

## Different perspectives concerning the right not to use the internet and some analogies with education

### *Diverse prospettive sul diritto a non usare internet ed alcune analogie con l'istruzione*

[CRISTINA ELENA POPA TACHE](#) 

Associate Professor of Public International Law and Communications and New Technologies Law


Bucharest University of Economic Studies

Researcher at CIRET - Center International de Recherches et Études Transdisciplinaires, Paris

[CĂTĂLIN SILVIU SĂRARU](#) 

Associate Professor of Administrative Law

Bucharest University of Economic Studies

[KONSTANTINOS KOUROUPIS](#) 

Assistant Professor of European and Data Rights Law  
Frederick University

#### Abstract

This paper investigates the recent option regarding the right not to use the internet, establishing direct connections with related rights. In the era of digital connectivity, we observe how, at the heart of shaping societal dynamics, the concept of an individual's right to abstain from online participation raises fundamental questions regarding legal and ethical aspects. The article critically analyses some theoretical considerations and the legal implications associated with the right not to use the internet. The line pursued involves a detailed examination of potential intersections and similarities with the more well-defined right to refuse education. Through a comparative approach, not necessarily targeting specific population samples, the analysis traverses legal systems, international human rights standards, and tested societal norms. The aim of this endeavor is to learn some lessons from the synergies and tensions between these rights. The boundaries of individual autonomy, privacy, and access to information represent the focal point where the state and the individual must now find a balanced solution together.



## Abstract

*Questo articolo indaga la recente opzione relativa al diritto a non utilizzare Internet, stabilendo connessioni dirette con i diritti connessi. Nell'era della connettività digitale, osserviamo come, al centro delle dinamiche sociali, il concetto di diritto individuale ad astenersi dalla partecipazione online sollevi questioni fondamentali riguardanti aspetti legali ed etici. L'articolo analizza criticamente alcune considerazioni teoriche e le implicazioni legali associate al diritto a non utilizzare Internet. La linea adottata prevede un esame dettagliato delle potenziali intersezioni e similitudini con il diritto a rifiutare l'istruzione, tema maggiormente trattato. Attraverso un approccio comparativo, non necessariamente rivolto a campioni specifici di popolazione, l'analisi attraversa i sistemi giuridici, gli standard internazionali dei diritti umani e le norme sociali testate. Lo scopo di questo elaborato è quello di trarre alcuni insegnamenti dalle sinergie e dalle tensioni tra questi diritti. I confini dell'autonomia individuale, della privacy e dell'accesso alle informazioni rappresentano il punto focale in cui lo Stato e l'individuo devono trovare insieme una soluzione equilibrata.*

**Keywords:** internet; international law; human rights; technology; education; society; state responsibility.

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### 1. Introduction.

The right not to use the internet is considered one of the most sensitive and difficult issues in society today. It is true that we cannot discuss internet use as a general phenomenon, but when comparing it with education, we can consider the common parameters that draw the boundaries between the two<sup>1</sup>. We face not only legal dilemmas, but also ethical or social dilemmas. Most considerations call for a balance in theoretical debates in general. Among the most relevant is that this possibility is a personal choice motivated by several factors. In deciphering legal solutions sociology has provided a base of useful results such as quantity of use, variety of use and types of internet use<sup>2</sup>. So far, the right to refuse education is based on this. In analysing internet use sociologists have often used standard demographic variables based on four categories of education: absence of education, secondary education, higher

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<sup>1</sup> Although the present paper is fabricated from legal research material, from a sociological point of view, see more on the ownership space of the internet use and the three main dimensions: amount of use, variety of different uses, and types of use in G Blank, D Groselj, 'Dimensions of internet use: amount, variety, and types' (2014) 17(4) *Information, Communication & Society*, 417-435.

<sup>2</sup> See PB Brandtzæg, 'Towards a unified media-user typology (MUT): A meta-analysis and review of the research literature on media-user typologies' (2010) 26(5) *Computers in Human Behaviour*, 940-956; or AH Barton, 'The concept of property space in social research', in PF Lazarsfeld and M Rosenberg (eds), *The language of social research: A reader in the methodology of social research* (Free Press, 1955) 40-53. For some sociological differences also see AJ van Deursen, JA van Dijk, 'The digital divide shifts to differences in usage, *New Media & Society*' (2013) Advance online publication <DOI: 10.1177/1461444813487959> accessed 15 January 2024.

education and university education. Going further in our demonstration, in search of legal custom, it should be noted that in terms of social point of view the considerations are given by: race (white or non-white), location (urban versus rural), living status (students, employed, unemployed and retired), marital status, gender and age. From these perspectives there may be found some similarities between the internet and education, which leads and supports lawyers to find similar regulatory possibilities<sup>3</sup>. Demographically there are sociological variations but legally speaking the primary guidelines derive from international conventions which are absorbed into national laws. In other words, the dimensions analysed separately by sociology are found united in the legal sciences. Legal phenomena are identified by sociology and then transposed into rules by the legal sciences. The use of the internet or new technologies as a form of education is indicated to be expressly mentioned in international and national legal instruments together with their characteristic limits. In democratic societies, it is recognized that individual rights and personal freedom are fundamental, established under the auspices of many European and international legal texts, such as the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights. All these reasons may increasingly resemble the right to refuse education, which has also come to intersect with new technologies. As far as Internet use is concerned, the experience from education that no one can be legally forced to exercise this right without restrictions can be applied. 'The law must reflect, in its progressive flexibility, the increasing possibilities of choice for rights holders who are adults *in fieri*<sup>4</sup>. How can humanity enjoy a healthy individual autonomy?

The contents of this article are intended to provide answers which would stimulate critical thinking and scientific sparks. Staying off the internet can be a way for some to protect their privacy and avoid exposure to online security risks, as some people choose to keep their personal information and activities away from digital space. Offline lifestyles lead individuals to choose to live in a more traditional way, focusing on face-to-face interactions and traditional activities over online ones. Sociologically, the preference for reading in print, socialising in person and other offline activities have been included in these trends. However, this article will, by its specific features, fall into the category of legal research work at an inter- and multidisciplinary level.

The analysis touches on the issue of state responsibility and legal protection. Their tendency is either to protect or to restrict the right not to use the internet

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<sup>3</sup> For example, S Livingstone, H Helsper, 'Gradations in digital inclusion: Children, young people and the digital divide' (2007) 9(4) *New Media & Society*, 671-696 <DOI: 10.1177/1461444807080335> accessed 15 January 2024 or N James, 'Countering Far-Right Threat through Britishness: The Prevent Duty in Further Education' (2022) *Critical Terrorism Studies* <DOI: 10.1080/17539153.2022.2031135> accessed 16 January 2024. Online first, for regression analysis in investigating the impact that strains and resilience, individuals' gender, economic situations, individual life experiences, and internet use have on their propensity to associate with, engage with, and support far-right ideologies and associated violence see J Skoczylis, S Andrews 'Strain theory, resilience, and far-right extremism: the impact of gender, life experiences and the internet' (2022) 15(1) *Critical Studies on Terrorism*, 143-168 <DOI: 10.1080/17539153.2022.2031137> accessed 15 January 2024.

<sup>4</sup> JL Gaviria, 'Education: a Compulsory Right? A Fundamental Tension within a Fundamental Right' (2022) 70(6), *British Journal of Educational Studies*, 653-675 <DOI: 10.1080/00071005.2021.2024136> accessed 15 February 2024.

in the public interest. For individuals, however, opting out of the internet can be a form of protection against digital addiction in order to maintain a balance in their lives, but also to avoid the negative impact of excessive internet use. The reasons for this are diverse and their analysis points to cross-disciplinary methodologies, without which it seems almost impossible to advance human rights. This may include the decisions of a part of the world's population to avoid the internet for ethical or philosophical reasons related to data collection, manipulation of information or other aspects of the online environment<sup>5</sup>; for others, access to the internet may be limited due to financial or geographical resources, so that giving up the internet may be a consequence of lack of accessibility to technology.

The issues take on conflicting nuances when those who claim this right find themselves antagonistic, at some point, to those for whom, in the modern world, the internet has become an essential tool for access to information, communication and participation in various aspects of social and economic life. This is therefore a personal choice that may have certain consequences. Both the premises and the effects of the right not to use the internet are analogous to the right to refuse education.

### 1.1 Scientific relevance and importance of the topic.

Scientifically approaching the subject presented requires a multidisciplinary (even transdisciplinary) perspective that encompasses legal, social, psychological, educational, religious, cultural and technological sciences. According to the authors, neither the obligation to use the internet nor the right not to use it is enshrined. Both the right not to use the internet and the right to refuse education are manifestations of individual autonomy, with significant implications for privacy, personal development and freedom of choice. In addition to all this, there is a need for uniform regulation.

Relevant discussions concern the current context of the digital society and the importance of education in the information age, the rationale, the social and psychological effects of giving up the internet, internet addiction, the assessment of the social impact on individuals who choose not to use the internet, the rights of vulnerable people such as children and the elderly, for example, or the impact on personal and professional development. Ultimately, we are faced with the imperative of reconciling society's needs and interests, especially from a legal point of view, where the way out is to identify the limits and rules that could ensure a balance between individual rights and the common good.

## 2. A definition and analysis of the right not to use the internet.

The right not to use the internet can be conceptualised as an expression of individual autonomy, recognised as part of the right to privacy and personal

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<sup>5</sup> See A Weinstein, M Lejoyeux, 'Internet Addiction or Excessive internet Use' (2010) 36(5) The American Journal of Drug and Alcohol Abuse, 277-283 <DOI: 10.3109/00952990.2010.491880> accessed 15 February 2024.

liberty. The European Convention on Human Rights has given a broad interpretation of the term “private life” corresponding not only to physical but also to psychological and ethical integrity<sup>6</sup>. This prerogative gives individuals the possibility to voluntarily distance themselves from the online environment, based on ethical choices, personal values or security concerns, without affecting their fundamental rights to education and access to information in available non-digital alternatives. Sometimes these socio-legal possibilities of distancing oneself from the internet are justified by medical sciences which claim the emergence of a new type of addiction, as discussed in the literature<sup>7</sup>. Internet addiction has been found to exist to a similar extent as drug and alcohol abuse, pathological gambling and even video game addiction<sup>8</sup>. However, from this point of view we cannot say that there is also abuse of education, although the new internet addiction can create marital, academic and work-related problems sometimes in the same way as education. Without going into the differences between pathology and problematic, we will only seek to facilitate the identification of launch pads for optimal legal regulation. Another side is finding the dividing lines between abuse and need. In terms of access to the internet versus access to technologies, differences arise from the impossibility of accessing certain treatments due to inaccessibility, lack of knowledge, etc. For example, adequate health care is thus recognised as part of the human right to health<sup>9</sup>. Such inaccessibility would therefore affect the right to health itself and this can be suggested as one of the limitations of not using the internet (or health technologies).

Globally, explicit recognition of the right not to use the internet is still in its early stages and is more implicit than explicit in international legal documents. The evolution of this concept is shaped by the modern dynamics of international law and can be seen in the broader context of individual rights and their adaptation to societal trends, including the growing influence of technology and the internet.

Although not universally recognized, the right not to use the internet can now be defined as an individual's option to choose not to participate directly and actively online without facing negative consequences or discrimination, while still being free to manage their digital presence and always having their privacy protected. Ensuring respect for human rights is the responsibility of states, which must reconcile it with their interests in maintaining the security and smooth functioning of society in the digital age. The parallelism being noted in this material is also useful for new technologies in general, whether

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<sup>6</sup> *X and Y v. The Netherlands*, 25 March 1985, no. 8978/80, *R and R v. Poland*, no. 27617/04 ECHR 2011, *Costello-Roberts v. UK*, 25 March 1993, no. 13134/87, LA Sicilianos, European Convention on Human Rights: Interpretation per article (in greek) (2<sup>nd</sup> edn, Nomiki Bibliothiki 2017), 375.

<sup>7</sup> BL Fortson, JR Scotti, YC Chen, J Malone, K Del Ben, 'Internet use, abuse, and dependence among students at a south-eastern regional university' (2007) 56(2) *J Am Coll Health* 137-144 and K Young, 'Internet Addiction: A new clinical phenomenon and its consequences' (2004) 48(4) *American Behavioural Scientist*, 402-415.

<sup>8</sup> A Weinstein, M Lejoyeux, 'Internet Addiction or Excessive internet Use' (2010) 36(5) *The American Journal of Drug and Alcohol Abuse*, 277-283 <DOI: 10.3109/00952990.2010.491880> accessed 15 January 2024.

<sup>9</sup> M Reglitz, A Rudnick, 'Internet access as a right for realizing the human right to adequate mental (and other) health care' (2020) 49(1) *International Journal of Mental Health*, 97-103 <DOI: 10.1080/00207411.2020.1727019> accessed 15 January 2024.

emerging or disruptive, where complex military or security issues are involved. Concerns about privacy and relevant rights, such as the European Union's General Data Protection Regulation (GDPR), have been brought to the fore, reflecting heightened concerns about the protection of personal data online. Rights to personal freedom and individual choice have always been at the heart of democratic societies, and their adaptation to technology is a natural and ongoing process<sup>10</sup>.

While for some jurisdictions, the protection of the right to privacy and autonomy can be interpreted as including the right to decide not to use the internet, the right to refuse education is mostly discussed in the framework of children's rights and compulsory education regulations, sometimes giving parents the possibility to choose alternatives to traditional education. Will it be possible to strike a global balance between individual freedom to refuse the internet and the imperatives of a digitally (technologically) transforming society? More explicit and appropriate regulation are expected, both in terms of the wider concerns about fundamental human rights in relation to digital security, data protection and access to offline information, and in terms of sustainability. The reasons are already part of reality and already discussed in theory, one example being that the internet is referred to symbolically as the 'Cyber ocean'<sup>11</sup> where do we find this expression? Footnote here or even Baobáxia. These terms reflect the global dimension of the internet, comparing it to a continent or a virtual ocean in which information flows freely. Baobáxia, as part of a wider discussion about the evolution of the internet and society as a whole, metaphorically it is seen as a social-technical-ecological network of diverse actors grown out of the earth, or a network of 'terrestrial' actors, operating as a decentralised autonomous network, regardless of nation-state and ethnic group boundaries. Baobaxia has also proved to be a cause of digital and geographical 'reterritorialisation'<sup>12</sup>.

As an ecological approach, like Baobaxia, the internet precedes Latour's call to reterritorialize the earth for future life<sup>13</sup>. Comparison is the fruit of transdisciplinary methodologies. 'Baobaxia draws a new, or rather, reminds us of an old cartography of the world, from longer and non-Eurocentric historical

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<sup>10</sup> See an intense analysis of the right to privacy under the new digital rules in K Konstantinos, I Serotila, *Privacy and Security in light of the European Digital Agenda* (Nomiki Bibliothiki, 2022).

<sup>11</sup> JP Castro, 'Sailing the Cyber Ocean: The CISO's Journey Through Digital Storms', is an article published by the author on April 5, 2024, on their LinkedIn page available here: [link](#), accessed on May 14, 2024. The term "cyber ocean" is primarily used in the context of cybersecurity. It emphasizes the idea that the internet is a virtual sea where information flows and interactions take place in what appears to be an infinite manner. This metaphor highlights the fluid and dynamic characteristics of the internet.

<sup>12</sup> S Zhang, M Ribeiro Porto Araujo, AC de Assis Nunes, 'A terrestrial internet from the quilombos: the transatlantic evolution of baobab from colonial to digital capitalism' (2022) 5(1) *Tapuya: Latin American Science, Technology and Society* <DOI: 10.1080/25729861.2022.2037818> accessed 15 January 2024. 'Baobáxia' raises the question of the material resources that underpin the internet and digital capitalism. It is seen by the authors 'as a digital network for sharing community-produced content that emerged in the "quilombos" (communities of descendants of runaway slaves) of Brazil in the early 2000s and spread to other marginalized groups in South America, Africa and Europe'. The analysis developed by this article reveals 'the articulation of ancestral knowledge and new technologies in building Baobaxia, a network that adapts to local conditions-geographical, ecological and infrastructural-and supports community resilience, autonomy and sustainability'.

<sup>13</sup> See explanations in B Latour, *Down to Earth: Politics in the New Climatic Regime* (Polity Press, 2018).

perspectives that can guide academic understandings of the world'<sup>14</sup>. The internet, whether we call it Baobaxia or the virtual high street or the virtual village, is metaphorically materialized to emphasize its social aspects and human interaction online, comparing it to traditional community relations in familiar or visual contexts. Each metaphor highlights different features of the online experience and the impact of the internet on society. What is certain is that we are dealing with a new legal phenomenon because the internet is not just a technical entity or a communication medium, but it radiates a wide range of legal issues. A person's right not to use it is directly proportional to its formal and detailed recognition in law, societal awareness and adaptation.

If we were to draw the general lines of the arguments for or against the right not to use the internet, we could see how the 'pro' category could include: 1) the right to privacy as a way to protect that prerogative and avoid excessive exposure of personal information online; 2) the right to make personal choices—a general principle of democratic societies according to which refusing to use the internet is an expression of individual autonomy; 3) the preservation of mental health with a role in reducing the negative impact of excessive use, such as stress and anxiety online; 4) the avoidance of digital addiction and the negative impact of excessive time spent online; 5) the option for an 'offline' lifestyle; or 6) the protection of the individual for some personal religious or traditional values. The arguments here are presented through the lens of the individual.

On the other hand, several arguments 'against' the right not to use the internet can be identified, such as: 1) access to information and education (to educational resources), in which case refusing it may limit learning and personal development opportunities; 2) the internet facilitates communication and social interaction, and absence from online platforms may lead to social isolation and limited connections with other people; 3) problems for labour law in terms of workplace efficiency or even career opportunities, as most employers use the internet in the recruitment process, and absence online may limit professional and career opportunities; 4) exclusion from participation in the digital economy, affecting access to services and business opportunities; 5) the internet brings advantages in terms of efficiency in communication, quick access to information and solving everyday problems, and its denial can lead to the loss of these advantages; 6) social exclusion we also can have social exclusion in the excessive use of internet... Many of the 'against' arguments we note are along the lines of problems raised by public authorities.

Many of these were also stated in the case of home schooling for example when discussions on education versus human rights were ongoing. In theory the question was 'If the promise of human rights is individual freedom, then a system that justifies or supports state control of education for the purpose of cultural conformity can be considered to be far too statist for a free and

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<sup>14</sup> S Zhang, M Ribeiro Porto Araujo, AC de Assis Nunes, 'A terrestrial internet from the quilombos: the transatlantic evolution of baobab from colonial to digital capitalism' (2022) 5(1) *Tapuya: Latin American Science, Technology and Society* <DOI: 10.1080/25729861.2022.2037818> accessed on 15 February 2024. See for a comprehensive analysis C Fujikane, *Mapping Abundance for a Planetary Future: Kanaka Maoli and Critical Settler Cartographies in Hawai'i* (Duke University Press, 2021).

democratic society?"<sup>15</sup> Home education, as a case example, highlighted features of the geography of education, taking into account cultural and enticing traditions<sup>16</sup>, the collapse of communist totalitarian regimes in the former Eastern bloc, the spread of neoliberalism, the reaction of neolocalism to the standardising effects of globalisation, international immigration and the successful integration of immigrants<sup>17</sup>. At first glance, the right not to use the internet may lend itself to the same features. Last but not least, the question arises whether the assertion of new international human rights could lead to the very violation of the human rights they are intended to protect? Looking back, the affirmation of the right to education in the category of human rights has led to such violations<sup>18</sup>, just as home schooling has not been recognised in all states. In the same way, the right to the internet or to new technologies, by its inclusion in the category of fundamental rights, may today defeat the protection of the right not to use the internet. For these reasons, the incorporation of the right to refuse the internet into the category of human rights requires great care and precision, especially as 'the life you save may be our own'. Certainly, all discourse about the internet and rights as citizens' rights generates ideological, economic and political debates that need to be addressed and guided on the road to the codification. Precision in legal regulation is meant to erect unscalable walls between the effective protection of these rights and any vulnerability. To all these guidelines is added to the need for a rapid pace of decision that moves the discourse beyond philosophical rhetoric to practical policy interpretations<sup>19</sup>.

Not using the internet has a number of practical consequences, some of them with immediate effect. We can refer here, as we have reported above, to limited access to information, research and news online, which can influence knowledge and perspective on the world, reality itself. Social exclusion includes the inability to access online services such as e-banking, online shopping and other activities related to the digital economy. In the face of these problems, what economic, political, social and legal alternatives can be identified? How could we propose to make the whole system work, including the labour market? Will the functions of the future include intermediaries or even internet trustees between society (or the public interest of the state) and those who refuse to use it? Will they be civil servants who ensure the functioning of the internet, digitisation and new technologies for the state? Can we imagine institutional departments or physical offices dedicated to these new work occupations through which alternative sources will be made available to those who do not want to use the internet? Perhaps these new

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<sup>15</sup> MP Donnelly, 'The Human Right of Home Education' (2016) 10(3) *Journal of School Choice*, 283-296 <DOI: 10.1080/15582159.2016.1202069> accessed 20 February 2024.

<sup>16</sup> See X Sheng, 'Confucian home education in China' (2019) 71(6) *Educational Review*, 712-729 <DOI: 10.1080/00131911.2018.1471665> accessed 20 February 2024.

<sup>17</sup> D Hána, Y Kostelecká, 'A comparison of home education legislation in Europe from the perspective of geography of education' (2022) 37(5) *Research Papers in Education*, 603-632 <DOI: 10.1080/02671522.2020.1864762> accessed 20 February 2024.

<sup>18</sup> EF Henderson, 'Education as a human right: principles for a universal entitlement to learning' (2015) 45(4) *Compare: A Journal of Comparative and International Education*, 658-660 <DOI: 10.1080/03057925.2013.861692> accessed on 20 February 2024.

<sup>19</sup> T Oyedemi, 'Internet access as citizen's right? Citizenship in the digital age' (2015) 19(3-4) *Citizenship Studies*, 450-464 <DOI: 10.1080/13621025.2014.970441> accessed on 20 February 2024.



professions or trades will balance situations such as those where, in a professional context, refusal to use the internet can lead to difficulties in communicating with colleagues, clients or business partners who use online technology. It seems correct and feasible. The truth is that, currently, in our opinion, achieving such a result has been impossible, as the almost sudden emergence of today's internet has not allowed room or time for a natural transition. The rapid dynamics of technologies exhibit these traits. Legal custom could solve a number of problems for example, but it has a very special character when we talk about the internet or new technologies. Here, custom does not take a long time to form as it spreads faster than any other custom. We find custom only if we know how to look at it, at the stage where it is required to correlate these customary rights to the same extent as others such as net neutrality (already codified in several jurisdictions) or others such as digital discouragement, etc. Even if we are party to or witness to the legal custom of the right not to use the internet, the ultimate goal is its codification.

In terms of social implications, we can identify, first of all, perceptions of the world, perceptions that can be either very different or very limited, depending on the pole in which the individual is situated. The protection of privacy is contrasted with the recognition of the benefits of the internet which enhances individual autonomy, decision-making, information and online engagement according to their values, preferences and needs. If we consider the arguments of this paper, we can say that the right not to use the internet is nevertheless necessary and contributes to maintaining a healthy balance between online and offline life, thus promoting a diverse lifestyle. If something here runs counter to the public interest, then we are moving towards appropriate changes within the already reforming labour market.

### 3. A legal perspective on the right to refuse education.

In this matter we believe that the relevant issues have been settled and clarified. Education is better regulated in international legal instruments. Examples include: The against Discrimination in Education (1960, CADE)<sup>20</sup>, the International Covenant on Economic, Social and Cultural Rights (1966, ICESCR)<sup>21</sup>, the Convention on the Elimination of All Forms of Discrimination Against Women (1979, CEDAW)<sup>22</sup>, and the Convention on the Rights of the Child (1989, CRC)<sup>23</sup>. Our analysis pivots around education specifically chosen from the group of human rights, although another topic of discussion could be the relationship between human rights and consumer rights<sup>24</sup>. The possibility

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<sup>20</sup> UNESCO Convention against Discrimination in Education (adopted 14 December 1960, entered into force 14 December 1960) 429 UNTS 93 (CADE).

<sup>21</sup> International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1976) 993 UNTS 3 (ICESCR).

<sup>22</sup> Convention on the Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

<sup>23</sup> Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (CRC).

<sup>24</sup> As it has been strongly indicated in the COST Action Report, 'Between human rights and consumer protection in the digital age or the rights of digital consumers in the European and international context – The Digital Services Act example' published online by COST in GDRH Net –: *We do not have a definition of*

is affirmed by analysis of relevant legislation, judicial decisions and the principles of individual rights and the education system. Among the general issues that can be considered are individual rights such as the right to education, recognition that may not be based on the obligation to participate in a traditional education system, regulations that address home education, giving those concerned the option to refuse traditional schooling in favour of home education (may impose certain requirements and standards to ensure that home education meets the objectives of traditional education), and the obligation of the state to provide education. Refusal of education may call into question the state's responsibility to monitor and intervene if the refusal affects the child's welfare, for example through intervention by the competent authorities. In many jurisdictions parents are recognised as having the right to conscientious objection, allowing them to refuse certain elements of traditional education, such as certain aspects of the curriculum or certain school activities. We can also learn some useful lessons from the case of the internet.

In general, the right to refuse education is found in various contexts in international conventions and in the domestic law of some states, especially regarding parental rights and the right to education in general. We consider, for example the Universal Declaration of Human Rights (1948) where Article 26 recognises the right to education and this right should ensure access to compulsory and free basic education<sup>25</sup>. As para 2 of this article states that 'education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all peoples and all racial or religious groups (...)', so too can these issues be seen through the prism of the use of the internet and even new technologies. At the same time, the Convention on the Rights of the Child (1989) in Article 28 emphasises the right of children to education, recognising and encouraging the diversity of modes of education, including home education<sup>26</sup>. Another example is The Convention relating to the Status of Refugees (1951, Refugee

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*users, implying that a user can even be a robot or that the user is usually based on a contractual relationship with the provider, which is also true for the consumer. This leads us to establish the following relationship: does the user group include consumers or does the consumer group include users? When we enter the consumer v. user field we are left with the same vulnerability that currently exists, namely not having a uniform international definition for either consumer or user. By following the international normative uniformity, the parallel with education appears more favourable to the present research. Also see CE Popa Tache, 'About the Human Rights and Consumer Protection in the Digital Age of Digital Services Act 2022 or What Aspects Interested Investors Should Pay Attention To' (2023) 3(2) International Investment Law Journal, 121-132.*

<sup>25</sup> The Universal Declaration of Human Rights was adopted on 10 December 1948 by Resolution 217 A of the Third Session of the United Nations General Assembly. An inspiring element is the very preamble of this Declaration: 'On 10 December 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Following this historic act, the General Assembly recommended that Member States should spare no means at their disposal to publish the text solemnly of the Declaration and 'to ensure that it is distributed, displayed, read and commented upon, mainly in schools and other educational institutions, irrespective of the political status of countries or territories'.

<sup>26</sup> The Convention on the Rights of the Child was adopted by the United Nations General Assembly on 20 November 1989. The Convention was also assumed by Romania through the adoption of Law no. 18/1990 for the ratification of the Convention on the Rights of the Child, the text of which was published in the Official Gazette no. 109/28 September 1990.

Convention)<sup>27</sup>, which is only applicable if the state in question has ratified the Protocol relating to the Status of Refugees (1967)<sup>28</sup>, in Article 4 of the Convention guarantees the religious freedom of refugees and specifically 'freedom as regards the religious education of their children'. In practical terms, Article 4 places no obligations on the state to provide religious education, *but rather allows refugee parents to refuse religious education* (either entire institutions or religious classes that form part of the curriculum in a given school) if it conflicts with their own, and to choose between existing alternatives, provided by either the state or private institutions<sup>29</sup>.

The right to education and the obligation of children to participate in an education system are generally recognized with certain limits and specific conditions. In this context, we mention the rights of parents to educate their children according to their own religious, philosophical, or pedagogical beliefs. Specifically, this refers to homeschooling established in several legislations, whereby parents can educate their children at home under certain conditions and standards, as well as the right of parents to object on conscientious grounds to certain aspects of education, such as participation in certain school activities. The principle of the best interests of the child is unanimously recognised and is related to making decisions for the best interests and development of the child. In general, legislation and judicial practice seek to strike a balance between the rights of parents to exercise their authority and the right of the child to receive an appropriate education. It is appropriate to note that freedom of belief and choice of education in accordance with one's own beliefs is recognised as part of fundamental rights.

The analysis of relevant case law and legal precedents on the right to refuse education focuses on how courts have interpreted and applied existing law. Consideration of ancillary means such as case law and doctrine supports the identification of the most appropriate solutions. For example, courts can assess the effects (consequences) of refusing to allow education on the child's best interests, taking into account the child's emotional, social and intellectual development, and could also consider the role of the state in supervising and providing appropriate education, even in situations where parents refuse traditional education. It is desirable for case law to take account of cultural specificities and local traditions when considering the denial of education in the context of a particular group or community, weighing both protection and neglect.

In recent years, homeschooling has gained popularity among parents and has been associated with various reasons, including concerns about the traditional school environment, educational freedom and religious values, and authorities have begun to worry about setting standards and assessments to provide sufficient assurance that homeschooled children are receiving an appropriate

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<sup>27</sup> Convention Relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137 (Refugee Convention).

<sup>28</sup> Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

<sup>29</sup> See more details in E Murphy and others, *Right to Education Handbook*, United Nations Educational, Scientific and Cultural Organization 2019  
<<https://unesdoc.unesco.org/ark:/48223/pf0000366556?posInSet=11&queryId=N-bcae0510-a577-400f-a25a-416432a4837f>> accessed 08 February 2024.

education. The initiatives have not been without a degree of tension between the rights of parents to decide on their children's education and the state's obligation to protect the best interests of the child. Interestingly, the rise of access to educational resources and technology has highlighted some differences in access to educational resources and technology, as well as socio-economic differences in online education. The phenomenon has expanded during the pandemic in recent years, when online education became the norm. On this occasion, a series of issues regarding unequal access to educational resources and technology have come to light. These refusal options generally come with societal changes and are highlighted by differential treatment, discrimination, or other safety issues in schools. We can provide an example from the pandemic when sanitary measures such as mask-wearing and social distancing in schools elicited diverse reactions from parents and students. These attitudes had an immediate impact at the administrative level (in the respective institutions) and then at the level of specific policies and so on. In terms of similarities, the same issues almost always arise when discussing the protection of privacy, mental health, or protection against cyberattacks, meaning that lessons learned yesterday can be helpful in finding solutions today.

Discourses on the nature of education as a right or obligation have demonstrated how the right to refuse education is perceived and treated at the legislative and jurisprudential level, including at the constitutional level. As we discuss education, we can also discuss the internet. We refer here to benefits, common criticisms of human rights, how these categories of rights are regulated in international law, in international human rights instruments, United Nations core human rights treaties, United Nations: Declarations, UNESCO normative instruments, international labour law, international refugee law, international humanitarian law, international criminal law, and also the right to education in regional human rights law<sup>30</sup>. Like education, the right to refuse the internet can also be based on: aims of the internet, non-discrimination and equality including the equal right to the internet, special protections of the right to the internet of marginalized groups, women and girls, people with disabilities, refugees, migrants, and other displaced persons.

Note that this right is not limited to children; adults also have the right to make decisions about their own education. In a democratic society, individual autonomy and freedom of choice are fundamental values. Adults therefore have the right to decide whether they want to participate in educational programmes and how they want to shape their own learning paths. Key issues include the right to educational autonomy which allows adults to choose their own learning programmes, to take courses or to participate in educational activities according to their interests, needs and goals, especially with regard to the alternatives: self-study, mentoring, online courses or participation in community programmes, depending on their preferences. Therefore, adults decide not to participate in certain educational programmes or activities without facing negative consequences or discrimination.

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<sup>30</sup> See some theoretical considerations in I Calderón-Almendros, G Echeita-Sarrionandia, 'Inclusive Education as a Human Rights' (2022) OUP 19-32  
<<https://doi.org/10.1093/acrefore/9780190264093.013.1243>> accessed 15 February 2024.

Like the right not to use the internet, while the right to refuse education is recognised, this must be balanced with recognition of the importance of education in personal and societal development.

#### 4. Parallels between the right not to use the internet and the right to refuse education.

From the presentations provided so far, certain affinities can be discerned, which can now be examined from various perspectives, as outlined such as the following. Both rights are based on the principle of individual freedom and autonomy, whereby individuals have the right to decide how they live and shape their own lives, including their choices about their online environment and education. In this place these connections converge to make the internet a valuable tool for education<sup>31</sup>. The internet allied with education suffers from similar ills such as insufficient literacy or poor access and understanding of the infosphere<sup>32</sup>.

These refusals may be motivated by a desire to protect privacy or to express conscientious objection, such as avoiding excessive online exposure or refusing to participate in certain aspects of education. Refusal or limitation of internet use and refusal of education may be caused by concerns about the impact on mental health, as some individuals prefer to avoid digital addiction or the stress associated with online life or to distance themselves from the traditional education system. Both rights offer the choice of alternatives to traditional systems such as home education and independent learning, while limiting internet use means seeking other means of communication and information. States must have very clear regulations to protect them from accusations such as the refusal by a state to guarantee access to a school or the internet, which could constitute a violation of the right. One of these possible regulations is precisely the recognition of these two rights, under certain well-defined conditions.

On a comparable level, the trend towards self-development and personal learning is common, adapted to individual needs and preferences. All of these emphasise a responsible assessment of benefits and risks. The right to refuse both only further reflect the need to balance advantages and disadvantages in order to create a lifestyle or educational trajectory in line with personal values and goals.

The legal justifications for the right not to use the internet and the right to withhold education have certain similarities within the principles of individual rights, because at the individual level, a restriction of access to valuable information and opportunities for learning and growth, social and relational

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<sup>31</sup> D Nevická, M Mesarčík, 'Why are you offline? The issue of digital consent and discrimination of Roma communities during the pandemic in Slovakia' (2022) 22(2) *International Journal of Discrimination and the Law*, 172-91. <DOI: 10.1177/13582291221096615> accessed 15 February 2024. Also see G Kecő, B Szentgáli-Tóth, B Bor, 'Emergency Regulations Entailing a Special Case of Norm Collision Revisiting the Constitutional Review of Special Legal Order in the Wake of the COVID-19 Pandemic' (2024) 14(1) *Juridical Tribune - Review of Comparative and International Law*, 5-26.

<sup>32</sup> GM Greco, L Floridi, 'The tragedy of the digital commons' (2003) 6 *Ethics and Information Technology* 73-81.

isolation can be installed. We have previously outlined how on a social level, the consequences of denial of education and internet use have the potential to influence diversity and inclusion within society. A society that encourages and supports education and technology is more likely to innovate and progress, but sufficient room must also be left for adequate protections for the full manifestation of human rights. In contrast, denials can contribute to a lack of diversity and less economic competitiveness, affecting collective efficiency and community development. Choices of this kind can also bring social pressures and judgements from the community, and those who reject certain social norms may be viewed with scepticism or criticism, in addition to the chance of losing connection with the changes and opportunities that derive from technology, so that they are not just individual choices but have a wider impact on society as a whole. All unless new jobs emerge to improve or address these dysfunctions through their remit. The public interest is all the more justified as the careful balancing of society's discontent against the discontent of individuals can inhibit some civil opposition (riots, strikes, etc.). Personal decisions shape the trajectory of collective progress, and the balance between individual freedom and responsibility towards the community can challenge contemporary society. Among possible solutions, the relevant government authorities should consider the emergence of new professions to bridge these gaps.

Digital rights in general are about ensuring that all individuals have fair access to resources and information available online, while educational rights are about ensuring access to quality education for all<sup>33</sup>. Their developments influence each other.

## 5. Conclusions.

The legal reaffirmation of the importance of individual rights in the context of technological transformations is a natural process and is fundamental to building the best protection for modern human rights. On the one hand, individuals who choose these rights seek alternatives that correspond to their needs and preferences, thus reaffirming the importance of diversity in the process of personal formation and development. On the other hand, states are seeking to find appropriate solutions to new technological metamorphoses, as there is no room for waiting. This equation of individual freedom, however, is not without a subtle tension between personal autonomy and social responsibility. One of the threats underlying the right not to use the internet is increasing dependence on technology. Alongside marginalisation and social isolation, a new type of perpetuation of social and economic inequalities has emerged until solutions are found to adapt to digitalisation in learning, for example. The principle of good guards overcoming bad guards leads individuals to avoid exposure to false information or invasion of privacy, at the sacrifice of

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<sup>33</sup> Digital rights are intended to stimulate the development of technologies that facilitate educational processes, such as virtual reality, artificial intelligence or online learning platforms.

exclusion from certain aspects of modern life if necessary. States, based on the same principle, seek the best solutions.

From a legal point of view, the right not to use the internet and the right to refuse education are dealt with in a heterogeneous way, depending on the case law conferred by the national law of the States. However, on the line of parallelism, some advantages or disadvantages can be identified at the jurisdictional level and some lessons can be learned more easily. The most exposed cases are those concerning: access to certain services and information conditional on internet use affecting access to essential public services, regulations on online monitoring and surveillance of communications, the fact that in many states a certain period of compulsory education is imposed, the refusal of which conflicts with these laws and parents or legal guardians may be subject to sanctions or fines, individual rights in the face of state intervention, opposition against excessive or abusive collection of information online, or recognition of freedom of conscience and religion.

*In communi sensu*, a number of ideas have already been put forward which could be taken into account to ensure a balance between individual rights and the interests of society. I refer here to the introduction and strengthening of data protection and online privacy laws so that those who choose not to use the internet are not exposed to the risks associated with the unauthorised collection of personal information. As alternative solutions, we can discuss the creation of mechanisms to ensure that people who do not use the internet have fair access to public services and information through alternative means, such as printed documents or other non-digital forms of communication. The recommendations are for legislation to formally recognise alternative forms of education, such as home learning or flexible learning models, provided they meet legal quality standards and ensure adequate development of learners. This requires evaluating and, if necessary, reforming the compulsory education system to take into account the diversity of learning modalities and individual needs, thus facilitating adaptability to different learning styles. This is where the role of states comes in, the creation of new jobs (the emergence of the internet trustee or intermediary, e.g.), institutions and regulations designed to protect individual rights without compromising the general interests of society. All this can be achieved at the macro, meso or micro level. The latter includes the introduction of compulsory digital literacy courses in the school curriculum, while respecting the right to refuse certain aspects of the online environment.

In the perspective of future research and action, a point-by-point analysis is needed providing a detailed look at each of the ways in which individual choices can shape the dynamics of communities and, why not, the dynamics of law. For the field of education, promoting flexible education policy is a vital direction. In parallel, investment in digital literacy and digital education programmes becomes a priority in promoting responsible and effective use of the internet. The parallelism we seek in this material is a step towards developing strategies to reduce disparities.