Date: November 16, 2020

 Cheshvan 29, 5781

Re: **Draft General Comment on Children's Rights in relation to the Digital Environment**

1. The State of Israel respectfully submits to the Committee on the Rights of the Child its comments regarding the draft General Comment Children's Rights in relation to the Digital Environment.
2. As part of its longstanding commitment to fulfill its obligations under the Convention and to continue its fruitful cooperation with the Committee in an open and constructive dialogue, the State of Israel welcomes the opportunity to comment on the draft General Comment on Children's Rights in relation to the Digital Environment.
3. The State of Israel recognizes and respects the Committee's mandate, which enables it, *inter alia*, to publish General Comments. However, Israel would emphasize that General Comments are intended to provide useful guidance to State Parties in interpreting their obligations under the Convention andto recommend effective measures and "best Practices". As such, General Comments do not create binding legal obligations, in and of themselves, nor do they reflect an interpretation of the Convention that is necessarily agreed upon by States Parties.
4. The following remarks reflect Israel's major observations and concerns arising from the draft General Comment and do not preclude the existence of other issues of concern arising from the Committee's interpretation of the obligations of States Parties under the Convention. The consultation included Government Ministries and youth councils.

**General Issues**

1. There is a certain tension between the rights of the child and the role of the parents in protecting and raising them. On certain issues, the draft General Comment relates to parental involvement in their children's digital environment in a narrow perspective, especially with regard to the right to access information (paragraph 57), the right to privacy (paragraphs 76-77 and 112) and family environment (paragraph 92) and we would like to highlight this tension.
2. The recent months have seen a rise in digital environment use due to Covid-19, therefore, we suggest, as an example, including matters relevant to the effects of Covid-19 on children in the digital environment in the draft text.
3. The current pandemic emphasized the importance of accessibility to digital platforms for children with disabilities. All public services should be accessible to children with disabilities, especially those meant to ensure privacy, provide protection and prevent discrimination, violence and conflict with the law. The State of Israel suggests adding, where relevant, that public services should be accessible to children with disabilities.
4. We recommend adding reference to the needs of adolescents throughout the draft General Comment due to their greater use of technology, and due to their higher likelihood of encountering the dangers in the digital environment, such as exposure to violence, pornography, harmful ideology, racism, criminal offences and substance abuse.
5. We suggest noting in the text that the generational gap between children and parents and some parent's lack of familiarity with the digital environment and the platforms that children use, affects their ability to assists children in developing their digital skills. Therefore, we propose guiding States to provide digital training for parents.
6. We suggest including the best practice of establishing an expert investigative and prosecutorial body for enforcement of cybercrime law when children are victims. Israel established the National Child Online Protection Bureau (NCOPB), a designated operational unit aimed to counter crimes against children in cyberspace. The NCOPB combines police capabilities - including advanced capabilities from the cyber world - and capabilities from the fields of education, health, therapy and protection of minors, and handles the entire sequence of assaults against minors online, including assaults that are not criminal yet their impact may be most severe, such as excommunication, ostracism and shaming, and up to assaults which constitute criminal offenses. The unit operates various enforcement, technological and other measures, in order to investigate, expose and prosecute criminals operating in cyberspace, and investigates, *inter alia*, sexual offenses, violation of the prohibition on the publication of videos that constitute sexual harassment and violence offenses where the victim is a minor, and includes an expert prosecution unit. The NCOPB operates a hotline for these issues, which operates 24/7.
7. Additionally, we note that the in November 2020, the Report on the Conclusions of the Public Committee for the Formation of Public Protection Measures Including Public Servants was published. The Report includes, *inter alia*, many recommendations as to child online protection. The recommendations include establishing a national educational programs on human dignity and on digital literacy and the online environment, establishing mechanisms at schools for addressing a child's distress, raising parental awareness to digital literacy and removal of content, developing tools for handling harmful parental use of the digital environment, developing psychological treatment programs for persons negatively impacted by harmful content online, and more.

**Paragraph-Specific Comments**

1. **Paragraph 19 -** The draft General Comment obliges the States to ensure that children's views are given due consideration by designers and providers of digital technology when developing their services. We suggest that they be encouraged to conduct open discussions with children on this matter.
2. **Paragraph 21 -** We note that while it is important to take into account the children's evolving capacities, it may be complicated to oblige digital providers to do so, and thus we suggest changing the words "should require" in the last sentence of the paragraph to "may encourage".
3. **Paragraph 27** - We suggest that States should be required to ensure the operation of child online protection only with regard to settings designated for children. Therefore, we suggest the removal of "cybercafés" from this paragraph.
4. **Paragraphs 34, 38-39 and 55** - Rather than obliging the business sector as a whole to undertake specific measures, such as those detailed in paras. 34, 38, 39 and 55, we propose implementing measures for encouraging them to act accordingly.
5. **Paragraphs 36-39** - We note that when referring to the obligations of the business sector, it may be difficult to enforce minimum age requirements, for example in online dating sites, when the sites are not based in the regulating State.
6. **Paragraph 41 -** We would like to address the challenges in age differentiating on certain platforms, such as news channels, and so we propose that the paragraph dissociate types of digital platforms and adjust the requirement for each type. Additionally, the content of both the advertisements and the websites in which it is presented should be age-appropriate.
7. **Paragraph 45** - As a form of best practice, the State of Israel suggests that legal assistance be provided not only in cases of infringements on rights, but also for mitigating and preventing harms, such as requesting the removal of harmful content about the child and the prevention of its further circulation, as is the case in Israel. Additionally, we would like to present the best practice of the Israeli National Child Representation Unit (NCRU) within the Legal Aid Department ("A Lawyer of my Own"), the organizational framework for child representation in civil proceedings, which aims to provide the best possible legal aid service for children and youth and to promote their right to access to justice, particularly in child protection proceedings. Child Representation services are provided to children and youth by 90 lawyers who specialize in the field of child representation. The NCRU provides training to all lawyers representing children on its behalf.
8. **Paragraphs 52-53** - The Committee emphasizes the importance of access of children to information through the digital environment. We believe it should be underscored that the content referred to should be chosen actively by the children, rather than them being targeted with advertisements or other commercially driven or revenue generated content, marketing or services**.**
9. **Paragraph 53 -** We suggest that the digital systems be formed, from the initial design phases, in a manner accessible to children with disabilities.
10. **Paragraph 55** - It should be noted that currently automated search recommendation systems cannot distinguish between children and adults using their platform. Their ability to protect children's right to information as suggested in the paragraph is, therefore, limited.

Furthermore, we suggest referring to the types of potentially harmful content children may encounter in the digital environment with greater caution. In some cases, statements that reflect the legitimate exercise of the freedom of expression may be identified by persons or algorithms as included in the examples cited in the draft General Comment. Therefore, we propose focusing on content that can be easily identified, such as pornography and violence.

1. **Paragraph 57** - We note that in some of the more traditional Israeli societies, such as ultra-Orthodox Jews, there is a general reluctance to allow access to the digitized environment to adults and children alike, so that the basic premise here should take certain religious-cultural reservations, as well as general parental guidance and preferences as to the content their children are exposed to, into consideration.
2. **Paragraph 60 -** We suggest adding language that clarifies that in addition to the limitations on children's freedom of expression being lawful, necessary and proportionate, they should be made after consultation with children.
3. **Paragraph 63 -** We propose adding that the automated systems should not be "used to impact or influence children's behavior or emotion **without appropriate safeguards**". This would allow using automated systems as long as they are monitored.
4. **Paragraphs 69-79** - We propose adding language that encourages States to disseminate information for children on the ramifications of publishing personal information, photos, etc. in the digital environment.
5. **Paragraphs 76-77** - We suggest considering different ages and situations when addressing surveillance, as there are certain instances when digital surveillance by parents without the child's consent may be justified.
6. **Paragraph 88 -** We propose mentioning that the emergency centers should provide services in accessible formats, and that the complaint mechanisms should allow reporting in a wide variety of ways, including written or oral formats.
7. **Paragraph 89 and 113 -** We suggest adding that the opportunities for building technological understanding, capacity and skills should be accessible to children with disabilities and parents with disabilities. Along with recommending teaching digital literacy in schools, it should be recommended to teach them in formats and methods accessible to children with disabilities.
8. **Paragraph 96 -** We propose adding further opportunities in which the digital environment provides for children with disabilities, such as learning, engaging in culture and leisure activities, engaging in social relationships with family and participating in society. Additionally, instead of the sentence "States should pursue these new avenues and also take steps to overcome barriers faced by children in relation to the digital environment", we suggest the following language: "States should create policies and laws that ensure that digital technologies, platforms, services and information will be formed, from the initial design phases, in accessible form for children with disabilities."
9. **Paragraph 98 -** We suggest adding that children with disabilities and their parents and teachers should be trained in using assistive technologies. The training should be age-appropriate and in accordance with the developing technologies.
10. **Paragraph 102 -** We propose taking into account the importance of parental consent to certain psychological counselling services, especially in younger ages.
11. **Paragraphs 107-114** - We suggest that the section on the right to education relate specifically to accommodation for children with disabilities, and refer to the following issues: accessibility of ready-made content using subtitles and verbal description of visual content; allow additional accommodation such as using sign language and linguistic simplification; making digital learning accessible, in accordance with the pupil's needs; adopting universal accommodation principles; gaps should be followed and addressed.
12. **Paragraph 124** - We propose that due to the fact that the juvenile justice system is already adjusted to children and emphasizes rehabilitation and care, the alternative criminal justice responses referred to by the draft General Comment be employed in "the appropriate cases".
13. **Paragraph 129** - We suggest adding language clarifying that the General Comment should be disseminated in a manner accessible to children.