**General Comment on children’s rights in relation to the digital environment**

*Submission by Digital Rights Foundation*

1. **About**

1.1 The aim of this submission is to posit suggestions in the Concept Note for a General Comment on children’s rights in relation to the digital environment put forward by the Committee on the Rights of the Child. This submission will seek to provide suggestions regarding issues grounded in the South Asian context based on secondary research and direct experience of working in the field of digital rights in Pakistan.

1.2 Digital Rights Foundation (DRF) is a not for profit organization based in Pakistan working on digital freedom. DRF envisions an internet where all people, especially women, can exercise their right of expression without being threatened or intimidated. DRF works on issues of online freedom of expression, digital privacy, equal internet access and online violence against women through research-based advocacy, capacity-building and direct assistance.

1. **Purpose and Scope of the Concept Note**

2.1 The scope of the concept note covers a wide range of themes that impact rights of children in the digital age. DRF suggests the following topics and issues that can be highlighted as sub-themes for areas of specific interest.

2.2 The issue of whether children can give consent regarding the online material and information is both a legal and sociological question. The scope and nature of the consent of minors varies according to the cultural context and age of the child. However some universal issues are emerging in terms of the right to be forgotten for children’s information shared by their parents and family members either without consent or at a time when the child was incapable of giving consent. Information, pictures and videos shared during childhood are part of their inherited digital footprint and can result in reputational and privacy-related harm in the future, especially when shared in the context of criminal activity or socially sanctioned behaviour.

2.3 It has been the experience of public discourse in Pakistan that online child rights and abuse is often couched in language of paternalism and moral panic, an obstacle that impedes the development of nuanced policy and laws around the issue. The resulting policy is often censorship-heavy and seeks restrictions on access of the internet to children as a viable solution. Furthermore, in Pakistan, legal intervention has been in the form of one-off amendments to existing laws with little follow-up regarding the task of implementation and capacitating law enforcement to proactively move on the issue of child safety.

2.4 Child online safety should encompass exposure to extremist and hateful content that can be used to groom and radicalise children. While online safety in terms of hate speech and cyber terrorism politicises the issue of online protections, this should not be an impediment to seeing it as a child rights issue as well as human rights one. The problem of youth radicalisation is not just confined to religious extremism, but extends to misogynistic and white supremacist groups online that foster hate speech and incite violence.

1. **Structure of the Concept Note**

3.1 Experience with advocacy around issues of digital rights and child rights suggests that effectiveness is often predicated on the ability of the target audience to empathise with the topic. Case studies and stories from across the globe will go a long way in rendering children’s right to digital environments more urgent. A diverse set of stories will also contextualise the issue in specific ways that feel relevant to different parts of the world.
3.2 The concept note should include the role of teachers and schools in imparting digital literacy and ensuring safe online safes. Integration of online safety and anti-harassment training into school curriculum is an important aspect of digital literacy.

3.3 The practices of businesses and social media companies should be highlighted prominently, especially considering the multicultural nature of their operations and the power that they hold in terms of access and content moderation.

3.4 The right to non-discrimination should also be included. The rights of the child apply to all children without discrimination on any grounds. Children rights in relation to the digital environment should be granted without discrimination of any kind, irrespective of the child’s age, and the child’s or his or her parents’ or legal guardians’ race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or any other status.

1. **General measures of implementation by state parties**

4.1 The role of state parties needs to be clear and prominent in the concept note. Despite the global nature of the internet, state parties are often required to implement practices, policies and laws concerning rights of children. The prime concern in third world countries like Pakistan is the limitations attached to widespread/equal permeation of the tools and methods

4.2 In situations where ICTs are used to exploit minors, state parties are the first line of defense. In Pakistan, sexually explicit material relating to children shared or transferred online is governed by section 22 of the Prevention of Electronic Crimes Act in Pakistan, which empowers the law enforcement bodies to investigate and prosecute culprits. In cases such as this dependence on state functionaries require that state parties be taken into confidence and pushed to take proactive measures to bring down the larger crime rings operating both locally and internationally. Furthermore, cooperation between state bodies is key in these cases. The most prominent case of online child pornography in Pakistan in 2017 was investigated and prosecuted with the assistance of Norwegian authorities as the materials were being distributed in countries such as Norway, Sweden, Italy, United States and United Kingdom.[[1]](#footnote-1)

4.3 States should ensure that access to the digital environment is provided in educational and other care settings for children with disabilities such as having braille keyboards in educational institutes. States should require online service providers to ensure that their services are accessible by children with disabilities.

4.4 States should promote digital literacy and safe usage of online spaces in school curriculum for children from the earliest years.

4.5 States should ensure that the terms and conditions that are associated with the use of a device or that apply to the provision of online services or content are available in the child’s language and formulated in clear, child-friendly and age-appropriate language where relevant.

4.6 States should take measures to guarantee children’s right to hold and express any opinions on matters of importance to them, through the media of their choice. States, through educational programmes raise awareness among children on how to exercise their right to freedom of expression in the digital environment while respecting the rights and dignity of others, including other children, on intellectual property rights and prohibition of incitement to hatred and violence.

1. **Suggestions for new issues**

5.1 Given that child online rights and safety are shared and intersecting issues, it is suggested that the issue of international cooperation should be discussed in the proposed concept note. This can become an issue of criminal liability in cases where child poronography is being shared across national jurisdictions—greater cooperation and knowledge-sharing across jurisdictions within international law should be discussed in particular.

5.2 Furthermore, given the disparity of digital technologies and capacities between the global North and South, international cooperation should also be discussed in terms of bridging that gap in a manner that benefits all. Open source software and affordable technologies developed for educational purposes can go a long way in furthering the digital environment experienced by children from lower income countries. However it is also important to note that developmental interventions in other countries should be streamlined through local partnerships and contextualised solutions, rather than top-down initiatives that have proven to have little impact on the ground.

5.3 The question of digital literacy is also to be framed as a question of unequal access, given that most material on the internet is neither disabled-friendly nor caters to languages at the peripheries. In Pakistan, for instance, children without access to English-medium education are often left out of mainstream discourse on the internet-further entrenching the socio-economic gap that exists offline. Furthermore, digital devices are very rarely used or available in low-income public schools and computer studies is rarely part of the curriculum in schools that cannot afford ICT facilities. These dynamics of inequality play out differently in the global south and thus solutions need to be geared towards the challenges that inhere.

5.4 The issue of gender has not been highlighted specifically in the proposed concept note, and the vulnerabilities and exclusions faced by the girl child needs to be highlighted. In Pakistan, women and girls are less likely to own an ICT device than their male counterparts. The gender digital divide is such that as per a study by LirneAsia, a think-tank based in Sri Lanka, Pakistani women are 43% less likely to use the internet than men.[[2]](#footnote-2) Furthermore, girl’s activities online are subject to surveillance and moral policing on the basis of their gender identity, and can translate into offline violence as well at the hands of families and partners.

1. Rana Bilal, “Sargodha man handed 7-year jail term, Rs1.2m fine in Pakistan's first-ever child pornography conviction”, *Dawn*, April 26, 2018, https://www.dawn.com/news/1404010. [↑](#footnote-ref-1)
2. Jamal Shahid, “Most Pakistanis do not know what the internet is: report”, Dawn, November 12, 2018, https://www.dawn.com/news/1444979. [↑](#footnote-ref-2)