



Key Priority Issues on Child Rights and the Digital Environment

Annual Day of the Human Rights Council & UNGA Resolution on Children's Rights in the digital environment & Global Digital Compact

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Joint position paper on behalf of Child Rights Connect, Child Rights International Network (CRIN), 5Rights Foundation, Instituto Alana, World Vision International, Make Mothers Matter, Plan International, Plataforma de Infancia and Save the Children International.

Overview

One in three internet users is a child and the digital environment is becoming increasingly important in children's lives, offering opportunities but equally presenting significant risks. The rights of every child must be respected, protected and fulfilled in the digital environment.

The Human Rights Council Annual Day on the Rights of the Child (ADRC), the 2023 planned UN General Assembly Resolution on the Rights of the Child, the theme of which will be the digital environment (UNGA Resolution), as well as the Global Digital Compact, are important opportunities to drive awareness and reinforce global political commitment to the implementation of children's existing rights in this area as set out in the United Nations Convention on the Rights of the Child and its General comments, most notably General Comment 25, and focus political will on key priorities for action.

The ADRC should provide a forum for focused discussion together with children, experts, and other stakeholders, aiming to build consensus regarding the core content of the UNGA Resolution. These discussions should also inform the Global Digital Compact.

It is especially important that the discussion take a holistic approach to children's rights, and focus on the specificities of effective implementation in the digital environment. With a view to informing the UNGA Resolution, it should:

1. Reaffirm the core tenets of children's rights in the digital environment as set out in the UN Convention on the Rights of the Child and UNCRC General comment No. 25 (as well as other General comments, notably General comment No. 16 on State obligations regarding the impact of business, General comment No. 20 on the implementation of the rights of the child during adolescence; and relevant GA and HRC resolutions (on privacy, CSEA, bullying...))
2. Recognise risks to children and the egregious outcomes that children experience in terms of the violations of their rights in the digital environment, and the significant remaining gaps in implementation of their rights by States and companies (to inform the preamble and expressions of concern in the Resolution)
3. Identify the priorities for States (and other actors) to implement child rights in the digital environment (to inform a call to action in the Resolution).

Background

The digital environment plays an increasingly significant role across most aspects of children's lives. One in three internet users is a child, and, especially since the COVID-19 pandemic, children's development, their relationships, education and play, are increasingly mediated by digital technologies.

The digital environment is predominantly privately designed, owned, and operated, and currently largely unregulated. Regulating and enforcing businesses' responsibility to respect children's rights, prevent and remedy abuse of their rights, including through providing children with a high level of privacy, safety and security by design and default, and upholding consistent global standards, is urgent for ensuring children's rights in the digital environment.

Meaningful and equal access to safe digital technologies can support children to realize the full range of their civil, political, economic, social, and cultural rights. Children particularly value the access to information and exchange, and to expression and having their voice heard. Yet millions of children have no access to the digital environment at all. There is a growing cost for children from the digital divide, including the gender-related digital divide.

Children are not a homogenous group; their agency, age and maturity, and different needs must be taken into account. Also, some children are disproportionately affected by the risks of the digital world given the intersecting situations of vulnerability that they may face. For instance, children with disabilities, girls, or children coming from different socioeconomic backgrounds, face different barriers, including the digital divides. Thus, it is important to acknowledge that gender, age, disability, and other inter-sectional factors impact on children's different experiences online which must be carefully considered.

The digital environment must be safe for children and respect their full range of rights. At present, children's presence goes largely unrecognised and uncatered for on most of the digital platforms where children spend most of their time. Children are consequently exposed to a wide range of significant risks in the digital environment, relating to content, contact, conduct and contract. These encompass, among other things, unfair terms, dark patterns, persuasive design, profiling and automated processes for user retention and information filtering. Children experience egregious outcomes including addiction, exposure to violent, radical and sexual content, hate speech, disinformation, cyberaggression and harassment, body dysmorphia, gambling, exploitation and abuse, including sexual exploitation and abuse, as well as economic exploitation, including child labour and exploitation of their vulnerabilities for commercial purposes, and the promotion of or incitement to suicide or life-threatening activities. The growing impact on children's development, physical and mental health, and well-being is well-documented.

Implementation of children's rights in the digital environment

The obligations of States to respect, protect and fulfil child rights in the digital environment, as well as the responsibilities of the business sector to respect, prevent, mitigate and, where appropriate, remedy abuses are clearly explained in General Comment No. 25. Implementing of State obligations and corporate responsibilities requires effective action.

To do so States should prioritise two core actions:

1. Developing and implementing comprehensive policies and action plans for children's rights in the digital environment.
2. Legislating to ensure business responsibility to respect children's rights, prevent and remedy abuse of their rights in relation to the digital environment.

Comprehensive policy for children's rights in the digital environment

States parties must urgently review and update their national policy frameworks to ensure a holistic and comprehensive approach to implementing children's rights in the digital environment in line with the UNCRC. This should include:

- Identifying and building institutional capacity to ensure a holistic and coordinated approach to implementing children's rights in the digital environment, across policies, programmes, government departments, industry sectors and geographies – taking into account children's views in all their diversity.
- Mobilizing, allocating and utilizing public resources to implement legislation, policies and programmes needed to address the increasing impact of the digital environment on children's rights and to promote the equality of access to, and affordability of, services and connectivity. Specific measures will be required to close the gender-related digital divide for girls. Children with disabilities and the development of assistive technologies should also be a special focus of attention.
- Undertaking a comprehensive review of national child protection policies and legislation to take full account of the digital environment and online-offline dynamics.
- Ensuring access to justice for children's rights violations in the digital environment, by providing for strong and effective monitoring, complaint, investigation, enforcement and redress mechanisms, ensuring systemic responses to support and respond to crimes, including enabling effective investigation, reviewing sanctions and sentencing frameworks. Complaint and reporting mechanisms should be free of charge, safe, confidential, responsive, child-friendly, and available in accessible formats. Particular attention should be paid to preventing and tackling gender-based violence and child sexual exploitation and abuse.
- Mandating the use of child rights impact assessments (including child data protection impact assessments) to embed children's rights into legislation, budgetary allocations and other administrative decisions and procedures relating to the digital environment and promote their use among public bodies.
- Establishing a coordinated multi-stakeholder framework – including the technology sector and civil society organisations – to tackle risks and promote the exercise by children of their rights in the digital environment, including effective legal and regulatory enforcement mechanisms, prevention, remedies and access to expert advice on child online safety and well-being. This should include promoting child-centred design, minimum standards, industry agreements, adoption of best practice and cultural awareness and resourcing of children's safety and wellbeing in the digital environment through regulation, enforcement of existing legislation and frameworks that relate to corporate responsibility.
- Identifying and filling knowledge and capacity gaps, including by strengthening and re-aligning the capacity and capability of law enforcement agencies and regulatory bodies in the child online safety field, and providing training for professionals working for and with children, as well as the technology industry.
- Investing in awareness raising and education, to prevent likely harms and promote positive internet use and the empowerment of children. This includes providing resources and support to teachers, parents and caregivers.
- Ensuring the respect and fulfilment of the right of the child to be heard in the digital environment, taking children's views and the diversity of their situations into account in the development of laws, policies and frameworks.
- Investing in and promoting research and data collection, to inform legislation, policy and practice. States must improve their national data systems and ensure the measurement of the prevalence of child sexual exploitation and abuse to assess trends and progress towards its elimination.

- Recognising that the digital environment is an essential space to enable children to exercise their civil and political rights and facilitating the creation of empowering and safe digital spaces for child human rights defenders (CHRDs) and the exercise by children of their civil and political rights online. Ensuring that CHRDs in all their diversity can safely exercise their rights online free from harm and reprisals.

Legislation for corporate responsibility

The business sector, including not-for-profit organizations, affects children's rights directly and indirectly in the provision of services and products relating to the digital environment. Businesses have the responsibility to respect children's rights, prevent and remedy abuse of their rights in relation to the digital environment, as set out in the UNCRC General comments No. 25 and No. 16. States parties have the obligation to ensure that businesses meet these responsibilities, and should develop, pass, and enforce legislation:

- Requiring businesses to undertake child rights due diligence, in particular to carry out child rights impact assessments and effectively mitigate any risks posed by their products and services to children.
- Requiring businesses to recognise child users and take into account the diversity of their situations.
- Requiring the business sector to provide children with a high level of privacy, safety and security by design and default, enforcing the adoption of children's rights by design standards.
- Requiring businesses to implement regulatory frameworks, industry codes and terms of services that adhere to the highest standards of ethics, privacy and safety in relation to the design, engineering, development, operation, distribution and marketing of their products and services, including for artificial intelligence.
- Holding businesses accountable for infringements of children's rights facilitated by their products or services, including through the design and operation of digital services.
- Prohibiting the unlawful digital surveillance of children by businesses, particularly in commercial settings and educational and care settings.
- Prohibiting the use of children's personal data and targeting of children using techniques designed to prioritise commercial interests over those of the child, including behavioural advertising.
- Requiring businesses to maintain high standards of transparency and accountability.
- Requiring businesses to provide children, parents, and caregivers with prompt and effective remedies.
- Requiring businesses to provide age-appropriate explanations to children, and to parents and caregivers for very young children, of their terms of service.
- Encouraging businesses to actively engage with children, applying appropriate safeguards, and give their views due consideration when developing products and services.
- Encouraging businesses to take measures to innovate in the best interests of the child.
- Encouraging businesses to provide public information and accessible and timely advice to support children's safe and beneficial digital activities.