**Contribution to the General Comment on Children’s Rights in relation to the Digital Environment**

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**Introduction**

We appreciate the Committee's concern about the matter being discussed in the present general comment. Nowadays in the modern world, the digital environment is of vital importance. The digital environment and the real-world are so twisted that it is hard to distinguish them and the border between them is blurred. Thus it is important, meanwhile neglected, to address digital matters besides the old traditions. In respect of the committee's call, we offer our comments on the subject of the general comment, emphasizing the role of parents, education, and extraterritorial obligations.

**Family observation and best interest**

Throughout time, States have become a very significant actor concerning child matters. Their role is evolving and getting greater and greater. As it can be seen in the Convention on the Rights of the Child (hereafter referred to as CRC), States are considered to fulfill a vast diversity of duties to achieve the full realization of the rights of the children subject to its jurisdiction. States have gained parents patriae power (parents of the country). It has been clarified in the CRC and the General Comment No.25 that the State’s actions related to the realm of children’s affairs, must take into account the ‘Best interest of the child’. It has also been mentioned as a general principle of the CRC through which all provisions are to be interpreted and read. Since States play a key role in protecting and promoting the rights of the children and assessing the best interest of the children, States need to seek assistance from other parties involved in the child-rearing process, e.g. parents, school, foster home, etc. As it is mentioned in the present general comment, the child-parents relationship is unique, thus, the family could be an appropriate source of assistance. Parents are of an undeniable capability to appropriately assess the best interest of their children. Since it is clear that the best interest of the children must be the first consideration in conducts related to children’s affairs and as mentioned in the CRC, States should prioritize the best interest of the children in their conduct relating to children, we believe the family institution, as one suitable source for assessing the best interest of the child, should be granted a consultative status and States should be obliged to seek their opinion about affairs relating to their child. For the family to be able to fulfill their consultative role in the digital area as it is the subject of the present comment, they need proper education. And of course, this education (as it could be concluded from the present comment) should not be limited only to a technical nature but, also, it should contain non-technical aspects of digital and media literacy. Based on the above arguments, here we present our comments in this section (numbers are the specific article which the comment is about).

22 -States should promote the awareness of parents and caregivers to respect children’s evolving capacities and need for privacy, given that parents have more important roles than enabling children to use digital instruments, State guidance should not be limited to technical teachings. It should also incorporate other abilities and skills such as media literacy.

55 -Families and caregivers should play an active role in detecting harmful content. Families can help the State and the private sector to monitor and control distributions of content.

60 -Law should not be limited to official laws legalized by the parliament. It should also include State and even local government regulations. Parents and caretakers can play an important role in guiding the children in avoiding violation of laws and respecting the dignity of others.

61-States should provide complaint mechanisms that can enable children and their caregivers to report potential harassments as mentioned in the 3rd protocol of the convention.

88-There is a big portion of children, e.g. underage children, children with disabilities, etc. who cannot effectively report online harassments and even appropriately recognize one. Given this point, States should also provide this platform for the parents and caregivers to report online harassments their children face.

117- State’s duty of ‘enhancing children’s opportunities in the areas of culture, recreation and play, also implies that those contents which may be accessed by children in their leisure time should be monitored to prevent the flow of harmful and inappropriate material. As discussed above, parents can effectively help the State and authorities to prevent the spread of this harmful material. States should take some measures to fulfill the responsibility before their inhabitants, especially children:

1. Having an accurate observation of the contents provided for children by any official or private group, organ, institution, an independent website, etc. in a wide diversity of aspects, inter alia:

a. Protecting the rights of the children including their privacy against the interests of opportunists, trade companies, information banks, etc., and preventing disclosure of private information, like photos, interests, and requests. (para 53)

b. Avoiding any restriction of content providing inter alia: cultural, racial, religious, etc. (para 55)

c. Provision of a proper penalty to those who produce or disseminate false, misinformed, and inappropriate content, like the prohibition of actions. In this regard, the States should pass appropriate Laws and Regulations to prevent the so-called religious sects to propagate their false ideologies to the children without the written consent of their parents. (para 55)

d. Observing the service-providers in any type for children, measuring its function in accordance with laws and other norms. (para 79)

e. Having a survey on leisure and play provided for children to bring an appropriate space culturally, educationally, socially, etc. (para 117)

2. Considering the key role of parents or caregivers in the trend of training the children, recognizing their rights and authority, affirming on applying and enforcing of those, and protecting of performance all of the points which were mentioned, including:

a. Having an overview of the content which the child receives, possessing a capacity to guide their children to find appropriate content, and offering a their-own opinion to the child. (para 55)

b. Having the right to consult with the State, report inappropriate content, and request to ban on the improper; obliging the State to apply parents' and caregivers’ opinion. (para 79)

61- States should provide for a complaint mechanism that can enable children and their parents and caregivers to report potential harassments as mentioned in the 3rd protocol to the convention.

65- The State should provide children with education on how one can exercise its right to freedom of thought and manifest its beliefs without violating the rights of others. States should also promote awareness of parents on how to come along with their children who have different beliefs. As mentioned in para. 116. And in the convention itself.

85- States should provide children with awareness promotion on what is harmful and sexual exploitation.

**Extra-territorial obligations**

Political measures can drastically limit children's access to information and quality education. States can enforce sanctions that directly, or indirectly, restrict access to information and media. International corporations can find it impossible to offer services to some States due to limiting actions of another State.

Due to these actions, children are prohibited from using essential digital services. These bans not only strictly limit access to educational media but also disabled children from using digital platforms to create content. This can hinder their creativity in a digital environment and drastically reduced their repertoire of basic tools used for content creation.

Since such actions undermine children's rights, specifically their right to education (para 107 and 108 of the comment) and access to information (para 53 of the comment), we suggest:

States must have extra-territorial responsibility on respecting children’s right to quality education. States must also regulate private actors and prevent them from violating the human rights of other State’s people who are not under its jurisdiction. The State must not conduct unrealistic and limiting actions, e.g. imposing sanctions, which deprive children of their right to online education. The obligation of States to ‘enhance children’s online learning’, should not be restricted only to their children.

It would be unconscionable to so interpret the responsibility under article 2 of the Covenant as to permit a State party to perpetrate violations of the Covenant on the territory of another State, which violations it could not perpetrate on its territory. (Human Rights Committee, Sergio Euben Lopez Burgos v. Uruguay Communication, N 52/79, Final of 29 July 1981).

Human Rights Committee in this case implies that a country should not be allowed to do outside its territory what it is permitted to do within its national borders. UN charter also demands the States to internationally cooperate to achieve the full realization of Human Rights. It is said that where a State exercises ‘effective control’ on persons or incidents, Human Rights could be invoked. As art.2 of ICCPR States: "1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.", there is no right for any country to violate human rights or conduct actions meant to, or reasonably would violate human rights. And this is not limited only to the people within its borders but, all the people it has effective control upon. As part of international cooperation and assistance, States have an obligation to respect and protect the enjoyment of human rights, which involves avoiding conduct that would create a foreseeable risk of impairing the enjoyment of human rights by persons living in poverty beyond their borders, and conducting assessments of the extraterritorial impacts of laws, policies, and practices" (Guiding Principles on Extreme Poverty and Human Rights. Final draft submitted by the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona (UN doc. A/HRC/21/39) (endorsed by consensus by the Human Rights Council in res. 21/11 of 27 September 2012), para. 61). The conduct of corporations that leads to human rights violations will engage the responsibility of the State either where the conduct of the corporation is attributable to the State, or where it highlights a failure of the State to discharge its duty to protect human rights by regulating the corporation's conduct.

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