**Submission to the**

**United Nations Committee on the Rights of the Child**

**General Comment 25 on the**

**Rights of the Child and the Business Sector**

*Contributors:*

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The American University of Paris Student Working Group on Human Rights welcomes the opportunity to respond to the draft General Comment on the rights of children in a digital environment. The Subgroup on **children's mental health** has chosen to focus on data addiction, data collection, the role of parents, privacy and the right to education, all of which require **reinforced protections** in the draft comment.

*Recommendations:*

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| 1. The General Comment should acknowledge the **addictive nature of technology** and the consequent impacts on children’s mental health. These impacts create barriers to achieving the highest standard of health as noted in Article 24 of the Convention. |

The draft General Comment fully recognizes the positive impacts of widely available technology for use by children, but speaks only of negative impacts in the nexus of advertising and programming. In fact, the draft cites addiction in Paragraph 105, but does not recognize the possibilities of addiction associated with technology itself.

Building upon Paragraph 106 of the draft General Comment, the balance of digital and non-digital activities must be emphasized, especially in current times with the majority of daily activities for children being moved online because of the COVID-19 pandemic. Globally, mental health has already been severely impacted by the constant exposure to technology, combined with forced isolation and reduction of in-person communication. Children are no exception to this, and are far more vulnerable to future mental health issues, as their brains have not yet fully developed.

Several studies have linked children’s exposure to technology with increased risk of mental health issues and overall lower well-being. Notably, there have been probable links between children’s access to social media and heightened suicide rates, citing the side effects of anxiety, depression, and sleep deprivation. Due to online educational and recreational use, children are becoming more reliant on technology. Consequently, greater attention should be paid to the impact on children’s mental health. We acknowledge the disparities in research regarding which aspects of technology impact mental health, but believe it is important to address this issue regardless of those disparities.

In order to achieve the highest attainable standard of health for children, as established in Article 24 of the Convention, mental health issues in children must be addressed with the same prominence as physical health (CRC art. 24 sec. 1). This includes the widespread distribution of information to families with children. Resources on the role of technology should be made available for families to gain a better understanding of the harm or betterment of children’s mental health in the digital sphere. There should be a call for Member States to implement programming that is age appropriate and promotes non-digital activities, giving special attention to pandemic restrictions. Through a partnership with public health officials and the use of local recreational resources, Member States can help mitigate the mental health crisis we are currently seeing in our youth population. By acknowledging the addictive nature of technology and the consequent impacts on children’s mental health in the General Comment, States can work on solutions that will aid in the realization of Article 24 of the CRC.

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| 2. The General Comment ought to address with greater clarity the **risks inherent to the use of digital technology** and the monitoring role that **parents** must have in order to ensure the mental wellbeing of their children, whom they are critically responsible for. |

The General Comment, specifically Section VIII, recognizes that parents have a role in their children’s development when it comes to the use of digital technology. This section mainly refers to the parental support and guidance required in the digital environment for children’s growing autonomy and need for privacy. However, regarding the risks inherent to digital technology, the General Comment only briefly mentions them.

Such risks are extremely dangerous, as they have a long-lasting impact on a child's mental health, and thus should take a more central role in the General Comment. While we recognize that turning off the internet is not possible in an increasingly digital society, a better assessment of its risks has to be taken into consideration. Parents play an integral role in a child’s use of digital technology, as they are the main parties responsible for the upbringing and development of the child (Article 18, Convention on the Rights of the Child). The General Comment does not reinforce this idea, nor does it mention the crucial need for parental monitoring of internet usage, in order to avoid such grave risks. Thus, one could argue that there is an apparent **contradiction between the General Comment and Article 18 of the Convention**.

One can find a strong example of these risks and their severe impacts in online extremism, namely in relation to ISIS recruitment and radicalization. In fact, it has been proven that the Islamic State has tried, with success, to radicalize and recruit children through an extensive use of social media and the internet. These violent extremists and terrorists encourage children to either leave their home countries in order to join them or to carry out attacks in their home countries; these actions leave lifelong effects in the child’s mental wellbeing. A great number of children have indeed been radicalized because of their online interactions and their exposure to extreme internet content.

This risk should not be disregarded by the General Comment. The General Comment should incorporate stronger language that recognizes the crucial role and responsibility of parents in monitoring their child’s use of digital technology, in order to mitigate the negative impacts upon the mental wellbeing of children.

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| 3. The article grossly underestimates the consequences of the emergent reality of a data-driven economy that **threatens personal privacy** and human rights. |

Given the inherent risks and addictive nature of technology, it is clear children’s mental health has seen adverse effects due to technology. These effects cannot be mitigated without a fundamental change to the exploitative and manipulative structure inherent to the digital sphere. We urge the United Nations to acknowledge such threats with the pursuant amendments to the Comment.

Article 40: Many of these processes involve multiple commercial partners, creating a supply chain of commercial activity and processing of personal data that *has resulted* in violations of children’s rights *that have direct consequences on mental health and livelihood.*

Article 69: Threats to children’s privacy *have arisen* from data collection.

The language of the above articles concedes that children’s rights *may* be violated by the commercial supply chain of data sales and processing; the UNODC Protocol to Prevent, Suppress and Punish Trafficking in Persons makes clear that profiting from children’s data is a direct violation of human rights.

From the definition given in the Trafficking in Persons Protocol, it is evident that human trafficking has three constituent elements: the act, the means, and the purpose. In the act of collecting and selling data, technology companies “transfer” and “harbor” a holistic view of a child’s life and self via their data points. Further, the means for the collection and sale of data is a form of “deception” due to its lack of transparency; data collection and sale constitute an “abuse of power” because the user has no choice in their commodification; ultimately, children’s data is transferred through “payments to a person in control of the victim.” Finally, data collection and sale are “for the purpose of exploitation” and should be viewed as “forced labour.” Through this lens of analysis, the sale of children’s data can be categorized as trafficking in humans and should be treated accordingly. Like trafficking, the damage to children’s mental health resultant from the exploitation of their data is irreparable.

The General Comment does not fully articulate the law as articulated in Article 32 of the CRC which protects children “from economic exploitation...that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development” (**CRC art. 32 sec. 1**). The behavior of technology companies is often exploitative, and as such can gravely impacted the mental health and wellbeing of children.

The move to codify data rights as human rights should be one of the greatest imperatives of the United Nations. Leading research has proven that data points are not merely collected, but evaluated in regards to the conglomerate story they tell, which is a wholistic portrait of an individual human being. Humanity risks regressing to a world in which autonomy and privacy are no longer respected if the current data policies and practices remain unchecked. Young consumers of technology do not view the manipulation of their thoughts and feelings by technology companies as a trade-off for obtaining free services, but as offensive to their privacy and livelihood. It is the mandate of the United Nations to listen to these voices, and legislate in a way that honors their wishes, and values the global community’s mental health.

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| 4. The General Comment should **prohibit all collection** of children’s personal data for economic profit. |

Paragraph 70 of the General Comment states that “digital practices such as automated data processing, behavioral targeting, mandatory identity verification, and mass surveillance are becoming routine […] and may have adverse consequences on children, which may extend to later stages of their lives.”

Surveillance is known to have dangerous effects on mental health, reduce productivity, and lead to anxiety and fear. Children are far more vulnerable than adults, and the environment in which they grow up should be as free of unnecessary stressors as possible. Section E of the General Comment outlines a number of the issues which arise as a result of data collection, yet offers no concrete solutions to the threats posed.

Data collection has become normalized, a compulsory function of internet use. This must be reconsidered as children play an ever-growing role online. Data collection is often treated as a benign side-effect of online activity, and sometimes as an active good, as suggested by the General Comment: “children’s personal data are often processed to offer educational, health and other benefits to children.” It is not immediately obvious what these perceived benefits are, or if they are valuable enough to offer a justification for the collection of children’s data.

**Article 16 of the CRC** states that “no child shall be subjected to arbitrary or unlawful interference with his or her privacy.” Privacy can be breached in a variety of ways, and the General Comment acknowledges that “digital technologies are used to collect data about, inter alia, children’s identities, activities, location, communication, preferences and relationships.” These factors culminate in a clear violation of Article 16. Data collection is a growing field which is not particularly regulated. It is essential that restrictions on data collection be put in place to protect children’s right to privacy.

It could be proposed that parents be given the right to choose whether or not their child’s data can be collected. This is no solution. As guardians, parents have the responsibility to make decisions on behalf of their children, but it is not clear that, given the litany of negative effects of data collection, this is necessary or advisable. **Article 32 of the CRC** provides that “States Parties recognize the right of the child to be protected from economic exploitation.” The undoubted primary purpose of data collection is its function as an economic apparatus. It is organized as a means of acquiring profit and as such, when applied to children, serves as a means of economic exploitation. All collection of children’s personal data for the purpose of economic gain should therefore be prohibited.

5. The General Comment should highlight the **importance of fully monitored online learning** to enhance a child’s sense of mental well-being.

**funding and support** for schools in poorer areas as described in Article 28 of the Convention.

Article 28 of the draft General Comment for the CRC, places emphasis on the connection between digital learning environments and quality education. Increased digital literacy as well as access to online learning materials allow students access to areas of knowledge outside their normal sphere of study. In addition, online learning will become increasingly important in the years to come, especially given the current COVID-19 climate. As such, we support the inclusion of the right to education in a digital environment.

It should be noted that the right to online education is often hindered by gross inequalities in school location, family income, and family education level. This can place undue mental stress on children, leading to loss of self-confidence, frustration and a lack of interest in school. In this respect, the mental well-being of the child is at risk. This is turn compromises the ‘right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development’ (CRC, art. 27).

To address these concerns, Paragraph 111 of the draft General Comment provides that “States should invest equitably in technological infrastructure in schools, ensuring the availability of sufficient number of computers, quality connectivity and electricity, teacher-training on the use of digital educational technologies, and timely maintenance of school technologies”. This is especially crucial as States should support the creation and dissemination of diverse digital educational resources of good quality and ensure that existing inequality is not exacerbated by problems regarding access to such resources.

Paragraph 112 also stipulates that “States should develop evidence-based standards and guidance for schools and other bodies responsible for procuring and using education technologies and materials to ensure these deliver valuable educational benefits”. The CRC draft General Comment should specify ways in which to measure the success of increased equitable funding for online learning and schools in general.

In short, access to online education and digital learning tools may enhance a child’s sense of mental well-being, particularly when the child’s other rights mentioned in this response are fully upheld.