

HUMAN RIGHTS IN THE AGE OF DIGITALIZATION

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INTRODUCTION

Several periods of development of the information technology revolution, which completely changed the course of the progression of civilization, can be distinguished in the history of mankind. The emergence and development of cybernetics are considered the first period. Subsequently, information management systems were created on its basis. The second period is marked by the release of personal computers to a broad public audience. During the third stage, telecommunication technologies were developed, and personal computers were united into computer networks. First, these networks were local and then global - Internet, Fidonet etc. The final fourth stage is characterized by the creation of a global information space. This stage has its origins in the 20th century and continues to this day. At the end of the revolution, information became the main factor of communication around the world. This information enabled the emergence and integration of international network spaces. One of the important functions of scientific research is the search for previously unknown legal actions under

the influence of scientific and technical development in all spheres of society (KHABRIEVA, CHERNOGOR, PRAVO, 2018).

Information law appeared in the 1970s, while the law of the Internet is a completely new phenomenon. This area of the legal industry already exists in America, which is divided into several categories but concentrates on similar opinions about the functions of legal activity in the information space. This phenomenon is called digital libertarianism. Followers of this phenomenon believe that legal regulation in cyberspace is necessary. Also, the basis of their opinion is the introduction of the greater influence of legal power on the Internet, since it is currently very limited, which, in their opinion, leads to a weakening of national law with its primary goals. A feature of the information space is the speed of information dissemination, which is huge in comparison with the possibilities of its regulation by modern legal institutions. The main goal of cyber-libertarians is to preserve the independence of the information space, which would be the opposite of the independence and inviolability of the state.

It is important to pay attention to the fact that problems related to human rights, and especially their freedom, need to be regulated on a global scale. Currently, the problem of existing human rights does not cause misunderstanding in society. Human rights have been enshrined in the constitutions of many countries for several centuries; they were created to regulate the lives of people within each country at different stages of history and to prevent disputes both within states and in international arenas. These rights are a public legal phenomenon, but they relate to the private life of each individual. Scientific publications often point out that human rights are only a modified version of civil rights. However, there is a difference, which is that civil rights are idealistic since they are drawn up using national experience and moral principles (MAMUT, 2006).

METHODS

According to experts studying the information environment, it is very important to re-evaluate the methods of drawing up rights and forms of legal regulation to draw up a legal concept for regulating the network space. It is important to change the approach and develop other boundaries of state intervention in human freedom in the information space of the Internet.

Experts agree on the importance of revising the Convention on Human Rights, taking into account the emergence of new technologies, information, and legal spaces. It is important to re-evaluate the accepted rights and freedoms, taking into account modern conditions.

This research is carried out based on publicly available methods of theoretical knowledge, practical knowledge, comparison, and generalization of Russian studies on the problem of the concept of human rights in the conditions of digitalization of society. The method of system analysis helped to reveal the integrity of the object under study, for example, such concepts as digital rights and norms of international law in the field of human rights protection. The formal legal method allowed defining legal concepts of digitalization and digital libertarianism.

RESULTS

It was revealed that digital rights were born with the advent of the Internet, as well as digital innovations. They are also designated by Internet rights, as well as network and communication rights. These rights refer to the legal status of an individual on the Internet. In the world, these rights are considered one of the types of human rights in the field of social rights. In Russia, there is the Federal Law of March 18, 2019, No. 34-FL "On Amendments to Parts One, Two and Art. 1124 of Part Three of the Civil Code of the Russian Federation" (LC RF. 2019) in the Civil Code of the Russian Federation, Art. 141. This law designates this type of rights as one of the most important human rights that must be protected and respected, according to the rules. These rights have certain rules of execution, the features of which are also specified in the above-mentioned law. The state commits to respectfully treat this modern phenomenon and observe the prescribed rules while in the information environment. Civil law experts strongly criticized the fact that the term "digital rights" was introduced into the State Constitution of the Russian Federation. They assessed these introductions as a repetition of generally accepted human rights. There are two ways out of this situation, the first of which is to adopt this term and use it in the life of society. This path implies the presence of digital rights as part of the State Constitution. The second solution to the problem is to create a new definition of the legal concept of digital rights. One of the most popular ideas is the idea of creating binary rights. This idea is successful because of its dual meaning since it conveys the fact that these rights exist in the information space and, concerning duality, draws a parallel for the existence of two types of rights: offline and online.

It was determined that the Universal Declaration of Human Rights is the main source of the designation of human rights and freedoms. Unfortunately, at present, some countries still do not comply with this declaration, which creates difficulties for dialogue with them. Academician V.S. Stepin considered the emergence and consolidation of human rights in the State Constitution as part of the Western trends associated with the development of the scientific and technical part of society. The academician noted that the consolidation of human rights in the Constitution should not be permanent, but with frequent re-evaluation and rethinking of conditions according to the production and social development of society. However, there was no place for a creative way of forming the rights of human existence in the traditional organization of society. The traditional device meant adaptation to any environmental conditions, while sometimes it was necessary to change the environment. Thus, the ability to consolidate human rights was an integral part of society's recognition of the independence of each person. However, traditional thinking did not make this idea acceptable (STEPIN, 2009).

Experts believe that the idea of the emergence of human rights and freedoms in Russia is not a historical need, but is considered only the result of the lack of legal control and the prosperity of dissent in Russia for one century. In short, a good example of what will happen to the laws in the absence of thoughtfulness in the drafting of laws. Russia was a country where the problems of a particular person were not affected, which made it possible for state bodies to write laws without paying attention to the problems of peasants, as well as ignoring the observance of freedom in society. These processes were accompanied by riots, the suppression of which subsequently made the Russian society humble. The guarantee of human rights was not the primary task of the state in the times of the USSR, during the existence of which the human personality was also placed below the ideological values of the country's leaders.

In the following period, it became clear that the Eurasian concept of human rights reached the next level in comparison with this activity in Russia (BUSURMANOV, 2010). The main advantage of digital technologies is their complete detachment from the state regime and ideological concepts, which leaves an opportunity for their national majority.

It was established that digital technologies have brought changes in many spheres of human life, most of which have affected the social sphere. In this case, it means the impact on the confidentiality of personal information of a person, the democratization of society, as well as its sovereignty. At the end of the 20th century, liberal democracy was the most widespread. It marked the beginning of a period of global technological development, which gave people the motivation to create a more prosperous future for themselves and future generations. With the proliferation and availability of the Internet, a new threat to the protection of human data in the information space and interference in people's privacy began to appear at the beginning of the 21st century, which contradicts generally accepted human rights. However, forms of regulation of activities quickly appeared to preserve the rights of individuals and legal entities on the Internet. Probably one of the most serious social consequences of the introduction of the Internet into a person's life is the lack of security of confidential information, which has reduced user confidence in government agencies. One of the most striking examples of this phenomenon is the psychological analysis of users of the Internet resource Facebook, which was first carried out in 2016. This is considered an important fact of the possibility of manipulating users for various political, social, and economic purposes, which is a strong threat to a democratic society (MANHEIM, KAPLAN, 2019).

DISCUSSION

On the one hand, the issue of human rights regulation in the virtual environment is not acute, since it may seem that the rights coincide with those in the material world. The UN General Assembly, which compiles and monitors human rights, has decided that the rights that people claim in the real world must be respected online. Based on this, constitutional rights cannot be violated on the Internet, they must have similar content and boundaries. However, the virtual environment has its own characteristics, which suggests the need to review the previously established principles of analyzing the constituent elements of rights and freedoms, as well as the permissible boundaries that can be violated, that is, it is necessary to determine the legal capacity of an individual in the virtual world. It is necessary to take into account the fact that information is actively transmitted and used via the Internet, as well as its long-term storage, which may determine the need to review the existing acts on human rights and freedoms in the Constitution of the Russian Federation regarding their application in the digital environment.

According to the first document of the Universal Declaration of Human Rights, everyone is entitled to freedom by right of birth, which means that no person can be banned from using the digital environment, as this can be considered as a restriction of their freedoms. Thus, a person can perform any actions (placement, storage of information, etc.) in the virtual world; *the online* environment becomes one of the most important elements of legal documents related to human rights and freedoms. Modern studies consider it a problem both to limit the use of the digital environment in the form of sanctions for non-compliance with copyright and the presence of political branches on the Internet (SARTOR, 2017). There are three ways to guarantee the realization of the human right to free use of the Internet in the world:

1. The Internet is recognized as universal and accessible everywhere (for example, in Spain and Estonia);
2. The country's Constitution enshrines human rights to access the Internet (for example, in Portugal and Greece);
3. Free Internet access is recognized by the highest courts (for example, in France).

It should be borne in mind that the concept of free access to the Internet includes not only the right and the possibility of connecting it as a service, but also the prohibition of restricting

access to the information posted on the network. Consequently, blocking web resources becomes illegal. Thus, each person claims such rights:

- free access to the Internet;
- an inability to disconnect from the Internet;
- safe use and placement of information on the Internet;
- limitation of unsafe and harmful information on the Internet.

However, the principles of building a democratic society imply limiting the placement and discussion of such information, which cannot be expressed freely, unlike ideas that have a right to exist [3]. The same principle exists in an *offline* society.

The European Convention (Art. 8) contains information on the protection of the private and family life of a citizen of any state. This article gave rise to the emergence of legal legislation concerning the personal data of an individual. During the existence of the Internet, the legal protection of personal data provoked the emergence of the "Right of Oblivion", which was adopted by the Legislation of France on October 7, 2016. This right allows managing personal data in life: a person has the right to decide what needs to be done with the information on the Internet after his/her death. The responsibility for the fate of personal data, in this case, will be borne by the Internet Service Provider or authorized persons. It follows that human rights must be respected after his/her death through the Internet. Worldwide, the use of personal data on the Internet is carried out in two ways. Thus, the protection of personal data in the European Union is the main and only reflection of the regulation of human rights and freedoms on the Internet, since personal information is carefully protected everywhere. The peculiarity is that the individual does not have ownership rights to information about his/her personality, but has the right to full control over the transformation and use of the information that he/she provided.

In another approach, in the Legislation of the Anglo-Saxon legal family, all personal information of a person has its economic price. The example of the anglo-Saxon approach is of interest to Russian researchers. In their opinion, it will provide an opportunity to refer to the issues of personal data of a person on the Internet to the field of private law [17]. Currently, the assignment of rights about personal data to any industry is difficult, as a rule, they are considered in the field of civil law. This practice is also applied in state bodies. Civil law in this case seems easier to understand and apply. The sphere of public law in this context seems to be imperfect, since it is largely a legacy of the USSR and post-Soviet reforms, so lawyers of the Russian Federation consider the rights of personal information of a person in the field of civil rights (NEZNAMOVA, KULESHOV, & TURKIN, 2020). In Germany, the rights to personal data of a person are divided into the following parts:

1. the individual has the right to decide what personal information to provide and to whom;
2. Internet technologies shall ensure the absolute confidentiality of stored information, as well as its integrity;
3. a citizen's home is inviolable private property;
4. a person has the right to keep secret personal correspondence, mailings, telephone conversations, etc. (PROSKURYAKOVA, 2016).

According to the UN Resolution, each state undertakes to regulate, respect, and protect the rights of the country's people to privacy in the field of Internet communications. Provisions have been made in the Constitution of the Russian Federation, as in the Constitutions of other countries prohibiting the invasion of the privacy of an individual who has not given consent to this. A significant problem in the field of digital communications, however, is the insufficiently clear definition of the boundaries of an individual's personal life, and the implementation of obtaining consent to the use of personal data becomes an obvious problem. As a result, freedom of anonymous communication becomes a necessary condition on the Internet, which

ensures the most complete protection of the individual's rights to privacy. In this case, it is difficult to obtain people's consent to the provision of personal data, since the concept of privacy is violated.

Data from the Internet Research Institute indicate that developed countries are developing and implementing various methods to identify users, which implies further use of the information obtained. The Russian Federation is no exception in this regard. Thus, the Federal Law N 241-FL of July 29, 2017, prohibits anonymous communication of Internet users using instant messaging. Internet service providers cannot provide access to the Internet to people who have not been identified. The user must log in using an individually assigned number to identify and access the Internet. This regulation is established by the identification agreement, which is necessarily concluded by the provider with the telecom operator. The obvious advantage of identifying Internet users is the ability to ensure the safety of citizens and their interaction with legal entities. Regulating the use of personal data of citizens at the official level allows the collected information to be used for commercial purposes, which makes it difficult to assess the full implementation of human rights to protect private life (VOLKOVA et al.2020)

Thus, the legal legislation in the field of Internet communications is undergoing large-scale changes, for the most part, the area of private law is subject to transformation, which may indicate both an expansion of the law and a significant narrowing. On the other hand, it is necessary to talk about the emergence of a completely new interpretation of human rights and freedoms on the Internet.

CONCLUSION

The introduction of new industrial technologies allows for the development and improvement of human rights; the development of Internet technologies is no exception to this rule, and the digital sphere has a significant impact on legal norms. Every citizen can demand that the state respect their rights. However, full respect for basic human rights is possible only if the individual is interested in it. The development of digital technologies makes it possible not to use the concept of subjective public rights, which can be used to obtain confidential information about a person, including from the state. The branch of civil law provides an opportunity to protect personal data, but this is possible if the citizen is aware of their rights and knows how to dispose of them.

Human rights on the Internet are actively discussed all over the world, as they cause disputes regarding the observance of the legal status of an individual and a citizen. Recognition of human rights at the same level as, for example, network rights is secondary. The main problem at this stage is the improvement of basic human rights, published by the UN General Assembly, concerning the world of Internet technologies. In this case, it is necessary to take into account the distinctive features of digital reality, as a result of which the legal status of an individual acquires its specificity.

The main task now is to define the rights and freedoms of the individual on the Internet in the Constitutional Legislation of the Russian Federation, its solution will allow defining the boundaries of private and public law, as well as defining the interests of the individual in the digital space.

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Human rights in the age of digitalization

Direitos humanos na era da digitalização

Los derechos humanos en la era de la digitalización

Resumo

No início do século 21, alguns especialistas concordam que a dispersão da iniciativa política e cultural das sociedades em rede tende a reduzir o controle unificado sobre as atividades políticas e culturais. Esse processo leva à acessibilidade das informações para a população em geral e aumenta a escala de democratização da sociedade. O ambiente de Internet acessível teve um impacto positivo na abertura da informação; entretanto, prejudicou a proteção dos dados dos usuários. Gerald Cohen, professor do Georgetown University Law Center, especialista em propriedade intelectual e proteção de direitos autorais, recomenda considerar a utopia da Internet por meio de um sistema de valores legais. É importante destacar o utopismo que vincula a rede Internet e a independência humana considerando mais detalhadamente o utopismo no campo do anonimato, como algo que prejudica as instituições sociais. Cohen também destaca a visão de que as instituições jurídicas existentes são a base para proteger a independência humana, bem como a importância da criação de novas instituições jurídicas.

Palavras-chave: Tecnologias digitais. Internet. Direitos digitais. Direitos e liberdades fundamentais. Estatuto jurídico do indivíduo.

Abstract

At the very beginning of the 21st century, some experts agreed that the dispersal of the political and cultural initiative of network societies tends to reduce the unified control over political and cultural activities. This process leads to the accessibility of information to the general population and increases the scale of democratization of society. The accessible Internet environment has had a positive impact on the openness of information; however, it has harmed the protection of users' data. Gerald Cohen, a professor at the Georgetown University Law Center, who is an expert in intellectual property and copyright protection, recommends considering Internet utopianism through a system of legal values. It is important to note the utopianism that links the Internet network and human independence considering utopianism in the field of anonymity in more detail, as something that harms social institutions. Cohen also outlines the view that existing legal institutions are the basis for protecting human independence, as well as the importance of creating new legal institutions.

Keywords: Digital technologies. Internet. Digital rights. Fundamental rights and freedoms. Legal status of the individual.

Resumen

A principios del siglo XXI, algunos expertos coincidieron en que la dispersión de la iniciativa política y cultural de las sociedades red tiende a reducir el control unificado sobre las actividades políticas y culturales. Este proceso conduce a la accesibilidad de la información a la población en general y aumenta la escala de democratización de la sociedad. El entorno accesible de Internet ha tenido un impacto positivo en la apertura de la información; sin embargo, ha perjudicado la protección de los datos de los usuarios. Gerald Cohen, profesor del Centro de Derecho de la Universidad de Georgetown, experto en propiedad intelectual y protección de derechos de autor, recomienda considerar el utopismo de Internet a través de un sistema de valores legales. Es importante señalar el utopismo que vincula la red de Internet y la independencia humana considerando con más detalle el utopismo en el campo del anonimato, como algo que daña las instituciones sociales. Cohen también destaca la opinión de que las instituciones legales existentes son la base para proteger la independencia humana, así como la importancia de crear nuevas instituciones legales.

Palabras-clave: Tecnologías digitales. Internet. Derechos digitales. Derechos y libertades fundamentales. Situación jurídica del individuo.