

An Assessment of the Protection of Human Rights in International Law in the Age of Digitalisation

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ABSTRACT: The rapid development of digital technologies has fundamentally transformed the ways in which individuals exercise their fundamental rights and freedoms and has expanded the scope of international human rights law. The internet, social media platforms, big data analytics and digital surveillance applications present both new opportunities and serious risks in terms of the protection of human rights. This study aims to assess the extent to which international human rights law can protect individuals' fundamental rights in the digital age.

The article addresses key areas such as the right to privacy, the protection of personal data, freedom of expression and digital surveillance; the responsibilities of states and private actors have been analysed from an international law perspective. Furthermore, the effectiveness of the United Nations system and regional human rights mechanisms in addressing digital rights violations has been assessed. The study concludes that, whilst the current international legal framework offers a certain level of protection in the digital age, it has not been able to keep pace with the speed of technological developments.

KEYWORDS: Digitalisation, International Human Rights Law, Privacy, Digital Surveillance, Personal Data.

INTRODUCTION

Digitalisation refers to a multidimensional transformation process that profoundly affects the social, economic and legal structure of contemporary societies. The widespread adoption of the internet, the integration of mobile technologies into daily life, and the central role played by digital platforms in social interaction have fundamentally altered the ways in which individuals communicate, access information, and express their views. This transformation has expanded the scope of human rights whilst simultaneously giving rise to new legal and ethical debates regarding their protection.

The speed, accessibility and opportunities for global interaction provided by digital technologies have strengthened individuals' freedom of expression and right to access information. However, big data analytics, algorithmic decision-making mechanisms and digital surveillance practices have created serious risks regarding the privacy of individuals' private lives and the protection of personal data. Data collection and monitoring activities carried out in the digital environment are often conducted without the individual's knowledge or explicit consent; this situation creates significant problems regarding the protection of human dignity and privacy.

International human rights law has historically been built on an approach centred on the protection of the individual against the state. However, in the digital age, human rights violations arise not only as a result of direct state intervention but also as a consequence of the activities of private actors such as digital platforms and technology companies. This development demonstrates the need to question the classical state-centric structure of international human rights law and to develop new approaches to the protection of human rights.

In this context, international law must be reinterpreted and developed in a way that can respond to the new risk areas created by digitalisation. The balance between states' regulatory and supervisory role in the digital sphere and private actors' responsibility to respect human rights has become one of the key issues of debate in international law today. This article aims to examine the effects of the digitalisation process on human rights and to assess the extent to which existing international human rights protection mechanisms can meet the needs of the digital age.

The Impacts of Digitalisation on Human Rights

The rapid proliferation of digital technologies has largely shifted individuals' daily practices into the digital sphere, and in this process, the continuous collection, processing and storage of personal data has become a common practice. Data generated through smart devices, online services and digital platforms reveals individuals' behavioural patterns, preferences and social relationships.

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Thanks to big data analytics and algorithmic systems, the processing of this data has made it possible to predict individuals' future behaviour. This situation poses significant risks that could narrow the scope of the right to privacy and infringe upon individuals' privacy.

Surveillance and data collection activities carried out in the digital environment are often conducted without individuals' explicit consent or adequate information. In particular, digital surveillance measures employed by states on grounds of national security and public order can lead individuals to act under the perception of being constantly monitored. This situation creates an effect that indirectly restricts not only the right to privacy but also individuals' freedom of thought and expression. The feeling of being under constant surveillance can become a deterrent that prevents individuals from freely expressing their thoughts.

On the other hand, digitalisation has significantly expanded the scope of freedom of expression, enabling individuals to participate more actively in public debates. Social media platforms and online communication tools have facilitated the visibility of diverse viewpoints by offering lower costs and broader access compared to traditional media channels. This development has had a positive impact on the strengthening of freedom of expression in democratic societies. However, the content moderation policies and algorithmic ranking systems of digital platforms have become a key determinant of which content becomes visible.

Furthermore, measures implemented by states in the digital sphere—such as blocking access, removing content and censorship—are leading to renewed debate regarding the limits of freedom of expression. Although such interventions may be justified on legitimate grounds such as public order, national security or public health, they can lead to human rights violations when applied disproportionately or arbitrarily. At this point, how to strike a balance between freedom of expression and public order and security emerges as a critical issue under international human rights law.

In conclusion, digitalisation represents a multifaceted process that presents both opportunities and serious risks in terms of the protection of human rights. The potential of digital technologies to be utilised in a manner that strengthens human rights can only be realised through effective legal frameworks and robust oversight mechanisms. The development of international human rights law to address these new spheres of influence arising from digitalisation is of great importance for the protection of individuals' fundamental rights and freedoms.

The Responsibility of States and Private Actors

Under international human rights law, states bear primary responsibility for protecting individuals' fundamental rights and freedoms. This responsibility is not limited solely to actions and measures directly undertaken by the state, but also encompasses providing effective protection against third-party activities that may infringe upon individuals' rights. In the digital age, this situation has made the obligation of states to regulate, monitor and, where necessary, intervene in the activities of private actors in the digital sphere even more important.

Digital platforms, social media companies and technology firms directly influence the ways in which individuals communicate, access information and have their personal data processed through the services they provide. Although these actors hold *de facto* power over individuals' fundamental rights, they are not explicitly defined as direct parties under international human rights law. This situation points to a structural gap in the protection of human rights and raises the question of within what limits the responsibility of private actors should be addressed.

The responsibility of states in the digital sphere is not limited to merely establishing a regulatory framework. States are also obliged to monitor whether the activities of digital platforms comply with human rights standards and to provide effective remedies against rights violations. In this context, states' inaction or avoidance of intervening in the activities of private actors may indirectly pave the way for human rights violations.

On the other hand, digital surveillance activities carried out by states on grounds such as national security, public order and the fight against crime require particular sensitivity from a human rights perspective. For digital surveillance measures to be considered lawful, they must have a clear and predictable legal basis, pursue a legitimate aim, and be necessary and proportionate in a democratic society. Where these criteria are not met, digital surveillance can become a tool for systematic interference in individuals' private lives and personal freedoms.

The prospect of constant surveillance creates a form of pressure that may indirectly shape individuals' behaviour and modes of expression. This situation gives rise to consequences that may undermine not only the right to privacy but also freedom of thought and expression. Consequently, the existence of effective judicial and administrative oversight mechanisms over states' digital surveillance activities emerges as an indispensable requirement for the protection of human rights.

In conclusion, the effective protection of human rights in the digital age depends on the clear definition of the responsibilities of states and private actors, and on ensuring these responsibilities are made practicable in practice. The development of a more inclusive and up-to-date approach within international human rights law, taking into account the growing influence of digital platforms, is of great importance for the protection of individuals' fundamental rights and freedoms.

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The Role and Effectiveness of International Mechanisms

International human rights mechanisms play a vital role in providing a normative framework for protection against human rights violations arising in the digital age. International treaties adopted within the United Nations aim to ensure the universal protection of human rights; state practices in the digital sphere are monitored through treaty bodies, special rapporteurs and thematic working groups. These mechanisms draw attention to the effects of digitalisation on human rights, thereby encouraging states to fulfil their responsibilities.

At the regional level, the European human rights system offers a more concrete and advanced monitoring mechanism for the protection of human rights in the digital age. The European Court of Human Rights has defined the limits of state intervention in the digital environment through its rulings on rights such as the right to privacy and freedom of expression, and has guided the interpretation of human rights. The Court's case law serves as an important guide by setting out the minimum standards that states must adhere to in the areas of digital surveillance, online freedom of expression and data protection.

However, the effectiveness of international and regional mechanisms depends largely on states' willingness to cooperate with these mechanisms and their commitment to implementing the decisions taken. The limited enforcement power under international human rights law can diminish the impact of these mechanisms, particularly in the face of cross-border and rapidly evolving issues such as digital rights violations. States' delayed or incomplete implementation of decisions makes the practical protection of human rights difficult. The fact that digital rights violations often transcend national borders highlights the structural limitations of existing international mechanisms. The fact that digital platforms operate on a global scale and that data flows know no borders means that national or regional solutions alone are insufficient for the protection of human rights. This situation highlights the need to strengthen international mechanisms with more coordinated, rapid and binding tools.

Consequently, whilst international human rights mechanisms play an indispensable role in safeguarding human rights in the digital age, their current structures struggle to respond effectively to all challenges. In the face of the new risk areas created by digitalisation, strengthening the authority, oversight and enforcement capacities of these mechanisms; enhancing inter-state cooperation; and developing clearer international standards specific to digital rights are of great importance for the effective protection of human rights.

CONCLUSION

This article demonstrates that, in the age of digitalisation, international human rights law is confronted not only with new areas of risk but also with the necessity of structural and conceptual transformation. Whilst digital technologies expand individuals' freedom of expression, right to access information and opportunities for social participation, they also bring with them serious risks of rights violations in areas such as privacy, the protection of personal data and digital surveillance. This dual impact clearly demonstrates the complex and multi-dimensional nature of digitalisation's impact on human rights.

The assessments conducted within the scope of this study reveal that existing international human rights law standards provide a certain framework of protection in the digital age; however, this framework has been unable to fully adapt to the pace of technological developments and the growing influence of digital actors. In particular, it is evident that a state-centred approach to human rights falls short in the face of the growing role of private actors such as digital platforms and technology companies. This situation necessitates a re-examination of responsibilities regarding the protection of human rights and the adoption of a more inclusive approach.

Digital surveillance practices and cross-border data processing activities further highlight the importance of international cooperation in the protection of human rights. Measures taken at the national level are often insufficient in the face of digital platforms operating on a global scale; this makes it imperative to strengthen the effectiveness of international mechanisms. The development of the authority and enforcement capacities of international human rights mechanisms has emerged as one of the most fundamental requirements for the protection of human rights in the digital age.

Consequently, the effective protection of human rights in the digital age depends on international human rights law being adapted to a dynamic and up-to-date framework. The clear definition of states' regulatory and supervisory responsibilities, the strengthening of private actors' obligations to respect human rights, and the enhancement of inter-state cooperation constitute the fundamental elements of this process. New normative approaches developed in this direction will contribute to the establishment of a digital legal order centred on the dignity and fundamental freedoms of the individual, whilst limiting the negative impacts of digitalisation on human rights.

CONCLUSION AND RECOMMENDATIONS

This study has demonstrated that international human rights law is undergoing a significant transformation in both scope and function in the age of digitalisation. Whilst digital technologies expand individuals' freedom of expression, right to access information and opportunities for social participation, they simultaneously create serious human rights risks in the areas of privacy,

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data protection and digital surveillance. This situation demonstrates that the effects of digitalisation on human rights are not one-dimensional, but rather exhibit a multi-dimensional and complex structure.

The analyses conducted within the scope of this article have revealed that existing international human rights law norms provide a certain framework of protection in the digital age, but that this framework cannot fully keep pace with the speed of technological developments and the growing influence of digital actors. In particular, the predominantly state-centric structure of international human rights law proves inadequate in the face of the actual impact on human rights exerted by private actors such as digital platforms and technology companies. This situation necessitates a reassessment of responsibilities regarding the protection of human rights.

Digital surveillance practices and cross-border data processing activities demonstrate that measures taken at the national level are often insufficient. The global nature of digital human rights violations underscores the importance of international cooperation and common standards. In this context, strengthening the authority, oversight and enforcement capacities of international human rights mechanisms emerges as a fundamental necessity for the effective protection of human rights in the digital age.

In light of these findings, the following recommendations can be developed to protect human rights in the digital age:

- International human rights law must be updated to cover the new risk areas arising from digitalisation, and clearer normative frameworks specific to digital rights must be established.
- It is important for states to develop effective regulatory and oversight mechanisms to ensure that the activities of digital platforms and technology companies are brought into line with human rights standards.
- Transparency, judicial oversight and accountability mechanisms must be strengthened to ensure the lawfulness of digital surveillance practices.
- International and regional human rights mechanisms must be equipped with faster, more effective and binding tools to address digital rights violations.
- Greater emphasis must be placed on raising awareness of digital rights and on educational and information campaigns that enable individuals to exercise their rights.

In conclusion, the effective protection of human rights in the digital age depends on a dynamic, inclusive and up-to-date re-examination of international human rights law. Clarifying the responsibilities of states and private actors and strengthening international cooperation are of critical importance for the construction of a digital legal order centred on the dignity and fundamental freedoms of the individual.

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