

Towards a charter for children’s rights in the digital context

Online safety concerns dominate debate around children and the internet. This submission aims to focus attention on how the internet can be used as a tool to promote children's access to information in a way that promotes all children’s rights, including to protection. With this in mind, it proposes some ideas for a charter for how the Convention on the Rights of the Child might be applied to the digital context.

Why we need to address all children’s rights in the digital context, not just protection

As children increasingly seek out information online, all those involved in children's lives - from policymakers to parents and teachers - are grappling with how best to balance child protection with respect for their autonomy. Children’s heightened vulnerability to sexual exploitation, cyberbullying and violations of their privacy in the unregulated world of cyberspace has understandably attracted attention at all levels. But it has also eclipsed the fact that the internet is a valuable source of information and empowerment for children. This has resulted in the imposition of disproportionate restrictions on children’s access to digital media and therefore to information. This affects all children’s rights - including to freedom of expression, life, health and protection – because information is the means by which children form views about the world, learn to make choices and protect themselves from risk. In other words, the extent to which children’s right to information is respected is a good gauge for how far they are recognised as rights holders in a given society.

Protection as a front for censorship

Violations of children's right to access information may occur for various reasons, for instance, as a result of a failure by States to ensure children have access to information from a range of sources in a language or format they understand, or because of active efforts to obstruct this access.¹ Such efforts are often defended with child protection arguments, which in some cases may be well-meaning, but in others are being used to legitimize discrimination and censorship - both online and offline.

Some of the most disturbing examples of restrictions on children’s access to information are the spread of laws and policies blocking children's access to honest and objective information about issues like sex, sexuality and drug use,² in particular, the widely reported laws on information

¹ Relevant rights under the CRC include, but are not limited to: freedom of expression (article 13) and access to information (article 17) including that related to health (article 24.2e), and education for the benefit of children’s development (article 29).

² Child Rights International Network (CRIN), Access Denied: Protect rights – unblock children’s access to information, June 2014. Available at: https://www.crin.org/sites/default/files/access_to_information_final_layout.pdf

deemed ‘harmful to children’s health and development’ in Russia and neighbouring countries,³ which include a prohibition on distributing information about LGBT issues to children.⁴ In 2012, Russia also created a website blacklist as part of these efforts⁵ and the Russian Parliament has proposed creating a “filtered internet” for children⁶ which will only host content provided by certain types of organisation.⁷

Elsewhere, vague and subjective definitions of harmful information, together with blanket solutions such as overly broad internet filters, have led to blocks that go beyond adult sexual content to include material that is valuable to children’s learning and development like websites about sex education, politics and advocacy.⁸ Furthermore, there is often a lack of transparency in how and when such restrictions are put in place as well as difficulties in reporting and addressing mistakes.⁹

Bring down the firewall: talk to children

Aside from concerns about censorship, blanket restrictions on children’s access to the internet are counter-productive. The gulf that exists between adults’ and children’s knowledge of the internet means that children will always find ways around technology or gather information by other means, potentially exposing them to greater risks. A survey in Brazil, for example, revealed that slightly more than two thirds of children believed they knew more than their parents about the internet regardless of their socio-economic status.¹⁰ Children and the adults in their lives should therefore be encouraged to engage and discuss issues in a way that promotes knowledge and communication, helping them to make informed choices about their lives rather than relying on solely on filters to avoid difficult conversations.

Where age-labelling systems are appropriate, children should be involved in their development, and any determination of what constitutes harmful information should draw on their experiences as research shows that children’s perceptions of risk can differ greatly from those of adults.¹¹ In fact, evidence suggests that well-informed and engaged parents who discuss the internet with their children are the most effective means of protection.¹²

³ Child Rights International Network (CRIN), Laws restricting children’s access to information, March 2014. Available at: <https://www.crin.org/en/library/publications/laws-restricting-childrens-access-information>

⁴ Ibid.

⁵ RT.com, “Russians should only have access to a ‘filtered internet - lawmaker” (3 July 2014). Available at: <http://rt.com/politics/170216-russia-internet-filter-mizulina/>

⁶ The .ДЕТИ domain (“дети” means children in Russian)

⁷ State and public organisations, manufacturers and sellers of children’s products and services, and those whose work relates directly to children.

⁸ Open Rights Group, Mobile Internet Censorship: What’s happening and what we can do about it, May 2012, p. 12, 21. Available at: <https://www.openrightsgroup.org/assets/files/pdfs/MobileCensorship-webwl.pdf>

⁹ Ibid at p. 16.

¹⁰ Barbosa, A., O’Neill, B., Ponte, C., Simões, J.A., and Jereissati, T, Risks and safety on the internet: Comparing Brazilian and European children, 2013. LSE, London: EU Kids Online. Available at: <http://www.lse.ac.uk/media@lse/research/EUKidsOnline/EU Kids III/Reports/Brazil-report-21 nov-final.pdf>

¹¹ Vandoninck, S., d’Haenens, L., & Smahel, D, EU Kids Online, Preventive measures - How youngsters avoid online risks, February 2014, p. 1. Available at: <http://eprints.lse.ac.uk/55797/1/EU Kids Online Report Preventivemeasures.pdf>

¹² UNICEF Global Safety Online: Global Challenges and Strategies, May 2012, p. 45. Available at: http://www.unicef-irc.org/publications/pdf/ict_techreport3_eng.pdf

Children's own capacities to exercise caution should be given more prominence: a 2013 survey by Pew Research Center's Internet and American Life Project revealed that in fact young people are more privacy conscious than adults.¹³ Pew has documented some of the ways in which children protect themselves online, for instance by consulting a parent, friend or resources available on the platform they are using to change their privacy settings.¹⁴

Finally, we should not forget that children's growing use of digital media is in part a response to the limits imposed on their use of public space - also a result of adults' fears for and of children.¹⁵

With these points in mind, CRIN wants to refocus the debate around children and the internet to establish a positive model for what this could look like - one based on improving children's access to information, rather than wishing the internet away.

Towards a charter on children's rights in the digital context

Below are some ideas for thinking about how rights set out in the CRC could be applied to the digital context. This is not exhaustive and does not set out new rights, but looks at how existing rights might be understood or enacted in the digital context.

Non-discrimination (article 2)

The internet is an important tool for claiming all human rights, such as the right to education, and for participating in society. As such, States should take measures to ensure access for all children, including those who face particular barriers, like children living in remote areas or from disadvantaged backgrounds. Appropriate measures include assistance with computer equipment and internet access costs, efforts to establish infrastructure for high-speed internet in remote areas and the provision of space and time for children to use the internet at school or wherever else they may spend time.

Evolving capacities (article 5)

Children should be able to exercise their rights as they acquire the competence to do so. All those involved in determining children's internet access should recognise that children mature at different rates and there is a vast difference between the capacity of children of different ages to understand and assess risk. Parents should be empowered to guide their children's internet use, with respect for their evolving capacities.

The right to be heard (article 12)

The CRC asserts children's right to be listened to and taken seriously on matters affecting them,

¹³ Pew Research Center, Survey: Most teens take steps to protect their privacy, 21 May 2013. Available at: <http://www.cnet.com/uk/news/survey-most-teens-take-steps-to-protect-their-privacy-podcast/>

¹⁴ Pew Research Internet Project, Where teens seek online privacy advice, 15 August 2013. Available at: <http://www.pewinternet.org/2013/08/15/where-teens-seek-online-privacy-advice/>

¹⁵ Boyd, D., "It's Complicated: The social lives of networked teens". Available at: <http://www.danah.org/itscomplicated/>

and an entitlement to have their views considered in accordance with their age and maturity.

States and industry should draw on children's own experiences and views when developing and distributing new technologies and online resources.

Freedom of expression (article 13) and access to information (article 17)

Children have a right to hold and express opinions, and to seek, receive and impart information and ideas of all kinds, "regardless of frontiers" through the full range of media.

This includes the right to express controversial views which others may not agree with - online or offline. Any restrictions on this right should comply with international human rights standards on freedom of expression.¹⁶ Children should have the right to know about any restrictions that are in place. They should also have access to information appropriate to their age and circumstances about how to make a complaint or report abuse.

Children should have access to online information from a range of sources to help them develop their own perspectives, think critically and make informed choices about their lives, including about issues that adults may not feel comfortable talking to children about, such as sex and relationships and mental health.

States should encourage the development of materials to stimulate children's imagination and learning, this includes websites tailored to children. Children should also be encouraged to create and distribute their own online content.

Freedom of association (article 15)

Children have the right to peaceful assembly. In the digital context, this means they should be able to participate in online groups, including political action and debate (within the bounds of the law). States should encourage the development of tools to enable children to participate in political and other decision-making processes online.

Right to privacy and respect for confidentiality (article 16)

Article 16 provides that 'no child shall be subjected to arbitrary or unlawful interference with his or her privacy ... or correspondence'.

It is not only governments who have a responsibility to protect personal data; private service providers also have responsibilities where personal information is concerned.

Children should be made aware that anything they post about themselves online may be available worldwide and have consequences either in the immediate or in the long term. Children should have control over this information, for instance, their informed consent should be secured before any transfer of data is made. It should be possible to have information removed on request, with respect for confidentiality.

Parents' joint responsibilities (article 18)

Article 18 establishes that parents and legal guardians have primary responsibility for raising their child. It also requires States to support parents in this role. Parents and other adults in children's lives should be encouraged to engage with children and guide them in their online

¹⁶ i.e. that they are set out in law, pursue a legitimate aim and respect the principles of necessity and proportionality.

lives, with respect for their evolving capacities, to equip them to deal with other users' behaviour - e.g. bullying, grooming, etc. and know where to report abuse. States should provide training to help parents and other caregivers develop the skills to be able to support children in this way.

Protection from violence (article 19) and sexual exploitation and abuse (article 34)

Children should receive special protection from sexual exploitation and abuse and other forms of harm, such as cyberbullying. In addition, children should be able to access information and support appropriate to their age and circumstances about options to report anything illegal or harmful. Attempts to protect children should be balanced with their right to information: they should not be seen as opposing goals.

Right to education (articles 28 & 29)

Children should have access to education online, including freely available content in a language that they understand to help them reach their full potential.

Education should also cover knowledge and skills relating to the internet, including how to think critically about messages conveyed in information.

Recommendations

Given the need to clarify how rights set out in the CRC apply to the digital context, we hope the Committee will:

- Consider children's rights online and offline in its reviews of State party reports;
- Pursue children's access to information in State reviews, with systematic reference to articles 13 and 17 of the CRC; and
- Make recommendations against the imposition of disproportionate and discriminatory restrictions on children's access to information - online and offline - which are not in conformity with the Convention as a whole.