Reaching the heights for the rights of the child

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Statements

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An emerging consensus

In the quarter century since the invention of the World Wide Web and – coincidentally – the UN Convention on the Rights of the Child, most experts now agree that:

- What occurs offline (for better and for worse) will increasingly also be found online.

- The risks and opportunities in children's lives are being reconfigured, perhaps transformed in unprecedented ways, by the mediation of the digital – with risk and opportunities being newly spreadable, scalable, often unaccountable and intensified in nature.

- Society is in many ways unprepared for these transformations and their sometimes unprecedented effects, not least because the internet is very recent, continually evolving, highly transnational and largely age-blind.

- To maximise children's opportunities and minimise the risk of harm, multiple stakeholders must play their part.

There is less consensus that a child rights framework offers the best way of mobilising and coordinating these stakeholder actions. However, I welcome the Council of Europe's focus on rights, because:

- A rights framework makes clear the positive normative expectations that society holds for all children without exception.

- It draws from established international human rights frameworks and adds specific considerations relevant to children – both additional rights (e.g. play, cultural heritage, support for healthy development) and additional mechanisms to implement and evaluate rights in relation to children (e.g. in relation to accountability and redress).

- It is broad-ranging, refusing to prioritise some rights over others and so keeping protection, provision and also participation rights in view.

- It asserts that children are independent rights-bearers not passive objects of adult good intentions and thus demands that children's voices and experiences inform all matters that affect them.

- Their voices and experiences can also be represented by empirical research, since legal processes of rights implementation and redress often demand a robust demonstration of harm.

- Note in this regard that international consultations with children show that they firmly believe that internet and mobile technologies are vital for them to exercise their rights to information, education and participation and that, in consequence, access to the internet and mobile technologies – and the digital literacy to benefit from such access – are also basic rights.

Taking strategic action to promote children's rights in the digital age

So what are we talking about here? Following the common classification of the articles of the CRC in terms of the "3 P's", we must recognise that:

- Rights to protection tend to be negative rights, concerning the wide array of threats to children's dignity, survival and development, offline and online. In the digital age, policy makers should consider the extent of sexual grooming and sexual exploitation of children online, the creation and distribution of child abuse images, the availability of (diverse, extreme) pornography, and new threats to privacy, identity and reputation posed by personal data exploitation, misuse, tracking by companies, and hostility, hate, bullying and self-harm-related content and conduct from other people online.

- Rights to provision are generally positive rights, focused on the resources necessary for children's survival and their development to their full potential, offline and online. In the digital age, we must consider the development and provision of online formal and informal learning resources and curricula, children's use of and need for a wealth of accessible and specialised information along with education to support the digital

literacies to use them well and more casual opportunities for creativity, exploration and entertainment as well as some distinctive provision of content that represents (minority) children's culture and heritage.

- Rights to participation are also positive rights, enabling children to engage with processes that affect their development and to play an active part in society, offline and online. In the digital age, policy makers can harness children's evident enthusiasm for peer-to-peer sharing, networking and collaboration, supporting the development of user-friendly fora for child/youth voice and expression and child-led initiatives for local and global change.

Beyond these three categories of fundamental human rights, there's also growing interest in the notion of digital rights – akin perhaps to consumer or property rights. I'm thinking here of the right to be safe online or to remove personal information or to know who is tracking you online and what data they have collected. Many of these now are being collated into national or international Bills of Rights but, for the most part, they make little or no mention of children.

Tensions and challenges

That brings me to some of the tensions and challenges that need our collective attention as we seek to promote children's rights in the digital age.

1. *Making children visible in relation to human rights and internet governance*

Within a context of rapid social, technological and regulatory change, the position of children has been sometimes prominent – with them being celebrated as creative pioneers of the digital age or worried about for their vulnerability. But mostly they are rendered invisible, the discursive blurring of 'the population' with 'adults' obscuring the specific conditions, concerns and rights of children in the digital age.

- From a child rights point of view, despite considerable optimism over what the internet could offer children, this raises concerns that children use online services not targeted toward them, or where site or service providers are unaware of or negligent of their status as minors.

- Children's data are collected and often sold without informed consent and irrespective of child protection issues or child-friendly mechanisms for redress.

- Commercial services providers often deny specific obligations to children, while children may find that vital services are inaccessible to them for reasons of cost or child protection filters.

- And policies designed to protect digital freedom of expression or privacy or to ensure comprehensible terms and conditions of service typically assume adult users.

Recognising that child users represent a substantial group would be a great next step. Even then, challenges would remain:

- First, the CRC requires that rights should be implemented according to the evolving capacity of the child, listening to the voice of the child and in the best interests of the child. This is not easy given that the internet (and much internet policy and governance) is largely age-blind.

- Nor is it straightforward to rely on the parent to mediate and solve this tension between generic provision and child-specific needs and contexts. Many parents lack the awareness, competence, will, time and resources, or the understanding, to protect and empower their children online. The less parents are themselves digitally literate, the more they tend to restrict rather than empower their children online. Indeed, among the children whose rights are most infringed, parents can be as much part of the problem as the solution. So paradoxically, parents can be good representatives for happy well-resourced children but they can be poor representatives for the children who most need representation.

2. Whose responsibility?

For all these reasons, the CRC – and the Council of Europe - calls on states to bear the ultimate responsibility for children's rights. This is not proving so easy.

- Many states are not yet aware of the transformations underway as the digital reconfigures children's learning and play, on the one hand, and the risk of exploitation and abuse, on the other.

- When they are aware, they tend to task one ministry with dealing with the internet – not anticipating that the ministry of justice might implement restrictions that undermine opportunities that the ministry of education wishes to promote, or that the ministry of business may inadvertently generate new risks that the ministry of justice will urgently have to address.

- Moreover, while states and public institutions have the primary responsibility to ensure the realisation of children's rights through the creation of legislative and policy frameworks, rights frameworks increasingly apportion responsibilities also to business, and this matters in relation to the internet industry especially, given the fast-changing, complex and transnational nature of the digital networks that increasingly mediate children's lives and, therefore, their rights.

The result is a distinct set of challenges in terms of governance, accountability, compliance and evaluation.

3. Overlapping and clashing rights

Ensuring children's rights in the digital age is partly challenging in practice, if not as a matter of principle, because of the problematic clashes of rights that occur. These include:

- Clashes between the child's right to protection from harm versus the child's right to participate – consider, for instance, arguments over whether social networking sites should be accessible to young teenagers.

- Clashes between the child's right to protection versus adults' speech rights – consider, for instance, arguments over content restrictions in relation to pornography or various forms of censorship.

- Clashes between the child's right to information versus the parent's right to protect them - consider, here, arguments over access to sexual preference or sexual health information.

- Clashes over definitions or measures of harm versus benefit – consider the case of "sexting," where some teenagers have been criminalised for what they might judge legitimate sexual expression.

Conclusion

I suggest that we need a lot more public debate, research evidence and even legal cases to help us untangle some of these problems. To advance this and all the other challenges I have raised today, I suggest we recognise, first, that the internet is not the cause of problems in children's lives in any simple sense. Thus it cannot provide solutions in and of itself. The internet is created by people, controlled by people, used by people – and it's they (we) who can change its consequences for our lives.

Then I urge that, in addition to holding specialized events such as this one, we work with many other stakeholders to find ways to embed the importance of 'the digital' into the policies and practices of the varied organisations concerned with children's well-being. And that we find ways to embed the importance of children's rights into the policies and practices of the many organisations concerned with the digital.

With these aims in mind, I welcome the Council of Europe's focus on the digital environment in its new children's strategy for the decade ahead.