

Submission in Response to the United Nations Committee on the Rights of the Child's Call for Comments on the General Comment on Children's Rights in Relation to the Digital Environment

Submitted via e-mail to: crc@ohchr.org

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Thank you for the opportunity to provide a submission in response to the *General Comment on children's rights in relation to the digital environment*. We welcome this opportunity to draw upon ongoing research in this area and specifically on the direct experiences of children and young people and those that advocate for them. This submission draws on research, advocacy and practice expertise and it focuses on three main areas: online harms; children in the criminal justice system, and awareness-raising and training. We would welcome the opportunity to discuss any aspects of our submission, recommendations and wider research with members of the Committee.

Yours sincerely,

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Biographies

Dr. Faith Gordon is a Senior Lecturer in Law at The Australian National University; Director of the International Youth Justice Network and an Associate Research Fellow at the Information Law & Policy Centre, Institute of Advanced Legal Studies, London.

Faith's first sole-authored monograph entitled: *Children, Young People and the Press in a Transitioning Society: Representations, Reactions and Criminalisation* (2018) built on Faith's PhD and post-doctoral research on the media representations of children and young people in Northern Ireland and other post-conflict societies, and the research has been referred to by the UN Committee on the Rights of the Child and has been referred to in the High Court in Northern Ireland and the Court of Appeal. Faith's latest international research and recent publications focus on children's rights in the digital age; journalists' use of children's social media content; 'naming and shaming' of children in conflict with the law on social media; the unaddressed issue of pre-charge identification of minors. Faith is leading Catch22's latest research into young peoples' perceptions of social media, the acceptable use policies across platforms, and the enforcement challenges for addressing online harms when these are breached.

Josie Cochrane is the campaigns and media lead for Catch22, a UK charity working to reform public services for the better. Across their education, social care and justice services, Catch22 is seeing the impact of harms which originate online and result in violence or the sexual and criminal exploitation of young people offline. In 2016, Catch22 published [Safer Schools: Keeping gang culture outside the gates](#) and in 2017, published [Social Media as a Catalyst and Trigger to Youth Violence](#). As well as delivering programmes focussed on violence reduction and providing one-to-one support for those affected by criminal and sexual exploitation, Catch22 co-delivers The Social Switch Project, equipping frontline professionals and youth workers with the confidence to address issues faced online. Catch22's latest research will be released in February 2021.

Response

Background/Context

Across Catch22's victim services, alternative provision schools, violence reduction services and gang exit support, we are seeking risks and harms influenced and exacerbated by online behaviour. Prior to the COVID-19, there appeared to be a fairly easy fix for keeping children safe from online harms and the risks of a digital age – that is no longer remotely viable. Children and young people are not only in need of digital connection to be educated, they are dependent on it to maintain the social relationships with both friends and extended family. And while online behaviour is often reflective of what is happening in society, the inherently unsupervised nature of being online is a growing concern as users get younger and there are still no guidelines or regulatory requirements for the platforms providing these services.

Catch22 has been looking at the dangers that the online world presents for several years - in 2017 we conducted a piece of academic research looking at the [impact of social media as a catalyst for serious youth violence](#) - our research and experience has shown that although the online world presents huge opportunities for finding purpose, it also presents significant risks especially for young people around online grooming and exposure to violence and trauma. We carried out a [consultation](#) over the summer, asking youth workers, young people, teachers, tech companies and PCCs about their concerns surrounding actual harm caused by activity online. We've outlined results below and with frontline insight, outlined

some of the principles we want to see which do not only protect young people by focusing on suppression and enforcement, but also those which offer engaging pro-social alternatives for young people.

The principles should:

- include defined social media usage policies which are fit for purpose and legally compliant and which are accessible to all children and young people;
- ensure that all complaints mechanisms are accessible to all children and young people;
- allow swift action to be taken if policies are broken – i.e. blocking of fake accounts and restricting use for harmful users;
- be easy to understand and actively accepted by users;
- inclusion of children and young people in design and advocate for safety-by-design.
- ensure children and young people are supported to access genuine pro-social opportunities.

In order for that to happen we need to see:

- More quantitative and qualitative research to map and better understand the links between online and offline behaviour;
- A coalition of tech companies and experts, working together to address safety, regulation, intelligence and protection of freedom of speech in a safe online world – including real efforts to prevent underage use and more intuitive software to do this – with children and young people at the heart of all decision-making;
- Large-scale pro-social programmes, supporting young people into meaningful opportunities, career pathways – including investment in youth services – providing the right relationships to mentor and support young people to navigate this world;
- Annual and updated training for frontline professionals working with young people to adequately understand and be able to better support young people to make the right choices online;
- A way to arm parents and carers with the right information to keep young people safe, which ensures that children and young people continue to have freedom to gain and benefit from positives of evolving technologies and the online world.

Online Harms

We are pleased to see that potential harms and violations of children's rights is a topic that has been identified and raised the draft General Comment. We would like to see further guidance for States included in the General Comment, as well as accountability mechanisms for States, should they not fully address these issues and concerns within the domestic frameworks that operate. Given the global nature of these issues and the global reach of the main social media platforms, online gaming platforms and other apps, we call for more emphasis on a joint up approach to addressing these issues, with States Parties encouraged to work together to address these global issues affecting children and young people.

- **The right to non-discrimination (Article 2)**

As the COVID-19 pandemic demonstrates, children's access to the digital environment is severely linked to location and equality. We have witnessed that in particular children in care and young people who are transitioning from care to independent living have limited access to computer equipment and internet access. We propose that more detail should be provided in the General Comment in relation to the duties of States Parties to provide support and what should be done to address the clearly evident 'digital poverty'.

- **Children's right to play, to obtain information (Articles 13 and 17), to participation**

Children have a right to learn and play yet digital access to give equal opportunities to every child remains a huge issue. Through Catch22's alternative provision schools, we know too many children are living in challenging home situations, some are unable to access the technology needed for home learning and some are struggling with their mental health and wellbeing. The post COVID-19 consequences are significant as the performance gap is widening, access and equality is decreasing. Many of the young people Catch22 works with are already at a significant disadvantage in life, and access to digital and technology should not be one of the additional barriers they face. (<https://committees.parliament.uk/writtenevidence/5632/pdf/>)

Children's and young peoples' future careers depend on developing their confidence with technology and digital systems. To remove their access to the opportunities these platforms can offer is to delay the development of skills which will become more essential over time.

We would like to see a clear plan for digital inclusion for those students currently without access to technology for home learning and feel that the draft General Comment could go further in providing clear guidance on how access and full participation can be achieved.

- **Children as victims – grooming, exploitation, violence, mental health**

The interpretation of the CRC Committee is that ‘exploitation’ means ‘taking unjust advantage of another for one’s own advantage or benefit’. This includes manipulation, misuse, abuse, victimisation, oppression or ill-treatment. Increased use of online spaces for play, recreation and education raise concerns relating to the increase in opportunities for children to experience exploitation. The World Health Organisation has referred to increased violence against children as the ‘hidden crisis of the COVID-19 pandemic’. Initial reports from INTERPOL demonstrate the ‘increased sharing of child exploitation material through peer-to-peer networks’ is one of the effects of the pandemic. The Internet Watch Foundation reported an almost 50% increase in reports of online child abuse images during lockdown - in the 11 weeks from 23 March, its hotline logged 44,809 reports of images compared with 29,698 last year. (<https://www.iwf.org.uk/news/%E2%80%98definite-jump%E2%80%99-as-hotline-sees-50-increase-public-reports-of-online-child-sexual-abuse-during>)

Before the start of the crisis, knife crime and serious violence was on the rise: according to ONS data there were 47,500 offences with a knife in 2019, an 82% increase on 2014. Social media is a recognised catalyst for youth violence, and with young people confined to their homes and screens, this risk will be growing, with potential repercussions as lockdown measures are eased. Catch22’s frontline practitioners in the UK are acutely aware of the growing risk of young people being confined at home without the same supervision they would usually encounter.

In June 2020, Catch22 led a national consultation into online harms with those engaging with Catch22 services. Young respondents called for quicker responses to addressing harmful content, blocking fake accounts, and restricting use for harmful users. Of those who responded, only 27% feel safe online all the time, only 40% report online harms to the platform they are using, and 73% have seen content online that they’ve found concerning, referring to specific violent and explicit content. ([link here](#))

It is evident the lack of policy consideration and measures taken globally in response to the pandemic also raises significant questions in relation to children’s right to protection from any form of exploitation under the CRC. We would call on the Committee to provide more guidance and advice to States Parties on practical approaches to addressing these complex issues.

Children and the Criminal Justice System

The draft General Comment (section XII, B) does not expand enough on the ‘administration of child justice’ (article 40) and it’s reference to only ‘cybercrime laws’, omits a range of other important and significant issues in relation to the interactions between the criminal justice system, children’s rights and the digital environment. We propose that the comment further expands this section and provides more detail on the ‘focus on prevention’ aspect, as in the past prevention has often negatively lead to further criminalisation of children and young people.

As research demonstrates, negative reporting, identification and targeting of children in conflict with the law, by mainstream media and on social media platforms, can impact on children’s future prospects, their well-being, physical and mental health ([Hart, 2014](#); [Gordon et al., 2015](#)). As [Gordon’s \(2018\)](#) research documents, this can place children and young people, who are already vulnerable, at further risk. The ongoing debates in the UK relating to proposals for social media companies such as Facebook to have a ‘duty of care’ towards children and young people, makes a convincing argument and prioritises the protection of children’s rights and also processes in relation to seeking redress ([Gordon, 2017](#)).

The United Nations Convention on the Rights of the Child (UNCRC) (1989) states that: ‘Every child alleged as or accused of having infringed the penal law has at least the following guarantee[s]: To have his or her privacy fully respected at all stages of the proceedings’ (Article 16[1] and [2]; Article 40[1]). The UN Standard Minimum Rules for the Administration of Justice (the Beijing Rules) (1985) outline the need for a child’s ‘right to privacy’ to be ‘respected at all stages’ of the criminal justice process, ‘in order to avoid harm being caused ... by undue publicity or by the process of labelling’ (section 8.1.) and ‘no information that may lead to the identification of a juvenile offender shall be published’ (section 8.2).

In the digital age, such wording needs to be revised and developed to challenge and contest the online permanency of such imagery and publications, if they are breaching a child’s right to privacy. This is a significant issue which the draft of the General Comment has not engaged with, yet it affects some of the most marginalised children. We assert that the section on children and justice be extended to cover issues such as

Awareness Raising, Training and Education

Children and young people have identified that they want more tailored education and opportunities to enhance their own skills. Just [61% of people](#) (page 21) in the UK have confidence in their digital skills. The EU estimated that [82% of Europeans between the ages of 16 and 24 have basic digital skills](#) – but that still leaves millions of young people lacking (page 4 of the 2020 report <https://ec.europa.eu/digital-single-market/en/human-capital-and-digital-skills>).

The draft General Comment's contents could encourage States Parties to share what has worked and what has not worked in the provision of education, awareness raising and training. For example: **The Social Switch Project** is co-delivered by Catch22 and Redthread. The pilot programme was initially funded by Google.org and is currently receiving funding from the Mayor of London's Violence Reduction Unit. The project aims to switch the story on how social media issues are talked about and encourages both young people and those supporting them to see the opportunities that can be found online. It is delivered in two strands, 1) equipping frontline professionals, including youth workers, teachers, police and social workers, with the confidence to challenge harmful online behaviour through free workshops, and 2) delivering a free full-time training course, work experience and a career coach for at-risk yet talented young people, diverting them away from antisocial behaviour towards sustainable digital careers. Of the 600 frontline professionals already trained, 94% report an increased understanding of how to support young people to make valuable contributions online, and 92% report an improved understanding of social media and how young people engage with it. (<https://www.catch-22.org.uk/news/catch22s-national-online-harms-consultation-finds-young-people-and-frontline-staff-demand-better-protection/>)