

FREE AND EQUAL ACCESS TO THE INTERNET: a cornerstone for the realization of freedom of speech and expression in the Digital Age

ACESSO LIVRE E IGUAL À INTERNET: uma pedra angular para a realização da liberdade de expressão e de expressão na Era Digital



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ABSTRACT

The Internet consists of millions of businesses, private, public, academic, and government networks of local to global scope linked by a broad array of electronic, wireless, and optical networking technologies. The Internet is considered one of humanity's greatest inventions. Now, it is impossible to lead a life without internet access. Every area of human life is connected to the internet. It can be seen that in the modern world, it is impossible to lead a life with human dignity without internet access. The internet and its access have an important role in enjoying human rights. In the present world, the enjoyment of many human rights ensured under the international human rights law is highly connected with the internet and its free and equal access. The right to freedom of speech and expression, privacy and education are good examples. It is also important to note that after COVID-19, the role of the internet in people's daily lives increased compared to the pre-COVID period. This research is focused on whether, in the present modern world, free and equal access to the internet is essential to enjoy human rights, especially the freedom of speech and expression. The basic objective of this research is to analyse the role of the internet in the enjoyment of human rights, especially in the enjoyment of the freedom of speech and expression.

Keywords: access to internet; freedom of speech; human rights; UDHR; ICCPR

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RESUMO

A Internet consiste em milhões de empresas, redes privadas, públicas, acadêmicas e governamentais de escopo local a global, conectadas por uma ampla gama de tecnologias de rede eletrônica, sem fio e óptica. A Internet é considerada uma das maiores invenções da humanidade. Agora, é impossível levar uma vida sem acesso à Internet. Todas as áreas da vida humana estão conectadas à Internet. Pode-se ver que, no mundo moderno, é impossível levar uma vida com dignidade humana sem acesso à Internet. A Internet e seu acesso têm um papel importante no desfrute dos direitos humanos. No mundo atual, o desfrute de muitos direitos humanos garantidos pela lei internacional de direitos humanos está altamente conectado com a Internet e seu acesso livre e igualitário. O direito à liberdade de expressão e discurso, privacidade e educação são bons exemplos. Também é importante notar que, após a COVID-19, o papel da Internet na vida diária das pessoas aumentou em comparação ao período pré-COVID. Esta pesquisa se concentra em saber se, no mundo moderno atual, o acesso livre e igualitário à Internet é essencial para desfrutar dos direitos humanos, especialmente a liberdade de expressão e discurso. O objetivo básico desta pesquisa é analisar o papel da internet no gozo dos direitos humanos, especialmente no gozo da liberdade de expressão e de palavra.

Palavras-chave: acesso à internet; liberdade de expressão; direitos humanos; DUDH; PIDCP

1 INTRODUCTION

The Internet may be defined as a mechanism for information dissemination and a medium for collaboration and interaction between individuals and their computers without regard for geographic location. Simply put, it may be explained as a global system of interconnected computer networks that uses the standard internet protocol suite TCP/IP to serve billions and billions of users worldwide (Rouse, 2017). The origin of the Internet can be traced back to the 1960s, and over the past few decades, the global use of the Internet has risen exponentially with billions of connected systems (Howe, 2016). Now, it is impossible to think about a world without the internet because almost all activities of daily life are connected to the internet. The primary importance of the internet is that it is a huge source of information. With the help of the internet, anybody can access any information within seconds, and the internet provides a good platform for expressing opinions. The Internet also provides many services like online banking, shopping, etc. (Lener *et al.*, 1997).

During the initial stage, it was used only for defence purposes, but in later stages of the development of the internet, people started to use it for other purposes like business, research etc. The Internet is the most important invention that has greatly changed every facet of human life. On the analysis of the role of the internet in our daily life, it can be seen that every field of our daily life, like education, health, development, governance, etc., is highly connected to the internet and its access. So, in this modern world, especially after the COVID-19 pandemic, it is very difficult to lead a dignified life without access to the internet. On evaluating the effect of the internet and its access to the enjoyment of human rights, it can be seen that many basic human rights, like the right to freedom of expression, education, health, etc., are linked with the internet (Joshi, *et al.*, 2022). This research is focused on the role of free and equal access to the Internet in human rights, especially in freedom of speech and expression. This research aims to analyse the importance of free and equal access to the Internet in the enjoyment of human rights, especially the freedom of speech and expression and a dignified life.

2 OBJECTIVES OF THE STUDY

In today's digital world, internet access plays a pivotal role in the free and equal access to



different human rights, particularly freedom of speech and expression. Cyberspace is like a physical space where humans can meet, interact, and exchange ideas. International human rights documents, such as the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, expressly guarantee freedom of speech and expression, allowing individuals the “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice”. Various reports and interpretations emphasise that the words “regardless of frontiers” and “any other media of his choice” indicate that the freedom of speech and expression can be exercised not only through oral and print media but also with the help of the internet. The Constitution of India expressly guarantees freedom of speech and expression as fundamental rights. As India is a party to nearly all international human rights instruments, it is obliged to follow the interpretations of human rights established at the international level. Hence, in India, the freedoms of speech and expression include access to the internet. The free and equal enjoyment of freedom of speech and expression significantly influences and impacts the enjoyment of various other human rights. This work explores the intricate relationship between freedom of speech and expression with the realization of other human rights. The following are the specific aims of the study:

- A. To give a brief account of the impact of access to the internet in the present world
- B. To analyse the impact of the internet on the enjoyment of human rights
- C. To examine the role of the internet on the enjoyment of freedom of speech and expression
- D. To highlight the impact of access to the internet on freedom of speech and expression in India

3 RESEARCH METHODOLOGY

This study employs a doctrinal research methodology, focusing on an in-depth analysis of legal texts, case laws, reports, and scholarly interpretations regarding the role of internet access in the enjoyment of freedom of speech and expression. The research is largely based on secondary data, examining both national and international legal frameworks to understand the evolving nature of free speech in the digital age. Initially, the relevant materials were identified using hardcopy books and journals available in the institution’s library and through the journal databases and general searches on Google. Subsequently, the researchers used a systematic method (to understand the scope and nature of the impact of access to internet, impact of the internet on the enjoyment of human rights, the role of the internet on the enjoyment of freedom of speech and expression; the impact of access to the internet on freedom of speech and expression in India) and the analysis method (to systematically review the large volume of research papers related to the issues discussed in the paper).

4 RESULTS AND DISCUSSION

4.1 A impact of access to the internet in the present world

Primarily, the internet is a great source of information. People use it to get and share information. Years ago, before the invention of the internet, the main sources available for getting information about something were the libraries. Still, it had many limitations like space, accessibility and, availability of information etc. But now, in this era of the internet, anyone can access any information quickly. Through the Internet, getting different information angles within



seconds is also possible. In education, students use the Internet for online classes, research, etc. Now, many online courses are available, which are very helpful for students to get a good education. So now, the internet is an unlimited source of information without any boundaries (Blundell, 2018).

Another important role of the internet is the ability to connect people. Social networking sites like Facebook, Twitter, etc., are good platforms to connect people, and social networking sites also give great contributions to the social and cultural development of a society. Now, it can be seen that people are using social networking sites to protest or give feedback on governmental actions and policies. It is also a well-established fact that, in the present social situations, the internet has the role of protector of the democratic nature of society. By providing a platform for everyone to express opinions and acquire information, the internet plays an important role in ensuring the effective participation of people in a democratic society. It is also important to note that governments use internet shut downs as a tool to prevent protests against the government which is a clear case of violation of the freedom of speech and expression of the citizens (Reinking & Colwell, 2015).

According to 'Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression', Frank La Rue's internet is one of the most powerful instruments of the 21st century for increasing transparency in democratic society. It directs the states to ensure access to information, which helps active citizen participation in building democratic societies. The report also stated that the internet has a great role in realizing and increasing respect for human rights and fundamental freedoms, especially the Right to Freedom of Opinion (La Rue, 2011). In the report, the Special Rapporteur also directs the states to facilitate access to the Internet for all individuals without any unnecessary restrictions. So, it is very clear that in the modern world, the internet and its free and equal access have a great importance in the enjoyment of freedom of speech and expression.

4.2 Impact of the internet on the enjoyment of human rights

After the Second World War, the UN was established with the objective to protect the human rights and fundamental freedoms of the person and to prevent another war (Agarwal, 2007). So, the UN took a number of initiatives to protect and promote human rights. In 1948, the UN adopted UDHR, it is considered as the starting point of modern human rights jurisprudence (Agarwal, 2021). UDHR contains the list of basic human rights. It included civil and political rights as well as social, economic, and cultural rights. In the later stages of the development of human rights, the UN adopted two covenants in 1966 and two protocols. The covenants are ICCPR and ICESCR. The first protocol to the ICCPR relates to the individual complaint mechanism, which was adopted in 1966, and the second one relates to the abolition of the death penalty and which was adopted in 1989. The tougher knew as international bill of human rights. On the analysis of the rights in the bill of rights, it can be seen that even though the right to access to internet or role of internet is not expressly mentioned in those documents, but the enjoyment of many rights in the UDHR, ICCPR and ICESCR are now highly connected with access to internet especially the freedom of speech and expression (Tiwari; Ghosh, 2014).

The Universal Declaration of Human Rights is the basic international pronouncement of the inalienable and inviolable rights of all members of the human family. UN the General Assembly adopted it on 10 December 1948 at its meeting in Paris. UDHR accepted as the true Magna Carta of mankind. The Declaration consists of a preamble and 30 Articles setting forth the human rights and fundamental freedoms to which all men and women, everywhere in the world, are entitled without any discrimination.

It is not possible to find a direct mention about the access to internet in the UDHR. But on



the analysis of influence of access internet in the enjoyment of right given under UDHR in the present world of technology, it can be seen the now access to internet has become an important part of the enjoyment of this right or it can be said that without access to internet enjoyment of many rights given under UDHR is not possible in its full extent especially the right given under Art 19 (APC, 2011)

Article 19 of UDHR is dealing right to freedom of opinion and expression, this right includes right expressing opinion without any restriction and right to seek, receive and impart information and ideas through any media without any boundaries. Now internet is a great medium which contain many information and knowledge, anyone can access to any information using internet with in small time and also internet give platforms to the common people to expresses his opinions and views. Social networking sites are example for that. The online protests also have important role in the democratic society because people using internet platforms to show protest against government and governmental actions (Haider, 2023). On the other hand, government are now trying to make unnecessary censorship and internet shut downs to deny the access to internet to the public (Feldstein, 2017). Denying access to internet without reasonable reasons will result in a violation of freedom of speech and expression given under Article 19 of UDHR. Hence in the world of technology access to internet has important role in the enjoyment of right under Article 19 of UDHR.

The internet also makes an impact on the enjoyment of other rights also Article 26 of the UDHR deals with the right to education, and it says that the basic aim of the right to education is the development of human personality and the protection of human rights. For enjoyment of this right, access to internet is essential because it is a large source of information and knowledge. Right given under Article 27 also has some relation with internet access. It mainly deals with the right to participate in the cultural life and to share in scientific advancement and its benefits. Access to healthy knowledge has an important role in the enjoyment and development of cultural life and also the social networking site have an important role in the exchange of culture (APC, 2006). In the case of sharing scientific advancement and benefits also, the internet and its access have an important role. So, on the analysis of the relation of right to access internet in the enjoyment of the rights especially freedom of speech and expression given under UDHR.

International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly in 1966 and the Covenant entered into force on 23rd March 1976 (CCLA, 2015). Covenant has a preamble and 53 articles divided into six parts. Article 2(1) of covenant imposes an obligation on the state parties to respect and ensure the rights given under the covenant to all persons. Article 19 of ICCPR is dealing with right to freedom of opinion and expression and this right includes right holding opinion and right to seek, receive and impart information and ideas through any media without any boundaries. Now internet is a great medium which contain many information and knowledge. Anyone can access to any information using internet with in small time and also internet give platforms to the common people to expresses his opinions and views. Hence now it's impossible to think the enjoyment of this right without access to internet (Howie, 2017). In 2011 May Frank La Rue, UN Special Rapporteur on Freedom of Speech and Expression declared the importance of internet in the fulfillment freedom of speech and expression. He analyzed the importance of access to internet and he argued that ensuring the universal access to internet is the responsibility of the states.

The International Covenant of Economic, Social and Cultural Rights (ICESCR) were adopted by the General Assembly in 1966 and the Covenant entered into force on 3rd January. The Covenant did not express mere list of rights but it describes and defines them in considerable detail and set out the steps that should be taken to achieve their realization. It may be further noted here that these rights are not absolute. States can impose certain restriction on the enjoyment of these rights (Article 4). On the analysis of the influence of access to internet in the enjoyment of different

economic, social and cultural rights, it can be seen that after the development of internet, enjoyment of rights in this Covenant is highly depend on internet and its free access.

Article 13 of the covenant is dealing with right to education and Article 15 is dealing with right to take part in the cultural life and to enjoy the benefits of scientific progress. In the case of education, it can be seen that now internet is an essential tool which helps in the education process of a person because by the help of which anybody can access any type of information from any part of the world and also by the internet anybody can acquire any type of education through online. Similarly in the case of enjoyment of cultural life also can see the influence of the internet. Access to information and connectivity of people will helps to take part in the cultural life more effectively. Internet is considering as one of the major contributions of the science to the mankind and its considering as the fruit of uncompromised determination and commitment of mankind. In the present world of information technology the access to internet have an reasonable influence in the enjoyment of many economic, cultural and social rights given under the covenant (Penney, 2016).

In the ‘Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression’ discussed the role of internet in the enjoyment of freedom of speech and expression given under Article 19 of the UDHR. In his Report he says that unlike any other medium internet has a great role in the process of receiving, seek and impart information instantaneously without the barriers of the nations. He also highlighted the role of internet in the economic, social, and cultural development of nations. He says that internet boosts the economic, social and cultural development of the nations (Solum, Lawrence, 2008).

In the Report the Special Rapporteur emphasized on the free flow of the information in which he argues that the restrictions to access to internet should be minimal and it must be according to the international human right law. He also underlined in his Report that, “The full guarantee of the right to freedom of expression must be the norm, and any limitation considered as an exception, and that this principle should never be reversed”. This Report gave some guidelines to prevent the misuse of internet and the report also says that when restrictions imposed on the access to internet, it should be fulfilled following three criteria, the first one is the principles of predictability and transparency, means it must be provided by clear and transparent law, the second one is that It must for the purposes set out in article 19, paragraph 3, of the International Covenant on Civil and Political Rights and the one says that It must be proven that the restriction made according to the principle of necessity and proportionality (Leiter, 2016)

In addition to this, the Report also direct that any restrictions to freedom of expression should made by an independent judicial body without any vested interest and also the body should take necessary steps to prevent the misuses. In this Report, the Special Rapporteur expressed concern about the different filtering and blocking mechanisms used by the states for censorship. He say that it very difficult to determine whether the blocking or censorship is necessary, with respect to this issue the report call up on the states to provide an independent judicial procedure to determine whether particular site is block or not. Under paragraph 72 of the Report the Special Rapporteur express its concern about criminalization of legitimate expression, in which he says that the criminalization of legitimate expression of the citizens are against the international human right law. The laws which criminalize the online expression of ideas only justified on the ground that it’s necessary for the protection of the reputation of a person or in the interest of national securities or to counter the terrorism (Balkin, 2004).

This Report also emphasis on the impotence of intermediaries in the enjoyment of freedom of speech and expression. Intermediaries have important role in determine the content circulated in the internet. Hence the Report directs the states to control them and impose liability on them, if they deny access to any content in the internet without reasonable authority to do so. The Report directs the state parties to keep the control of the censorship with the state only. Any activity which makes restriction on the access of any content of the internet should be performed according to the

order of the competent authority. Rapporteur believes that transparency in the procedure will help to promote greater accountability (Balkin, 2019).

The cyber-attacks also consider as the indirect interference to the freedom of speech and expression. The Report directs the states to take appropriate steps to prevent these types of interference in the enjoyment of human right and also this Report emphasis on the need to ensure the protection and privacy of the online data. According to the Report any type of the third-party interference in the online data will affect the enjoyment of the right to privacy given under Article 17 of the International Covenant on Civil and Political Rights. Towards the end of the report it emphasizes on the need to develop the adequate infrastructure which is capable of ensuring access to internet to all (Aswad, 2018).

4.3 Role of internet on the enjoyment of freedom of speech and expression

The development of modern human right jurisprudence got its momentum from the establishment of the UN. UN took a number of initiatives to recognize and protect the human rights of the people without any kind of the discriminations. But it may be noted that with the initiatives of UN, considerable developments were made by certain regional organizations by adopting regional human right documents. The most important developments were made in American, European and African regions (Lwin, 2020). On the analysis of the regional human rights documents made by them, it can be seen that all regional human rights documents recognized almost all rights ensured under international bill of human rights including freedom of speech and expression. It also can be seen that certain court in regional level were recognized access to internet as an integral part of the enjoyment of human rights especially in the enjoyment of freedom of speech and expression.⁵ The following is discussing about Role of Internet on the Enjoyment of human rights especially the Freedom of Speech and Expression Under Regional Human Rights Documents

4.4 The European Convention on Human Rights, 1950

The European Convention on Human Rights and Fundamental Freedoms (ECHR) is an intergovernmental treaty to protect human rights and fundamental freedoms in Europe. Drafted in 1950 by the Council of Europe and entered into force on 3rd September 1953 (Weller, 2016). All Council of Europe member states are party to the Convention. This Convention established a court called European Court of Human Rights. It is an implementation mechanism to ensure the implementation of the human rights given under the Convention.

This Convention is dealing with basic rights of human being. Under Article one, its states that parties to the Convention have the responsibility to ensure the rights under the Convention to all citizens. On the interpretation of the Article one, the Court observed that Convention is a living document and it must be interpreted in the light of the present day needs and developments (Golder v. United Kingdom, 1975). On the analysis of the approaches of the Court, it can see that the Court is ready to read new right by the way of interpretation of the existing provisions of the Convention (Letsas, 2012).

Article 10 of the Convention is dealing with the freedom of expression, on the interpretation of this Article the Court held that access to internet is also a part of European Convention. In a

case the Court held that internet has become one of the main tools available to ensure freedom of expression given under article 10 of the convention and it also held that the internet plays an important role in enhancing the public's access to news and facilitating the dissemination of information in general (Cengiz, 2015). In *Ahmet Yildirim v. Turkey*, (ECtHR, Application no. 3111/10, 2012) case was relating to the blocking of access to Google site by a domestic court order. In this case the argument was that by the blocking of the Google sites, the applicant is unable to access his website and which is a violation of Article 10 of the Convention. In this case the Court held that the action amounts to the violation of Article 10 and also held that any activity which restricts the access to information must be according to the international law. So it very clear from the above cases that the Court accepts right to access to internet as a part of Article 10 of the Convention. It is also an important to ensure that the access to internet is not used to damage the reputation of others because the internet is now able to lead the issue of defamation to new dimensions (Rogers, 2011). So, the claims to access to internet for the enjoyment of right to freedom of expression can't support, if it leads to defamation, because the rights under Article 10 is not absolute and restrictions are possible as per Article 10(2).

Generally, the rights in the Convention are considered negative rights, but the Court held that these general principles couldn't apply to all rights given under the Convention because some rights impose some positive obligation on the states to ensure the effective enjoyment of those rights. In *Appleby et al. v. UK* (ECtHR, Application no. 44306/98, 2003), the Court held that 'genuine effective exercise of freedom of expression does not depend merely on the state's duty not to interfere, but may require positive measures of protection, even in the sphere of relations between individuals. In *López-Ostra v. Spain* (ECtHR, Application no. 16798/90, 1994), the Court held that a positive obligation requires public authorities to take reasonable and appropriate measures to secure' the rights of an individual. These measures can be of a legal or practical nature or both. In *Ozgür Gündem v. Turkey* (ECtHR, Application no. 23144/93, 2000), the Court held that that the government have failed to comply with their positive obligation to protect newspaper in the exercise of its freedom of expression.

4.4.1 American Convention on Human Rights, 1969

The American Convention on Human Rights, also known as the Pact of San José, It was adopted by many countries in the western hemisphere in San José, Costa Rica, on 22nd November 1969. it came into force on 18th July 1978 (Birnhack, 2003). The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are responsible for overseeing compliance with the Convention. Both are organs of the Organization of American States (OAS). According to its preamble, the purpose of the Convention is to consolidate in this hemisphere, within the framework of democratic institutions, a system of personal liberty and social justice based on respect for the essential rights of man. There are 11 chapters in this Convention (McCann, 1982).

Chapter two of this Convention deals with the civil and political rights and chapter three of the Convention is coping with the economic, social and cultural rights. On the analysis of the relation of access to internet and the American Convention, it can be seen that there is no direct mention about the access to the internet in the Convention, but in fact, for the enjoyment of many rights given in the convention like freedom of expression, right to privacy is highly related to access to internet. In its 'Report on Freedom of Expression and the Internet of 2013' the Special Rapporteur recognised the importance of internet in the enjoyment of freedom of speech and



expression. In the ‘Report of Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of 2017’ again underlines the importance of the internet and its access in the enjoyment of human rights specially Freedom of Expression and also mentioned about number of basic principles in relation to internet and its access. This Report is mainly dealing with the importance of the internet in the enjoyment of human rights given under the American Convention. It states that access to the internet has a vital role in the enjoyment of human rights like freedom of expression, the right to participate in cultural life and enjoy the benefits of scientific development, rights to technological progress, right to education, right to assembly and association and proper to health etc. This Report states explicitly that internet access is an integral part of the effective exercise of the human rights. The Report states that internet access must be granted universally. According to the Report, for ensuring the access to internet state should take step for promoting infrastructure and also the state should promote the quality and integrity of the services. On the analysis of present situation in America the Report pointed out that as per present situation still one three of the population is not connected to the internet and the report say that inaccessibility of internet create inequality in the states (Richards *et al*, 2015).

The second chapter of the Report is dealing with the right to thought and expression which is given under the Article 13 of the Convention and the Report accept that this right is an essential part of democracy and development. The third chapter of the Report is dealing with the right to access information. On the analysis of second and the third chapter, the Report is trying to emphasise the importance of internet and its access in the enjoyment of the right to thought and expression. The Report is also dealing with right to privacy and protection of personal data. It can be seen that right to privacy and access to internet are interconnected and in the present world of technology suitable to privacy and protection of personal data can’t enjoy without the access to internet. On the analysis of the Report, it can be said that the Report deals with the importance of the internet and its access to the enjoyment of fundamental human rights. This Report expressly accepts that the internet and its access is an essential condition for the enjoyment of many human rights, especially the right to freedom of thought and expression (Turner, 2019).

4.4.2 The African Charter on Human and Peoples’ Rights 1981

The African Charter on Human and Peoples’ Rights is an international human rights instrument which is intended to promote and protect human rights and basic freedoms in the African continent, it also known as the Banjul Charter. It was adopted on 27th June 1981 by OAU and entered into force on 21st October 1986. The African Charter on Human and People’s Rights includes preamble, 3 parts, 4 chapters and 68 Articles. This Charter contains a list of civil and political rights and economic, social and cultural rights. Also, it can be seen that this is the first regional instrument that explicitly states that the generation is suitable. Another important unique feature of this instrument is that it imposes some duties to the citizens in addition to rights (Umozurike, 1983).

On the analysis of the relation been the right to access internet and the African Charter, it can be seen that there is no expressed mansion about the right to access internet in the Charter. However, enjoying many rights under the Charter is only possible in the present world by ensuring access to the Internet. Rights like freedom of information and expression under Article 9, freedom to political participation under Article 13, right to health under Article 16 and right to development under Article 22 are good examples for that (Ayalew, 2020).

In 2014, the African Declaration Group developed African Declaration on Internet Rights and Freedom; it is a Pan African initiative to promote and encourage human right and fundamental freedoms. The main objective to adopt this Declaration is to ensure the protection of human right and the fundamental freedoms in the digital world. The preamble of the Declaration acknowledges

the importance of internet in the enjoyment of human rights and fundamental freedom. It states that internet is an essential factor for the enjoyment of many social, economic and cultural right as well as the civil and political rights. This Declaration accepts certain principle for the use and access of internet (Dutton, et. al. 2011).

The first principle is the principle of openness; it states that the internet should have an open and distributed nature, and it must enable people to share ideas and information and allow people to enjoy their rights like freedom of speech and expression. It also states that open standards support innovators and competition. According to the declaration commitment to net neutrality will help to promote equal and non-discrimination access to information, for achieving this, the parties should follow the net neutrality and ensure that all data in the net are treated equally and in non-discrimination manner. It also says that internet should keep as an open free medium for the exchange of information without any discrimination (Okere, 1984).

The major principle of the Declaration is the internet access and affordability. This principle focused on the need to ensure the accessibility to the enjoyment of human rights and freedoms. It accepts the internet as an essential tool for the enjoyment of many human right and freedoms like right to freedom of expression, right to development etc. This Declaration imposes the responsibility on the states to ensure the accessibility on the internet based on the principle of equality and non-discrimination. The Declaration also recognised the importance of the Internet in the enjoyment of rights like the right to Information, freedom of assembly and association, right to development and access to knowledge, proper privacy, personal data Protection, etc. On the analysis of the Declaration, this Declaration is a response of the African region towards the development of the role of the internet in the enjoyment of the common human right. This Declaration accepts the internet as important tool for the enjoyment of many human rights and it impose the responsibility on the states to ensure the access to the internet (Rubner, 2023).

4.4.3 Impact of access to the internet on freedom of speech and expression in India

Constitution of India is the fundamental law of the land. It is the lengthiest and most detailed written constitution in the world. The Part III and Part IV of the Indian Constitution is dealing with the rights of the persons in which Part III of the Constitution is dealing with the Fundamental Rights and Part IV of the Constitution is dealing with the Directive Principles of the State Policy. Generally, the rights in Part III are considered negative rights, which means the right in Part III imposes a negative obligation on the state to not interfere in the enjoyment of such rights and also, if any violation of Fundamental Rights happens, the person can approach the High Court under the Article 226 and the Supreme Court under Article 32 of the Constitution for the enforcement of the right against the state (Basu, 2011). On the other hand the rights in the Part IV are not directly enforceable through court because they are only directive for the state. Unless it is accepted by the state by law as a right, cannot claim as a right before the courts. Almost all rights in Part IV are positive rights because the state needs to take some positive steps to ensure the enjoyment of these rights.

On the analysis of the role of access to the internet in the enjoyment of human rights in the Indian legal system, it can be seen that there is no expressed mention of it in the Constitution. But it can be seen that in the present world of technology, enjoyment of many rights given in Part III and 4 IV related to access to the internet, especially the rights granted in Articles 19(1)(a) and 21 of the Constitution. Article 19(1)(a) of the Constitution of India deals with the freedom of speech and expression, according to which people have the right to express their opinions freely by word of mouth, writing, printing, pictures or any other mode. It included representing one idea through any medium (Lovell v. Griffin, 303 U.S. 444 (1938)). The freedom of speech and expression given under Article 19(1)(a) of the Constitution has not only included the liberty to propagate one's views but

also included the liberty to propagate or publish others' views also (Srinivas v State of Madras, AIR 1931 Mad 70). While discussing the scope of freedom of the press under Article 19(1)(a) of the Constitution of India, the Court pointed out that one of the fundamental principles involved in the freedom of expression is the people's right to know. The Court ruled that the right to know news and information about government administration is included in the freedom of the press (Indian Express Newspapers v Union of India & Ors. AIR 1986 SC 515). The government can only restrict the freedom of speech and expression on the basis of Article 19(2) of the Constitution. Another important observation of the Court regarding freedom of expression is that freedom of expression is available even outside the state, which means that freedom of speech and expression does not have any geographical limitations (Maneka Gandhi vs Union of India, 1978 AIR 597).

Regarding the role of the Internet in the enjoyment of fundamental rights, The Supreme Court, in the case of Dr. Sabu Mathew George v. Union of India (AIR 2018 S C 578), had observed that the Right to Internet Access is a part of Article 19(1)(a) of the Indian Constitution. Later, The Supreme Court of India held that the right to freedom of speech and expression and the right to practice any profession, or to carry on any occupation, trade or business over the medium of the Internet are constitutionally protected rights under Article 19(1)(a) and 19(1)(g) of the constitution in Anuradha Bhasin vs Union of India (AIR 2020 SC 1308). Thus, a negative right to the Internet subject to restrictions under Articles 19(2) and 19(6) has been recognised.

Article 21 of the Constitution deals with persons' right to life and personal liberty. By way of interpretation, the court extended the scope of Article 21 to many rights. In Maneka Gandhi's case (1978 AIR 597), the court held that the right to life not only included mere physical existence but also life with human dignity. By elaborating the scope of this judgment, in the case Francis Coralie Mullin v. The Administrator, Union Territory of Delhi (1981 AIR 746), the Court held that the right to life included a life with human dignity and also the court pointed out that it contains suitable to adequate nutrition, clothing, shelter and facility for reading writing and expressing themselves in deferent forms. On the analysis of the life with human dignity, it can be seen that access to information in online and the offline is a part of the life with human dignity. In the case of other rights under Article 21 of the Constitution of India, it is also seen that in this world of information technology, the enjoyment of many rights under this Article is not possible without access to the internet. Rights like the right to privacy, health, and proper education are examples of these kinds of rights.

It is also important to note that The High Court of Kerala, in the Faheema Shirin v. State of Kerala (AIR 2020 Kerala 35), has recognized that mobile phones and internet access are part of day-to-day life. By referring to resolutions adopted by the United Nations Human Rights Council and the General Assembly, the court explains how internet access is crucial in accessing information linked to education and knowledge. The court believed that the right to access the internet is a fundamental right under the right to life, liberty, and privacy under Article 21. It may be noted that in 2017, the government of Kerala (a State in the Union of India) declared access to the internet as a fundamental human right of the citizens, and the Kerala government initiated a program to install a high-speed optical fiber network called K-FON. By proposing K-FON, the government ensures the internet connection is at a fee rate to the economically backward people of Kerala and a subsidized rate to others.

5 CONCLUSIONS

The internet is considered one of the greatest inventions of the modern world, and it can impact every field of human life. Now, thinking of a world with the Internet is only possible. The role of the internet in the lives of ordinary men has increased after the COVID-19 pandemic. On the analysis of the impact of access to the internet on the enjoyment of human rights, it can be seen



that now, the enjoyment of many human rights is not possible to its full extent without proper access to the internet. Rights like the freedom of speech and expression, right to privacy, right to education, right to health, etc, are highly connected with the internet and its free and equal access. Freedom of speech and expression is the most connected human right with the internet. In this modern world of the internet, the enjoyment of freedom of speech and expression is only possible with the internet. Different international and regional human rights documents and the courts now accept the importance of access to the internet in the enjoyment of human rights, especially in the enjoyment of freedom of speech and expression.

In India, the enjoyment of many fundamental rights like rights to privacy, freedom of speech and expression, right to education, etc., are also highly connected with the internet and its access. It is also accepted and acknowledged by the Supreme Court of India. By pointing out the importance of the internet and its access in the enjoyment of the freedom of speech and expression, the court held that the internet and its access are essential to enjoy fundamental rights, especially those ensured under Articles 19 and 21 of the constitution.

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