systems and services, which should improve the quality of the customs authorities in the EU, in particular, ensure the effectiveness of customs control and its preventive component. It is established that the modern imperative for the implementation of customs control is the development of a new customs IT infrastructure, without which its effectiveness in modern conditions is significantly reduced. The state of institutional support for the development of customs control in Ukraine is analyzed, the main problems and ways of increasing the effectiveness of customs control in the system of public administration of foreign economic activity are outlined. For the first time, a step-by-step adaptation model of the Customs Blueprints implementation of the Customs Blueprints has been formed on the basis of the systematization of foreign and domestic experience in the institutional support of customs control of the FEA subjects. base-lines, mandatory steps and urgent measures to be implemented in customs control practice in Ukraine to form a favorable institutional environment in legal, organizational and information technology areas through the introduction of the practice of customs rules and procedures of the riskbased customs audit in conditions of complete digitalization of customs formalities. It was established that the system of customs security of Ukraine should be determined taking into account the international experience of the leading countries of the world. It was stated that the basic imperative of the implementation of customs control in the world fiscal practice is the maximum simplification of customs control procedures. This is due to the desire of governments to accelerate international trade, which will have a positive impact on the socio-economic development of the state.

Key words: foreign economic activity, customs control, organization of customs control, European experience, legislation, movement of goods.

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UNCHAINED FREEDOM IN CYBERSPACE: A NEW DANGER FOR CHILDREN'S RIGHTS

In global information society children's rights are not viewed only as a group of international human rights. Nowadays, children's rights are about to lose their traditional meaning as they get new and more complex digital character in the age of Internet. In this respect, **the relevance of the topic** can be conditioned with the mere fact that children of information society are prone to enjoy new technologies compared to other generations of society, and it makes them more vulnerable in terms of safety, security and protection from digital violations. The growing role of the Internet and other digital communication tools in a child's life does not demand for proof rather than raises serious questions. That is to say, the Internet is not always good for child development and too much digital freedom can make a hacker from an ordinary diligent pupil. Of course, one can argue that a hacker also has talents and it is not the fault of the Internet that someone wants to add tiny adventures to his/her boring routine. But the reality remains the same – if we do not want our children to fall under information manipulation of internet businessmen or be a victim of digital human rights infringements, we need to revise the very meaning of digital freedom. One may agree that for raising public awareness on this issue street demonstrations and meetings are not enough. We should develop more effective academic and practical response to digital dangers created by uncontrolled digital freedom what *per se* is **the subject matter** of the current work.

In general, the Internet is a positive element for child development and education, but it is also important not to fall under information manipulation and succeed in legal protection of cyberspace. While discussing the rights of children in the Internet space, one should also note that the current Internet space is not just a place for desktop or laptop computers. Now the Internet network and the devices connected to it are much more different. Modern Internet space is a multifunctional medium that transmits, receives and disseminates digital information. It contains calculating machines, measuring devices, statistical mechanisms, etc. The use of all these devices and technologies is mostly based on economic interests, serves to material income. Yet, intent to use the Internet space more efficiently in legal terms is weak. Simply put, the modern Internet has become a commercial space that serves more to economic interests than to information rights and freedoms of digital users. At the same time, many of the hardware companies, services and digital institutions that previously were out of the range of computer technologies, now have been linked to the Internet. A number of scholars who take into account the great impact of entrepreneurial activity and economic interests on the Internet calls for “the Internet of Things” what stresses the nature of cyberspace and digital operations realized over the Internet without human participation¹. And of course, this trend makes global impact on child rights too.

In my opinion, by adopting the concept of “the Internet of Things” we can create a new approach to digital regulation of children's rights. Children's rights on the Internet, the negative and positive effects of the Internet on children are among the issues that can be widely analyzed only within the Internet of Things. Nevertheless, the Internet of Things and the interaction of children's rights have not been thoroughly analyzed neither in foreign nor in national **law literature**. Despite of scattered reviews and small-scale articles, **academic research** of these

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questions are not well-developed and due to unknown reasons legal academia is quite reluctant to introduce systematic study in this respect.

The original understanding of cyberspace lays down on the cornerstone of the Internet of Things. The Internet of Things acts in different areas of the economy, especially in the fields of energy, heavy industry. However, scholars that the Internet of Things should take into account the economic interests together with human rights issues, in particular the problem of information security, and ensure the right of access to digital information space². It means that primary criteria of the child rights used on the traditional Internet are also valid for the Internet of Things. The only difference is that the Internet of Things is a broader mechanism and a place where children's economic and social interests are widely reflected. And this reflection is not always positive. The new outlook of cyberspace demonstrates that there are some new issues of children's rights in the Internet of Things such as copyrights, intellectual property and entrepreneurship what requires new research methods. It is possible to say that the Internet of Things is an area where the digital information is more specialized and divisible, and this is a higher level of ordinary cyberspace. Therefore, we can take the idea of linking the Internet of Things with the information society and new technologies as well as with the knowledge society in which information exchange is more professionally shaped³. The Internet of Things is a new form of social and digital electronic environment and a knowledge society is a new view of social formulation which follows the information society in terms of historical development. The fact that these two concepts relate to each other has also had an impact on the digital rights of children. The word "knowledge" in the term "knowledge society" indicates that knowledge in the information society is even more specific, accurate, and that knowledge and skills play a more crucial role in people's lives rather than in information society. The notion of cyberspace is no longer viewed as a general idea of the Internet. Elements within the Internet of Things along with its digital participants are distinguished by their specific features. But it is impossible for us to claim that the Internet of Things is fully developed all around the world as well as the knowledge society has not equally managed on global scale.

Unfortunately, in the era of information society, which has been established and developed over the last few decades in the world, new ICTs and digital devices have been followed by serious threats emerging in the legal regulation of these technologies. The most obvious example of these threats is the increasing variety of child rights violations in the Internet, steal of information and data, misuse of information rights, etc. There is no single idea in law theory regarding the resolution of such difficulties and improving the quality of legal regulation in the Internet. According to some experts, main reason for all these negative situations and human rights violations in the Internet space is weak knowledge and illiteracy. Generally, this concept is defined as "Internet literacy" as a single term⁴. Such thinkers believe that subjects and participants in the Internet space should primarily understand their legal conduct, rights and freedoms, and know the technical and legal aspects of internet security. This knowledge would make the Internet space more secure and provide users and digital law subjects with full legal security. Consequently, every subject in the Internet space can regulate itself and no state intervention will be needed. In my turn, I also consider that it is important to increase the level of literacy of Internet users in order to prevent or minimize the number of digital violations. In this sense, ensuring the security of the Internet space is one of the ideas that "cyber culture" makes a goal as well⁵.

In particular, cases of children's abuses in the Internet space, child rights violations and the conversion of children to many digital crimes are related to the low level of children's internet literacy. I think, this problem is not caused by the fault of children. That is, the low level of Internet literacy of children is not the thing only they are responsible for. In fact, it is the responsibility of adults, parents, governments and educational institutions to engage children in their pre-school and school life, and to improve their technical and legal knowledge. In other words, the situation of children becoming victims of internet crimes, their lack of knowledge of rights or their weakness is not just their "fault".

Going further, internet illiteracy is not the only reason of difficulties and problems with children's rights in the Internet space, in my opinion. It can be viewed as a one-sided approach. Because the violation of children's digital rights is not necessarily related to the low level of knowledge and skills or legal habits. Availability of such problems also indicates that control and management in the Internet space is also weak and does not produce the necessary results. In other words, the violation of children's rights in the Internet space is an example of the ineffectiveness of "Internet governance" methods⁶. The Internet space should not be restricted to the rights and freedoms of the participants, and should be transformed into a digital place governed by the rule of law, state and public control.

In my view, the scope and content of children's digital rights, the considerable non-legal acts, and finally, the methods of combating illegal activity should be determined for a more thorough investigation of the problems for better ensuring the digital rights of children in the Internet space. I can propose that children's rights can be online rights and electronic rights within the Internet of Things. Online rights are the rights that children possess when they actively join the Internet, when they participate in the digital information circulation. General electronic rights include the rights of children to have access to the Internet, access to and use of their personal data. Nevertheless, neither the UN nor the regional human rights conventions contain articles directly addressing digital rights of children. For this reason, I may claim for a broad interpretation of norms of traditional human rights and we have to associate them with the digital space. I think, all traditional human rights have an electronic copy within the Internet space. However, as experts point out, the majority of children's digital rights are more restricted to Internet freedom of expression and communication rights⁷. In my opinion, cyber space and new ICT are mostly about communication and information exchange tools. From this point of view, children's information rights and freedom of expression should be provided as a group of digital rights in the Internet space. But in today's world, it is wrong to justify the rights of children in the Internet of Things only in terms of freedom of information. In general, the approach of international human rights organizations to the question of the rights of children in the Internet space is

quite interesting, because they review digital rights of all users in common without special reference to digital children's rights. I think that while investigating the causes and consequences of cybercrime in the Internet, things that are contrary to the rights of children must be analyzed in a separate section. In this regard, the Council of Europe recommendation entitled "Guide for Human Rights to Internet Users" is commendable⁸. The document states that Internet access to all human beings includes access to the Internet, including the right to freedom of thought and expression, freedom of information, freedom of association and association, confidentiality of privacy and privacy, education and literacy, and requirements were also given separately. It is also advisable to keep children's information and information sensitivity in the internet space constantly. However, there are some drawbacks in the presented document that the shortcomings in that character exist in other international legal instruments regulating same issues. The first challenge is that not all internet users' rights to all people and children are reflected in the document. Thus, torture and inhuman treatment on the Internet, labor rights, the right to individual personality, etc. problems are still without solution, and some or all of their aspects were just generally covered. Another issue is that children's right to access the Internet is not just an online users' right. There are some non-online rights that are also should be ensured. Such rights include information security, copyrights, and so forth. So far, I have to note that the scope of children's rights in the Internet of Things is significantly wider. Thus, in the Internet of Things we may discuss children having property rights, new forms of entertainment and recreation rights, medical rights, new types of cultural rights, and new forms of public participatory rights. This claim contradicts to some of the traditional points as children are not fully functional in civil law matters. This, in my opinion, the revision of the work of international organizations on the rights of children in the newly widened cyberspace would help to solve these contradictions.

The complete list of children's rights in the Internet is not provided in the legal literature as there is no complete list of threats to children's rights in the Internet space. No one can find full framework of digital child rights in international law documents either. The same consideration is applicable for the Internet of Things as cybercrime is a significant challenge for new cyberspace mechanisms too. In our turn, I may classify offenses against children's rights and illegal actions based on different criteria within the Internet of Things. For example, first group of unlawful acts can be against all human rights and the second group would address offences especially against child rights. On the other hand, while certain human rights violations are related to the active use of the Internet, other unlawful acts can only be dispensed with electronic means of access, possession, use and disposal. It should be noted that international law focuses more on children's safe use of Internet and prevention of specific actions directed at children in the Internet space rather than providing a full list of children's rights in the Internet space. Thus, the main theoretical difficulties related to violations of children's rights in the Internet of Things are related to their characterization.

Moreover, the Internet contains other types of violations that can, in essence, be viewed not only as a violation of human rights of children, but also as a civil or administrative law violation. For example, the sale of equipment, offering machinery and equipment that is not appropriate for children in the Internet may be subject to administrative law as a violation of electronic commerce rules. The same rule may be considered as a violation of advertising rules when it comes to alcohol, tobacco promotion and offering them to children online. We may analyze the harmful effects of digital items or programs that have been obtained via e-commerce as a breach of a contract or a civil offense. For example, if a seller who is a trustworthy merchant does not provide the required quality of product, or information medium we may analyze it in a civil law field. However, we also support the criminalization of such acts, as infringements of children's rights in the Internet of Things what are often associated with the degradation of honor, dignity and privacy. In this respect, one of the most popular examples of violations of law in recent years has been considered by the European Court of Human Rights in "K.U. v. Finland"⁹. The case is related to intimate and libelous information about a child disseminated on the Internet site for juveniles. I consider that these types of actions are more dangerous than just sharing information about an adult person, because it is in contradiction to the legal interests of children receiving this information. Thus, criminalization of these violations is compatible with the purposes of the fight against cybercrimes too.

As a result of the above noted, I can say that the rights of children on the Internet are generally characterized by their particular place in the human rights system. Internet space or cyberspace, as it is usually called, require a new approach to both international and national human rights norms. Since most of the cybercrimes and digital rights violations in the Internet of Things are directed to children, we may claim that this new theoretical and practical approach has to be the top priority of child's interests. It means that while updating standards for digital human rights regulation, both international organizations and national legislators should, first of all, promote the interests of children, the moral needs and concerns of the new generations. In this term, I may formulate my proposals in the form of the following specific recommendations:

a) In my view, general scope and coverage of children's digital rights have not been defined yet. Various institutions, scholars and studies are dedicated to children's rights, but the questions "What are the specific digital rights of children in cyberspace?" still needs clear response.

b) It is important to review the international and national legal norms on both the positive and the negative aspects of the digital rights of children in the Internet. Theoretically, there are different classifications and systems trying to draw the general picture of child rights in cyberspace. But none of them reflects the full objectivity. It should be highlighted that "Internet of Things" entails quite a large number of dangers for child safety. On the other hand the Internet space is a large area for children to enjoy their rights. I consider that a universal conduct and a world-wide response is needed towards consequences of the Internet what would replace fragmentary character of classifications, evaluations and proposals.

c) Another important issue is the existence of multilateral disparities in choosing the most appropriate theoretical term for digital rights of children. These rights could be online and general electronic rights on the

Internet. Researchers believe that modern-day ICTs are largely digital, and children's rights in the information sphere can be analyzed as "digital rights" under the common term¹⁰. However, in addition to digital rights, "cyber-security", "internet rights", "digital information security", etc. are on stake. In fact, it would be more expedient to have a single term and concept on the digital rights of children in the Internet.

d) While analyzing children's digital rights, not only their rights but also their duties and responsibilities must not be forgotten. Each digital rights is associated by relevant obligations. That is, the protection of children's interests and needs should be ensured not only by third parties and institutions, but also by children themselves. It is crucial for children to be in close collaboration with families, government agencies and even Internet site owners to ensure transparency in order to avoid child rights violations. Children must be active participants and volunteers in promoting preventive measures in digital space. From psychological perspective, it is usually hard to talk to children about their rights and freedoms. This difficulty is characterized by their unique outlook and insights. Nevertheless, the proper legal thinking of children, the fight against human rights violations, informing the relevant authorities, and the culture of combating trafficking are an important step in ensuring the security of the Internet space. In my opinion, it is important to develop international and national norms in this direction. For example, the views of the UN Children's Rights Convention and the "child-focused justice" can also be applied for the digital rights of children¹¹.

e) Considering both international and national legislation, one can see that the legal framework for human rights norms and legislative instruments for information society are different and separately identified. They have different historical development path. However, their co-ordination, the application of traditional human rights instruments to the information society legislation must be implemented in a definite way. Emerging cyberattacks create difficulties for the proper provision of digital rights for children in the Internet. Of course, I do not say that the legal provisions of the information society and traditional human rights instruments are absolutely contradictory. However, if to look, one can note that information society and human rights instruments deal with digital rights differently. This difference harms digital security and child rights protection. Approaches should be coordinated as to commonly considered object. Information society legislation addresses issues such as information security, Internet use and Internet governance more than digital rights. It gives insight view to the content and nature of individual human rights in the Internet. In the traditional human rights approach, we see the opposite.

f) One of the crucial points in protecting children's digital rights is the non-systematic and chaotic character of international and national legislation, even when the norms of the information society are kept away. Various organizations, NGOs, forums initiate new imperative and soft law norms attempting to update the regulation of the Internet. Nevertheless, these attempts add complexity to the fragmentary character of international Internet law. This situation complicates the effective struggle against digital crimes and violations of child's digital safety. On the other hand, the lack of uniformity hinders understanding, makes difficult to understand the norms. Most commonly, ordinary citizens lacking legal education can not properly grasp the essence of child rights and the scale of the expected threat in the Internet space. In my view, such problems are also due to the complexity of language and the terminology of legal documents.

g) One of the issues that seriously disturb is the problem of division and transmission of responsibilities for the violation of digital rights. Thus, it is wrong to claim that public authorities are the only guilty entities on the basis of traditional human rights mechanisms in the Internet and that the state control is weak. Currently, there is a lot of subjects responsible for rights enforcement in the Internet that can be called "non-state legal entities". Coverage of such subjects ranges from physical and legal entities dealing with electronic commerce, electronic marketing companies to institutions providing access to the Internet, providing electricity, creating and managing web pages. In my view, such legal entities should also be responsible for the violation of human rights. While this issue is not widely reflected in legal literature, academicians acknowledge the direct responsibility of non-state actors for digital crimes committed against children¹². However and unfortunately, international or national legislation has yet to define the scope, type, legal framework and implementation methods of the responsibilities of legal entities operating in the Internet space.

¹ Martin D.S. The Internet of Things and business. USA, New York: Routledge. 2017. p. 4–5.

² Maras M.H. Internet of Things: security and privacy implications // International Data Privacy Law, 2015, Vol. 5, No. 2. pp. 99–104.

³ David S. Building inclusive knowledge societies: a review of UNESCO's action in implementing the WSIS outcomes. UNESCO, Paris. 2014. pp. 14–15.

⁴ Gomes de Andrade N.N. and Lúcio T.F. New technologies and human Rights: challenges to regulation. 1st ed. USA, New York: Routledge, Taylor&Francis Group. 2016. p. 249.

⁵ Pramod K.N. An introduction to new media and cybercultures. UK, West Sussex: Wiley-Blackwell Publishing. 2010. pp. 94–96.

⁶ Martin D.R., Michele P.B. and Michael F. Handbook of children's rights: global and multidisciplinary perspectives. 1st ed. USA, New York: Routledge. 2017. pp. 425–426.

⁷ Eva L. Protecting children in the digital era: the use of alternative regulatory instruments. USA, Boston: Martinus Nijhoff Publishers. 2010. p. 24.

⁸ Council of Europe. Recommendation CM/Rec (2014)6 of the Committee of Ministers to member States on a Guide to Human Rights For Internet Users. (Adopted by the Committee of Ministers on 16 April 2014 at the 1197th meeting of the Ministers' Deputies).

⁹ European Court of Human Rights. Case of K.U. v. Finland. Application no. 2872/02. Judgment of 2 December 2008. http://www.adac.gr/fileadmin/docs/nomoi/Eyropaiki_Enosi/KU_v_Finland.pdf

¹⁰ Joanne W. Social media in social work practice. UK, London: SAGE Publications. 2019, 184 p. p. 8.

¹¹ Mahmoudi S., Leviner P., Kaldal A. and Katrin L. Child-friendly justice: a quarter of a century of the UN Convention on the Rights of the Child. Netherlands, Leiden: Brill Nijhoff Publishing. 2015. pp. 17–18.

¹² Taddeo M. and Floridi L. The responsibilities of online service providers. Switzerland, Cham: Springer International Publishing. 2017. pp. 185–187.

Резюме

Маммадрзали Ш.С. Розкута свобода в кіберпросторі: нова небезпека для прав дітей.

Стаття присвячена шкоді кіберпростору стосовно цифрових прав дітей в Інтернеті і надає висновки для кращої протидії цифровим порушенням. Цифрові порушення прав дитини існують у різних формах. Хоча такі порушення є реальністю нинішнього життя, дотепер немає єдиної і добре розробленої системи рішень для обмеження свободи у кіберпросторі.

Зростання ролі Інтернету та інших інструментів цифрової комунікації в житті дітей не потребує доказів, але водночас викликає серйозні запитання. Тобто Інтернет не завжди відіграє позитивну роль у розвитку дітей. Занадто велика цифрова свобода може зробити хакера із старанного учня. Звичайно, щоб стати професіоналом цифрових технологій, потрібно мати великий досвід і таланти, і Інтернет не винен у тому, що хтось із дітей хоче додати маленькі «цифрові пригоди» у свою щоденну рутину. Але реальність залишається такою ж: якщо ми не хочемо, щоб наші діти потрапляли під інформаційну маніпуляцію інтернет-бізнесменів або ставали жертвами порушень прав людини в області цифрових технологій, нам необхідно переглянути саме значення цифрової свободи.

Кіберпростір відкриває нові межі для розваг, освіти, культурного й морального розвитку дітей. Однак можливі труднощі виникають, коли йдеться про права дитини. Цифрові права дітей значно складніші й багатогранніші. Небагато норм міжнародного права можна знайти для регулювання кіберпростору та цифрових прав дітей у цьому новому середовищі. Зміст та обсяг цифрових прав дітей ще не визначено. Таким чином, системні механізми міжнародного й національного кіберпростору, що стосуються прав дитини, повинні створюватися на основі державного контролю.

У цілому Інтернет є позитивним елементом розвитку та освіти дітей, однак важливо не піддаватися маніпулюванню інформацією й домогтися успіху в правовому захисті кіберпростору. Обговорюючи права дітей в Інтернет-просторі, слід зазначити, що сучасний Інтернет-простір – це не просто місце для комп'ютерів або ноутбуків. Тепер мережа Інтернет і пристрої, підключені до неї, значно відрізняються. Сучасний Інтернет-простір – це багатфункціональне середовище, що передає, одержує й поширює цифрову інформацію. Він містить обчислювальні машини, вимірювальні пристрої тощо. Використання усіх цих пристроїв та технологій в основному засновано на економічних інтересах і служить матеріальному доходу. Проте намір використовувати Інтернет-простір більш ефективно в юридичному плані слабкий.

Ключові слова: Інтернет, інформаційне суспільство, права дитини, суспільство знань, цифрові права людини, інформаційне право, кібербезпека, електронні права, онлайн-права, право на участь, свобода вираження думок, інтернет-грамотність, кіберкультура.

Резюме

Маммадрзали Ш.С. Раскованная свобода в киберпространстве: новая опасность для прав детей.

Статья посвящена вреду киберпространства в отношении цифровых прав детей в Интернете и представляет выводы для лучшего противодействия цифровым нарушениям. Цифровые нарушения прав ребенка существуют в различных формах. Хотя нарушение таких прав является реальностью нынешней жизни, до сих пор нет единой и хорошо разработанной системы решений для ограничения свободы в киберпространстве.

Киберпространство открывает новые границы для развлечения, образования, культурного и нравственного развития детей. Тем не менее, возможные трудности возникают, когда речь идет о правах ребенка. Цифровые права детей значительно сложнее и многограннее. Немного норм международного права можно найти для регулирования киберпространства и цифровых прав детей в этой новой среде. Содержание и объем цифровых прав детей еще не определены. Таким образом, системные механизмы международного и национального киберпространства, касающиеся прав ребенка, должны создаваться на основе государственного контроля.

Ключевые слова: Интернет, информационное общество, права ребенка, общество знаний, цифровые права человека, информационное право, кибербезопасность, электронные права, онлайн-права, право на участие, свобода выражения мнений, интернет-грамотность, киберкультура.

Summary

Shahin Mammadzali. Unchained freedom in cyberspace: a new danger for children's rights.

The article is dedicated to the harm of cyberspace over children's digital rights in the Internet and introduces conclusions for better defeating digital violations. Digital violations against child rights exist in various forms. Although violation of children's digital rights is the reality of current life, still there is no unified and well-developed system of solutions to restrict freedom in cyberspace. Cyberspace opens new borders for entertainment, education, cultural and moral development of children. Yet, possible difficulties arise when it comes to suitable child rights. Children's digital rights is significantly more complex and multifaceted. Few norms in international law can be found for the regulation of cyberspace and the digital rights of children in this new medium. The content and scope of digital rights of children have not been defined yet. Thus, systemic international and national cyberspace mechanisms relating to the rights of the child should be created on the basis of state control.

Key words: Internet, information society, child rights, knowledge society, digital human rights, information law, cybersecurity, electronic rights, online rights, right to participate, freedom of expression, internet literacy, cyberculture.