

International Legal Framework for the Protection of Personal Rights in the Era of Digitalization

Muminov Asilbek Khusniddinovich

Lecturer of the "International Law and Human Rights"

Department of Tashkent State University of Law

Abstract: In this article, the extent to which the protection of personal rights in the digital space is reflected in national and foreign legislation is deeply and comprehensively analyzed. Also, the works being carried out in this field and their effectiveness have been mentioned. In today's globalization process, cyberbullying and other similar threats that can be encountered in the protection of human rights in the Internet system are analyzed. The main problems that countries may encounter in the field of protection of human rights in the Internet system have been analyzed and appropriate proposals have been developed for solving these problems.

Keywords: human rights, digital space, General Data Protection Regulation, cyberattacks.

Introduction

Personal rights are considered universal human values. Personal rights are one of the global challenges, and their protection is particularly important in an era of technological advancement. Furthermore, ensuring their robust protection is considered a crucial guarantee of sustainable development of countries, international peace and security.

Special attention is being paid worldwide to ensuring people's right to use the internet, implementing international standards regarding personal rights in the digital space, and conducting research on ensuring rights in virtual space during the period of digital transformation. A number of adopted documents on human rights and personal rights protection, including the resolution on "Promotion, Protection and Enjoyment of Human Rights on the Internet" adopted at the 32nd session of the UN Human Rights Committee on June 27, 2016, UN General Assembly Resolution 68/167 on "Ensuring Privacy on the Internet", the International Covenant on Economic and Political Rights adopted in 1966, and the informal international charter on ensuring rights on the Internet demonstrate the urgency of this topic.

Personal rights are rights that belong to an individual. In the Merriam-Webster dictionary, personal rights are defined as "rights belonging to a person (such as personal security, personal liberty, and private property)"¹. Personal rights are not granted by anyone but are naturally endowed rights. That is why in some literature they are also known as "natural rights." Personal rights encompass a wide range of human freedoms and protections, but are not limited to them: Personal rights, often called human rights or civil liberties, are fundamental rights that every person possesses simply by virtue of being human. These rights are bestowed by nature and are inalienable. These rights are considered inviolable from oppression, discrimination, and abuse by governments and private individuals. They are recognized and regulated through various legal frameworks, documents, and institutions at international, national, and local levels. Personal

¹ "Personal rights" Merriam-Webster.com. 8 May 2018. <https://www.merriam-webster.com>

rights have always been recognized and defined as part of human rights. Such rights include the right to life, liberty and personal security, freedom of speech and thought, freedom of religion, the right to protection from arbitrary interference, protection from discrimination based on race, gender, religion, nationality or any other status, and privacy of personal information.

Material and methods

This article employs qualitative research methods, particularly well-grounded theoretical analysis, to identify and assess the protection of personal rights on the Internet worldwide. The methodology of this article includes an in-depth study of relevant legal literature from foreign countries related to identifying and evaluating personal rights in the digital space, the components of approaches to risks associated with personal rights on the Internet, and rigorous strategies for strengthening practical approaches to ensure transparency across the globe.

In the course of a comprehensive review and analysis of existing legal literature, this study is aimed at improving a complete understanding of the risks associated with personal rights in the Internet system, their significance, and the methods that can be used to change legislation in the legal sphere. Such an approach on stage allows for in-depth study of the topic, provides valuable information on understanding the acute consequences of actions related to the violation of the protection of personal rights in the Internet system, and contributes to a deeper understanding of the issues of assessing, identifying, and eliminating the risks associated with personal rights in the digital space.

Research results

Various approaches and opinions are put forward by international documents and scholars in classifying and defining personal rights. As noted in UN General Assembly Resolution 68/167, international human rights law provides a universal framework. According to it, any interference with an individual's right to privacy must be evaluated. The International Covenant on Civil and Political Rights of 1966² stipulates that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence². Other international human rights documents also include similar provisions and aspects that express individual freedom and dignity. While international human rights law states that the right to privacy is not absolute, it emphasizes that any interference must be necessary, lawful, and proportionate, requiring careful and critical evaluation. International human rights documents provide a strong and universal basis for promoting and protecting the right to privacy, including in the context of surveillance, interception of digital communications, and collection of personal data. However, the experience of many states shows that when there is inadequate national legislation and enforcement, weak procedural guarantees, and ineffective oversight, this contributes to widespread impunity for arbitrary or unlawful interference with the right to privacy³.

The resolution on "Promotion, Protection and Enjoyment of Human Rights on the Internet" adopted at the 32nd session of the UN Human Rights Committee on June 27, 2016 is one of the fundamental norms regarding these relationships. It defines and establishes the protection of human rights in the internet system and virtual life⁴.

At the core of digital rights lies, first and foremost, the privacy of personal data. In recent years, serious attention has been paid to handling personal data, and special rules have been created to regulate this field. However, it should be noted that many problems remain unresolved or continue to occur. One of the current trends is the regulation of personal data protection in connection with the specific features of applying current rules on the Internet. The unique characteristics of the global network complicate the process of monitoring violations, protecting

² https://revolution.allbest.ru/law/01343699_0.html

³ https://revolution.allbest.ru/law/01343699_0.html#google_vignette

⁴ Khusniddinovich, Muminov Asilbek. "INTERNATIONAL LEGAL FOUNDATIONS FOR PROTECTING DIGITAL HUMAN RIGHTS." *MODELS AND METHODS FOR INCREASING THE EFFICIENCY OF INNOVATIVE RESEARCH* 4.40 (2024): 334-339.

and safeguarding personal data. The innovative potential, technology, and development of the digital environment necessitate the development of appropriate legal regulatory measures that determine the choice of topic.

Russian scholar A.V. Kucherenko emphasizes the following characteristics of personal data⁵:

- the legal institution of personal data is independent and represents one of the groups of information-legal relations (restricted access information relating to a specific person);
- there is a priority of special legal norms regarding the circulation of restricted access information (various types) over the general norms of Federal Law No. 152-FZ.

Indeed, personal data is closely connected with information-legal relations and represents one of their types. Personal data is often processed in information systems using fully or partially automated methods⁶.

The Internet system is one of the most important means of communication in today's world, increasing connectivity among people worldwide. We keep reiterating this. Due to the existence and nature of such a large network, along with its benefits, there are also problems, risks, and threats. Risks and threats related to personal rights in the digital space can occur in several forms. For example, there are risks and threats related to online bullying and the copying and distribution of personal information by certain groups or individuals. These risks and threats can be expanded through the following:

1. Online bullying: This can occur through online actions, messages, or media content that pose a threat to others by certain groups or individuals. In online bullying, messages, posts, pictures, and videos opposing you can be sent through the Internet or your phone.
2. Copying and distribution of personal information: The copying and distribution of personal information on the Internet system can lead to problems regarding numerous risks and threats. This information can include date of birth, place of birth, name, information about family members, private information, and other personal data.
3. Website attacks: Hackers may attempt to attack websites to obtain users' personal information. This risk and threat can destroy users' identities or financial information.

Ensuring and protecting personal rights is one of today's global challenges, and the entire world community has an interest in solving it. This means that the younger generation plays a decisive role in predicting society's viability and its future development. Non-governmental and intergovernmental organizations have actively participated in developing social standards for protecting minimal human rights on the Internet.

Since 2013, the United Nations General Assembly and the Human Rights Council have adopted numerous resolutions on the right to privacy in the digital age⁷. These documents created the foundation for ensuring the virtual rights of the world's population. The most recent resolution on the right to privacy in the digital age was adopted by the Human Rights Council in September 2019: A/HRC/RES/42/15⁸. This resolution states: "Recognizing that governments, the private sector, international organizations, civil society, the technical and academic community, and all stakeholders need to be aware of the impact, opportunities, and challenges of rapid technological changes on the promotion and protection of human rights, they should engage in protecting personal rights based on guidelines provided by the UN, facilitating efforts, accelerating human development, and promoting and protecting human rights and fundamental freedoms."

Furthermore, among the key aspects of the resolution, it reminds that states must ensure that any interference with the right to privacy complies with the principles of legality, necessity, and

⁵ <http://www.tesol-ukraine.com/wp-content/uploads/2015/12/Book-SRA2020-vol.-3-325-p.-3228.pdf>

⁶ Barlow, J.P. A Declaration of the Independence of Cyberspace. 2014-188p./ URL: <https://www.eff.org/cyberspace-independence>

⁷ <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

⁸ <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

proportionality. It affirms that people's rights that exist offline⁹, including the right to privacy, should also be protected online; and recognizes that the use, deployment, and further development of emerging technologies such as artificial intelligence may affect the enjoyment of the right to privacy and other human rights¹⁰.

The resolution includes a series of recommendations to member states and business enterprises aimed at ensuring respect for and protection of the right to privacy in the digital age¹¹.

Additionally, the UN has adopted several resolutions over the years dedicated to human rights in the digital environment: protection of personal data, privacy, and personal rights. These resolutions are:

- GA Resolution 75/176 December 2020;
- HRC Resolution 42/15 September 2019;
- GA Resolution 73/179 December 2018;
- HRC Resolution 37/2 March 2018;
- HRC Resolution 34/7 March 2017;
- GA Resolution 71/199 December 2016;
- HRC Resolution 28/16 March 2015;
- GA Resolution 69/166 December 2014;
- GA Resolution 68/167 December 2013¹².

Each resolution is dedicated to specific issues and has been adopted by various UN bodies, particularly the General Assembly and the Human Rights Council.

Analysis of research results

The effectiveness of universal standards for protecting personal rights on the Internet is closely linked to the international standing of the organization that implemented those standards. Many years have passed since these documents were adopted. Some of them were developed in anticipation of potential future risks. This aligns with the principle that law should be ahead of potential social relations. However, even in such cases, the need to review existing norms continues to arise¹³.

When discussing programs and legal measures being developed for the protection of human rights in the virtual world, it is worth acknowledging the efforts of the Council of Europe. This is because this body has adopted much more progressive decisions compared to other world states. As we mentioned earlier and emphasize again, the fundamental right to respect for private and family life, home, and correspondence guaranteed by Article 8 of the European Convention on Human Rights includes the right to protection of personal data, as well as the obligation to establish appropriate guarantees in domestic legislation. The Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data ("Convention No. 108") adopted by the¹⁴ European Parliament requires that personal data be processed fairly and securely for specified purposes only on a legal basis (excluding access to and correction of personal data processed by third parties or deletion of unlawfully processed personal data) and establishes that everyone has the right to know: The Committee on Culture, Science and Education calls for the development of an action plan to promote common legal standards on

⁹ <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

¹⁰ <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

¹¹ <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

¹² <https://www.ohchr.org/en/privacy-in-the-digital-age/international-standards>

¹³ Peifer K. personal privacy rights in the 21st century: logic and challenges // Journal of intellectual property law and practice. - Oxford, 2014. - Vol. 9, n 3. - p. 231-238

¹⁴ <https://czasopisma.kul.pl/index.php/recl/article/view/17688>

privacy and personal data protection in networks and data-based services throughout Europe and beyond within the framework of Convention 108.

From this perspective, privacy should be protected not in the traditional sense of a private sphere, but as a collection of personal or even confidential information that must be kept confidential¹⁵. Here, more specifically, we are talking about informational self-determination, that is, people's rights to "know what is known about them," to be aware of stored information about them, and how to control it. This prevents its misuse. Thus, privacy is not limited to seeking confidentiality; it is the person's control of their image from an information perspective.

Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms guarantees everyone the right to respect for private and family life. Exceptions to this right are permitted if they are in accordance with law and necessary in a democratic society (i.e., they respect the principle of proportionality established in European Court of Human Rights practice)¹⁶. The protection of legitimate interests listed in Article 8(2) is considered an obligation.

The Convention expanded the explicit scope to encompass data protection within privacy, indicating that personal data protection is fundamental to the right to respect for private life enshrined in Article 8. The Court emphasizes that Article 8 requires domestic legislation to provide appropriate guarantees to prevent any improper use or abuse of personal data. Domestic legislation must also ensure that such data is relevant and not excessive in relation to the purposes for which it is stored and that it is not kept for longer than is necessary for the identification of data subjects.

The Convention on Cybercrime of November 23, 2001, was established by the Council of Europe (CETS No. 185) but is open for signing by any country in the world¹⁷. It requires the criminalization of data breaches. Criminal actions include interference with privacy through unauthorized access or illegal interception, interference with data integrity through modification or suppression, and interference with system integrity. Participating states must also identify computer-related forgery and computer-related fraud crimes to prevent harmful falsification of data. Furthermore, Parties must ensure their authorities can preserve data, including traffic data, expeditiously and make it available for examination. A signatory state may be required to preserve and disclose data within the framework of mutual assistance agreements¹⁸.

Additionally, Article 17 of the International Covenant on Civil and Political Rights, signed in New York on December 16, 1966, states: "(1) No one shall be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence, nor to unlawful attacks on their honor and reputation. (2) Everyone has the right to the protection of the law against such interference or attacks¹⁹." This is the only binding rule protecting privacy at a global level.

Conclusion

In today's internet system, several resolutions have been adopted within the UN framework regarding the protection of human rights, particularly personal rights, in the internet network. However, since these resolutions are only recommendatory in nature, they do not impose specific obligations on states. The absence of a single universal convention defining the basis for state cooperation in protecting personal rights and interests in the digital space is causing various problems. Some regional documents are not sufficient for global scale. Therefore, there is currently a need for an international legal instrument on the protection of personal rights on the internet.

¹⁵ Custers, B.: New digital rights: Imagining additional fundamental rights for the digital era. *Computer Law & Security Review*, 44, 2022. // URL: https://www.sciencedirect.com/science/article/pii/S0267364921001096#cit_17

¹⁶ <https://assembly.coe.int/CommitteeDocs/2011/RihterviepriveeE.pdf>

¹⁷ <https://assembly.coe.int/CommitteeDocs/2011/RihterviepriveeE.pdf>

¹⁸ <https://assembly.coe.int/CommitteeDocs/2011/RihterviepriveeE.pdf>

¹⁹ <https://czasopisma.kul.pl/index.php/recl/article/view/17688>

In the process of globalization, regional organizations are adopting standards for the protection of personal rights in the digital space. Analyzing regional documents on the protection of personal rights, we can see that existing documents mainly relate to Europe, America, and Africa only. In particular, the Council of Europe's practice in this field can be considered the most effective and active. Unfortunately, in the Asian region, where ensuring children's rights is complex and problematic, there are very few documents on protecting children's rights in the digital space. This is characterized by the underdevelopment of regional mechanisms for human rights in this region and very weak regional interstate cooperation in this field.

Today, when information threats and attacks in the digital space are on the rise, ensuring the rights and security of all segments of the population is considered one of the most important tasks facing the entire international community. Statistical data shows that violations of personal rights in the digital space are increasing day by day. The Universal Declaration of Human Rights, adopted in 1948, reflected the basic principles from the perspective of its time. That is, when the declaration was adopted, there were no problems related to internet threats. Therefore, it is proposed to adopt a separate international document at the universal level aimed at ensuring human rights and security on the internet. We believe this document can be adopted as an Additional Protocol to the Universal Declaration of Human Rights. We think it is appropriate that this document should define the scope of information attacks threatening personal rights and human security, and indicate mechanisms for interstate cooperation in combating them.

References:

1. Peifer K. personal privacy rights in the 21st century: logic and challenges // Journal of intellectual property law and practice. - Oxford, 2014. - Vol. 9, n 3. - p. 231-238
2. Custers, B.: New digital rights: Imagining additional fundamental rights for the digital era. Computer Law & Security Review, 44, 2022. // URL: https://www.sciencedirect.com/science/article/pii/S0267364921001096#cit_17
3. Barlow, J.P. A Declaration of the Independence of Cyberspace. 2014-188p./ URL: <https://www.eff.org/cyberspace-independence>
4. The Universal Declaration of Human Rights (UDHR). // URL: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
5. European Convention on Human Rights. 1950. // URL: https://www.echr.coe.int/documents/convention_eng.pdf.
6. Resolution adopted by the General Assembly on The promotion, protection and enjoyment of human rights on the Internet. Report of the Third Committee (A/HRC/32/L.20). 27.06.2016 // URL: <https://digitallibrary.un.org/record/845728?v=pdf>
7. General Data Protection Regulation (GDPR). 2018.// URL: <https://gdpr-info.eu/>