

Is GC 25 Adequate in Protecting the Rights of the Child in the Digital Environment?

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Abstract: GC 25 on the children rights in the digital environment tries to adequately accommodate stakeholders who are mostly pertaining to substantive rights of the child. However, some challenges are still unresolved. For instance, freedom of association and expression as well as right to privacy of the children is not adequately addressed in GC 25. On the other hand, procedural issues are ignored in GC 25. The main flaws are that GC 25 is not only ineligible to address the extraterritorial cyber criminals/violators of human rights but also incapable to oblige the state parties to the Convention to respond to the reporting forums as the GC 25 is not ‘hard international law’.

Keywords: Children, UNCRC, Digital Environment, GC 25, Core Principles, Substantive Rights, Procedural Rights.

1. Introduction

The Conventions on the Rights of Child (hereinafter refer to the Convention) (UNTS, Volume 1577, p. 3) has been adopted in 1989, the year of release of the code of forming the foundation of the world wide web, and affirmed that children are independent holders of offline rights (Sonia et al., 2020). Due to the increasing influence of the digital environment on the rights of the child, the United Nations Committee of the Rights of Child (hereinafter refer to UNCRC or the Committee) recognizes importance of children’s rights in relation to the digital environments (UNCRC, 2014). It means in both offline and online arenas, entitlements of the children need attention. Different research outcomes also reveal that state parties are struggling to address the children’s Provision, Protection and Participation (three P’s) because of technological transformation (Sonia et al., 2020). Therefore, the Committee published General Comment 25 (hereinafter refer to GC 25, or UNCRC GC 25) exclusively dedicated to children rights in relation to digital environments. The aims of this essay are to critically discuss GC 25 and explore adequacy of it in the lens of standards set by the Convention, its protocols and other general comments of UNCRC. In doing so, this essay will scrutinize the GC 25 in the context of four core principles (i.e., Right of Non-Discrimination, Best Interest, Right to Life, Survival and Fullest Development, and Right to be Heard), substantive and procedural rights of the child under the Convention and associated protocols.

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2. Adequacy of Rights of the Child in GC 25 in the Lens of Four Principles

In accordance with the GC 25, rights in digital environment mean and include entitlements in digital environment. Digital environment means ‘digital networks, contents, services, connected devices and environment, virtual and augmented reality, artificial intelligence, robotics, automated systems, algorithms and data analytics, biometrics and implant technology’, and any other communication system (GC 25, 2021). This definition is not exhaustive because defining and listing the continuously evolving digital technologies are almost impossible (5 Rights Foundation, 2021). However, it is significant to allow the children to protect their data, personal information, and to maintain informed choices in digital lives as children are becoming engrossed into technological devices immensely (Verdoodt, 2019). GC 25 is to be tested through the lens of four principles (general principles) of rights of the child to see its adequacy for capturing the challenges of the rights of child in relation to digital environment.

i. Right to Non-Discrimination (Article 2 of the Convention)

According Article 2, state parties shall ensure and respect ‘rights accommodated in the Convention without any distinction on the grounds specified’. As right under this article is an umbrella right’ (Lievenset at., 2019), the Committee emphasized that states may adopt their national laws, conduct administration, run education system and manage allocating the available resources in such a way that discrimination against children may not happen even with the changing circumstances of the society (GC 5, 2003). Therefore, various issues are to be addressed to eliminate prevailing discrimination in the digital media against children.

First of all, discrimination may arise out of access to technology. Some groups may easily access but others may not. In these circumstances, those who are deprived of the access to technology (children of vulnerable or marginalized society, children with disabilities, children living in poverty, children from minority groups, child refugee or those displaced by armed conflicts, children of imprisoned parents, or any other children who may not reach schools or may not have support from parents to enjoy right to technology), the state has to ensure their equal access to technology i.e., by offering free internet, digital devices and so on (Lievenset at., 2019). In Bangladesh, for example, government telecast recorded lectures through Bangladesh Television (BTV) to reach children who do not have internet access or other alternative devices in hand to take their online teaching during Covid-19 (UNICEF, 2020).

Secondly, discrimination may be prevented by designing appropriate commercial infrastructure, and algorithmic logics of the digital environment (Sonia et al., 2020). For example, technology (popularly known as artificial intelligence or AI) might divide children considering its behaviors, skills of technology, emotions, socio-economic status or buying habits. In this backdrop, states and corporate worlds should take these matters into account in order to ensure access to internet for all children with no discrimination as a gateway of ‘provision and participation’ (Lievenset at., 2019).

Thirdly, in pursuance to UN Committee on the Rights of the Child, it is stressed that the right of non-discrimination requires the states to identify those children or groups of children who may need special measures that will have to be constructed in such a way that children are treated in truly non-discriminatory manner. Very specifically, measures may not render ‘one-size-fits-for-all’ approach effective (Lievenset at., 2019). Thus, measures should be adaptable or flexible to

all children considering their particular needs (Alper & Goggin, 2017). In order to ensure non-discrimination against children, states are to educate children about the non-discrimination in the digital environment in two ways; (i) providing tools and skills to act against online discrimination or hate speech; (ii) instructing children not to be discriminated in their interactions with other in the digital arena (Lievens et al., 2019).

Fourthly, it is significant to address gender discrimination and promote equality between men and women, boys and girls, and males and females in relation to digital environment. Therefore, state are to adopt gender based perspectives in ‘use and appropriation’ of telecommunications (Council of Europe, 2014). The Parliamentary Assembly of Council of Europe also stressed that states need to take initiative against ‘stereotypes, sexism, and over-sexualization in digital arena with the help of education’ (Council of Europe, 2014).

GC 25 addresses every dimension of discrimination in relation to digital environment. In case of access to technology, GC 25 urges the state to ensure access to internet to all children in the territory including the children with disability who can use them without further adaptation (paras 89-92). In respect of commercial design, GC 25 addresses that states should eliminate digital exclusion (para 9) and regulate the business actors who tend to remove the human control from the system for the more benefits (Mansell, 2017).

Moreover, GC 25 stresses that states are to take ‘proactive’ actions to prevent discrimination from sex, disability, *inter alia*, gender, place or birth etc. However, it is challenging to overcome threats by the algorithmic designs. For example, how we will control discrimination due to persuasive marketing (children of more developed countries get more products circulations) (Mansell, 2017), or how will combat the discrimination arising out of global division (violence committed by the children of global north against the children of global south) (Sonia et al., 2020)? In respect of measures taken by states, GC 25 reiterates that states are to create broad range of legislative executive, administrative, and any other precautionary measures as well as resources allocation for the elimination of discrimination against children (paras 22-24). To conclude, GC 25 adequately accommodated risks and threats sustaining in the digital atmosphere though there are some challenges yet remains unresolved.

ii. Best Interest of the Child (Article 3 of the Convention)

According to article 3(1), the actions in respect of children taken by public and private institutions shall give primary consideration upon the best interest of the child. This article entrusted states to ensure the protection of children from administrative, legislative, judicial and any other decision of public and private institution relying on the ‘best interest’ of the child so that decision or action of the authority might not be affected (UNCRC GC 5, 2003). The best interest of the child may be of three folds: substantive rights, fundamental interpretations of legal principles, and rule of procedure (UNCRCGC 14, 2013). In pursuance to emergence of digital technologies, there has not only posed new dimensions of the child rights but also introduced challenges in different manner. The best interest of the child might be achieved in digital environment if measures are taken in combination of regulations of the media industry, provisions of proper protection, interpreting confidentiality and privacy rules, new social norms, institutional practices and other factors of digital environment (Sonia et al., 2020). For instance, para 1 of the article 3 of the Convention refers to the ‘best interest’ of the child from individual

basis (UNCRC GC 14, 2013) whereas interpreting the ‘best interest’ of the child individually is unusual in practice (Lievens et al., 2019). Why it is difficult in practice, we can refer to EU Data Regulations that set an age of child to give consent to processing his or her data in relation information society services. The child giving the consent may be of different understanding of data processing, their levels of understanding and maturity will not be taken into consideration. Though the ‘best interest’ of the child is the ‘central idea’ of the child protection in offline research, exploration, medical tests, how preference of the ‘best interest’ of the child will be feasible in the area of data collection in relation to digital environment(Lievens et al., 2019). Therefore, states have obligations of considering the ‘best interest’ of the child as ‘a group or in general’, taking children’s views, and protection versus empowerment into account in any decisions. In respect of remedies, the ‘best interest’ of the child should be considered (Lievens et al., 2019).

GC 25 rightly addresses that assessment of the ‘best interest’ of the child needs to be assessed from the specific context. It also stresses that digital environment is originally designed for the adults who understand or are assumed to understand what they do in digital environment; for which states may have to ensure measures regarding provision, regulation, design, management and use of the technology, the best interest of the child will be primary consideration (para 12). GC 25 also talks about the combined efforts in each and every measure in managing the digital environment; which primarily rests upon the government that will regulate other private actors (para 12).

In respect of interpretation of legal terms and procedural aspects of child rights, GC 25 also stresses that state parties shall involve institutions i.e., executive, legislative, judicial and other concerned institutions that have the authority to oversee the children rights (i.e., right to have information) to ensure the ‘best interest’ of the child (para 13). If there is conflict between the adult’s right to online freedom of expression (parents’ right to freedom of expression cumulatively indicates as ‘sharenting’) and children’s ‘best interest’ i.e., privacy of child, the ‘best interest’ of the child will get priority. GC 25 acknowledges that inability of child to express will (consent), the sharing of child’s private matters may not be granted for anyone (not even sharenting) (para 149). To sum up, GC 25 comprehensively accommodated the aspects of the ‘best interest’ of the child in protecting the rights of the child in digital environment except right to privacy from ‘sharenting’.

iii. Right to Life, Survival and Fullest Development (Article 6 of the Convention)

Article 6 guarantees right to life, survival and fullest development of the child. This article guarantees the protection of life of the child from the moment of birth (Nowak, 2005). The UN Committee on the Rights of the Child explains the development of a holistic concept that includes ‘physical, mental, spiritual, moral and social dimensions’ (GC 5, 2003). Therefore, the states may have to ensure comprehensive approach at the time of making any developmental initiative. For example, right to education needs to be implemented so that children may have opportunities of applying their personalities, talents, mental and physical abilities to their fullest potentials (Lievens et. at., 2019). To be more specific for clarifying the compressive approach of developmental initiative, developmental measure to assist the children to thrive, fix up their identities in emerging circumstances, beliefs, sexualities and opportunities, risk and safety, develop their capacities, take ‘informed and positive decisions’, *inter alia*, choose opportunities

in life, and navigate transition into adulthood' (Lievens et al., 2019). To contrast, GC 25 stresses that states should initiate measures to protect the children from any sort of harms to the 'life, survival and development, the digital environment'. Harms may be in content, conduct, *inter alia*, or, by harassment, gambling and abuse. States should figure out harms in different contexts and listen the views of children to identify the harms the children face in their contexts (para 14). GC 25 also stresses that states need to emphasize on the impact of the technology during the earliest age of the children when overall growth of the children is shaping. It does not forget to refer to the necessity of providing training, use and effects to the parents, caregivers, educators and other adults involved with the children during neurological development so that right to life, survival and development of children is not interrupted (para 15).

GC 25 further stressed that measures of the states should be utilized in a manner so that they bring well-being to the children comprehensively (paras 14-15). For example, the child with disabilities or in remote area may be deprived of onsite learning. Online learning should be made available for them to overcome their learning obstacles for the purpose of ensuring their fullest development (paras 89-92). Overall, right to life, survival and the fullest development of the child got comprehensive inclusion in the GC 25 in compare to the standards set by the Convention.

iv. Right to be Heard (Article 12 of the Convention)

Article 12, paragraph 1 requires states to ensure that child being capable for developing a view has the right to express fearlessly in all matters that affect him or her. However, paragraph 2 emphasizes on the judicial or administrative hearing that affects the child i.e. education, health, planning, the environment and so on (UNICEF, 2007, p. 149). Child's views are to be given weight in accordance with age and maturity (UNICEF, 2007). This right is an integral part to ensure other rights (i.e., freedom of expression and right to access to information) of the children enshrined in the Convention (Lievens et al., 2019). This right not only includes the rights of the children who can express their views but also accommodates the right of children who can form their opinion (Lievens et al., 2019). Moreover, children's views are pertinent for decision-making, policy-making, enactment of law, and or initiatives as well as their evaluation (Van Bueren G ,1998; UNCRC GC 12, 2009).Furthermore, the concept of participation is a 'starting point' for deep exchange of views between children and adults on developmental policies taken for the children (UNCRC GC 12, 2009). Usually children are represented by NGOs, children ombudsmen etc. whereas the children have less opportunity to participate in active and meaningful manner (Lievens et al., 2017, and Livingstone, 2015). In relation to digital environment, it is high time to accommodate children and young people in decision making process in national, regional and international level (Lievens et al., 2017). The children should be consulted in enacting laws, policies and programs as well as services relating to the digital environment. Companies should also consult children in developing content or services to the children (Lievens 2017, UNICEF 2012). GC 25 addresses that states should come forward to promote opportunities for children to express their views for advocating their rights meaningfully either individually or collectively (para 16). Moreover, GC 25 accommodates that states should engage all children and listen their view and give proper weight at the time of enacting legislation, policies, programs, services, and training for the children to ensure the rights in the digital environment (para 17). More importantly GC 25 addresses that digital environment is likely to be utilized to consult with children about legislative, administrative, or any other

measure; which will ascertain that children's views are considered seriously and their opinion and thoughts are not unduly monitored. Besides, state will also ensure that data collection will not be in such a manner that right to privacy, freedom of thought, opinion and religion are infringed and overall consultative process is inclusion of children who are deprived of access to technology or the knowledge to operate them (para 18).

GC 25 interprets that digital environment should be capitalized to ensure right of child to express their views that affect child in respect of equal facility in compare to the adults including technologically challenged child (UNICEF, 2007). Overall, GC 25 comprehensively accommodated the right of the child to be heard in digital media.

3. Substantive Rights of the Child in Relations to Digital Environment and GC25

Several substantive rights are protected in the Convention and its protocols in respect of onsite situations. As the children's life is immersed with technology, their rights need to be protected in the digital atmosphere. Now GC 25 needs examination whether it addresses rights in relation to the digital environment adequately.

a. Right to Freedom of Expression and Information (Article 13 of the Convention)

Article 13 propounds that right to 'seek, receive, and impart information and ideas of all kinds'. In pursuance to this article, this right may be enjoyed through 'any other media of the child's choice' which indicates traditional and new or even future media may be used for exercising this right (Lievenset al., 2019). This right is significant for the development of the child so it may not be damaging for the child in any aspect (Smith, 2015). Digital environment is viable alternative for the children to capitalize this right for the children because technology can equip the digital platform where children may express their opinions, develop networks, receive information on health, identity, safety and sexuality (Lievenset al., 2019). In pursuance to paragraph 2, article 13 of the Convention, the right to freedom of expression, and information may be restricted when it is lawful and necessary in order to ensure respect for the rights and reputations of others, protection of national security, public order, public health or morality. So right to freedom of expression and information is not absolute right. Right to freedom of expression and information is to be interpreted in line with the 'best interest' (Article 3 of the Convention) of the child and 'respect, responsibilities, rights, duties of parents' or any other member of family or community (article 5 of the Convention) who will guide and direct to exercise the rights of the child ascribed in the Convention (Lievenset al., 2019). So states, parents, or schools are to consider the 'best interest' of the child at the time of filtering, blocking or restricting the access to internet or digital media to avoid the unduly imposed restriction but also not to conflict with evolving capacities of the child (Smith, 2015). Article 13 accommodates the right of the children to impart information meaning that children are not mere receptacles but also creators, consumers and distributors of the content. Therefore, children must be made aware of the potential negative implication of their expressive activities i.e. racism, hateful or threatening expression in digital platforms and made informed about the benefits of activism in the digital society for their 'personal, social and civic relationships' (Lievenset al., 2019). In respect of access to information, GC 25 addresses that states should ensure the access of the children to information in digital platforms without unlawful and unnecessary restriction (para 50). It also stressed that state should ensure 'age appropriate and empowering digital content' according to evolving capacities of the children; by which children will take multiple opportunities of accessing information held by different public

bodies of culture, inter alia, sports, the arts, health and children rights (para 51). It not only emphasizes on the information free from any negative impacts i.e., gender-stereotyped, discriminatory, racist connotation but also talks on the good quality content free from political interest or commercial manipulation (para 54). Last but not least, it enunciates that content providers i.e., corporations should be complying with content moderation laws and maintaining professional codes along with evidence based reporting of the children activities keeping the identity of children (victims and survivors) unrevealed (paras 56-57).

In respect of freedom of expression, and right to impart information, GC 25 addresses that states should ensure safe and secured digital platform for the children to express their views, and opinion in digital platforms and unnecessary as well as unlawful restriction may not be imposed on that right (paras 58-59).

It also stressed that children may not be prosecuted for their opinions and views expressed in the digital technology unless their opinions violate restriction or criminal law compatible with the article 13 of the Convention (para 60). On the top of that, states need to ensure that automated profiling, marketing, processing information etc. does not interfere with the ability of the children to form and express opinions in digital environment (para 61). Very significantly, GC 25 urges the states to render appropriate help to parents and caregivers who have responsibilities of child-rearing, will take children's evolving capacities, autonomy, and privacy into consideration at the time of assisting children for realizing their rights in the digital environment (paras 19-21). Overall, GC 25 could be a full-pledged guideline for the protection of the children rights to enjoy freedom of expression and information.

b. Freedom of Thought, Conscience and Religion (Article 14 of the Convention)

According to article 14, freedom of thought, conscience and religion is protected. In digital environment, automated machine can impact the behaviors and emotions of the users. So, GC 25 urges that state parties to regulate the data protection so that automated system does not interfere with the children's right to thought, conscience and religion (UNICEF, 2007).

c. Freedom of Association (Article 15 of the Convention)

Article 15 stipulates freedom of child to association and peaceful assembly. Daly refers to this right remarkably broadly as it means from family relationships, school attendance, to rights to be in the public spaces (Daly, 2016). The Council of Europe's Guide to Human Rights for Internet Users explains how freedom of assembly apply in the digital context for the children; firstly, freedom to choose 'any website, application or other service' for the purpose of forming, joining, mobilizing, and participating social groups; secondly, freedom to protest peacefully and subject to legal consequences in case of blockage, disruption or damage to the property or services; thirdly, freedom to use online tools to participate in local, national or global policy debates (Council of Europe, 2014a). It is not confirmed whether these rights are respected for children by service providers in online spaces of civil, political and social nature (Lievenset al., 2019). However, article 15 may be interpreted in such a way that it guarantees the rights of the children to associate and participate in assembly in both online and offline, particularly for those who are otherwise sidelined (Lievenset al., 2019). For example, LGBT, refugee and migrant children have the right to exercise freedom of association and peaceful assembly.

Few corporations (i.e., Face book, Twitter) impose age restriction (i.e., 13 years) but there is risk of using the participation of the children in online public spaces for contentious political purposes (Lievenset al., 2019), or there is risk of children to be manipulatively used by terrorist groups. For example, Face book and Twitter use minimum 13 years of age for the children to be users. Unfortunately, some governments seem to use such restriction on political purposes (Lievenset al., 2019). Moreover, online expression and participation by the children are traced by the platforms automatically may at any time; which might be demanded by the government with ill motive or any other particular circumstances (Lievenset al., 2019). GC 25 urges that state parties to take initiatives for opening the digital spaces to facilitate the children to enjoy their rights with safety (paras 64-66). Without removing the above challenges, how may we expect that children will exercise their rights with safety?

d. Right to Privacy (Article 16 of the Convention)

In pursuance to article 16, privacy of the child cannot be interfered arbitrarily and unlawfully. This right includes protection from interference to family, home or correspondence, honor and reputation but also from libel and slander (Lievenset al., 2019). It might be interpreted that right of children is protected under this article in different dimensions. The children are the most vulnerable in online due to lacking of awareness, and incapacity to foresee potential long-term privacy consequences. Therefore, they disclose personal information (Lievenset al., 2019). Very interestingly, rights to privacy need to be protected from parents, care givers, teachers or peers rather than from state, commercial intrusion (Lievenset al., 2019). The EU's Fundamental Rights Agency's Handbook on European law relating to the rights of the child (2015) observes that the right of children to have protection of their right to privacy, family, home, correspondence, honor or reputation etc. from all including children's legal representatives (EU, 2015). Sometimes, 'right to privacy' of children conflicts with 'right of freedom of expression' of parents. For example, parents share ('sharenting') their affectionate moment with their children in digital environment and child is not capable enough to give consent at that stage. Moreover, EU General Data Protection Regulation (European Union, 2016) requires the parents to consent with the collection and processing of personal data of children up to 16 years of age. But how privacy will be protected from the interference from 'sharenting'? To prevent the children from arbitrary and unlawful interference, GC 25 urges the state to ensure the informed consent of child about the use of their personal information and if necessary, parental or caregiver's consent can be taken. In no circumstances, in accordance with GC 25, the child's personal information might be used for unintended purposes by the public or private organizations. For example, if any information is taken for investigation or inquiry, information cannot be used in any other private or public functions.

Parents do not often think about taking consent of the child, while privacy of the child, in pursuance to Article 16, should not be interfered arbitrarily. Hence, there is conflict between child's privacy rights and parents' freedom of expression (Lievenset al., 2019). In GC 25, para 71, it is urged that parents and other caregivers will be respectful to the privacy and personal safety of the children (Lievenset al., 2019). It is challenging to balance between the children's autonomy and parent's freedom of expression, but it is necessary for autonomy, protection and participation of the child (Van Der Hof, 2016). However, GC 25 is silent about legal implication of 'sharenting'. In order to ensure the safety and privacy of the child in the digital environment, determination of age is required. Digital environment is not capable to dissect what is the age of

the users. That is why; GC 25 urges the state to regulate the business actors by national legislations. Moreover, privacy by design, or safety by design may appropriately address age and other particular necessity to ensure the privacy of young users and keep them away from anti-state activities being unmonitored (<https://www.gov.uk/government/publications/international-statement-end-to-end-encryption-and-public-safety/international-statement-end-to-end-encryption-and-public-safety-accessible-version>). As the technology is ever changing tool, protection of privacy is still challenging to address in international law.

e. Right to Information and Protection from Harmful Content (Article 17 of the Convention)

Article 17 recognizes functions of mass media and encourages state parties to ensure that child has access to information and material of national and international sources. States should encourage the media to publish information that is beneficial to the children and not injurious to the parents bringing up the children. Rights guaranteed in this article referring to mass media that includes social media (Lievenset al., 2019). State has positive obligations to ensure safety in the digital environment (both mass and social media) that the children use in exercising their freedom of expression (La Rue F, 2011). It is observed that provisions similar to the article 17 are not found in any universal and regional human rights conventions (Lievenset al., 2019). That means, this article is distinctively associated with the children's rights as they grow to their fullest potentials (La Rue, 2014). Moreover, this article indicates that the general human rights documents do not recognize the rights of the children in the internet, so states have positive obligations to address human rights in the digital environment that has become an invaluable field of freedom of expression and information (La Rue F, 2011). However, there are numerous challenges in ensuring the right under article 17 in the digital environment. GC 25 suggests that state parties must ensure that children would not be affected due to the misinformation in the digital environment (para 96). Right to information and have protection from harmful content are challenging for the children to enjoy as article 17 as it cannot create equilibrium between children's right to information and right to receive content being freed from harmful content (Lievenset al., 2019). So, the law relating to the protection of the children from harmful content of the media and information where law may not be disproportionately restrictive to the children's rights. Another important challenges to ensure age-appropriate information for the children. In respect of Article 17, the UN Committee on the Rights of the Child (UNCRC GC 12, 2009) has stated that children need information 'in formats appropriate to their age and capacities'. Information under this right includes information relating to issues affecting children rights, health, sex etc.

f. Right to Protection from Exploitation and Violence (Article 19, 32, 33, 34, 36, 37(a), 39 of the Convention)

A number of articles (19, 32, 33, 34, 35, 36, 37(a) and 39) deal with right of the child to have protection from various types of 'violence, abuse, or exploitation'. Optional Protocols to the UNCRC on the sale of children, child prostitution, and child pornography are also relevant. New types of threats or forms of abuse, violence or exploitation are found due to the emergence of digital technologies (Boer-Buquicchio, 2014). GC 25 urges that state parties must ensure the protection of child and young people from any form of exploitation for the protection of the child in digital technologies in order to ensure the proper participation of the child in that atmosphere. To ensure the right, state must ensure 'cyber security, privacy-by-design and safety-by-design in the digital services' to reduce the risk of child (Para, 116). In respect of armed conflict and

vulnerability in the society, the state must ensure that the children below certain age should not be recruited or used in armed conflicts using digital environment (para 62). To ensure the digital safety, the children should be informed about the risks of sharing personal information or being friend in online or being subject of unfair advertising online (Lievens et al., 2019). GC25 addresses that the state parties, business sectors, civil societies and other stakeholders should be engaged to educate and aware the children about their right in online activities (paras 34-39).

g. Right to Physical and Mental Health and Access to Health care Services (Article 24 of the Convention)

In pursuance to article 24, the right to physical and mental integrity and health care services is protected in order to ensure the fullest potentials of child free from immorality, prejudices to health and dangers to psychology. GC25 addresses that the state parties should invest in research, and development that is particularly focused on children health needs; which will result into both protection of the children from health crises and prevent more diseases to spread among the children (paras 94-95). State parties shall encourage the children, parents and educators to know and capitalize the available healthy, balanced and beneficial things in the digital platforms (paras 95-97).

h. Right to Education and Literacy (Article 28 and 29 of the Convention)

The right of children to education and literacy are protected under articles 28 and 29. It is crucial to empower the children in the digital environment and it has been recognized in various policy documents i.e., OECD. Mostly this right (Article 28) concerns with 'educational curricular, library, and informational resources'; which are readily available and easily searchable in digital platforms by all (Lievens et al., 2019). In the present context, the digital environment ensures the fullest use of education materials. On the other hand, Article 29 propounds that one of the goals of education is to ensure the respect for the human rights, fundamental freedoms and the principles enunciated in the Charter of the United Nations (UNCRC GC1, 2001). According to GC 25, state parties must ensure the access of libraries, archives, and learning resources in online; for which sufficient number of computers, broadband internet, stable source of electricity, and training of teachers as well as students on use of technological tools are to be ensured (paras 99-105). State parties should develop digital literacy so that children might protect their privacy and know how to prevent victimization. States should provide pre-service or in service digital training for the people working for the education and skills; (para 33) which will facilitate digital security for the children's learners in digital environment. Para 99, GC 25 acknowledges the necessity of digital platform in children's education, whereas the para 100 stresses on the states' responsibility for ensuring diverse digital, and interactive digital resources in order to ensure lifelong and online learning. Para 101 stresses that states should ensure the equitable distribution of digital resources in schools and other educational institutions but in-person education cannot be undermined. GC 25 also stresses that states should ensure the digital training and skill development in academic curricula so that the children can come to know about misinformation, other forms of biased or false content, reproductive issues, sexual issues, available forms of support and remedy (para 104). Overall, GC 25 accommodates adequately by demonstrating responsibility of the state to ensure the availability of sources of information for the students, teachers, trainers and other educational settings.

i. Right to Engage in Culture, Play and Recreational Activities (Article 31 of the Convention)

Article 31 recognizes the importance of the play and recreation of child's life because of positive implication of this right on social, cognitive and personal development of the child (UNCRC GC 17, 2013). The right of the children to play refers to the unstructured informal activities that are unmonitored, uncontrolled by the adults, whereas recreational activities refer to organized, structured activities (i.e., sports, performing or creative arts) of the children (Lievens et al., 2019). In respect of play, entertaining cultures and recreational activities in the digital environment, GC 17(2013) stressed that state parties should develop policies and take appropriate measures to protect the opportunities for the children in the digital environment. It means it acknowledges that children are increasingly spending time with digital platforms both as consumers or creators of the social media, television, mobile or internet. In the next year (2014), Committees expressed concern on the commercialization of children engagement in digital environment where parents are forced to buy trendy toys or children's information, messages are used in gaming tools without children's informed consent (Lievens et al., 2019 and UNCRC report, 2014). GC 25 addresses that state parties must ensure that the children will enjoy play, culture, and recreational activities in digital environment particularly with their interest, tastes, cultures and abilities (para 107). State parties shall cooperate with the parents, service providers and caregivers so that digital devices may not be used to play, and enjoy recreational activities in preventive and prohibitive manners towards development of the children (para 108). State parties should also ensure that corporate enterprises may not target children using any technique to prioritize commercial interests over the children's (Lievens et al., 2019, GC 25, para 110). Finally, from the above discussion, it is found that GC 25 endeavors to accommodate substantive rights of the child enshrined in the Convention adequately though it failed to provide guidelines how the challenges of the children to enjoy the freedom of association, expression and right of privacy with safety and dignity in the digital world.

4. Procedural Inadequacy of the GC 25

The Committee can receive communication directly from the child if the substantive rights are violated. If the rights of the child are breached in the digital environment, there is difficulty in filing complaint in pursuant to GC 25. Rights of children in digital environment is difficult to be adjudicated due to the absence of national legislation, difficulties of material evidence of violation of rights in the digital arena, lack of digital knowledge of parents, fear of social exclusion due to sharing information regarding violation and global operation of internet service providers (para 43). In these circumstances, GC 25 extended the scope of the Convention for obliging the state parties to train, educate and aware the children, parents and caregivers as well as regulate the business actors to introduce child-sensitive and age-appropriate mechanism (paras 44-49). Data protection authorities, children rights commissioners, or ombudspersons can play an important role in ensuring respect for children's rights in the digital environment (Lievens et al., 2019). GC 25 stresses that state parties should ensure that business enterprise may not exploit the children and breach their rights in any digital settings for which, state parties should ensure the cooperation among the legislature, civil society, human rights organization, law enforcing agencies and business enterprises (paras 22-42). Nevertheless, GC 25 may be an authentic explanation but may not be obligatory on states. Those who are working in the regional or country levels can use the GC 25 as a useful guide to push the governments (Livingstone et al., 2020). Moreover, GC 25 would not oblige state to report about the rights of the child in the

digital environment. Finally, GC 25 failed to meet at least minimum adequacy to capture challenges of rights of the child in digital sphere in respect of procedural aspects.

5. Conclusion

To recapitulate, GC 25 efforted to cover each and every substantive right adequately but it has some limitations. First of all, privacy of child is very challenging to protect in the digital environment. It raises many issues as (a) technology cannot detect the age of the users; (b) determination of parents responsibility for 'sharenting' as parents are trustees rather than owner of the child; and(iii) practical difficulty of preventing persuasive tactics of advertisements that manipulate the child. Secondly, preventing children to use social media so that they cannot involve in terrorist movement is another daunting task. The reason is that safety of the child conflicts with the freedom of expression or obstacles with the fullest development of the child in early years. On the other hand, young children are hardly capable to comprehend the risks of particular websites, news, or friends online. Thirdly how will the transnational bullying or cyber aggression against the child can be adjudicated. Fourthly there is procedural limitation meaning GC 25 is not hard law. State parties are not legally bound to accept the extended explanation of the UNCRC provided by the GC 25. Nevertheless, GC 25 provides an exhaustive idea for the policy makers that the Convention requires full-pledged intervention. Finally, state, parents, civil society and business sectors along with the children depending on their age and maturity are to act collectively to capture the challenges prevalent in digital environment for the young users not only in adequate level but also in satisfactory threshold.

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