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Claiming rights and righting wrongs: children's rights in the digital environment

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Society's rapid adoption of digital technologies is reconfiguring the conditions and possibilities of childhood in the twenty-first century. Researchers are tracking the consequences for children's opportunities – to learn, communicate, play and connect, and for the associated risks of harm. These latter include the risks of exclusion from not being able to use the internet as much as more privileged others as well as the risks linked to using the internet – aggressive, sexual, privacy and identity risks, and new forms of surveillance and exploitation, among others. While governments, policy makers and educators are trying to grasp the significance of these digital transformations, so as to put in place appropriate, proportionate and effective strategies to support children,¹ parents and caregivers often find themselves at the sharp end, struggling to understand what's best for their child without much guidance or prior experience to call on.²

All this is important yet familiar because we are all facing digital challenges in our personal as well as our professional lives. Every researcher and policy maker I meet is keen to tell me about their own child's experiences – whether with parental pride or a frown of anxiety. Less often heard is what diverse children around the world want for their digital present and future. On the one hand, they are enthusiastically embracing new technologies, keen to claim the latest innovations for themselves, creatively making them meaningful, proud of their digital expertise and hopeful for the digital future. But on the other, they have concerns of their own about losing agency as they get caught up in complex digital services they cannot always understand or control. When asked in deliberative citizen juries, they also have lots of ideas about what should be done.³

But who is listening? It amazes me that a society ready to celebrate ‘digital natives’ or worry about ‘digital addicts’ is not much good at listening to children. If we do listen to them, the first thing they tell us is that they see access to digital technologies as their fundamental human right.⁴ Don’t take it away! Improve connectivity! It’s our lifeline! We hear this not only for children from the world’s wealthiest countries but also, strikingly, from its poorest - where complaints about problems with access are loudest and workarounds to connectivity are more creative.⁵

Indeed, children increasingly see digital technologies – along with the digital literacy, agency and privacy to use them – as their preferred (and sometimes only) way to access their fundamental human rights across the board. What rights, you may ask? The UN Convention on the Rights of the Child sets out in a succinct yet inspirational document the full range of children’s rights.⁶ It builds on international human rights frameworks (applicable to everyone, albeit often implicitly thought of as for adults – consider public discussion of the rights to freedom of expression, assembly or privacy). It also includes some rights especially for children (such as the rights to develop to one’s full potential, to protection by parents or caregivers, to play and, recognizing that children’s expression is routinely overlooked, to be heard in matters that affect them.)⁷

Ratified by every country in the world except the USA, the Convention is the legal standard which obligates States to respect, protect and fulfil children’s rights. This includes, it is being belatedly and somewhat reluctantly recognized, in relation to the digital environment. In its 2014 rallying cry to governments, and recognizing that ‘What happens offline today, will also be manifest online and what happens online has consequences offline,’ the UN Committee on the Rights of the Child demanded that:⁸

‘States should adopt a national coordinating framework with a clear mandate and sufficient authority to coordinate all activities related to children’s rights and digital media and ICTs at cross-sectoral, national, regional and local levels and facilitate international cooperation.’

This was because, still, policy, legislative and regulatory mechanisms do not adequately support and protect children online. Many young internet users around the world do not have the benefit of appropriate forms of adult guidance from parents, teachers and other

caregivers. The need for reliable, evidence-based mechanisms and guidance spans the full range of children's rights, but this is too often unrecognised or little understood in many countries. Such difficulties themselves tend to result in anxiety, impeding the search for proportionate, evidence-based, sustainable solutions and remedies that support children as independent rights-holders.

Four specific challenges - of legal interpretation, policy implementation and effective enforcement – arise from the particular nature of the digital:

- *Who is a child*, and the age and circumstances of a child, is often unknown and unknowable in the digital environment, with the digital environment largely designed, regulated and made accessible to a public implicitly conceived as adult (indeed, as a robust, digitally-informed, able-bodied adult).⁹ This impedes decisions, policy and practice that respect the always-particular, necessarily-contextual “best interests” of the child.
- Real-world *disadvantages and vulnerabilities tend to be amplified* in the digital environment, necessitating protections, and yet the digital world can provide crucial support for children facing extreme difficulty. This intensification of children's protection and participation rights can generate conflict, with provision of opportunities inadvertently exposing children to risk, and with protective efforts so wrapping them in cotton wool that they can neither exercise their agency nor develop needed resilience.¹⁰
- *Parents are distinctively disempowered by the digital*. Although parents and caregivers are the traditional duty-bearers responsible for protecting and supporting children, it is difficult for governments to rely on parents as solely responsible for the child's wellbeing in relation to digital technology. The design of the digital environment tends to undermine the forms of parental oversight and consent that child protection has traditionally relied on offline, offering mainly clumsy, intrusive or widely-ignored mechanisms.¹¹
- *Online operations are fast-changing, opaque, and complexly interdependent*. Businesses increasingly embed value decisions into their operations through use of automated algorithms which infer user characteristics to target marketing. The consequences, though potentially problematic in terms of consent, bias,

discrimination, accuracy, accountability or even legality - are difficult to assess, especially given the huge power of some global companies (potentially infringing the child's rights to non-discrimination and privacy).¹²

To help governments navigate these challenges, in 2018 the Council of Europe adopted a formal Recommendation which sets out the principles to be followed, the standards to be met, and the practicalities to be implemented to ensure that children's rights are fulfilled in the digital environment.¹³ It's a fairly short document, and if it were fully implemented, the prospects for children's wellbeing in the digital age would be hugely improved.

But it must be acknowledged that, in addition to challenges regarding the digital, there are also challenges linked to a child-rights-based approach. Here's four:

- *Rights claims risk becoming righteous* – especially problematic when they brandish the authority of the United Nations to impose universalizing (or worse, Western-centric) assumptions in circumstances where local contexts and “voices from below” are not taken into account.¹⁴ Examples include the One Laptop per Child project which airlifted hardware into impoverished communities in the global South with little attention to what teachers had been trained for or the fit with cultural expectations or local needs.¹⁵ But poor implementation of children's rights to education and information doesn't make those rights wrong; it just means that properly consultative, community-led implementation should be prioritized.
- *Human rights are only called for in their absence*. If children were already able to explore and experiment online without coming to harm, there would be little call for a child rights approach. So the very focus on rights seems to bely their ineffectiveness, leaving them as an inspirational rallying cry at best, an ineffectual misdirection of effort at worst.¹⁶ Yet it matters that society has a way to codify and refer to the international consensus about what's important for children, informed by evidence and argumentation, so that it can be efficiently and effectively drawn upon when approaching the next challenge – in this case, the digital – without always having to start over.
- *Rights frameworks don't help when rights clash*. As they do. It's all very well saying that rights should not be ranked, but this offers little guidance when the child's right

to privacy clashes with the parent's effort to monitor them protectively. Or when children's participation rights – to meet new people online, say, clash with their right to be protected from strangers. What about when society doesn't agree on a child's rights - to sexual expression, for example. The only course of action here is to argue that a holistic approach is vital to balance relevant considerations in the best interests of the child. This helps ensure that policy and practice are adjusted to children's circumstances rather than blithely imposed on children as a category.

- *Human rights concern the individual rights-bearer, and are addressed to the state.* Arguably both are misplaced. To focus on the individual child may fit the neoliberal rhetoric of our times (which favours individual choice and self-determination over the collective good), but it doesn't illuminate what's also needed in the digital environment: communal learning resources, civil communities, collaborative networks for sharing creativity, public spaces for dialogue and action. Nor is easy to demand these when the digital infrastructure of our lives is increasingly proprietary, run to suit the commercial interests of global corporations who easily evade national jurisdiction. Yet states do have resources and mechanisms to address the individual and collective needs of their population; it is time to exercise these in relation to the digital environment, including for children.

So what's the way forward? As the digital infrastructure on which society increasingly relies becomes ever more salient, often problematically,¹⁷ we oscillate between utopian and dystopian imaginaries, thereby intensifying calls for better regulation in the public interest. Yet the more that high level expertise and investment is directed towards possible solutions, the more children's rights risk being sidelined. So let's end with two vital questions for critical scholarship:

- *How can children's voices be better heard?* By themselves listening to children, exploring their worlds or evaluating digital initiatives with their interests in mind, as well as insisting on meaningful forms of child participation in institutional procedures of all kinds, surely researchers and child rights advocates can raise the profile of children's voices in policy making and the development of new practice models.
- *How can children's rights in the digital environment be better addressed?* Article 29 of the UN Convention on the Rights of the Child asserts the importance of "the

development of the child's personality, talents and mental and physical abilities to their fullest potential.” While there will continue to be risks associated with a rights approach, if we keep asking of each new digital development, how could this better support the development of children’s fullest potential, and then act on the answer, we will at least be heading in a positive direction.

Learn more about Sonia’s work

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Sonia Livingstone talks to Giles Dilnot about digital rights for children. June 2017. Podcast (4 minutes) <https://soundcloud.com/user-607824267/sonia-livingstone-talks-to-giles-dilnot>

Livingstone, S. and Third, A. (2017) Children and young people’s rights in the digital age: An emerging agenda. *New Media & Society*, 19(5): 657–670. Available online at <http://eprints.lse.ac.uk/68759/>

Sonia recommends

Kidron et al (2018) *Disrupted Childhood: The Cost of Persuasive Design*. London: 5Rights. Available at <https://d1qmdf3vop2l07.cloudfront.net/eggplant-cherry.cloudvent.net/compressed/bb24215ada7264f0db4b3a0060e755b1.pdf>

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