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Inputs on the draft General Comment of the UN Committee on the rights of the child "Children's rights in relation to the digital environment"

Joint submission from the Centre for Children's Rights at Queen's University Belfast, the School of Education of University College Dublin and Child Rights Connect including its members the Aliance za dětská práva (Alliance for the Rights of the Child- Czech Republic), Child Rights Information Centre Moldova and the Women's World Summit Foundation (WWSF); as well as welcome support from partner organisation BRIS: Children's Right in Society-Sweden.

This focused submission is directly informed by the views and recommendations of more than 35 children, aged 13 to 18 years old, from 15 countries in all regions of the world, who use the digital environment to act as human rights defenders. The views were collected as part of a study exploring in-depth the issues raised by Child Human Rights Defenders (CHRDs) specifically related to the digital environment as part of the global consultation for the UN Committee on the Rights of the Child's [Day of General Discussion in 2018](#)¹.

Children's main recommendations to make sure that CHRD are recognised, empowered and protected in the digital environment concern:

1. Addressing the negative experiences of CHRDs caused by people, companies and legislations;
2. Recognising children's active engagement with the digital environment and this space as an enabler of communication and collaboration among CHRDs;
3. Taking advantage of the digital environment as an effective platform to disseminate the work of CHRDs, and
4. Promoting greater support from adults to secure full participation of children.

¹ The methods of data collection for this study included an online questionnaire to self-assess children's digital competencies (based on the grid from DigComp 2.0 framework by Vuorikari et al., 2016); interviews (conducted via video call) and focus groups to discuss the findings (conducted via video call).

All suggested modifications and additions to the text of the draft general comment are included below in **red colour**.

1. Addressing the negative experiences of CHRDs caused by people, companies and legislations

As violence, bullying and harassment online are the most recurrent problems CHRDs face in the digital environment, actions to tackle hurtful treatment was one of the most urgent recommendations. CHRDs want to be sure that there are consequences for those individuals that harass or attack children online, so they want governments to develop adequate national and international legislation. However, for CHRDs there is a distinction in types of negative experiences they face when exercising their rights and promoting the rights of others in the digital environment. **Whereas some negative experiences are linked to behaviour of individuals, others are the result of inadequate policies to protect them, structures that are not designed for them to navigate effectively, and mechanisms which are too complex for them to use effectively.** As a result, their actions as defenders, their own safety and protection are at risk; which is why **they recommended an evaluation of the policies, structures and mechanisms** currently available. Such evaluation would have to be **conducted in collaboration with children to make sure that any changes proposed actually takes into account their views, needs and rights.** The participation of children is essential to make sure that structures and mechanisms are not designed in a way that will cause them harm or put them at risk. Moreover, it is essential to differentiate the obligations of States with regards of regulating and controlling the activities of the business sector and other actors, and those areas where cooperation is needed between the public and private sectors.

The suggested changes to the GC25 from this recommendation are:

C. Right to life, survival and development (art. 6)

Par. 17- “(...) Moreover, States must adopt a precautionary approach concerning the potential effect of the use of digital devices in the increase of the risk of digital addiction. Uses of digital technologies may help or hinder children’s development, depending on their design, purpose and use. Hence, States must regulate and control the design and production of digital devices and services by businesses and other private actors, so it does not affect children’s right to life, survival, and development. (...)”

[rationale:

- 1) Where we propose to change the word “should” for the word “must”, this is to better reflect/reinforce States obligations vis-à-vis the Convention. The CRC² and other treaty bodies such as the CCPR, CEDAW, CRPD and CMW already include this wording in their general comments.
- 2) The same way the State regulates and controls other private activities and services outside the digital environment, it must also do so in this case to avoid any potential

² See CEDAW/C/GC/31/CRC/C/GC/18.

risks or harms to children. Even if there is “insufficient evidence” (quoting the original par. 17), the mere existence of indications of potential risks and harms is enough to establish preventive measures.]

D. The right to be heard (art. 12)

Par. 19 – “(...) due weight to their views. **States should ensure the rights of children to be heard and act upon children’s views about the design, purpose and use of digital technologies, services and devices.** States should (...)”

I. The business sector

Par. 37- “States **must** require businesses to prevent their networks or online services from being misused for purposes that threaten children’s safety and well-being (...)”.

Par. 38- “(...) States **must** take appropriate steps to prevent, monitor, and investigate child rights violations by businesses in the digital environment”.

Par. 39 - “(...) regulatory frameworks, industry codes and terms of services that adhere to the highest standards of ethics, privacy, **safety, accessibility for children with disabilities, inclusion and respect for diversity**, into the design, engineering, development (...)”

J. Commercial advertising and marketing

Par. 41- “States **must** ensure that advertising and marketing are age appropriate **and gender-sensitive** and all forms of commercially driven content are clearly distinguished from other content.”

Par. 42- “States **must** prohibit by law the targeting of children of any age for commercial purposes on the basis of a digital record of their actual or inferred characteristics. Neuromarketing of child-directed products, applications and services **must** also be prohibited”.

Par. 61 –

“When children express their political or other views and identities **or when they defend human rights** in the digital environment (...) and digital surveillance **through adequate policies and programmes as well as cooperation with business, service providers, civil society organisations, ombudspersons and other relevant organisations.** States should first explore whether measures can be taken to ensure that a child can act safely thus avoiding the need to restrict the exercise of children’s freedom of expression in order to protect them from harm. Children should not be prosecuted for expressing their opinions **or defending human rights** in the digital environment.”

VII. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39; OPSC; OPAC)

Par. 87- “(...) States **must** develop regulatory approaches to encourage and enforce the ways businesses meet these responsibilities (...)”.

B. The right to culture, leisure, and play (art. 31)

Par. 119- “(...) By introducing or using data protection, safety-by-design and other regulatory measures, States **must** ensure that businesses do not target children using these or other techniques designed to prioritize commercial interests over those of the child”.

2. Recognising children’s active engagement with the digital environment and this space as an enabler of communication and collaboration among CHRDs

Children are active users of the digital environment, many times even teaching adults, for example their parents and caregivers how to use the different technologies. They occupy the digital space along with adults, and should be involved in the development, implementation, monitoring and evaluation of laws, policies, plans and programmes related to child rights and the digital environment. For CHRDs the digital environment provides unique opportunities to exercise their rights, particularly their right to participation, access to information, freedom of expression and assembly. **Digital technologies enable CHRDs to communicate and collaborate with other defenders, to learn from each other and to access the necessary information they need to promote and protect human rights.** The suggested changes to the GC25 from this recommendation are:

Introduction to the GC (par. 1-7)

Add as a second new paragraph: **“Children use the digital environment to communicate among themselves, to understand better specific situations occurring in their/other communities and countries, and to defend their rights and the rights of others. Particularly, child human rights defenders use the digital environment to share their work, for peer-support and as a reliable source of information about human rights, including children’s rights.”**

IV. Evolving capacities (art.5)

Par. 21- “(...) activity; **the negative stereotyping and prejudice faced by children with disabilities which might lead to overprotection, if not neglect, concealment, segregation and/or abandonment**; the nature (...)”

B. Comprehensive policy and strategy

Par. 26 – “In addition to regulation, industry codes and design standards, such action plans should establish and promote, *inter alia*, training and guidance for **children**, parents and caregivers, relevant professionals and the public, programmes to develop children’s digital skills **as well as access to opportunities and information in child-friendly formats, about their rights and how to protect them.** Such measures should **empower children to use the digital environment in an efficient and safe manner. Likewise, these measures should protect children, including from online sexual abuse and exploitations, and provide remedy and support for child victims and measures to meet the needs of children in disadvantaged or vulnerable situations, including resource materials translated into relevant minority languages. Measures should also enable children to fully exercise their rights in the digital environment particularly their right to be heard and civil and political rights.**”

B. Comprehensive policy and strategy

Par. 28 - “(...) It should also cooperate with businesses, **civil society organizations, schools, the media, parents, children** and other organizations to realize children’s rights in relation to the digital environment at cross-sectoral, national, regional and local levels. (...)”

G. Dissemination of information, awareness-raising, and training

Par. 34 – “Professionals working for and with children in all settings [...] should receive training that includes how the digital environment impacts the rights of the child in the multiple contexts, **the ways in which children exercise their rights in the digital environment**, and how they access and use technologies. (...)”

H. Cooperation with civil society

Par.35 – “States should systematically involve civil society, including **child human rights defenders and** non-governmental organizations working both in the field of children’s rights and in the field of the digital environment (...)”

A. Access to information (arts. 13 and 17)

Par. 56 – “States should **ensure that** providers of digital services used by children apply concise and intelligible content label, for example on age-appropriateness, **child-friendly reporting mechanisms** and provide user friendly guidance and educational materials for children, parents and caregivers, educators and relevant professional groups. (...)”

Par. 96 – “The digital environment opens new avenues for children with disabilities to engage in social relationships with their peers, access information, participate in public decision-making processes **and actively engage in the promotion and protection of their rights**. (...)”

3. Taking advantage of the digital environment as an effective platform to disseminate the work of CHRDs

CHRDs recognise the value of the digital environment to disseminate their work as it allows them to reach wider audiences without requiring significant financial resources, often limited for them or their organisations. However, **more training opportunities are needed to support CHRDs to make the most out of the digital environment and take advantage of its possibilities to protect and promote human rights**. Following the input of the CHRDs, the suggested changes to the GC25 from this recommendation focus on the content and scope of training opportunities:

D. The right to be heard (art. 12)

Par. 18 – “(...) States should offer training and support to children **to understand their rights and to develop their digital skills**, and provide access to child-friendly **and safe** platforms in order to let them express their views and become effective advocates for their rights, **both individually and as a group**. (...)”

G. Dissemination of information, awareness-raising and training

Para 33 – Add at the end: “(...) Children’s experiences and views on the use of the digital environment should inform these educational programs.”

B. Freedom of expression

Par. 60 – “(...) proportionate. If justifiable restrictions are imposed on children’s right to freedom of expression the process, outcome and reasons for such a decision must be transparent and communicated to children. States should provide children with information **and training opportunities** on how to effectively exercise this right, particularly how to create and share digital content **in a safe manner for them** while respecting the rights and dignity of others and not violating legal rules, such as those related to incitement on hatred and violence.”

C. Freedom of thought, conscience, and religion

Par. 63 – “(...) States shall ensure that automated systems, digital architectures of software and devices and the overall design of technologies are not used to impact or to influence children’s **opinions, ideas,** behaviour or emotions”

D. Freedom of association and peaceful assembly (art.15)

Par 68 - “(...) The Committee recognises that the digital environment enables child human rights defenders, including children in situations of vulnerability such as [...] to advocate for human rights, including children’s rights, to communicate with each other and form associations.[...] States should support them - **including by facilitating the creation of specific digital spaces** - and ensure their safety.”

A.The right to education (art.28,29)

Par. 113 – Add at the end: “Educational curricula on digital environment, competencies and skills should be informed by the experiences and views of children.”

4. Promoting greater support from adults to secure full participation of children

CHRDs recognised the instrumental role of adults to exercise their right to participation in the digital environment, which is why their recommendation is for **greater support by different relevant adults. Such support included stronger legislation, policies and regulations by Governments, more direct support from parents and guardians, as well as teachers and schools’ staff.** As a result, the suggested comments to the GC25 informed by this recommendation are:

IV. Evolving capacities

Par. 22 – “(...)They should inform, support and provide training opportunities to parents and caregivers in acquiring digital technology skills to help them to assist children in relation to the digital environment”.

C. The best interest of the child

Par. 14 – “When making decisions relating to the regulation of the digital environments, States shall **ensure that the best interests of the child are a primary consideration, and in determining this shall have regard to the child’s other rights including, in particular, their rights to seek, receive and impart information, to be protected from harm and to have their views given due weight.**”

[rationale: Otherwise children’s interests and rights (to participate, to express, to assembly, etc.) might not be considered balancing the risks, harm and violations. It is crucial to clarify here that the rights include not just the right to protection from harm and that the best interests should not be the determining principle but a primary consideration.]

C. Rights to life, survival, and development (art. 6)

Par. 16 – “(...) States should identify and address **through adequate laws and policies** the emerging risks children face in diverse contexts **by empowering them to share their views on** the particular and emerging risks they face.

C. Access to information (arts. 13 and 17)

Par 58 – “States should **ensure** that media and other relevant organizations provide reliable information **and training** to parents and children about the nature of digital services and the associated opportunities and risks. (...)”

VIII. Family environment and alternative care (arts. 5, 9, 18, 20)

Para 89 – Add first sentence: **“Children are entitled to receive support and guidance in their discovery of and use of digital environments.”**

IX. Children with disabilities (art. 23)

Par. 99 -Add at the end: “(...) **States should support the development of child-led organisations and initiatives of children with disabilities and their active engagement through the digital environment, as well as support adults in facilitating such initiatives.**”

A.The right to education (arts. 28, 29)

Par. 112 – Add at the end: **“States must ensure that schools recognise their responsibility in preventing cyberbullying, when connected to a child’s school environment.”³**

Other proposed changes

A.The right to non-discrimination

Par. 11- Add at the end: **“Children have equal right to access without discrimination the digital environment as adults. States must ensure that any differentiation in the access to the digital environment between children and adults is based on objective and reasonable criteria”.**

Par. 12 – First sentence: add **“gender”** after “sex”. Second sentence: add **“girls”**.

³ As highlighted by partner organisation BRIS who has collaborated on the development on our submission.

E. Data collection and research

Par. 31 – “States should ensure the production of robust, **disaggregated**, and comprehensive data that is adequately resourced **and protected**. (...)”

A. Access to information (art.13 and 17)

Par. 52 – Add “**and gender -sensitive**” after “age-appropriate”.

Par. 65 – “States **must** ensure that children are not penalized for their religion or beliefs or have their future opportunities in any other way restricted.(...)”

IX. Children with disabilities (art. 23)

Par. 96- “(...) States should pursue these new avenues and also **adopt measures to prevent the creation of new barriers and remove existing ones** by children in relation to the digital environment.”

Par. 97 – Add at the end: “**Obstacles to access the digital environment are not only experienced by children with physical disabilities, but also children with psychosocial disabilities.**”

Add new para after para 98 - “**Accessibility standards might not cater for the individual needs of all persons with disabilities, whether properly implemented or not. States must ensure the provision of reasonable accommodation to address individual requirements, in order to prevent disability-based discrimination excluding children with disabilities from a policy implemented through the digital environment or from content available in the digital environment.**”

A.The right to education (art.28,29)

Par. 107 – “(...) quality **inclusive** education (...)”. Add at the end: “**In situations of public emergency, such as the COVID 19 pandemic, the digital environment might be the only way through which children can exercise their right to education, leisure and cultural activities.**”