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Teaching a *new* dog *old* tricks?

An analysis of how current legislative and non-legislative approaches address opportunities for realising children's civic participation rights through the digital environment

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Abstract

The digital environment is often positioned as a threat to children's rights. A narrative which exposes areas of valid concern but also reinforces impressions that children are vulnerable mini humans who need sheltering from civic spaces. Absorbing this backdrop, this research adopts a critical childist analysis of how the digital environment can act as a venue for the realisation of children's civic participation rights: the rights of freedom of expression, freedom of association, and access to information. These insights are placed beside current legislative and non-legislative approaches set out to support children in the digital environment from regulation, the technology industry, and civil society. It is apparent that the digital environment's opportunities to recognise children as active rightsholders rather than passive rights receivers of civic participation rights is constrained by adultism. Old tricks are used in the new reality regardless of the harm it does to children's civic participatory rights. Digital citizenship is proposed as a tool to shape recommendations for future law, policy, and practice that aims to move beyond reproducing adultism.

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Author's declaration

I declare that this dissertation is a presentation of original work, and I am the sole author. This work has not previously been presented for an award at this, or any other University. The author is engaged in a professional capacity in the EU Horizon 2020 research project 'DigiGen'. This professional capacity has no conflict of interest nor ethical implications for conducting this dissertation research. Where this project's publications inform this research, it is acknowledged in the references.

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List of Acronyms

BIK+- Better Internet for Kids +

COPPA- Children Online Privacy Protection Act

DSA- Digital Services Act

ECtHR- European Court of Human Rights

eID- Electronic Identification

EU- European Union

GDPR- General Data Protection Regulation

ICCPR- International Covenant on Civil and Political Rights

ICESCR- International Covenant on Economic, Social, and Cultural Rights

ICO- Information Commissioner's Office

LGBTI- Lesbian, Gay, Bisexual, Transgender, and Intersex

UDHR- Universal Declaration of Human Rights

UK- United Kingdom

UN- United Nations

UNCRC- United Nations Convention on the Rights of the Child

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Introduction

Today's children are growing up in a different reality to when the international community constructed the UN Convention on the Rights of the Child (UNCRC); they are the digital generation.[1] These digital natives are experiencing their childhood in the backdrop of technological transformations which are embedding themselves into every area of the social world: from education (and work), to leisure, civic participation, and family life.[2] As a result, technological transformation forces actors to interpret what child rights means in this digital environment. In 2021, the UN Committee on the Rights of the Child attempted to provide support by adopting the General Comment No.25 on children's rights in relation to the digital environment which expands on how the digital environment provides new opportunities for children's rights but also concerns.[3]

Policy, practice, and research have largely focused on potential harms that come from children's exposure and use of digital technologies by responding, interacting, and in some cases inflating moral panics in the general discourse. Moral panics exist throughout history, often associated with 'new' media forms such as television or video games, but also cultural shifts concerning fashion, music, or values.[4] Children and young people largely take the brunt of these moral panics, either demonised as rebels or paternalised as angels that must be protected from these societal shifts. In past generations, parents may have worried about their children getting 'square eyes' from watching too much television, now parents worry about their children being unable to form 'authentic' social relationships because of social media usage.[5] This is not to say that there are no valid concerns to children's rights in

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[1] Idunn Seland and Christer Hyggen, 'The digital generation: Representations of a generational digital divide' in Asgeir Falch-Eriksen, Marianne Takle and Britt Slagsvold (eds), *Generational Tensions and Solidarity within Advanced Welfare States* (Routledge 2021) page 1.

[2] DigiGen, 'DigiGen leaflet: The impact of digital transformations on children and youth- The Digital Generation' (DigiGen 2019) page 2.

[3] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [paragraph 3].

[4] Idunn Seland and Christer Hyggen, 'The digital generation: Representations of a generational digital divide' in Asgeir Falch-Eriksen, Marianne Takle and Britt Slagsvold (eds), *Generational Tensions and Solidarity within Advanced Welfare States* (Routledge 2021) page 136.

[5] Olaf Kapella & Merike Sisask (eds.), 'Country reports presenting the findings from the four case studies- Austria, Estonia, Norway, Romania' (2022) DigiGen Working Paper Series No 6 page 84 <DigiGen-working-paper-no.6-country-reports-D3.1-revision-070322.pdf> accessed 13 July 2022.

the digital environment, but the nuance is often lost in adults' gut instinct to protect children rather than empower them.

Through applying a childist critical theoretical lens this research highlights how approaches to children's rights in the digital era are reflective of how children have been constructed under adult order as vulnerable mini humans. This status is most keenly observed when it comes to civil and political rights, notably civic participation rights such as freedom of expression, access to information, and freedom of association. Although children are humans just like adults and take rights from general human rights treaties such as the twin covenants (ICCPR and ICESCR), it took years for civic participation rights to enter the draft Convention text.[6] The first rights to be claimed for adults were the last to be acknowledged for children.[7] As a result, the civic participation rights that do make their way into the UNCRC are a compromise between human agency and childish immaturity and incapacity.

Although the architecture of the digital environment offers possibilities for children to exercise and further their civic participation rights as active rightsholders, analysis of current legislative and non-legislative approaches will show that these remain constrained by adult order. Technology is not neutral; technology reflects human biases and power dynamics and therefore our digital environment reproduces our ingrained societal adultism. Digital citizenship is proposed as a tool through which to reconcile opportunities of the digital environment with the realities of current approaches. This approach translates insights across the porous digital-analogue continuum to ensure that children are recognised as active rights holders across their environments.

Dissertation Roadmap

Chapter 1 presents the childist critical theoretical approach before applying this lens to how children's rights are constructed in the UNCRC. This mapping takes a two-prong approach; it focuses on how child rights governance is constructed through the web of actors at play and

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[6] Ann Quennerstedt, Carol Robinson and John l'Anson, 'The UNCRC: The Voice of Global Consensus on Children's Rights?' 36 (2018) Nordic Journal of Human Rights 38, 48.
[7] Stuart N Hart and Zoran Pavlovic, 'Children's Rights in Education: A Historical Perspective' 20 1991 School Psychology Review 345.

how child rights are understood through the tools and provisions within the UNCRC. These elements are brought together by taking stock of the state of play of children's civic participation rights in the analogue (non-digital) environment. **Chapter 2** conducts the same mapping exercise to children's civic participation rights in the digital environment. This allows for reflection on how the architecture of the digital environment provides opportunities and tensions for the realisation of children's civic participation rights compared to the analogue environment. **Chapter 3** conducts a critical analysis of current legislative and non-legislative approaches proposed by the three crucial actors of the digital era: regulators, technology companies, and civil society. This analysis will assess to what extent these approaches reflect the opportunities that the digital environment brings for children's civic participation rights or whether they mimic traditional patterns of child rights understanding and governance. **Chapter 4** brings forward the conclusion that the structural opportunities of the digital environment are failing to be sufficiently realised in current approaches due to the constraints of adultism. This chapter attempts to translate the opportunities across the analogue-digital continuum to show how taking a digital citizenship approach to future law, policy, and practice may make it possible to recognise children as active rightsholders of civic participation rights.

Chapter 1: How are children's rights traditionally understood and governed through the UNCRC?

Chapter roadmap

This chapter maps the foundations of children's civic participation rights as primarily expressed through the UNCRC.[8] As a Convention drafted solely by adults for children, it is crucial to explore how adult/child power relations manifest themselves in the UNCRC.[9] To this end, this chapter begins with an introduction to a childist approach which provides a critical theoretical lens to engage in this discussion. Next, the motivation is to understand the core building blocks of children's rights. I identify these core building blocks as actors (as an expression of governance) and provisions (as an expression of how children's rights are understood). The chapter concludes by observing the state of play of children's civic participation rights in the analogue world. Overall, analysis of traditional understanding and governance illustrates how children are reduced to passive receivers of civic participatory rights rather than active rights holders. Engaging in this mapping exercise will set the foundations to assess how the digital environment allows for a repositioning of understanding and governance of children's civic participation rights.

Introduction to childist theoretical approach

Critical approaches to legal analysis are now broadly employed, notably regarding feminist, class, or racial perspectives. Law as a reflection of the social world is not free from the social dominance of the patriarchy. Patriarchy is mainly embodied through the archetypical expression of an upper class, white, male. What is often ignored is that this archetype is also always an adult.[10] Childism is the left behind critical theoretical approach for the very same reasons it is needed in the first place. Childism can be understood in the same sense as feminism, with both seeking to emancipate humankind from the grip of patriarchy.[11]

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[8] United Nations Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC).

[9] Michael Freeman, 'The sociology of childhood and children's rights' 6 (1998) International Journal of Children's Rights 433, 439.

[10] John Wall, 'From childhood studies to childism: reconstructing the scholarly and social imaginations' 3 (2019) Children's geographies 257, 257.

[11] Ibid.

Childism acts as an emancipatory force with the harmful effects experienced through adult order referred to as adultism (alike to sexism).[12] Women are regarded as patriarchy's primary victim through sexism; however, men also suffer at the hands of patriarchal order. The same can be said for children through adultist norms, structures, or practices; children take the brunt of the damage, but adults also suffer. Childism does not claim that children and adults are the same, in the same way that gender or racial blindness does not emancipate the oppressed. What childism does argue is that we should dismantle representations of adultism that harm children as rightsholders of fundamental human rights. As a result, it is key to take a critical approach to using the UNCRC to acknowledge the tools it does have to support children as rightsholders rather than perpetuating elements that maintain harmful power dynamics.

Critical analysis of how children's rights are governed in the UNCRC

The children's rights agenda as laid out in the UNCRC is maintained and constrained through the various actors at play. The UNCRC rests on a triangular relationship between three core actors: the State, the family, and the child.[13] Family, in all its diversity, is a key vehicle for the realisation of rights of many societal groups whose rights are recognised through specialised treaties: persons with disabilities, migrant workers et cetera. However, in no other area of international law does the family receive such a significant role in the protection and promotion of individuals' rights as in children's rights. This elevated status is owed to balancing children's rights with the rights guaranteed to the family under international human rights law *lex generalis*. The Universal Declaration of Human Rights (UDHR) asserts in Article 16 Paragraph 3 that "the family is the natural and fundamental group unit of society and is entitled to protection by society and the State".[14] This positive obligation to protect is also reinforced through the negative obligation laid out in Article 12 to ensure lack of arbitrary interference into the family.[15] The twin covenants, ICCPR and ICESCR, reflect these

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[12] Ibid page 263.
[13] Gerison Lansdown, 'The evolving capacities of the child' (UNICEF 2005) page 9.
[14] Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III) (UDHR) [Article 16 paragraph 3].
[15] Ibid [Article 12]

principles in binding form.[16] Before the adoption of the UNCRC, children were legally and socially acknowledged as property of their parents, children were legal objects. The State could not interfere within the family domain and thus the family were sole proprietors of children. The UNCRC reconstructs this paradigm through redrawing the line between the State and the family, giving children status as legal subjects in their own right.

Children as active rightsholders or passive rights receivers?

Although the UNCRC acknowledges children's legal subjecthood, it is misguided to believe that the establishment of the UNCRC moved children from legal objects to full legal subjects. Individuals' rights are protected and promoted by dutybearers with the implicit understanding that these rights imply duties and responsibilities on the side of the rightsholder. This is often referred to through the exercise of citizenship; a status that has been governed by conceptions of rationality and autonomy, for example as offered in a Millian approach.[17] Adult power has dictated what it means to be capable of rights, what it means to be rational or autonomous, and thus placed children outside of the bounds of full actorhood. To substitute for this lack of status, adults are bestowed with duties and responsibilities to children, with children as receivers. This in turn presents children as innocent, naïve mini humans that must be protected from the realities of the human experience: sexuality, violence, labour, media.[18]

Critical analysis of how children's rights are understood in the UNCRC

The UNCRC contains several interpretatory and guiding principles which attempt to make links between children as rightsholders and the State and family as dutybearers. Key to this analysis will be discussion and application of the best interests of the child (Article 3),

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[16] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) [Article 17 paragraph 1, Article 23 paragraph 1, Article 24 paragraph 1]; International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) [Article 10 paragraph 7].

[17] See following for a Millian analysis of children's rights, Melinda Jones and Lee Ann Basser Marks, 'The dynamic developmental model of the rights of the child: A feminist approach to rights and sterilisation' 2 (1994) International Journal of Children's Rights 265, 268.

[18] Matías Cordero Arce, 'Towards an Emancipatory Discourse of Children's Rights' 2 (2012) International Journal of Children's Rights 365, 379.

evolving capacities (Article 5), and respect to the views of the child (Article 12).[19] The best interests principle states that the best interests of the child should be "given a primary consideration" in all decisions affecting children.[20] On the surface this may look promising realisation of children's agency and thereby status as rightsholders, but the principle is still in the grip of adult power. Firstly, children's best interests are only to be given 'a' primary consideration, meaning that the child's best interests do not have power to automatically override the interests of others.[21] This balancing act between interests does not start on an equal weighting to begin with. Children's best interests exist within the confines of children's presumed capacity, competence, and experience (all factors determined by adults).

Article 12 is also acknowledged as a guiding principle of the UNCRC, stating that children have the right to be heard on all decisions affecting them.[22] Although the Committee acknowledges that States should start with the presumption that children have the ability to express their views and that that age alone cannot be used to dictate the extent to which the child's views are adopted[23], adult framings of competency and what is a 'good view' hold the upper hand.[24]

Another key concept is the idea that children have evolving capacities. The Committee on the Rights of the Child laid out in General Comment 20 on the implementation of the rights of the child during adolescence that evolving capacities can be defined as "an enabling principle that address the process of maturation and learning through which children progressively acquire competencies, understanding, and increasing levels of agency to take responsibility and exercise their rights".[25] This notion is not formally a general overarching principle of the UNCRC but has been argued to have taken an increasingly position as a

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[19] UNCRC [Article 3, 5, 12].
[20] UNCRC [Article 3, para 1].
[21] John Eekelaar and John Tobin, 'Article 3 The Best Interests of the Child' in John Tobin (ed), *The UN Convention on the Rights of the Child: A Commentary* (Oxford 2019) page 75.
[22] UNCRC [Article 12].
[23] UN Committee on the Rights of the Child, 'General Comment 12 on the right of the child to be heard' (2009) CRC/C/GC/12 [paragraph 20, 21].
[24] Matías Cordero Arce, 'Towards an Emancipatory Discourse of Children's Rights' 2 (2012) International Journal of Children's Rights 365, 375.
[25] UN Committee on the Rights of the Child, 'General Comment 20 on the implementation of the rights of the child during adolescence' (2016) CRC/C/GC/20.

significant enabling, interpretatory, and policy informing principle across the life of the UNCRC.[26] Evolving capacities originates from Article 5 which clarifies that parents' have the ability to "provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance".[27] The concept clarifies parents' role in raising their children, but also mitigates their unquestioned authority as the child develops. Evolving capacities suffers the same blow as it is confined with adult conceptions of capacity and competence. Children's capacity is recognised when it matches what we recognise as adult capacity. As Liebel aptly sums up "as long as adults possess the definition power on capacities, the principle will be used in the sense of a limitation for children".[28]

The state of play of children's civic participation rights in the analogue world

This section aims to apply the structural environment of children's rights: the actors and tools established by the UNCRC, to the current state of play of children's civic participation rights. Tisdall defines children's participation rights to involve the right to freedom of expression (Article 13), freedom of thought, conscience, and religion (Article 14), freedom of association and peaceful assembly (Article 15), access to information (Article 17).[29]

Access to information

The UNCRC imposes a positive obligation on the State to ensure children's access to information through diverse sources in Article 17.[30] This provision makes clear that particular efforts must be made to provide children with information that serves their "social, spiritual and moral well-being and physical and mental health".[31] The UNCRC encourages States to take a child protection approach to limiting information that could

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[26] Sheila Varadan, 'The Principle of Evolving Capacities under the UN Convention on the Rights of the Child' 27 (2019) International Journal of Children's Rights 306, 338.

[27] UNCRC [Article 5].

[28] Manfred Liebel, 'From Evolving Capacities to Evolving Capabilities: Contextualising Children's Rights' in Daniel Stoecklin and Jean-Michel Bonvin (eds), *Children's Rights and the Capability Approach* (Springer 2014) page 69.

[29] E Kay Tisdall, 'Children and Young People's Participation: A critical consideration of Article 12' in Wouter Vandenhole, Ellen Desmet, Didier Reynaert and Sara Lembrechts (eds), *Routledge International Handbook of Children's Rights Studies* (Routledge 2015) page 185; UNCRC [Article 13, 14, 15, 17].

[30] UNCRC [Article 17].

[31] Ibid.

negatively affect the wellbeing of the child.[32] Honing children's holistic development is an issue of societal interest but this must be carefully evaluated to ensure that children are not unduly denied access to certain information because it does not align with adults' views of what a child should know about the world. For example, States frequently do not provide children with information on the diversity of sexual orientation and gender expression and/or often rely on harmful discriminatory information about LGBTI individuals.[33] Beyond this, States with a homophobic political agenda are keen to use children's supposed best interests to gain support for their ideology, stating that these decisions are key to 'protect our young'. Most recently evidenced through Hungary and Poland's veto of the EU Child Rights Strategy for its mention of LGBTI children's vulnerability.[34] In these cases, such undue limitations negatively affect children's wellbeing and development. Adults acting as the gatekeepers of information risk putting their own perception of the best interests of the child ahead of the child's own best interests.

Freedom of expression

One of the clearest manifestations of the right to freedom of expression under Article 13 is the right to vote, a right that children are largely disfranchised from *en masse*.[35] Several of the primary arguments for children's disenfranchisement are that they lack political and social awareness, individual thought, and experience negotiating the civic space.[36] However such freedom of expression is underpinned by access to information which as described is constrained by adults' perception of the child's best interests.[37] Furthermore, developing these civic competences should be realised within the framework of evolving capacities laid

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[32] Ibid [paragraph e].

[33] For example, European Committee of Social Rights (Committee of Ministers) 'Resolution CM/ResChS(2009)7 on collective complaint no.45/2007 by the International Centre for the Legal Protection of Human Rights (INTERIGHTS) against Croatia' (2009).

[34] Wester van Gaal, 'LGBTIQ rights: Hungary and Poland veto EU children's strategy' (*EU Observer,* 8 October 2021) < https://euobserver.com/rule-of-law/153178#:~:text=Hungary%20and%20Poland%20have%20vetoed,LGBTIQ%2Dchildren%20were%20especially%20vulnerable.> accessed 30 July 2022.

[35] Usang Maria Assim, 'Civil Rights and Freedoms of the Child' in Ursula Kilkelly and Ton Liefaard (eds), *International Human Rights of Children* (Springer 2019) page 402.

[36] Ibid.

[37]Gerison Lansdown, 'Article 17: The Right to Access to Diverse Sources of Information' in Ziba Vaghri, Jean Zermatten, Gerison Lansdown and Roberta Ruggiero (eds), *Monitoring State Compliance with the UN Convention on the Rights of the Child: An Analysis of Attributes* (Springer 2022) page 105.

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out in Article 5. Failure to construct this approach keeps children in a protective state which preserves the attitudes that classify all children as incapable mini humans.

Freedom of association

Children face barriers in exercising their right to freedom of association. Older children challenge society's perception of what it means to be a child and thus move from being perceived as society's angels to rebels. For this reason, many public and private entities have installed so-called 'mosquito devices' which aim to disperse groups of children and young people, often outside shops, train stations, and even public parks.[38] The Committee raised concerns on this matter concerning children's right to freedom of association during the United Kingdom's 2016 review.[39] These devices are engineered to only be heard by young ears, often those under 25 years old, meaning that many adults have no idea what children endure.

There are also examples of society's push back on children's right to freedom of association that adults can see with their own eyes, if they choose to. Many private spaces such as shops and restaurants put limits on how many children can enter at one time, or impose times when children cannot enter.[40]

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[38] See Children and Young People's Commissioner Scotland, 'Position statement: Mosquito devices' (CYPCS 2017), Scottish Youth Parliament, 'Mosquito Devices can buzz off' (*SYP,* 1 August 2017) < https://syp.org.uk/mosquito-devices-can-buzz-off/> accessed 30 July 2022.

[39] UN Committee on the Rights of the Child, 'Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland' (12 July 2016) CRC/C/GBR/CO/5 [paragraph 37 (a)].

[40] For example, The Guardian, 'Should noisy children be banned from public spaces' *The Guardian* (London, 7 February 2013) < https://www.theguardian.com/commentisfree/2013/feb/07/noisy-children-public-spaces> accessed 10 August 2022; BBC News, 'Coffee shop owner defends no children policy' *BBC News* (London, 30 August 2017) < https://www.bbc.com/news/uk-england-devon-41100226> accessed 10 August 2022.

Image 1: Example of restriction of children's freedom of association based on age[41]

As described by Ferreira, dehumanising restrictions as clear from the image above are lawful under domestic anti-discrimination law.[42] For example, in the UK's Equality Act (2010) age is defined as a protected characteristic with the relevant safeguards that then apply to prohibit age-based discrimination.[43] Despite this, prohibition of services on the basis of being a child is lawful under the Act.[44] This is a clear signal that adults are aware but do not problematise how they restrict children's civic participation rights.

Conclusion

This chapter presented how the UNCRC has constructed children's rights, setting the groundworks for analysis on children's rights in the digital environment. The traditional architecture acknowledges a triangular relationship between the State, the family, and the child for the governance of children's rights. This is an imbalanced triangle which leaves children as passive rights receivers rather than active rightsholders. This is especially

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[41] Nuno Ferreira, '' No children allowed'- Truly second-rate citizens?' (*Socio-Legal Studies Association*) < https://slsablog.co.uk/blog/blog-posts/no-children-allowed-truly-second-rate-citizens/> accessed 30 July 2022.

[42] Ibid.

[43] Equality Act 2010 (United Kingdom) [part 5].

[44] Ibid part 28 (1) (a); Government Equalities Office, 'Equality Act 2010: Banning Age Discrimination in Services- An overview for service providers and customers' (2012) [paragraph 4].

prominent concerning children's civic participation rights, a set of rights that adults considered not extending to children at all. The UNCRC contains several tools that have potential to operationalise children's increasing actorhood as they develop: the right to be heard, evolving capacities, and the best interests of the child. Having said this, these principles are limited by ingrained adultism which stops them from realising children's rights fully. This is confirmed through observing how children's civic participation is limited through denial of information, access to decision making, and even existing in public spaces. Chapter 2 will apply this mapping exercise to the digital environment to examine to what extent technological transformation alters these realities.

Chapter 2: How does the digital environment provide opportunities and tensions for the further realisation of children's civic participation rights?

Chapter roadmap

The base and now widely accepted starting point is that children's rights under the UNCRC apply in both the offline and the digital environments.[45] However, this does not mean that children's rights apply in the same way online as they do offline. This chapter aims to understand the architecture of the digital era and how it provides opportunities and tensions for the realisation of children's civic participation rights. The first section unpacks how the digital era manipulates the traditional set of actors and how they manifest their actorhood. The latter discussion focuses on reanalysing children's civic participation rights in light of the digital era. This chapter concludes that despite the distinct opportunities to further realise children as active rights holders of civic participation rights that the digital environment holds, adultism maintains a constraining force.

How does the digital environment break down the triangular relationship of actors?

The major evolution of the digital era has been the increasing role of the technology industry (sometimes referred to as 'Big Tech') in the rights space. Companies as non-state actors have always had a part to play in the realisation of children's rights, but an enduring neo-liberal agenda has elevated their influence to beside, or even above, States. Vandenhole argues that for children's rights to ever have substance, the array of legal dutybearers must widen to include non-state actors, especially technology companies which have taken haven in their complex extra-territorial status.[46] Lievens morphs the triangular relationship between the State, the family, and the child into a web of actors fit for the

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[45] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [para 4]; The Council of Europe has also clarified this matter, see Council of Europe, 'Recommendation on Guidelines to respect, protect and fulfil the rights of the child in the digital environment' (2018) [para 1].
[46] Wouter Vandenhole, Gamze Erdem Türkelli, Rachel Hammonds, 'New Human Rights Duty-bearers: Towards a Re-conceptualisation of the Human Rights Duty-bearer Dimension' in Anja Mihr and Mark Gibney (eds), *Handbook of Human Rights* (Sage 2014).

digital era: constructed of the State, industry, parents, children, and civil society (see figure 1).[47]
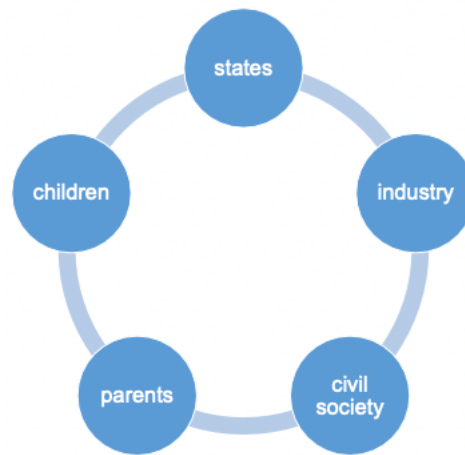

Figure 1: Lievens' web of child rights actors in the digital era

As previously argued, children are confined to acting as passive rights receivers rather than active rightsholders in the traditional understanding of children's rights. One distinction between the right to freedom of expression laid out in the ICCPR compared to in the UNCRC is the clarification that the exercise of this right carries "special duties and responsibilities".[48] As this element does not feature in the UNCRC, children appear exempt from this seemingly core requirement. Lansdown and Vaghri account this exemption to the fact that parents are required to take on these special duties and responsibilities until the child is able to themselves with regard to their evolving capacities, in keeping with Article 5.[49] This is reasonable but it misses the fact that it implies that children were never expected to exercise their freedom of speech in the civic space as agentic individuals in a way that would require the inclusion of such a provision. In the digital environment, children act as both "creators and distributors of content, and not solely as consumers of content" meaning that children take on the responsibilities that are packaged within expressing one's ideas,

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[47] Eva Lievens, 'Realising children's rights in the digital environment: Identifying priorities for public and private actors' (Protection of children's rights online and offline, Budapest, November 2018.
[48] ICCPR [Article 19 para 3].
[49] Gerison Lansdown and Ziba Vaghri, 'Article 13: The Right to Freedom of Expression' in Ziba Vaghri, Jean Zermatten, Gerison Lansdown and Roberta Ruggiero (eds) *Monitoring State Compliance with the UN Convention on the Rights of the Child* (Springer 2022) page 66.

opinions, and actions in the civic space.[50] For example, children have to be aware of the implications of their expression for others: notably in regard to hate speech, cyberbullying, mis/dis-information.[51] These responsibilities associated with the act of citizenship are traditionally reserved for adults, but in the digital era children are now expected to act as digital citizens.[52] There are opportunities here for children to gain increasing agency through navigating the digital environment in line with their social and emotional development, but this must be balanced with support from dutybearers to mitigate potential undue harm and exploitation.

This balancing act is complex for parents due the fact that they are not digital natives in the same way that their children are. Today's parents have not had the experience of having to take on responsibilities as a child in an [adult] civic space, with many struggling with their own digital competences. Lansdown remarks that parents are best placed to know how provide guidance and support to their children in line with the notion of evolving capacities[53] but how does this work when parents do not have the digital competences to perform this task? In response, many families are breaking down traditional family roles of 'adults as teachers' and 'children as learners' by acknowledging that children can play a part in upskilling older family members.[54] This practice can contribute to operationalising Article 12 since children are given agency to express how they perceive the risks and opportunities of digital technology use. Having said this, no matter how valuable the digital generation's insights are, this approach fails to recognise that users of any age are powerless against the influence of platform design.[55] The actor who is best placed to know the impacts of digital technologies on children's rights is the technology industry: the device makers, the algorithm shapers.

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[50] Eva Lievens, Sonia Livingstone, Sharon McLaughlin, Brian O'Neill and Valeria Verdoodt, 'Children's Rights and Digital Technologies' in Ursula Kilkelly and Ton Liefaard (eds), *International Human Rights of Children* (Springer 2019) page 5.

[51] Ibid page 9.

[52] OECD, '21st Century Children as Digital Citizens' (OECD 2019).

[53] Gerison Lansdown, 'The evolving capacities of the child' [UNICEF, 2005] page 6.

[54] Holly Shorey, 'Policy & Advocacy session on Parent Child Relationships in the Digital Era: Key reflections and recommendations' (COFACE Families Europe 2022) page 6.

[55] Ibid page 7.

Technology companies' influence on children's rights in the digital environment is not mirrored in their responsibilities under international law. This is a challenge for the traditional child rights agenda which operates over States, not a vast networked space of interlinking technology companies. Facer contributes to understanding how the evolution of the internet by technology companies has solidified adult/child relations over the last decades leading up to the contemporary digital era.[56] She argues that the original vision of the internet as a free and inclusive space conflicted with Western ideas of childhood that children were to be kept away from harmful adult spaces and "quarantined" away in the home or school.[57] The result was not an inclusive open space shared by adults and children, but an adult space that children have since gained access to at their own risk. Facer describes this through the powerful analogy of "if children were the 'digital natives' of the internet, the adults had effectively exercised their power to colonise it".[58] As a result, children are expected to act as adults online without the tools or empowerment to do so, since in the offline world they are denied such actorhood. The vulnerabilities stemming from this lead to parents having to take responsibility to mitigate risks of children participating in the digital environment, often without the necessary competences to do so. Facer stresses that this captures a neoliberal childhood where the care of children is privatised to parents and civil society.[59] Therefore, children's increasing actorhood in the digital era appears more as a burden than as redistribution.

How does the digital era provide opportunities and tensions for the understanding of children's civic participation rights?

The general discourse has focused on the digital era as a child rights unfriendly place through highlighting that children are exposed to pornography, images promoting self-harm, pro-eating disorder content etc.[60] This focus does not allow us to adequately understand how the digital environment may hold the keys to creating a more rights

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[56] Keri Facer, 'After the moral panic? Reframing the debate about child safety online' 33 (2012) Discourse: Studies in the Cultural Politics of Education 397-413.
[57] Ibid page 398.
[58] Ibid page 405.
[59] Ibid page 402.
[60] For example: Angus Crawford & Tony Smith, 'Metaverse app allows kids into virtual strip clubs' *BBC News* (London, 23 February 2022) < https://www.bbc.com/news/technology-60415317> accessed 10 August 2022.

respecting venue of children's rights. Semantics is key here, the terms 'digital environment', 'online world' etc all encompass the interaction between humanity and digitalisation. As Lange remarks, "the makeup of this environment dictates what it wishes to foster".[61] Therefore, understanding which elements of this human constructed environment contribute to the creation of a venue of children's rights and which do not is the central question for today's policy makers and legislators. If a party venue has a great bar but terrible music you don't cancel the party altogether or dance to the bad tunes, you change up the playlist. The same goes for the digital environment.

Access to information

The UN Committee on the Rights of the Child's General Comment on children's rights in relation to the digital environment affirms that the digital environment provides distinct opportunities for children's right to access to information under Article 17.[62] Prior to this digital era, children's access to information was controlled by two traditional actors: the State and the family. These actors had the ability to shape what they conceived as age appropriate information and content through what was published, put in school curricula, and allowed into the home. For example, the 'Little Red Schoolbook' was confiscated under the Obscene Publications Act (England and Wales, 1964) for its controversial content aimed at 12–18-year-olds on sex, drugs, adult/child power dynamics, and other themes.[63] The European Court of Human Rights (ECtHR) clarified in *Handyside* v *United Kingdom* 1976 that the State's confiscation of the 'Little Red Schoolbook' was a legitimate restriction of the author's freedom of expression since the restriction followed a legitimate aim in 'protecting the morals of the young'.[64]

In the digital era, the State and the family no longer have the same immediate gatekeeper status as to what information children consume. Children have access to diverse topics and

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[61] Alexandra Lange, *The Design of Childhood: How the Material World Shapes Independent Kids* (Bloomsbury, 2018) page 5.
[62] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [para 50]; UNCRC [Article 17].
[63] Soren Hansen & Jesper Jensen, *The little red schoolbook* (Stage 1 1971); Obscene Publications Act 1964 (England and Wales).
[64] *Handyside* v *UK* Application no. 5493/7 (ECtHR, 7 December 1976) [para 52].

discussion online that often goes beyond what the child is exposed to in school or at home. This is particularly clear when it comes to socially stigmatised topics such as mental illness, sex and relationships, LGBTI identities et cetera. With this freedom, children take the full burden for any harm they experience because of inappropriate content. This burden can be mitigated by technology companies acting as content moderators, but only if their content moderation works for children's rights. There is evidence that algorithmic content moderation reproduces societal biases and power dynamics by unduly filtering out LGBTI content for example.[65] Thereby recognising that the internet is not as free and neutral as it was thought of in its infancy and children's newfound source of information is still confined by adultism.

Freedom of association and expression

The digital environment provides unique opportunities for children to exercise their rights to freedom of expression under Article 13 and freedom of association and peaceful assembly under Article 15.[66] The child led Fridays for Future movement showed how digital technologies can facilitate children in forming social movements that transcend their local communities or contexts. Greta Thunberg's silent defiance outside the Swedish Riksdag spread to children across the world through social media, with over 1 million strikers at the worldwide 'School Strike 4 Climate' in March 2019.[67] Through use of digital tools children can connect with others from around the world, sharing and developing civic awareness and skills. These increased opportunities for civic participation through digital means equally apply to adults, but for children, and other societally vulnerable groups, these opportunities go further due to how these groups are sidelined in the traditional civic space. Children can develop their socio-political identity and connect with their peers beyond their homes and schools. This can be particularly crucial for children who feel disenfranchised from their parents' beliefs, such as on LGBTI issues or religious beliefs.

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[65] Christina Dinar, 'The state of content moderation for the LGBTIQA+ community and the role of the EU Digital Services Act' (Heinrich-Böll-Stiftung 2021) page 7.

[66] UNCRC [Article 13, Article 15]; UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [Section B and D].

[67] Eliza Barclay and Kainaz Amaria, 'Photos: kids in 123 countries went on strike to protect the climate' *Vox* (London, 17 March 2019) <Climate strike March 15: photos from around the world - Vox> accessed 5 August 2022.

Concerning realisation of Article 12, the online civic space also gives children opportunities to have their views heard since in the offline world these are often limited to tokenistic approaches or not heard at all.[68] All spaces for civic participation are open to adults, but many of these are closed off to children with voting being the clearest deprivation of civic freedoms. However, just because the digital environment gives children a space to be heard does not entail that they are listened to or do not face undue retribution. Many children engaging in the climate strikes faced consequences from their schools or families for participating in the action, for example school suspensions or fines.[69] Some schools employed prohibitive tactics to stop their students attending the strikes, such as locking the doors or informing them that their education was more important than civic action. The Committee states that children's civic participation should not have "negative consequences" for the child, highlighting specifically the danger of school exclusions.[70] Such retribution embodies how when balancing the rights of the child, children's civic participation rights are weighed lighter than access to education or protection from harm. The digital environment is helping children to challenge the narrative that children need to wait until they grow up for them to be recognised as agentic, but it is still constrained by adultism.

Conclusion

This chapter has identified that the architecture of the digital environment shifts traditional understanding and governance of children's rights, both through actors and through how children's civic participation rights can be realised. The traditional triangular relationship between the State, the family, and the child is forced to dissolve. Technology companies' significant influence in the rights space places an increasing burden on children and parents when negotiating the opportunities and tensions of the digital environment. Children take newfound actorhood as digital citizens which allows them to claim denied agency, but this

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[68] Matías Cordero Arce, 'Towards an Emancipatory Discourse of Children's Rights' 2 (2012) International Journal of Children's Rights 365, 376.

[69] Alex Morss, 'Pupils have 'human right to strike' for climate' *The Ecologist* (London, 15 February 2019) < Pupils have 'human rights to strike' for climate (theecologist.org)> accessed 10 August 2022.

[70] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [para 65].

progression must not be a burden; children should be able to gradually develop and exercise their digital citizenship as they gain social and digital competences. Achieving this is difficult since parents are overwhelmed with the prospect of digital parenting as non-digital natives. The digital environment also provides new spaces for children to exercise their civic participation rights. Although it addresses shortcomings in the analogue world by giving children access to information often denied to them and opening access to a digital civic space, adultism limits the full potential of these features.

Chapter 3: How is the digital era being regulated thus far? An exploration of regulation, technology industry, and civil society approaches

Introduction

This chapter seeks to analyse proposed and in force legislative and non-legislative approaches concerning children's use of digital technologies. As unpacked previously, governing the digital era relies upon action from three main actors: legislators (States or groups of States such as the *sui-generis* European Union), the technology industry, and civil society. Initiatives put forward by these actors will be examined with regard to their coherence with the rights of the child, as primarily laid out in the UNCRC. For concreteness, this analysis will focus on EU approaches with one initiative from the UK (that responds to an EU regulation before the State's exit from the Union). This chapter concludes that current approaches are further constructing adultism rather than seizing the opportunities given by the digital environment to deconstruct it.

Regulatory approaches

I argue that current regulatory approaches reproduce traditional approaches to regulating children's civic participation rights, despite the new realities of the digital environment. Such approaches are centred on the idea that the best way to support children is to ban them from dangerous spaces or activities, without regard for how restrictive practices do more harm for the rights of the child.

Restriction

The grounding for this approach is the EU's General Data Protection Regulation (GDPR) which asserts that children under the age of 13 are not capable of acting as data subjects without parental consent.[71] The provision states in Article 8 Paragraph 1 that the blanket

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[71] Council and Parliament Regulation (EU) No679/2016 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC [2016] OJ L119/1 (GDPR) [Article 8].

age for lawful data retrieval shall be 16 years of age, with the possibility for Member States to reduce to a minimum of 13 years old if provided in law.[72] This has led to platforms requiring a minimum sign-up age of 13 to use services such as the Meta suite of apps (WhatsApp, Instagram, Facebook). Lievens clarifies that this age-based restriction embodies a "paternalistic and anachronistic approach" which holds protectionism over a more proportionate response which pays due attention to the opportunities and risks of the digital environment.[73] The General Comment 25 on children's rights in relation to the digital environment highlights that privacy promoting interventions must not unduly undermine the rest of the UNCRC.[74] To this end, the Committee clarifies that age limits are consistent with the UNCRC: notably the protection pillar, the principle of best interests, and the notion of evolving capacities.[75] Having said this, any restrictions in access such as age limits must be imposed in a proportionate and non-arbitrary manner.[76]

The arbitrariness of the 13-year-old age line has been widely questioned. What is clear is that this provision mimics and was influenced by the US Children Online Data Protection Act 1998 (COPPA) which has equally received criticism for its arbitrary nature focusing on market concerns rather than substantial children's rights grounds.[77] There is no evidence that the EU conducted a child rights impact assessment or coherently questioned the matter beyond child protection and privacy concerns.[78] Reduction of child rights to protection rights causes more harm to the rights of the child but is a typical product of adultism.[79] Byrne and Lundy argue in their six-P children's rights-based approach that States must

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[72] Ibid [Para 1].

[73] Eva Lievens, 'Children's rights and media: imperfect but inspirational' in Eva Brems, Ellen Desmet, and Wouter Vandenhole (eds), *Children's Rights Law in the Global Human Rights Landscape: Isolation, Inspiration, Integration* (Routledge 2017) page 238.

[74] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [paragraph 74].

[75] UN Committee on the Rights of the Child, 'General Comment 20 on the implementation of the rights of the child during adolescence' (2016) CRC/C/GC/20 [paragraph 39].

[76] Eva Lievens, Sonia Livingstone, Sharon McLaughlin, Brian O'Neill and Valeria Verdoodt, 'Children's Rights and Digital Technologies' in Ursula Kilkelly and Ton Liefaard (eds), *International Human Rights of Children* (Springer 2019) page 490.

[77] Milda Macenaite and Eleni Kosta, 'Consent for processing children's personal data in the EU: following in US footsteps?' 26 (2017) Information & Communications Technology Law 146-183; US Children Online Data Protection Act 1998.

[78] Ibid page 184.

[79] Jonathan Collinson, Jen Persson, 'A reflection on the UNCRC Best Interests of the Child principle in the context of The Age Appropriate Design Code' (Defend digital me 2021) page 7.

conduct thorough child rights impact assessments when creating law and policy.[80] This involves "explicit and consistent reference to the CRC" which avoids general discussion of children's rights and instead employs a systematic review of the entirety of the UNCRC.[81] A child rights impact assessment should acknowledge that there are other methods to safeguard children's privacy online than complete restriction. For example, burden should be removed from the consumer by obligating companies to ensure a privacy preserving and rights respecting environment by design. The EU is taking steps to redistribute obligations in digital governance through legislation such as the Digital Services Act (DSA). The DSA requires companies to make terms and conditions transparent to all users (including young users), conduct risk assessments and mitigate potential harms of their services, and restricts how platforms can use users' data for targeted advertising.[82] Access with inbuilt protections is a more rights coherent response than total prohibition. The EU should address this concern through future data protection regulation.

The GDPR has socialised the norm that it is unsafe for children under 13 to access digital technologies. Parents believe that this age line like the age limit for alcohol is grounded in evaluating harms, but this is not the case. Regulators not tackling these rights-based questions leads to parents, and children, taking the full burden and responsibility over any potential unlawful access to such services. It is known that many children under 13 are online and using these services regardless of such regulation and corresponding industry self-regulatory compliance.[83] The European Commission intends to tackle this by ensuring the enforcement of the age line through age verification/assurance initiatives laid out in the updated Better Internet for Kids (BIK+) Strategy published in May 2022.[84] The Strategy puts forward developing a European standard for children's proof of age through using electronic ID cards (eID). This proposal is a copy and paste approach to regulating what children can

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[80] Bronagh Byrne and Laura Lundy, 'Children's Rights and Policy-Making: a 6 P framework' 3 (2019) The International Journal of Human Rights page 23.

[81] Idem.

[82] European Commission 'Proposal for a regulation of the European Parliament and of the Council on a Single Market for Digital Services (Digital Services Act) and amending Directive 2000/31/EC' COM (2020) 825.

[83] Olaf Kapella & Merike Sisask (eds.), 'Country reports presenting the findings from the four case studies- Austria, Estonia, Norway, Romania' (2022) DigiGen Working Paper Series No 6 page 121 <DigiGen-working-paper-no.6-country-reports-D3.1-revision-070322.pdf> accessed 13 July 2022.

[84] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'A Digital Decade for children and youth: the new European strategy for a better internet for kids (BIK+)' COM (2022) 212.

and cannot do or access: it is the alcohol ID check of the digital environment. The problem is that alcohol is not a good comparison for the digital environment, the digital environment is just an extension of the non-digital civic space. Daly states that children's right to freedom of association under Article 15 of the UNCRC requires extra emphasis because "to a greater degree than adults, they often have nowhere else to go"[85]; I argue that this sentiment applies equally to digital access. The digital environment gives children the space to reach beyond adult constructed constraints to their rights in the offline environment. It is also not a choice for children in this digital generation to participate digitally, their lives are mediatised: through logging on to an online meeting with their teacher to checking in with their grandparent by video call.[86]

Burden

Although all under 18-year-olds can be defined as children under Article 1 of the UNCRC, the CRC Committee and the Council of Europe have clarified that a more nuanced approach is required to implement the rights of adolescents.[87] This sentiment is reflected in the lack of State intervention over older children in the digital environment, with some arguing that older children are treated as if they were adults online.[88] As soon as they pass the 13 year old age line they are expected to be capable of acting as data subjects and thus gain the key to independent use of digital technologies. This expectation arguably increases children's vulnerability to potential harms since their access has been prohibited up till this point rather than them being given the opportunity to progressively realise digital competences in an age-appropriate manner over the course of their development, as per the notion of evolving capacities in Article 5.

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[85] Aoife Daly, *A Commentary on the United Nations Convention on the Rights of the Child – Article 15: The Right to Freedom of Association and to Freedom of Peaceful Assembly* (Brill Nijhoff, 2016) page 102.

[86] Olaf Kapella & Merike Sisask (eds.), 'Country reports presenting the findings from the four case studies- Austria, Estonia, Norway, Romania' (2022) DigiGen Working Paper Series No 6 <DigiGen-working-paper-no.6-country-reports-D3.1-revision-070322.pdf> accessed 13 July 2022.

[87] UN Committee on the Rights of the Child, 'General Comment 20 on the implementation of the rights of the child during adolescence' (2016) CRC/C/GC/20 [paragraph 1]; Council of Europe, 'Recommendation on Guidelines to respect, protect and fulfil the rights of the child in the digital environment' (2018) [section 2.2 (1)].

[88] Council of Europe, 'Strategy for the Rights of the Child (2022-2027): Children's Rights in Action: from continuous implementation to joint innovation' (2022) [para 35].

Regulatory initiatives are seeking to tackle this issue through two main approaches: age-appropriate design enveloped with age assurance/verification and imposing obligations on technology companies to mitigate online harms and prevent harmful content. In 2020, the UK Information Commissioner's Office (ICO) adopted an Age-Appropriate Design Code (hereby referred to as the Code), which aims to ensure that the digital environment is made and maintained for children's rights *by design* through imposing a best interest obligation on information service providers.[89] Children under the Code are defined as any individual under the age of 18 meaning that older children gain protections under this mechanism. As this legislation finds its legal basis in the GDPR, children under 13 still face restriction on platforms as this is interpreted to be an adequate realisation of age appropriate design. The Code attempts to shift responsibility to the actors which have control over the realities of the digital world. It may be reasonable for parents to evaluate whether it is best for their children to have access to a phone at weekends, but it is not reasonable for them to understand how complex algorithms work and how their child might be being fed certain content. By analogy, parents must make sure their children have their seatbelts on in the car, but it is not their responsibility to ensure that the car comes with compliant seatbelts in the first place. Realigning responsibilities with power in the digital age is a step forward for realising the rights of the child.

Transferring this obligation onto information service providers also means transferring the indeterminacies of the principle onto these actors. The Code acknowledges that the best interests principle "balances a number of different interests and concerns, with the intention of providing whatever is best for each individual child" but also remarks that the interests of one may conflict with the collective.[90] The lack of clarity of how the principle applies to the collective or to the individual risks industry failing to understand how to implement the Code.[91] The Committee highlights that State parties must ensure that the best interests of "every child is a primary consideration" in relation to design of the digital

[89] UK Information Commissioner's Office 'Age appropriate design code' (2020).
[90] Ibid page 24.
[91] Jonathan Collinson and Jen Persson, 'A reflection on the UNCRC Best Interests of the Child principle in the context of The Age Appropriate Design Code' (Defend digital me 2021) page 9.

environment.[92] If the best interests principle is taken as a procedural requirement, it is possible to understand how a child rights impact assessment could evaluate the situations of different children before taking reasonable and proportionate design interventions for the majority.

One way that the Code aims to differentiate between the needs of different children and thereby operationalise the best interests principle is by age-appropriate application.[93] This obligates organisations to take steps to determine the child's age and then implement protections accordingly when designing the service. Collinson and Persson argue that age assurance practices risk "introducing or exacerbating the very problems it was intended to solve".[94] Namely, profiling children to curate how their data is then profiled. Children face the burden of proof, undergoing privacy limiting, potentially discriminatory data collection processes to access their rights in the digital environment.[95] As technology develops, artificial intelligence (AI) solutions could be used as an age assurance/verification method.[96] With AI comes further potential for human biases and power structures to manifest against children's right to access the digital environment, with particular consequences for children of colour and other groups.[97] The move towards age assurance/verification creates a paradox whereby the GDPR states that it is unlawful to collect younger children's data to protect them but the Code promotes the legality of collecting children's data also with the aim of protecting them. Perhaps it is time to move beyond a datafied approach to realising children's rights in the digital environment and instead create a safe and positive environment for all users.

Technology industry initiatives through self-regulatory and regulatory compliance

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[92] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [para 12].

[93] UK Information Commissioner's Office 'Age appropriate design code' (2020) page 32.

[94] Jonathan Collinson and Jen Persson, 'A reflection on the UNCRC Best Interests of the Child principle in the context of The Age Appropriate Design Code' (Defend digital me 2021) page 12.

[95] Ibid.

[96] UK Information Commissioner's Office 'Age appropriate design code' (2020) page 34.

[97] Jonathan Collinson and Jen Persson, 'A reflection on the UNCRC Best Interests of the Child principle in the context of The Age Appropriate Design Code' (Defend digital me 2021) page 12.

As a result of these regulatory initiatives, the technology industry is now under pressure to comply with obligations set out by the legislation above and take self-regulatory action to satisfy public demand. This section will analyse a series of industry self-regulatory initiatives from some of the providers used most by children: Instagram, TikTok, and Apple.

In 2022, Instagram launched 'family centre' which is their latest collection of features for children and their parents.[98] In terms of privacy preserving measures, Instagram has introduced several features. Firstly, when children set up their profile, Instagram automatically assigns a private profile. The rest of these features are all optional and involve children and their parents having knowledge of their existence to build a profile supportive for civic participation. For example, there is a 'sensitive content control' setting where users decide what level of potentially sensitive content they are happy to be exposed to through the platform's algorithmic recommendatory model.[99] Sensitive content is defined as material that is not illegal or against the platform's guidelines but could disturb or upset some individuals.[100] Adult users have the ability to choose between three levels of content: more, standard, and less, with children only having access to less or standard. Children are granted the flexibility to access more content when they feel ready to but the base level of 'less' should be selected by default.

Flexibility to create an individualised safety experience acknowledges that children have different needs and vulnerabilities that change across the child's development. As per the notion of evolving capacities, the need for parents or technology companies to decide for the child will decrease overtime allowing them to loosen some of these protective features. Since the user is in control of their own settings, the child is granted their own agency to make decisions about their digital experiences which recognises the divergence of children's views about what they need to feel supported, rather than adopting a one size fits all approach. The problem here is in recognising that the nature of a child's evolving capacities

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[98] Instagram, 'A Parent and Carer's Guide to Instagram' (*Instagram*, 2022).
[99] Instagram, 'Updates to the Sensitive Content Control' (*Instagram*, 6 June 2022) < https://about.instagram.com/blog/announcements/updates-to-the-sensitive-content-control> accessed 18 July 2022.
[100] Instagram, 'Introducing Sensitive Content Control' (*Instagram,* 20 July 2021) < https://about.instagram.com/blog/announcements/updates-to-the-sensitive-content-control> accessed 18 July 2022.

is akin to taking the stabilisers off a bike; you do not start without and then add them on when the child falls off. It is more coherent for these measures to apply by default and then the child can gradually remove them, if they wish, as they build their own resilience and strategies to deal with any situations they may face online. For this reason, the Code strongly recommends companies to adopt default settings unless they have a 'compelling reason' to not.[101] It is concerning that Instagram has not implemented this low business risk yet high impact recommendation.

Another set of measures involve parental control or supervisory approaches. TikTok has their 'family pairing' feature which allows parents to connect their account to their child's.[102] This allows parents to change their child's content level to 'restricted mode', control how much time they spend on the app, and restrict or disable direct messages. Many argue that these features exist as a quick fix to calm parents' anxieties of parenting in the digital age rather than providing children with the support needed to develop their digital competences.[103] This is clear since the solutions respond to problems in the popular discourse, worries of screen time addition or stranger danger, rather than listening to the realities of what children and young people need to positively engage in the digital civic space. Parental control approaches can also present concerns regarding children's right to privacy since maintaining privacy in the digital environment does not only apply to privacy from technology companies but parents too. Surveillance style parenting may unduly impact children's privacy online and harm their broader development if not implemented in accordance with proportionality and evolving capacities.[104] Evidence shows that the more parents (and regulators) restrict children's use of digital technologies, the more vulnerable they are to potential negative effects.[105]

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[101] UK Information Commissioner's Office 'Age appropriate design code' (2020) page 50.
[102] TikTok, 'Guardian's Guide' (*TikTok*) <Safety Resources for Parents, Guardians, and Caregivers | TikTok> accessed 20 July 2022.
[103] Svetlana Smirnova, Sonia Livingstone and Mariya Stoilova, 'Understanding of user needs and problems: A rapid evidence review of age assurance and parental controls' (EU CONSENT 2021) page 4.
[104] UN Committee on the Rights of the Child, 'General Comment 25 on children's rights in relation to the digital environment' (2021) CRC/C/GC/25 [para 76].
[105] Olaf Kapella, Eva Maria Schmidt and Merike Sisask, 'Recognising digital technologies as a key part of 'doing family' in the digital era' (2022) DigiGen Policy Briefs 3/2022 page 6 <Policy-brief-WP3-COFACE.pdf (digigen.eu)> accessed 20 July 2020; Svetlana Smirnova, Sonia Livingstone and Mariya Stoilova, 'Understanding of user needs and problems: A rapid evidence review of age assurance and parental controls' (EU CONSENT 2021) page 5.

The proportionality of having direct messages either disabled or activated is questionable, even more so since it only applies to 16–18-year-old users since TikTok has automatically disabled direct messages for younger users. A more proportionate response taking into consideration the child's evolving capacities would be to provide a messaging system by design that allows children at least to communicate with trusted friends and family with contact from potentially dangerous contacts avoided by design. As the child gains digital competences, the platform should allow them to broaden their circles if they wish, with systems in place if something goes wrong. The restricted mode also reflects a disproportionate binary, either the child has a form of content moderation, or they do not. It is also hard to understand what this restricted mode entails, TikTok claims that it "limits exposure to content that may not be appropriate or suitable for everyone" but what does that mean in reality?[106] This quote also alludes to the fact that this feature is not child specific, as seen with TikTok's competitor Instagram, this is another general measure packaged as the organisation making efforts to support children online.

The technology industry is also keen to give parents and children solutions to mediate screen time, responding to fears that today's youth are plagued by 'screen time addiction'. In generations past, parents were afraid that reading too much would damage their eyes and today these fears have latched onto digital technologies instead.[107] Livingstone and Blum-Ross present that parents are more concerned about screen time than about what their children do online.[108] As a result it is not a surprise that technology companies have tuned their features into what parents are looking for, regardless of whether these features support children in the digital environment.

Screen time monitoring and limits feature across most platforms and digital services. For example, Apple allows its users to get a weekly report detailing how long they have used

[106] TikTok, 'User safety: What is Restricted Mode' (*TikTok*) <User safety | TikTok Help Center> accessed 20 July 2022.

[107] Olaf Kapella and Merike Sisask (eds.)., 'Country reports presenting the findings from the four case studies-Austria, Estonia, Norway, Romania' (2022) DigiGen Working Paper Series No 6 page 83 <DigiGen-working-paper-no.6-country-reports-D3.1-revision-070322.pdf> accessed 13 July 2022.

[108] Sonia Livingstone and Alicia Blum-Ross, *Parenting for a Digital Future: How Hopes and Fears about Technology Shape Children's Lives* (Oxford University Press, 2020).

their device in total, each application, their usage patterns, and comparison with the previous week.[109] Users are offered the possibility to mediate their usage in response to their daily report through implementing periods of 'downtime' or time limits on certain apps. Through Apple's parental control feature 'Family Sharing', parents can impose screen time restrictions on the child's device. This expression of control might provide some calm for parents, but it also raises several questions and tensions. Firstly, the focus on time ignores the realities of what children's usage may entail. Parents may see that a child has used Instagram for 2 hours in the day, but this time might have involved time discussing homework in direct message, watching videos about social issues, interacting with photos from family or friends' holidays. Restricting children's access solely on grounds of time use, risks unduly limiting their rights without identifying what the potential harm is. Many are calling for screen time to be replaced by screen quality.[110] To understand what contributes to quality usage, parents must be encouraged to discuss with their children how they use digital technologies and how it contributes to their everyday lives. Then families can co-create rules that work in their best interests which is a more rights respecting approach to digital technology mediation.[111]

The other concern with industry's focus on screen time solutions is the burden it puts on children and their families. Parents are overwhelmed with conflicting advice on how much screen time their children should have, at what age, and what the potential impacts are.[112] This means that parents are made to feel guilty when they allow screen time, especially when concerning younger children. The perception that allowing screen time is bad parenting ignores the broader reality of how screen time can contribute to family life. For

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[109] Apple, 'Use Screen Time on your iPhone, iPad, or iPod touch' (*Apple*) < https://support.apple.com/en-us/HT208982> accessed 22 July 2022.

[110] Kate Highfield, ''Screen time' for kids is an outdated concept, so let's ditch it and focus on quality instead' (*The Conversation,* 7th July 2022) < https://theconversation.com/screen-time-for-kids-is-an-outdated-concept-so-lets-ditch-it-and-focus-on-quality-instead-186462> accessed 22 July 2022.

[111] Olaf Kapella, Eva Maria Schmidt and Merike Sisask, 'Recognising digital technologies as a key part of 'doing family' in the digital era' (2022) DigiGen Policy Briefs 3/2022 page 6 <Policy-brief-WP3-COFACE.pdf (digigen.eu)> accessed 22 July 2020.

[112] Sonia Livingstone, 'The Rise and Fall of Screen Time' in Victor C. Strasburger (ed), *Masters of Media: Controversies and Solutions* (Rowman & Littlefield 2021) page 91; Alex Therrien and Jane Wakefield, 'Worry less about children's screen use, parents told' *BBC News* (London, 4 January 2019) < https://www.bbc.com/news/health-46749232> accessed 10 August 2022.; Michelle Roberts, 'No sedentary screen time for babies, WHO says' *BBC News* (London, 24 April 2019) < https://www.bbc.com/news/health-48021224> accessed 10 August 2022.

example, giving a five-year-old a tablet to play games on whilst cooking dinner can be considered as a form of care rather than laziness.[113] For older children who use digital technologies more autonomously, screen time solutions put pressure on them to mediate their own usage, for example by putting a 2-hour limit on Instagram. The problem with this is that many of these platforms are designed to hold users' attention for as long as possible, since this is how they produce revenue. The full burden is put on the child to adapt their usage within a system that works against it, rather than technology companies making changes to their attention holding algorithms. Capping usage against these algorithms often results in children reaching the parentally defined time limit and wanting more time. Technology companies such as Apple have provided a solution here, where children can request to override the time limit and get more time.[114] This can cause conflicts in the family, especially if the parent does not understand what the child is using the device or application for.[115]

Civil society initiatives

Civil society plays an important role in shaping how children and families are supported in the digital environment, often tasked with filling the gaps left by regulators and the technology industry. Beyond this, civil society can shape the course of travel in its own right. For instance, if parents were not scared of potential screen time addition, then industry would not produce screen time solutions. Therefore, interventions made at this level can make significant impact into realisation of children's civic participation rights in the digital environment if they take a rights friendly approach. This section will examine several initiatives to show the breadth in approaches and how they respond to approaches offered by regulation and industry.

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[113] Olaf Kapella, Eva Maria Schmidt and Merike Sisask, 'Integration of digital technologies in families with children aged 5-10 years: A synthesis report of four European country case studies' (2022) DigiGen Working Paper Series No 8 page 53 < DigiGen-Working-paper-8-family-life-website-final.pdf> accessed 10 August 2022.
[114] Apple, 'Use Screen Time on your iPhone, iPad, or iPod touch' (*Apple*) < https://support.apple.com/en-us/HT208982> accessed 23 July 2022.
[115] Svetlana Smirnova, Sonia Livingstone and Mariya Stoilova, 'Understanding of user needs and problems: A rapid evidence review of age assurance and parental controls' (EU CONSENT 2021) page 4.

As described, the regulator and industry through compliance has imposed an age line prohibiting children under the age of thirteen from participating in the digital environment. Thus, the child and parents are responsible for any unlawful use below this age line. Civil society organisations such as Mediawijs in Belgium aim to support families in this task.[116] Mediawijs has a resource hub called MediaNest which gives advice to parents on contemporary digital media topics.[117] The resources are broken down by age but acknowledge that children are exposed to the digital environment across their development and that different children may need different supports at different times.[118] For example, resources concerning social media also feature in the sections curated for parents in younger age brackets, reflecting the reality that although these children are not allowed on these platforms that they may be anyway and should not be left without support.[119] Parents in Belgium can also access support in the form of trainings provided by Gezinsbond and Child Focus' initiative 'Veilig online' (safety online) which has since been brought to the European level through the European Safe Online Initiative.[120] These trainings aim to build parents digital competences whilst being grounded in fundamental parenting skills. Skills such as how to have a conversation with your child about serious topics or negotiating children's digital technology usage. Such interventions are crucial for younger children since there is no other support from other actors. These approaches also allow parents and children to develop their digital competences and interpersonal skills.

Conclusion

Initiatives such as the Age-Appropriate Design code intend to operationalise children's rights in the digital environment, but is clear is that industry is currently failing to provide an age-

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[116] Mediawijs, 'Mediawijs about us' (*Mediawijs*) < https://www.mediawijs.be/nl/over-ons > accessed 24 July 2022.

[117] MediaNest, 'MediaNest home page' (*MediaNest*) < https://www.medianest.be/ > accessed 24 July 2022.

[118] MediaNest, 'Media Growth Line: How will my child grow up with media?' (*MediaNest*) < https://www.medianest.be/mediagroeilijn > accessed 24 July 2022.

[119] MediaNest, 'Influencers, my child's great heroes! But why?' (*MediaNest*) < https://www.medianest.be/influencers-de-grote-helden-van-mijn-kind-maar-waarom-toch> accessed 24 July 2022.

[120] Gezinsbond and Child Focus, 'Veilig online home page' (*Gezinsbond and Child Focus*) < https://www.veiligonline.be/> accessed 24 July 2022; European Safe Online Initiative, 'ESOI home page' (European Safe Online Initiative) < https://europeansafeonline.eu/> accessed 24 July 2022.

appropriate experience that does not fall back into undue restriction or burden. This is not surprising since the regulator takes the same approach. Industry must be held responsible for creating products that work for children's rights by design, in a way that sees beyond children's rights as just protection rights.[121] Make-do solutions may provide some solace for parents struggling with the challenges of parenting in the digital era but can cause more harm than good. Civil society approaches expose that the most rights respecting approach to supporting children's use of digital technologies is for the whole family to develop strong digital competences and general interpersonal skills such as communication, empathy, conflict resolution, and negotiation. The tools to ensure children's civic participation rights whilst balancing relevant tensions are in the offline world. Regulators, industry, and civil society must work together to support families in this task.

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[121] Bieke Zaman and Marije Nouwen, 'Parental controls: advice for parents, researchers and industry' (2016) EU Kids Online 2016, page 4 <Parental controls: advice for parents, researchersand industry - LSE Research Online> accessed 23 July 2022.

Chapter 4: Time for digital citizenship? Translating children's rights in the digital environment across the porous digital-analogue continuum

This chapter seeks to move beyond discussion of the digital and the analogue as two different worlds. Through listening to the digital generation's realities, the boundaries between the two are becoming more and more porous.[122] This porosity allows us to translate insights from one environment into another. The previous analyses have clarified that the digital environment has the potential to act as a venue for children's civic participation rights where the analogue reality has failed, as long as efforts are made to deconstruct adultism. I argue that these insights can be applied across the digital-analogue continuum, helping to also dismantle harmful expressions of adultism that have been embedded in the analogue reality. If children are expected to act as digital citizens, then why not be able to express further forms of citizenship in the offline world too? Chapter 3 highlights how current legislative and non-legislative approaches are following a well-trodden path of restriction and burden when attempting to support children in the digital environment. This chapter ascertains to what extent digital citizenship can help reorientate actors into an approach which realises children as active rightsholders of civic participation rights. Recommendations are put forward to regulators, the technology industry, and civil society to approach this task.

Through access to the digital world, the digital generation are now active members of the civic space, so called digital citizens.[123] Children are no longer only confined to the 'waiting rooms' constructed by society to keep them in bubble wrap until they are granted the rights and responsibility of [adult] citizenship.[124] Children's increasing role in the digital civic space poses an interesting question in regard to children's exercise of civic participation rights outside of the digital environment. If the digital and the analogue realities are blurring, then

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[122] Janice Richardson and Elizabeth Milovidov, 'Digital Citizenship Education Handbook' (Council of Europe 2022) page 5.

[123] See Athina Karatzogianni, Katrin Tiidenberg, Dimitris Parsanoglou (eds.), 'Multimodal research: Youth becoming digital citizens' (2022) DigiGen Working Paper Series No 7 < DigiGen-working-paper-7-multimodal-research-youth-becoming-digital-citizens-website-040422.pdf> accessed 28 July 2022.

[124] Marjatta Bardy, 'The manuscript of the 100-years project: Towards a revision' in Jens Qvortrup et al (eds), *Childhood Matters: Social Theory, Practice and Politics* (Avebury 1994).

how can children be acknowledged with civic freedoms and corresponding responsibilities in one reality and not the other. Chapter 1 highlighted this disparity through analysing how children are treated as passive rights receivers rather than active rightsholders of civic participation rights.

The Council of Europe defines digital citizenship as "someone who, through the development of a broad range of competences, is able to actively, positively and responsibly engage in both on-and offline communities, whether local, national or global. As digital technologies are disruptive in nature and constantly evolving, competence building is a lifelong process that should begin from earliest childhood at home and at school, in formal, informal and non-formal educational settings".[125] Fundamentally, digital competences revolve around acknowledging one's rights and corresponding responsibilities when acting in the civic space, with the civic space going beyond a digital and analogue binary. As a result, acknowledging and supporting children to develop as digital citizens cannot be confined to the digital environment. The Council of Europe recognises this in the definition when it states that these competences are required in both "on-and offline communities".[126] Furthermore, these competences are primarily social competences not digital: such as negotiation, mediation, communication, empathy, and mutual respect. Therefore, technological transformation brings to light that children should be recognised as active rightsholders of civic participation rights across their environments and that the answers to this end are in offline support.

Taking a digital citizenship approach to making recommendations for future law, policy, and practice: a reorientation of the path currently being followed

Recommendation 1: Move away from arbitrary age lines and realise children's ability to gradually acquire and demonstrate social [digital] competences

Currently, regulators and technology companies are intent on transferring the traditional strategy of age lines used to prohibit children's access to substances and activities into the new digital reality. Digital citizenship offers an alternative by suggesting that children are

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[125] Ibid page 11.
[126] Idem.

supported to gradually gain and use civic competences over the course of their development. This process would not look the same for every child; some children may be ready to take on greater freedoms and responsibilities in the civic space before others. As a result, parents who are best placed to evaluate their child's development would be able to support their children rather than relying on arbitrary age lines. Lansdown clarifies that although age lines are an easy way of operationalising the notion of evolving capacities, it is not an approach which aligns coherently with how children develop social competences.[127] Children learn from engaging in scenarios with others whilst negotiating potential risks and consequences.[128] In both the digital and the analogue world sometimes things go wrong, but this does not warrant removing access to either environment.

If applied from its digital roots across the digital analogue continuum, this approach could mean that children would be supported to gradually acquire civic freedoms in other areas that have previously relied on age lines such as voting or ability to join organisations. For example, Amnesty International UK, an entity of one of the largest human rights organisations in the world, had an age limit of 13 years old for children to join as members until 2021.[129] Digitalisation allows children to develop social and political awareness and action in a way that increasingly makes it untenable to disenfranchise all children. The fact that Greta Thunberg was addressing the UN General Assembly at the same time as she was disenfranchised as incompetent is quite a pill to swallow. Wall offers a solution to implementing a gradual realisation of children's right to vote through the idea of proxy voting.[130] Under this model, children as humans would have the right to vote from infanthood with a parent exercising this right on behalf of the child until they are ready to take over themselves.[131]

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[127] Gerison Lansdown, *The evolving capacities of the child* [UNICEF, 2005] page 16.
[128] Idem.
[129] Amnesty International UK, 'Amnesty International United Kingdom Section 2021 AGM Resolutions' (AIUK 2021) O5 Removal of Membership Age Requirement.
[130] John Wall, 'Why Children and Youth Should Have the Right to Vote: An Argument for Proxy-Claim Suffrage' 24 (2014) Children, Youth and Environments 103-108.
[131] Ibid page 118.

Recommendation 2: Recognise that digitalisation is teamwork by building mutual recognition and trust not surveillance

Chapter 3 highlights that invasive parental controls implemented by technology companies are not in the best interests of the child, causing privacy concerns and risking breakdown of trust between parent and child which puts the child at greater risk. Digital citizenship aims to move beyond the discourse of fear and instead support families to build social [digital] competences to navigate the digital environment. Since these digital citizenship competences are social competences, developing these skills helps children to develop as social actors in both environments. A key example is the distinction made between traditional bullying and cyberbullying. There are bullying practices facilitated through digital technologies, but they take place within a social context such as school.[132] Image 2 humours this reality by pointing at the need to take a holistic approach to supporting children across their social environments; intervening only in the digital environment does not target the issue.

Image 2: Cartoon humouring divided approach to social relationships across the digital-analogue environments[133]

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[132] Calli Tzani, John Synnott and Maria Ioannou, 'Cyberbullying among teens: our research shows online abuse and school bullying often linked' (*The Conversation,* 6 October 2021) https://theconversation.com/cyberbullying-among-teens-our-research-shows-online-abuse-and-school-bullying-are-often-linked-119442 accessed 31 July 2022.

[133] Cathy Wilcox, 'cyberbullying cartoon' (*The Age,* 2 March 2007) accessed 31 July 2022.

Harmful practices such as bullying, spreading mis/disinformation, hate speech all relate back to the misuse of civic participation rights such as freedom of expression. Jones and Mitchell argue that society should focus on building children's capacity to engage in social scenarios rather than focusing on specific problem behaviours such as [cyber]bullying.[134] The authors identify that supporting children's civic participation lessens risks of negative practices such as [cyber]bullying. Therefore, building children's social competences allows them to cope in both digital and analogue civic spaces.

Recommendation 3: Make meaningful child specific interventions by listening to the children

The technology industry is under pressure to maintain compliance with regulation and to satisfy public demand, however their interventions seem overall to be general population measures that respond to moral panic fears rather than child specific measures that target the areas where children need support. Digital citizenship can offer support here since it takes a positive approach to the digital environment. Instead of focusing on harms, it focuses on building children's capacity to engage in the digital environment as digital citizens. As a result, children take a more equal footing with adults since they can be seen as fellow navigators of civic spaces rather than passive observers. Children should not necessarily be treated like adult citizens, but they should be recognised for the roles and responsibilities they do exercise.[135] This mutual trust and recognition may promote adults to take children's views more seriously since they are not lesser beings gifted 'make-do' freedoms from adults but recognised for how they contribute to the society as fellow civic actors. As a result, digital citizenship acts as a tool to make progress on children's right to be heard under Article 12. The more children are listened to as fellow societal shapers, the more their realities should be reflected in future law and policy in the realm of digitalisation but also in all policy areas that affect the child. A practice which has the possibility to

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[134] Lisa M Jones and Kimberly J Mitchell 'Defining and measuring youth digital citizenship' 18 (2015) New media and society 1,2.

[135] Jeremy Roche, 'Children: Rights, Participation and Citizenship' 6 (1999) Childhood 475; Ruth Lister, 'Unpacking Children's Citizenship' in Antonella Invernizzi and Jane Williams (eds) *Children and Citizenship* (SAGE 2008).

challenge adultism in legislating and policymaking by redistributing power across the population.

Digital citizenship as a floppy form of citizenship?

Although adopting a digital citizenship approach can be used to empower children's exercise of civic participation rights, it can also be argued as a mask for reproducing adultism. Third and Collin argue that digital citizenship presents children as vulnerable actors who may be active in the digital civic space but still passive to harm, with this harm being attributed to the dangerous digital environment but also to themselves as naïve civic actors.[136] As a result, the aim of digital citizenship is to ensure that children become digital actors that align with adults prescribed boundaries of a competent civic actor. Moulding children out of digital practices that "push back at existing structures of power and authority".[137] For example, children often create their own mitigation strategies to cope with risky situations they encounter when navigating the digital civic space.[138] These strategies would never be suggested by adults regardless of their effectiveness because they do not follow the normative adult status quo. Therefore, digital citizenship reiterates the traditional adultist assumption that the only remedy for children is to grow up.[139]

Digital citizenship can also be argued to only grant children agency at the cost of burdening them with undue responsibility.[140] A strategy set out to responsibilise children for problems created by adult maintained digital and analogue civic spaces such as the child sexual abuse. On the surface it appears as if children are emboldened to take up space as civic actors, but

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[136] Amanda Third and Philippa Collin, 'Rethinking (Children's and Young People's) Citizenship through Dialogues on Digital Practice' in Anthony McCosker, Sonja Vivienne and Amelia Johns (eds) *Negotiating Digital Citizenship: Control, Contest and Culture* (Rowman and Littlefield 2016) page 5.

[137] Mimi Ito, Cathy Davidson, Henry Jenkins and Jochai Benkler 'Foreword' in David Buckingham (ed) *Youth, Identity, and Digital Media* (MIT Press 2007).

[138] Olaf Kapella & Merike Sisask (eds.)., 'Country reports presenting the findings from the four case studies-Austria, Estonia, Norway, Romania' (2022) DigiGen Working Paper Series No 6 page 37 <DigiGen-working-paper-no.6-country-reports-D3.1-revision-070322.pdf> accessed 13 July 2022.

[139] Onora O'Neill, 'Children's Rights and Children's Lives' 98 (1988) Ethics 445, 463.

[140] Amanda Third and Philippa Collin, 'Rethinking (Children's and Young People's) Citizenship through Dialogues on Digital Practice' in Anthony McCosker, Sonja Vivienne and Amelia Johns (eds) *Negotiating Digital Citizenship: Control, Contest and Culture* (Rowman and Littlefield 2016); Sonia Livingstone and Amanda Third, 'Children and young people's rights in the digital age: an emerging agenda' 19 (2016) New Media & Society 657, 661.

instead digital citizenship relates to children that they must develop certain competences to develop resilience to digital treats. The protectionist, securitisation approach of cybersecurity is rebranded not removed. However, similar narratives existed during women's early emancipation. For example, voting was conceived to be an undue burden on women and that it was kinder for men to take that burden on for them.[141] The distinction between burden and responsibility as a rightsholder is close but in the face of adultism that should not be used to deny children of further civic recognition.

Conclusion

The failings of the digital citizenship approach align with the rest of this research which confirms that children's exercise of civic participation rights is constrained by adultism. Digital citizenship confines and shapes the child's limited actorhood rather than offering full confirmation. Having said this, this approach still pushes children's opportunities to be realised as active rightsholders further than prior to digitalisation. The key is to acknowledge the impacts of adultism when enacting child rights law and policy, ignorance perpetuates the same beliefs that we as a society are doing well for our children when we may be making things worse.

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[141] Anna Olcott Commelin, 'Vote is not a privilege: it would be but a burden for the women' (*The New York Times Archives*, 1915) <VOTE IS NOT A PRIVILEGE.; It Would Be But a Burden for the Women. - The New York Times (nytimes.com)> accessed 10 August 2022.

Conclusions

In sum, this childist analysis highlights how the architecture of the digital environment holds possibilities to act as an enabling force for the realisation of children's civic participation rights: freedom of expression, freedom of association, and access to information. Rights which under the traditional understanding and governance of children's rights in the UNCRC limit children as passive rights receivers rather than active rightsholders. In the digital environment, children can take a more active role in shaping the civic space. This is a product of technological transformations which expand the breadth and diversity of information children can access and how they are able to use this information to express themselves and connect with others. All in all, the digital environment appears to act as a venue of children's civic participation rights where the analogue world has failed. This assertion contradicts protectionist and securitisation moral panic narratives in the contemporary discourse that frame children's use of digital technologies as a threat to childhood.

A review of current legislative and non-legislative approaches pursued by regulators, the technology industry, and civil society brings to light that these actors are more intent on reproducing adultism than promoting the opportunities that the digital environment can bring for children's rights. This is reflected through the imposition of arbitrary age lines prohibiting children's access to the digital environment; a practice that puts a block on opportunities before they can even be explored. Due to the increasing influence of technology companies in the rights space, regulators are now tasked with shaping these actors' practices and monitoring compliance. Although mechanisms like the UK Age-Appropriate Design Code take steps to shift children's rights obligations onto technology companies, it appears that the results are non-child specific interventions and further restriction and burden on the child.

Civil society alludes to digital citizenship approaches which may support actors to overcome the tendency to revert into practices which reproduce adultism. This approach also has opportunities to recognise the child as an active rightsholder who can gradually explore and gain competences in civic spaces: both digital and analogue. Adopting a digital citizenship

approach may provide the shape to dismantle harmful expressions of adult power in the analogue and digital worlds that limit children's ability to be recognised as civic actors. Having said this, this approach also exists within the trappings of adultism. Thereby, we have a new dog in the form of digitalisation, but we are still teaching it old tricks through approaches which reproduce adultism.

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