**COMMENTS TO DRAFT GENERL COMMENT NO. 25 (202X), November 2020**

**CHILDREN’S RIGHTS IN RELATION TO THE DIGITAL ENVIRONMENT**

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| **Para** | **Content of para** | **Comment/Recommendation** |
| 1. | Children in diverse contexts see digital technology as critical to their current lives, and the future. They find benefits of using digital technology: “I express [online] what I see as important through my eyes in the world”; “I need technology for school and for fun”; “When you are sad, the internet can help you see something that brings you joy”. Children also call for action to support, promote and protect their safe engagement with these technologies: “I would like the government, technology companies and teachers to help us manage untrustworthy information online”; “I want [my parents] to ask permission before they upload a photo of me”; “I want to know more about what specific companies are using my data”. | Not only children but policy makers see digital technology as critical to everyone’s lives. Arguably there is narrowing down of offline options and the period for transition is increasingly limited. Making the transition smooth and inclusive appears to be a major challenge. |
| 2. | The digital environment is continually evolving and expanding. It includes the internet and mobile technologies; digital networks, content, services and applications; old and new systems of media, communication and information; connected devices and environments; virtual and augmented reality; artificial intelligence, including machine learning; robotics; automated systems and data analytics; and biometrics and biotechnology. | The digital environment is evolving but is mostly populated by untrained users of applications and services. |
| 3. | Children’s rights shall be respected, protected and fulfilled in the digital environment. Innovations in digital technologies impact children’s lives and their rights in ways that are wide-ranging, cumulative and interdependent. Meaningful access to digital technologies can support children to realise the full range of their civil, political, cultural, economic, social, cultural and environmental political and social rights. If digital inclusion is not improved, already existing inequalities are likely to be exacerbated. | How does one define “meaningful access”?   |  | | --- | | Governments should work towards ensuring the right to equal access to the internet in this regard. The Covid 19 situation led to recent debates related to postponing school exams due to lack of access to digital communication devices for children belonging to socio-economically backward communities. Time has come when all private and public schools must consider sensitizing the children about positive use of the internet and ask parents to share their devices with their children for education purposes. |   Flexible learning time, online education mode, like sharing recorded lessons etc. must be developed. |
| **5.** | The digital environment is becoming increasingly important in many aspects of children’s lives as part of normal life and during times of crisis. It is important to ensure that children benefit from engaging with the digital environment and mitigate the associated harms, including for children in disadvantaged or vulnerable situations. | In India, there is dearth of research on short, medium and long-term impacts on children’s well-being and their rights.  Schools and parents/guardians must be sensitized more.  Reporting of cybercrimes must be encouraged. |
| 10. | The right to non-discrimination requires that States ensure all children, including children of lower income families and children living in rural and remote areas, have equal and effective access to the digital environment in ways that are meaningful for them. States should take measures to lower the cost of connectivity, provide free access to children in safe dedicated public spaces, and invest in policies and programmes that support all children’s use of digital technologies at school, home, and in their community, to overcome inequalities and improve digital inclusion. | COVID pandemic highlighted the immense challenge of universal digital inclusion, especially for children’s education. Lack of or limited access to digital devices and connectivity emerged as both a cause and consequence of digital exclusion with long term repercussions. Policy guidelines are required for dealing with such situations where both the access to education as well as digital inclusion is imperative. |
| 11. | Children report many forms of discrimination in relation to the digital environment, including through actions that result in exclusion from digital technologies and services, or hateful communication or discriminatory treatment. Children may be unaware of other forms of discrimination, including those that may result from the deployment of automated decision-making based on protected, biased, and partial or unfairly obtained information. | Where should one refer to young children who are introduced to digital technologies very early in life? The issues related to internet connected and/or smartphone enabled devices or toys need to be considered in the discussion, apart from the sudden surge in supply and demand from aspirational parents for coding lessons for their young children. |
| 12. | Specific groups of children may require particular measures to prevent discrimination on the grounds of sex, disability, socio-economic background, ethnic or national origin, or any other ground. This includes minority and indigenous children, asylum-seeking, refugee and migrant children, LGBTI children, child victims of sexual exploitation, children in poverty and children in alternative care, including institutions, and children from other vulnerable situations. For such groups, the digital environment may provide unique access to vital resources, and also it may present heightened risks. | A body of primary research with vulnerable categories of children is required to prevent preconceived notions from dominating conversations and discourse.  There is anecdotal evidence that the perceived anonymity of cyberspace may have empowered children and young people by enabling them to explore issues related to their gender identities and sexuality. |
| 14. | When making decisions relating to the regulation of the digital environment, States shall consider the nature, scale and prevalence of potential harms and violations of children’s rights in such environments, contrasted with assumed interests and rights of others, and shall apply the best interests of the child as the determining principle. States shall ensure transparency in assessment of the best interests of the child and demonstrate what criteria have been applied. | Issue of juvenile online offenders must be considered in this  regard. Provisioning of services for dissemination of preventive measures, ethical and legal principles to guide the usage of digital technologies must precede the efforts to define, regulate and criminalise online offenses by children keeping their best interests in mind. |
| 16. | States shall take all appropriate measures to protect children from the risk and threat to their right to life, survival and development in the digital environment. These include content, contact and conduct risks, and threats that include bullying, gambling, sexual exploitation and abuse, persuasion relating to suicide and other life-threatening activities including by criminals, armed groups and those designated as terrorist groups. States should identify and address emerging risks children face in diverse contexts by consulting them for insight into the particular and emerging risks they face. | Laws covering digital protection and data protection must also be reviewed frequently. |
| 17. | States should pay specific attention to the earliest years of life, when brain plasticity is maximal and the social environment, particularly the relationships with parents and caregivers, is crucial in shaping the child’s cognitive, emotional and social attitudes and skills. The use of digital devices should not substitute for direct, responsive interactions amongst children themselves or between children and their parents and caregivers, such as talking, reading and playing. States should take into account research on the effects of digital technologies on children’s development. | Parenting education, which could provide parents with the basic knowhow and information related to the effects of digital technologies on young children and intergenerational relationships, is lacking in most developing countries. |
| 19. | When developing laws, policies, programmes, services and training on children’s rights in relation to the digital environment, States should involve children, especially children in disadvantaged or vulnerable situations, and victims of harm related to the digital environment, listen to their needs and give due weight to their views. States to ensure that providers of digital technologies and services engage children, applying appropriate safeguards, and give their views due consideration when developing their services. | Good practices for dissemination of and consultations with children in the interests of robust laws, policies, programmes, services and training on children’s rights in relation to the digital environment need to be shared. |
| 21. | The policies adopted to implement children’s rights in the digital environment need to vary according to children’s evolving capacities to reflect an appropriate balance between protection and emerging autonomy in designing these policies, and the frameworks within which children engage with the digital environment from early childhood to adolescence. States shall consider: the changing position of children and their agency in the modern world; children’s competence and understanding that develop unevenly across areas of skill and activity; the nature of the risks involved in balance with the importance of taking risks in supported environments in order to develop resilience; | It is extremely important to make explicit the connection between the online and offline world in terms of threats and potential harm to children. They need to fully understand that technology only offers another additional platform for exploitation and abuse of children. |
| 24. | States should review and update national legislation to ensure the digital environment is compatible with the rights in the Convention and its Optional Protocols and that it remains relevant in the context of technological advances and emerging practices. | New offences must be recognized as soon as possible and incorporated in laws so that the amendments keep pace with technological advances and the ingenuity of perpetrators.  Rights violations must also be recognized and protections built in. International collaboration of academicians, researchers and ngos is a must in this regard. |
| 25. | States should ensure that national policies and/or strategies for children’s rights, and regarding the development of the digital environment, as well as any corresponding action plans, address children’s rights issues related to the digital environment and that they are regularly updated. | We must also look into the issue of the internet of things and liability of websites and social media platforms |
| 26. | In addition to regulation, industry codes and design standards, such action plans should establish and promote, *inter alia,* training and guidance for parents and caregivers, relevant professionals and the public, programmes to develop children’s digital skills and access to opportunities. Such measures should protect children, including from online sexual abuse and exploitation, and provide remedy and support for child victims and measures to meet the needs of children in disadvantaged or vulnerable situations. | Policy regarding training specifically school teachers in digital awareness must be considered and highlighted along with these suggestions. |
| 31. | Data collection and research are vitally important as a means of mapping and understanding the implications of the digital environment for children’s rights, and for evaluating its impact on children, and the effectiveness of State interventions. States should ensure the production of robust, comprehensive data that is adequately resourced, including research conducted with and by children, should inform regulation, policy and practice and should be in the public domain. | Agreed. While collection of data, ethical policies for providing confidentiality to the data owners must also be seen. |
| 39. | In addition to developing legislation, States should require businesses that impact on children’s rights in relation to the digital environment to establish and implement regulatory frameworks, industry codes and terms of services that adhere to the highest standards of ethics, privacy and safety into the design, engineering, development, operation, distribution and marketing of their technological products and services and maintain high standards of transparency and accountability, and encourage them to innovate in the best interests of children. | It is equally important for governments to have a requirement for transparency and accountability in the industry code , in terms of reporting to the public, the outcomes of their self-regulation . |
| 42. | States should 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 should also be prohibited. | This may require the involvement of market regulators. A strict regulatory system could be difficult to achieve. Unchartered area- more on this for guidance. |
| 44. | Children whose rights relating to the digital environment have been violated face particular challenges in accessing justice due to difficulties in obtaining evidence and identifying perpetrators, or because they lack knowledge of what constitutes a violation of their rights in the digital environment. Further challenges arise due to the sensitivity of issues that include disclosing children’s online activities and fears of reprisals by peers or of social exclusion. | Awareness activities for children, parents and caretakers should essentially contain information on what constitutes a rights violation, how to keep evidence to support identification of perpetrators. |
| 49. | Children can face difficulties in obtaining remedy when their rights have been violated in the digital environment by business enterprises, in particular in the context of their global operations. States should consider measures to allow for extra-territorial jurisdiction, when there is a reasonable link between the State and the conduct concerned.  States should ensure that businesses provide effective complaints mechanisms; this should not, however, prevent children from accessing State-based remedies. State agencies with oversight powers relevant to children’s rights such as health and safety, consumer rights, education, advertising and marketing shall monitor and investigate complaints and provide and enforce remedies for violations of children’s rights in the digital environment. | States should also ensure that businesses and state agencies have an obligation to report on the findings and efficacy of their reporting mechanisms. |
| 52. | States should provide and support the creation of child-friendly, age-appropriate digital content for children in accordance with their evolving capacities, and ensure that children are able to access a wide diversity of information, including information about culture, sports, arts, health, civil and political affairs, and children’s rights, from a plurality of media and other sources including information held by public bodies. | Age-appropriate digital content should be in all local languages to ensure equality of access. |
| 59 | A child’s right to freedom of expression includes freedom to seek, receive and impart information and ideas of all kinds, using any media of their choice. Children report that these technologies offer significant scope to express their ideas, opinions, and political views. For children in disadvantaged or vulnerable situations, online participation with others who share their experiences can help them to express themselves. | Agreed. However, simultaneously, children must also be sensitized about digital ethics and about the right to privacy for fellow children and adults. Counselling services should be in place for breach of digital ethics and in cases of serious violations of others’ rights, the juvenile justice administration system and care facilities must be equipped to address and counsel children on cyber safety issues. |
| 80. | The right of the child to birth registration can be enhanced through digital birth registration systems. To guarantee birth registration to children in remote areas, refugee and migrant children, children at risk and those in marginalized situations, States should use online mobile registration units. States should provide awareness-raising campaigns, establish monitoring mechanisms, promote community engagement, and ensure effective coordination between civil status officers, notaries, health officials and child protection agency. States should also ensure that they do not hinder children’s access to basic services nor violate children’s privacy and identity. | Government must take extra precaution and build safeguards for ensuring data privacy when such services are outsourced to third party repositories/agencies. |
| 89. | Many parents and caregivers require support to build technological understanding, capacity and skills to assist children in relation to the digital environment. States should ensure that parents and caregivers have opportunities to gain digital literacy to learn how technology can support the rights of children and to recognize a child victim of online harm and respond appropriately. | Extremely important. Stakeholders must also look into the issue of digital empowerment of senior citizens who may be caregivers for adolescents in the absence of parents. |
| 91 | States should promote awareness for parents and caregivers to respect children’s growing autonomy and need for privacy, in accordance with their evolving capacities. States should take into account that children often embrace and experiment with digital opportunities, and may encounter risks, particularly at a younger age than parents and caregivers anticipate. Some children report wanting more support in their digital activities, especially where they perceive parents’ and caregivers’ to be highly restrictive and not adjusted to their evolving capacities. | With special attention to the children’s ability to unauthorizedly access others data. Care must be taken to sensitize children about such adolescent inquisitiveness and issues of legalities in this regard |
| 101. | Digital technology can facilitate access to health services and information, and improve the diagnostic and treatment services for maternal, newborn, child and adolescent physical and mental health and nutrition. It also offers significant opportunities to reduce inequalities to access health services and reach children in disadvantaged or vulnerable situations or in remote communities. | State must ensure that health data, are secured ensuring privacy. |
| 129. | States should ensure that the General Comment is widely disseminated to all relevant stakeholders, and be made available in multiple formats and languages so as to reach, in particular, children, parents and caregiver. | In India, General Comments are hardly ever disseminated systematically. Interested stakeholders, usually few, do manage to dig out and use the comments in the course of their work. |

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