

The challenge of emerging technologies for the right to education

New Humanity would like to congratulate the Special Rapporteur on the right to education, Ms. Farida Shaheed, for her recent appointment and for the 25th anniversary of the Mandate. The mandate of Special Rapporteur on the right to education during these 25 years have been very important **for gaining a deeper appreciation of the right to education and the need for a human rights based approach**. For this reason, we would like also to recognize the work of the previous Special Rapporteurs: Ms. Katarina Tomasevski (1998/2004); Mr. Vernor Muñoz Villalobos (2004-2010); Mr. Kishore Singh (2010-2016) and Koumbou Boly Barry (2016-2022).

New Humanity has collaborated with the Special Rapporteurs through various contributions, inputs, and side events addressing the themes presented. In particular, the last Rapporteur considered in her reports our inputs on the right to education related to cultural rights and the digitization of education. **New Humanity** also collaborates with other mechanisms and Committees of UN about the right to education, children's rights, and digital technologies. Our organization has also worked with the Special Rapporteur in the field of cultural rights, the Special Rapporteur on the right to privacy, the Committee on the Rights of the Child, and the Human Rights Council Advisory Committee.

We appreciate Ms. Farida Shaheed's call for input as she proposes 'to undertake a review of the achievements of the mandate on the right to education over the last 25 years, **to identify the current main challenges to the right to education today**, and to enumerate the crucial issues that deserve attention for the future'. Through this contribution to the Report (to be presented in June 2023), our Organization expresses its concerns about **the impact of emerging technologies on the enjoyment and understanding of the right to education and the educational rights of the person involved in the education process (above all children, parents and teachers)**. We believe that these concerns represent an epochal challenge and, as such, that they deserve the attention of the Special Rapporteur in her future thematic reports.

The Reports by the Special Rapporteurs on the Right to Education produced since 2016 have highlighted the impact of technologies in the educational process. For example, we note the Report about digitalization on education (A/HRC/50/32); the Report about the impact of the coronavirus disease crisis (A/HRC/44/39) and the Report about issues and challenges to the right to education in the digital age (A/HRC/32/37). These Reports could be read together with other UN documents to understand better the concern of the international community about emerging technologies in education. Our organization especially appreciates the General comment n° 25 on children's rights in relation to the digital environment released by the Committee on the Rights of the Child and the Report on Artificial intelligence and privacy, and children's privacy (A/HRC/46/37). And, in general, the international concern about the impact of emerging technologies on human rights is presented through the latest publication of the Human Rights Council Advisory Committee, 'Possible impacts, opportunities and challenges of new and emerging digital technologies with

regard to the promotion and protection of human rights' (A/HRC/47/52) and by the UN Secretary-General in his proposal 'Our Common Agenda' about digital inclusion.

The introduction of digital technologies and the digitalization of the global educational process during the pandemic has not worked well for everyone. It has facilitated a universal experience about the introduction of digital technologies and the digitalization of the global educational process. But need exists to understand better its consequences and implications and to provide opportunities for a deeper dialogue about it, as has happened, for example, with the UNESCO (2021) Rewired global Declaration on Connectivity for Education and the global conversation opens on the right to education for reviewing and extending its understanding in the 21st Century¹. Also, it is necessary to acknowledge the 'Transforming Education Summit' (2022) that resulted in a proposal for the UN General-Secretary to drive the 'Our Common Agenda.'

Digital technologies and emerging technologies are relevant and widely used in all fields of society. The educational process is of particular importance because 'education is both a human right in itself and an indispensable means of realizing other human rights (E/C.12/1999/10)'. Education is directly connected to the full development of the human personality and the sense of its dignity but also with other content and social aims. So, the educational process is not only about to learn something also is about initiate and socialized in a tradition, culture, and values to develops the own personality. For this, digitalization of education process, in general, means assume this and something new. Through digitalization of education the future generations also assume as 'normal' the use of technologies, the life with digital device and its values and not only for education but also in the rest of areas of society. Will be initiated and socialized in their use, generating trusting and assuming values and categories about them.

Digital technologies and emerging technologies are relevant and widely used in all fields of society. They have particular importance for the educational process because 'education is both a human right and an indispensable means of realizing other human rights (E/C.12/1999/10)'. Education is directly connected to the full development of the human personality and a person's sense of dignity but also with other content and social aims. So, the educational process is not only about learning something but also is about initiating and socializing in one tradition, culture, and values, all critical to developing one's personality. Through the digitalization of education, future generations will consider the use of technologies as 'normal' and overall will be 'trust' on them. Learning to live with digital devices has value not only for educational purposes but in every social context. People will be initiated and socialized in their use, generating trusting and assuming values and categories about them.

The digitalization of education is an ongoing process with many directions and pedagogical implications. For example, there are recent pertinent books about the future of education and teaching. For example, about the role of AI in education as 'teacher robot,' such as, 'Teaching Machines: The History of Personalized Learning' by Audrey Watters (2021; see also, Selwyn, 2019; OECD, 2021). Digitalization of education is an important trend where data analytics and AI education are key factors. Society will need different types of educational data for driving the learning analytics and AI education governance so it will means a inexorably necessitate the scaling up of educational digitization. This is another challenge for the future of the right to education. It is an endless growth process but not without critical thinking or ethical sense.

If emerging technologies redefine the agents, content, and aims of what it means to educate, will the meaning and scope of the right to education as a human right also change? How will the right to education evolve? What aspect of the right would remain as core content and what element could change or be reformulated? At the same time, that fundamental principles (core content) of the right to education and its aims remain unchanged, it is also possible to study and reflect on how to adapt education to the diverse realities of evolving societies.

¹ Vid. Site web: <https://en.unesco.org/futuresofeducation/get-involved/right-to-education>

Access to technology has proven to be an essential element of a quality education and has become a major concern for those who advocate for the right to education. The ‘**Digital divide**’ has become the new frontier for realization of the right to education.

The Digital Divide is a major challenge both between the territories of the global north and south and within states and communities. It is not only a question of web access or the availability of devices but also about digital literacy, training, and education and social choice. The first step needed is to achieve universal internet access and the widespread availability of digital devices. The Special Rapporteur in the field of cultural rights expands on this observation in her Report referencing Art. 27, UDHR on ‘the right to enjoy the benefits of the scientific progress and its implication’ (A/HRC/20/26). The UN Secretary-General promotes the same need in ‘Our Common Agenda’.

We commonly think about the digital divide in terms of having or not having computers or other devices, but the divide goes deeper than that. We can distinguish three levels of opportunity connected to right to education. The technical level is the most visible challenge because most students in the world do not have access to the internet or to computers or mobile phones. Second is the learning level because not all people with access to digital devices use them in a technically competent way. Consequently, a gap exists between people with basic digital skills and people with the know-how to use the technology effectively. This creates challenges from both a pedagogical and civic point of view. The knowledge gap begins also with the teachers who need the training and skill to know how and why they use various technologies in the educational process (or not). Third, it is the social choice gap, because there will be people who will be able to choose when to interact face-to-face and when to interact online or choose between online education or face-to-face. Those unable to choose their mode of interaction will be disadvantaged. Do people have the right to choose face-to-face versus online education? Are people truly free to choose what they really want to do in digital environment? And, in general, do people have the right to choose the degree of digitalization that they want or that they are willing to assume for their lives?

The polycentric reality of the right to education and the connection to other rights and freedoms in a digital environment and its implications is also a matter that should concern us (Stanfield, 2021). Today, for example, there is an important link between right to education and the privacy of all agents involved in educational process, especially the students. The right to access information and recognition of the cultural rights are also important and closely related to the right to education in the digital society. The human rights could be a digital face to improve the reality ‘Onlife’ of the people (European Commission, 2022; OECD, 2022; Custers, 2021; Floridi, 2015). For this reason, also it is important and necessary **re-think the relationships and interactions of the right to education with other human rights**.

Also, it would necessitate a deeper study of the implications of art. 26.2. and 26.3 of the **Universal Declaration of Human Right in a digital education environment** in order to guarantee the same intentionality for both virtual and face-to-face educational processes. It also has implications for the prior right to parents to choose the kind of education that shall be given to their children but under no circumstances is it meant to change, substitute or decrease the value of this right. Therefore, the various forms of educational application of AI as well as the governance of data in education must be always and, in all situations, subordinated to the general purposes of education and the contents recognized in the art. 26 UDHR.

In this context, we cannot make a reductionist reading of art. 26, thinking only in terms of ‘access’ and how technology increases and facilitates it. We must think about the unity of art. 26 with the other two paragraphs and how technology may compromise them. It is not possible to read the paragraphs independent of each other. The rights concerning education in art. 26 are not separate rights, rather they represent one integral right to education. For doing an integral reading of the right to education we should consider the 4-A analytical scheme, i.e., education must be available, accessible, acceptable and adaptable

as proposed by K. Tomasevki (E/CN.4/2000/6). This now applies to both face-to-face and digital environments.

The safeguarding of academic freedom at educational institutions (i.e., Universities, schools) or the 'prior right of the parents to choose the kind of education that shall be given to their children' could be endangered by certain forms of development in 'AI Education' and 'datafication'. At the same time, this growth would increase the risks of a 'dark' commercialization of education and so on the vision of education as reproduction (just thinking about the biases of some algorithms; the transmission of stereotypes about women and girls or the progressive disappearance of cultural pluralism or lose the representation of minority cultures). So we also must safeguard the moral, ethical, religious, and civic elements of the right to education in a virtual world.

The own academic freedom, the rights of parent to choose and the own best interest of the children in the educational process could be in danger by certain forms of development the 'AI Education' and 'datafication'. At the same time, this growth would increase the risks of a 'dark' commercialization of education and so on the vision of education as reproduction (just thinking about the biases of some algorithms; the transmission of stereotypes about women and girls or the progressive disappearance of cultural pluralism or lose the representation of minority cultures). As recognized and written in various human rights documents, we must safeguard the moral, ethical, religious, and civic elements of the right to education in a virtual world.

The so-called **'enhancement technologies' are another type of 'emerging technologies' which that have a potential impact on the right to education from a human rights-based approach.** Indeed, it is necessary to take into account an ethical framework, as a primary consideration, in all advances produced in converging technologies whose purpose lies in the 'improvement' and 'production' of a new human being, the so called 'posthuman'. This type of technological intervention radically affects the human condition, whose original and primordial manifestation is the child. This type of intervention is not merely a research or commercial issue, but above all it poses ethical and anthropological challenges. There are even political and legal concerns in the sense of how and why only a few could decide on the humanity of all human beings. This type of technological intervention radically affects the human condition, whose original and primordial manifestation is the life of the child. The possibility exists of intervening in the development of an embryo and the technological modification of the body. Perhaps the most important issue to consider is the future of 'brain implants' (as the 'neuro implants'). **This leads to a very important issue regarding the scope of the right to education: how will such human enhancements drive in the future?**

The so-called **'enhancement technologies' are other type of 'emerging technologies' which also concern us about the scope of the right to education from a human rights-based approach.** Indeed, it is necessary an ethical framework, as a primary consideration, in all advances produced in converging technologies whose purpose lies in the 'improvement' and 'formation' of a new human being (including biological aspects), the so called 'posthuman'. This type of technological intervention radically affects the human condition, whose original and primordial manifestation is the childhood. This type of intervention is not merely a research or commercial issue, but above all it is an ethical and anthropological challenger. Even political and legal in the sense of how and why only a few could decide on the humanity of all human being (about this there is an important document by European Parliament STOA). This type of technological intervention radically affects the human condition, whose original and primordial manifestation is the life of the child. There is possible the embryo intervention and the technological modification of the own body; perhaps the most important and realistic is the future 'brain implants' (as the 'neuro implants'). **And this is a very important issue about the scope of the right to education: how will the human enhancement drive in the future?**

Education is a human action that aims to improve the human being from inside to outside (also from an ethical point of view), while respecting their intrinsic freedom. The 'enhancement technologies' looking for the 'enhancement' oppositely, from the outside in, so this always involves some form of undermining of one's freedom. Education has always sought the active participation of the learner in the process of their

education. This other type of improvements is always 'added' and therefore 'passive' and 'artificial'. The answer, in the first case, as to the question about how you improve yourself always will be a narrative respond, a history, a biography of oneself so original and plural.

We are grateful to the Special Rapporteur, Ms. Farida Shaheed, for the opportunity to participate in the public consultation about the review of the achievements of the mandate on the right to education over the last 25 years and the challenges to the right to education today. We trust that the proposed reflections will support her important work to the future of the AI impact in the right to education. We cannot forget, as the Geneva Declaration of 1924 stated that 'mankind owes the child the best that it has to give' and, among other rights, the right to education is paramount.

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