Contribution by Campaña Latinoamericana por el Derecho a la Educación (CLADE), the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) and the Right to Education Initiative (RTE) to the call for inputs by the Office of the High Commissioner for Human Rights on the solutions to promote digital education for young people and to ensure their protection from online threats

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1. Campaña Latinoamericana por el Derecho a la Educación (CLADE), the Global Initiative for Economic, Social and Cultural Rights (GI-ESCR) and the Right to Education Initiative (RTE), welcome the opportunity to contribute to the Office of the High Commissioner for Human Rights (OHCHR) study on the solutions to promote digital education for young people and to ensure their protection from online threats to be presented at the 57th session of the Human Rights Council in September 2024.

2. This submission focuses on question number four of the call: "What are the main gaps and challenges to young people's protection from online threats in law, policy, and practice in your country and the impacts on young people's human rights?"

3. Although digital technology can offer the potential for the expansion of quality public education and support the realisation of the right to education, it does not substitute presential education and raises a series of deeply troubling issues from an ethical and human rights perspective.[1] It is essential that EdTech is developed and used in accordance with human rights standards and the aims of education in their human rights essence, and that legal and policy frameworks are developed to protect students' and teachers' rights.

4. EdTech presents significant risks that directly affect the human rights of young people. This contribution will delve into the following threats: **privacy and data usage; online violence; and hazards to health.** Additionally, it will explore a systemic issue, the growing trend toward the **privatisation of and in education**.

Risks related to privacy and data usage

5. There are huge implications regarding the use of technology in educational settings, and legal frameworks are not yet substantive enough to manage the risks posed. Research by Human Rights Watch into 150 tech products recommended by 49 governments of the world's most populous countries during the pandemic found widespread violations of children's privacy, including secret monitoring without consent; data harvesting on personal details, locations, and

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[1] Right to Education Initiative (2023), '[Technology in Education](#)'. The [Global Education Monitoring Report (2023) also indicates that there is little](#) evidence produced in the academy on the impact of technology in education – and even less in low and middle-income countries (West 2023). Only about 10% of research on this topic produced in the United States and the United Kingdom is peer-reviewed (UNESCO 2023a).

relationships; tracking technologies which followed children outside of their virtual classrooms; and the sending or granting of access to third party companies, usually for advertising purposes. Some 89% of products used engaged in data practices which either put children's rights at risk, contributed to undermining them, or actively infringed upon them.[2]

6.   The dizzying scale of these violations is a warning sign of the implications of unconsidered and unregulated technology in the classroom. EdTech is often utilised in education settings without the capacity for choice or meaningful consent regarding its use, especially when it is mandated by schools or governments, with concerning implications to children's mind setting and consumption patterns shaping. Furthermore, there is insufficient information, and/or a lack of age-appropriate information regarding the terms of its use.[3]

7.   Moreover, EdTech products often engage in the surveillance and collection of significant amounts of data from learners, which can include their physical locations, personal details, product and programme usage, academic performance.[4] Worrisomely, research indicates that this trend toward dataveillance replicates discriminations and has a disproportionately adverse impact on already marginalised groups of students.[5]

8.   The storage, use or sale of such data for purposes which are unrelated to education is also a cause for concern. For instance, data can be employed for software development and marketed to commercial data brokers and third parties involved in the data economy. In many cases, usage of student data is guided by financial motives or political interests. Data exploitation often benefits few companies located in rich countries, in a process that exacerbates inequalities and that has been called "digital colonialism".[6]

Risks related to digital violence

9.   Youth can encounter multiple forms of violence in the digital world including cyberbullying, dissemination of intimate images and/or private information, receipt of unsolicited sexual material, identity theft and/or creation of fake profiles, hate speech, threats, censorship, and disinformation, among others.[7]

10. Digital violence primarily impacts females, girls, boys, and adolescents. Young individuals are the most susceptible, given that they are most prominent in the digital realm. For instance, in Mexico, 23.3% of males aged 20 to 29 and 29.2% of females aged 12 to 19 have reported encountering some form of cyberbullying.[8] Moreover, a study conducted in Chile demonstrated that young

[2] Human Rights Watch (2022), *'How Dare They Peep into My Private Life?' Children's Rights Violations by Governments That Endorsed Online Learning During the Covid-19 Pandemic'*.

[3] Right to Education Initiative (RTE) (2023), 'Technology and education in light of human rights'.

[4] Op.cit.

[5] Selwyin, N. (2022), 'Data and Digital Education: Critical Concerns' in NORRAG, 'Policy Insights: The Digitalisation of Education'.

[6] Kwet, M. (2019), 'Digital colonialism: US empire and the new imperialism in the Global South'. Race & Class, v. 60, n. 4, p. 3-26.

[7] RED LAC (n.d.), 'Diágnostico situacional Accion Colectiva Juvenil por los Derechos Humanos en el Espacio Digital'.

[8] INEGI (2020), 'Módulo sobre Ciberacoso', as cited in RED LAC (n.d.), 'Diágnostico situacional Accion Colectiva Juvenil por los Derechos Humanos en el Espacio Digital'.

people are subjected to such violence mainly via Instagram and that young Chilian women face a higher risk of experiencing digital harassment.[9]

11. Under Article 19 of the Convention on the Rights of the Child states are responsible to protect children from all forms of physical or mental violence, injury or abuse, maltreatment or exploitation. Yet, youth's exposure to digital violence in educational contexts have not yet been given enough attention. While there is much progress in awareness raising, not all countries have specific laws enhancing the protection of children and youth with regards to online abuse, despite the growing use of technology in education.

12. For instance, in several countries, cyberbullying is not considered a particular offence and no special protection is granted to children in this regard. A few countries, however, such as Japan, Australia, and China, have sought to enhance child protection against Cyberbullying with bidding legislations that sometimes impose obligations on schools.[10]

Hazards to youth's health

13. Young generations can be more prone to different forms of digital addiction, including Internet gaming disorder (IGD), Internet addiction, compulsive computer use, and Problematic Internet Use (PIU).[11] Long-term effects of digital use include obesity, delays in language and cognitive development, sleep disorders, attentional problems, loss of empathy, among many other mental and physical health problems.[12] Ensuring media maturity and understanding digital balance are essential to prevent this type of problems.

14. Furthermore, the current usage and storage of data consumes large amounts of water and produces tons of greenhouse gases, which threatens the health and wellbeing of future generations. Hyperscale data centers are responsible for data storage for big techs and its cooling systems are water dependent, which, annually, uses 600 billion liters of water on average.[13] These data centers power machine learning tools, which emit greenhouse gases while active, are GPT-3 responsible for the emission of 552 metric tons of CO_2 in 2020. Thus, not only the exaggerated use of digital technologies cause harm to individuals, they also harm the environment and threaten all forms of life.[14]

Aggravated privatisation of and in the education sector

15. EdTech presents a potential risk of increased privatisation within the education sector, leading to adverse effects on the human rights of young individuals. The rapid digitalisation of education has given rise to novel dynamics, including the expansion of private entities into the education sphere and the introduction of market-oriented principles into public education systems. These

[9] ONU Mujeres (2020b), 'Resultados de la encuesta Violencia Digital, autoestima y experiencias virtuales de niñas y adolescentes en Chile, as cited in RED LAC 'Diágnostico situacional Accion Colectiva Juvenil por los Derechos Humanos en el Espacio Digital'.

[10] For more, consult Right to Education Initiative (RTE) (2023), 'Technology and education in light of human rights'.

[11] European Council for Steiner-Waldorf Education (2022), 'Shaping Interaction with Technologies: Media Maturity and Digital Balance Literacy' in NORRAG, 'Policy Insights: The Digitalisation of Education'.

[12] Op.cit.

[13] Shehabi et al. (2016), 'United States Data Center Energy Usage Report'.

[14] Patterson et al (2021), 'Carbon emissions and large neural network training'.

principles involve the use of metrics such as key performance indicators to enhance educational outcomes. Moreover, driven by potential substantial returns, the EdTech sector has experienced a significant influx of investment, starting at 500 million USD in venture capital in 2010 and soaring to 20 billion USD in 2021 alone.[15]

16. The use of artificial intelligence (AI) in the education sector poses a new privatisation trend. AI is commonly used as an alternative to provide adaptive learning for students, as well as increase efficiency for teachers and administrative staff. However, using AI in education may lead to a reductionist view of education as a set of skills that can be developed by individualistic interaction with AI. Also, it disempowers teachers, given that a mandatory use of AI reduces the teacher's role in the learning process. There are at least 30 multi-million-dollar-funded corporations promoting teaching and learning with AI, which are interested in a commercialisation process of education.[16]

17. Aggravating these concerns is the widespread lack of state assessment, oversight or regulation related to the rapidly developing EdTech sector, as well as the challenges associated with ensuring accountability or access to justice in connection with EdTech-related harms.

18. The need for strong policy and regulatory measures regarding EdTech private providers is of utmost importance to ensure young's people protection from online threats and protect their human rights, with a particular attention to vulnerable, marginalised, and disadvantaged groups. On this matter, the *Abidjan Principles on the human rights obligations of States to provide public education and to regulate private involvement in education* (Abidjan Principles), which sets out a rigorous legal framework of the human rights requirements about the delivery and financing of education, should be taken as a guidance tool.[17]

19. In accordance with the Abidjan Principles, States should adopt rules and regulations for the private sector in addressing the risk of increased privatisation through digitalisation processes. These rules and regulations should also apply where partnerships are developed between public education and private actors, for the design and implementation of digital education. Moreover, it is key to understand the profits-driven agenda of digital technology companies amidst the rapid development of the digitalisation of education to safeguard against private interests that could be detrimental for the realisation of the right to education for all.

Recommendations

20. The co-signatory organisations would like to recommend that in the implementation of their mandate, the High Commissioner calls on States to:

   a) Ensure that the integration of digital technology in education is effectively regulated and monitored by States, in accordance with human rights law. Overall, digital tools must have a complementary role in education and never substitute presential education.

   b) Guarantee that digital technology contributes towards the full enjoyment of the right to education, including through equal access for all, with particular attention to marginalised and disadvantaged groups, while considering the context of each learner.

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[15] NORRAG (2022), 'Events Highlights: The digitalisation of education and its impact on the right to education'

[16] Holmes, W. (2023), 'The unintended consequences of Artificial Intelligence and Education'.

[17] https://www.abidjanprinciples.org/

c) Undertake human rights impact assessments before introducing digitalisation initiatives in education, including AI.

d) Perform due diligence to ensure the technology recommended for online learning protects youth's privacy and data protection rights.[18]

e) Enact regulations governing the collection of learners' and teachers' data. Overall, enact youth-specific privacy and data protection laws.[19]

f) Legally recognise the right to privacy, to protection of data and protection from surveillance in education.

g) Ban surveillance of students, families, and communities by EdTech.

h) Ban commercial advertising to students in all educational settings, digital content, and programmes (in line with Abidjan Principle's Guiding Principle 39 (d)) and the use of data for commercial purposes.[20]

i) Enact specific laws to enhance the protection of children and youth with regards to online violence.

j) Create databases and information systems on digital violence. Having updated and accurate information will lead to a better understanding of the problem's magnitude and the development of specific services to efficiently assist youth facing any form of online violence.[21]

k) Generate and provide access to information that allows individuals to learn about digital violence. Empower communities with knowledge on how to act and what steps to take if they become victims of digital violence.[22]

l) Promote digital media education to prevent the dissemination of fake news and mitigate digital addictions as well as potential health problems.

m) Promote the development of free digital technologies and sovereign infrastructures that ensure free and secure access for all populations, the human right to education and digital rights.

n) Articulate policies for the development and use of digital technologies with climate justice policies, given the severe impact that the former have on climate change and the environment.

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[18] UN Special Rapporteur on the Right to Education, Koumbou Boly Barry, 'Impact of the digitalization of education on the right to education', 19 April 2022, UN Doc A/HRC/50/32.

[19] Op.cit.

[20] UNSR 2023 UN Special Rapporteur on the Right to Education, Farida Shaheed, 'Securing the right to education: advances and critical challenges', 27 June 2023, UN Doc A/HRC/53/27.

[21] RED LAC (n.d.), 'Diágnostico situacional Accion Colectiva Juvenil por los Derechos Humanos en el Espacio Digital'.

[22] Op.cit.

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