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BETWEEN INTERPRETATION AND THE NEED FOR NEW REGULATION OF HUMAN RIGHTS IN THE VIRTUAL WORLD

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Abstract. The subject of the study is to initiate a scientific discussion on the adequacy of human rights, their content and systematics. The reason for the concept of this topic is the fact that most of human activity is carried out in a virtual world built through the use of ICT devices. The aim of the study is to show the extent of increasing human activity in cyberspace. The second goal is to show the similarities and differences between the real and the virtual world. As a research hypothesis which was accepted is the claim, according to which the current wording of human rights does not fully correspond with human situation in the virtual world. This claim is even more justified in the perspective of dynamically developing artificial intelligence, which supports people in decision-making processes, but also displaces them from these processes. The study includes the following methods: the statistical method – thanks to which it was possible to analyze statistical data and the descriptive method – thanks to which the phenomena occurring in the virtual world were described. The result of the work is to demonstrate the need to start scientific research and discussion on human rights in virtual reality.

Keywords: human rights, virtual society, variable axiology, micro-communities, reinterpretation of human rights, the Internet

INTRODUCTION

Over the past at least three decades, human activity has largely moved from the real world to the virtual world (VR) created on the basis of ICT devices. The level of development of new technologies and electronic devices means that the boundary between these two worlds is slowly blurring. The human being's immersion into this new reality is getting deeper and deeper. Human activity is supported and even replaced by intensively built and slowly ubiquitous artificial intelligence (AI). The most popular model of this intelligence is the so-called intuitive operation of devices or programs that replace human thinking. It is intuitively constructed algorithms that subconsciously suggest to a person what will be best for him or her [Siwak 2016, 355–88].

The level of human activity participation on the Internet can be proved mainly by the statistical data for 2019 obtained from Eurostat. It should be noted that this is pre-Covid-19 data.

The most important figure is that 98% of the EU population has access to the Internet. For comparison, in 2013, the average access to the Internet in the EU Member States was 79%. As much as 86% of the EU citizens use the Internet,

84% of which use the Internet regularly at least once a week. Similarly, in Poland it is 80% and 78%. In turn, 73% of the EU citizens use the Internet to send and receive e-mails, in Poland it is 65%. 54% of the EU citizens use social messaging, and 53% in Poland. Almost 66% of the EU citizens look for information on services and objects on the Internet, 62% in Poland. Over 24% of the EU citizens look for software other than games on the Internet, 15% in Poland. About 50% of the EU citizens systematically look for information on health and methods of treatment on the Internet, 47% in Poland. Banking services are used by 55% of the EU citizens, and in Poland by 47%.[1]

In compare to the above-mentioned data, the issue of selling goods and services looks rather weak, as only 18% of the EU citizens use such opportunities. In Poland, it is only14% Data on looking for a job via the Internet are at a similar level. In the EU, this possibility is used by 16% of the inhabitants and in Poland it is 12%. A relatively small percentage of the EU citizens use the opportunity to participate in online courses or organize such courses. These data are at the level of 8–10%, while in Poland it is at the level of 5%. However, it should be taken into account that these are data from 2019, i.e., from the period before the Covid-19 pandemic. This pandemic forced the transfer of education, including university education to the Internet. The data for 2020 and 2021 will most likely show that such education options are used by over 50% of the EU citizens.[2]

E-commerce is an extremely important area of human activity on the Internet. Al.most 56% of EU citizens shop online. In 2019, over 15.7 million Poles aged 16 to 74 (it is 53.9% of the population) made purchases via the Internet.[3]

Communication with public offices is also an important area of people's activity on the Internet. In this respect, on average 53% of the EU citizens communicate with public offices via the Internet, while in Poland it is 40%. Denmark deserves special attention, where as many as 90% of the citizens communicate with public offices via the Internet. Estonia is in second place – 80%. The issue of citizens' participation in public consultations or Internet voting looks worse. In the EU it is only 10%, while in Poland it is 6%.

Summing up the list of data collected by Eurostat proving the presence of European Union citizens, including Polish citizens, on the Internet, averaging them, it can be said that over 50% of human activity in our part of Europe already takes place on the Internet. It is not the task of this study to compare these data with other parts of Europe, such as Russia and the world, such as Asia. However, it can be said with certainty that, with some variation, also in other parts of the world the situation is similar.

[1] The data comes from EUROSTAT, https://ec.europa.eu/eurostat/data/database [accessed: 13.02.2021].
[2] Ibid.
[3] Ibid.

1. THE IMPACT OF VIRTUAL REALITY ON THE REAL WORLD

ICT devices connected to each other through an advanced interface create a realistic environment in human consciousness, a space defined as cyberspace. The computer universe consists of an unlimited amount of data which is multiplied exponentially and the possibilities of actions and interactions of entities (participants), objects or phenomena. Users present in cyberspace can travel almost unlimitedly on virtual highways [Sitek and Such–Pyrgiel 2018, 201ff; Zheng, Chan, and Gibson 1998, 20–23].

A Virtual Reality user using visual and audio output devices can consider themselves part of this environment. The world generated with the use of ICT devices can be a model of an object taken out of the real world, such as a workplace, but it can also be an abstract model that does not exist in the real world. The user can modify the synthetic environment by creating the illusion of interaction with the environment. From this perspective, one can speak of a real or simulated experience of human subjectivity [Riva 2006, s.v. Virtual reality].

The technological possibility of creating a new or alternative reality in which human being functions must raise the question of the content and shape of human rights. The existing acts of international law concerning human rights, ranging from the Universal Declaration of Human Rights of 1948 to the Charter of Fundamental Rights of 2000, were shaped on the basis of experience, doctrine views and various ideologies created on the basis of the behavior of the individual and entire societies which are set of these units – individuals. It all happened in the real world [Orzeszyna, Skwarzyński, and Tobaszewski 2020, 67ff].

The quoted, in the first section of this study, statistical data and the development of ICT devices force a scientific reflection on the content and shape of human rights moving in cyberspace [Zawisza 2015, 403ff].

It follows from the concept of human rights that they are universal rights resulting from the nature and inherent dignity of human being. Already in the preamble to the Universal Declaration of Human Rights, it was stated that this document collects and organizes the achievements and postulates of a human being who, for many hundreds of years, has been fighting an unfinished fight for his or her freedom and dignity. Thus, the authors of this document clearly define the area of application and respect for the rights defined therein. And in the solemn formula of the Declaration, the obligation to promote human rights through education and training was imposed on all peoples and all nations. It was the peoples and nations, in the intention of the authors of the Declaration, who were to guarantee its universal and effective recognition and application. M. Piechowiak rightly notices that such solutions included in the preamble to the Declaration are the result of the traumatic experiences of humanity in the institutionalized state system of the extermination of people by the communist and fascist regime in Germany [Piechowiak 1999, 14; Alfreðsson and Eide 1999, XXVII]. The Decla-

ration is so far the only act of international law of a global nature. All subsequent international human rights legislation is only regional in nature.

The regional legal acts include the European Convention on Human Rights of 1950, in which there was quite a significant change in the definition of entities obliged to ensure the universal and effective application of human rights. According to the preamble to this Convention, these entities are the governments of European countries. A similar narrative is used in the preamble to the EU Charter of Fundamental Rights or in Article 1(1) of the 1969 the American Convention on Human Rights.

The problem, however, is that concepts such as "peoples," "nations" and "states" are typical of the real-world order. In the virtual world, these concepts do not have their referents. Cyberspace is not a global world in which states, peoples or nations continue to play a significant role. In the global world, human being is part of the reality.

In cyberspace, the role of the state in the traditional sense is significantly limited or even marginalized. Even the control measures implemented by China and Russia are not able to take control of cyberspace or stop its development. It is not the political authorities of individual countries who have the greatest impact on the functioning of the virtual community, but the operators of individual ICT devices or systems with the help of which cyberspace is created. It is the operators who create their own system of operating standards which can effectively limit the decisions of even the most economically and militarily powerful states. An example of this is the permanent ban on Snapchat of the President of the United States of America – D. Trump. This prohibition was not issued on the basis of a judgment of a common court of a particular state, but on the basis of the rules and decisions of the authorities of a private company [Fung 2021]. The motive for blocking the President's account was the finding of "a clear violation of the rules" formulated by a private company. The rationale behind the decision was concern for "public security." However, the important thing about Snapchat's position is that it is not known who exactly made this decision? Was there any procedure in which the other party affected by the sanction could take a position or comment? Therefore, the Snapchat's decision is final and cannot be appealed. At the same time, this decision contradicts the principles of a democratic state, is completely non-transparent and is contrary to the human right to a fair trial. In the end, the owner of this application, Snap Inc., usurps the right to set standards to which the head of one of the most powerful militarily and economically state in the world must comply. What is most puzzling, however, it is that this new situation is widely accepted. It is virtual reality or the entities operating in it which have a real impact on the fate of the real world and will de facto change it.

2. THE IMPACT OF VIRTUAL REALITY ON HUMAN RIGHTS

The Internet and World Wide Web, remote learning and remote work, vision of a global communication network integrating the Internet, cable network, telephony and other electronic media (Information superhighway), electronic surveillance, it means home, company and loved ones being monitored, legal wiretapping, ubiquitous cameras and other electronic, digital and audiovisual means, and finally, it is possible to profile consumers, it means - collecting detailed information about the target market through in-depth insight into the preferences of your customers. S. Woolgar claims that nowadays all aspects of social, cultural, economic, and political life, but also the life of an individual, are "infected" by electronic technologies which make up the virtual world [Woolgar 2002, 1–2].

Even in the latest studies dedicated to human rights, the impact of the transfer of significant areas of human activity to the virtual world is not recognized. One of the most recent studies on human rights deals with the problems of their violations from a traditional perspective, while the influence of cyberspace on the content of human rights is not noticed. An example of such a study is the article by V.N. Jha, who analyzes quite interesting data, for example, religious intolerance. In 1951, Pakistan had 21% of religious minorities, today there are only 4%. Various methods are used to combat minorities, such as persecution, forced conversions to Islam or forced marriages [Jha 2021].

Hence, the main issue is to look for an answer to the question of whether the transfer of significant human activity to the virtual world can and does indeed have an impact on the content of human rights? Undoubtedly, the virtual world creates a virtual society. This is an area where people interact with their actions. Participants of the virtual society communicate using various types of applications, make new friends, perform legal actions, participate in various types of social campaigns, run businesses, learn and educate, but also act to the detriment of the others for example by hating. However, it is worthy to ask the question – are these activities the same as those which were analogously performed in the real world? The environment of human activity in cyberspace is also changing. A human being can move around the virtual world with only a small amount of control, most often perform by the rules established by IT network operators. Of course, many more questions can be asked. They will be presented in subsequent studies, which will be the result of my research [Marcinkowski 2019, 167ff].

It should also be stated that the existence of two parallel worlds side by side certainly does not change the well-established belief that the source of human rights is the inherent dignity of human beings, as mentioned above. Anyway, as rightly claims, *inter alia* by J. Donnelly, the source of human rights is the fact of being human and his or her human nature [Donnelly 1982, 391]. J. Donnelly's views are largely consistent with the teachings of the Catholic Church, especially Pope John Paul II. In the light of his views, human rights are related to personal dignity. In encyclicals such as *Redemptor hominis*, *Laborem exercens* or *So-*

llicitudo rei socialis, John Paul II repeatedly emphasized that human rights are objective and inviolable [Rauscher 1993, 71].

Thus, from the ontological point of view, the content of human rights cannot be variable or dependent on whether a person acts in the real or virtual world. Regardless of the extent to which a person functions, his or her rights should be guaranteed and duly protected [Sitek 2016a, 71ff].

This position, however, raises further questions. Does the content of individual human rights remain unchanged and independent of the dimension in which a person acts? Should the types and systematization of human rights be changed and depend on the dimension in which a person operates, or is it enough to slightly modify the existing provisions of law, including international law? Currently, the systematization of human rights proposed by K. Vasak, a French lawyer of Czech origin, is widely recognized. According to him, human rights are divided into three generations, it means – fundamental rights, economic rights and solidarity rights [Wellman 2000, 639]. M. Sitek, in turn, proposed a new taxonomy of human rights based on the pyramid of needs of A. Maslow. This is so far the only attempt to re-systematize human rights based on natural human needs [Sitek 2016b, 38].

3. THE NEED FOR A RE-DISCUSSION ON HUMAN RIGHTS, THEIR CONTENT AND MAY CHANGE OF THE CONVENTION AND THE DECLARATION OF HUMAN RIGHTS

The questions posed in the above point require a broad discussion on the shape of human rights in cyberspace, or rather in a virtual society. The argument for this discussion is the question of axiology, it is the question of the system of values which modern civilization lives and is guided by, functioning in the real world. We should agree with E. Fromm's statement that we are dealing with the decay of social systems. It is a common phenomenon, and it has been accompanying humankind since at least the times of the ancient Roman empire. This phenomenon is the result of the lack of adaptation of social structures to changing conditions [Fromm 2017, 47].

Changes in the modern world have been happening faster and faster for at least 100 years. Globalization processes have largely moved from the real world to the virtual world. The changes which are taking place are most visible in the transformations taking the place in the sphere of axiology. The world ceases to be divided into Christian, Muslim or secular. Various kinds of communities are created in the virtual world. Sociologist M. Szpunar was looking for an answer to the question about the possibility of the formation and functioning of virtual communities, analogous to those in the real world, already in 2004. The author's research was aimed at demonstrating the ethos of members the Internet community [Szpunar 2004, 95–135].

There is no doubt that there is already a virtual community built on the basis of social media which transcends geographic and political boundaries in order to achieve common interests or goals. Most often, the subject of these communities is not to build a community of interests based on a specific system of values, but on changing, often short-term needs or interests. This new virtual community is therefore a collection not so much of individuals, but rather of various groups emerging on the basis of some rapidly passing idea. There is a rapid fluctuation in these ideas. However, they do not provide an opportunity to build a holistic value system. In this virtual community, citizenship, nationality, religion or even social or civil status do not matter [Gerards 2012, 173–202].

Already in the period after World War II, when the phenomenon of globalization intensified, the humankind entered a new epoch defined in various ways. The terms used by Z. Bauman, who wrote about postmodernity or fluid reality, have become the most well-established in the literature [Bauman 2012, 18]. In understanding of this philosopher, however, it is not about defining a specific epoch defined by dates, but about the time of losing confidence in building one system of values. Neither the human rights system has not become such a system. Evidence of this is the emergence of a large number of regional conventions or declarations of human rights. It should also not be forgotten that in many countries human rights are not respected at all with the general acceptance of the rest of the countries, for example in China, Russia, North Korea or Myanmar [Sitek 2016b, 8–9].

The above considerations allow us to refer to the questions posed by many thinkers, including E. Fromm, *Where are we going?* [Fromm 2017, 54]. This question becomes even more relevant today in the perspective of the dynamic developpment of works on and application of artificial intelligence, which not only supports, but also replaces the human being in his or her decisions. S. Tafaro in his yet unpublished work refers to the statement given by Elon Musk during the World Government Summit in Dubai in 2017. The American entrepreneur and philanthropist stated that the relationship between human being and machines (cyborg) is becoming more and more real in the future [Tafaro 2020, 10]. How should human being and his or her rights be treated in this perspective?

The problems outlined above in this point show possible fields of discussion about what is happening in the virtual world. Different approaches to these new problems can emerge here. However, due to the adopted goal of this study, the most important thing is to discuss the rights of human being understood as an individual and as a person living not in a specific community, but in a virtual world or virtual reality. This discussion should concern not only the issue of basic human rights, but above all, it should be discussed about individual human rights in the context of changes which have occurred as a result of the virtualization of human life. The effects of this discussion should be compared with the currently applicable international and national laws and regulations. This methodological procedure should result in the assessment of the current legal regulations in terms of

their suitability for the new, not only global, but above all virtual reality. Therefore, it is appropriate to ask the questions – is it enough to interpret the current legal regulations, especially done by the European Court of Human Rights or the Inter-American Court of Human Rights, or is it necessary to redefine human rights taking into account the new virtual reality?

FINAL CONCLUSIONS

The current international and national human rights law is an infamous aftermath of World War II and the globalization processes which accelerated in the 1950s. The end of the 20th century was, however, the time of the IT revolution. Thanks to tele-information devices, it has become possible to create a virtual reality to which a large part of human activity has moved. On the one hand, the boundaries between the real world and cyberspace are becoming more and more blurred, on the other hand, however, it is a world completely different, as it has no geographical or political boundaries. Micro-communities in a virtual society are based on different values.

Based on this, a fundamental question arises about the role of human rights in this new dimension of reality. Is their current content or interpretation made by jurisprudence or doctrine appropriate to the situations in which a person is in the virtual world? Is the institutional system adjusted to these new requirements? Or maybe it is necessary to develop new solutions in the form of a convention or declaration of human rights in the virtual world? In order to find answers to these and other questions contained in this study, I will be looking for an answer by conducting research in this direction.

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