



## ISSUES OF HUMAN RIGHTS PROTECTION IN THE DIGITAL SPACE

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### ABSTRACT

The author analyzes the current state of the international legal management of the virtual space in the aspect of ensuring and protecting human rights. With the development of computer technologies, an increasing number of users join the World Wide Web, the number of cross-border connections increases annually, which actualizes the issue of ways to protect human rights and freedoms in the virtual environment. The correlation between the international legal regulation of the digital sphere and the provision of human rights is a new and urgent problem of international law, which has not yet been given due attention in the scientific legal literature. The author analyzes the doctrinal views of scholars in the field of international law and the approaches implemented in international legal documents related to the international legal governance of the Internet and the protection of human rights in the virtual space.

**Keywords:** UN, international legal protection, security, protection of human rights and freedoms, digitalization, international legal regulation of the Internet

### Introduction

The method of system analysis made it possible to identify gaps in the international legal system that impede the creation of an effective mechanism for the protection of human rights in the digital space. It is shown that there are no adequate mechanisms in modern international law both for the general regulation of the ^/dY sphere and for its separate issue – the protection of human rights in cyberspace. Taking into account the global and multi-jurisdictional nature of the Internet, this creates conditions for jurisdictional fragmentation and for international legal "gaps" in the universal system of human rights protection.

In the author's opinion, it is too early to talk about the mutual influence and interaction of the real and virtual worlds. Rather, we are witnessing a stage of formation, the development of ways of this interaction and an attempt to define the contours of a common existence. The current international legal mechanism for managing the digital environment is characterized as multidisciplinary, fragmented, ineffective, and does not provide for a really working toolkit, including in the field of monitoring and control over the provision and protection of human rights. It is human rights that can become a litmus test, a "unifying target perspective" of the digital space in terms of its development and governance.

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literature. The lack of research is partly due to the rapid introduction of digital technologies into our lives.

There is no doubt that the digital sphere is a global system in need of international legal regulation. The Council of Europe Convention on Cybercrime of November 23, 2001 (the Budapest Convention), to which 66 states are parties as of January 2022, is called the "gold standard" that regulates the Internet space<sup>2</sup>. However, experts in the field of human rights protection have long criticized this Convention for the lack of clear rules for ensuring human rights, justifying the need to replace it with a more effective international legal instrument. One of the significant steps towards concretizing the international legal regime of the digital sphere is the 2019 Report prepared by the UN Secretary-General's High-Level Panel on Digital Cooperation "The Age of Digital Interdependence"<sup>3</sup> (UN Report). The main message of the authors of the UN Report was the idea of the mutual influence of the two worlds (real and virtual) on each other – not about their technical intersection, but about their deep ideological impact on each other; about the intrusion of digital technologies into the socio-economic, political and cultural spheres of life.

Let us name some of the consequences of this process. Professor M. Spitzer notes a sharp deterioration in the physical indicators of children's health due to close interaction with Internet technologies (catastrophic development of myopia, depressive states, functional Unexpected results of the digitalization of secondary schools in the European Union were revealed by the results of the PISA project (2000-2015): it turned out that there is an inverse relationship between the volume of investments in school digital technologies and adolescent academic performance. According to UN estimates, the automation of jobs on a global scale will lead to the reduction of 800 million jobs by 2030, which will create an even wider gap between the poor and the rich than now.<sup>5</sup> These examples demonstrate that the digital sphere is subject to the basic laws of dialectical development and cannot be assessed solely as a positive or negative factor. But in any case, digitalization should not become a tool for displacing and replacing real life with virtual life.

## Study Description

The UN report concludes that digital technologies and the modern world are "interdependent". The authors of the UN report name five basic problems of international law, without the solution of which it is impossible to truly effectively interact the digital and real worlds in the international legal system. The first problem is the lack of a universal model for managing the digital sphere. The legal management of the Internet sphere is carried out primarily by national law. Certain issues are regulated by international law (for example, the above-mentioned 2001 Convention of the Council of Europe). International non-governmental initiatives based on the principle of Internet self-regulation, such as NetMundial, the Global Commission on Internet Governance, the Charter of Trust, etc., can be considered an additional tool. Since 2006, the Internet Governance Forum (IGF) has been operating, which brings together representatives of states, non-governmental organizations, the business sector and academia. At present, due to their inherent regulatory peculiarities, none of these levels is able to take on the function of fully ensuring the activities of cyberspace in accordance with the norms of



international law. The second problem is the weak inclusiveness of the standards of the digital sphere, which hinders the full participation of vulnerable groups in Internet relations.

For example, according to the United Nations, in the least developed countries, the share of women Internet users is 30-33% lower than that of male users<sup>1</sup>. Unequal access to virtual resources is noted on a territorial basis, according to the availability of the latest technical means. In this regard, a new dangerous global trend is emerging: societies and groups with greater opportunities for access to the Internet may become a new "elite" with a claim to a leading role in social processes.<sup>3</sup>

The third problem is the existence of a "catching-up" model of international legal regulation, which cannot keep up with the speed of change and the ever-increasing, exponential, complexity of digitalization. It seems that the dynamism of digital development has become a problem not only of international law, but also of other social regulators. Most people do not feel confident when it comes to personal passwords and logins for various Internet resources, the degree of protection of our personal information in the online space, the reliability and relevance of the purchased technical media, etc.

<sup>3</sup> Report of the Presidential Council for the Development of Civil Society and Human Rights.

Any software is not perceived as stable and secure: the more complex and multifunctional the software product, the more often it suffers from operational failures and errors. In the fall of 2021, there were many hours of failures in the work of the leading global digital platforms: Facebook<sup>4</sup>, Google, YouTube, Instagram<sup>5</sup>, Discord, Twitter, which showed the vulnerability of the leaders of the virtual world, despite their highest, exceptional, professionalism and the best teams of programmers [13]. According to the Presidential Council for the Development of Civil Society and Human Rights, "any assurances about the 'absolute reliability' of digital systems are either naïveté or outright lies and manipulations."<sup>6</sup>

In addition, the combination of special conditions for the existence of the digital environment creates ample opportunities for abuse and crime, including the creation of virus programs, theft of data and money, substitution of content, and dissemination of information of an illegal nature. All this leads to daily violations of human rights.

Therefore, adequate legal, including international law, protection of the rights and legitimate interests of users and developers is required.

The fourth problem is due to the penetration of digitalization into areas whose regulation is not suitable for the virtual world. This problem is directly related to the international legal mechanism for the protection of human rights. As the UN Secretary-General has rightly observed, all "... Existing human rights treaties were signed in the pre-digital age".<sup>7</sup> The "transfer" of human rights protection mechanisms to the virtual world is not yet systematic and logical, which does not correspond to the general principle of international law — respect and protection of human rights.

<sup>4</sup> The social network is banned in Russia.

<sup>5</sup> The social network is banned in Russia.

<sup>6</sup> Report of the Presidential Council for the Development of Civil Society and Human Rights. The digital space provides humanity with new opportunities for the realization of human rights,<sup>1</sup> but at the same time it also creates conditions for the suppression, limitation or violation of these rights



The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, and the UN Human Rights Council have agreed to recognize the right to privacy and freedom of expression as particularly vulnerable in the digital environment.<sup>3</sup> It seems that to these rights it is necessary to add the right to safe storage and use of information data (personal data, messages, other results of activities in cyberspace), which in the virtual world have already been transformed into a "universal commodity" that has become a special object of law, but does not have proper legal protection

## REFERENCES

1. Majorina M. V. Kiberspace i metodologiya mezhdunarodnogo chastnogo prava [Cyberspace and Methodology of International Private Law]. Journal of the Higher School of Economics. 2020. № 2. P. 230-253.
2. Yu R., Ali G. What's inside the black box? AI challenges for lawyers and researchers // Legal Information Management. 2019. No. 19 (1). P. 2-13.
3. Kapustin A. Y. K voprosu o mezhdunarodno-pravovoy kontseptsii ugrozov mezhdunarodnogo informatsionnoy bezopasnosti [On the question of the international legal concept of threats to international information security]. 2017. № 6. P. 44-51.
4. BurrusG. The Budapest Convention on Cybercrime— 15th Anniversary (November 17, 2016). URL: <https://www.microsoft.com/security/blog/2016/11/17/the-budapest-convention-on-cybercrime-15th-anniversary> (дата обращения: 10.12.2022).
5. Batueva E. V. Amerikanskii kontsepsiya ugrozov informatsionnoy bezopasnosti i ee mezhdunarodno-politicheskaya sostavleniya [American concept of information security threats and its international political component]. ... Cand. Bomber. Sciences. Moscow, 2015. 207 p. (In Russian).
6. Juneidi S. J. Council of Europe Convention on Cyber Crime // Fifth European Intensive Programme on Information and Communication Technologies Security (IPICS 2002) (Samos, Greece 08-19 July 2002). 9 p. URL: [https://www.researchgate.net/publication/261363049\\_Council\\_of\\_Europe\\_Convention\\_on\\_Cyber\\_Crime](https://www.researchgate.net/publication/261363049_Council_of_Europe_Convention_on_Cyber_Crime) (дата обращения: 10.12.2022).
7. Karchaeva K. A. Kiberprestupnost' kak ugroza bezopasnosti obshchestvo na sovremennom etape [Cybercrime as a threat to the security of society at the current stage]. 2021. № 9 (160). P. 433-435.
8. Brown D. Cybercrime is Dangerous, But a New UN Treaty Could Be Worse for Rights (August 13, 2021). URL: <https://www.hrw.org/news/2021/08/13/cybercrime-dangerous-new-un-treaty-could-be-worse-rights> (дата обращения: 10.12.2022).
9. Sorokova E. UN Report "The Era of Digital Interdependence": A Game Without Rules or the "Era of Mercy"? URL: <https://d-russia.ru/doklad-oon-epoha-tsifrovoj-vzaimozavisimosti-igra-bez-pravil-ili-era-miloserdiya.html> (accessed: 10.12.2022).
10. Spitzer M. Digital dementia. How we drive ourselves and our children crazy. Droemersche Verlagsanstalt Th. Knaur Nachf. LLC & Co. Medical history. 2012. 368 p.



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11. Tchinaryan E., Kuchenin E., Slesarev V. et al. Human rights in the age of digitalization // Laplage em Revista. 2021. No.7. P. 119-125.
12. Shcherbovich A. A. Multistakeholder approach and human rights in Internet Governance // Business Informatics. 2017. No.1 (39). P. 7-13.
13. Lawler R. Facebook is back online after a massive outage that also took down Instagram, WhatsApp, Messenger, and Oculus (5 October. 2021). URL: <https://www.theverge.com/2021/10/4/22708989/instagram-facebook-outage-messenger-whatsapp-error> (дата обращения: 10.12.2022).
14. Talapina E. V. Evolution of Human Rights in the Digital Era // Proceedings of the Institute of State and Law of the Russian Academy of Sciences. 2019. Vol. 14, No. 3. P. 122-146.
15. Rusinova V. N. Legalization of "Mass Surveillance" by the European Court of Human Rights: What Is Behind the Judgment in the Case of Big Brother and Others v. the United Kingdom? International Justice. 2018. № 4. S. 3-20.