

**Canadian Human Rights Commission**

**Submission to the**

**Special Rapporteur on the right to privacy**

**to inform the Special Rapporteur’s report on privacy and the child**

**September 2020**

## Children, Technology and Human Rights

Today’s children and youth are the first generation to be born into a digital age and to live their lives through technology. Children and youth have the right to the benefits of technology and the digital environment, and to protection from human rights violations related to these. The Canadian Human Rights Commission wishes to highlight that it is crucial for children’s online rights and protections to be consistent with their offline rights.

Children and youth are increasingly subject to technological surveillance of their activities by both governments and the private sector. This is often done without children’s awareness or informed consent, and presents new and profound risks to privacy and, consequently, to other rights. This increasing surveillance, combined with other technologies such as big data, facial recognition, and AI can put children and youth at risk of having significant parts of their lives and decisions predicted, influenced, monetized and exploited in ways that are inconsistent with the best interests of the child. It can also normalize surveillance as children grow, leaving children and youth increasingly at risk and vulnerable to violations of their right to equality and to live free from discrimination.[[1]](#footnote-1)

Children are also victims of online exploitation, hate, harassment, and abuse, often related to their sex, race, gender identity or expression, or other characteristics. Cyber-bullying and the sharing of child abuse images online are examples of serious violations of children’s privacy rights that can have long-term ramifications due to the far reach and permanency of information online.[[2]](#footnote-2)

There have been few detailed assessments of whether and how children’s rights – including the right to privacy – can be both realized and protected in digital environments.[[3]](#footnote-3) However, international frameworks and guidance for both governments and the private sector is growing. For example, in 2016, the UN Human Rights Council passed a resolution on the right to privacy in the digital age that makes explicit reference to the Convention on the Rights of the Child.[[4]](#footnote-4) As well, section 38 of the European Union’s General Data Protection Regulation recognises that “[c]hildren merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data”.[[5]](#footnote-5)

In Canada, there is ongoing work from governments and the private sector in this area, but there is little legislation or regulation currently in place to identify, prevent, prohibit or remedy individual or systemic human rights violations against children that are linked to technology, human rights, and the digital environment. Therefore, in its most recent report to the Committee on the Rights of the Child – on the occasion of its consideration of Canada’s 5th and 6th periodic reports – the Canadian Human Rights Commission recommended that the Committee ask Canada to provide details of the steps being taken to address the prevention, protection and access to remedies for the violation of rights against children in the digital environment, as well as what efforts are being made to ensure that children’s rights to equality in the digital environment are adequately protected by governments and within the private sector.

1. See <https://www.ohchr.org/EN/Issues/DigitalAge/Pages/DigitalAgeIndex.aspx>. [↑](#footnote-ref-1)
2. See: <https://www.unicef.ca/sites/default/files/imce_uploads/TAKE%20ACTION/ADVOCATE/DOCS/cyberbulling_submission_to_senate_committee.pdf> and <http://rightsofchildren.ca/wp-content/uploads/2016/01/CCRC-report-on-rights-of-children-in-Canada.pdf>. [↑](#footnote-ref-2)
3. See: <https://rm.coe.int/guidelines-to-respect-protect-and-fulfil-the-rights-of-the-child-in-th/16808d881a> and <https://rm.coe.int/it-guidelines-background-document-policy-guidance-on-empowering-protec/168093b644>. [↑](#footnote-ref-3)
4. See: <https://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/71/L.39/Rev.1>. [↑](#footnote-ref-4)
5. See <http://ejlt.org/article/view/674/912>. [↑](#footnote-ref-5)