

UDC 342.7:004.738.5

DOI <https://doi.org/10.24144/2307-3322.2025.89.1.56>

IS INTERNET ACCESS A UNIQUE RIGHT, AN ELEMENT OF THE RIGHT TO A DIGNIFIED LIFE, OR A MEANS THAT ENSURES THE RIGHT TO A DIGNIFIED LIFE?

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Rahimova M.S. Is Internet access a unique right, an element of the right to a dignified life, or a means that ensures the right to a dignified life?

The concept of a welfare state, which is often used in legal literature, forms a complex system of relations and is aimed at ensuring human satisfaction and happiness; it is also directly declared or indirectly emphasized as a supreme goal in the basic laws of most developed countries in modern times. The right to a decent life, which is aimed at ensuring the most necessary needs of all people in decent conditions, forms a complex system, has a relative character, and includes a number of legal elements. We cannot imagine the realization of the right to a decent life of a modern person without their access to the Internet. This idea manifests itself in several ways. Thus, obtaining any information from the Internet, establishing socialization and virtual communication through the Internet, realizing freedom of thought and speech, and satisfying spiritual needs are vivid examples of this. The relevant right, being part of a decent life, also plays a key role in protecting other fundamental rights, acting as a criterion for the favorable standard of living for people and citizens in the state, and combines several elements of rights such as labor, social protection, recreation, food, water, clothing, sanitation, housing, health, education, marriage, a healthy environment. In addition, the differences between people in this area lead to digital inequality, which in turn leads to social inequality. That is why, moving away from the mere concept of technology, the Internet should be recognized as a unique right necessary for a minimally decent life and should be accepted as one of the important elements of the system of the right to a decent life. Internet accessibility creates positive obligations for states, requires appropriate action and regulation from both states and international organizations, and is aimed at adequate management of use.

Throughout the article, the author presents effective arguments for recognizing Internet access as a unique legal concept, removing it from the scope of being a means for the implementation of other fundamental human rights, changes to existing universal documents in this area, certain obligations of states in this direction and existing regulations, as well as the acceptance of the Internet as an integral element of the system of the right to a decent life.

Key words: The right to a decent life, a decent standard of living, Internet access, Internet freedom, digital inequality, poverty reduction, socio-economic rights.

Рахімова М.С. Доступ до інтернету – унікальне право, елемент права на гідне життя або засіб, що забезпечує право на гідне життя?

Поняття держави загального добробуту, що часто вживається в юридичній літературі, утворює складну систему відносин і спрямоване на забезпечення людського задоволення та щастя, а також прямо декларується чи підкреслюється як найвища мета в основних законах більшості розвинених країн сучасності. Право на гідне життя, спрямоване на забезпечення найнеобхідніших потреб всіх людей у гідних умовах, утворює складну систему та має відносний характер і включає низку правових елементів. Ми не можемо уявити реалізацію права на гідне життя сучасної людини без її доступу до Інтернету. Ця ідея підтверджує себе в кількох напрямках. Так, отримання будь-якої інформації з Інтернету, встановлення соціалізації та віртуального спілкуван-

ня через Інтернет, реалізація свободи думки і слова, здійснення віртуального спілкування, що є однією з духовних потреб, є яскравими прикладами цього. Відповідне право, будучи частиною гідного життя, також відіграє ключову роль у захисті інших основних прав, виступаючи критерієм сприятливого рівня життя людей і громадян у державі, об'єднує кілька елементів прав, таких як праця, соціальний захист, відпочинок, харчування, вода, одяг, санітарія, житло, здоров'я, освіта, шлюб, здорове довкілля і тощо. Крім того, відмінності між людьми у відповідній галузі призводять до цифрової нерівності, яка своєю чергою призводить до соціальної нерівності. Ось чому, відходячи від простого поняття технології, Інтернет слід визнати унікальним правом, необхідним для мінімально гідного життя, і прийняти його як один із важливих елементів системи права на гідне життя. Доступність Інтернету створює позитивні зобов'язання для держав, потребує відповідних дій та регулювання як з боку держав, так і з боку міжнародних організацій та спрямована на адекватне управління використанням. Протягом усієї статті автор наводить дієві аргументи на користь визнання доступу до Інтернету як унікального правового поняття, виведення його зі сфери дії як засобу реалізації інших основних прав людини, внесення змін до існуючих універсальних документів у цій сфері, певних зобов'язань держав у цьому напрямі та чинних нормативних актів, а також визнання Інтернету невід'ємним елементом системи права на гідне життя.

Ключові слова: право на гідне життя, гідний рівень життя, доступ до Інтернету, свобода в Інтернеті, цифрова нерівність, скорочення бідності, соціально-економічні права.

Target setting. The concept of the welfare state, which is often used in legal literature, aims to ensure human satisfaction and happiness by forming a complex system of relations and is also directly declared or indirectly emphasized as a supreme goal in the basic laws of most developed countries in modern times. In modern times, this goal is considered possible to achieve by raising the standard of living and adequately ensuring the daily rights included in the system of rights to a decent life.

Firstly, it should be noted that the right to a decent life is a system of norms without a single consensus and is relative in nature. This right is primarily aimed at ensuring the most necessary needs of all people in dignified conditions. A decent life of a person is a state of comprehensive realization of biological, social and spiritual needs, which a person meets both independently, personally and with the help of the state, and which is determined by criteria such as a decent level and quality [5]. A decent standard of living is a mechanism for ensuring a high level of people's needs for food and non-food goods, as well as daily relevant services, in accordance with the state's development indicators and in accordance with their physiological and socio-cultural needs [2, p. 17].

In legal literature, this right is called the right to a decent life or adequate living standards. In Article 12 of the Constitution of the Republic of Azerbaijan, this right is called a decent standard of living and constitutes one of the two supreme goals of the state [10]. The relevant law acts as a criterion for the favorable standard of living for people and citizens in the state [23] and incorporates several elements of rights such as labor, social protection, recreation, food, water, clothing, sanitation, housing, health, education, marriage, a healthy environment, etc.

In the modern era of science and technology development, it would be absurd to imagine the realization of the right to a decent life without an information society. The Internet has become an integral part of our daily lives, and numerous activities and transactions are carried out on or through the Internet. First of all, there are several points that make the use of the digital environment necessary in people's daily lives: 1) We can obtain any information from the Internet; 2) We can socialize and establish virtual communication through the Internet; 3) We can realize our freedom of thought and speech through the Internet; We ensure our mental health by satisfying our spiritual needs through the Internet.

Relevance of the research topic. It is very difficult to imagine a decent standard of living for a modern person without digital trends and technologies. Especially in the near future, when all services will be digitalized, we have good reason to say that this dependence will increase even further. First, taking into account all the justified arguments throughout the article, it is inevitable that ensuring free access to the Internet will be accepted as one of the most important human rights. Second, people feel the need to exercise the social, economic, cultural, political, and moral rights that they exercise in real life also online in a digitalized world. This necessitates the accessibility of the Internet for access to basic rights. Therefore, the recognition of this right as a unique right and its inclusion in universal documents is one of the most urgent goals of the era. In addition, the recognition of the relevant right

to a decent life as one of the important elements of a complex legal system is also one of the main steps aimed at improving people's well-being.

Conducted Research Level. We find the recognition of the Internet as a unique right in universal documents. However, its growing influence on human life necessitates conducting research in this direction. Recently, we have come across numerous national and foreign research materials on the recognition of the Internet as an independent right. National experts Rzyeva G.A. and Mammadrazi Sh.S., as well as foreign experts Merten Reglitz, Maja Nastić, and others, have studied Internet access in detail. However, the recognition of this right as an important element of the complex legal system of a decent life is put forward by us for the first time in legal literature.

The objectives. The main goal of the current study is to propose the recognition of Internet access as a unique legal concept, removing it from the scope of merely being a means for the implementation of other fundamental human rights, examining changes to existing universal documents in this area, certain obligations of states and directions for their regulation, as well as analyzing the arguments for recognizing the Internet as an integral element of the right to a decent life.

Main content. Is Internet access a right or a tool aimed at realizing rights? Given that the right to a decent life comprises distinct legal elements within a complex system, can we consider the use of the Internet as a human right? The most important point here is the availability of free access to the Internet. There are many authors who claim that the Internet should be recognized as a universal human right at the international level. They propose to approach this as a right necessary to live a minimally decent life, moving away from the concept of the Internet as a mere technology, and referring it to the category of moral rights [19, p. 314-315]. According to most authors, since the construction of an information society implies the active participation of all members of society in the process of informatization, this guiding principle consists in ensuring basic human rights and freedoms [29, p. 19]. The author also examines the principle of net neutrality and argues that its abolition leads to monopolies in providing Internet services, thereby violating the right to Internet access [27, p. 172]. There is a wide range of arguments for recognizing Internet access as a human right. Some authors consider Internet access to be an independent right because it is a convenient means of realizing people's right to adequate health care, including adequate mental health care [18, p. 97]. Others argue that Internet accessibility significantly contributes to political engagement, enhances the competitiveness of private companies, and even supports individual wealth [20, p. 442]. There are those who consider this right to be a universal right due to its usefulness for socio-economic human rights. At the same time, some argue that Internet accessibility has an auxiliary status, merely facilitating citizens' enjoyment of basic civil rights in digitalized societies [1, p. 65].

Recently, there have been extensive discussions and research on recognizing the Internet as a right. The authors even propose eliminating information ecology, forming an information security culture, and strengthening the security of personal data to ensure human rights in cyberspace [15, p. 68].

The impact of Internet access on human rights was first raised during the International Conference on Human Rights held in Tehran in 1968, which resulted in the adoption of UN Resolution 2450 (XXIII) in 1968 [18, p. 77]. The recognition of internet access as a human right within the UN was recognized in 2016 after the statement that "measures taken to deliberately prevent or disrupt the access or dissemination of information online violate international human rights law". [13]. The process of recognizing Internet access as a right has varied across different regions. In the Euroregion, the European Union adopted Directive 2009/136/EC, which came into force in 2011, requiring states to take all active measures to ensure access to the Internet [12] and the Digital Agenda Action Plan for the Euroregion was implemented by the European Commission.

It should be noted that some authors suggest that human rights can be exercised without Internet access, or that Internet access is sometimes viewed not as an independent human right but rather as a means that significantly affects the exercise of human rights or the right to a decent life [24]. In a 2012 New York Times article, one of the authors, Vincent G. Cerf, argued that access to the Internet is not a human right and is not essential for people to live meaningful and dignified lives [8]. However, the opportunities and possibilities that the Internet offers to people in the modern era are undeniable. In particular, the authors believe that since adequate health care is a human right for everyone, state authorities and the international community must create the necessary digital infrastructure. When necessary, they consider the digital environment to be the only possible way to deliver mental health care and to cover the costs of access to the Internet necessary to achieve a minimally decent life [18].

This right is not only part of a decent life but also plays a key role in protecting other fundamental rights [4].

It should be borne in mind that some concepts may not be practically necessary for any specific right, but may acquire legal status if they are very useful for a number of other rights [21, p. 298]. Based on this argument, we support the recognition of Internet access as a universal right, including in the cases listed above, and the addition of this provision to international documents. From another perspective, it is unacceptable to treat the Internet as a tool for ensuring other rights. Restricting those rights in certain cases will directly lead to limitations on Internet access.

It should be noted that if Internet access is considered a human right, then it must be exercised in cyberspace, or must reflect access to cyberspace. According to the US Supreme Court, cyberspace is a unique medium that does not have a specific territory, but is open and accessible to anyone anywhere in the world via the internet [15, p. 50]. Scholars who have conducted research in this area believe that fundamental aspects of cybersecurity infrastructure are common to all modern developed countries [3, p. 12].

All international sources addressing the construction of an information society declare access to information and knowledge as priority areas and main goals [25, p. 96]. It should be noted that no international law specifically recognizes, protects, or directly recognizes access to the Internet as a human right. In particular, Article 19 of the 1966 Covenant on Social, Economic and Cultural Rights, Article 19 of the 1948 Universal Declaration of Human Rights, Article 10 of the 1950 European Convention on Human Rights, and other universal and regional instruments interpret the Internet solely as a form of people's freedom to access information.

In addition, a number of developed countries have already recognized the right to Internet access as a constitutional right and have even included it in their basic laws. The first subparagraph of Article 91(c) of the Constitution of the Federal Republic of Germany, entitled Information Technology Systems, establishes cooperation obligations for the Federation and the Länder in the planning, construction and operation of information technology systems, and the fourth subparagraph provides for the establishment of a Federal Network for the interconnection of information networks, the details of which are regulated by federal law with the consent of the Bundesrat [9]. The authors also propose amendments to the Constitution in this direction in Azerbaijani legislation, in particular, Article 47 of the Constitution, which is called Freedom of Speech and Thought, should be changed to Freedom of Expression, emphasizing the main reason that freedom of expression serves not only the dissemination of ideas but also the formation of opinions and information [30, p. 54], Information is valued as a global public product in the modern world and is considered a key element of creative activity [28, p. 182].

Digital inequality overshadows the right to internet access. Despite the widespread and growing use of the Internet on a global scale in recent times, people in most regions, especially in developing countries and remote areas of developed countries, do not have free access to the Internet [7]. A report by the United Nations International Telecommunication Union (ITU) notes that in 2021, 37% of humanity did not use the Internet, and of these, 2.9 billion people, 96% live in developing countries [6]. In the United Kingdom, around 12% of households did not have internet access at home in 2018 [22, p. 16] or 2021. U.S. Census data shows that at least 15% of households did not have a broadband internet subscription in 2018 [31, p. 3]. According to another source, more than 12% of the global unconnected population in Africa and South Asia lives in remote rural areas where traditional networks are not easily accessible, further exacerbating the gender digital divide. We also witness gender inequality in the digital environment. Thus, only 48% of the world's population uses the Internet, compared to 58% of men [16]. According to the latest estimates from the ITU in its 2021 edition, only 4.9 billion people had access to the Internet in 2021 [17].

Ensuring Internet access for everyone is also an important step towards eliminating the existing digital divide. The aforementioned digital equality is more often referred to in legal literature under the names of "information gap" and "information inequality" and is commented on in Article 10 of the Declaration of Principles adopted at the World Summit on the Information Society in Geneva in 2003. Thus, the participating states propose an equal distribution of the advantages of the revolution in the field of information technologies between developed and developing countries and within those countries. In other words, unequal distribution refers to disparities in access to information and the use of ICT, depending on the key factors that determine digital inequality in the information society and various criteria among different segments of society and countries around the world [26, p. 35-36].

Addressing this issue will ultimately lead to the reduction of social inequality and poverty. However, the Digital Divide theory shows that even if all people have access to the Internet, their online skills and Internet usage habits will differ sharply [14, p. 881]. That is why, in addition to ensuring equal access to the Internet for everyone, regardless of age, gender, nationality, cultural differences, and social and economic indicators, it is also essential for states to provide them with certain education and training.

Meeting the investment needed to bring everyone online by the end of this decade will require a concerted effort from the public and private sectors, said Houlin Zhao, Secretary-General of the International Telecommunication Union. In this regard, the ITU is implementing a much-needed roadmap for accessible, affordable, reliable and secure digital technologies and services for all, under the title Connecting Humanity. According to the study, an estimated US\$428 billion will be needed to connect 3 billion people to broadband by 2030 [16]. Therefore, internet accessibility creates positive obligations for states, requiring appropriate action and regulation from both states and international organizations, and aims to adequately manage usage.

Conclusion and recommendations. Summarizing the analyses we conducted above, we can conclude that:

- Internet access should be recognized as a unique right. It is not a means to exercise other rights, but a separate legal institution. It cannot be limited or encompassed by any other right or freedom.
- Internet access cannot be considered as an optional element of other rights, as restrictions on those rights may also lead to restrictions on Internet access.
- It is necessary to include the recognition of Internet access as a unique right in international documents and implement it in the national legislation of states.
- Internet access is one of the components of the complex system of the right to a decent life, because it plays an important role in ensuring a decent standard of living for modern people.
- Internet access is classified as a positive right and requires appropriate regulation from states and international organizations.
- After eliminating the digital divide and ensuring universal internet access, states should organize appropriate education and training for people with limited internet skills and habits.

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