Joint Input on the ACHPR's Draft Study on Human and Peoples' Rights and AI, Robotics, and Other New and Emerging Technologies in Africa

May 2025

Introduction

Artificial Intelligence (AI) increasingly mediates all aspects of children's lives, shaping their environment, lives, and development: powering the games they play, the tools they learn with, and the welfare decisions that affect them.

While AI systems offer opportunities, its specific characteristics (including opacity, complexity, dependency on data, and autonomous behaviour)[1], combined with children's heightened vulnerabilities, expose them to a higher level of risk when these systems interact with or impact children. When AI systems are not designed based on child-centred principles, trained on appropriate datasets, or tested to ensure neutral or positive outcomes for children, they can have significant impacts on children's rights, safety, privacy, cognitive development, health, educational outcomes, social relationships, economic well-being, and freedoms.

Children are unlikely to have the developmental capacity, the knowledge, or the resources to understand or challenge automated decision-making, algorithmic unfairness and the subtle, cumulative, or even acute nudges and impacts those automated systems have on their online experience.

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[1] See 5Rights, Disrupted Childhood: The cost of persuasive design.

In this context, the Study can play a critical role in empowering African Union member states and tech companies to protect and respect children's rights in the digital world. We welcome the ACHPR's recognition of the opportunities AI brings to children, as well as the mention of risks to safety, privacy, discrimination, and exposure to harmful content. As AI systems increasingly shape children's lives, it is essential to ensure the African human rights system strengthens – not supplants – the established frameworks that set out children's rights, as well as the clear duties of states and responsibilities of businesses to protect and respect them.

Reflecting both our joint expertise and the voices of children across the continent – shared through the first Children's Global AI Summit on Africa – this submission recommends expanding section 5.7.1 ("AI and the rights of children") to align with global best practices in light of children's unique vulnerabilities and additional rights

AI and Children's Rights

AI impacts African children's rights in a multitude of ways. AI systems are often designed to harvest children's personal data which is then used for training and optimisation purposes, without consultation of African children's perspectives.[2] AI systems, much like previous technological advances, are generally designed by commercial companies without considerations for children's rights or their best interests.[3] This leads tech companies to deliberately design digital products and services to maximise profit, exposing children to serious risks – from recommender systems that push them towards increasingly harmful content to maximise engagement,[4] to chatbots that foster unhealthy emotional attachment, and profiling that deepens discrimination.

Children report several other risks AI poses to their rights.[5] These include emotional manipulation – AI systems overstimulate children's reward pathways and foster unhealthy emotional attachment;[6] the spread of misinformation and disinformation – AI systems blur the lines between facts and fiction;[7] and biased datasets which lead to inaccurate and discriminatory outputs and outcomes as they lack context, culture, and language sensitivity.

Importantly, children's rights can also be impacted by AI systems in the absence of direct interactions. This includes when children's data forms part of the data set on which the AI system has been trained; when children's experience of a service or product is shaped by the AI system; when an AI system generates outputs or outcomes that are likely to impact children; and when an AI system influences decisions made by adults that impact children.[8]

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[2] Children's Global AI Summit on Africa Outcome Document
[3] See 5Rights, Disrupted Childhood: The cost of persuasive design.
[4] See 5Rights, Disrupted Childhood: The cost of persuasive design; and Pathways: How digital design puts children at risk.
[5] Outcome Statement: Childrens' Global AI Summit on Africa.
[6] eSafety Commissioner, AI chatbots and companions – risks to children and young people; and UNESCO Recommendation on the Ethics of Artificial Intelligence, para. 128.
[7] UNICEF, Generative AI: Risks and opportunities for children; and Media Monitoring Africa, Climate Disinformation: Consequences and Solutions.
[8] 5Rights, Children & AI Design Code, p. 14.

Children have long-established rights under the UN Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC). Among others, these instruments enshrine children's rights to privacy,[9] to not to be exploited,[10] and to freedom of thought[11] – all of which are highly relevant to AI.[12]

The UN Committee on the Rights of the Child's General comment No. 25 clarifies how States' obligation to respect, protect,[13] and fulfil children's rights apply in the digital world.[14] Building on General comment No. 16 and the UN Guiding Principles on Business and Human Rights,[15] it also emphasises the responsibilities of the business sector to respect children's rights, and to prevent, mitigate, and – where appropriate – provide effective remedies for violations.[16]

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) emphasises that children have the same rights online as they do offline,[17] and that children's rights enshrined in the ACRWC therefore apply in the digital world.[18]

Similarly, UNCRC General comment No. 25 makes clear that AI systems are encompassed in the digital environment,[19] and its guidance therefore applies to AI. General comment No. 25 further addresses specific uses of AI systems, including calling for the prohibition of profiling children for commercial purposes,[20] of emotional analytic practices interacting with children,[21] and to ensure that facial recognition software do not unfairly target children.[22]

Additional international instruments highlight the global consensus that children's rights must be protected in the age of AI, including the AU Continental Artificial Intelligence Strategy, UN High-Level Advisory Body on AI's 'Governing AI for Humanity', UN General Assembly resolution 78/187 on the Rights of the child in the digital environment, and UNICEF's Policy guidance on AI for children.

Recommendations

To meaningfully reflect and address the pervasive and interconnected impacts of AI on children's rights outlined above, **we strongly recommend that the Study reaffirms the core**

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[9] ACRWC, art. 10; and UNCRC, art. 16.
[10] ACRWC, art. 15; and UNCRC, art. 36.
[11] ACRWC, art. 9; and UNCRC, art. 14.
[12] For a more exhaustive list, see UNICEF, UN Convention on the Rights of the Child – Selected articles of relevance in the age of AI systems.
[13] UNCRC General comment No. 25, para. 37.
[14] UNCRC General comment No. 25, para. 4.
[15] See UNICEF and B-Tech, Taking a Child Rights-Based Approach to Implementing the UNGPs in the Digital Environment.
[16] UNCRC General comment No. 25, para. 35; UNCRC General comment No. 16, paras. 28, 42 and 82; and UN Guiding Principles on Business and Human Rights.
[17] ACERWC General Comment No. 7, para. 55.
[18] ACERWC, Day of the African Child 2023 Concept Note, para. 5.
[19] UNCRC General comment No. 25, para. 2.
[20] UNCRC General comment No. 25, para. 42.
[21] UNCRC General comment No. 25, paras. 39 and 42.
[22] UNCRC General comment No. 25, para. 119.

principles of children's rights in the digital environment under the UNCRC and the ACRWC.

We call in priority for the Study to strengthen the responsibility of businesses to respect children's rights,[23] including through providing children with a high level of privacy,[24] safety,[25] and security[26] by design and default. This notably necessitates embedding Safety- and Privacy-by-Design in the design, development, and deployment of AI systems.[27] Such a proactive approach involves addressing known or anticipated risks during product development to prevent or significantly reduce potential harm. It notably requires mandatory Child Rights Impact Assessments; comprehensive due diligence across the value chain;[28] and independent monitoring, oversight, and accountability mechanisms.[29]

The Study should also re-emphasise states' obligation to protect children's rights in the digital world.[30] To do so, states should prioritise developing and implementing comprehensive policies and action plans,[31] as well as legislating ensuring business responsibility to respect children's rights,[32] and prevent and remedy abuse of their rights in relation to the digital environment.[33] States should also implement technical standards and industry codes,[34] ensuring businesses implement and comply with them.[35] States

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[23] UNCRC General comment No. 25, para. 35; UNCRC General comment No. 16, paras. 28, 42 and 82; ACERWC Terms of Reference, p. 2; and UN General Assembly resolution 78/187 on the Rights of the child in the digital environment, para. 35.
[24] UNCRC General comment No. 25, para. 70; and ACERWC Working Group on Children's Rights and Business Resolution 17/2022 on the Protection and promotion of children's rights in the digital sphere in Africa, para. 2(V).
[25] UNCRC General comment No. 25, para. 39; and Statement of the ACERWC Working Group on Children's Rights and Business on the 2024 World Safer Internet Day, para. XIV.
[26] UNCRC General comment No. 25, para. 116.
[27] UNCRC General comment No. 25, para. 39; ACERWC Working Group on Children's Rights and Business Resolution 17/2022 on the Protection and promotion of children's rights in the digital sphere in Africa, para. 2(V); and Statement of the ACERWC's Working Group on Children's Rights and Business on the 2024 World Safer Internet Day, para. XIV.
[28] ACERWC Working Group on Children's Rights and Business Resolution 17/2022 on the Protection and promotion of children's rights in the digital sphere in Africa, para. 2(V).
[29] UNCRC General comment No. 25, para. 38; ACERWC Working Group on Children's Rights and Business Resolution 17/2022 on the Protection and promotion of children's rights in the digital sphere in Africa, para. 2(I); Statement of the ACERWC's Working Group on Children's Rights and Business on the 2024 World Safer Internet Day, para. X; and UN General Assembly resolution 78/187 on the Rights of the child in the digital environment, para. 39.
[30] UNCRC General comment No. 25, para. 35; UNCRC General comment No. 16, paras. 28, 42 and 78-82; ACERWC General Comment No. 5, para. 3.5; and Statement of the ACERWC's Working Group on Children's Rights and Business on the 2024 World Safer Internet Day.
[31] UNCRC General comment No. 25, para. 24; Statement of the ACERWC's Working Group on Children's Rights and Business on the 2024 World Safer Internet Day, para. II; and African Union Child Online Safety and Empowerment Policy, p. 11.
[32] UNCRC General comment No. 25, para. 23.
[33] UNCRC General comment No. 25, para. 25.
[34] UNCRC General comment No. 25, para. 24; and ACERWC Working Group on Children's Rights and Business Resolution 17/2022 on the Protection and promotion of children's rights in the digital sphere in Africa, para. 1(IV).
[35] UNCRC General comment No. 25, paras. 39 and 56.

should also foster children's participation,[36] including those from diverse ethnicities, cultures, and those with disabilities.[37]

The Study must recall children's right to be protected from commercial exploitation.[38] Commercial exploitation is particularly relevant in AI governance, as AI systems are trained on and designed to harvest enormous quantities of children's data – often without meaningful consent or oversight. **In line with General comment No. 25, the Study should highlight that children's privacy should be respected and protected[39] and that a high level of data protection should be ensured by all organisations that process their data,**[40] including by integrating privacy-by-design and default into digital products and services that affect children.[41] States must ensure businesses do not use children's personal data to prioritise commercial interests over those of the child,[42] including by prohibiting the profiling of children[43] and upholding the principle of data minimisation.[44]

Children can also be impacted by AI systems even when they do not interact with them directly.[45] For example, AI systems are already used to make welfare decisions impacting children and their families. **We therefore urge the Study to explicitly recognise and address AI systems' impacts on children's rights that may impact children in the absence of direct interactions**.[46]

The Study should also ensure the inclusion of children's voices by recommending comprehensive child consultations in line with the ACERWC Guidelines on Child Participation.[47] To respect and fulfil children's right to be heard with regards to the digital environment, States should take children's views and the diversity of their situations into account in the development of laws and policies.[48] Similarly, businesses must reflect children's perspectives in relation to the design, development, operation, and marketing of their digital products and services.

Businesses and governments must also promote awareness on AI systems and their implications on children's rights.[49] Children must gain an understanding of the digital environment, including its infrastructure, business practices, persuasive strategies and the uses of automated processing and personal data and surveillance, and of the possible

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[36] UNCRC General comment No. 25, paras. 16-18; UNESCO Recommendation on the Ethics of Artificial Intelligence, para. 129.

[37] UNESCO Recommendation on the Ethics of Artificial Intelligence, para. 105; and UNICEF Policy guidance on AI for children, pp. 34-35. For guidance, see ACERWC Guidelines on Child Participation.

[38] UN Convention on the Rights of the Child, arts. 32 and 36; UNCRC General comment No. 25, para. 112; and UN General Assembly resolution 78/187 on the Rights of the child in the digital environment, para. 46.

[39] ACRWC, art. 10 and UNCRC, art. 16.

[40] ACERWC Working Group on Children's Rights and Business Resolution 17/2022 on the Protection and promotion of children's rights in the digital sphere in Africa, para. 1(IV). For guidance, see 5Rights, Children & AI Design Code.

[41] UNCRC General comment No. 25, para. 70.

[42] UNCRC General comment No. 25, para. 110.

[43] UNCRC General comment No. 25, para. 42.

[44] UNCRC General comment No. 25, para. 69.

[45] 5Rights, Children & AI Design Code, p. 14.

[46] UNCRC General comment No. 25, paras. 35 and 37.

[47] ACERWC Guidelines on Child Participation.

[48] UNCRC General comment No. 25, para. 17.

[49] UNESCO Recommendation on the Ethics of Artificial Intelligence, para. 103.

negative effects of digitalization on societies.[50] As preliminary findings on African children's digital literacy highlight gaps,[51] we call on the Study to reiterate tech companies' and governments' responsibility to respect children's rights by supporting the development of necessary skills and competencies.[52]

Finally, to implement states' obligation to protect children's rights, we call for the Study to make practical recommendations to the African Union and its member states. Notably, the Study should call for the implementation of the African Union Child Online Safety and Empowerment Policy which applies to AI. The policy reiterates businesses' responsibilities to uphold children's rights, and calls for the strengthening of continental, regional and national legal and regulatory regimes to protect children's rights in the digital world.

Similarly, we recommend that the Study calls for the adaptation of the provisions in the Children & AI Design Code and any other relevant document meeting international best practices which provides a framework to guide the responsible development of AI systems with children's rights and best interests at the forefront. The Code outlines practical steps to identify, assess, and mitigate AI-related risks to children which should be reflected in regional and national legislation, standards, and policies.

In line with the AU Continental Artificial Intelligence Strategy, the Study should also encourage the strengthening and alignment of robust continental, regional and national legal and regulatory regimes related to child online safety to integrate risks posed by AI,[53] including from a data protection perspective. As AI systems increasingly rely on children's personal data to curate their online experience, these guidelines can help African states navigate the complex challenge of safeguarding data privacy while ensuring that children's rights to free expression and access to information are respected.

Conclusion

As the Study recognises, AI and emerging technologies present both opportunities and challenges. For children, these challenges are existential. To ensure that children can benefit from technology's opportunities while being safeguarded from its risks, we call for the Study to reiterate fundamental children's rights principles – around which there is a consensus globally, including in the African Union.

In particular, the Study should reemphasise African Union member states' obligation to protect children's rights. We also call for the Study to strengthen the responsibility of businesses to respect children's rights.

The African Charter on the Rights and Welfare of the Child provides a clear framework for the protection of children's rights in the digital world. Building on this, the African Union Child Online Safety and Empowerment Policy sets out a blueprint to implement the necessary safeguards. The African Union is ideally positioned to lead global efforts in the protection of children's rights in the digital world. To achieve this, African Union member states – empowered by the Study – must urgently adopt binding legislation in line with international best practices.

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[50] UNCRC General comment No. 25, para. 105.
[51] Mtoto News, It's A FACT!
[52] UNESCO, Guidelines for the Governance of Digital Platforms.
[53] AU Continental Artificial Intelligence Strategy, p. 54.

By respecting and protecting children's rights in the digital environment, the African continent can lead the way in building the digital world children deserve. A world where AI can reduce inequalities, support children's development, and address barriers affecting children with disabilities rather than exploit their vulnerabilities to maximise profit. International and African children's rights frameworks provide the roadmap to realising this vision.

Signatories

- 5Rights Foundation
- ChildFund International
- Child Online Africa
- Children's Voice Today
- Media Monitoring Africa (MMA)
- Mtoto News
- The Nelson Mandela Children's Fund
- Paradigm Initiative
- Qhala Trust
- Save the Children Rwanda
- Terre des Hommes Netherlands