

Legal Protection of Equal Rights in the Digital Age

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ABSTRACT

Law is the strongest tool to uphold justice and equality, and the ultimate goal of legislation is realizing the value and purpose of law. In recent years, many new legal issues have emerged worldwide due to the rapid development of modern digital technology. Many people are put at a disadvantage situation in society because they cannot adapt to new technologies, and their legal rights cannot be protected equally by current law. Specifically, COVID-19 pandemic accelerates the digitalization of society, thus lots of people are calling for legislation to guarantee citizens' equal rights in such a digitalized world. This paper provides an analysis of some legal issues brought out by new digital technologies and offers possible legislative solutions. The legislature, as well as the government, should make new rules for both tech giants and the public to defend our constitutional equal rights.

Keywords: equality, legislation, digital age, digital divide, scientific and technological development, constitutional rights

1. INTRODUCTION

Massive new legal issues brought out in the course of digital technological development are tearing our society apart. Since the third industrial revolution, our planet has undergone great changes, and many experts predict IR4.0 (Industrial Revolution 4.0) is on the way. In such an era of digitalization, we tend to focus on how technology benefits the majority, rather than how it threatens our equal rights under the constitution. Although the affirmation movement is in full swing all over the world, scholars mainly pay attention to inequity caused by historical reasons, not the present nor the future. Few law researches have drawn attention to the failure of eliminate such inequality caused by digitalization even since some cases emerged.

In many countries, some problems need to be solved urgently. A recent renowned case happened in China, when an elderly was denied access to the subway due to the lack of health code in August 2020. However, some groups like elderly and people with low education background cannot claim their rights because there are no relevant laws or administrative regulations. It is still undeniable that the legal approach is still the most powerful means to eliminate inequality and protect our rights. Based on the method of literature research and comparative research, this paper analyses current status, forms and causes of equality. In the last part, this paper

attempts to put forward some suggestions to fulfill the legislative lacuna based on findings.

2. ANALYSIS ON INEQUALITY IN DIGITAL AGE

2.1. Current status

Science and technology have greatly changed our production and living conditions and have great social value. However, with the application of modern science and technology, it has led to the inequality of mankind. [1]

An increasing number of data illustrates a fact that digitalization is widening the gap between groups, leading to inequality in all social aspects. All these kinds of inequality have deprived lots of people's opportunity, along with their constitutional rights. Many people's equal rights to education, employment and so on have been ruthlessly violated. Even worse, when their rights are violated, they can't get any relief or remedy due to lack of applicable laws and related procedures.

In a few words, the reality is that many people are treated disparately and unprotected by law only because they cannot fully integrate into the digitalized society.

2.2. Forms of inequality

2.2.1. Educational inequality

In the past, we mainly attained schools to obtain knowledge, but now the Internet has become the main source of knowledge, thus it is common sense that schools have the obligation to teach students how to embrace the digital world. Although many attempts have been made to bridge the digital gap in education, including the Technology Literacy Challenge Fund offered by Clinton administration and the E-Rate program, educational inequality caused by digitalization remains a huge problem. [2] During the COVID-19 pandemic, many schools choose to close physical courses and turn to online courses instead. In this circumstance, part of students lost their opportunities to receive education due to lack of devices and access to the Internet.

A shocking related incident happened in Dengzhou, China. On February 29, 2020, a girl of junior grade 3 committed suicide by taking poison at home because she could not afford the smartphone to attend online courses. [3]

2.2.2. Employment inequality

Employment discrimination refers to rejection or special treatment on hiring or promoting. Currently, employers are more likely to hire or promote people who adapt to the digital world well, in addition, digital-skill bias is one of the dominate factor in widening the wage gap. [4] Many employers require their candidates having digital skills like sending emails or analyzing data through computers, even such skills are not linked to the job itself.

Teleworking is gradually becoming a new working mode. However, young workers and those without college education are significantly less likely to work remotely, which may aggravate intergenerational inequality in employment. [5]

2.2.3. Social inequality

Social inequality is hard to define, but it occurs every day. With the sharp development of science and technology, mobile payment, facial recognition, health code and other innovations have covered our daily life. They greatly facilitate most people's life, however put some groups into a disadvantaged place.

In order to activate the social security card, a 94-year-old man in Hubei Province, China was carried to the bank by his relatives for face recognition on 21th November, 2020. [6] It brought out a nation-wide discussion about whether the elderly people are supposed to live in the shade of digitalization.

Furthermore, not only the elderly people are in such a situation, people with low education background and people living in poor communities are also affected. They are more likely to confront with disparate treatment in public services.

2.3. Causes of inequality

Causes of inequality brought out by digitalization are various and complex, but mostly, digital divide is the prior reason for digital world's inequality. The digital divide can lead to five types of inequality: technological, immaterial, material, social and educational inequality. [7] Andreasson (2015) defined digital divide as 'computer and Internet access inequalities between groups of people with social or cultural identifiers such as race, sex, socioeconomic class, and so on'. [8] In terms of this definition, digital divide can be viewed as an extension of racial, sexual and socioeconomic inequality. According to a survey, until June 2021, the number of Internet users in China had reached 1.011 billion, and the Internet penetration rate had reached 71.6%. At the meantime, the Internet penetration rate in rural areas is 59.2%, and Internet users aged 50 and above accounted for just 28.0%. [9]

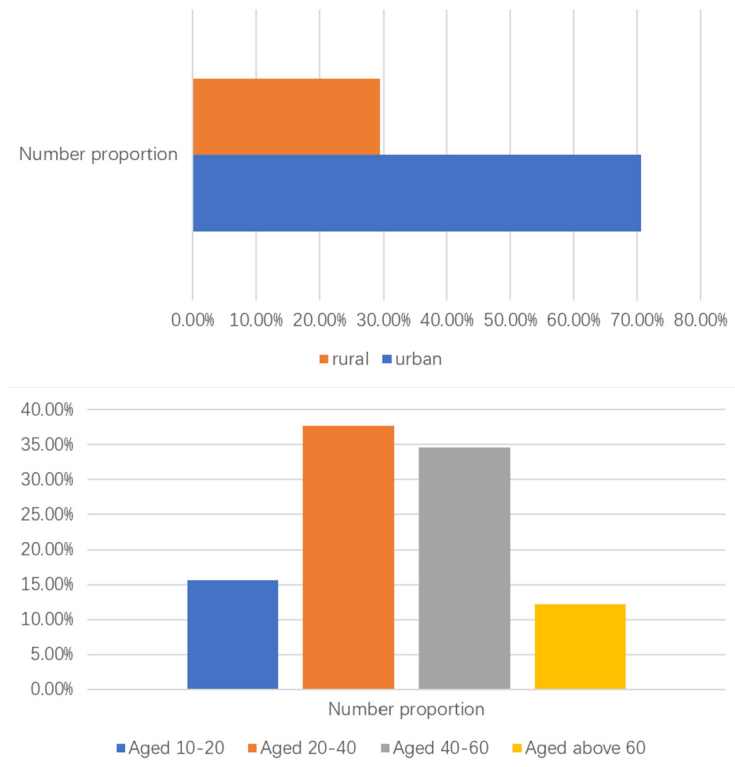


Figure 1 The different proportion of Internet users' number among different areas and ages in China

Similarly, roughly 24% of Americans with household income below \$30,000 a year don't own a smartphone, and about 43% adults with lower incomes do not have home broadband services. By comparison, smart devices are ubiquitous among rich American adults who earn

\$100,000 or above each year, according to a Pew Research Center survey conducted in 2021. [10] The huge gaps between urban and rural areas, rich and poor, well-educated and poor-educated are the more deep-seated reasons.

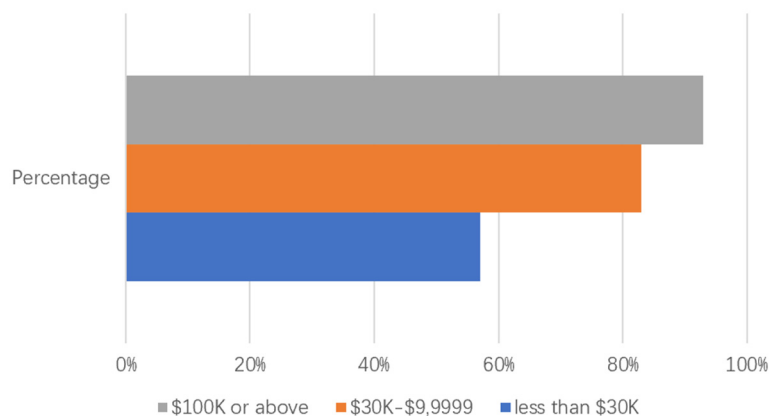


Figure 2 The different proportion of the number of Americans who have home broadband among different income groups

Other causes, such as the technological hegemony of large corporations, also lead to inequality. Specifically, personal privacy rights can be easily violated by technology giants.

3. LEGAL SOLUTION FOR ELIMINATING INEQUALITY

3.1. Applying existing legal framework

Although specific laws and regulations targeting at this issue lag behind, there are some existing equality and

anti-discrimination laws which can protect our constitutional rights.

The constitutions of many countries have affirmed the principle of equality before the law, such as *the Equal Protection Provision of the 14th Amendment of Constitution of United States* and *Article 33 of Constitution of The People's Republic of China*. These constructional clauses have the highest effect of protecting citizens' equal rights, and they are absolutely applicable in the digital age.

There are also many separate laws aiming at eliminating education, employment or other kinds of inequality. For example, *The Equal Educational Opportunities Act* of 1974 declares that all Americans are entitled to equal education opportunity. Similarly, *Article 37 of Education Law of the People's Republic of China* affirms that education receivers shall enjoy equal rights in going to school, entering higher school, employment and etc.

These provisions also protect our equal rights to receive online education and ensure we get adequate knowledge to adapt to digital age. Also, employment discrimination is more difficult to define, but there are a large number of precedents to form a set of rules, therefore some cases in digital background can still be solved under current law.

3.2. Boosting relevant legislation

Current laws are not sufficient to fully guarantee citizens' constitutional equal rights, so more relevant laws and regulations need to be enacted.

Firstly, the new law should stipulate that the public services provided by the government and enterprises must be open to all the public, which means they ought to provide a non-digital solution in comparison with their digital solution. Such regulations can be effective to eliminate social inequality due to digitalization.

Moreover, in terms of equality in education and equal employment, new laws and regulations for digitalization need to be promulgated, since the current laws cannot cover all aspects in today's socioeconomic circumstance. Except anti-discrimination laws, some financial aid bills should also be introduced.

In addition, new laws need to determine what kind of and how much remedies should be given to those who are treated unfairly. The government and tech giants should take more responsibility, and certain types of punishment can be also added.

The public are calling for administrative regulations to regulate technology corporations' behavior to ensure we are treated equally and fairly in the world governed by technology. It's also necessary to establishing an

independent commission because there will be increasing complex and confusing cases.

3.3. Eliminating the root causes of inequality

Rousseau believes that the development of human abilities and the advancement of human intelligence have led to human inequality [11]. In another word, all inequality is, in the final analysis, socioeconomic inequality. As mentioned above, digital inequality can be viewed as an extension of sexual, racial and socioeconomical inequality in most cases. If we want to eliminate the inequality in digital age completely, we need to eliminate its root causes first.

To achieve the purpose, improving the relevant laws and the court trial system is indispensable. Laws should give an explicit definition of sexual, racial and other kinds of discrimination, along with a complete set of procedures to prove a prima facie case. In practice, the courts should shift the burden of proof to the more powerful defendants like governments and employers, if it is difficult for plaintiffs to provide evidence. As for socioeconomical aspect, bridging the gap of income and unbalanced development require joint effort of the government, legislature and the public. The government should coordinate development, and the public should also strengthen the established concept of equality.

4. CONCLUSION

Modern digital technology has benefited humankind a lot, however it also leads to inequality in many aspects. Educational, employment and social inequality are the most notably legal issues. Some shocking cases have triggered lively discussion of inequality brought out by digitalization in recent years. Throughout the world, people have been striving for their equal rights for countless years, and digitalization cannot stop us pursuing our equal rights. There are various causes of this issue, but digital divide takes the largest part of them. In some extent, inequality issues brought out by digitalization are an extension of sexual, racial, socioeconomic and other inequality.

Structuring a legal framework to eliminate inequality in the digital age is necessary and vital. This paper puts forward three legal methods: applying existing legal framework, boosting relevant legislation and the most important, eliminating the root causes of inequality. Many equality laws can continue to play their role in the new social circumstance through expanding interpretation, for example, *The Equal Educational Opportunities Act* of 1974 is valid to deal with related educational problems. From the perspective of legislation, new specific laws should be made to guarantee our equal rights in digital world, such as providing more non-digital ways in public services and ensuring online education open to everyone. Decreasing the traditional types of

inequality like racial and sexual inequality and bridging the gap between rich and poor are more essential to solve the problem of inequality.

AUTHORS' CONTRIBUTIONS

This paper is independently completed by Suihan Zhou.

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REFERENCES

- [1] Jiang Xiaoyu, Thoughts on the Application of Science and Technology and the Inequality of Human Society [A] Innovation Shenyang Collected Works, 2009: 4.
- [2] Tarman & Bulent, The Digital Divide in Education [A], 2003.
- [3] What abandoned the girl who "has no money to attend online classes"? <https://baijiahao.baidu.com/s?id=1660199629039011899&wfr=spider&for=pc>
- [4] Loh, Yvonne & Chib, Arul, Digital Divide and Employability: ICT Skills for Appropriation, 2017.
- [5] Teleworking is Not Working for the Poor, the Young, and the Women. <https://blogs.imf.org/2020/07/07/teleworking-is-not-working-for-the-poor-the-young-and-the-women/>
- [6] Xu Yun, Research on the protection of basic rights of disadvantaged groups from the perspective of digital divide [A] Society and public welfare, 2021, 12 (05): 10-13.
- [7] A.G.M. Jan, van Dijk, Digital divide research, achievements and shortcomings, Poetics [R] No.4-5, 2006 (34): 221-235.
- [8] K. J. Andreasson, Digital divides : the new challenges and opportunities of e-inclusion, 2015.
- [9] China Internet Network Information Center, The 48th statistical report on China's Internet development [R] 2021:23-28.
- [10] Digital divide persists even as Americans with lower incomes make gains in tech adoption. <https://www.pewresearch.org/fact-tank/2021/06/22/digital-divide-persists-even-as-americans-with-lower-incomes-make-gains-in-tech-adoption/>
- [11] Jean-Jacques Rousseau, Discours sur l'origine et les fondements de l'inégalité parmi les hommes, 1755.