



Assessing Right to Internet within the Purview of Right to Life under International Human Rights Law

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DECLARATION

I, Sheikh Mahmudul Hasan Asif, declare and confirm that I have done the thesis and all the works, literature review, citations etc, are genuine and written entirely by me on my own efforts and bear no resemblance to other works or secondary research.

I have authored and composed the thesis to finish my undergraduate degree because it is a prerequisite for my graduation at East West University. It does not contain any previously written or published content by any other individual and also this thesis has not been submitted anywhere else for any purpose.

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Abstract

This dissertation examines whether access to the internet falls within the scope of the right to life under international human rights law. As digital connectivity becomes indispensable for education, healthcare, employment, and emergency communication, this study investigates whether existing legal frameworks, particularly the ICCPR and UDHR can be interpreted to encompass internet access as a dimension of the right to life, rather than solely under freedom of expression. Through doctrinal analysis of treaties, jurisprudence, and UN resolutions, the research finds that while no binding instrument explicitly recognizes such a right, internet access functions as an essential enabling condition for realizing life, dignity, and other fundamental rights, warranting further legal development and international consensus.

CHAPTER ONE

1.1 Background of the Study

This was before the development of one of the most notable pieces of technology for human society, the internet. It has revolutionized communication, education, healthcare, commerce, governance and social interaction over the past three decades. What began solely as a means to share information has transformed into an integral infrastructure that sustains nearly all present day life. People increasingly depend on internet access as a source of education, job opportunities, healthcare services, communication with others, democratic participation and relief from emergencies during times of medical or natural disasters.

The increasing relevance of connection to the internet has enflamed considerable controversy among international human rights attorneys. At the same time, Human rights scholars, policymakers and international organizations increasingly wonder if internet access should be viewed not just as a technological service but rather something which has become so integral to human life on the planet that it needs special rights protection. This debate has grown especially pertinent in an age where the exercise of many rights is contingent on Internet access.

The right to life is one of the most basic human rights in the world. It is the principle on which all other rights are built. Section 3 of the Universal Declaration of Human Rights (UDHR) states that everyone has a right to life, to freedom and security of person.¹ Article 6 of the International Covenant on Civil and Political Rights (ICCPR) also establishes an inherent right to life, making states responsible for safeguarding that right.² The right to life was traditionally understood in a narrow manner that is, the prohibition against arbitrary deprivation of life. Nevertheless, international human rights law has developed significantly and more modern approaches definitively recognize that the right to life includes far more than just baseline physical existence.

The Human Rights Committee made large observations on the right to life through General Comment No. 36, excluding that the right to life must be interpreted nominally and states have positive obligations in creating conditions allowing individuals to live dignified lives.³ This broader understanding has enabled the right to live so that it can cover everything from access to food or health care, to environmental protection and other prerequisites for human life. In this

¹ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 3

² International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 art 6.

³ Human Rights Committee, *General Comment No 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life* UN Doc CCPR/C/GC/36 paras 2–3.

respect, these developments give rise to a fundamental legal question: is access to the internet, which is necessary to reach many vital daily services, included in the realm of the right to life?

No access to internet is very prominent following the COVID-19 pandemic. Internet connection was also a means to gain access to education, healthcare, employment, government services and other essential public information in times of lockdowns and social distancing. Those who were unable to connect regularly often found themselves cut off from these key services.⁴ The pandemic thus underlined the increasing reliance of modern societies on digital infrastructure, and strengthened claims regarding internet accessibility as a prerequisite for human wellbeing and dignity.

International institutions have also recognised the importance of internet access. The United Nations Human Rights Council echoed this sentiment in 2016, stating that the same rights people have offline must be protected online and calling on measures to deliberately disrupt internet access.⁵ Likewise, United Nations Special Rapporteur on Freedom of Expression has reiterated that the internet enabled any given human right to be exercised.⁶ Yet, all these efforts have not seen the expression of internet connectivity anywhere in international law as a part and parcel of right to life.

This leaves a significant legal ambiguity. Although access to internet has become increasingly essential to the exercise of fundamental rights and could be indirectly related to the right to life, there is still no international consensus on whether it should be regarded as falling within the ambit of the right to life under international law. It is this uncertainty that this thesis endeavours to tackle through a study of international legal instruments, case law in the human rights arena, resolutions by United Nations bodies, and current academic debates.

1.2 Statement of the Problem

In a world where almost everything is digitally dependent. Having a dependable internet connection is necessary for access to things like education, health information, government services, employment opportunities, emergency communications and social participation. Still, millions of people around the world are unable to use the internet at all because economic, geographic, political and infrastructural barriers get in the way.

The right to life is considered inherent and fundamental under international human rights law. But this is not legally saying that it takes place to a right to get use of the net. In terms of existing

⁴ United Nations, *Policy Brief: The Impact of COVID-19 on Children* (2020) 12–15.

⁵ Frank La Rue, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression* UN Doc A/HRC/17/27 (16 May 2011) paras 20–22.

⁶ Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' UNGA Res 32/13 (1 July 2016).

legal protections, the primary human rights typically invoked to justify internet access are those of freedom of expression and 188access to information¹⁸⁹ rather than right to life. This obfuscates how far the state duties reach to ensure universal internet access and moreover whether denial of internet access would be a deprivation of the right to life.

Justification: As the role of access to internet technology expands and integrates into every facet of society in order to access lifesaving services, information, governmental orders, socio-economic resources and opportunities which are necessary for survival; can contemporary interpretations and recommendations regarding the right to life encompass a right to access internet as a dimension within its scope? The key problem explored here is the lack of explicit legal clarification regarding this.

1.3 Research Questions

This research is oriented around the following questions:

How far can access to the internet be construed as a component of the right to life in international human rights law?

To start off, what challenges, legal and practical, are posed by the idea of internet access as an aspect of the right to life under international law?

1.4 Objectives of the Study

1.4 Objective

to test if internet connectivity might be seen as a component of the right to life in international human rights law.

Specific Objectives

General intention: To analyze the legal foundations of the right to life under international human rights law and determine if internet access can be placed a part within its ambit.

Context: To investigate whether and in what manners international legal recognition of access to the internet constitutes an element of the right to life, what are the legal mechanisms or juridical recourse for beneficiaries thereof when this is denied.

1.5 Significance of the Study

Academic and Practical Relevance of the Research

Academically, the analysis adds to the literature on digital rights and international human rights law. It looks at how the meaning of the right to life has changed over time and challenges a

contemporary understanding of whether current technological realities justify reading that right so as to include access to the internet.

From a practical perspective the study could help policymakers (including legislators), human rights organizations and international institutions to recognize not only the existence of digital divisions, but also their legal impact. Those results could inform future conversations around how to govern digital media, controlling the internet, and the safeguarding of fundamental rights in an online setting.

In addition to that the study is most relevant in the developing nations, where digital disparity restricts access to importance of services. The research explores the issue of internet access through a human rights lens striving to enrich the wider agenda on digital inclusion and bridging the gap.

1.6 Scope of the Study

Abstract This article examines the interplay of access to the Internet with regard to international human rights law, particularly in relation to the right to life. It analyzes applicable international legal instruments, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), United Nations Human Rights Council resolutions, General Comments of the Human Rights Committee, and reports published by United Nations Special Rapporteurs.

This study mainly has a doctrinal approach and focuses on international rather than domestic law. National examples can be referred to, but national example will not be the main focus unless related to international law and human rights jurisprudence.

1.7 Research Methodology

This research is qualitative doctrinal legal research. The research is based on the analysis of jurisprudential primary and secondary sources.

International treaties; declarations; resolutions, General Comments and reports published by international human rights bodies are examples of primary sources. These are secondary sources like books, journal articles, academic commentaries, reports to the HRC and other works on international human rights law as it applies to the question of digital governance.

The doctrinal method would be fitting as the research intends to evaluate normative legal principles, interpret general international legal norms, and measure to what extent existing human rights frameworks support recognition of Internet access being part and parcel of the right to life.

1.8 Organization of the Study

The thesis consists of five chapters.

Chapter One provides the PUSH (Background of study, statement of the problem, research questions, objectives, significance, scope methodology and organization of study)

Chapter Two: Theoretical and Legal Bases of the Right to life and Internet Access under International Human Rights law. It reviews the relevant scholarship and assesses international legal frameworks for both rights.

Chapter Three examines if internet access can be considered as an extension of the right to life. It gives an assessment of the development of international law, state practice and human rights jurisprudence in recently recognizing such a status.

In Chapter Four, the legal and factual issues about defining internet access as part of the right to life are described. It weighs up some of the issues of state sovereignty, resource constraints and cybersecurity concerns against digital inequality and opposing definitions of human rights law.

Chapter Five: Study Results, Analysis and Recommendations; Conclusions on the evolution of international human rights law concerning internet access and the right to life.

Chapter 2: Conceptual Framework – The Right to Life in International Law

2.1 Introduction

The right to life is acknowledged universally as the most basic among human rights; it forms the bedrock on which all other rights are built. No right can be enjoyed without the security of life. In traditional times, the right to life was considered to mean a negative duty placed on the state to abstain from arbitrarily taking away the life of an individual. But with the passage of time, international human rights law has undergone a significant evolution to encompass not only negative duties but also positive obligations and other issues relating to human dignity.

In this chapter, we look into the concept of the right to life within international law. We shall review its history, consider how it is codified within international human rights treaties, and study its interpretations by the courts and quasi-judicial tribunals. Most importantly, this chapter will focus on how the right to life has evolved from mere survival to encompass human dignity and socioeconomic factors, thus providing a solid basis for discussing new rights like the right to internet access.

2.2 Historical Development of the Right to Life

The right to life was first mentioned in the natural school of law by John Locke, who believed that life is a fundamental and non-transferable right.⁷ These theories have led to the development of modern human rights.

Post-World War II, there was a need for a global instrument to safeguard human rights. As such, the international community formulated the Universal Declaration of Human Rights (UDHR) in 1948. Article 3 of the UDHR proclaims that "Everyone has the right to life, liberty and security of

⁷ John Locke, *Two Treatises of Government* (1689), Book II, ch 2, para 6.

person."⁸ It is not legally binding, but the UDHR has had a profound moral impact and is regarded as reflecting customary international law.

In a later period, the right to life became legally binding through the ICCPR, which stated in its Article 6(1) that "every human being has the inherent right to life," and this right is to be protected by the law.⁹ It is a step that can be considered a big leap from morals to legally binding principles.

2.3 The Right to Life under the ICCPR

2.3.1 Scope and Content of Article 6

The sixth article of the ICCPR is well known to be among the key clauses in international human rights law. This article recognizes the right to life as an absolute right that cannot be subjected to any suspension whatsoever even in case of public emergencies.¹⁰

Originally, the provision was narrowly construed as prohibiting an arbitrary deprivation of life. The Human Rights Committee, however, has gradually widened its interpretation. According to General Comment No. 36 (2018), the right to life must not be interpreted restrictively but extends to protection from all threats capable of causing premature or unnatural death.¹¹

It acknowledges the fact that threats to life may come not just from violent acts but from systemic problems like poverty, environmental degradation, and denial of basic necessities.

2.3.2 Positive Obligations of States

The emerging approach to Article 6 creates positive obligations for states. These obligations go beyond the traditional negative duty to refrain from killing. The Human Rights Committee, in General Comment No. 36, identifies several core positive obligations.¹²

⁸ Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) art 3.

⁹ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 6(1).

¹⁰ ICCPR art 4(2).

¹¹ Human Rights Committee, General Comment No 36 on Article 6: Right to Life (2018) UN Doc CCPR/C/GC/36, para 3.

¹² Ibid.

First, states must adopt legislative and administrative measures to protect individuals from foreseeable threats to their lives, whether from state or non-state actors.¹³ Second, states must take reasonable steps to ensure access to healthcare and other essential needs necessary to sustain life.¹⁴ Third, states are required to address structural inequalities that produce disproportionate risks to the lives of marginalised populations.¹⁵ Fourth, states must protect individuals from life-threatening conduct by non-state actors, including corporations, particularly in the context of environmental harm.¹⁶

The Human Rights Committee stresses that states must undertake "appropriate measures" to mitigate adverse social conditions that could lead to threats to life.¹⁷ This represents a shift from a purely negative obligation to a more comprehensive framework of state responsibility.

2.3.3 Procedural Obligations

Life rights involve procedural duties as well as other significant responsibilities. The state should conduct an investigation into any suspicious deaths, bring those responsible to account, and compensate the family members of the deceased.¹⁸ These obligations are essential to ensure accountability.

2.4 Regional Human Rights Frameworks

Regional systems have played a crucial role in expanding the interpretation of the right to life.

2.4.1 European System

Article 2 of the European Convention of Human Rights (ECHR) provides the protection to the right to life. In the *Osman v. United Kingdom* case, the Court found that the state was obliged to

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

take measures of prevention or protection for an individual whose life is in danger.¹⁹ The court confirmed the responsibility of the state where it knew or ought to have known of a real and immediate threat to life.

2.5 Expanding Interpretation: From Survival to Dignity

2.5.1 Human Dignity as a Core Principle

The significance of human dignity becomes very important while interpreting the right to life. In modern legal thought, it is realised that life needs to be valued not just from the aspect of its mere existence but also by its quality.²⁰ This shift reflects a wider understanding of human rights as interconnected and indivisible.

2.5.2 Socio-Economic Dimensions

The right to life has started to include socio-economic dimensions such as access to food, water healthcare and housing. These factors are fundamental to guaranteeing folks live in dignity. It has long been recognised by the Human Rights Committee that the right to life cannot be effective unless states have appropriate conditions in place so as to enable individuals not only to survive but also to prosper; it has said that poverty, malnutrition and denial of basic medical care at least may each involve breach of Article 6. Philip Alston, Ryan Goodman The legally cognizable threats to life-facilitated by structural socio-economic conditions-are now understood to have the same legal significance as those facilitated through direct state violence.

2.6 Contemporary Challenges to the Right to Life

2.6.1 Armed Conflict

Armed conflicts continue to pose significant threats to the right to life, raising issues related to proportionality, necessity, and accountability under international humanitarian law.²¹

2.6.2 Environmental Degradation

¹⁹ *Osman v United Kingdom* (1998) 29 EHRR 245, para 115.

²⁰ Christopher McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 EJIL 655, 657.

²¹ *Legality of the Threat or Use of Nuclear Weapons (Advisory Opinion)* [1996] ICJ Rep 226.

The destruction of the environment and global warming are becoming known as dangers to life. The Human Rights Committee has recognised environmental destruction as a threat to the right to life.²²

2.6.3 Technological Developments

Technological advancements present new challenges, including cyber threats and digital inequality. While technology can enhance life, unequal access may create new forms of vulnerability.

2.7 Implications for Emerging Rights

The broadened meaning of the right to life has become a basis on which emerging rights may be recognised. Since it now encompasses dignity, wellbeing, and access to necessary circumstances, it creates the opportunity for the inclusion of contemporary needs such as the use of ICT. At a time when access to the internet becomes vital for educational, medical, and social purposes, the issue becomes highly pertinent.

2.8 Conclusion

As can be seen from this chapter, there have been many developments in the scope of the right to life under international law. From being a right that protected individuals against unnecessary killings, it has come to be a broad right, spanning the territory between dignity and basic necessities of life.

The jurisprudence of the Human Rights Committee, as elaborated in General Comment No. 36, has been pivotal in expanding the scope of Article 6 to address structural conditions that threaten life and dignity.²³ The European Court of Human Rights confirmed state obligations to prevent foreseeable threats to life in *Osman v. United Kingdom*.²⁴ The principle of the living instrument,

²² Human Rights Committee, General Comment No 36 (n 5) para 62.

²³ Ibid

²⁴ *Osman v United Kingdom* (n 13) para 115.

recognised in *Tyrer v. United Kingdom*, further requires that human rights instruments evolve in response to changing social and technological conditions.²⁵

In light of such an understanding of the right to life, it is possible to use treaties, judicial interpretations, and state practices as bases for looking into the question of whether internet access is also part of the right to life.

¹⁹ Human Rights Committee, General Comment No 36 (n 5) para 62.

Chapter 3: An Analysis of Internet Access as a Right to Life

3.1 Introduction

The growth in digital technologies has transformed people's lives, communication and access to essential services. Right now, a lot of experts and organizations are debating if internet access should count as a basic human right, especially tied to the right to life itself. In the past, most people saw the right to life as just a matter of survival, having enough to eat, a safe place to stay, that sort of thing. But these days, the conversation has shifted. Now, living a life with dignity, being able to support yourself, and staying connected to your community are all part of what it means to really live.

This chapter looks at how internet access is connected to the right to life. It looks at how the law has changed, what international agreements say, and the key ideas folks use to argue their points. Building on the earlier literature review, the chapter examines the benefits and the risks, all to get to the bottom of whether internet access really belongs at the heart of the right to life under international law.

3.2 Linking Internet Access with Dignity, Survival, and Development

The right to life has been expanded from simply living to living in a dignified way. Access to information, communication and social participation has been described as an essential element of dignity. In the 21st century, the internet is a key medium through which these elements are realised.

²⁵ European Court of Human Rights, *Tyrer v United Kingdom* (1978) Series A No 26, para 31.

Internet access directly contributes to human dignity by facilitating self-expression, knowledge access and social participation. As the UN Special Rapporteur on Freedom of Opinion and Expression has observed, the internet has become an indispensable tool for realising a range of human rights, and states should therefore prioritise its promotion and protection.²⁶ Lack of internet access can result in social exclusion and marginalisation, especially for disadvantaged groups.²⁷

Internet access is also increasingly a matter of life and death. The internet provides access to health information, emergency resources and telecommunications, all of which can save lives, particularly in emergencies like pandemics and disasters. During the COVID-19 pandemic, online platforms were critical for the delivery of public health information and services.²⁸

In terms of development, the digital is vital for economic and social progress. The internet opens doors to education, jobs, and financial services. The United Nations has made it clear that digital inclusion is integral to achieving the 2030 Agenda for Sustainable Development.²⁹ So, if internet access is cut off, people are effectively cut off from basic opportunities.³⁰

3.3 UN Resolutions and International Recognition

International bodies have acknowledged the importance of internet access in the implementation of human rights. There isn't a hard-and-fast global treaty that calls internet access a formal right, but UN reports and resolutions keep pushing the idea forward.

The UN Human Rights Council has affirmed that the same rights people have offline must also be protected online.³¹ In other words, human rights like the right to life have to move with the times.

²⁶ Frank La Rue, 'Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression' (16 May 2011) UN Doc A/HRC/17/27, para 2.

²⁷ Ibid.

²⁸ UN General Assembly, 'Roadmap for Digital Cooperation' (2020) UN Doc A/74/821.

²⁹ UN General Assembly, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (25 September 2015) UNGA Res 70/1, Goal 9.

³⁰ La Rue (n 23) para 61.

³¹ Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (5 July 2012) UN Doc A/HRC/20/L.13, para 1.

In 2016, the Human Rights Council spoke out against governments blocking the internet, stating that such measures are "inconsistent with international human rights law."³² At this point, the internet is essential for exercising basic freedoms.

UN Special Rapporteur reports point out that internet access is crucial for basic rights like getting information, learning, and joining in politics.³³ The research makes it clear that internet access matters a great deal for human dignity and wellbeing.

3.4 Internet as Essential for Education, Health, and Expression

Internet access isn't just a luxury now. It has become critical for basic rights like education, health, and freedom of expression.

3.4.1 Education

Education is a universal right and a building block for personal growth. Today, a great deal of learning happens online. Virtual classrooms, digital libraries, and e-learning platforms are difficult to avoid for students. When COVID-19 hit, the gap between those with and without internet stood out more than ever. People who couldn't go online were effectively cut off from education.³⁴ That's not just a setback it holds them back from reaching their potential, which is at the heart of what the right to life really means.

3.4.2 Health

The internet changed the way people get health information and services. People can now talk to a doctor online, schedule telemedicine appointments, or look up digital health records without leaving home. For people living far from hospitals or clinics, this makes a huge difference.³⁵

³² Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (27 June 2016) UN Doc A/HRC/32/L.20, para 10.

³³ David Kaye, 'Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression' (11 May 2016) UN Doc A/HRC/32/38, para 11.

³⁴ UNESCO, 'Education in a Post-COVID World: Nine Ideas for Public Action' (UNESCO 2020) 15.

³⁵ Molly K Land, 'Toward an International Law of the Internet' (2013) 54 Harvard International Law Journal 393, 405.

Without internet access, individuals cannot access important medical information when they need it, and that directly affects their wellbeing. Some researchers say digital access is tied to protecting people's lives.³⁶

3.4.3 Freedom of Expression

Freedom of expression goes hand in hand with the internet. It's where people talk, share ideas, find news, and participate in public debates. That's how democracy works by letting everyone speak up and stay informed,³⁷

If someone blocks access to the internet, it doesn't just silence voices. It cuts people off from basic human rights, including the right to live with dignity and to take part in society.³⁸

3.5 Theoretical and Legal Arguments for Inclusion

The argument in favour of recognising internet access as part of the right to life is based on both theoretical and legal reasoning.

In theoretical terms, the concept of the "living instrument" in human rights law allows rights to evolve in response to changing social conditions. This approach has been widely adopted by courts and academics to expand the scope of existing rights.³⁹ Applying this principle, it can be argued that the right to life includes access to essential digital infrastructure.

If you look at it legally, human rights are tightly connected and they cannot be separated. The Vienna Declaration and Programme of Action affirms that all human rights are "universal, indivisible, interdependent and interrelated."⁴⁰ So when someone blocks internet access, it jeopardises rights to education, health information, and freedom of expression all at once. As noted

³⁶ Ibid.

³⁷ Human Rights Committee, General Comment No 34 on Article 19: Freedom of Opinion and Expression (2011) UN Doc CCPR/C/GC/34, para 15.

³⁸ Jack Balkin, 'The Future of Free Expression in a Digital Age' (2009) 36 Pepperdine Law Review 427, 430.

³⁹ European Court of Human Rights, *Tyrer v United Kingdom* (1978) Series A No 26, para 31.

⁴⁰ Vienna Declaration and Programme of Action (adopted 25 June 1993) UN Doc A/CONF.157/23, para 5.

in the literature review, this interconnection strengthens the argument for recognising internet access as a fundamental right.⁴¹

People still can't agree on whether this recognition should be spelled out directly or just understood within existing rights. Some scholars worry that expanding rights for every new situation makes the law unclear.⁴² But others say if human rights aren't adjusted to fit new technology, those rights lose their effectiveness.⁴³

3.6 Progressive Realisation of Internet Rights

International human rights law provides a framework for addressing resource constraints through the principle of progressive realisation, codified in Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Under this principle, states undertake to take steps "to the maximum of their available resources" with a view to achieving progressively the full realisation of rights.⁴⁴ This principle does not require immediate universal provision but imposes a genuine obligation to make incremental progress over time.

The application of progressive realisation to internet access is supported by international practice. According to the UN Special Rapporteur on Extreme Poverty and Human Rights, digital access is part of the right to procurement social services such as health care, education and food security, as well as information and communication technologies (ICT), therefore, states must progressively include digital inclusion within their mandates.⁴⁵ The principle also entails a prohibition on

⁴¹ UN General Assembly, 'Report of the Special Rapporteur on Extreme Poverty and Human Rights' (11 October 2019) UN Doc A/74/493, para 12.

⁴² Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary (2nd rev edn, NP Engel 2005) 121.

⁴³ Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary (2nd rev edn, NP Engel 2005) 121.

⁴⁴ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR) art 2(1).

⁴⁵ UN General Assembly, 'Report of the Special Rapporteur on Extreme Poverty and Human Rights' (11 October 2019) UN Doc A/74/493, para 21.

retrogressive measures: states that have achieved a degree of internet connectivity may not deliberately dismantle it without violating their human rights obligations.⁴⁶

While resource-constrained states may not be able to guarantee universal internet access immediately, they retain an obligation to work progressively towards better digital access over time. International cooperation is also vital: wealthier states and international organisations can assist through financial support, technology transfer, and capacity-building, in line with the principle of international assistance embedded in the ICESCR and the Sustainable Development Goals.⁴⁷

3.7 Is Internet Access a Luxury or a Necessity?

Yet another issue of great discussion is the classification of Internet as a luxury or necessity. Earlier, the Internet was regarded as nothing more than a source of entertainment and communication. Nevertheless, today's society heavily relies on the Internet in matters such as education, employment, healthcare, finance, and politics.⁴⁸

The COVID-19 pandemic illustrated the significance of the Internet in people's lives. Individuals without internet access faced serious disadvantages in education and employment.⁴⁹ This situation strengthened the argument that internet access is no longer optional in modern life.

Supporters of internet access as a human right argue that it is necessary for enjoying various other rights. Rights like freedom of speech, access to information, education, and democracy depend heavily on internet access.⁵⁰ As a result, internet access is often described as a "gateway right" because it enables the exercise of many other human rights.

⁴⁶ Committee on Economic, Social and Cultural Rights, General Comment No 3: The Nature of States Parties' Obligations (1990) UN Doc E/1991/23, para 9.

⁴⁷ ICESCR art 2(1); UN General Assembly, 'Transforming Our World: The 2030 Agenda for Sustainable Development' (25 September 2015) UNGA Res 70/1, Goal 17.

⁴⁸ Manuel Castells, *The Rise of the Network Society* (2nd edn, Wiley-Blackwell 2010) 77.

⁴⁹ UNESCO, 'Education in a Post-COVID World: Nine Ideas for Public Action' (UNESCO 2020) 15.

⁵⁰ Frank La Rue (n 23) para 61.

Several states have begun to acknowledge the need for internet access. For instance, in 2010, Finland became one of the first states to legally recognise broadband internet access as a universal service for its citizens.⁵¹ This trend reflects how broadband internet is being categorised not as a luxury item but as a necessary utility service.

Conversely, not all countries concur with granting internet access the status of a human right. Under the traditionally understood right to life, the right primarily guarantees survival and not freedom from arbitrary killing.⁵² Critics believe that expanding the meaning of the right to life too broadly may weaken the legal importance of established rights.

Some scholars also argue that recognising internet access as a human right may create unrealistic obligations for developing countries. Governments with limited resources may not be able to provide universal internet services while also meeting urgent needs such as poverty reduction and healthcare.⁵³

Despite the above criticisms, the line separating luxury from necessity is evolving very fast. Many necessities today are done on the internet. Students need the internet to learn, people require it to communicate in their jobs, and citizens utilise it to interface with government services. Without internet access, individuals may be socially and financially excluded. Therefore, while the Internet may not be a prerequisite for bare survival, it is a prerequisite for survival as a full member of contemporary society, an interpretation that supports the proposition that the right to life must move with technology and time.

3.8 Conclusion

This chapter has made clear that having internet access isn't just convenient anymore. It's a key part of living fully today. The internet helps people protect their dignity, supports their basic needs, and fuels growth, and it is woven into nearly everything we do.

⁵¹ Ministry of Transport and Communications Finland, '1 Mbit Internet Access a Universal Service in Finland from July 2010' (Press Release, 2010).

⁵² Manfred Nowak, UN Covenant on Civil and Political Rights: CCPR Commentary (2nd rev edn, NP Engel 2005) 121.

⁵³ Yuval Noah Harari, 21 Lessons for the 21st Century (Jonathan Cape 2018) 89.

International legal instruments and academic debates show that this connection is increasingly being recognised, although formal legal recognition remains limited.⁵⁴ The doctrinal tools available within international human rights law — including the living instrument principle, the indivisibility of rights, and the expanding positive obligations framework under Article 6 of the ICCPR collectively support the conclusion that internet access may, in appropriate circumstances, be required as a matter of the right to life.⁵⁵

Analysis shows that although internet access is not yet universally recognised as an independent right, it is increasingly regarded as an essential part of existing human rights, particularly the right to life. In the next chapter, the challenges to universal internet access will be examined, including state sovereignty, resource constraints and risks associated with digital technology.

Chapter 4: Challenges to Universal Internet Access

4.1 Introduction

The previous chapters discussed the development of the right to life under international human rights law and explained how internet access is becoming closely connected with education, healthcare, communication, freedom of expression, and human dignity. Although many international organizations and scholars now support wider internet access, several challenges still exist in recognizing internet access as a universal human right.

The problems associated with internet accessibility for all are explored in this chapter. Three significant issues stand out: national sovereignty and resource constraints, the question regarding whether internet accessibility should be seen as a luxury or a necessity, and the various risks associated with using the internet. The three issues have been chosen for analysis due to their relevance to the issue of states' obligations towards human rights.

4.2 State Sovereignty and Resource Limitations

⁵⁴ Human Rights Council (n 29) para 1.

⁵⁵ Human Rights Committee, General Comment No 36 (n 5) para 26.

The biggest problem for the Internet to become universal is the concept of state sovereignty. Under international law, states are entitled to govern their internal affairs, including telecommunications and internet governance.⁵⁶

Governments regularly argue that decisions about the internet, including the control of access, should be taken nationally, not internationally. Countries frequently refer to national sovereignty as a means of controlling access to the internet. States may use censorship to control websites in situations of protest or national emergency, while in extreme cases the government may decide to cut off internet access altogether. Such states will usually argue that national security, public order or political stability necessitate such measures, which may indeed contradict international human rights law including the right to freedom of expression and information as guaranteed by the ICCPR.⁵⁷

The UN Human Rights Council has expressed concern about intentional disruption of internet access. In 2016, the Council passed a resolution condemning measures that "intentionally prevent or disrupt access to or dissemination of information online" as inconsistent with international human rights law.⁵⁸ This shows that there is an emerging international consensus on how access to the Internet is critical in having human rights.

The other main problem is technical and economic infrastructure. Many developing countries lack the necessary infrastructure to support reliable internet services for all citizens. There is a significant cost in setting up infrastructure through power, fibre optic cables, cell towers, and digital literacy programmes. Governments that cannot afford it cannot reach such communities.⁵⁹

It is also important to highlight the global digital divide. The International Telecommunication Union (ITU) has estimated that billions of people worldwide remain without internet access.⁶⁰ The

⁵⁶ Malcolm N Shaw, *International Law* (9th edn, CUP 2021) 447.

⁵⁷ ICCPR art 19.

⁵⁸ Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (27 June 2016) UN Doc A/HRC/32/L.20, para 10.

⁵⁹ Susan Crawford, *Captive Audience: The Telecom Industry and Monopoly Power in the New Gilded Age* (Yale University Press 2013) 102.

⁶⁰ International Telecommunication Union, *Measuring Digital Development: Facts and Figures 2023* (ITU 2023) 3.

dilemma is whether it is possible for the state to ensure that the Internet is a human right when it cannot ensure other essential needs like health, food, and clean water.⁶¹

Critics say that developing countries must focus on survival needs rather than building digital infrastructure.⁶²

4.3 Risks of Internet Access: Misinformation, Cybercrime, and Regulation Issues

Apart from the benefits, the internet has numerous risks. Most states use the threat of these risks as a reason to heavily regulate the internet. The most damaging threat comes in the form of misinformation. False and fake news can influence elections, spread hate, create fear, and undermine democracy.⁶³ During COVID-19, online misinformation also threatened lives by spreading false medical advice.

Consequently, several countries passed internet regulation laws. On the other hand, states sometimes use these regulations to suppress journalists, activists, and opposing politicians. Excessive regulation can violate freedom of expression and access to information under international human rights law.⁶⁴

Another major problem is cybercrime. Using the internet may lead to cases of fraud, identity theft, hacking, and cyber-terrorism.⁶⁵ Governments argue that surveillance and control of the internet are required to ensure national security and public safety. However, such surveillance may result in an invasion of privacy, and the balance between security and privacy has become one of the most difficult legal questions of the digital age.

⁶¹ Jack M Balkin, 'The Future of Free Expression in a Digital Age' (2009) 36 *Pepperdine Law Review* 427, 430.

⁶² *Ibid.*

⁶³ Cass R Sunstein, *#Republic: Divided Democracy in the Age of Social Media* (Princeton University Press 2017) 3.

⁶⁴ David Kaye, 'Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression' (6 April 2018) UN Doc A/HRC/38/35, para 9.

⁶⁵ Jonathan Clough, *Principles of Cybercrime* (2nd edn, CUP 2015) 11.

Another controversial issue is internet shutdowns. Governments usually argue that shutdowns are necessary to keep public order and prevent violence. However, internet shutdowns can seriously affect education, healthcare, emergency communication, and business activities.⁶⁶

The growing influence of private technology companies also creates challenges. Millions of users have their communications and personal data controlled by large digital platforms. Critics argue these companies frequently operate with little accountability in data privacy and content moderation.⁶⁷ This raises questions as to whether duties should be attributed to private corporations for the safeguarding of digital rights.

The above examples prove that without proper legislation there is no possibility of beneficial global Internet access. Such legislation must also comply with international standards of human rights, balancing public safety with individual freedom.

4.4 Conclusion

This chapter looked at the main challenges to universal internet access in the context of international human rights law. It showed that state sovereignty, economic inequality, technological limitations and security issues are still barriers to universal digital connectivity.

The chapter discussed the debate as to whether the internet should be viewed as a luxury or a necessity. Recent social trends show that internet access is crucial to getting an education, communicating with others, getting healthcare, finding a job and participating in the democratic process. The framework of progressive realisation, addressed in section 3.6, provides a principled basis for operationalising state obligations in resource-constrained environments.⁶⁸

However, with an internet connection there are risks including the spread of misinformation, cybercrimes, surveillance and misuse of regulatory power. Such threats need reasonable

⁶⁶ Access Now, Targeted, Cut Off, and Left in the Dark: The #KeepItOn Report on Internet Shutdowns (Access Now 2022) 4.

⁶⁷ Shoshana Zuboff, *The Age of Surveillance Capitalism* (Profile Books 2019) 8.

⁶⁸ ICESCR art 2(1).

regulation, but it should be compatible with international human rights norms and not overly limit freedom of speech or access to information.⁶⁹

In the final analysis, none of the problems discussed in this chapter completely discredits the case for including internet access as part of the right to life. Instead, it shows the importance of sufficient regulation, international collaboration and gradual development of digital rights.

⁶⁹ Kaye (n 61) para 9.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

Thesis has explored the argument that internet access must be considered as a part of the right to life under international human rights law. This research was conducted against a backdrop of escalating global digitalisation, and the corresponding reliance on Internet-based services by individuals, institutions, and governments. Although historically understood merely as protection against arbitrary deprivation of life, contemporary definitions within the purview of international human rights law have progressively broadened the right to life far beyond this traditional framings so that reasonable conditions for a dignified life are well protected. This evolution presents a vital legal query as to whether access to the internet, an indispensable tool for functioning in contemporary society, can now be considered part of the right to life.

An examination of international legal instruments confirms that no treaty acknowledges internet access as a right to life. Neither the Universal Declaration of Human Rights (UDHR) nor International Covenant on Civil and Political Rights (ICCPR) expressly includes a provision about access to the internet. However, these instruments offer the normative background against which current debates around digital rights are situated. For example, Article 6 of the ICCPR guarantees the right to life and Article 19 guarantees freedom of expression and access to information. In conjunction, these provisions allowed for international human rights institutions to understand the internet as a major channel through which basic human rights are being executed.⁷⁰

Also, the study further proves that international human right law is dynamic rather than static. General Comment No. 36 adopted by the Human Rights Committee stressed that the right to life must not be narrowly construed and that states must take positive steps necessary to create conditions ensuring dignified life for individuals.⁷¹ This type of interpretation can encompass modern realities that would have been unimaginable at the time many of the preeminent human rights treaties were written. In the twenty-first century, read access to digital communication

⁷⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 arts 6 and 19.

⁷¹ Human Rights Committee, *General Comment No 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the Right to Life* UN Doc CCPR/C/GC/36, para 3.

networks is central for an individual's ability to obtain health information, educational opportunities, emergency services, job placement and even participating in public life.

Besides that, the research proved how (digital) access is an enabling right which enables us to enjoy many other human rights. In public health and humanitarian emergencies, during natural disasters, internet connectivity is simply the most important way in which people access life-saving information and establish contact with emergency services. One example, which in many ways is still the strongest to date, was given by the COVID-19 pandemic that demonstrated just how essential having access to the Internet was for being able to maintain continuity of education, healthcare services, public information and commerce.⁷² These changes reinforce the assertion that access to the Internet has shifted from a strictly technological convenience into a fundamental building block of modern human life.

At the same time, it found there are strong legal and practical obstacles to treating access to the internet as an integral part of the right to life. In many states, internet access is still treated as a policy issue rather than a legal human right. Universal recognition is further complicated by economic differences, infrastructure constraints, and worries over cybersecurity, misinformation and national security. Moreover, the status of the current international law does not lead to the conclusion that internet access has become a separate right under customary international law. While various international resolutions and declarations highlight the significance of access to the internet, they are largely recommendatory instruments.⁷³

On the basis of this, the thesis argues that internet access is not yet capable of being regarded as an independent right to life component under current international law. However, there is a solid legal basis for the assertion that internet access constitutes an essential means to the protective realization of the right to life and other fundamental rights. The closer societies pull technology to the very centre of our lives, the more we will need assurance that internet access is a life-saving mission, and so we can expect that aggregation increases the perceptions of how these two are correlated. To that end, the evolution of international law may lead to an increased framing of internet access as a precondition for the meaningful exercise of life itself.

5.2 Key Findings

This study provides some key findings that are worth highlighting.

The right to life under international human rights law has devolved from a narrow prohibition against arbitrary killing into a more composite concept, grounded as much in inherent dignity as

⁷² United Nations, *Policy Brief: The Impact of COVID-19 on Children* (2020) 12–15.

⁷³ Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' UNGA Res 32/13 (1 July 2016).

in the guarantee of minimum conditions of livability and arguably with still other elements. This evolution allows room for an interpretation of how digital access plays a role in the enjoyment of fundamental rights.⁷⁴

A second reason is that the internet has become a key enabler of many human rights, such as freedom of expression, access to information, education, health and participation in public affairs. Increasingly, enjoyment of these rights is contingent on affordable and reliable access to the internet.⁷⁵

Third, although the relevance of internet access is increasingly acknowledged in international legal discourse, it has not yet been explicitly codified as part of the right to life by binding international legal instruments. Current frameworks tend to protect access to the Internet under freedom of expression and information rights rather than focusing on Article 6 ICCPR.⁷⁶

Fourth, internet shutdowns and access limitations may have ancillary effects beyond restrictions on free expression. In some cases, such measures may undermine critical access to life and humanitarian assistance, including emergency information and healthcare, ultimately threatening the protection of life and human dignity.⁷⁷

Lastly, the international legal developments point to a gradual shift towards acceptance that digital connectivity is an essential aspect of life today. This trend has not yet led to a legally binding duty to ensure that everyone has access to the Internet, but it does indicate an emerging shared view of the role of Internet in realizing basic human rights.⁷⁸

5.3 Recommendations

5.3.1 International Recommendations

It continues to explain the relationship between access and the enjoyment of basic human rights, than international organizations and strives to monitor human rights abuses. We encourage the Human Rights Committee to explore additional interpretative guidance on the obligation created

⁷⁴ Human Rights Committee, *General Comment No 36* (n 2) paras 3–7.

⁷⁵ Human Rights Council, 'The Promotion, Protection and Enjoyment of Human Rights on the Internet' (n 4).

⁷⁶ ICCPR (n 1) arts 6 and 19.

⁷⁷ David Kaye, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression* UN Doc A/HRC/35/22 (2017) paras 13–18.

⁷⁸ Human Rights Council Resolution 32/13 (n 4).

by digital connectivity in relation to rights protected under the ICCPR (including but not limited to right to life, freedom of expression, and access to information).

As for the UN human rights council, it should buttress its existing strong recommendations against arbitrary internet shutdowns with assertive strides to promote universal access to digital infrastructure. This calls for more international coordination to address the global digital divide, and sufficient technical and financial assistance for developing countries to build those digital infrastructures.⁷⁹

5.3.2 National Level

States should classify internet access as a basic public service and integrate digital inclusion goals into national development plans. Governments need to invest in telecommunications infrastructure especially in rural or underserved areas for equitable access to the digital services.

There is more to be done though, and legislative frameworks need to protect against random internet blackouts. All exemptions to internet restrictions must adhere to the principles of legality, necessity, proportionality and accountability as mandated by international human rights law.⁸⁰

5.3.4 Recommendations for Future Research

Further Research Directions Future scholarly studies should examine the changing interplay between emergent technologies and human rights. Research comparing national legal approaches to recognizing internet access as a right may be helpful for future developments in international law.

Moreover, more studies are also needed to evaluate the effect of internet shutdowns on public health and disaster management or emergency response systems. This kind of evidence might help strengthen legal arguments connecting internet use with the right to life.

5.4 Final Remarks

Societies undergoing digital transformation are confronted with one of the biggest human rights questions at our day and age. Despite the failure of international law to affirmatively recognize internet access as part of effective enjoyment in realising the right to life, recent cases from

⁷⁹ United Nations, *Roadmap for Digital Cooperation* (2020) 7–12.

⁸⁰ Human Rights Committee, *General Comment No 34: Article 19 – Freedoms of Opinion and Expression* UN Doc CCPR/C/GC/34 (2011) paras 21–36.

across several states appear increasingly forensically to illustrate how digital connectivity is now fundamental to human health and welfare.

In summary, the results of this dissertation indicate that internet access should be considered a right rather than a privilege or an economic commodity. Instead, it should be perceived as an indispensable yet also still identifiable way in which human beings realize and have fun with the liberty of perception. International human rights law will come under increasing pressure to adapt its recognised concepts to the realities of rapidly expanding dependence upon digital technologies.

The ultimate acknowledgment of internet access as subsumed within the right to life will be a matter of continued legal development, state practice, judicial interpretation and international consensus. While we have not yet reached this stage, recent progress indicates powerfully that internet access is beginning to be a prerequisite for individual survival, dignity, and human flourishing in the digital age.

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