and the content of posts shared by parents. In relation to sharenting and the nature of posts shared, the correlation was insignificant ($p=-0.066$). An examination of sharenting and the length of time using social media sites shows that there was a weak negative but insignificant correlation ($P=-0.082$) between sharenting and the length of time using social media sites. There was a weak positive but insignificant correlation ($P=0.145$) between sharenting and the sharing of additional products/recommendations for children by those engaged in sharenting. Having looked at the correlation between sharenting and the nature of additional information/products shared by those engaged in sharenting, it is observed that there was a weak negative but insignificant correlation ($P=-0.053$) between those who engaged in sharenting and the particular gender of those engaged in sharenting.

As regards sharenting and the motivation for engaging in sharenting, it appears that there was a weak positive but insignificant correlation ($P = 0.151$) between those who engaged in sharenting and particular motivations for sharing information. In conclusion, having looked at sharenting and issues related to sharenting, while there was no significant correlation between sharenting and gender/age of the parent, there was, however, a correlation between sharenting and the daily time spent on social media sites, the frequency of sharing, the frequent use of social media sites, the number of sites used and the content of posts.

5.6.1 Summary of Quantitative Results on Sharenting

More than half of the respondents who completed the questionnaire shared their children's images and personal data online. In relation to the gender of the respondents who engaged in sharenting, 66.6% of respondents were female and 56.4% of respondents who engaged in 'sharenting' featured mainly in the 40-50 age group. Of the respondents who engaged in sharenting, 90.5% shared when there was, what they considered anything worth sharing. Of those who engaged in sharenting, 76.6% were using 2-4 sites. Concerning the nature of posts by respondents who engaged in sharenting, 40.5% shared information on family celebrations of which 40.3% of them were focused on content other than play, art and education. Almost half of respondents who engaged in sharenting shared additional information for children, products and recommendations of which 61% related to health and social activities.

In relation to the nature of the posts, respondents shared information about themselves and their environment, others commented on others' posts whereas 46.6% refer to both. Typically, 84% of respondents who engaged in sharenting had spent 6 years or more on social media. Some respondents (62.2%) indicated that they shared their children's information as a means of social interaction, whereas other respondents did not specify any reason for sharenting.

As regards the inferences that can be drawn between sharenting and other factors such as the age, gender, number of sites, frequency of sharenting, frequency of daily checks, motivation and the material shared, there was a significant correlation ($P=.195$) between sharenting and the daily time spent on social media. There was also a correlation between sharenting and the frequent use of social media sites. This strong correlation was replicated between sharenting and the number of sites used by those engaged in

sharenting. While the limitations of the quantitative results are acknowledged, the results are, nevertheless, useful to question and highlight areas of convergence and divergence between this data and the information obtained using the qualitative method.

5.6.2 Qualitative Method and Results

The qualitative research questions were designed to elicit information in response to the following issues: motivation, concept of privacy, engagement with consent and efforts to safeguard privacy, and views regarding the future of the future of online engagement. These questions addressed issues raised by critics of sharenting and what they envisaged as a fool-proof method of safeguarding the privacy of the identity of their minor children. Additional questions addressed the issue as to how comfortable parents are with the current level of privacy safeguards being offered by social media providers and what changes, if any, they would envisage for the future. The interviewees were questioned on how the pandemic may or may not have affected their privacy concerns. Finally, interviewees were asked how the privacy of the identity of children may be safeguarded going forward.

Profile of Interviewees and Platforms Used

The Interviewees had completed the questionnaires and accepted the invitation to participate in a follow up interview. It was expected that there would be semi-structured in person interviews, however, due to the outbreak of the pandemic, the interviews took place via zoom. Four interviews took place by telephone due to poor internet connection. 28 respondents (21 female and 7 male) participated in the interviews. Interviewees ranged in age from less than 30 to 50 + years. All interviewees had children in primary education, three interviewees had

children in preschool and twenty interviewees had children in post primary and/or at third level institutions.

It must be noted from the outset that one quarter (three men and four women) of the interviewees did not engage in sharenting, but they participated in the interview process as they wished to share their views with regard to sharenting. Twenty-two interviewees were aged between forty and fifty, with one aged less than 35 years. The remaining six interviewees aged 50 or over. There were no interviewees aged twenty five or younger, the youngest interviewee was aged thirty one. Twenty-three of the twenty eight interviewees use three to four online sites such as; facebook, instagram, linked-in and twitter, believing that specific sites such as WhatsApp were safer than other sites, on the grounds that it adhered to strict security and encryption policies. There appeared to be a lack of awareness that WhatsApp is part of the Facebook conglomerate. Twenty of those who shared images of their children shared through WhatsApp within a confined family/friend group. The fact that Facebook and WhatsApp are used by leading sport organisations has further increased their confidence in WhatsApp as a secure forum.

Parental Understanding of Privacy

Twenty two interviewees have a clearly defined view of privacy as being that of control. Privacy is regarded as the right to decide on what should be disclosed. Privacy is very subjective, different from person to person. Permission is therefore important as people have different concepts of limitations. Twelve parents believed that privacy cannot exist or be protected on social media. Three parents acknowledged that their concept of personal privacy had its genesis in their workplace. Their business experience influenced some parents' reaction to privacy in their private life, as one parent acknowledged:

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I work for a multinational company. Working in IT has prompted my interest in privacy as we receive a lot of notifications regarding the risk of hacking.¹

This particular parent admitted that the privacy ethos of her work place permeates her personal online sharing:

I post on Facebook as it is my platform of choice, I post less and less as I constantly watch out for my privacy. I ensure that No one follows me and I never post on Twitter, I only follow.²

Eighteen parents referred also to the idea of control, the need to do one's own thing, to guard one's privacy, and that this control was not about concealing information. Twelve parents referred to the idea of customising the audience that they want to target and to control access to the shared photographs. There is the belief that social media pervades your life and home. Another parent cited the lack of knowledge as to the destination of one's posts and the lack of time to make sure that the controls are at the highest level all the time as one of the reasons as to why she does not post.³

Four parents referred to the idea that something shared on social media could reappear out of context years later. Another parent (a non-sharenting father) admitted to being horrified by how readily people disclose private data and images on social media sites. This parent acknowledged that he is guarded about his signature and that he is very conscious of the significance of his signature, saying that "I only sign my

¹ Interviewee 16.

² Interviewee 16.

³ Interviewee 8.

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name to something that I fully agree with, I will never sign my name to something with which I am only 80% in agreement.”⁴

Among the definitions of privacy put forward is the idea that:

Privacy is something that has to do with personal issues like my children or life in general, health issues and it concerns two things, one being location and what you are doing.⁵

Privacy, as summarised by one parent, is: “telling people, a specific cohort who I want to hear/rather than the whole world. The minute you put anything up on social media, it is public.”⁶ Five parents believed that if something is private, it should not be shared. Too often people post material and then claim that it is private. There is a general view that one need not be too concerned with privacy. If they have done nothing wrong, if there is no incriminating information, there is no need to be concerned with privacy. Privacy means control over something that belongs to you.

One parent said that “I am very protective of my privacy. I am very conscious that everyone and anyone is on Facebook, privacy to me means consent”.⁷ Privacy is regarded by the interviewees as a right, as having the freedom to express oneself, to share one’s personal details. One parent maintains that she operates upon the principle that when she shares, she is aware that her information may be further shared by others. She says that “trusting others not to disclose things is expecting too much.”⁸ She expresses surprise at the content shared by others, photographs of their children, locations of holidays, thereby declaring

⁴ Interviewee 9.

⁵ Interviewee 11.

⁶ Interviewee 12.

⁷ Interviewee 25.

⁸ Interviewee 23.

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vacant homes. She operates on the principle that WhatsApp is not private and subsequently, she does not post or do online communication. Approximately fifteen parents expressed a strong confidence in WhatsApp, relying on it as the primary means of sharing personal data and images. Privacy is an element of control and one parent admitted that “the lack of it would add to my anxiety.”⁹

Another parent (a non-sharenting father) regards privacy as being a combination of family and business:

You try to contain privacy in business. I always tried to erect a barrier between business and family. I like to stay in the background. It is an innate thing in me which is further reinforced by business practice.¹⁰

Three of those interviewed work in areas where privacy is contentious, and are aware that an innocuous disclosure could become part of a legal action and in one interviewee’s words,

when it comes to privacy, I am cagey and careful so that why I am reluctant with sharing so it is not just photographs, it is both audio and visual, it is a minefield.¹¹

One parent said that: “The notion of privacy is a misnomer” and that everyone that uses social media should get a log of their online activities to give them a sense of their online activities.¹²

The general conclusion is that there is a concern as to how society and self worth appears to be visibly intertwined with an online presence, and the

⁹ Interviewee 27.

¹⁰ Interviewee 28.

¹¹ Interviewee 14

¹² Interviewee 23.

manner in which society is unwittingly exposing personal information in a very open forum.

Parents' perception of their Child's Concept of Privacy

Approximately twenty of the parents believe that their child's concept of privacy differs substantially from their understanding of privacy. They believe that their children, having been born in this digital information era do not hold privacy in high regard. One parent acknowledged that there was little or no privacy on social media sites and that her son aged 4/5 years was entitled to privacy and that she would ask his consent, adding that "I may ask his consent when he is older and if he says no, then I would never do it. I would respect his wishes. He is entitled to it."¹³ However, one interviewee said that her 12/13 year old had a good concept of privacy, in that, he knew which photos he preferred to have shared, and she added that her 6 year old was getting there with regard to privacy.¹⁴ Approximately five parents been asked by their children to take down some posts. "Wrongly, I have posted photos and I have been asked to take them down."¹⁵ Sixteen parents intimated that children had strong views on the images that they preferred to be posted. This cannot be unequivocally equated with an understanding of privacy.

Furthermore, there is a belief that privacy commences at a particular age, at that age when the child is ready to engage with social media. There is limited recognition by the parent of their role as the discretionary custodian of the child's privacy until such time as when the child reaches that particular age when he can use his/her discretion. Control and consent are presented as the two key words associated with privacy. The overall consensus among parents is that children have a limited appreciation of

¹³ Interviewee 15.

¹⁴ Interviewee 4.

¹⁵ Interviewee 11.

children's value of privacy. Overall, parents feel that privacy concerns become relevant when children reach a particular age.

Consent

An analysis of the research revealed that, perhaps unsurprisingly, consent was not widely sought by parents prior to sharing their child's information and images in the online arena. Yet, there seems to be a strong belief in the significance of consent. One parent admitted that her brother sent her a video about a child's consent and how it was important to teach children consent from an early age.¹⁶ The age of the child appears to influence parents' decisions re consent, with some perhaps using age as excuse the obviate the need not to seek consent. One parent said that she would only ask her eldest, "I would only ask my eldest as she would have opinions on what should be shared or not, whereas, the other two don't really care."¹⁷

Another parent said:

I suppose that I would tell them before I send them to family and friends. It was my son's confirmation lately and due to Covid, I posted photos, but my daughter looked at them first to decide which ones were OK to post, the boys don't really care.¹⁸

Evidence revealed that parents felt that sharing within closed groups reduces the need to seek consent. One parent admitted that, "I should ask for their consent, but I don't. No, I wouldn't necessarily ask them if I was sharing photos, it would be to a closed group."¹⁹ Another parent said that, "I am

¹⁶ Interviewee 18.

¹⁷ Interviewee 16.

¹⁸ Interviewee 22.

¹⁹ Interviewee 17.

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linked to my daughter's WhatsApp Sport Group and if I send photos to people outside the family, I would ask my children's consent before doing so."²⁰ Another parent said, "I send photos without permission, we have a family group but we don't send photos elsewhere."²¹ Finally, one parent admitted that sharing becomes a habit and that she does not request consent as "I just share his achievements privately with family and friends."²²

Parent (3) felt that she did not need permission as her child was already sending photos to her uncle. One parent acknowledges that:

on social media, there isn't really privacy. Sometimes, I find it scary and it is not really fair on my child because he has no say in it. However, when he is older, I may ask him.²³

While, approximately twenty parents attribute control as being central to one's privacy, this did not translate into practice as the majority of them did not consider requesting their child's consent prior to sharing images and personal information relating to their child. However, around twenty parents, by and large, acknowledge that they should consider requesting their child's consent.

Among the various reasons proffered for not asking their child's consent prior to sharing is, "I was not sharing any contentious content, it was mainly educational material, I did not need their consent."²⁴ Another parent contended that "I don't always ask permission, perhaps I should ask consent."²⁵ Another stated that she uses her discretion and that her children trust her to share appropriate stuff. One parent said that she has ceased to share as she feels that she does not trust social media. Other parents had

²⁰ Interviewee 8.

²¹ Interviewee 25.

²² Interviewee 6.

²³ Interviewee 15.

²⁴ Interviewee 2.

²⁵ Interviewee 3.

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confidence in the privacy settings and closed groups. There is a belief that children should want to share their images with all family members irrespective of whether or not, they like them.

One parent admitted, “I share frequently - I need to seek their consent as their consent is important.”²⁶ This parent said that he realised the importance of consent when his children expressed dissatisfaction with him sharing images without their consent. Another parent admitted to being a Luddite:

I should ask consent, I don't share much. No, I don't ask but I am very careful about sharing, I only share what is appropriate. I use my discretion and would never share anything that may be inappropriate.²⁷

Another parent said:

I wouldn't ask their explicit consent but if they didn't like it, I would take it down.²⁸

There is an inference from the collected data that it is the child who should assume responsibility for voicing their objection to the content posted. At the same time, parents observe that the parental default position is to post and that it is up to the child to voice their disapproval. Evidence reveals that five parents will not share if the child objects, one parent said that: “We don't normally ask for the children's consent but if they were to voice a preference, we would comply with their wishes.”²⁹

There is a belief that it is up to the children to voice their objection to the sharing of images as one said, “My phone is not private, they look at my

²⁶ Interviewee 11.

²⁷ Interviewee 14.

²⁸ Interviewee 19.

²⁹ Interviewee 9.

phone, at my WhatsApp content.”³⁰ One said, “I don’t ask their permission but sometimes the older ones will have an input and express a preference as to which photos that I should share.”³¹

In conclusion, approximately twenty two of the interviewed parents admitted that they share without asking for consent. They believe that there should be little expectation of privacy in this technological driven era and that consent becomes relevant when the child reaches adolescence. In addition, they are of the view that given that they are sharing within a private group, then consent is not a factor worthy of consideration.

Privacy Checks

The level of privacy checks appears to be low. Fifty per cent of the interviewed parents tend to set privacy measures in place and accept that they are adequate and that there is no additional need to check on them. In addition, they feel that the content of their posts is of no significance to the public so there is no need to justify any checking. However, those who do check tend to be vigilant. Ten per cent of the interviewed parents who do not engage with privacy measures as they do not post at all. Twenty per cent do not engage with privacy settings due to lack of knowledge, familiarity and confidence with regard to privacy controls. An additional twenty per cent rely on younger family members to secure and check their privacy settings.³² There is, overall, a reluctance to check privacy controls due to lack of confidence in the controls and a lack of familiarity with the controls that are in place. While sixty per cent referred to the lack of confidence in the internet providers to act in an ethical manner, there was also reference to the fact that the posted content did not merit safeguarding.

³⁰ Interviewee 23.

³¹ Interviewee 26.

³² Interviewee 1.

Motivation

With regard to the motivation, in this technologically integrated society, parents strive to showcase their parenting skills. Evidence revealed that seventy per cent of the interviewees were primarily motivated by a desire to create memories for their children and to share these memories with family and friends, especially family members living abroad, ranging from one parent saying that “I have a cousin in Australia and we WhatsApp messages and images back and forth”³³ to another parent expressing her desire, “to keep in touch with relatives in Spain and in Australia by sharing photos and personal information.”³⁴ Another parent said that she has close friends in Italy and Australia, and she only ever shares photos of her own children.³⁵ Eighty per cent of the interviewed parents expressed the desire to share their family photos with family members through WhatsApp, whereas another parent maintained that, although, she chats daily on Wechat, she only posts once a month.³⁶

Eighty per cent of interviewees felt that online sharing was the only option, as one parent confessed that although she does not find Facebook stimulating, “it is my way of keeping in contact and keeping my family updated with our news, as most of them live in the USA,”³⁷ while another parent said that she uses WhatsApp to share photos of her girls with her brother who lives in Dubai and, who in turn, shares images of his children with her.³⁸

³³ Interviewee 3.

³⁴ Interviewee 4.

³⁵ Interviewee 16.

³⁶ Interviewee 6.

³⁷ Interviewee 7.

³⁸ Interviewee 8.

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As to the issue of content, one parent admitted that she shares:

something funny or her son's first day in 1st class, and one of him sitting at the piano ready to undertake his piano exam by zoom or an outing (I took a photo of him in a Viking outfit).³⁹

In addition, another parent acknowledged that, although, she gives a 'thumbs up' to her child on Snapchat in sport activities, she is aware of the ease at which photographs may be stolen from Facebook.

Ten per cent of parents acknowledged that their children expected them to post their photos and news, "my child wants me to post things send this to his auntie and godfather who lives in the USA, he would make a video for his uncle wishing him happy birthday/xmas."⁴⁰ This view was echoed by another parent when he referred to the delight of his children to his posting their images online "Yes, absolutely they are excited, they love it particularly when it goes to a destination or people who they know."⁴¹ This view was echoed by another parent who added that her children continually asked "what did you post of me, Mom?"⁴² The overarching motivation for sharing images online is the desire to communicate and keep abreast of family news and these same motivations are replicated in the quantitative data. The quantitative data revealed that the primary motivation behind sharenting was social interaction as 62.2% of those who completed the questionnaire said that they did so as a means of social interaction.

³⁹ Interviewee 15.

⁴⁰ Interviewee 27.

⁴¹ Interviewee 11.

⁴² Interviewee 7.

Medical Solidarity

Authors, as outlined in the literature review noted the reliance by parents of sick children on social media for moral support and as a means to fundraise for research and medical treatment. Conversely, there are those who are willing to provide support and advice for other parents as one parent referred to the fact that, “I shared parenting tips that may have been helpful to other parents, my children have autism diagnosis.”⁴³ Parents of children with health needs are encouraged by the medical and educational services to join online groups, as one parent (a non-sharenting mother) whose daughter was diagnosed with Motor Wilson Syndrome, was invited onto a Facebook private group for parents, whose children suffer from this rare condition, it is more of an information sharing forum as opposed to being a communication forum. One parent referred to her daughter’s school posting photos of the children to increase awareness and to fund raise.⁴⁴ However, if someone new joins, the existing members are expected to welcome them and introduce themselves and their children by means of online photographs.

Social Connection

The second motivating factor was the desire by ten per cent of the interviewed parents to access parenting supports and ward off isolation. New mothers felt vulnerable and wished to connect with other parents in a similar position use sharenting to access advice and support. It eases the adjustment to new parenthood and offers support. One parent acknowledged that having joined a mother and baby group, she felt conflicted by the obligation to upload her baby’s photo. She left when she felt confident as did another mother leave an online autism support group as she felt that “she

⁴³ Interviewee 2.

⁴⁴ Interviewee 17.

had a solid enough footing.”⁴⁵ In conclusion, parents join groups because they need support. In return for the support, they are obliged to share information and photos with others in the same position. This obligation does not rest easy with parents.

Sports/School Inclusion

With regard to their motivation to share their children’s images and data online, thirty per cent of parents believed that they were constrained by societal and temporal factors to allow their children’s data and images be shared online. Sport clubs and school events and friend groups dominated their justifications. The fear that their children might miss out forced a lot of them to join particular groups. One mother (a very low-level sharenting mother) reluctantly agreed to her daughter’s participation in a school’s open night video, as her daughter would have felt awkward, if she had not been allowed to participate.⁴⁶

Data revealed that parents accepted that posting and the sharing of photographs are a core element of all sporting organisations. As one parent (a non-sharenting parent) confessed:

I consent to schools and clubs sharing in order to avoid making it difficult for these organisations when they take photos and are sharing photographs in news reports is a must.⁴⁷

While parents acknowledged that sharing was not best practice, and the fora upon which the information is shared were not the most secure, the consensus was that they were faced with a Hobson’s choice. There was recognition that these fora were not limited solely to sports fixtures

⁴⁵ Interviewee 2.

⁴⁶ Interviewee 22.

⁴⁷ Interviewee 9.

communication, as one non-sharenting mother said that she was obliged to leave a Soccer WhatsApp group as it was being used as a chat room, “it was clogged up with messages and photos of a child’s x-rayed arm.”⁴⁸

Sixty per cent of parents from this study further acknowledged that Facebook was great for sharing sports fixtures, whereas with Whatsapp, there are about 20 in the group with 20 accompanying phone numbers and it was used as a chat room, for example, someone may respond to the coach’s training schedule announcement along with additional information that has no bearing on the training. One parent acknowledged that the club was trying to move to a more secure forum.⁴⁹ As mentioned previously, others relied on groups to keep their children involved in sport. The parents in question felt that it was the price that they had to pay for inclusion.

Children’s Social Inclusion

Fifty per cent of parents in this study also referred to the need to keep their children socially included, one parent admitted that he was on Whatsapp and Tik Tok because his 12 year old son was on these sites and if he were to take him off these sites would result in his son’s isolation, in his son becoming a ‘social leper’.⁵⁰ This view was echoed by another parent who said that she did not want her child to be socially excluded.⁵¹ The general conclusion was that although the national sports organisation (Gaelic Athletic Association) has recommended that its members do not use WhatsApp, it is used by practically all clubs as a communication forum despite the associated dangers. The societal and temporal factors featured strongly in parent’s justification for consenting to the sharing of

⁴⁸ Interviewee 1.

⁴⁹ Interviewee 17.

⁵⁰ Interviewee 12.

⁵¹ Interviewee 23.

their children's images. As one parent said "sports clubs used Facebook to communicate through social media, there is not much of a choice."⁵² Fifty per cent of the parents felt constrained by societal expectations and were obliged to do what was expected in the current climate.

Material Shared

Family celebrations, children's sport achievements, and/or the celebration of particular milestones featured strongly in the online shared content. Ninety per cent of parents shared their children's achievements with family/friends. They shared images to create memories. They were of the general consensus that the posted material was of no value to anyone other than their family and friends. Parents shared images and information with the expectation that their family members would do likewise and share images of their children. Other shared sport achievements which was also shared by clubs and schools.

Social Media Costs

The overall consensus is that the online communication is not secure, and that it is designed to encourage maximum engagement through any means in all sectors. 'Linked in' promotes connectivity among a wide network of the work force. There is recognition that the connectivity comes at a cost, as one parent said:

We know the implications that someone may collect your data but it is beyond your control and you do need to use social media and Facebook to contact others.⁵³

⁵² Interviewee 1.

⁵³ Interviewee 14.

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More than half the interviewed parents are of the view that social media can do a lot of damage, the effects of social media appear benign, but the effects are sinister, as one parent referred to “the child who is not invited on the trip to town, an old person beaten up by carer in a Tik Tok video.”⁵⁴ Thirty per cent referred to children’s exposure to strangers when playing online games. There is a belief that social media and online providers can map one’s thought process, and that manipulation is their endgame.

The research undertaken for this thesis revealed that while sharenting may represent a pleasant exercise for parents, it also represents a sense of turmoil for them. More than sixty per cent expressed anxiety as they do not have confidence in the safety of social media and they do not have the requisite skillset to engage with the safety measures that are in place. Parents from this study feel conflicted, a sense of feel inner turmoil and welcomed the opportunity to talk about difficulties that they experience as a result of sharenting.

Control Relinquishment

More than eighty per cent of the interviewed parents believe that social media networks currently have considerable control, so much, that they can override any decision. They believe that there is a lack of accountability in that social media providers can say one thing and do the other. This control is apparent, when families attempt to close the profiles of their deceased loved ones, they experience extreme difficulties.

Interesting cultural difference were evidenced in the research with one parent a (Chinese native) expressing the view that Facebook surveillance was weak compared to Wechat in China, adding that “we are aware that

⁵⁴ Interviewee 23.

someone may collect your data but it is beyond your control and yet you do need to use social media and Facebook to contact others.”⁵⁵

Coupled with the clamour for help to engage safely in the online arena, there is a pervading sense of powerlessness among eighty per cent of interviewed parents. Several cited the sense of powerlessness, that sense of ‘learned helplessness’ as the reason for their request for help. Another parent (a non-sharenting father) said:

Social media may have measures but they are a big enterprise, there to make money. Rules can be manipulated, everyone thinks that it is watertight with no light measures, there is no adequate oversight, they are so powerful, and there is no balance of power, it is not an even playing field.⁵⁶

Terms and Conditions’ Consent

While 90% of interviewees recognise that privacy measures are in place and it is up to the individual to use them, but many feel that engagement with the security measures is demanding and above their capabilities. There is, overall, limited engagement with security measures due to lack of knowledge relating to security controls. Furthermore, 20% of interviewees contend that the use of privacy measures result in access being restricted. Data revealed that there is overall dissatisfaction with the social networks security measures. Fifty per cent of interviewees believe that it is an uneven playing field and that the technology providers are in control and that this control is the price of connectivity. There is a belief that consent notices are designed to confuse the user, as they are full of complex and complicated jargon that is not easy to understand and they are difficult to read due to length. The current tick box exercise is not adequate.

⁵⁵ Interviewee 6.

⁵⁶ Interviewee 12.

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One parent said that there should be a requirement that:

You need to answer a number of questions to show that you really understand what you're signing up for before you are allowed to engage with social media and share content.⁵⁷

The lack of transparency was a factor, there was currently a lack of awareness as to that which they are signing up for as the privacy measures are complicated and they do not lend themselves to easy reading and comprehension. One parent referred to personal responsibility and contended that:

If you are willing to post on social media then you should be willing to parade through the centre of town on a busy afternoon with a billboard carrying the same information. It is all about control, it is a cat and mouse game.⁵⁸

Data Relinquishment

A limited number of interviewees, perhaps 30% are aware that the use of private data is the currency of connectivity. One parent acknowledges that, "We do know the implications that someone may collect your data but it is beyond your control and yet you do need to use social media and Facebook to contact others."⁵⁹

Another parent added:

I would be worried that after having shared an image of my son that someone may take a liking and get to know our

⁵⁷ Interviewee 22.

⁵⁸ Interviewee 9.

⁵⁹ Interviewee 5.

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routine. I would have concerns about identity theft, people do not realise the despair that comes with it.⁶⁰

The danger of posted material being intercepted is always there when one posts on social media. One parent expressed surprise when her friends posted images of their children on holidays:

Parents are probably unaware that the holiday photos of their daughters in bikinis, children in shorts, and images of children in bedrooms and in the kitchen cooking could be watched by unknown individuals.⁶¹

This parent also commented on her daughter's friends and added, "I have seen images of her friends and I would never want to see similar posts of her in such attire."⁶²

Another parent said that, "you don't want someone to steal your identity. I would be fearful of all the consequences but more so that the photos could be used."⁶³

There is the acknowledgement that:

paedophiles are out there, we are sharing too much information online, if someone was trying to target a house if parents are out for the night, putting it up online suggests that kids at home alone and house becomes a party target.⁶⁴

⁶⁰ Interviewee 27.

⁶¹ Interviewee 22.

⁶² Interviewee 22.

⁶³ Interviewee 16.

⁶⁴ Interviewee 10.

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One parent acknowledges that, “We do know the implications that someone may collect your data but it is beyond your control and you do need to use social media and Facebook to contact others.”⁶⁵

Privacy Relinquishment

One parent said that her foster sister discovered a picture of herself posted on a site hosting illegal services. Her foster sister’s Facebook account was hacked which, subsequently, led to a photo of her being put on an inappropriate website.⁶⁶ The reality of what could happen is a major disincentive to this interviewee ⁶⁷ from putting up picture of her baby on mother’s group. This reluctance was further compounded by the fact that she, herself was the recipient of rude messages of a sexual nature following the hacking of one of her friend’s Facebook account. Another parent recognised that “locations can be easily ascertained, as apps are downloaded frequently as society does not want to live in the dark-age.”⁶⁸ A lot is shared on that app, phone numbers are being shared frequently.

There is also recognition given to the fact that:

The material ends up in the wrong hands, in the hands of paedophiles and traffickers, and that these images can be superimposed on other images.⁶⁹

Parents are fearful not only for themselves but for their children, one parent mentioned:

I do have a huge concern that my children are not 100% aware especially my youngest, she believes in everything that

⁶⁵ Interviewee 15.

⁶⁶ Interviewee 18.

⁶⁷ Interviewee 20.

⁶⁸ Interviewee 23.

⁶⁹ Interviewee 18.

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is up on Tik Tok. She does not realise that by sharing one of dance video could lead to her face being used.⁷⁰

More than 60% recognise that privacy is scarce, snapchats are not private, anyone can copy a picture and post it. Others mentioned that:

Even talking, if it is not Alexia, it is Goggle, any conversation is followed by advertisements coming up. It is not a coincidence, big brother is watching, anything that has a computer, yet people are addicted to posting.⁷¹

There is widespread recognition among the interviewed parents that there is no privacy on Facebook, everything posted is owned by them, one parent said that, “I don’t allow them access to my photographs. Once you put a picture up, it is gone, it is not yours”. “Why do they need a family photograph?”⁷²

Another parent contended that:

If you look for something on your phone, it will be followed by a load of advertisements. It is one sided, very minor individuals against a giant figure, there is a need for external oversight.⁷³

There is the recognition that privacy may be traded against one’s private data but that it is the price tag on connectivity.

Identity Theft

There is, by and large, widespread recognition of the persuasive and pervasive nature of social media in individuals’ lives, and this is

⁷⁰ Interviewee 17.

⁷¹ Interviewee 12.

⁷² Interviewee 10.

⁷³ Interviewee 8.

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accompanied by a recognition that such incursion could lead to identity theft, bullying, profiling, targeting by paedophiles all of which are substantial and potential dangers for children's safety and security, as one parent said, "I am fearful of the consequences of online sharing and communication. I am fearful of the true destination of postings."⁷⁴ Another parent confessed that she "was most concerned about paedophiles" and the potential of her children's photos could be used by paedophiles.⁷⁵

In addition, recognition was also given to the fact that such exposure allows for bullying, as one parent shared that:

I heard recently of youngsters being targeted as fraud mules, young guys are being roped into this. Most of us are oblivious because we don't question it enough.⁷⁶

There is recognition that all social media providers need to increase their security to ensure that profiles that are not in use have the potential to be hacked. They should suspend and deactivate accounts that are in disuse.

Despite the apparent lack of engagement with privacy controls, nearly 90% of interviewed parents acknowledge the potential threats associated with tracking and tracing. One parent maintained that the current business model should be dismantled, but agreed that its' dismantling would pose a challenge as society is reluctant to pay for connectivity and prefers instead to hand over infinite valuable data to social media providers. Another parent is of the belief that:

The current engagement model is designed to link up likeminded people, we are stuck in an echo chamber. The

⁷⁴ Interviewee 8.

⁷⁵ Interviewee 10.

⁷⁶ Interviewee 26.

algorithm does not allow you to use your discretion or judgment.⁷⁷

There is a view expressed by Silicon Valley experts that if payment was offered for communication, one should retain the right to keep one's data private. The fact that data may be used is not widely heeded. In addition, many believed that there should be a simpler complaints avenue, as it is very difficult to wade through the current complaint mechanism. The online providers are large organisations, and use their terms and conditions as their get out clause and, in turn, they advocate that customers should stop getting upset about the destination of their data.

Security Measures

Some thirty per cent of interviewees believe that privacy security is a personal issue and that individuals should accept responsibility for their own online security and safety upskilling. There is a widely held view that there should be an onus on social network providers to assume the lion share of responsibility for safeguarding posted material as they are essentially a business making billions out of their business practice. They should be obliged to run a risk assessment prior to practice. There is a belief that there is a need for more transparency and there is recognition that social network providers are not altruistically motivated. There is a strong belief that the responsibility for data protection lies with Online Providers. There is recognition of the need that there should be tighter requirements in place prior to online engagement. In addition, there is a suggestion that influencers could be used to make others aware of the dangers of online sharing and that sports persons, musicians have a huge online presence that could be used positively to influence people as to the dangers of creating an online presence.

⁷⁷ Interviewee 9.

Others called for a collaborative approach, arguing that there is a need to reach out to parents who are actively engaging with sharing on social media, to create a shock effect, similar to that created by the cigarette boxes whereby visceral images of lungs damaged by smoking helped to bring about a changed mindset with regard to smoking. This shock effect could be relayed on television programmes, it would encourage parents to buy into the concept of online privacy.

Technical Training

There is recognition among ninety per cent of parents of the need for external and additional education to drive online privacy and security. The general consensus is that there is not enough education on how to engage safely and if non-engagement with online platforms is the only means to secure privacy, this represents a huge loss as there is a huge beneficial impact associated with social media. There is a widely held belief that education on social media may be a solution. All of the interviewed parents demanded that the education would be provided in a practical workshop environment. There is recognition of the likelihood that the parents who don't engage widely with social media are the most likely to avail of this education. The general view is that privacy is a personal issue, but as one parent contended:

there is a need to be shown the way, for someone to explain what privacy is, as there are so many implied and implicit issues and given that perception is huge, it facilitates meeting, it provides a dopamine hit but who are we bringing with us, people need to be aware of the extremities of their journey.⁷⁸

⁷⁸ Interviewee 2.

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However, one parent admitted that he was too old to learn and was in need of an automatic and evolving fix-all solution. He believed that, “you need to have a degree in information technology to be able to engage with online security measures.”⁷⁹ There is a sense that Social Media is set up to encourage maximum engagement, connectivity and disclosure. Another parent observed that they would appreciate it, if they could come up with something to prevent the erosion of privacy. He further called for:

The mechanism should be updated regularly. It is no good updating me about something that I don't understand completely and I am coming to a stage when it is a waste of time for me to learn. I want a fix it straight away solution.⁸⁰

He acknowledged that, “with all the education in the world, everyone should know the danger having listened to fake news for the last four years.”⁸¹

There is a feeling that they are powerless to navigate with online security in the absence of adequate education, as one parent said:

I am a benefactor and a believer in the power of education. There is a need for more formal education for children and adults but this education must be accompanied by an exam thereby forcing us to engage with it in a more meaningful manner.⁸²

Conversely, fifty per cent of parents from this study contend that some of the education programmes fail to address the practical side of safeguarding

⁷⁹ Interviewee 14.

⁸⁰ Interviewee 14.

⁸¹ Interviewee 2.

⁸² Interviewee 2.

their data. There is a demand for privacy measures to be in place so that safety and freedom of expression are equally balanced.

External Oversight

There is recognition that there is a need for the establishment of an external unaffiliated oversight mechanism. However, there is also recognition of the danger of compromising the right to freedom of expression. While a large proportion of some 70% of interviewees were in favour of oversight, they questioned the criteria that should be employed in the determination of acceptable and unacceptable oversight. There is reference to the establishment of a collaborative committee of unaffiliated individuals to oversee the various social network providers. Others submitted that this oversight should not compromise the right to freedom of expression.

Covid Factor

It is widely recognised by 80% interviewees that Covid has changed the goalposts, with a large majority saying that Covid has led to an irretrievable decline in privacy following the increased and obligatory use and forced reliance on social media as not only a connectivity measure but also the only means of social interaction. Sixty per cent argue that it has led to a heightened awareness of privacy and its significance as consumers have more time to check out privacy and consent data. Seventy five per cent felt that Covid gave parents that much sought after free time to study and supervise their children's use of social media.

Others increased their outdoor exercising regime so that children had less time on their technological appliances. The need to use technology added to the increased use of social media. Furthermore, most of the uploaded

footage centred on the home, kitchen and social media invaded one's private space. Furthermore, the Covid tracking application raised issues of concern. Online connectivity was the only means of personal, business and educational interaction. Society acknowledged the decline in privacy as the sacrifice of connectivity.

Blank Digital Canvas

There were conflicting views on the possibility of a blank digital canvas for children. They believed that it would be ideal but impossible. Interviewee (25) said that every child should be entitled to a blank digital canvas. Interviewee (21) said that: a blank digital canvas would be impossible, as "we live in a social media generation with tagging and so on."

5.6.3 Summary of Qualitative Results

Evidence revealed that sharenting in this sample is very prevalent and that the desire to share family information was the driving force behind the parental sharing of their children's data and images. The need for parents to access support measures along with temporal and societal factors further forced parents to allow their children's private data to be disclosed featured also among motivating factors. Digital awareness also featured strongly with some having a limited knowledge, and some have admitted that their concept of privacy grew from strict business practice. There is a consensus that privacy has close links with control, freedom of expression and consent.

Seventy per cent of interviewed parents discounted consent on the basis that the material shared was not of significant value. They believe that some responsibility rests with children to voice their opposition to the sharing. They believe that the privacy controls are adequate and that

children are too young to express consent and the material is shared on sites unknown to children. Seventy five per cent of interviewees acknowledge that they are unskilled in the activation of privacy controls and that education should be made available to them. Some admitted that they are past the age of education. Others have called for tighter online regulation, while one parent advocated the use of social influencers to promote responsible online engagement.

Another dominant belief to emerge is that of the powerlessness of parents against social media providers. Social media is a big business and parents feel they lack the technical knowledge, but, there is recognition that there are basic alternative strategies that can be used to secure online data. However, there is a feeling of powerlessness against tracking and tracing, lack of transparency and need for oversight against manipulation, poor content filtering and regulatory difficulties.

The general consensus of this sample held that while there should be external oversight, it should not be at the expense of freedom of expression. Data revealed a limited understanding of the potential impact of sharenting. However, there is a widespread acceptance that it is the price of connectivity. The data revealed that there is a limited value put on family photos, no acknowledgement as to the child's ownership of photos, and the fact that the child of today will be the adult of tomorrow. In conclusion, the data emerging from both the quantitative and qualitative research are in line with international research on the subject of sharenting.

5.7 Young Adults 18+

In recognition of the manner in which the United Nations Convention on the Rights of the Child, 1989 supports the right of a child to a voice, the

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voices in this investigation are those of young adults. This decision to include young adults is based on the recognition of the insight that they could give as ones whose data may have been shared and the contributing fact of Covid restrictions on access to younger children. The questionnaires, completed by the young adults, are designed to give an insight into the degree to which young adults' personal data has been shared by their parents and, how this has influenced their attitude towards sharing on social media, in addition to their aspirations with regard to the safeguarding of their own children's private data in the future. These interviews reveal information on young adults' views on sharenting and its possible impact on their private identity. Both sets of results from young adults are finally examined with a view to establishing the existence or not of a convergence between them.

Profile and Prevalence of Sharenting

All respondents are aged 18 years and over and were Irish, representing 13 counties in total. The respondents were mainly at third level educational institutions with a smaller proportion in their final year in secondary school. The proportion of respondents coming from a rural background was 62.7%. Figure 5.7.1 show that the proportion of respondents whose images had been shared by their parents totalled 64.2%. The predominant sentiment among young adults with regard to their images being shared weighed in favour of neutral at 65.7%, with young adults not experiencing any strong feelings with regard to their parents' sharing of their personal data. Those respondents who were happy to have their images shared featured considerably stronger 28.4% than those who were sad (3%) or annoyed (3%).

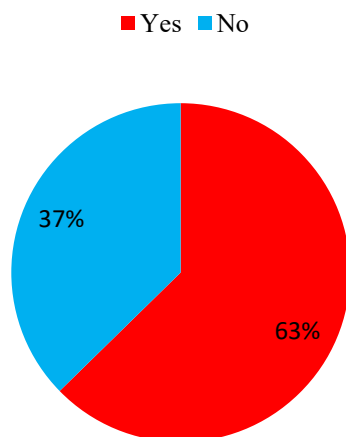


Figure 5.7.1 Did your Parents share your Data?

Sharing- with whom/material/ Consent and Reactions

Figure 5.7.2 showed that images were shared mainly with family members (59.7%) and 11.9% said that their parents shared their children’s images with close friends, whereas 28.4% of young adults said that their parents shared their images on social media platforms of their own choice. Figure 5.7.2.1 revealed that the shared images pertained predominantly to sport (16.4%), school (1.5%), family events (20.9%) and did, however, include all three for (61.2%) of respondents. The majority of the material was shared mainly following family celebrations or special events (92.5%) with considerable less material being shared on a monthly (4.5%) or daily basis (3.0%).

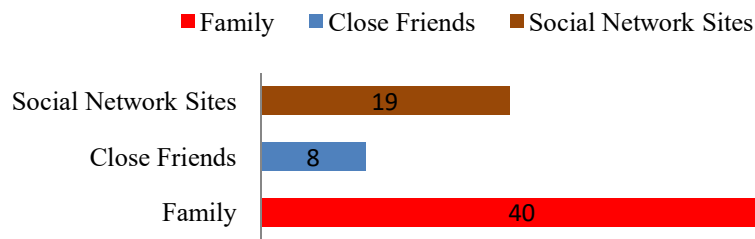


Figure 5.7.2 With whom did your parents share your data?

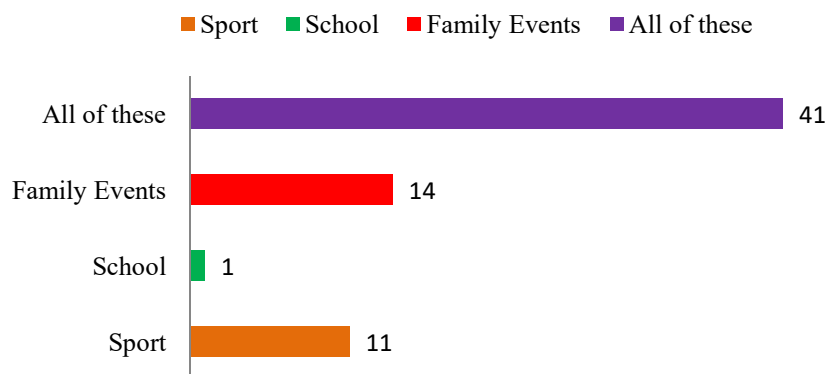


Figure 5.7.2.1 What did the shared material relate to?

As regards the issue of parents looking for consent prior to sharing, 55.2% of young adults said that parents didn't seek consent prior to sharing, 32.8% said that their parents sought consent sometimes, whereas 11.9% said that their parents requested consent prior to sharing. With regard to the views of young adults regarding the issue of consent, A large per cent of the young adults did not feel any particular strong sentiment in either direction.

The proportion of negative feelings towards the failure to request consent stood at 7.5% appeared to be negligible. Sharenting did not appear to

pose a major concern to young adults. The shared material did not appear to pose any significant embarrassment to two thirds of the young adults. There was a tolerant and complacent acceptance of sharenting, in that 34.3% admitted that the shared material caused them to experience some embarrassment, whereas 65.7% said that the shared material did not represent any personal embarrassment to them.

Checking Privacy settings/Greatest Concern

With regard to the checking of privacy controls by parents prior to 'sharenting', 20.9% said that their parents did not check their privacy settings and a further 40.3% said that they lacked the know how to do so. Parents (29.9%) checked their privacy settings, whereas 9.0% of young adults said that the parents checked sometimes prior to sharenting. In reference to concerns relating to the failure to check privacy settings, a clear majority (74.6%) of young adults were not concerned over the failure by their parents to check privacy settings prior to posting their children's personal data. As regards being concerned with the ramifications of sharenting, figure 5.7.3 indicate that 20.9% who completed the questionnaire intimated that they were concerned about bullying, profiling (11.9%), others were concerned with regard to identity theft (4.5%) and paedophilia (22.4%), whereas 40.3% said that they had no issues of concern.

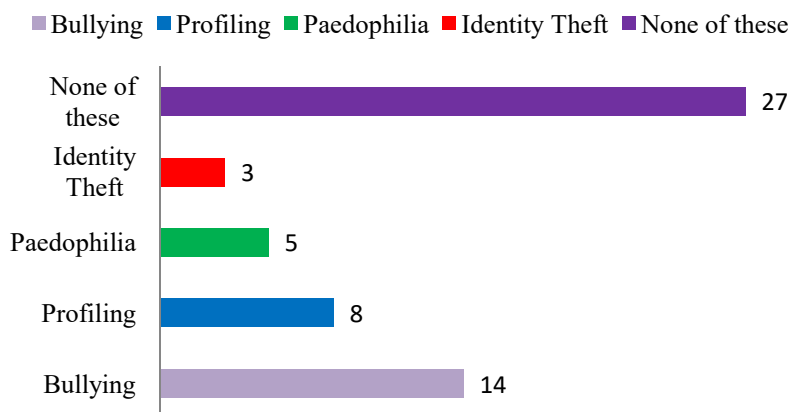


Figure 5.7.3 Greater Concern

Online Presence - Children/ Parents / Friend Request

Results indicate 92.8% saying that children should be entitled to create their own online presence and 68.1% of young adults said that it was not acceptable to create an online presence for a child.

Of the 47 young adults who received friend requests from their parents, 36 have accepted as some of these they felt that they had nothing to hide and that they liked being friends with their parents as they had a very open relationship with their parents. Others felt that they had no option but to accept in an effort not to upset their parents and to maintain harmony within the family group. Eleven declined the requests as they had no desire to look at their parents’ social media feed. They said that their parents are too old and they did not want to look at their parents’ online engagement. Others said that they declined their parents’ friend request on the grounds that they lived in close proximity to their parents and they already shared enough with them. Others did not accept the friends’ request as they felt that they were entitled to privacy. The others said that being friends with their parents

on social media would restrict their freedom on social media as their parents were judgmental and that the friendship request represented an attempt to extend and prolong parental control. Figure 5.7.4.1 shows 55.2% respondents have acknowledged that their parents' online engagement has impacted their own online engagement. This has resulted in 80.6% of young adults being more cautious with regard to sharenting.

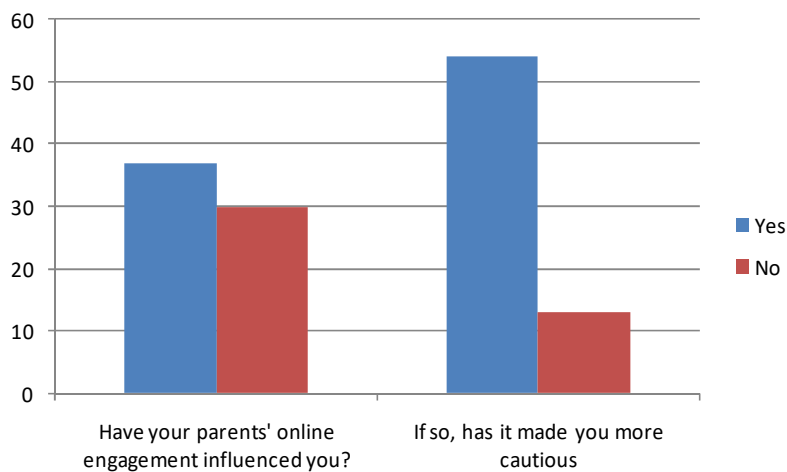


Figure 5.7.4.1 Have your parents' online engagement influenced you/ If yes, has it made you more cautious?

5.7.1 Inferences

An examination of parental sharenting and the probability that young adults might share images of their own children in the future reveal that there is a correlation of .319 which is significant at the .01 level between the extent to which parents engaged in sharing their children's images and, the fact that young adults whose images have been shared will not share images of their own children in the future.

Table 5.7.5 Correlation between Sharenting and Young Adults' Views

Correlation between having one's images shared as a child and:	Correlation <i>P</i>	Sig.(2-tailed)
The likelihood of Young adults will not share images of their own children	.319**	.009
Acceptability of not creating an online presence for minors	.283*	.020
Its influence on young adults' online engagement	.390**	.001
Belief in the right of minors to inherit a blank digital canvas	-.011	.928

** Correlation is significant at the .01 level (2-tailed). *Correlation is significant at the .05 level (2-tailed)

Likewise, there is a correlation between parents sharing their children's images and young adults' views on whether or not it is acceptable to create an online presence for a child. This correlation is significant at the .05 level. The correlation between parental sharenting and its potential influence on young adults' online behaviour with regard to sharing online stands at .390 which is significant at .01.

5.7.2 Summary of Quantitative Data

Of the young adults, 20.3% said that their parents did not check their privacy settings prior to sharing and 39.1% said that parents lacked the know-how to do it. With regard to consent, 11.6% of the young adults stated that their parents looked for their consent prior to sharenting. Furthermore, 63.8% of them intimated that the parental sharing of personal material was not a matter of concern to them, 20.3% of young adults identify bullying, whereas, 21.7% identify paedophilia as being among the more serious concern. Furthermore, 60.9% intimated that they would not share their children's data and 68.1% said that it was unacceptable to share children's data and 92.8% said that it should be every individual's choice to decide as to whether or not they wish to create an online presence. In addition, 53.6% felt that their parents' online engagement has influenced their online engagement and 78.3% felt that it has made them more cautious with regard to online sharing. 69.6% of respondents have received friend requests from their parents and 52.2% have accepted. The reasons that they gave were varied, but the overall reason was that young adults did not want to upset their parents by refusing the friend request. Those that did refuse indicated a strong desire to maintain a degree of privacy.

5.7.3 Qualitative Measures

The questions posed to the young adults covered the extent of their parental online sharenting and its influence on their own online engagement. It also covered features such as the impact of covid and cyber attacks and the responsibility for the safeguarding of privacy and the issue of a blank digital canvas.

Interviewees' Profiles/ Parental Online Engagement and its Influence

Two of the ten interviewees acknowledged that their parents did not engage in sharenting. All interviewees were aged 18 and over, most were first year college students with exception of two who were doing the Leaving Certificate (Final State Examination). Of the ten Interviewees, seven were from an urban background and three were from a rural background, and the interviewees were equally balanced genderwise. More than 90 % of the young adults agreed that the parental online engagement has impacted on young adults' own online engagement resulting in them being more cautious with one interviewee saying that "Mom always cautions me and my siblings not to post any photos."⁸³ Others were of a different view with one saying that:

to be honest, no. I make up my own mind. I wouldn't care one way or the other, if he posted photos of me but that said, I am happy in a sense that I am free to make my own online presence if I so decide.⁸⁴

Another interviewee admitted that he had to caution his mother against posting too many images saying:

I ask her not to put up photos and have occasionally asked her to take it down which she did on seeing that I was stressed.⁸⁵

Another interviewee admitted that her parents' low social media engagement has influenced her own social media engagement to the extent that:

⁸³ Young Adult Interviewee 5.

⁸⁴ Young Adult Interviewee 9.

⁸⁵ Young Adult Interviewee 7.

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I don't ever upload photos and that has definitely come from my parents warning me about the dangers of uploading photos onto social media.⁸⁶

Another interviewee said that:

photos of us on the beach topless has convinced him "I would never do that with my children. I wouldn't put information on social media. Anyone could see it."⁸⁷

Chief Concern- The Unknown Factor

They were concerned for the safety and security of their identity. They felt that their identity was precious and they had no desire to lose their identity or expose themselves to external influences. As one interviewee commented "I don't know how long communication is kept for and what it will be used for."⁸⁸ Others noted that, for them, "The scariest thing is that others take your photos to catfish."⁸⁹

One young adult referred to:

the possibility of being slagged, but, now I am aware of other possibilities. There is the exposure of one's identity, putting yourself out there and what could go wrong.⁹⁰

There was concern expressed with regard to "the fact that my information can be seen by others."⁹¹ Others were concerned with regard to the "Use of my private data."⁹²

⁸⁶ Young Adult Interviewee 2.

⁸⁷ Young Adult Interviewee 8.

⁸⁸ Young Adult Interviewee 2.

⁸⁹ Young Adult Interviewee 6.

⁹⁰ Young Adult Interviewee 7.

⁹¹ Young Adult Interviewee 8.

⁹² Young Adult Interviewee 2.

Mocking/ Bullying /Theft Identity/Privacy

Chief among their concerns was the fear of being bullied and harassed owing to online revelations pertaining to their childhood. One interviewee asked his mother to refrain from posting as he feared that he would be mocked by his peers. There was recognition among the interviewees that the mocking would lead to bullying and this represented a major concern for them. All interviewees were concerned with identity theft and the unknown use of their data. This represented a major concern for them.

The young adults were for the main part of the same opinion that privacy centred on the idea of control over who has access to one's information and images. They believed that one should have the right to decide that which they wanted to share with the public. One interviewee believed that:

sharing is attention seeking and said that photos are an act, look at me I have such a wonderful life, it is an effort to compensate and is an attention seeking exercise.⁹³

Another interviewee defined privacy as “information about me that I have not willingly shared with them and making sure that everything is safe.”⁹⁴ It is defined as, “being able to post on my own terms- showing what I want to show and concealing that which I want to conceal.”⁹⁵

Consent

Young adults regard consent as important. One interviewee referred to the need for consent but conceded that:

Consent should be fit for purpose but it is not. Some photos are up in Instagram and I think wow they never consented to

⁹³ Young Adult Interviewee 1.

⁹⁴ Young Adult Interviewee 7.

⁹⁵ Young Adult Interviewee 8.

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sharing these photos. Consent is boring and complicated in apps and non-agreement means that one is excluded.⁹⁶

There is the belief that consent does not feature majorly in schools as one interviewee conceded that:

Schools are obsessed about publicity, they use photo sessions I got some award which ended up online. I was not asked for permission to do so and, if I had objected, it would not have been well received.⁹⁷

One of the interviewee said that from his own experience:

Photos are continuously taken in schools, they don't really tell you that your photo is going to end up on the school website, there is little option to opt out as there is peer pressure. Class teachers or whoever is taking the photos need to be more responsible.⁹⁸

All of the young adults who were interviewed believe that the consent option provided by online providers is not fit for purpose. In addition, parents' failure to engage with consent prior to sharenting added to the frustration and represented a source of annoyance for those young adults who participated in the interview.

Right to a Blank Digital Canvas

From the interviews undertaken, there is a firm belief among the cohort of young adults that children should be free to inherit a blank digital canvas and that there was no need to put everything up on line. They felt that children should have the right to create their own digital

⁹⁶ Young Adult Interviewee 8.

⁹⁷ Young Adult Interviewee 5.

⁹⁸ Young Adult Interviewee 9.

presence. They also referred to the fact that it was not safe and that parents expose their children to unnecessary harms.

Personal Responsibility

There was a strong belief among all the interviewed young adults that if you are prepared to engage on social media, you should be prepared to inform yourself as to privacy measures. One Interviewee said that:

People love posting, they thrive off the interaction. My friends and I have had the same exposure to online engagement safety education but at the end of the day it is how you engage with that education that is relevant.⁹⁹

They believe that there was a need for education but that personal responsibility should play a significant part. As one interviewee said:

It is difficult to change mindsets, there is a lot of bragging on social media and it is difficult to change a mindset.¹⁰⁰

The need for education was deemed essential:

Older people need to be taught as they may not learn as easily as younger people. If parents are educated they will accept responsibility to avoid inappropriate postings.¹⁰¹

External oversight was deemed necessary but it must be accompanied by a suite of ancillary measures.

One interviewee said that, “The parents should not be allowed do it, as it is not safe as others tend to take others’ photos and use them as their

⁹⁹ Young Adult Interviewee 7.

¹⁰⁰ Young Adult Interviewee 1.

¹⁰¹ Young Adult Interviewee 10.

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own.”¹⁰² Another one said that, “There is a need for oversight but there is no changing of mindsets.” Ninty percent of interviewees acknowledged the obligation of the social media sites to lead the way by “making contracts clearer to read and understand and get rid of legal language.”¹⁰³

Interviewee (5) said that “there is a need to know what the company is looking for and what you are offering or submitting by way of return.”¹⁰⁴ One interviewee (2) acknowledged that there is a need for monitoring because:

people are posting inappropriate photos of their children. There should be monitoring, some form of an alert to caution parents, there should be no sharing under the age of 15 years, everyone under 18 years is a child but I believe that 15 is an appropriate cut off age.¹⁰⁵

Others were of the view that there is a need for more effective oversight but one of them acknowledged:

I am not sure how to implement it and how to decide what is right and what is wrong, perhaps there should be guidelines. Definitely there is a need for an alert-triggering application with regard to children’s stuff on Tik Tok, too much violence and swearing and there is a need for more oversight and regulation. How some material is allowed to be posted is baffling.¹⁰⁶

¹⁰² Young Adult Interviewee 1.

¹⁰³ Young Adult Interviewee 4.

¹⁰⁴ Young Adult Interviewee 5.

¹⁰⁵ Young Adult Interviewee 2.

¹⁰⁶ Young Adult Interviewee 6.

Some acknowledge that the difficulty associated with oversight saying that:

Posts with racist attacks are taken down but they have to be reported. There is no automatic mechanism in place to stop inappropriate posting. It would be impossible to sift through the millions of uploaded material to decipher which is appropriate and or inappropriate.¹⁰⁷

The Covid Factor and Online Cyber Attacks

All interviewees referred to the exponentially increased use of social media during covid as it was the only form of communication and that it was very necessary for most people. It was acknowledged that online posting was more invasive as a lot of the posting was carried out in private locations, in people's homes as one interviewee said, "People were posting images taken within the home relaxing in front of the fire etc revealing the insides of family homes."¹⁰⁸

By doing so, people were revealing the locations of their homes, the layout of their home, background private images of the families and the contents of their homes to all and sundry. As one interviewee said: "Less events to post about but perhaps more personal than public- showing more personal information and data."¹⁰⁹ Another agreed that:

Definitely it has increased the explosion of social media use people sat at home bored and lonely and posted pictures of their houses inside and outside. It was a most invasive exercise.¹¹⁰

¹⁰⁷ Young Adult Interviewee 7.

¹⁰⁸ Young Adult Interviewee 9.

¹⁰⁹ Young Adult Interviewee 3.

¹¹⁰ Young Adult Interviewee 9.

Others conceded that:

Everything will be moved online. Technology is great to access lectures school material and email teachers but the presence and ease of availability to personal information is scary.¹¹¹

All interviewees agreed that the online cyber attacks were recognised by most as being dangerous and, while it made people more aware, it has not stopped them, because, by and large, its seriousness did not resonate with the general public. They felt that most people did not feel that it could happen to them. As one interviewee said:

I feel that the sad reality is that people only learn from experience, they don't feel the need to engage with measures until it is too late.¹¹²

However, another interviewee admitted the attack has “had an effect resulting in certain family members have become more cautious and careful with regard to sharing and online posting.”¹¹³

School/Sports Organisations Influence

More than 90% of interviewees felt that schools and sport organisations have a role to play and should lead by example. Interviewee (5) said:

Schools obsess about publicity, they use photo sessions I got some award which ended up online.

¹¹¹ Young Adult Interviewee 6.

¹¹² Young Adult Interviewee 8.

¹¹³ Young Adult Interviewee 2.

The consensus is that schools and sports organisations used images of children for publicity purposes, as one interviewee said, “they tend to be lax, I could find photos of my younger sisters in seconds by googling sports events. They use the children as publicity.”¹¹⁴

He did acknowledge that his mother trained juniors on a voluntarily basis in various sports and was increasingly conscious of the need to protect the identity of these minors.¹¹⁵ These establishments got a general consent form signed by parents at the beginning of term. Students were not allowed any input and as one interviewee put it, “Consent forms can be divisive. They need to be more creative.”¹¹⁶ The overall view is that schools and sports organisations are irresponsible with regard to the sharing of children’s images.

Future of Online Engagement

Ninty per cent of interviewees are of the opinion that the use of social media sites and sharing is going to explode and will continue on in the current trajectory of exponential growth. One interviewee argues that “there is a need for more education and training, older people need to be taught so that they will accept responsibility to avoid inappropriate postings.”¹¹⁷ Another interviewee contended that the technology giants have a role to play:

People need more information on the ramifications of sharing information. They need to be aware of the concrete facts that are associated with sharing posts and images.

Another interviewee argues that those who belong to Generation z are better placed to safeguard their private identity:

¹¹⁴ Young Adult Interviewee 5.

¹¹⁵ Young Adult Interviewee 8.

¹¹⁶ Young Adult Interviewee 9.

¹¹⁷ Young Adult Interviewee 9.

Online is going to grow bigger but generation z, the future parents will be more careful with regard to privacy and safeguarding of privacy unlike the present generation of parents.¹¹⁸

Interviewee (2) said that there is a:

Need for more censorship on SNS sites as hateful messages and degrading and explicit images are being shared. Social network sites need to control that, there is a need to clean up the content that is being shared.¹¹⁹

This interviewee recognises that “there is a need to regard the social emotional and mental impact, there is a need for more research into these effects to determine what we know so far.”¹²⁰ The overall consensus is that social media use is here to stay and that it is growing but also that it is not fit for purpose as it stands. There is a need for personal responsibility along with a requirement for more transparency from the social media sites with regard to the use of collected data in addition to a filtering system that rejects inappropriate and offensive posts.

5.7.4 Summary of Qualitative Results

It is observed from the data gathered from the online interviews reveal that young adults appreciate a low level engagement with social media. Their parents have influenced their current online engagement. The general sentiment is that privacy is all about that freedom to control that which is revealed to the public. It is recognised that while external oversight is important, personal responsibility should be a requirement and priority.

¹¹⁸ Young Adult Interviewee 9.

¹¹⁹ Young Adult Interviewee 2.

¹²⁰ Young Adult Interviewee 3.

Chapter Five Empirical Results

There is general consensus that Covid has impacted significantly on the increased digital sharing given that people had more time with their children in the home environment. This has led to increased posts of a more invasive nature featuring family life in the family home. The view regarding recent cyber attacks is that the lessons learned may be shortlived and the possibility that it may happen to them is not acknowledged.

The overall data collected from young adults reveal that parents, by and large, share their children's images with a low-level engagement with consent. Young adults are complacent with regard to their parents' sharing practices and feel that it does not represent any danger to them. However, they have learned lessons and would never share their children's images as they are of the view that everyone is entitled to craft his own digital presence. They are of the view that the safeguarding of privacy is dependent on the acquirement of a particular skillset and personal responsibility.

5.7.5 Conclusion

This chapter presents the gathered results in two parts, the first part covers the data collected from adults. The results gathered from the questionnaires addresses issues such as the prevalence of online engagement, in particular, that of 'sharenting'. It examines the number of sites used, the duration of use, the frequency of social media checks and the frequency of postings. It looks at the content of posts and the motivation underlying the postings. In the follow up interviews parents addressed issues such as their concept of privacy and the manner in which it may differ from that of their children's understanding of privacy. Furthermore, the issue of safeguarding of privacy was discussed, as was the impact of covid and the right of the child to a blank digital canvas. The interview concluded with a consideration by parents of the future of online engagement and the responsibility to secure a safer and more private digital presence.

Chapter Five Empirical Results

This chapter presents the empirical findings arising from research into the online engagement of 108 adults who completed a questionnaire and, 28 of whom were interviewed, along with the views of 68 young adults, 10 of which were interviewed on their views regarding the online sharing of images by parents. Sharenting occupies a large landscape on online engagement. Parents are motivated to share their children's images and personal data in an effort to form a social connection and to build up a social profile. Parents, share images of their children doing various activities and are of the view that the shared material represent no significant value. Parents, while recognising the requirement to seek consent, acknowledge that they do not seek consent. They justify this by asserting the lack of value attributed to the shared material. Furthermore, they rely strongly in the privacy measures put in place by the social media sites. Those who do not engage with the privacy measures have assumed a learned helplessness and lament the lack of know-how.

Parents feel that they are the victims of the social media sites non-transparent algorithms. They recognise a need for accountability and some form of external oversight. They are of the opinion that there is no such thing as a blank digital canvas for minors.

The second part addressed the results gathered from the questionnaires and subsequent interviews completed by young adults. The questionnaires focused on the level of sharenting experienced by young adults as minors, in addition to the issue of consent and the manner in which the online engagement by parents impacted on young adults' online journey. It also considered how this impact may influence their future role as parents and their views on whether their children should be entitled to craft their own online own online identity.

Young adults believe that children should be entitled to a blank digital presence. Young adults believe that children should have a voice, should

Chapter Five Empirical Results

enjoy the right to consent and that parents should respect the best interests of their minor children and refrain from sharing their children's personal data. They believe that the future safeguarding of technology lies with personal responsibility and the transparency of social media providers.

Chapter 6 Discussion of Results

6.1 Introduction

Having previously documented the empirical results, this chapter restates the research questions. It summarises the quantitative and qualitative data, identifying areas of convergence and divergence between the quantitative and qualitative data collected from each individual group and the results and views of both parents and young adults. It reflects on the empirical research findings, interpreting the findings and identifying the implications of these findings in the light of the research questions. These implications will ultimately contribute to the debate on the recommendations which may include a legal right to a blank digital canvas and/or policy, practical guidelines and theory that might be adopted as a means to best protect the digital privacy of minors in Ireland. This discussion synthesises the doctrinal and empirical research undertaken to answer these questions. In doing so, it shall refer to the theoretical framework outlined in chapter one and, in particular, the manner in which sharenting may impact concepts such as: identity, privacy, self-determination, freedom of expression, autonomy/agency, best interests along with the voice and evolving capacities of the child. Furthermore, it highlights additional gaps in existing knowledge and areas where further research could be undertaken.

6.2 Research Question Restated

The study explores the contention that “There should be recognition and protection of the privacy of children’s identity and freedom for them to narrate their own online identity.” The overarching research question examines the prevalence of Sharenting in this jurisdiction and whether there is an understanding of the consequences.

To answer this, a number of sub-questions need to be addressed: How prevalent is the practice of Sharenting? Are parents aware of and engaged with privacy measures and consent? How do parents interpret privacy and how do they view their child's perspective on privacy? Where do parents believe that the responsibility for the safeguarding of online privacy lies?

To fully examine the prevalence and impact of sharenting additional questions were posed to a sample of young adults, who as minors may have had their personal data shared online by their parents. These questions included: How do young adults view privacy and consent? Do they believe that children should be entitled to create their own online narrative? Should children be entitled to inherit a blank digital canvas? How has parental sharenting impacted young adults' own online engagement?

In recognition of the impact of parental freedom of expression on the right of the child to protect the privacy of their identity and self-determination and the means by which to achieve an equitable balance, this research uses the capabilities approach as a theoretical framework upon which to base the right of the child to maintain the privacy of their identity and self-determination, with particular recognition of the fact that younger children may not have reached that level of competence at which, they may be able to fully comprehend or express their consent.

6.2.1 Objectives of Thesis Restated

In recognition of the right of the child to have a voice in all matters pertaining to them¹ and, the evolving capacities of the child² and, in view of the sharing by parents of the child's images and personal data in the online arena, this investigation explores whether, the right of the child to maintain the privacy of their identity and to craft his/her online narrative should be

¹ 'General Data Protection Regulation, 2016' (*General Data Protection Regulation (GDPR)*, 2016) <<https://gdpr-info.eu/>> accessed 5 January 2022.

² 'General Data Protection Regulation, 2016' (n 1) Article 5.

recognised and protected. It provides evidence to broaden the narrative on online safety to include sharenting and to adopt policies that respect the right of the young child to protect the privacy of their identity and self-determination, while at the same respecting the autonomy and freedom of expression of the parent.

6.3.1 Parental Inquiries

The interviewed parents welcomed the opportunity to voice their concerns and anxieties regarding sharenting. They felt that they were obliged to choose between isolation and safety. Parents of new-born infants and parents of children with health issues felt obliged to share images of their children to gain access to support communities. Results indicate that parents of children with health issues were encouraged to do so by the medical profession. Connecting with other parents in similar situations and seeking advice/support was a coping mechanism. While, having positive implications in terms of support, it resulted, however, in the sharing children's health or other issues on a public forum. This sharing can lead to children being profiled and identified, perhaps, more for their particular health condition, rather than as an autonomous individual with the right to maintain privacy, and thereby control, over their personal lives. Parents believed that they would be marginalised if they did not share images and information but felt compromised and uneasy when they shared their children's information and photographs.

Both quantitative and qualitative data revealed that 54% of the shared material related to family celebrations and children's achievements. Both quantitative and qualitative inquiries revealed that parents used more than one social media site. In addition, the interviews revealed that parents used different sites to maintain a certain amount of privacy between the different groups with which they were affiliated. Approximately 60% of the

Chapter Six Discussion

interviewees believed that WhatsApp was safe and did not feel that images and information shared on WhatsApp constituted sharenting. Furthermore, parents believed that when they were requested by their children's schools and sports organisations to use social media sites, that this did not amount to sharenting, in that, they had no option, if they wished to access updates and remain connected to others.

The questionnaires revealed that 90.5% of parents shared whenever there was anything which they believed was worthwhile, whereas data gathered from the interviews revealed that they shared only important celebrations. As regards the frequency of social media checks, the quantitative data revealed that 80.6% of parents frequently checked their social media sites each day. Qualitative data revealed that parents felt that they were spending too much time checking their social media on a daily basis. With respect to the historic length of time spent using social media, both quantitative (83.3%) and qualitative sets of data revealed that of parents have been using social media sites for more than six years.

Both quantitative (62.2%) and qualitative data revealed that social interaction was the chief reason for sharenting. Parents shared images of their children to open up lines of communication and initiate online connection with other parents. Parents wanted to maintain contact with family who lived abroad. This need was further heightened as a result of travel restrictions during the pandemic. There was also a desire to 'virtue signal' and they wanted to validate their status as a parent.

The interview data showed that 70% of parents were sceptical with regard to the safety of online engagement. They felt that consent had a role to play, but young adults admitted that 55.2% parents failed to request consent on a regular basis.

6.3.2 Young Adults Inquiries

Both quantitative and qualitative inquiries revealed that young adults believed that they had learned valuable lessons from their parents' online sharing. Young adults (80.6%) are more careful with the online sharing of their data. This caution is predicated on past experience based primarily on their parents' sharing of their images during childhood.

While young adults may have firm views on online sharing, there is a complacent acceptance of their parents' decision to share their images as children. This complacency is visible also in the acceptance of parents' friend requests, although some of that complacency is based on the young adults' desire for familial harmony. They believe that the online presence does not represent a personal threat to them, now that they are no longer children. Sixty eight per cent of those who participated in the research believed that it is unacceptable for parents to create an online presence for minors. This belief is tempered by a firm resolution never to share images of their own children in the future. More than 95% of the interviewed young adults are conscious of their parents' (61.2%) non-engagement with privacy controls and while they acknowledged the need for education, there is a view that personal responsibility had a role to play. They felt that there should be a requirement that all users of social media accept responsibility for their online safety engagement.

6.3.3 Convergence/Divergence between the Parental and Young Adults' Views Privacy

More than 90% of the parents have a strongly defined view of privacy and they believe that privacy is based on control. They believe that their children do not attribute importance to the concept of privacy as their children are growing up in an era in which there is no privacy. Despite parents' view that children have no concept of privacy, a large proportion of the young adults are very definite in their concern for their privacy and contend that they have been from a young age. They believe that privacy is all about control and the right of everyone, children included, to decide for oneself.

Consent

Approximately fifty per cent of parents do not consider consent with the same regard as young adults. While, around 50% of parents may recognise the importance of seeking consent, only 32.8% seek consent sometimes. They think that time when they consider that children begin to understand or when they are at that age when they begin to engage with their own online journey. The majority of them feel that consent is a horizon issue which becomes a concern when children reach that age when they are conscious of their public image.

While young adults who participated in the quantitative sample may not be overly concerned now by the failure of parents to seek consent, when they were children, they admit that consent is important to children. Of the young adults, 38.8% are conscious of and concerned by the threats posed by paedophilia and bullying. All the young adults who participated in the interviews felt that consent was important and that parents by asking their children for their consent are, by doing so, acknowledging the rights of the child. They believe that parents of children who are incapable of consent by reason of age or understanding should not share their child's information.

This highlights a key finding that younger children who are unaware of sharenting and its ramifications are the most vulnerable and are in need of protection.

Privacy/Security Measures

While parents and young adults try to be security conscious, young adults are proactive, whereas parents adopt a more ‘learned helplessness’ approach to privacy measures. Approximately 70% of parents believe that it is outside their control. All the young adults interviewed believe that the protection of their online privacy rests with themselves, whereas parents believe that the responsibility lies with the social media providers. The lack of caution displayed by parents has led to 80.6% of the young adult sample being more cautious with online engagement. A large proportion of young adults believed that they have benefited from their parents’ less than cautious online engagement as they are now more cautious. Around 40% of the interviewed parents tend to have some degree of confidence in the online security measures that are currently in place, whereas nearly all the young adults interviewed are more sceptical about the security measures offered by the social media sites.

Coercion

Interviewed parents referred to the manner in which they felt that they are coerced into having a digital presence to prevent the social exclusion of their children. Parents of children with health issues are encouraged by health and educational professionals to create an online presence for their children. More than half of the young adults who were interviewed, likewise, referred to the manner in which sport clubs and schools expected them to agree to be photographed and have their images uploaded on school and sports clubs’ websites.

Blank Digital Canvas (No Social Media Presence)

Approximately 90% of the interviewed parents believe, given the presence of social media in our lives, that it would be impossible for children to have a blank digital canvas. Significantly, the findings of this research reveal that 95.5% of young adults support overwhelmingly the argument for a right to a blank digital canvas. Young adults believe that this can be achieved by not sharing children's images and information. In addition, 62.7% of young adults say that, in the future, they will never post images of their children. A large proportion of the interviewed parents believe that it is too late to change the public's mindset.

The majority of young adults (92.8%) believe that the right of the child to create his/her own narrative outweighs the right of the parent to create a digital presence for their minor children. Adults have a limited knowledge of the negative effects of having an online presence, they do not wholly comprehend the effect of some negative aspects, not least the fact that the images may be visible to the world and open to the possibility of decontextualisation. Young adults are aware having lived through that potential threat and, as a result, they use different techniques such as delayed posting and hiding their locations to protect themselves. They may have two or more accounts.

Curated Image

Young adults value the validation and positive feedback from their friends.³ Both groups acknowledge that young people are more concerned with the actual image being shared. Young adults are more conscious of

³Danah Boyd, "Why Youth (Heart) Social Network Sites: The Role of Networked Publics in Teenage Social Life.", *MacArthur Foundation Series on Digital Learning – Youth, Identity, and Digital Media* Youth, (Cambridge, MA: MIT Press 2007).

the long-term effect of online posting and the fact that images they may not like are available in a public platform. Young adults appear to use social media to portray a particular image of their choice. Parents are doing likewise. However, parents prefer to share the authentic image, whereas young adults prefer to share a more curated image of their own choice. The fact that teenagers want to post curated images highlights their desire to craft their own identity which may not correspond with what parents may consider ‘cute’ and authentic images. Ouvrein and Verswijvel’s study reference adolescents’ concern with parents’ willingness to share ‘ugly and embarrassing photos’.⁴ The fact that parents are less inclined to consider the impact of the image that they have shared strengthens the argument in favour of the right of the child to create his/her own online narrative.

Digital Upskilling

With regard to education and the adoption of safe practices, parents feel that they are out of touch and that it is too difficult to upskill. They prefer to rely on others, whereas young adults, while they acknowledge that there is a need for more education, they accept that the responsibility should remain with the user. Parents feel that the online providers should bear the majority of the responsibility for the safeguarding of digital privacy. It could be argued therefore if parents are permitted to share that they have an obligation to upskill and not adopt a learned helplessness approach.

Covid-19 Effect

Both groups agree that the pandemic has increased online sharing and that sharing has become more intrusive during the pandemic as the

⁴Gaëlle Ouvrein and Karen Verswijvel, ‘Sharenting: Parental Adoration or Public Humiliation? A Focus Group Study on Adolescents’ Experiences with Sharenting against the Background of Their Own Impression Management’ (2019) 99 *Children and youth services review* 319.p.323

posted images tend to revolve around and within the home. Parents were using the home scene to showcase their homemaking skills, whereas young adults were doing so because they had no alternative locations owing to lockdown. This study revealed that approximately 95% of the posted content during covid related to the content within the home due to the restrictions on social events and travel.

Cyber-Attacks

Cyber-attacks are a common reality in this technological era. Interviewees believe that the majority of people think that it could never happen to them. The current lack of awareness and concern with cyber-attacks indicate the need to address the security of the private identity of children on the social media platforms. Parents need to be cognisant of the possibility of cyber-attacks. Most of the interviewed young adults believed that the lessons learned from the Health Service Executive (HSE) cyber-attacks will be short-lived. They believed that the older generation need to learn from the HSE cyber-attack. The individual's most sensitive, personal and private information was made vulnerable on the most public of fora during this attack. Young adults are of the view that the implications of these attacks did not resonate with adults.

6.4 Interpretation of Key Findings

The interpretation of the findings reveals issues, most of which impact substantially on the privacy of the identity of children. While this research provides valuable data regarding parents' online engagement, the most critical interpretation of the results from this data centres around the research questions which focus on: parents perspectives with regard to their children's data: why parents feel the need to engage in sharenting; why there is complacency about the issue of privacy, the extent to which

parents who engage in sharenting consider the rights of their child to privacy, the right to have their voice heard, the right of the child to a private identity, the right of the child to self-determination and the right of the child to craft their own online narrative.

6.4.1 Limited Perception of the value of the Child's Data

The online sharing of children's data by parents (72.9%) has become a common practice of parenting behaviour. Widespread engagement with sharenting has become an everyday parental practice on image-centric social networking sites, with immediate benefit to parents and unacknowledged identity-altering ramifications for children. It is used to document family milestones (8.1%) and, also as a means of communication (62.2%). Both the quantitative and qualitative data collected from parents reveal that there is limited appreciation among parents that shared information can be collected, misused and distributed. Parents tend to adopt the mindset that they have nothing to hide, as there is nothing of value being shared without realising that some of the data they share, in fact, belongs to their minor children. From the interviews carried out, parents do not appear to comprehend the 'value' of data shared and how this data is used by social networking sites. Family photos, for example, represent valuable data which can be mined and used for advertising, profiling. Interviewee 10, for example, said: "Why do they need a family photograph?" Parents fail to appreciate the metadata that can be extrapolated from this raw data which may be used inappropriately and illegally.

Furthermore, there is little recognition given to the possibility that data may be decontextualised and may be used inappropriately and prejudicially. Parents, in this study, believe that they are sharing their children's images and data within a safe and secure environment with

family and friends. The results reveal that the extent of sharing suggests that there is a low-level awareness with regard to the myriad of ways in which data may be collected, including the use of facial recognition and algorithms which can be used to track and identify individuals. This limited perception of the value of data has resulted, not only, in the creation of digital footprints for minors but, in minors becoming targets for advertisers. The research findings indicate that young adults, being more aware of the value of data know that their parents underestimate the manner and extent to which the shared data may be used and the manner in which the capabilities of minors might be compromised.

6.4.1.1 Digital Footprint

Despite the age restriction on children's online engagement, the increasing practice of sharenting has resulted in an increased circulation of minors' private information culminating in the creation of a digital footprint from a young age. This results in the online existence of a huge volume of exploitable and highly personalised data traces (family social activities amounted to 12.16%) which may impact later life. This limited appreciation of the practical implications of sharenting is noted by Follet, who said that, "something posted online now may not be appropriate as these images may be used to embarrass them in their delicate teenage years", and may be accessed in the future by interested parties.⁵ Despite evidence to the effect that shared data may potentially have a worldwide viewership, data from this investigation reveals that parents underestimate the relative ease with which the shared lived experiences of today's child are being recorded for further use.

⁵Reporter, 'Sharing Snaps of Your Children Online "Could Cost Them a Job"' *Mail Online* (United Kingdom, 8 February 2014) Comment by Richard Follet ambassador for the Child Exploitation and Online Protection Centre <<https://www.dailymail.co.uk/news/article-2554438/Sharing-snaps-children-online-cost-job-employers-embarrassing-photos.html>> accessed 30 July 2022.

6.4.1.2 Sharenting as a conduit between Advertisers and Minors

Data protection demands an input incorporating organisational culture and citizen behaviour.⁶ Minors feature among the most targeted consumers in society. Minors are targeted because minors are believed to exert a strong influence on the family budget. Their brand preferences are still forming, and advertising companies expend considerable budget researching the habits of children and their families. Research by advertising companies involves gathering valuable data that allows them to market their products to young children. Although companies are limited in the data that they can collect from children under a particular age, this does not inhibit them from gaining insights into children's behaviour and preferences.

The earlier a child's interest is formed, the earlier, they become customers and this creates a market for additional products. Sharenting includes material relating to: social activities (12.16%), family celebrations (43.2%) and children's achievements (10.08%). The information, while it may not be personally identifiable, it is, however, of considerable value. The digital presence of minors allows companies to profile and manipulate the tastes, interests, preferences, and even the locations of minors so that they can market products to them or sell the minor's data to other companies.

6.4.2 Increasing Need for Social Capital

The growth in online technology has led to the normalisation of online interaction which helps parents to increase their social capital in an increasingly fragmented modern day society. Parents, specifically new mothers feel disenfranchised and excluded and they seek support and advice from online groups. First time parents may experience a loss of visibility as their newborn takes centre stage. There was only one interviewee in this

⁶Philip Agre and Marc Rotenberg, *Technology and Privacy: The New Landscape* (MIT Press 1997).p.120

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study who had an infant, but she was quite vocal with regard to her need for the support of an online community. This is particularly applicable for new mothers who are no longer working outside the home. As new parents, their social presence is reduced and social media provides a niche for social interactions, it enables self-presentation, social presence and communication. It is a measure of regaining social control and social visibility.

Social media provides them with the tools to replace offline spaces with online spaces. The pandemic has contributed substantially to the increased reliance on online interaction. Their children's information and images form the legal tender of connectivity. This information shared in this study related to children's achievements (10.8%) and family celebrations (43.2%). Data from this investigation reveals that 62.2% of parents use social media as a form of social interaction.

The desire to be envied by other parents outweighs their regard for caution. There is an increasing need by parents (72.9%) to engage in sharenting and to create a family narrative that depicts the family as a solid cohesive unit. Parents (8.1%) shared children's information to generate likes. Parents want to validate their role as good parents. Photographs of happy children identify the parent as a competent, caring individual.

Social media facilitates connectivity with a view to creating both physical and/or emotional support. Online interaction is predicated on the need to construct a social persona and to create a reciprocal online friend group. Disclosure is rooted in the formation of social capital. Online participation is central to integration into specific groups. There is a strong impetus towards investing in one's online acquaintances as reciprocity is instantaneous. Connectivity is contingent on the continued generation and disclosure of content. The increasing need for social connectivity arises from parents' feeling of invisibility, need for social inclusion, health solidarity and virtue

signalling, all of which have major implications for the private identity of minors.

6.4.2.1 Social Inclusion / Health Solidarity

Parents in this investigation intimated that they are increasingly encouraged to use WhatsApp groups to keep themselves informed of their children's sports fixtures and social excursions. They are obliged to participate in social groups to ensure that their children are not excluded from social events. They endeavour to protect their child against the 'fear of missing out' (FOMO) factor. Parents feel coerced into engaging in online groups to ensure that their child remains affiliated to a particular sport or social cohort. Parents of children with health and educational challenges are obliged to connect with other parents to access support, advice and funding purposes. Parents note that health specialists and educational facilities encourage families of children with health and/or intellectual challenges to engage with an online community of parents. Young adults noted that schools and sports clubs expected them to participate in online publicity on a regular basis.

6.4.3 Limited Perception of Risk

There is an identifiable disjuncture between what is said and done about privacy management. Data from this investigation revealed that parents (61.2%) do not engage with any particular practical strategy to safeguard their minors' private identity. The use of WhatsApp by sporting bodies instils confidence in WhatsApp in parents, despite WhatsApp being penalised by the Data Protection Commissioner in Ireland for alleged privacy breaches.⁷ While the perception of risk may curtail and slow down disclosure, this is offset by the benefit to be gained from connectivity. The

⁷Will Goodbody, 'WhatsApp Ireland Hit with Record Fine of €225m by DPC' <<https://www.rte.ie/news/business/2021/0902/1244293-whatsapp-gdpr-ruling/>> accessed 26 April 2022.

debasement of privacy and the lack of a best practice framework have resulted in privacy/connectivity paradox and digital fatigue among parents.

6.4.3.1 Debasement of Privacy

The existence of a regulatory vacuum with regard to sharenting represents a concern for parents. They lament the absence of guidelines to help them to decide on which material is appropriate to post and how to post it in a safe and secure manner. Data from this investigation shows that the non-existence of practical education or an instruction framework on how to navigate privacy measures is difficult for parents. Currently, the determination of the appropriateness of minors' uploaded data rests with the social network providers. The inability to control the dissemination of personal data has not been met with a commensurate engagement with prudent management of privacy.

While a concern for privacy exists, cyber abstinence is not considered as an option by parents. Some of the parents participating in this investigation regard the compromise of privacy as being unavoidable, even imperative to regain connectivity. The caution exercised by parents with regard to the safety of their underaged children in the physical environment is not replicated in the virtual space. This emphasises the difficulty on parents' part to appreciate the potential impact of online engagement.

Young adults said that 20.9% of parents did not check privacy controls prior to sharenting and 40.3% of parents lacked the knowledge on how to engage with privacy measures. This viewpoint is replicated in reviewed literature. Autenrieth observes that parents struggle with the growing phenomenon of 'visualisation' in the online arena.⁸ Parents, while acknowledging that they have a responsibility to secure their children's online presence struggle to

⁸Ulla Autenrieth, "Family Photography in a Networked Age" in *Digital Parenting The Challenges for Families in the Digital Age*, *Digital Parenting. The Challenges for Families in the Digital Age* (Goteborg: Nordicom 2018).p.228

balance online behaviour that secures their child's privacy and the benefits associated with sharenting.⁹ In addition, the commercial interests of social network providers in relaxing the norms around online privacy tends to lull parents into a sense of security, and they exercise low to non-existent caution with security measures. There is failure to recognise that the social media brings identities, practices and audiences together.

6.4.3.2 Privacy/Connectivity Paradox

The conflict between safeguarding privacy and connectivity is evident from the data in this study. Parents acknowledge their less than satisfactory approach with privacy measures. Young adults in this study recognise the manner with which parents may struggle with online engagement, but they find it difficult to understand their parents' recklessness and failure to engage with basic precautionary measures. Parents' relaxed attitude towards privacy has been explained as a failure to engage fully with the concept.¹⁰ There is recognition that parents struggle between privacy-protective behaviour to protect their children's privacy¹¹ but the desire to be the subject of envy outweighs their concern.¹² Interviewee (no.5) said, "We do know the implications that someone may collect your data but it is beyond your control and yet you do need to use social media and Facebook to contact others." Parents according to Livingstone et al. are concerned with privacy issues and some 'overprotect' children, whereas others believe that

⁹Tawfiq Ammari and others, 'Managing Children's Online Identities: How Parents Decide What to Disclose about Their Children Online', *Proceedings of the 33rd Annual ACM Conference on Human Factors in Computing Systems* (Association for Computing Machinery 2015) <<https://doi.org/10.1145/2702123.2702325>> accessed 30 July 2022.

¹⁰Ouvrein and Verswijvel (n 4),p.325

¹¹ Tawfiq Ammari and others, 'Managing Children's Online Identities: How Parents Decide What to Disclose about Their Children Online' (SIGCHI 2015).

¹²Amina Wagner and Lisa Alina Gasche, 'Sharenting: Making Decisions about Other's Privacy on Social Networking Sites' (2018) Publications of Darmstadt Technical University, Institute for Business Studies (BWL) <<https://www.semanticscholar.org/paper/Sharenting%3A-Making-Decisions-about-Other%27s-Privacy-Wagner-Gasche/cfafd0c80ed96340b79048cb356dba83892b2742>>.

the solution lies in ‘exposure’ to ‘innoculate’ them from harms.¹³ Online privacy concerns are a paradox, because despite privacy concerns, personal details are disclosed by users on a regular basis. There is no apparent connection between privacy concerns and proactive measures to protect one’s privacy. This is in line with Mills’ view of social media as being both a “theatre and a community” which facilitates users to enhance our experiences in an uninhibited manner.¹⁴ There is a distinct failure to address the issue of algorithms and the extent of their control and influence over the shared data. This finding concurs with Livingstone and Blum-Ross’s findings that digital technologies represent a double-edged sword for parents, on the one hand, they struggle with its pervasive presence and, on the other hand, they embrace the possibilities afforded to them by technology.¹⁵

6.4.3.3 Digital Fatigue

Parents, in their constant effort to curate a safe digital haven have become disengaged and overwhelmed. It has been reported that between 12% (Germany) and 69% (Serbia) children help their parents when they are faced with digital challenges.¹⁶ This finding is replicated in the report on European EU Kids Online 2020, in which there is reference to ‘reverse mediation’ whereby minors help their parents with digital security.¹⁷ The constant battle to secure privacy and mitigate the risks and that feeling that they may be

¹³ Sonia Livingstone and Alicia Blum-Ross, *Parenting for a Digital Future. How Hopes and Fears about Technology Shape Children’s Lives*. (Oxford Scholarship Online 2020),p.18

¹⁴Max Mills, ‘Sharing Privately: The Effect Publication on Social Media Has on Expectations of Privacy’ (2017) 9 *Journal of Media Law* 45.p.47

¹⁵Sonia Livingstone and Alicia Blum-Ross (n 13). p.189

¹⁶ Bojana Lobe and others, ‘How Children (10-18) Experienced Online Risks during the Covid-19 Lockdown - Spring 2020’ (2021) <<https://publications.jrc.ec.europa.eu/repository/handle/JRC124034>> accessed 24 May 2022.

¹⁷ D Smahel,H, Machackova, G Mascheroni, S Livingstone,and U Hasebrink, ‘EU Kids Online 2020: Survey Results from 19 Countries. EU Kids Online.’ (2020) <10.21953/lse.47fdeqj01of0>.

compromising the privacy of their minors leaves parents digitally fatigued. Parents experience a low sense of self-efficacy with regard to online privacy management and are overwhelmed and unable to overcome that sense of helplessness. Research findings from this investigation highlight that parents believe that they are powerless in the face of the ‘control and manipulation’ by technological companies. Interviewee 9 said that: “the current engagement model links up likeminded people and we are stuck in an echo chamber. The algorithm does not allow you to use your discretion or judgment.”

The Social media sites privacy controls are evolving and changing on a constant basis which makes it more difficult for parents. The privacy consent statements are lengthy, complex and difficult to comprehend. Parents find that efforts to secure the privacy of shared data may result in online exclusion. Opting out of online social engagement represents an ongoing dilemma for parents.¹⁸ They struggle with the technology safeguarding measures and they give their consent as a matter of expediency. Young adults regard parents’ sharenting practice as being careless and they endeavour to help their parents to navigate social media in a safe and private manner.¹⁹ Data from this research reveals that parents believe that the battle to restrict access to private data is a lost battle and that the divergence between parents’ wishes and the game plan of online is immense.

¹⁸Charlotte Chalklen and Heather Anderson, ‘Mothering on Facebook: Exploring the Privacy/Openness Paradox’ (2017) 3 *Social Media + Society* 1.p.9

¹⁹Ouvrein and Verswijvel (n 4).p.325

6.4.4 Limited engagement with the rights of the Child

The limited acknowledgement of the rights of the child has led to the parental abdication of their caretaking role, the minors' voices being silenced and disregard for their evolving capacities.

6.4.4.1 Limited understanding of and abdication of Caretaker Role by Parents

Articles 41, 42 and 42A of the Constitution of Ireland uphold the right of a child to be cared for by their parents. Article 9 of the UNCRC supports the entitlement of the child to the support and protection of the family. A parent's chief and overarching task is to nurture their child's development from that of a dependent infant to a capable and independent adult. The expectation is that this support and protection would apply equally to the virtual world. Parents' online engagement has led to the reconfiguration of children's rights. Data from this research reveals that parents have a limited understanding of their role as stewards of the digital privacy of their children. There is a belief that this role is limited to the gatekeeping of their children's online activities, and that this role does not have any bearing on their own online activities. The reality, however, is that parents may be unknowingly shaping their children's digital identity before the child has sufficient agency to agree to the sharing of such information. Sorensen refers to the view that parents are 'wired' to share information about their children.²⁰ A significant part of the parental role must be the protection of their child's privacy and the pleasure of connectivity.

Parents, as gatekeepers of the children's private identity find this role challenging. In view of the exponentially growing myriad of ways in which

²⁰Shannon Sorensen, 'Protecting Children's Right to Privacy in the Digital Age: Parents as Trustees of Children's Rights' (2016) 36 Children's Legal Rights Journal 156.p.175

data has been utilised over the last ten years and, given the current desire for metrics, the possibility is likely that this very data may be used to value children's personal capital.

6.4.4.2 Silenced Voice of the Child

Data reveal that children are not, for the main part, consulted prior to the sharing of material online, as parents believe that the shared information is valueless. The child's voice is unheard in the current online world of sharenting. In this study, parents disregard consent if they feel that they are not answerable to their children. The level of engagement with consent is very limited and young adults stated that 55.2% of parents never sought consent, whereas 32.8% sought consent sometimes. There is a belief that consent should be sought from older children, thereby indicating that consent is a 'horizon' issue and should commence at a particular age. This need to seek consent from older children arises from the recognition that older children are more vigilant and more conscious regarding their online presence. Ortiz maintained that the difficulty of privacy is connected to the perception of privacy, the determination of its boundary and the significant role of consent.²¹ Parents decide on the value of the posted content. Some caution should be acknowledged with overreliance on consent on the grounds that consent and anonymity should not bear the entire responsibility of protecting privacy.²² Consent cannot be expected to be a 'silver bullet'²³ in the protection of privacy and, has no role to play with regard to the protection of very young children. Consent could potentially play an

²¹Daniel R. Ortiz, 'Privacy, Autonomy, and Consent' (1989) 12 *Harvard Journal of Law & Public Policy* 91.p.92

²²Solon Barocas and Helen Nissenbaum, 'Big Data's End Run around Procedural Privacy Protections' (2014) 57 *Communications of the ACM* 31 p.33 <<https://dl.acm.org/doi/10.1145/2668897>> accessed 30 June 2021.

²³Elisabeth Denham, 'Consent Is Not the "Silver Bullet" for GDPR Compliance | Information Commissioner's Office' (August 2016) <<https://www.wired-gov.net/wg/news.nsf/articles/Consent+is+not+the+silver+bullet+for+GDPR+compliance+17082017160500>> accessed 30 July 2022.

important role for those children who understand the relevance of consent. Consent lays the foundation for parental self-control and, more importantly, it educates minors on the value of empowerment through choice. It gives children the opportunity to have their voice heard.

6.4.4.3 Limited Recognition for the Evolving Capacities of the Child

The Capabilities approach recognises the evolving capacities of minors and the transition from childhood to adulthood as an evolving process. Article 5 of the UNCRC says that the direction and guidance that parents give their children should reflect the evolving capacities of the child.²⁴ In recognition of the child's evolving capacities, all children have the right to have their viewpoints heard and for them to be taken seriously. The weight accorded to children's view is dependent on their evolving capacities, the extent to which they can understand the issue and the possible outcomes of a decision. While parents may acknowledge the need for differing approaches as the child matures and their capacities evolve, in practice, however, the findings of this research indicate that nevertheless, parents are continuing to share without seeking their children's consent.

Given that 61.2% of shared material relating to school, sport and family events, teenagers should be entitled to have a say in the issue of sharenting. This current practice of sharenting without consent is eroding the child's agency. Traditionally, children have been viewed as pre-social beings who are being developed and socialised by adults towards adulthood.²⁵ This deficit model is ceasing to be significant as children are being viewed more and more as being competent.²⁶

²⁴General Data Protection Regulation, 2016' (n 1).

²⁵Berry Mayall, *Towards a Sociology for Childhood: Thinking from Children's Lives* (Open University Press 2002).

²⁶Stacey B. Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' (2016–2017) 66 *Emory Law Journal* 839.

6.5 Implications

6.5.1 Erosion of the privacy of the child's Identity

Sharenting may result in the identity of the child being transformed into marketable data products available to endless outlets. While personal data may be anonymised, artificial intelligence can be employed to de-anonymise this data. The de-anonymisation of data represents a huge challenge to privacy and the protection of data. As a result of sharenting, the images and personal information of the child may be visible on the worldwide web. There is a vital boundary between public and private life which is frequently crossed by modern-day parents who have altered the landscape of the world for developing children. It is not really just breaching their privacy and identity, it is also arguably putting them at risk in other ways, in ways, that parents may not permit offline.

Their control over that which they wish to share and the creation of a media presence is not the child's decision. The contention that children are not concerned about privacy has not been proven.²⁷ Young adults who participated in this investigation indicate a heightened concern about privacy. The sharing of children's data has, not only, resulted in a mediated digital identity, but also, in the manipulation of the child's agency. This results in a large proportion of minors inheriting a curated online identity. The filter used to determine which information should be shared is low-level. The disjoint between sharenting and the appropriateness of the level of content being shared represents a significant threat to the privacy of the child's identity of a minor. The research suggests that the child's online identity narrative is defined by the parental online narrative. Young adults from this research referenced the manner in which online posts became more

²⁷Benjamin Shmueli and Ayelet Blecher, 'Privacy for Children' (2011) 42 Columbia Human Rights Law Review 759.p.761

invasive during the pandemic. Children have a right to enter adolescence with the freedom and capability to craft their own online presence.

6.5.2 Lack of Protection for Children's Private Data

The GDPR laid down restrictions on the processing of minors' data. These restrictions and protective measures did not apply to the sharing of data by families. Recital 38 of the GDPR notes that 'children merits specific protection with regard to their personal data'.²⁸ This acknowledgement of the need for extra protection is due to their inability to comprehend the risks of information sharing. By sharenting parents are normalising the surveillance of children and, this in turn intrudes on their right to privacy over their identity and their right to craft their own online presence.²⁹

Sharenting has significant ramifications for minor children and the protection of the child's right to privacy over their identity has been largely unaddressed from a regulatory/legislative perspective. The uploading of children's photographs and personal information online by parents remains the unfettered decision of parents. If the parent is of the belief that the uploading of children's photographs does not 'arbitrarily interfere' with the rights of the child, then they can effectively rubberstamp their own online posting of their children's photographs. Accordingly, non-competent children by reason of age or intellectual competency are disadvantaged because the safeguarding of their online privacy depends on their legal guardian's views. The argument can be made that some parents are sacrificing their children's privacy for the enhancement of their own online presence.³⁰

²⁸ 'General Data Protection Regulation, 2016' (n 1).

²⁹ Sheila Donovan, "'Sharenting': The Forgotten Children of the GDPR' (2020) 4 Peace Human Rights Governance 35.

³⁰ Donovan (n 29).

6.5.3 Exposure to Potential and Real Harms

Connectivity comes with a price, this price being the global exposure of one's identity. One is obliged to share a considerable quantity of identifiable information to enjoy the benefit of connectivity. This global exposure is accompanied by surveillance. The practice of sharenting results in children becoming the object of surveillance. In the words of Lupton and Williamson, "children are configured as algorithmic assemblages" resulting in the compromise of their potential complexities, abilities and opportunities.³¹ Some social media platforms have until recently integrated facial recognition technologies with 'tagging' functionality, enabling the identification of children in photos.³² Images may be reused for inappropriate or illegal means, identity theft, embarrassment, bullying or digital kidnapping. Holloway says that "contemporary childhood is migrating to the digital realm."³³ Today, the probability that children may be datafied is high due to the existence of the various internet connected devices and toys in the home. This threat is intensified manyfold by sharenting. Accompanying this exposure is the possibility of various crimes including identity theft, surveillance, bullying, extortion, data mining and various other crimes. The exposure of minors to increasing negative experiences in the form of bullying, cybercrime, unwanted contact, hate messages cyber hate and crimes have been highlighted by European EU Kids Online 2020.³⁴ Predators utilise social media to prey on children whose information can be derived from online articles and posts. Bullying features as one of the main concerns of the young adults in this investigation, this has also featured strongly in a

³¹Deborah Lupton and Ben Williamson, 'The Datafied Child: The Dataveillance of Children and Implications for Their Rights' (2017) 19 *New Media Soc.* 780.p.787

³²Mark Andrejevic and Neil Selwyn, 'Facial Recognition Technology in Schools: Critical Questions and Concerns' (2020) 45 *Learning, Media and Technology* 115.

³³Donell Holloway, 'Surveillance Capitalism and Children's Data: The Internet of Toys and Things for Children' (2019) 170 *Media International Australia* 27.p.34

³⁴ D Smahel,H, Machackova, G Mascheroni, S Livingstone,and U Hasebrink, (n 17).

report carried out by the Joint Research Centre which observed that 37% of children in Ireland experienced cyberhate during the lockdown.³⁵

6.5.4 Manipulation of Data

Surveillance capitalism is an economic system based on the commodification of personal data with the main purpose of profit-making. Zuboff argues that surveillance capitalism depends on “a global architecture of computer mediation....which produces a distributed and mostly uncontested new expression of power is said to claim human experience as free raw material to be converted into behavioural data.”³⁶ The data of individuals is used for datafication, manufacturing and monetisation.³⁷ The increase of modern technology has resulted in data mining, surveillance and the opening up of private life for the public consumption. Sharenting results in the online sharing of children’s personal data which may be subjected to algorithms. Algorithms capture the digital traces left by shared data. Advertisers use website cookies document, track and target minors.

Currently, data has become the most valuable commodity. Its potential to be compromised is pervasive, more so of late with the increasing exposure of data on the worldwide web. Children’s data, in particular, is most valuable as it represents unused material. Children’s identity is of particular value as the minor’s social identity number will remain out of circulation and infringements remain undetected until such time as when the child reaches the age of majority. This investigation reveals a limited recognition by parents of the potential of shared data to be reshared and its’ susceptibility to potential infringements.

³⁵Bojana Lobe and others (n 16).

³⁶Shoshana Zuboff, *The Age of Surveillance Capitalism: The Fight for a Human Future at the New Frontier of Power* (First edition, PublicAffairs 2019).p.8

³⁷Shoshana Zuboff (n 36).p.233

6.5.5 Potential Compromise of Children's Rights

Livingstone referred to the “increasing mediation of children’s lives has initiated the debate as to whether ‘the digital age’ is enhancing or undermining children’s rights, with current controversies centring on children’s right to the same online privacy as offline, to information and freedom of expression, and to protection from sexual and aggressive threats which are amplified by the internet.”³⁸ Sharenting is very much the decision of parents with little or no input from children. The right of a child to privacy over their identity, to freedom of expression, to a voice in issues pertaining to them and the recognition of their evolving capabilities are ignored. Sharenting is invasive and compromises the future freedom of the child. Children need online protection as much as they need offline protection.³⁹

The United Nations Convention on the Rights of the Child acknowledges the importance of the privacy, autonomy and harmony of the family unit, but in this, children’s rights are often grouped with their parents, failing to specifically offer them protection.⁴⁰ While the collection and use of children’s data raises issues regarding children’s privacy, concerns have also been raised about the loss of control of personal data, as well as the potential for direct or inadvertent discrimination and profiling which results in the erosion of one’s autonomy.

The data economy is growing rapidly. Online providers are exploiting and monetising children’s data. Artificial intelligence is used to extract detailed and personal information from the gathered data. Huge amounts of data are

³⁸ Sonia Livingstone, ‘Reframing Media Effects in Terms of Children’s Rights in the Digital Age’ (2016) 10 *Journal of Children and Media* 4.p.5

³⁹ Shmueli and Blecher (n 27).p.793

⁴⁰ ‘Convention on the Rights of the Child’ (*OHCHR*, 1989) Article 8 <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>> accessed 20 July 2022.

being processed on a regular basis. Lupton referred to the use of ‘post-panoptic’ methods of surveillance through the use of digital technologies.⁴¹ Children’s data is of particular value given that they have a whole lifetime ahead and given that their data has been previously unexploited. Sharenting results in the crafting of an identity that is mediated and scripted by parents with no input from children.

Self-determination

Sharenting can potentially influence and shape children’s self-determination. The Capabilities Approach recognises the capabilities of the child and the right of the child to be enabled in the development of their capabilities. Parents, in sharenting, share their own interpretation of children’s experiences. This can leave children confused as to their identity and can result in them conforming to their parents’ expectations and impacts on the freedom of young adults to craft their own identity.⁴² Children as a result of sharenting may base their sense of identity on public perception in the online arena or that which they perceive as being of importance to their parents.⁴³

Privacy

Privacy is the ability to control one’s personal data and to determine how accessible it should be. This exposure of personal and sensitive information may force us to rethink our appraisal of privacy.⁴⁴ Protection of privacy in

⁴¹Deborah Lupton, ‘You Are Your Data: Self-Tracking Practices and Concepts of Data’ in Stefan Selke (ed), *Lifelogging: Digital self-tracking and Lifelogging - between disruptive technology and cultural transformation* (Springer Fachmedien 2016) <https://doi.org/10.1007/978-3-658-13137-1_4> accessed 30 June 2021.

⁴²Nadine Davidson-Wall, “‘Mum, Seriously!’: Sharenting the New Social Trend with No Opt-Out.” (2018) <<http://networkconference.netstudies.org/2018OUA/2018/04/22/mum-seriously-sharenting-the-new-social-trend-with-no-opt-out/>> accessed 14 April 2022.

⁴³Nadine Davidson-Wall (n 42).

⁴⁴Adam D Moore, ‘Privacy: Its Meaning and Value’ (2003) 40 *American Philosophical Quarterly* 215.p.223

the home is no longer guaranteed to minors.⁴⁵ The current generation of minors are the most watched over generation in memory. This proves difficult in the online arena where the public and private data and images are being continuously merged.⁴⁶ One is no longer aware of who has access to one's data. It is difficult to quantify the physical space and audience. Although privacy is generally considered as a basic human right⁴⁷ enabling people to determine how and to what extent they disclose information to, and withdraw it from others,⁴⁸ research shows that privacy is experienced and felt differently depending on one's relative position within society.⁴⁹ Parents may believe that the audience is restricted to their choice. The virtual space does not resemble the perceived physical space.

Voice of the Child

The voice of the child is strongly linked to the development of the child's capabilities. The respect for the voice of the child in the home is dependent on their parents or legal guardians. Children's relative position in, not only, the familial milieu, but also in the general society determines the significance allocated to privacy and personal data. As it stands, the voice of the child has little input into the choices made with regard to online sharing of the personal data of the child. Data emerging from the contribution of the Young Adults who participated in this study highlighted the importance that they attributed to consent and the right of children to have an input in matters that pertained to them. Parents, it would appear are only expected under the GDPR to play a supervisory role over their children's access to the

⁴⁵Shmueli and Blecher (n 27).p.760

⁴⁶Agre and Rotenberg (n 6). p.89

⁴⁷ Samuel D. Warren and Louis D. Brandeis, 'The Right to Privacy' (1890) 4 Harvard Law Review 193.

⁴⁸ Alan Westin, 'Privacy And Freedom' (1968) 25 Washington and Lee Law Review 166.

⁴⁹Alice Marwick and Danah Boyd, 'To See and Be Seen: Celebrity Practice on Twitter' (2011) 17 Convergence 139. p.140

online world. They frequently set limits on children's internet usage and expect schools and organisations to obtain permission before sharing photographs or information about their children online. However, children have no "opt out" opportunity should they wish to remove themselves from the digital world.⁵⁰

6.6 Merits of a legal Right to a Blank Digital Canvas

In recognition of the rights of the child to protection, provision and participation as provided for under the United Nations Convention on the Rights of the child, this research has shown that sharenting can potentially compromise the rights of the child. Their images and personal information are often shared without their consent and they are exposed to potential harms. There is limited regard for their right to consent. The GDPR imposes the responsibility for consenting to the processing of children's data by companies on parents. While Recital 38 acknowledges the merit of the child to specific protection with regard to their personal data, Recital 18 of the GDPR exempts personal and household activities from the constraints imposed by the GDPR with regard to the processing of children's data. Article 17 of the GDPR entitles children to the right to be forgotten, and this, while welcome, does not address what happens in the interval between posting and the moment of erasure. Data gathered within this study highlights the difficulties encountered by parents in their effort to balance their engagement with sharenting and privacy measures. While the rationale of the GDPR is to protect and safeguard children's privacy over their identity, it fails to address the right to privacy of the identity of children who are the subject of sharenting.⁵¹ In addition, it fails to have regard for the right of the child to self-determination and privacy.

⁵⁰Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' (2017) 66 Emory Law Journal 839.p.868

⁵¹Donovan (n 29).p.37

Chapter Six Discussion

How, then, is the right of the child to a private identity and freedom of expression to be safeguarded? The best interests of children are not met by the current digital privacy measures. Is there, therefore, an argument for a legal right to a blank digital canvas for a child who is incapable of consent, by reason of age or understanding? Should posting for those who are capable of a conditional consent only be done to a restricted audience? Finally, those who are capable of consent and who understand the full implications of sharenting, adequate provisions should be in place to ensure that such consent is obtained. This investigation reveals that parents have more regard for the nature of content being shared as children become older. This highlights that the most vulnerable group are younger children who are unaware by reason of age or understanding.

The introduction of a legal right could be justified on the grounds that it protects the child from harm and the existence of a statutory measure may serve as a caution to those who share images of their young children in the case of young children who are not capable of consent. However, as previously mentioned in chapter three, the guarantee of this right may be challenging given that parents have a right to freedom of expression. However, all rights face the same challenge. There has to be a balancing exercise. Hamming supports the need for “legal recourse as an influential solution to spark the reversal of a dangerous parental tendency.”⁵² The introduction of a legal right would be difficult to enforce as children would require a responsible adult to represent them. Parents, frequently disagree on the subject of sharenting with one parent opposed to sharenting.⁵³

⁵² Kate Hamming, ‘A Dangerous Inheritance: A Child’s Digital Identity’ (2020) 43 *International Journal of Network Security* 1033.p.1063

⁵³ Rechtbank Den Haag, ‘ECLI:NL:RBDHA:2018:13105, Rechtbank Den Haag, C/09/557604 / FA RK 18-5598’ (12 November 2018) <<https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2018:13105>> accessed 1 January 2022; ‘Rb. Gelderland - C/05/368427’ (*GDPRhub*) <https://gdprhub.eu/index.php?title=Rb._Gelderland_-_C/05/368427> accessed 31 December 2021.

Chapter Six Discussion

Sharenting may become an issue in family courts in the future. In France, there is a legislative right against the sharing of children's images but it is very rarely asserted. While legislative protection serves a function, in that, it acts as a deterrent, it is of limited value to minors who are unable to take any legal action until such time as they reach the age of majority, by which time, their digital identity may be well compromised. Legislation cannot keep pace with technology due to the length of time it takes to enact. Issues may have lost their importance or immediacy by the time this has been achieved. Should the introduction of legislative measures be abandoned due to the practical challenges that might accompany its introduction? Would the benefit of its presence in protecting the privacy of minors' identity overcome these challenges?

In recognition of the need for reform and while advocating the need for legal reform in instances where parties occupy an unequal position in terms of power and influence, Nissenbaum acknowledges that "policy and law are not the only means of preserving contextual integrity."⁵⁴ The adoption of a strategy that promotes the education, engagement, encouragement of parents to adopt a more child protective practice for online activities with enforcement as a final resort would be more preferable. The success of these measures would depend on engagement with the process and buying into the concept of the best interests of the child. Research findings from the young adults strongly support the right of the child to a blank digital canvas. Research findings from the parent interviews carried out for the purpose of this research indicate that parents are uncomfortable with the potential ramifications of sharenting and would welcome a government- led policy on sharenting.

⁵⁴ Helen Nissenbaum, 'Privacy as Contextual Integrity' (2004) 79 Washington Law Review 119.p.139

6.7 Recommendations

It should be recognised that online engagement is positive if it is used in a safe manner. Dangers, however, exist. It is important that a collaborative approach is taken to try to find a solution to this issue. Input should be sought from key stakeholders: online providers, the Data Protection Commissioner, Gardaí, parents and, in accordance with their rights under the CRC, children should be consulted, their views sought and taken into account in any proposed solution. In addition to positing this idea of a legal right to a blank canvas, it is recommended that further reforms would also be implemented. Based on the findings and conclusions presented and cognisant of the guidance provided in General Comment No. 25,⁵⁵ the following recommendations are proposed for consideration: early intervention, appropriate consent, limitation on friend group size, digital upskilling, recognition of the rights of children, child-friendly complaints and redress mechanism, transparent risk assessment, best practice guidelines, external unaffiliated oversight and delay between uploading and posting.

The following recommendations while emphasising child protection and safety are proposed with the recognition that there should be no unnecessary limitations on the civil rights and freedom of either adults or children. While children are erroneously regarded as digital natives, parents are believed to be on the periphery, it is time to bring both parties together to collaborate and bring about a safe digital experience.

⁵⁵ CRC/C/GC, ‘General Comment No. 25 (2021) on Children’s Rights in Relation to the Digital Environment’ (2021) <<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-25-2021-childrens-rights-relation>> accessed 28 August 2022.

Recommendation 1

Early Intervention

Early intervention is central to the solution for sharenting. There is a need to address sharenting from a public health perspective as sharenting may have longterm mental health implications for children and parents.⁵⁶ Sharenting may represent a health issue that can be addressed at a very early stage before the commencement of the online presence. An educational programme regarding the implications of sharenting should be incorporated as part of the prenatal care programme, bearing in mind that some children's online profile begins with ultrasound scans. Quite often, first time parents celebrate their euphoric and joyous occasion with the uploading of several photographs on social media.

Recommendation 2

Sharenting Boundaries

The agreement on boundaries by parents and children regulating the content, intimacy of shared information, the frequency of sharenting and the child's consent may be a solution for minors who are capable of consent.⁵⁷ Consensus between parents and children on the scope and content of shared material would give recognition to the capabilities approach advocated by Nussbaum. Data revealed a low to non-zero engagement with consent, a finding which is replicated in the study carried out by Moser, Chen & Schoenebeck. Their study found that while parents agreed with the need to request consent from their children, they freely admitted that they fail to

⁵⁶ Stacey B Steinberg, 'Sharenting: Children's Privacy in the Age of Social Media' (2017) 66 Emory Law Journal 829,p.877

⁵⁷ Michael Walrave,Karen Verswijvel,Gaëlle Ouvrein,Luna Staes,Lara Hallam,Kris Hardies, 'The Limits of Sharenting: Exploring Parents' and Adolescents' Sharenting Boundaries Through the Lens of Communication Privacy Management Theory' <<https://www.frontiersin.org/articles/10.3389/feduc.2022.803393/full>>.

request consent.⁵⁸ Up to now, children embracing the digital world are entering a digital world synonymous with risk and the general tendency is to proscribe rather than empower. In *Gillick*, the UK House of Lords described the capacity to consent as “a sufficient understanding and intelligence to be capable of making up his own mind on the matter requiring decision.”⁵⁹ The consent of the child should be sought prior to sharing their private data. We should not assume that children’s wishes concur with their parent’s wishes. There should be a limitation on the size of the friend groups with whom parents are sharing images of their children. In the case of children who are incapable of consent by reason of age or understanding, arguably, there should be a blanket ban on sharenting or the use of measures to conceal the identity of the child.

Recommendation 3

Children’s rights-Evolving Capacity / Children’s Voice

Children are born with an innate capacity which develops as they grow under the guidance of their parents. Society has a tendency to measure children’s competencies against adults’ competencies and, decide that competency is a horizon issue that is of no significance during childhood. This assumption can act as a filter that inhibits adults from recognising the value of the child’s ability and can subsequently restrict their opportunities to exercise their right of choice in matters such as sharenting. Approximately 50% of the parents who were interviewed felt that children should be entitled to have a say in the information being shared. Children need to be included in any future debate on the measures to safeguard the

⁵⁸Carol Moser, Tianying Chen, and Sarita Y. Schoenebeck, ‘Parents’ and Children’s Preferences about Parents Sharing about Children on Social Media’, *Proceedings of the 2017 CHI Conference on Human Factors in Computing Systems* (2017) p.5223 <<https://dl.acm.org/doi/10.1145/3025453.3025587>> accessed 1 July 2021.

⁵⁹ *Gillick v West Norfolk and Wisbech Area Health Authority* [1986] AHA [1986] AC 112.

online private identity of minors. Children, in particular young adults can add immeasurably to the debate. Such a measure would embrace the spirit of Articles 3, 5 and 12 of the United Nations Convention on the Rights of the Child and recognise the capabilities approach proposed by Nussbaum.

Recommendation 4

Digital Literacy/ Competency Upskilling and Educational Awareness

Digital literacy includes the safe engagement with digital technologies and challenges such as the management of online identity, personal privacy policies and selection of valid and trustworthy information.⁶⁰ There is a need to establish an educational digital upskilling programme for parents to instruct them on how to engage and activate privacy controls. Data from this study revealed that a large proportion of parents do not engage with privacy controls and that there was widespread demand for educational workshops on the issue of privacy controls. Parents need to take responsibility, move from using learned helplessness towards an obligation to upskill if they intend to share. This programme should further educate parents on the uses and abuses of shared information.

Data from this current research indicate that the majority of respondents have moderate knowledge about the business model of online providers, but that there is an appetite for participation in specialised activities/workshops on how online providers manage privacy protection strategies. This educational programme could be organised by schools and could feature as a part of a health initiative. Educational and Medical Stakeholders need to collaborate in the effort to engender a safe digital space that can be enjoyed by everyone.

⁶⁰Stefania Manca and Maria Ranieri, 'Identity, Credibility, and Trust in Social Networking Sites: Old Issues, New Mechanisms, and Current Challenges for Privacy and Security', *Social Network Engineering for Secure Web Data and Services* (2013).

Recommendation 5

Complaints Mechanism and Redress Avenues

The establishment of an independent online safety complaints mechanism that is easy to access, use and has a speedy resolution is worthy of consideration. The template should be child friendly and standardised. The complaints mechanism should be conducive to rectifying the systemic abuses that are aired in an individual complaint. The complaints mechanism should be accompanied by a composite redress mechanism. Data in this study revealed that there was a frustration with the current complaints mechanism which is under the auspices of the Social Network Providers, it is inaccessible, and the measures of redress are negligible. A child-friendly complaint mechanism needs to be established by the Data Protection Commissioner under the auspices of an Ombudsman appointed specifically to deal with individual child online complaints.

Recommendation 6

Increased Transparency

Online providers should be required to be more transparent with regard to their business model and should undertake a risk assessment prior to offering a service. This risk assessment statement should be displayed in a transparent manner on a public forum. Data from this study revealed that there is dissatisfaction with the manner in which online providers change the terms of their business model. There should be adequate notice and not just tick box as a means of access. The public are unaware as to how their data is used and datafied. This concurs with a study carried out by Ptaszek which revealed that the knowledge regarding surveillance capitalism was

moderate.⁶¹ A simplified, transparent and easy to read statement should accompany a brief and easy to read and understand consent form. This should be under the auspices of an online regulatory commission appointed specifically for this purpose. Likewise, parents should consider their own actions and do a risk assessment and appropriate due diligence to evaluate the benefits and non-beneficial results of sharenting.

Recommendation 7

Best Interests of the Child/Best Practice Guidelines

All online providers should be required to adapt their online practices to comply with a best practice guideline. This compliance should be subjected to regular audits. Non-compliance should incur non-monetary sanctions. Data revealed unease with the current guidelines with the consensus being that the online arena resembles an ungoverned wildwest. This best practice guideline should include clear, succinct and easy to read privacy policies and terms of condition. Data revealed that users are frustrated by the complex and long privacy policies and terms and conditions and, this evidence concurs with research by Obar and Oeldorf-Hirsch which revealed that a clear majority do not read privacy policy and terms of condition prior to consenting, preferring to use the click-wrap method.⁶²

In addition, policy makers should provide clear guidelines to parents on how to disclose personal information relating to their children. Social Network providers should provide parents with mitigating strategies to edit their postings and to cover children's faces. There should be a check-list determining the (appropriateness, identifiability of the subject being posted)

⁶¹Grzegorz Ptaszek, 'Surveillance Capitalism and Privacy. Knowledge and Attitudes on Surveillance Capitalism and Online Institutional Privacy Protection Practices among Adolescents in Poland' [2018] *Mediatization studies* 49.

⁶²Jonathan A. Obar and Anne Oeldorf-Hirsch, 'The Clickwrap: A Political Economic Mechanism for Manufacturing Consent on Social Media' (2018) 4 *Social Media + Society* 1.

available to parents. Compliance with best practice guidelines should be the currency of online existence. These best practice guidelines need to be formulated and governed by an overall European established Commissioner who would be appointed specifically to oversee online safety.

Recommendation 8

External Unaffiliated Oversight

Data reveals that there is a lack of uniformity as to the appropriateness of posted material. These findings are in line with the study of Lazard et al. who argues that social media uploads are used to convey a particular choice impression.⁶³ Choices can vary substantially. There is need to establish an independent oversight committee to determine, whether material meets a specific criterion. Transparency should include an online oversight filtering system. While there may be different levels of tolerance, there is an expectation that there should be a common filter or a ceiling that prohibits the posting of inappropriate material. This unaffiliated committee should be appointed by individual governments and the positions on the committee should be remunerated positions of a specific duration.

On a positive note, EU Member States, the European Commission, and the European Parliament have reached consensus on the forthcoming Digital Services Act which requires large technological companies such as Facebook parent Meta, Google and Twitter to police illegal content on their platforms and to pay a fee to regulators monitoring their compliance. Furthermore, the appointment by Ireland of two additional Data Commissioners will increase monitoring.⁶⁴

⁶³Lisa Lazard and others, 'Sharenting: Pride, Affect and the Day-to-Day Politics of Digital Mothering' (2019) 13 *Social and Personality Psychology Compass*.

⁶⁴Gráinne Ní Aodha, 'Ireland to Get Two New Data Protection Commissioners' *BreakingNews.ie* (27 July 2022) <<https://www.breakingnews.ie/ireland/ireland-to-get-two-new-data-protection-commissioners-1342270.html>> accessed 30 July 2022.

Recommendation 9

Benefit of a Time-lapse between Uploading and Posting

This research data revealed that information and images may be posted without due consideration for the consequences of one's actions. Online providers should be required to allow a 12 hour lapse between uploading and posting, whereby the posting is preceded with several reminders such as: are you happy to proceed? have you acquired consent? This lapse interval should be part of all online providers' business practice requirements. In the event of the person uploading not being a family member, those posting would have the necessary time to seek permission from parents and minors. The advantage of this time lapse between uploading and posting is that it allows for the reversal of erroneous decisions to post images of minor relatives and for parents to decide on the appropriateness of the uploaded image.

Recommendation 10

Further research into adolescents' views on sharenting

Currently, there is a dearth of research into adolescents' views on sharenting. Adolescents in this investigation reveal an antipathy towards sharenting, this feeling is replicated in a research study carried out by Lipu and Sibak, in which, young people objected to postings that did not show them in a favourable manner.⁶⁵ There is also a need to address the psychological impact of sharenting. A recent report examined internet-related mental health difficulties experienced by adolescents,⁶⁶ but more in depth analysis into the psychological impact of sharenting on young people

⁶⁵Merike Lipu and Andra Siibak, "'Take It down!': Estonian Parents' and Pre-Teens' Opinions and Experiences with Sharenting' (2019) 170 Media International Australia 57.p.59

⁶⁶ Sonia Livingstone and others, 'Adolescents Experiencing Internet-Related Mental Health Difficulties: The Benefits and Risks of Digital Skills. KU Leuven, Leuven: YSKILLS.' (2022).

and parents who share their children's images needs to be undertaken. Such research needs to include a more comprehensive analysis which includes the impact of sharenting on children and young adults.

Alternative Sanctions

The current practice of monetary sanctions is ineffective as a deterrent as social media providers frequently appeal decisions of the data protection commissioners. Furthermore, all networks are insured against such penalties. There remains a need to bring in sanctions that would act as a real deterrent for the social media companies' business practice. Schools/ sports club should have more transparency and control/regard for the private data of members. They have a captive audience and could lead by example, instead of using children's images to promote their organisations. It may be advisable for such entities to redraft their publicity approaches and utilise some other method. There are many influential people in sport, music who hold considerable sway over the general population. A large proportion of influential people are very stringent in their efforts to keep their own children's identities private. The encouragement of these individuals to lend their support to a public campaign in support of the child's right to a blank digital canvas may help to bring about a mindset change among the general public.

6.8 Future Research Direction

In recognition of the limitations of this current research, there are additional areas which are related to sharenting and which are in need of investigation. While this study has focused exclusively on the private sharenting practices of parents for personal reasons, the practice of commercial sharenting in the form of Vlogging, YouTube blogs and TikTok is equally as prevalent and ungoverned. Commercial sharenters use their families' everyday

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experiences to create revenue-generating content, making it available to the public through the various digital platforms.

Parents share the lived experiences of their children, making them into microcelebrities. Within the commercial sharenting sector, money is earned from endorsements and other deals. Commercial sharenting employs marketing, branding, and other strategies and children are central to the business model of commercial sharenting. Commercial sharenting is designed to monetise children's private experiences through new and emerging digital technologies. Parents have always shared stories about their children with others. Parents need to connect with peers, get advice, and maintain perspective. It could be argued that commercial sharenters are doing likewise, except their targeted audience is global and their earning potential is extensive. Commercial sharenting trades on personal experiences, and it is globally and instantaneously accessible. Commercial sharenting is a new and exponentially growing phenomenon, of which children are the focal point and in which there is total disregard of their rights to privacy, play and not to work. Commercial sharenting merits investigation as the unregulated online posting results in parents having unrestricted control over the labour, private data and the financial gains earned from the exploits of minors. France has addressed this issue with the introduction of legislation designed to protect juveniles who participate in commercial sharenting with their families.

Following on from commercial sharenting, another concern is the growth of the so called 'Internet of toys'. An increasing number of toys are now internet-connected resulting in the recording and analysing of children's conversations and images. In addition, children's games and technological wearables such as smart watches, baby monitors and fitness trackers pose a risk to the security and privacy of minors. Other risks include the location-

tracking of children, recording the surveillance of internet-connected toys. Furthermore, there is the increase of unregulated internet-connected devices in the homes. The commercial market offers more and more internet connected devices such as alexa, smart fridges resulting in increased monitoring of people's activities in the home. Microphones and cameras have become embedded in domestic technology resulting in the normalisation of the invasion of privacy and the erosion of private space.

6.9 Conclusion

The interpretation of the data concluded that little value is attributed to the personal data of minors which results in the crafting of the minor's digital footprint and the ensuing online profile compilation acts as a conduit between the child and advertisers. Sharenting arises due to the increasing need for social capital, to be part of a social community and as a forum to virtue signal. This results in the sacrifice of the child's privacy and in the absence of a best practice guidelines, there is parental overwhelm. Sharenting is accompanied by a limited regard for children's rights as parents become disengaged with their gatekeeping role. The lack of engagement with consent prior to sharenting signifies disregard for the right of the child to consent. These conclusions imply an erosion of the child's private identity and his/her exposure to potential and real harms. This, along with the context collapse of the child's data leads to the commercialisation of the child's data and the subsequent compromise of the child's freedom to self-determination. Furthermore, these interpretations imply a compromise of the child's right to autonomy and freedom of expression. This raises the issue of the merit of introducing a legal right to a blank canvas for the child.

In light of the above implications, the adoption of the following proposals are also recommended; early intervention; consent should take centreplace prior

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to posting and in the absence of a valid consent, parents should refrain from posting, the need for digital upskilling in particular with regard to privacy measures, the establishment of an adequate and fit for purpose complaints mechanism and redress avenues. In addition, there should be a requirement: to do a risk assessment prior to posting; the establishment of a best practice guidelines; the appointment of unaffiliated external oversight along with statutory regulations and the use of a time lapse between uploading and posting to allow for change of mind. It is evident that one stand alone measure will not guarantee a safe balance between digital engagement and opportunities, there is need for a suite of measures that are youth-led and parent-driven and supported by educational and health and Garda organisations. The online media providers should bear the responsibility of funding these protective measures. Finally, the narrative of online safety regulation should be extended to include protection for children who are the subject of sharenting.

Chapter 7 Concluding Remarks

7.1 Introduction

Most of the debate on online safeguarding of privacy has focused on the safe digital engagement of teenagers and young adults as well as the processing of minors' data by business enterprises. There has not been the same level of focus on the safeguarding of the privacy of children who are the subject of sharenting. This thesis has addressed this gap in the knowledge by focusing on the recognition of minor children's right to craft their own online identity and their right to a blank digital canvas. The concluding chapter reflects upon the responses to the research questions posed in the empirical research have contribute to the thesis. It identifies key findings and emerging themes. It highlights how this thesis contributes to the existing body of knowledge.

7.2 Research Findings

7.2.1 Parents attribute limited value to personal data

This study shows that the current attitude towards sharenting indicate that children's photographs and personal information are regarded as being insignificant. Parents engage in sharenting in the belief that the shared images do not represent value. There is a failure to understand the business practice of online providers. There is a failure to recognise how data can be utilised for other purposes, be they legal, illegal or inappropriate. It is also based on parents' misconception that they are sharing in a safe manner within a private group.

While there is recognition of the possibility of identity theft, bullying, paedophilia and advertisement targeting, additional interferences in the form of datamining and data profiling and the use of algorithms are not readily recognised. Parents confess that they have a limited knowledge of the business functionality of online providers. There is a lack of awareness that the user's personal data represents the legal tender of connectivity.

7.2.2 Parents' increasing need for Online Connection

Online connection is replacing in person communication in an increasingly fragmented society. This is fuelled by a need to remain connected to stave off feelings of isolation, marginalisation, to self-validate their role as a parent and in a measure to gain support and solidarity from help groups. Mothers of infants look for support and parents of children with health or learning challenges seek support. Parents feel the increasing need to curate their public image as a good parent, they do so by showcasing their children on social media. Some parents feel coerced into online engagement.

7.2.3 Parents feel powerless in the safeguarding of Online Privacy

Parents are challenged by the effort to activate privacy measures. They feel that it is beyond their capability and would require a degree of digital expertise that they do not possess. Some would welcome the opportunity to engage in digital upskilling. Parents feel that they are functioning on an uneven playing field with the online providers. Parents are overwhelmed by digital manipulation. Both parents and young adults agree on the need to address the issue of securing children's private data. There are mixed feelings among parents as to where the responsibility for digital safety lies. Some parents believe that it is the duty of online providers to safeguard the private identity of users. Others are in favour of more upskilling and more responsibility from online providers, whereas young adults are in favour of

a blank digital canvas for children who are incapable of consent by reason of age or understanding.

7.2.4 Parents' fail to acknowledge the individuality of children

Consent does not feature majorly in the online engagement. Parents do not engage with the concept of consent as they believe that children are not overly concerned with consent, whereas young adults place a lot of emphasis on consent. Parents believe that consent becomes relevant only when children reach their teenage years or when they begin to engage with social media. This concludes that there is limited credence given to the fact that children's capacities are constantly evolving. Parents create the child's online presence without any regard for the right of the child to craft their own presence. There is little recognition given to the right of the child to self-determination.

Parents believe that children attribute little value or significance to their privacy. Young adults reveal that they have a high regard for privacy and are proactive in their measures to safeguard their privacy. They use measures such as non-disclosure of location and/or delayed posting of an event.

Emerging Themes

7.3.1 Privacy is a horizon issue

Parents fail to understand that the business practice of online providers is fuelled by the acquisition and control of private data and in the requirement to gain connectivity, the user is obliged to give up privacy. This situation arises as a result of lack of understanding by parents and a lack of transparency by online providers. There is no recognition of the presence of algorithms and their function in the online arena and there appears to be a disregard for the longterm consequences of one's current actions. Images and data posted on social media can endure and be copied and used for other purposes. Parents believe that privacy and consent become relevant only when the child reaches their teenage years.

7.3.2 Parental Gatekeeping is limited to surveillance of minors' online engagement

Parents who were interviewed believed that their gatekeeping role related to watching over their adolescents' online engagement. They failed to recognise that their own online sharenting was part of this obligation. While parents take their gatekeeping duties seriously, they may not always recognise that sharenting comes under the remit of their gatekeeping duties.

7.3.3 Failure to distinguish children's privacy from that of the family

There is a difficulty in extricating children's private information from that of their parents. Parents fail to recognise that children's data and images belong to the child. There is a failure or reluctance to recognise the child as an individual with stand alone rights. This is evident in the lack of regard with which parents share their children's photographs. This failure may be

associated with parents' wish to prolong the parenting role. Young adults in this survey highlighted that parents sent them friend requests. This was interpreted by some as a measure to prolong the parental control.

7.4 Contribution of this Research

This study is important, in that, it opens the debate in this jurisdiction on the online safety of children who are the subject of sharenting. Much of the to-date research has focused on the online safety of young people's online engagement. There has been less focus on sharenting and the impact of sharenting on the future young adult and on the need to address the lack of protection afforded to minors.

This research is significant because it calls for the broadening of the online safety narrative to include sharenting. The evidence gathered in this research indicates that there is a need to address the securing of children's data from a practical perspective. Young adults and parents acknowledge that the issue of sharenting needs urgent attention. It is important to give practical consideration to the belief of young adults that children deserve the right to a blank digital canvas. This call is supported by parents who openly acknowledged their lack of digital competences and voice their demand for digital upskilling.

7.5 Conclusion

In view of the growth in sharenting, this investigation is timely as much of the attention with regard to online safety is currently focused on the safety of active online participants, in particular, their exposure to harmful online material. The Online Safety and Media Regulation Bill, which is currently

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going through the Houses of the Oireachtas (Parliament in Ireland) is focusing on the defining categories of harmful online content and ‘age-inappropriate online content’ and, the process by which additional categories of harmful online content may be specified. Likewise, the General Data Protection Regulation, 2016 focused on the processing of the data of online participants. The position of children whose data is being shared by parents is not recognised or addressed. This investigation is designed to encourage parents to consider the ramifications of their actions and, to make legislators aware of the need to address the issue of sharenting and its impact for the privacy of the identity of our most vulnerable sector of the population.

The empirical data collected indicates that there is recognition that sharenting has grave consequences for the privacy of the identity and self-determination of our minors. Parents have acknowledged that they have repeatedly failed to acquire consent prior to sharenting. Of equal concern is the noticeable disregard by parents of the evolving capacities of the child, their right to privacy, and to have a say in matters that pertain to them. Sharenting is a process that poses the single most invasive incursion into the rights of minors. Any move to safeguard the right to share the private data of the minor would be a positive acknowledgement of the rights of the child which are upheld by the Convention on the Rights of the Child.

On a positive note, the Council and European Parliament has agreed on the Digital Service Act resulting in the imposition of a stringent duty of care on very large online platforms and very large online search engines (very large is defined by 45 million active monthly users). These entities are obliged to analyse the systemic risks that they create and to carry out risk reduction

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analysis. On a positive note, the words of Plunkett, “The robots aren’t firmly entrenched. We can build a better raft”¹ offer us hope.

¹ Leah Plunkett, *Sharenthood* (Massachusetts Institute of Technology 2019).

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Appendices



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Parental Consent

Title of Research:

There should be recognition and protection of the privacy of children's identity and freedom for them to craft their online identity.

Consent to take part in Qualitative Research

- I..... voluntarily agree to participate in this research study.
- I understand that even if I agree to participate now, I can withdraw at any time or refuse to answer any question without any consequences of any kind.
- I understand that I can withdraw permission to use data from my interview within two weeks after the interview, in which case the material will be deleted.

Appendices

- I have had the purpose and nature of the study explained to me in writing and I have had the opportunity to ask questions about the study.
- I understand that participation involves responding to questions posed by Researcher.
- I understand that I will not benefit directly from participating in this research.
- I agree to my interview being audio-recorded.
- I understand that all information I provide for this study will be treated confidentially.
- I understand that in any report on the results of this research my identity will remain anonymous. This will be done by changing my name and disguising any details of my interview which may reveal my identity or the identity of people I speak about.
- I understand that disguised extracts from my interview may be quoted in dissertation, published papers and conferences.
- I understand that if I inform the researcher that myself or someone else is at risk of harm they may have to report this to the relevant authorities - they will discuss this with me first but may be required to report with or without my permission.
- I understand that signed consent forms and original audio recordings will be retained in Researcher's possession until the completion of her research.
- I understand that a transcript of my interview in which all identifying information has been removed will be retained for the duration of the research.
- I understand that under freedom of information legalisation I am entitled to access the information that I have provided at any time while it is in storage as specified above.
- I understand that I am free to contact any of the people involved in the research to seek further clarification and information.

Signature of Research Participant

Date -----

Signature of Researcher

Appendices

I believe the Participant is giving informed consent to participate in this study.

Date -----



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Quantitative Research

Questionnaire (Parents)

1. "How long have you been using Social Media?"

- 1 year 2-5 6 years and/or more

2. "How often do you check your Social Media account?"

- frequently per day once a day once a week or more

3. "If you use Social Media everyday, for what duration do you approximately use it?"

- 10 hours and/or more 6-9 hours 5-3 hours <2 hours 10-15 minutes

4. "Which one of the following explains your Social Media usage aim best?"

- sharing about myself/environment following others Both

5. "How often do you share information about your child/children on Social Media?"

Everyday Every week When there is something worth sharing

6. ‘When considering the information you have shared on Social Media, what was the nature of information shared?’

Speech & Health Issues Social Activities done with Child

7. What type of Social activities done with children have you shared?’

Play Art Educational Other

8. As regards other information shared, which one of the following best describes the material shared?

Never share Share issues such as violence towards children to awaken sensitivity/awareness Share educational malpractices towards children Share products/ recommendations for children

9. ‘What are the reasons for sharing?’

I like my friends’ admiration Like to share information about my children To access support To maintain contact To give/receive advice To create a digital record No specific reason Other

10. ‘Which of the social net-working sites do you use?’

Facebook Instagram Twitter Snapchat Blogs All of the above

Thank you for participating and I invite you to participate in an interview.

I am willing to participate in interview. (Please include contact details eg your school email address)

.....

I am not willing to participate in interview.



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Dear Students,

I am a Postgraduate Student doing research on 'sharenting' ('sharenting is the online sharing of children's personal data and images) by their parents. All responses are confidential and anonymised.

If you are over 18 years whose parents have shared your information, perhaps you might like to complete the [questionnaire](#) below.

Thank you,
Sheila Donovan



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Title of Research

There should be recognition and protection of the privacy of children's identity and freedom for them to craft their online identity.

Young Adults Quantative QuestionnaireError! Reference source not found.

1. As a child, did your Parents share your personal data/information and/or you photos online?

Yes No

2. If Yes, how did you feel about it?

Very happy Happy Neutral Sad Very Sad Annoyed

3. With whom did your Parents share your images?

Family Close Friends on their Public Platform A/c

4. What did the shared material relate to?

Sport School Family events

5. Did your parents seek your consent prior to sharing your images?

Yes No Sometimes

6. If No, how did that make you feel?

Very happy Happy Neutral Sad Very Sad Annoyed

7. Did any of the shared material cause you to be embarrassed?

Yes No

8. Did your Parents engage with privacy measures prior to sharing on a public platform?

Yes No Sometimes Did not know how

9. If you have Children would you share their images and data?

Yes No

10. Should Parents share photos and information online leading to their children having an online presence at any early age?

Yes No

11. Did your parents' sharing activities influence your current social media engagement?

Yes No

If Yes, in what way did it influence it?

11. Did your parents ever send you friend requests?

Yes No

12. Did you accept?

Yes No

Why?.....

If you would be willing to take part in a short interview about how this issue has impacted you or share your views on the topic, please provide your email address or mobile number below. All interviews are confidential.

Thank you for your time.



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Young Adults' Consent Form

Title of Research:

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Consent to take part in Qualitative Research

- I..... voluntarily agree to participate in this research study.
- I understand that even if I agree to participate now, I can withdraw at any time or refuse to answer any question without any consequences of any kind.
- I understand that I can withdraw permission to use data from my interview within two weeks after the interview, in which case the material will be deleted.
- I have had the purpose and nature of the study explained to me in writing and I have had the opportunity to ask questions about the study.
- I understand that participation involves responding to questions posed by Researcher.
- I understand that I will not benefit directly from participating in this research.
- I agree to my interview being audio-recorded.

- I understand that all information I provide for this study will be treated confidentially.
- I understand that in any report on the results of this research my identity will remain anonymous. This will be done by changing my name and disguising any details of my interview which may reveal my identity or the identity of people I speak about.
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- I understand that signed consent forms and original audio recordings will be retained in Researcher's possession until the completion of her research.
- I understand that a transcript of my interview in which all identifying information has been removed will be retained for the duration of the research.
- I understand that under freedom of information legalisation I am entitled to access the information that I have provided at any time while it is in storage as specified above.
- I understand that I am free to contact any of the people involved in the research to seek further clarification and information.

Signature of Research Participant

Date -----

Signature of Researcher

I believe the Participant is giving informed consent to participate in this study.

Date -----

There should be recognition and protection of children's private identity and freedom for them to craft their online identity.



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Title of Research

There should be recognition and protection of the privacy of children's identity and freedom for them to craft their online identity.

Young Adults Qualitative Semi-Structured Interviews

1. Tell me about your parents' online engagement?
2. Have their online engagement influenced your online engagement and, in what way?
3. Why do you feel the way you do with regard to Online engagement?
4. What would you regard as your main issues with Online engagement?
5. Define Privacy?
6. Do you believe that consent has a role in sharenting?
7. What would you regard as a solution to online safeguarding?
8. Do you believe that there may be a need for external online policing?
9. Do you believe the recent cyber attacks have increased the awareness of the public with regard to online safety?
10. Do you believe that Covid has increased the extent of online engagement?

11. Do you believe that Schools/Sports organizations have a role to play in securing online engagement?
12. How do you envisage the future with regard to online sharing?
13. Do you believe that children should be entitled to a blank digital canvas?
14. Would you as a future parent share your children's images and personal information on social media?



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Parents' Semi-Structured Individual Interview

1. Can you tell me about your social media usage?
2. What would, typically, motivate you to share on social media?
3. How often do you share material online?
4. What material (of your child) do you share?
5. Do you ask your child if they consent to you sharing their data online?
6. Do you think that your child is content with your sharing their images and/or personal information?
7. Do you check with your child to ascertain whether/not he/she is happy with the nature of content to be posted?
7. What does the concept of privacy mean to you?
8. What, in your opinion, does the concept of privacy mean to your child?
9. Are you familiar with the privacy controls that are in place on Social Media?

10.What privacy controls are in place?

11.How often do you check the privacy settings on Social Media?

12.Are you satisfied with the privacy controls that are in place?

13.Do you believe that there are ramifications to online sharing on Social Media?

14. Do you believe that children should be entitled to a blank digital canvas?

15. Do you believe that Covid has increased or decreased the sharing of information or and images?