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The Rights of the Child: Exploitation of Children- Social Media Grooming

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Introduction

While recognizing that the Convention on the Rights of the Child ("CRC"), its Optional Protocols, and mandate of the Special Rapporteur on the sale of children, child prostitution and child pornography have all been critical steps in addressing the global needs of children, there remains a wide variety of illegal acts and illicit practices perpetrated through the use of social media applications ("apps") and platforms that put those rights set forth in the CRC for the protection of children at immediate risk.

The preamble of the CRC recognizes that the child needs special safeguards and care, including appropriate legal action, due to their physical and mental immaturity. Article 19 of the CRC emphasizes the need for state parties to take appropriate measures to protect the child from all forms of physical and mental violence, injury or abuse, neglect or negligent treatment, and maltreatment or exploitation, including sexual abuse while in the care of parents, legal guardians or any other person who has the care of the child.[1] Article 34 of the CRC establishes that all State Parties should undertake to protect the child from all forms of sexual exploitation and sexual abuse, and outlines three instances in which State Parties shall take particular measures to prevent:1) the inducement or coercion of a child to engage in any unlawful sexual activity, 2) the exploitative use of children in prostitution or other unlawful sexual practices, and 3) the exploitative use of children in pornographic performances and materials.[2] Article 35 establishes that "State Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction, sale, or traffic of children for any purpose or in any form."[3]

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[1] Convention on the Rights of the Child, art. 19 (1990)
[2] *Id.* at art. 34 (1990)
[3] *Id.* at art. 35 (1990)

II. The Act of Online Grooming

The Human Rights Council ("HRC"), in accordance with resolution 7/13, mandated the

Special Rapporteur to analyze, address, and report her findings on the causes of the sale of

children, child pornography and child prostitution. HRC requested that the Special Rapporteur

"identify and make concrete recommendations on preventing and combating new patterns of sale

of children, child prostitution and child pornography.[4] Resolution 34/16 further expanded the

mandate to include other child sexual abuse material. [5]

Social media grooming is growly rapidly as the popularity and use of social media apps

increases. Social media grooming is a form of sexual abuse where there is the intention to secure

the trust of a minor as a step towards future engagement of sexual conduct.[6]The act of grooming

violates an assortment of human rights, including the right to fundamental dignity. Mindful of

HRC resolution 34/16, which calls upon state actors to pay particular attention to children in

marginalized and vulnerable situations,[7] additional attention, concern and resources should be

devoted to the issue of social media grooming and the multitude of ways in which this illegal

activity violates children's essential human rights—discussed below.

A. Forms of Social Media Grooming

Online grooming is described as sexual abuse that takes place online which typically

includes a child or young person being groomed to engage in sexual activity. These actions can

include sexual online chats, generating sexually explicit photos or videos. Once a groomer has

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[4] Mandate of the Special Rapporteur on the sale of children, child prostitution and child
    pornography U.N. Doc. A/HRC/7/13 (March 2008).
[5] Rights of the child: protection of the child in the implementation of the 2030 Agenda for
    Sustainable Development, A/HRC/RES/34/16, para. 31, (March 24, 2017).
[6] Amparo Elizabeth Cano Et. Al., Detecting Child Grooming Behaviour Patterns on Social
    Media 412 (Luca Maria Aiello & Daniel McFarland eds., 2014).

[7] *Id.,* para. 5.

built a relationship with the child online, they will often encourage the child to meet them offline in a predetermined location of the groomer's choice.[8]"Groomers" are people that make an emotional connection with someone to make them do things such as have sexual conversations, send illicit images and videos of themselves, or meet up with them.[9]

1. Sextortion as a Form of Social Media Grooming

The act of using these illicit photos or videos in a forceful manner is described as sextortion. Sextortion is the threat to expose a sexual image in order to make a person do something for the purposes of revenge or humiliation among other things.[10] Other forms of social media grooming take the form in romantic relationships, mentorships, authority figures and dominant and persistent figures.[11] These forms of social media allow predators to force children into further sexual acts or explicit behavior that violates human rights standards.

Among the most common methods to use social media for grooming is the use of the social media platforms, including Instagram, Facebook, or Snapchat.[12] According to the National Society for the Prevention of Cruelty to Children (NSPCC), between April 2017 and September 2018, more than 70% of instances where police recorded the communication method between children and online predators, Facebook owed apps, including Facebook, Messenger, Instagram,

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[8] Whittle, H. C., Hamilton-Giachritsis, C., & Beech, A. (2013). *Victims' Voices: The Impact of Online Grooming and Sexual Abuse,* 59*,* 59-71. DOI: 10.13189/ujp.2013.010206

[9] Childline, https://www.childline.org.uk/info-advice/bullying-abuse-safety/online-mobile-safety/online-grooming/#10 (last visited Jan. 13, 2020).

[10] Thorn, *Sextortion: Summary findings from a 2017 survey of 2,097 survivors*, https://www.thorn.org/wp-content/uploads/2019/12/Sextortion_Wave2Report_121919.pdf (2017).

[11] NSPCC, https://www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/grooming/#types (last visited Jan. 15, 2020.)

[12] *Id.*

and WhatsApp, and Snapchat were used.[13] Experts fear that child sex trafficking statistics will drastically increase because of the wide availability of social media platforms. One expert noted that the trafficking and sexual abuse of children has changed the way groomer and predators connect with children via social media platforms. Other commonly used social media platforms used to groom children are dating apps such as Tinder or Blendr and Yellow, and some webcam sites like Chatroulette.[14]

B. Factors Associated with Social Media Grooming

The nature of the advancement of technology and the internet, as well as political, legal, socioeconomic, cultural, and environmental factors contribute to social media grooming of children. Research shows that there is no single factor that is the main reason for abuse against children.[15] Gender is among one of the factors discussed by major researchers in the context of social media grooming. Researchers have seen that there is a disproportionate number of young girls that are being targeted. One study found that when age and gendered were logged, 62% of victims were girls aged 12-15.[16] Gender based crimes are of great concern when these disproportionate numbers are exponentially increasing.

Social media grooming may happen to children of any age, background, socio-economic status, gender, and sexual orientation because the availability of access to the internet and the popularity of social media apps is growing. Grooming can occur on any platform that allows

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[13] NSPCC, https://www.nspcc.org.uk/what-we-do/news-opinion/recorded-online-sexual-grooming/ (Last visited   Feb 5, 2020).

[14] University of Toledo EurekAlert, https://www.eurekalert.org/pub_releases/2018-10/uot-usd100218.php (last visited Jan 15, 2020).

[15] Whittle, H. C., Hamilton-Giachritsis, C., Beech, A., & Collings, G. (2013). A Review of young people's vulnerabilities to online grooming, *Aggression and Violent Behavior, 18,* 135-146. DOI: 10.1016/j.avb.2012.11.008

[16] NSPCC, https://www.nspcc.org.uk/what-we-do/news-opinion/3000-new-grooming-offences/ (last visited Jan. 23, 2020).

individuals to communicate with one another.[17] That means children that have access to smart phones, tablets, computers, or gaming systems can fall victim to social media grooming. With the percentage of children who use the internet between the ages of three to eighteen increasing by 6%, the risk of becoming a victim of social media grooming is ever increasing.[18] This makes it increasingly difficult to monitor all of these platforms. Once a groomer has been identified or their behavior is flagged, they may then delete their profile and start a new one within seconds. This cycle allows for groomers to hide from detection and continue to abuse children.

III. Effects of Social Media Grooming

Social media grooming can have both short-term and long-term effects on children. The long-lasting effects on children can remain with them as they begin adulthood. Many people carry the childhood trauma with them as they grow, and if it is not dealt with early on, it can cause enormous detriments to the development of children. Social media grooming and the associated crimes cause both mental health issues as well as economic issues grounded in public health concerns.

A. Mental Health Implications of Social Media Grooming

One major effect that social media grooming can cause are severe mental health implications. A study conducted by Whittle and her colleagues found that 28% of victims of online grooming felt very or extremely upset and 20% felt very or extremely afraid as a result.[19] Furthermore, when the online solicitation was aggressive, these figures increased to 34% and

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[17] Innocent Lives Foundation, https://www.innocentlivesfoundation.org/everything-you-need-to-know-about-online-grooming/ (last visited Jan. 23, 2020).

[18] National Center for Education Statistics, https://nces.ed.gov/programs/coe/pdf/coe_cch.pdf (last visited Jan. 22,   2020).

[19] *Supra,* note 8, pg. 60.

28%, respectively.[20] These effects may manifest into issues such as anxiety, post-traumatic stress disorder, or depression, and can contribute to substance abuse issues including addiction or alcoholism.[21]

Other effects of online abuse are embarrassment, distress, being unable to stop thinking about the abuse, increased stress, being jumpy or irritable, and losing interest in activities and hobbies the individual had prior to the abuse.[22] One study found that all discussions regarding the consequences of online abuse on individuals were negative in some manner.[23] Half of the victims in that study talked about the negative psychological effects and how those effects will resonate with the victim for a long time.[24] Emotional and mental health problems are typically the first consequence of child sexual abuse; children who experience sexual abuse, in any form including social media grooming, are at a significantly higher risk of posttraumatic stress and other anxiety related illnesses including depression and suicidal thoughts, and substance abuse problems beginning in childhood or young adulthood are often the most common consequences of incurring child sexual abuse.[25] A variety of studies have come to the conclusion that adolescents with a history of child sexual abuse have a three to 4-fold increase in the rates of substance abuse abuse/ dependency, and this same demographic of individuals were two to three times more

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[20] *Id.*

[21] NSPCC, https://www.nspcc.org.uk/what-is-child-abuse/types-of-abuse/grooming/#types (last visited Jan. 15, 2020.)

[22] *Supra*, note 8, pg. 60.

[23] Whittle, H. C., Hamilton-Giachritsis, C., & Beech, A (2013). *Victim's Voices: The Impact of Online Grooming and Sexual Abuse,* 63, 57-71, DOI: 10.13189/ujp.2013.010206

[24] *Id.*

[25] Darkness to Light, *Child Sexual Abuse Statistics: Long-Term Consequences,* http://www.d2l.org/wp-content/uploads/2017/01/Statistics_5_Consequences.pdf (last visited Jan. 22, 2020).

likely to have an alcohol use and dependency problem than the same demographics of those who were nonvictims.[26]

B. Social Media Grooming is a Matter of Public Health Concern

Grooming and the sexual abuse that occurs with it is a matter of public health. Child sexual abuse and child maltreatment were compared in cost of the lifetime burden per victim to be nearly equivalent, if not greater than, in the amount of $210,012 per victim.[27] This figure is comparable to other major public health concerns such as strokes and Type 2 diabetes.[28] With an increase in this behavior, the growing number of children using social media apps, and the increasing access to the internet, this already massive figure will only continue to increase and further cause this public health concern.

IV. Combating Social Media Grooming

There are a variety of methods that can be undertaken in order to combating social media grooming as a form a predation. State parties may use educational tactics directed at both parents and children aimed at educating children on the signs of grooming and how to be safe on the internet and educating parents on the how to report instances of grooming and what to do in the event that their child becomes a victim. State parties may implement direct policing of social media grooming in combination with actual enforcement of individual state procedures to detect, identify, and report perpetrators. Finally, state parties may develop a form of accountability that states may use to penalize these offenders. Of these methods in combating social media grooming, one of the most prominent, and of the greatest importance, is educating children to identify the signs of social media grooming and give them access to a platform where they can

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[26] *Id.*
[27] *Id.*
[28] *Id.*

seek help. This section seeks to address some options state parties may have in combating social media grooming.

A. NetSmartz Example of an Educational Platform

NetSmartz is a safety program developed by the National Center for Missing & Exploited Children ("NCMEC") to educate children, teens, and parents about how to be safe on the internet, and how to identify signs of online predators and grooming.[29] The website is designed to provide age appropriate ways for children and young adults to learn about internet safety risks including how social media may be used to target these groups by predators.[30] In order to provide age appropriate content specific to certain age groups, NetSmartz has identified three specified age ranges in which there are different activities that provide this information.[31] These age ranges are children from five to ten, which NCMEC refers to as NetSmartzKids, and ages eight to twelve, referred to as NSTeens, and ages thirteen and up are separated into their own category.[32] By breaking children and young adults into these groups, it allows for a more user friendly and appropriate interface for those children that use it.

For each age group, NetSmartz provides different interactive activities and information based on what they believe is the necessary information for each age group. For NetSmartzKids, there are e-books, games, printable activities and an animated video series where children can learn internet safety lessons. [33] For NSTeens, the resources available include games, interactive comics and a separate animated video series seeking to inform these "tweens" with issues such

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[29] NetSmartz, https://www.missingkids.org/netsmartz/topics/socialmedia (last visited Feb 8, 2020).
[30] Hawkins, H., *Welcome To NetSmartz Workshop*, https://www.fosi.org/good-digital-parenting/welcome-netsmartz-workshop/ (July 29, 2013).
[31] *Id.*
[32] *Id.*
[33] *Id.*

as online predators and cyberbullying.[34] NetSmartz provides realistic and relatable information to those in the thirteen and up category. For this group, NetSmartz has provided real-life stories from their peers that have experienced online victimization in a series of videos; these videos provide a safer middle ground for those teens that are afraid to seek help or have experienced their own victimization online and are seeking help of their own.[35] To engage children and young adults in these videos, NetSmartz has provided accompanying activity cards to help children understand and explore each lesson. NetSmartz provides parents with discussion guides, tip sheets and presentations to help continue the dialogue associated with the dangers of online predation.[36] These games and videos are available for download on both the App Store for Apple devices and on Google play in order for there to be wider access to this information.[37]

By using NetSmartz and the associated guides, tips and presentations, children may learn the dangers of social media earlier. This method of combating social media grooming allows for children not only to protect themselves against online predators, but allows them to do it in a manner that is engaging and entertaining, which will likely have children seeking the education for themselves.

B. The Role of Social Media Companies

Social media apps and the technology companies behind them can play a very important role in protecting children while using social media. The "Community Standards" set forth on the Facebook platform seek to include feedback from experts in the fields of technology, public

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[34] *Id.*
[35] *Id.*
[36] *Id.*
[37] *Id.*

safety, and human rights.[38] With that in mind, it is important to recognize that these platforms are ever changing, and predators and other criminals find ways around the standards set forth by these platforms. Because of this, protecting children and safeguarding social media apps is of the utmost importance.

Facebook, and its affiliated apps, have developed community standards aimed at protecting those users at large, however, there are certain, more specific safeguards that have been put in place in order to specifically protect the children that use these platforms. These community standards are what the platform has decided what is and is not allowed on the social media app.[39] These safeguards include photo-matching technology to stop people from sharing known child exploitation images, reporting violations to NCMEC, a minimum age requirement of thirteen to join the platforms, and placing limitations on people that teens using the apps can interact with after they sign up for the service.[40]

Over the last two years, Facebook has been further developing these safeguards by implementing an artificial intelligence and machine learning in order to proactively detect images of child nudity, child pornography and previously unknown child exploitative content as soon as it is uploaded. This technology is being used by experts to identify these types of content and report it to NCMEC and find accounts that engage in what is deemed "potentially inappropriate interactions" with children using their services.[41]

[38] Facebook, *Community Standards*, https://www.facebook.com/communitystandards/ (last visited Feb 8, 2020).
[39] *Id*.
[40] Facebook, https://about.fb.com/news/2018/10/fighting-child-exploitation/ (last visited Feb 9, 2020).
[41] *Id.*

The community standards set forth by Facebook focus on four core values: authenticity, safety, privacy, and dignity.[42] The safety aspect of the core values is where there is a lack of inclusion and enforcement for the protection of children. Facebook's community standards platforms reads "we are committed to making Facebook a safe place. Expression that threatens people has the potential to intimidate, exclude or silence others and isn't allowed on Facebook.[43]" This core principle centered around safety seemingly lacks the fundamental issues that surround social media grooming and the implications that it has on children on the platform. Facebook representatives have said,

> We want people to be able to talk openly about the issues that matter to them, even if some may disagree or find them objectionable. In some cases, we allow content which would otherwise go against our Community Standards – if it is newsworthy and in the public interest. We do this only after weighing the public interest value against the risk of harm and we look to international human rights standards to make these judgments. [44]

This comment from Facebook emphasizes that the platform has human rights issues in mind while developing the community standards for the platform. However, the current community standards do not fully account for those rights intended as safeguards for children provided by the CRC.

By continuously redeveloping and advancing the community standards with the rights of the child in mind, social media applications and the technology companies behind them can help to improve the safety of children on their platforms and cut down on the likelihood that predators can use their platforms to groom children.

V. Recommendations

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[42] Facebook, https://www.facebook.com/communitystandards/ (last visited Feb 9, 2020).
[43] *Id.*
[44] *Id.*

Human Rights Advocates ("HRA") urges the HRC:

(1) To hold a panel on social media grooming. This issue involves a vast cross-section of human rights violations, only further amplified and exploited in countries contending with severe poverty and newly developing countries. This issue reaches not only the most vulnerable population, but it further concerns those rights for any person(s) that have access to and use social media apps and other networking platforms, and thus threatens society at large, and threatening a growing population daily.

(2) To urge State Parties to the CRC to address the pervasive problems inherent to the sale of children and social media grooming, including:

- Ensuring unlawful activity of every kind committed against children on social media apps and platforms is criminalized, since this activity committed against children necessarily feeds into the sale of children.

- Regulation and enforcement of social media standards and requirements on the verification of accounts and investigations into reports of violations of these standards.

- Provide safer online regulations to include proper codes and consequences for breaking those codes, as well as accountability and enforcement of those consequences for perpetrators.