

THE ILC BACKGROUND GUIDE



The Global Emergence of Internet Access as a Human Right in Virtual Era

The ILC Commissioners shall be debating on *"Affirmative action policies may be the long needed solution to curbing inequalities or be part of the problem, depending on how the policies themselves are handled."* IS AFFIRMATIVE ACTION THE SOLUTION TOWARDS SOLVING INEQUALITIES OR PART OF THE PROBLEM?

This background is meant to act as a guide for the Commissioners as they do their research since it offers a basic understanding of the topic at hand. Commissioners are to be guided by it and do further in-depth research on the topic. Therefore, the dais and entire ILC bureau expects to receive well drafted Draft Articles and to witness Commissioners engaging in informed debate.



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TOPIC: “The world is witnessing new necessities of the 21st century which will shape the future status of human development.” Anonymous. WHAT IS THE FEASIBILITY OF RECOGNISING ACCESS TO THE INTERNET AS A FUNDAMENTAL HUMAN RIGHT AND ITS INCLUSION IN HUMAN RIGHTS INSTRUMENTS AT THE INTERNATIONAL AND NATIONAL LEVELS.”

BRIEF HISTORY AND CURRENT SITUATION

The COVID 19 pandemic has brought with it a myriad of socio-economic issues that threaten human development. Human development focuses on expanding the richness of human life to enable human beings to live lives they value. The cornerstones for human development are to live a long, healthy and creative life, to be knowledgeable and to have access to resources needed for a decent standard of living. It is on this basis that progress and self-development can be achieved, and in this context, through the availability of resources. The United Nations Development Program suggests, from research, that this pandemic will lead to a reversal in the hard-gained rate of human development since the concept was introduced in 1990.

Access to the internet has been acknowledged, by many, including the United Nations, as a catalyst to the enjoyment of a number of human rights, notably the freedom of expression and opinion. It seems however to be an opportune time to consider other rights that are heavily reliant on internet access. This, as highlighted by the COVID-19 pandemic include the right to education, right to healthcare, right to work and freedom of religion. People worldwide have been working from home, students relying on online learning and homebased healthcare relying on apps that connect patients to doctors.

One major issue is the magnified inequalities in terms of internet access, which has served to widen further the gap between the affluent and the destitute. There have been for example stark divides in online learning of students all across the world, with their studies hanging in the balance on the basis of their ability to access the internet, and the same goes for healthcare.

The challenge then is how this gap can be bridged especially in developing countries, where socio-economic rights have not been fully realised by governments. Most of these

countries are crippled majorly by inadequacy of resources to fulfil even the minimum core obligations with regard to human rights. Additionally, it must be borne in mind that other socio-economic rights must be met, which is already proving to be an uphill task during this pandemic.

It is on this premise that question of whether access to the internet can be recognised as a fundamental human right as well as be included in human rights instruments amidst the dozens of other socio-economic needs in most countries arises.

EXPECTATION FROM THE DIAS

Commissioners are expected to tackle the issue of internet access as a catalyst for the enjoyment of other human rights other than freedom of opinion and expression during their research and the formulation of their draft articles. They should also explore whether there are countries that have recognised internet access as a constitutional right and the legal basis for this. The commissioners should also highlight arguments for and those against the recognition of internet access as a fundamental right based on their position on the topic. A brief discussion on how access to the internet fits into the human development agenda is also expected.

Finally, they should use and lay emphasis on the international current legal frameworks on access to the internet, case laws books and other credible sources of information that provide a clear legal analysis and backing while picking a side and answering the question.

DRAFT ARTICLE RULES

The format for drafting a Draft Article is to be communicated by your PILC at your chapter level in advance. However, the Chair of the International Law Commission **MAY** decide to send the Rules for the Draft Articles depending on the need that may arise. That notwithstanding, the Draft Articles should be submitted to the email address herein being (pilc@kenyamodelun.or.ke) two days before the actual day of conference and for the avoidance of doubt the **20th March 2021 by 5pm**. The font type should be **Book Antiqua**, with a **font size of 12, spacing of 1.5**. Ideally the Draft Article should consist a minimum of 8 pages with no limit as to the maximum amount of pages.

CLOSING REMARKS

From the dais, we wish you the very best as you embark on your research and hope to see you at the Conference. We are looking forward to a fruitful day full of vigor, fun and most importantly quality debate.