

Child Protection in the Digital Age

International Standards and Middle East and North Africa Perspectives on Online Child Sexual Exploitation and Abuse

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Abstract

Online child sexual exploitation (OCSE) has become a critical focus within the evolving frameworks for international cybercrime legislation. This article examines the current approach of the Budapest Convention and the UN Cybercrime Convention, particularly in their handling of OCSE, and provides a comparative analysis with legal frameworks in the Middle East and North Africa (MENA) region. It explores the complexities of harmonising international standards and addressing regional legal differences, with an emphasis on the gaps and opportunities in combating OCSE through both global and local efforts.

Article 9 of the Budapest Convention and Article 14 of the UN Cybercrime Convention aim to create a comprehensive legal framework for addressing cybercrime, including the transnational nature of OCSE. Specifically, they focus on improving the capacity of states to investigate, prosecute and prevent crimes related to OCSE. In contrast, many MENA countries approach cybercrime, including OCSE, through national-level legislation, often influenced by religious, cultural and socio-political factors. While some countries in the region have developed robust cybercrime laws, others face significant challenges in enforcement and legal consistency.

While efforts have been made to align cybercrime laws in the region with international norms, significant differences remain. Legal frameworks in many MENA countries focus more on content control and cybersecurity, often with a less targeted approach to protecting children from online exploitation.

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A more regionally tailored approach, complemented by stronger international co-operation, is essential to effectively combat OCSE. The comparative analysis reveals both promising advancements and critical areas needing reform, especially as the international community moves toward a more co-ordinated global response to cybercrime in general and OCSE specifically.

1. Introduction

Online child sexual exploitation (OCSE) is a global phenomenon associated with a range of negative outcomes that can be severe and long-lasting for victims (Brown, 2023). There is a lack of data to draw a clear picture of the gravity of the issue in some jurisdictions (Burton et al., 2016), as there is no international mandate requiring countries to maintain a national database identifying the frequency of child sexual abuse incidents (ECPAT and Interpol, 2018). However, it is evident that most countries have taken serious steps towards combating the phenomenon. Legislative and social measures include joining international treaties, enacting domestic laws combating OCSE or promoting the work of organisations that work in the field domestically or by joining international ones.

The societal and cultural dimensions are crucial to understanding and addressing the spread of OCSE. These factors significantly shape the nature of the problem and the response. Additionally, the religious context, particularly in the countries of the Middle East and North Africa (MENA) region, plays a pivotal role in influencing both the prevalence of OCSE and the legislative and social measures taken to combat it.

The harmonisation of legislation plays a pivotal role in combating any crime, especially those committed online. Cybercrime is transnational in nature, which adds a layer of complexity to its investigation and prosecution. Many jurisdictional issues arise, in addition to obstacles to acquiring relevant digital evidence. These result from a lack of criminalisation of some cybercrimes in certain jurisdictions, which creates cybercrime safe havens and hinders the exchange of evidence or the extradition of criminals through the absence of the dual criminality prerequisite.

This article starts by introducing definitions, including OCSE and its difference from online child sexual abuse (OCSA). It then delves into the international legal framework on the issue, including the Convention on the Rights of the Child (CRC), the Convention on Cybercrime (the Budapest Convention) and the UN Cybercrime Convention. It next compares the situation in some MENA countries – namely Egypt, Saudi Arabia and the United Arab Emirates (UAE) – with the UK and looks at how MENA legislation reflects cultural and religious aspects and how the dominant religion in each country shapes the response to OCSE.

2. Definitions

2.1 Child

According to Article 1 of the CRC, a child is defined as 'every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.' Most legislation around the globe adopts this definition, and the countries in our studies are no different. In Egypt, Article 2 of Law No. 12 of 1996 (the Child Law) provides that, 'A child in the field of care stipulated in this law means anyone who has not exceeded the full eighteen years of age.' In Saudi Arabia, the Law on the Protection of the Child issued by Royal Decree No. 14 of 2014 provides in Article 1 that a child is 'any person under 18 years of age.' In the UAE, meanwhile, Federal Law No. 3 of 2016 on the Child Rights Law (Wadeema) defines a child in Article 1 as 'each and every human being born alive and below 18 years of age.' Note that the law of the UAE sets as a condition that the child is born alive; while this has no effect in the context of this article, it may have implications for the child's rights to inheritance (Al Sayed, 2004)²

In the UK, the Children Act of 1989, which makes provision for a number of orders relating to the welfare of children, defines a child as a person under the age of 18.

All the countries mentioned are signatories to the CRC, which gives us a clear view of the important role that international law plays in the harmonisation of legal standards.

2.2 Online child sexual exploitation vs online child sexual abuse

According to the World Health Organization (WHO, 1999: 15–16), child sexual abuse is:

... the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society. Child sexual abuse is evidenced by this activity between a child and an adult or another child who by age or development is in a relationship of responsibility, trust or power, the activity being intended to gratify or satisfy the needs of the other person. This may include, but is not limited to, the inducement or coercion of a child to engage in any unlawful sexual activity; the exploitative use of a child in prostitution or other unlawful sexual practices; the exploitative use of children in pornographic performance and materials.

The differentiation is clearer in the definitions adopted by the UN Refugee Agency (UNHCR, nd). UNHRC defines child sexual abuse as follows:

... the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions. Any sexual activity with children (persons under the age of 18 years) constitutes sexual abuse.

2 Alsayed Sabeq Al Banna, 2004 Fiqh Al Sunnah, Dar Al Hadeeth, Cairo: page 1115

It defines child sexual exploitation as:

... any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another. It includes but is not limited to exchanging money, employment, goods or services for sex. This includes transactional sex regardless of the legal status of sex work in the country. It also includes any situation where sex is coerced or demanded by withholding or threatening to withhold goods or services or by blackmailing.

Meanwhile, the Lanzarote Convention (criminalising sexual offences against children) mentions child sexual exploitation and child sexual abuse without actual differentiation. Article 3b provides that "'sexual exploitation and sexual abuse of children" shall include the behavior as referred to in Articles 18 to 23 of this Convention,' but these articles do not differentiate explicitly between exploitation and abuse. Article 18 (titled 'Sexual abuse') criminalises certain sexually related acts when committed on a child but, overall, a clear distinction is not evident. The convention lists offences such as child pornography, child prostitution, solicitation of a child for sexual purposes and the corruption of children, while utilising the terms 'abuse' and 'exploitation' throughout.

Article 34 of the CRC defines child sexual exploitation and abuse by describing certain acts that form such an offence, such as the inducement or coercion of a child to engage in any unlawful sexual activity, the exploitative use of children in prostitution or other unlawful sexual practices and the exploitative use of children in pornographic performances and materials.

3. International legal context of online child sexual exploitation and abuse

The online form of child sexual exploitation and abuse is often focused on the display of such exploitation or abuse, rather than on the actual offline act of exploitation, except in the case of solicitation and grooming of children online. This explains the use of the term 'material' in international texts dealing with OCSEA.

However, some modalities of the crime, such as sextortion and the online incitement of violent or coerced sexual acts (where the perpetrator goes online and orders certain sexual acts to be performed on a minor in real time), are not explicitly mentioned in cybercrime-focused international texts.

Online solicitation or grooming of children to sexual acts, despite involving an action by the online perpetrator, whereby the material element of the crime is committed online by inciting the victim to perform sexual acts, is mentioned in Article 15 of the UN Cybercrime Convention.

Since our focus in this paper is the online form of CSEA, we mention here the two most comprehensive international texts dealing with the matter.

3.1 The Budapest Convention

The Budapest Convention of 2001 does not mention OCSEA; rather, in Article 9, it lists conduct relevant to child pornography that should be criminalised, such as producing, offering, distributing and possessing child pornography. Child pornography is defined in the same article as 'material that visually depicts:

- (a) a minor engaged in sexually explicit conduct;
- (b) a person appearing to be a minor engaged in sexually explicit conduct;
- (c) realistic images representing a minor engaged in sexually explicit conduct.'

3.2 The UN Cybercrime Convention

The UN Convention against Cybercrime defines OCSEA using a list of descriptions for abuse materials or exploitation materials. Article 14–2, provides that:

'The term "child sexual abuse or child sexual exploitation material" shall include visual material, and may include written or audio content, that depicts, describes or represents any person under 18 years of age:

- (a) Engaging in real or simulated sexual activity;
- (b) In the presence of a person engaging in any sexual activity;
- (c) Whose sexual parts are displayed for primarily sexual purposes; or
- (d) Subjected to torture or cruel, inhumane or degrading treatment or punishment and such material is sexual in nature.'

Article 14-1 contains a list of behaviour that should be criminalised in relation to CSA or CSE, such as producing, offering, selling, distributing, transmitting, broadcasting, displaying or publishing CSA or CSE through information and communication systems, and soliciting, procuring or accessing, possessing or controlling CSA or CSE material stored in an information and communication system.

Article 15 criminalises grooming or solicitation of a child into committing a sexual offence as defined in domestic law, including those listed in Article 14.

In conclusion, both terms, CSE and CSA, are employed in the international context as mutually complementary. The distinction will be purely legal in nature and will subsequently be reflected in descriptions of specific conduct, primarily in the domestic

context, to determine the appropriate penalty. Therefore, when adopting the UNHCR distinction, the criminalisation of the conduct will be of paramount importance, rather than the broader umbrella term under which such conduct is described.

For the purposes of this article, we use the umbrella term CSEA for reference to the genre of crime, with details according to each researched jurisdiction.

It is important to remember that, although OCSEA is a crime that is largely committed by the display of a certain conduct online, an actual crime is being committed in the offline world in order for the OCSEA to be committed.

Our research will show how jurisdictions deal with CSEA to reach the criminalisation of OCSEA, focusing on crime modalities covered in the Budapest and the UN conventions.

4. The religious aspect of CSEA in the MENA region

Religion in the MENA region, predominantly Islam, plays a pivotal role in shaping legislation, starting with the constitutions in most of the MENA countries, which draw on Islam as their main source (Ali, 2024).

Sharia law, or simply sharia, is the collection of rules set out in the Quran and the Sunnah (the Prophet Mohamed's sayings and doings), along with the opinions and research of Islam scholars.

Thus, *sharia*, *shar'*, *din* (religion) and *millah* (creed) carry one essential meaning: the divine rulings prescribed by Allah for His servants. However, these rulings are referred to as *sharia* in consideration of their establishment, clarity and precision; as *din* with respect to submission to them and obedience to Allah through them; and as *millah* in view of their being enjoined upon the people (Zaidan, 2005).

Allah, the Exalted, says:

Then we set you upon a clear path of the matter [i.e., Sharia], so follow it, and do not follow the desires of those who do not know. (Surat Al Gathieya, 18).

Here, we point to the main provisions relevant to child protection in Islamic sharia, to shed light on the impact of such provisions on the domestic legislation of the studied jurisdictions.

Generally, Islamic sharia prohibits all forms of violation, physical and especially sexual. Violation is a term that implies the loss of the sanctity of something. Clearly, this is a crime that must be condemned; violators deserve to be punished. Islamic sharia forbids any attack on the human body; this is a general prohibition that includes attack by smacking or other forms of corporal harm, or sexual assault. The Prophet, Peace Be Upon Him, said (in Al Azhar University, 2005):

The whole of the Muslim is forbidden to another Muslim; his blood, his property and his honour.

Preservation of honour is one of the objectives of Islamic sharia.

Indeed, those who like that immorality should be spread [or publicised] among those who have believed will have a painful punishment in this world and the Hereafter. And Allah knows, while you do not know. (Surah An-Nur, 24: 19).

The Prophet, Peace Be Upon Him, prohibited the violation of others' honour (chastity) in his farewell sermon, saying:

Indeed, your blood, your properties, and your honour are sacred to one another like the sanctity of this day of yours, in this month of yours, in this town of yours.

Islamic sharia has closed all avenues leading to the harassment of women. Allah has prohibited adultery, sodomy and slander, and has also forbidden the means leading to these acts. Thus, it prohibits unnecessary mixing, seclusion and immodesty, and commands the preservation of chastity, modesty, lowering the gaze and covering private parts. It encourages marriage and prescribes fasting for those who cannot control their desires. Furthermore, it imposes severe punishments to protect honour, aiming to build a pure and chaste Islamic society (Khaled, 2021).

Thus, Islamic sharia prohibits all sorts of harm to human beings, men, women or children, and also provides for the protection of chastity.

Since Islamic sharia is a main source for most of the legislation in the MENA region, societal expectations regarding the protection of children from online sexual abuse are shaped by a combination of cultural and religious values, legal frameworks and international commitments. Communities anticipate robust measures to safeguard children, reflecting a collective responsibility towards their well-being.

Furthermore, the UN Children's Fund (UNICEF) has been actively involved in addressing OCSEA in the MENA region. Its initiatives focus on strengthening child protection systems, promoting awareness and fostering collaboration among stakeholders. For instance, UNICEF supports co-ordinated national responses to protect children from sexual abuse and exploitation online, ensuring cases are investigated and prosecuted effectively (UNICEF, nd).

5. Comparing legislative frameworks of MENA countries and the UK

5.1 Egypt

5.1.1 Legislative framework for OCSEA

Egypt has ensured the protection of children from all sorts of abuse or maltreatment on several levels.

Constitution

Article 80 of the Constitution of 2014 (last amended in 2019) covers the safeguarding and protection of the child from all forms of violence, abuse, mistreatment, and sexual and commercial exploitation.

Penal Code

Article 178 of the Penal Code punishes anyone who publishes, produces, possesses, trades, distributes, rents, pastes, displays or sells obscene objects or pictures with imprisonment for two years or a fine of between EGP 5,000 and EGP 10,000.

Article 267 punishes whoever rapes a woman with execution or life imprisonment; such punishment is aggravated to only execution if the victim was under 18 years of age.

Article 268 provides that anyone who commits an indecent assault on a person by force or threat, or attempts to do so, shall be punished with hard labour imprisonment. If the age of the victim at the time of the offence was under 18, the punishment shall be not less than seven years.

Article 269 provides that whoever commits an indecent assault on a boy or girl under the age of 18 without force or threat shall be punished with imprisonment. If the victim is under 12 full calendar years, the punishment shall be hard labour imprisonment for not less than seven years.

In defining what constitutes indecent assault, the Egyptian Court of Cassation held that the offence of indecent assault is established when the perpetrator is aware that the physical acts committed violate the victim's decency.³

In a subsequent ruling, the court clarified that physical contact was not a prerequisite for establishing an offence. The mere exposing of the victim's private body part is sufficient to constitute an indecent assault.⁴

3 Cassation Case No. 80 of Judicial Year 22, hearing of 8 April 1952.

4 Cassation Case No. 1664 of Judicial Year 28, hearing of 12 January 1959.

Article 327, on the other hand, criminalises all sorts of extortion, including sextortion, whatever the means used in committing the crime. The article provides that anyone who threatens another in writing to commit a severe crime against this person or his or her property, or by disclosing matters or attributing matters that damage honour, where the threat is accompanied by a demand or the imposition of an order, shall be punished with imprisonment.

Confinement shall be imposed if the threat is not accompanied by a demand or the imposition of an order.

Similar verbal threats are also punishable by confinement whether direct or indirect.

Anti-Prostitution Law No. 10 of 1961

This comprehensive piece of legislation encompasses the criminalisation of various forms of prostitution involving women, and same-sex sexual acts regardless of sex. It also penalises individuals under the age of 21 who engage in such activities or provide support, including places or funding for these criminal endeavours.

The legislation also encompasses penalties for assisting individuals in leaving the country to commit such crimes abroad or facilitating their entry into the country for the same purpose.

Child Law No. 12 of 1996

This comprehensive legal framework governs all aspects of childcare, health, safety and education, encompassing the definition of a child as an individual under the age of 18, as per Article 2.

Article 116 provides that adults who induce children to commit misdemeanours face imprisonment not more than half of the minimum penalty of such crime, with increased penalties for coercion, threats or familial relationships. Felony-inducing adults face penalties similar to if they instigated such crimes.

Human Trafficking Law No. 46 of 2010

Article 2 provides that a person is considered guilty of human trafficking if they deal with a natural person (e.g., through selling, purchasing, employing, transporting or harbouring) using means such as force, threats, deception or exploitation of vulnerability, with the intent of exploitation. This includes **sexual exploitation of children**, whether through prostitution, pornography or any other form of abuse. The crime also encompasses actions aimed at exploiting children for sexual purposes under coercive or manipulative circumstances.

Egypt's reservations on CSEA provisions reflect many cultural and religious aspects, such as the absence in some countries of a minimum age for consensual sex in favour of a minimum age for marriage and the prohibition of dissemination of images of an intimate nature, leading to a need to prioritise domestic law (Delegation of Egypt, 2024).⁷

5.1.3 Gap analysis of the Egyptian OCSEA legislative framework

Despite the lack of a specific definition of OCSEA in the Egyptian legislative framework, a comprehensive analysis of the laws and their judicial applications reveals the extent to which these provisions are designed to combat OCSEA, in line with the relevant international texts.

It is evident that such modalities are covered by both the Penal Code and the Cybercrime Law.

In deciding whether the Egyptian legislative framework is sufficient to address the problem, we examine types of OCSEA and see whether they are covered by the national legislation. In doing so, we adopt the approach taken by the Budapest Convention and the UN Cybercrime Convention in enumerating OCSEA modalities.

Furthermore, we touch on the effectiveness of the Egyptian system on the exchange of relevant digital evidence from third countries.

Child pornography

Article 9 of the Budapest Convention and Article 14 of the UN Cybercrime Convention deal with CSEA materials, Budapest through criminalising child pornography using the above-mentioned definition and associated criminal conduct, and the UN convention through the definition in Article 14-2 of what constitutes CSEA material and the criminal conduct in Article 14-1.

For this specific crime, the Egyptian Penal Code Article 178 covers all criminal conduct related to pornography. Furthermore, Articles 267, 268 and 269 criminalise all sexual conduct that could be the subject of such photos, which builds a comprehensive criminalisation system for all pornography-related conduct.

Coupled with the Anti-Prostitution Law and Articles 25 and 27 of the Cybercrime Law, all conduct related to child pornography as defined in Budapest and the UN convention are covered by Egyptian law covering offline and online relevant conduct.

7 Statement of the Delegation of Egypt, 2024, Concluding Session of the Ad-Hoc Committee on the Elaboration of a Draft Convention on the Use of Information and Communication Technologies for Criminal Purposes https://www.unodc.org/documents/Cybercrime/AdHocCommittee/Reconvened_concluding_session/Written_submissions/MEMBER_STATES/Closing_Statement_final.pdf

Solicitation and grooming

The approach adopted by Article 15 of the UN convention makes communicating, soliciting, grooming or making any arrangement through an information and communication technology system for the purpose of committing a sexual offence against a child a criminalised act. Thus, the mere act, even if it does not result in an actual sexual offence committed by the child, is considered a crime meeting all the essential elements. Paragraph 2 of this article gives countries the possibility to require an act in furtherance of the conduct described in paragraph 1 of the article, which would be the actual occurrence of the sexual offence.

Article 116 of the Egyptian Child Law covers any sort of incitement of a child to commit any crime, with a gradual penalty escalation depending on the gravity of the offence incited. Article 2 of the Human Trafficking Law is applied in cases of solicitation and grooming of children as well. The courts have deemed the act of luring minors for money to perform sexual acts, exploiting their need for money or by coercion, to meet the definition of human trafficking as defined by Article 2;⁸ furthermore, Article 3 of the law provides that consent has no effect in the fulfilment of the constitutive elements of the offence if the victim is a child, which makes all sorts of sexual abuse of children, whatever the means, punishable by the law.

Communicating with a child for the purpose of committing a sexual offence is, however, not provided for explicitly as a criminalised act. This may lead to judicial issues in applying the existing provisions for this specific form of criminal act.

Other forms of OCSEA

Budapest and the UN convention deal specifically with child pornography, online grooming and similar derivatives of OCSEA. Some other forms of the crime qualify as OCSEA yet are not specifically provided for in the conventions.

Online sextortion, for instance, despite not being provided for explicitly and individually as a crime, is being prosecuted by Egyptian courts using the existing provisions in the Penal Code and the Cybercrime Law.⁹

Another form of the crime is the coercion of a child to perform certain sexual acts at the demand of other person in real time. This is also covered by the provisions of the Penal Code and the Cybercrime Law, which impose adequate punishments through the penalisation of any form of sexual abuse of a child.

8 Court of Cassation ruling no. 12737 of the judicial year 91, hearing date 11-2-2023

9 Court of Cassation Case No. 19281 of Judicial Year 89, hearing on 19 September 2020. The court held that the Economic Court of Appeal had correctly applied the law in assuming jurisdiction over a case of a suspect coercing a female victim to send nude pictures of herself under threat of divulging pictures he had of her. The prosecution presented the case with a list of indictments using Article 327 of the Penal Code along with Article 27 of the Cybercrime Law.

Funding any of the criminal acts provided for in the conventions remains unregulated, with no specific legal provision punishing such a crime; however, general rules of aiding to commit a crime could apply in this regard. Article 43 of the Egyptian Penal Code punishes whoever aids the main perpetrator of a crime with the same punishment designated for committing such a crime.

Most OCSEA criminal modalities are fully covered by Egyptian law, even though specific crimes may not have the exact definition adopted by the international texts.

5.2 Saudi Arabia

5.2.1 Legislative framework for OCSEA

The legislative framework for protection from OCSEA in Saudi Arabia involves the Child Protection Law, the Anti-Trafficking law and the Cybercrime Law. We look at these laws in some detail for specific provisions applicable to OCSEA.

Child Protection Law of 2014

Article 1 on definitions defines sexual abuse as exposing a child to any type of sexual assault, harm or exploitation, Along with Articles 2 and 9, it asserts that sexually harassing a child or exposing him or her to sexual exploitation is a form of abuse.

Article 23(bis) provides for a penalty of imprisonment for a term not exceeding two years and a fine not exceeding 100,000 riyals, or by one of these penalties in case of committing any sort of abuse, to be doubled in case of recidivism.

Anti-Trafficking Law 2009

Article 2 provides that trafficking in persons is prohibited, including coercion, threats, fraud, deceit, abduction, abuse of position or power, taking advantage of vulnerability, paying or receiving benefits to control another person for sexual assault, forced labour, services, mendicancy, slavery or slavery-like practices, servitude, organ removal or medical experiments.

Article 4 aggravates the punishment provided for in Article 3 – which is imprisonment for a period not exceeding 15 years or a fine not exceeding 1,000,000 riyals, or both penalties – in case the victim is a child, without stating exactly how such aggravation would take place.

Cybercrime Law of 2007

Article 6 punishes the preparation, publication or promotion of material for pornographic networks or gambling activities, which violate public morals, with imprisonment for a period not exceeding five years and a fine not exceeding 3,000,000 riyals, or either penalty.

excludes the act of the mere communication with a child for the purposes of committing a sexual offence. This narrow wording may lead to judicial issues in the application of the law to this specific way of committing the crime.

Furthermore, the acts mentioned in the Saudi law do not include the act of solicitation for money. In Arabic, 'fraud' and 'deceit' do not cover the act of convincing a child to commit or be the victim of a sexual offence, unlike the term 'incitement' used in the Egyptian Child Law for instance, which allows for wider application given its comprehensive linguistic meaning.

5.3 The United Arab Emirates

5.3.1 Legislative framework for OCSEA

Three relevant laws are found within the legislative framework of the UAE for combating OCSEA.

Federal Penal Code (Federal Law No. 3 of 1987, as amended)

While the Penal Code focuses primarily on offline crimes, it contains provisions relevant to protecting children from abuse and exploitation in general, and sexual abuse specifically.

Article 413 criminalises acts of harassment, including sexual harassment of minors, and imposes severe penalties for such offences.

Articles 414–443 cover indecent acts, including those involving minors, and impose penalties for solicitation or attempts to involve a child in sexual activities such as prostitution and debauchery.

Federal Law No. 3 of 2016 on Child Rights

This law ensures the protection of children from all forms of exploitation and abuse. Specifically, Articles 29 and 37 prohibit the exploitation, production, filming, possession and circulation of child pornographic materials. The law mandates immediate removal of such content from the internet; it also outlines penalties for violations, in Article 65, by imprisonment of not less than 10 years.

Federal Decree-Law No. 34 of 2021 on Countering Rumours and Cybercrimes

This law addresses cybercrimes, including those involving child pornography. It defines child pornography as any material depicting a child in a dishonourable situation in a sexual act or show, whether real, fictional or simulated. Articles 33–36 provide for imprisonment of at least six months or a fine ranging from AED 150,000 to AED 1,000,000 for criminal conducts including using children in prostitution, production of pornographic material and incitement of immoral acts, with Articles 35 and 36 specifically drafted to tackle criminal conduct where children are being victims.

5.3.2 UAE's membership in relevant international conventions

The UAE is party to the CRC and the Option Protocol. In addition, it has ratified the Arab Convention.

5.3.3 Gap analysis of the UAE OCSEA legislative framework

The UAE legal framework is closer to that of Egypt, in terms of the variety of offences and the existence of a proper penal code that covers the gaps existing in specialised laws such as the cybercrime law and the child protection law.

In determining specific legal characterisation of specific conducts, we use the categorisation adopted by Budapest and the UN convention as follows.

Child pornography

The child rights and cybercrime laws of the UAE draw a solid framework for combating child pornography with stringent punishments, especially the former.

The collective articles dealing with the matter encompass most of the criminal conduct related to child pornography as provided for in Budapest and the UN convention.

Funding any of the criminal acts provided for in the conventions remains unregulated, with no specific legal provision punishing such crime; however, general rules on aiding to commit a crime could apply in this regard. Article 48 of the Penal Code punishes whoever aids the main perpetrator of a crime with the same punishment as designated for such a crime.

Solicitation and grooming

'Incitement for immoral acts' as covered in Article 33 of the cybercrime act could encompass the criminal conduct provided for in Article 15 of the UN Cybercrime Convention.

The law does not explicitly provide for communicating with a child for the purpose of committing a sexual offence as a criminalised act. This may lead to judicial issues in applying the existing provisions to such a form of criminal act.

5.4 Legislative framework for OCSEA in the United Kingdom

The UK has developed an extensive legislative framework to combat OCSEA, combining both preventative and punitive measures. Furthermore, the UK has been a member of many international conventions dealing with child sexual abuse, facilitating international co-operation in the matter.

Protection of Children Act 1989

The law includes 'sexual abuse' in the definition of 'ill-treatment' of a child, meaning all offences provided for ill-treatment include sexual abuse.

In addition, it contains sections tackling caring for the child in a position of abuse, such as Sections 17, 47 and 31.

Sexual Offences Act 2003

This act provides a comprehensive range of offences concerning online child exploitation.

Sections 5–27 contain very specific and detailed criminal conducts that cover every possible sexual assault conduct that could be committed against a child or in his/her presence.

Serious Crime Act 2015

This act, amending also the Sexual Offences Act in Article 68, addresses in a whole part the sexual exploitation of a child.

Section 69 tackles the possession of a paedophile manual, covering all paths for the spreading of knowledge that leads to child sexual abuse by criminalising the possession of any item that contains advice or guidance about abusing children sexually.

Online Safety Bill 2023

The Online Safety Act 2023 is a new set of laws that protects children and adults online by making social media companies and search services more responsible for their users' safety. It requires providers to implement systems to reduce risks, remove illegal content and protect children from age-inappropriate content. It also ensures transparency about potentially harmful content and gives users more control over what they see (DSIT, nd).

Ofcom, the UK's online regulator, has issued detailed guidance on protecting children online, including methods to make sure children are not exposed to pornography by using age check techniques including photo ID matching, facial age estimation and credit card checks (Ofcom, 2024).

The UK legislative framework for combating OCSEA covers all criminal conduct provided for in Budapest and the UN convention in a comprehensive and detailed manner aligned with the relevant institutional framework, especially through the involvement of internet service providers, as provided for in the Online Safety Bill.

6. Conclusion

Addressing OCSEA necessitates a cohesive integration of international frameworks and regional legal systems, underpinned by an understanding of cultural, legal and societal nuances. International instruments such as the Budapest Convention and the UN Cybercrime Conventions provide comprehensive frameworks that set the standard for combating OCSEA.

Some modalities of the crime, such as sextortion and the online incitement of violent or coerced sexual acts (where the perpetrators go online and order certain sexual acts to be performed on a minor in real time) are not explicitly mentioned in international cybercrime-focused texts, we believe because such types of crime are already fully covered in texts on the offline type of this crime; extortion and violent sexual acts are already criminalised in all jurisdictions, which means the simple act of using information technology for the commission of the crime is subsequently criminalised, as with most cyber-enabled crimes.

The variability in legislative approaches across the MENA region highlights the complexities involved in achieving legal harmonisation. To bridge these gaps, MENA countries should prioritise the alignment of their domestic legal systems with internationally recognised standards, addressing critical deficiencies such as the absence of explicit provisions for solicitation, grooming and financial facilitation of OCSEA-related crimes. At the same time, it is imperative that these efforts incorporate cultural and religious considerations to ensure the effectiveness and contextual relevance of the adopted measures.

A unified international strategy, augmented by region-specific adaptations, is pivotal in enhancing global and regional capacities to combat OCSEA effectively. Strengthened co-operation within the MENA region and with international stakeholders will be instrumental in creating a robust and co-ordinated response to this pervasive issue, ultimately safeguarding vulnerable children and ensuring accountability for perpetrators.

7. Recommendations

The disparities in the frameworks of the MENA countries create a disjointed legislative environment in the region, despite them sharing the same religious and cultural background. This incoherent framework may provide criminal safe havens for perpetrators, who can exploit its inconsistencies to commit crimes from under-criminalising states.

As we noticed from looking at the Egyptian legislative framework, as relatively comprehensive as it is, it still does not address some of the crime modalities provided for in the UN Cybercrime Convention or the Budapest Convention, even though, in our view, punishments are an adequate deterrent for the Egyptian community and according to legal standards.

On the other hand, the Saudi Arabia legal framework lacks clear criminalisation for most of the crime modalities.

States in the MENA region should take serious steps towards enhancing their legislative and operational framework combating OCSEA considering the following:

Legislative harmonisation: MENA countries should align domestic laws with the Budapest Convention and the UN Cybercrime Convention, criminalising all OCSEA modalities, including grooming, sextortion and funding. Explicit provisions for handling digital evidence and criminalising online communication for grooming should be introduced to fill existing gaps guided by the mentioned international texts.

Strengthening institutions: Governments should establish specialised cybercrime units, train law enforcement and judicial officials on digital evidence, and create centralised databases to track OCSEA incidents. This exist on the law enforcement level in Egypt and the UAE but more specialised judges and prosecutors are needed to leverage the process of combating OCSEA. Partnerships with Interpol and other international bodies should enhance operational capacity and co-ordination.

Regional cooperation: Regional frameworks such as the Arab Convention should be strengthened to harmonise laws, streamline mutual legal assistance and enable effective cross-border prosecution of OCSEA offenders.

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