# 7

# Internet Addiction as a Human Rights Issue

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## 7.1 INTRODUCTION

This chapter examines internet addiction as a threat related to the use of the internet, which in a sense is not a new problem. Research shows that throughout history, there have been recurring waves of concern and fear over pathological media use. We have witnessed afflictions such as radio addiction, television (TV) addiction, internet addiction, and smartphone addiction. Concern about these afflictions especially addresses young people, who are presumed more reckless and irresponsible in their media use but also more vulnerable to its effects. Up to a third of US parents and half of teens believe they spend too much time online, and half of teens and more than one in four parents in the US describe themselves as addicted to their smartphone. In other words, even though clinical diagnoses are exceptionally rare, as a cultural phenomenon, internet addiction appears to be widespread. What is new is that the advent of information and communication technologies (ICTs) marked a shift from mass media to a 'personal communication society'. In particular, smartphones render us permanently online and connected.[1] This suggests that internet addiction may be more acute than any other technology-related media addiction and may raise new challenges for law and policymakers.

The phenomenon of internet addiction is global. Previously, abnormal internet-related behaviours mainly concerned Asian countries, but it is now established that internet addiction represents a global emerging public health issue, with relevant societal costs.[2] For example, one study showed that 31 per cent of undergraduate students in northern Tanzania were addicted to the internet. Internet addiction was

[1] M. M. Vanden Abeele and V. Mohr, 'Media addictions as Apparatgeist: what discourse on TV and smartphone addiction reveals about society' (2021) 27 *Convergence* 6, 1536–57.

[2] B. Dell'Osso and N. Fineberg, COST (European Cooperation for Science and Technology) Action CA16207, 'learning to deal with problematic usage of the internet', www.cost.eu/publication/learning-to-deal-with-problematic-usage-of-the-internet/, 48.

associated with using the internet at college, lengthy periods using the internet per day, and social networking.[3]

Although the problem of internet addiction is perceived as important, it has so far attracted limited attention from legal scholars. Law and policy responses to internet addiction have also been somewhat underdeveloped. Partly, this can be related to the lack of robust medical evidence of internet addiction as a diagnosis and a health issue that requires the attention of law and policymakers. There is, however, a rich and growing body of medical research into internet addiction issues.[4] This chapter will rely on medical research in order to identify concrete human rights issues that need to be addressed by law.

## 7.2 INTERPLAY OF MEDICAL AND LEGAL RESEARCH

From the medical perspective, issues of addiction to the internet or to content accessed via the internet are examined as an issue of problematic usage of the internet (PUI). This umbrella term used by mental health researchers encompasses all potentially problematic internet-related behaviours, including those relating to gaming, gambling, buying, pornography viewing, social networking, cyberbullying, and cyberchondria among others. PUI may have mental and physical health consequences.[5] A common element across all expressions of PUI is the excessive time spent online, which contributes to significant functional impairment with negative consequences for the daily life of the subjects involved and their relatives.[6] In medical terms, PUI covers conditions considered to be behavioural addictions and also a spectrum of conditions going beyond behavioural addictions and covering problematic, hazardous, and harmful usage.[7] In this chapter, we are interested in behavioural addictions and have therefore chosen the term 'internet addiction'.

In 1995, Ivan Goldberg coined the term 'Internet Addiction Disorder' and formulated a list of symptoms drawn from the characteristics of pathological gambling. The term remains widely used nowadays to indicate internet-related psychopathology. Around the same time (1995–9), Mark Griffiths proposed a conceptual distinction between addictions on the internet (those affecting individuals who simply use the internet as a medium to engage in a specific behaviour that could be conducted offline) versus addictions to the internet (where individuals are primarily addicted to content solely generated inside the World Wide Web).[8]

[3] I. B. Mboya et al., 'Internet addiction and associated factors among medical and allied health sciences students in northern Tanzania: a cross-sectional study' (2020) 73 *BMC Psychology*, 8, Article 73.

[4] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet'.

[5] N. A. Fineberg et al., 'Manifesto for a European research network into problematic usage of the internet' (2018) 28 *European Neuropsychopharmacology* 11, 1232–46.

[6] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', p. 11.

[7] H.-J. Rumpf, T. Effertz, and C. Montag, 'The cost burden of problematic internet usage' (2022) 44 *Current Opinion in Behavioral Sciences*, 101107.

[8] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', pp. 8–9.

Many studies have used the umbrella term 'Internet Addiction'. Other terms such as 'Smartphone Addiction' are used and have been criticised owing to the lack of specificity, as users of mobile devices rather show tendencies towards the problematic use of certain apps.[9]

For medical doctors, the term 'addiction to the internet' may be problematic as it is only specific behavioural patterns ('addictions'), such as 'internet gaming disorder', that have been officially recognised as requiring further study (i.e., having the potential to be recognised as a disorder) rather than addiction to the internet itself.[10]

From the legal perspective, there are more problematic aspects related to the usage of the internet in addition to those characterised by addiction. Cyberbullying, hate crime, the digital divide, and privacy threats are just some examples. This chapter, however, focuses solely on the aspect of addiction, viewing it primarily as a threat to health. Both aspects of addiction to the internet and addiction to specific content on the internet are covered. In human rights terms, this threat can affect the right to health, the right not to be discriminated against, and rights of specific vulnerable groups, such as the rights of the child. In certain contexts, this threat also affects consumer rights to the safety of products and services. Issues of internet addiction may also be relevant in the context of exercising other human rights, such as work or education-related human rights.

Robust mental health research data indicating that persons suffering from internet addiction actually suffer from a medical condition and need healthcare, could have implications for both how the law and policymakers should respond to the needs of such persons and how courts should take into account the characteristics of such individuals in applying the law to them.

Currently, however, there are limits to what psychiatry and neuroscience can prove. Individuals with indications of PUI do not necessarily meet the criteria for a psychiatric disorder. There is little evidence to suggest that they experience a high degree of behavioural dyscontrol and thus need to be exempted from certain requirements of the law. Where neuroscience suggests sexual internet addiction in an individual, it is not yet clear whether the diagnosis of a form of sexual disorder (e.g., paedophilia), regardless of the medium used, would be more appropriate than a PUI diagnosis. Although PUI has been the subject of growing research interest, this diagnosis has not been widely accepted among psychiatrists. PUI is not yet a valid diagnostic entity. Clear, operationalised criteria for PUI are still lacking. Given the lack of consensus regarding PUI, courts and forensic experts should examine claims of internet addiction critically. Specific attention should be paid to the issue

[9] Rumpf, Effertz, and Montag, 'The cost burden of problematic internet usage'.

[10] C. Megele and A. Longfield, *Safeguarding Children and Young People Online: A Guide for Practitioners* (Bristol: Bristol University Press, 2017), p. 98.

of whether the internet is the source of an individual's problems, or whether the root cause lies elsewhere.[11]

Domestic courts have so far been cautious to accept internet addiction arguments. In the US legal system, arguments based on the concept of internet addiction have been an issue in both civil and criminal litigation. In civil cases, individuals have brought lawsuits against video game developers owing to harm allegedly caused by their products (specifically, in-game 'loot boxes' – virtual items containing random rewards that can be purchased or earned). Notably, one complaint used emerging neuroscientific data to argue that adolescents are especially prone to addiction and risk-taking behaviour (such as gambling). Additionally, at least one plaintiff has contended that his internet addiction was a disability entitling him to protection under the Americans with Disabilities Act. In criminal cases, internet addiction arguments have been raised as a potential defence or mitigating factor to charges of sexual crimes, particularly those involving online child pornography or the sexual solicitation of minors. It was, however, only in one case that the concept of internet addiction has overcome a Daubert challenge (i.e., a hearing on the scientific validity and admissibility of expert testimony).[12]

Hence, this chapter looks into the issue of how medical research can inform legal research, and also how legal research into internet addiction should proceed in the absence of evidence from medical research.

## 7.3 TYPES OF INTERNET ADDICTION

Medical research provides sufficient evidence to identify the following subtypes of internet addiction: internet-related gaming disorder (excessive use of the internet for the purposes of playing online games that becomes associated with the development of loss of control of the gaming behaviour, prioritisation of gaming over other important everyday activities), internet-related gambling disorder (a pattern of persistent or recurrent gambling behaviour, which may be online or offline and which results in impaired control over gambling, increased priority given to gambling over other interests and activities, and the continuation or escalation of gambling despite the occurrence of negative consequences), internet-related buying or shopping disorder (extreme preoccupations with and craving for buying or shopping and irresistible urges to possess consumer goods), cyberchondria (an individual's excessive or repeated online search for medical information driven by a need to alleviate distress or anxiety regarding their health), cyberpornography addiction (excessively time-consuming, distressing, and difficult to resist use of the internet to view or interact with pornographic material), cyberbullying (the use of digital

[11] A. W. Blum and J. E. Grant, 'Legal aspects of problematic internet usage' (2022) 45 *Current Opinion in Behavioral Sciences*, 101142.

[12] Ibid.

technology to seek to harm, intimidate, or coerce other people online), and internet social media/forum addiction (excessive preoccupation with social media use as well as increased amounts of time using social media resulting in detrimental consequences on an individual's functioning and especially affecting the young). Limited scientific evidence exists to present excessive web surfing, mail checking, cyberhoarding and cyberstalking as specific internet addiction subtypes.[13] Other subtypes, such as binge-watching (watching multiple episodes of a TV programme in one sitting or in rapid succession), have been suggested by researchers,[14] but have not so far acquired universal acceptance.

Researchers have noted how one type of internet addiction can lead to another one, notably in situations of the problematic design of video games that contain elements such as loot boxes, because of which excessive online gaming can lead to excessive online gambling. The phenomenon of overlapping internet addictions is also noticeable in fantasy sports, where gaming often includes gambling and is accompanied by additional time spent online seeking relevant information or using internet forums for additional dialogues concerning the game.

Fantasy sports consist of selecting an online team of real-world players based on the rules of the particular fantasy sport. Participants are then awarded points based on the real-world statistics of those players. Gambling can play a major role in fantasy sports, especially in the form of Daily Fantasy Sports (DFS). DFS involves an accelerated version of fantasy sports where participants can bet on the performance of their players and win a proportion of their opponent's entry fees. DFS participants have been shown to have similar psychological and emotional characteristics to their traditional fantasy sports counterparts but have been associated with increased problem gambling behaviours. Gambling is common within traditional fantasy sports too, with one US study reporting 43.5 per cent of participants gambling on fantasy sports. Fantasy sports participants seek out online information to help them research and participate in fantasy sports, increasing their time spent online and the potential of developing an internet addiction. Participants using forums for additional discussions and information on fantasy sports are likely to be more avid users and may be more susceptible to developing an internet addiction owing to the increased amount of internet-based content consumed.[15]

More generally, researchers have found that internet addiction often co-occurs with other psychiatric disorders, such as anxiety disorders, mood disorders, obsessive-compulsive and related disorders, substance-related and addictive disorders,

[13] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', pp. 10–17.

[14] K. T. Rahman and Z. U. Arif, 'Impact of binge-watching on Netflix during the Covid-19 pandemic' (2017) 2 *South Asian Journal of Marketing* 1, 97–112, at 98.

[15] D. Columb, M. D. Griffiths, and C. O'Gara, 'Fantasy football (soccer) playing and internet addiction among online fantasy football participants: a descriptive survey study' (2022) 20 *International Journal of Mental Health and Addiction* 2, 1200–11.

disruptive impulse-control and conduct disorders, personality disorders, and sleep/wake disorders. The relationship between internet addiction and other psychiatric disorders is mutual. People who suffer from internet addiction are at higher risk of developing anxiety, depression or other psychiatric conditions, and the occurrence of internet addiction in people with psychiatric problems is higher than in the general population.[16]

## 7.4 NEGATIVE CONSEQUENCES OF INTERNET ADDICTION

In regard to problems caused by excessive internet use, researchers have suggested that those problems can be divided into four areas, namely mental health problems, behavioural safety/accidents, physical health problems, and malfunctioning. In the case of mental health problems, depression, suicidal ideation, impulsiveness, attention deficit hyperactivity disorder (ADHD), smoking, and drinking are all increased in association with internet addiction. In the physical health area, eye disease, musculoskeletal disorders, sleep problems, and sudden death are reported to be related to excessive internet use. In the area of behavioural safety/accidents, increases in aggression and violence, accidents, cyberbullying, and risky sexual behaviours have been reported. In the area of malfunctioning problems, learning, intellectual abilities, and functioning in the family are all reported to suffer a decrease.[17] Problems, or threats, can also be divided into broader categories of individual and social threats.

Some examples of the findings on threats from specific studies into various aspects of internet addiction are presented here.

Studies of adolescents affected by internet addiction found increased rates of obesity to be linked with diminished physical activity or exercise, poor sleep quality, an irregular diet, eating snacks instead of regular meals, and inadequate or insufficient sleep. Importantly, obesity itself adversely affects self-esteem, further contributing to symptoms associated with anxiety and depression.[18]

As the internet is very often accessed via smartphones, findings related to the risk of smartphone addiction may also be relevant. Research shows that problematic smartphone use is moderately but robustly associated with both anxiety and depression. Problematic smartphone use can be viewed as an indicator of symptoms of anxiety and depression and a possible manifestation of these mental health problems in modern society. Furthermore, problematic smartphone use as a maladaptive coping behaviour may contribute by worsening these symptoms.[19]

[16] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', p. 27.

[17] H. K. Lee and S. Chung, 'Conceptualization of internet addiction based on the public health perspective', in M. N. Potenza, K. A. Faust, and D. Faust (eds.), *The Oxford Handbook of Digital Technologies and Mental Health* (Oxford: Oxford University Press, 2020), pp. 87–96, at 89.

[18] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', p. 29.

[19] C. Augner et al., 'The association between problematic smartphone use and symptoms of anxiety and depression – a meta-analysis' (2023) 45 *Journal of Public Health* 1, 193–201.

As the excessive use of social media is one subtype of internet addiction, research findings related to social media use risks are also relevant. The use of multiple social media platforms was found to be independently associated with symptoms of depression and anxiety, even when controlling for overall time spent in their use.[20]

In regard to social threats, it is noteworthy that one study conducted in Italy shows that adolescents who reported the problematic use of electronic media communication (mobile phone use and social media use) or internet addiction showed an increased risk of cyber-victimisation.[21]

In terms of the use of digital tools in the workplace, an exploratory qualitative study of professionals working in various industries in France showed that the majority of survey participants (93.4 per cent) either agreed or strongly agreed with the view that the digital tools were highly addictive. The findings of the study confirm that the use of digital tools at work is widespread. Heavy users of digital tools indicated that these tools provided a fertile ground for the development of professional exhaustion and burnout.[22]

More generally, addictive internet use can result in a goal conflict (i.e., a condition where two or more goals compete against each other and cause conflict in a person's mind) between entertainment and obligations, and negatively affect the social functioning of a person. In the case of binge-watching, for instance, the goal of getting enough sleep is offset by the goal of watching 'one more episode' before bedtime. The available evidence suggests that excessive binge-watching might lead to the impairment of daily functioning and disturbance in the quality of social life and sleep cycles.[23]

In addition to the problems described here, it needs to be kept in mind that problems caused by internet addiction have economic costs. The costs and burden from PUI not only accrue to the individuals suffering from the condition but also others, such as the individual's family or society as a whole, with regard to the impact on healthcare and other social security systems. Currently, the extent of such costs is unclear owing to the broad conditions related to digital technology use and insufficient data, but researchers are working on this issue and have proposed methodological requirements for an assessment of the cost burden of PUI, which includes but is not limited to internet addiction.[24]

[20] H. Allam et al., 'Prevalence of problematic social media use among residents and teaching assistants in Ain Shams University Hospitals and faculty of medicine and its relationship to emotional distress' (2021) 114 (Supplement 1) *QJM: An International Journal of Medicine*, i216.

[21] N. Marengo et al., 'Cyberbullying and electronic media communication problematic use in Piedmont. Data from HBSC study' (2020) 30 (Supplement 5) *European Journal of Public Health*, v869.

[22] L. Pansu, 'Evaluation of "right to disconnect" legislation and its impact on employee's productivity' (2018) 5 *International Journal of Management and Applied Research* 3, 99–119.

[23] Rahman and Arif, 'Impact of binge-watching on Netflix', p. 100.

[24] Rumpf, Effertz and Montag, 'The cost burden of problematic internet usage'.

## 7.5 SPECIFIC FEATURES OF ADDICTION ONLINE

### 7.5.1 *Lack of Internet Specificity?*

One of the issues that arises in addressing the need for a law and policy response to the problem of internet addiction is whether there is a need for a specific response as the problem can be viewed as being part of a broader phenomenon of addiction to technologies or can be understood as being inaccurately named because it is not the medium of the internet but its problematic content (online gaming, gambling, pornography) that a person is addicted to that calls for law and policy measures regarding specific content, but not the internet in general.

Research suggests that internet addiction can be seen as one manifestation of the so-called technopanics where every new technology is met with fear about its pathological usage. As the internet is often accessed via smartphones, internet addiction analysis could benefit from smartphone addiction analysis. As smartphone addiction has similarities with TV addiction (similarities are most visible when TV and smartphone addiction are discussed as medical conditions),[25] the problem of internet addiction can be usefully compared to TV addiction. As excessive use of a mobile phone (irrespective of whether internet features are used) has similarities with excessive use of the internet (specifically, the paradox of technology facilitating communication but leading to an erosion in social well-being),[26] mobile phone addiction analysis could inform the analysis of the problem of internet addiction. In practical terms, the law and policy response to other technological addictions can have an indirect effect on internet addiction, which would suggest the need for a general rather than specific approach to internet addiction. The same would be true when addressing specific problematic content. As online gambling has similarities to gambling generally or as online pornography viewing is similar to viewing pornography using other media, addressing gambling addiction and pornography addiction would also tackle online gambling addiction and online pornography viewing addiction.

Research also shows, however, that certain features of the internet create favourable conditions for developing an addiction.

### 7.5.2 *Features of the Internet Which Contribute to Addiction*

The internet as a medium has features that reinforce problematic behaviour potentially leading to addiction. For example, features of internet-related gaming include the ease of accessing a game via portable or handheld devices, the possibility of

[25] Vanden Abeele and Mohr, 'Media addictions as Apparatgeist', pp. 1536–57.

[26] M. Seo, J.-H. Kim, and P. David, 'Always connected or always distracted? ADHD symptoms and social assurance explain problematic use of mobile phone and multicommunicating' (2015) 20 *Journal of Computer-Mediated Communication* 6, 667–81.

engaging in competitions with other gamers, the perception of oneself in a manner that is more rewarding and less impacted by real-world issues, and the specific genres, designs, and content of the games that are played, including the possibility of financial rewards or achieving winning status. In online gambling, new types of gambling (in addition to the traditional games such as poker, casino games, and sports betting) are available online, and online gambling is more accessible than gambling in the real world. Online shopping can be considered more addictive than shopping in the real world because e-commerce provides a range of potential addictive features, such as immediate product availability, anonymity, easy access, and affordability.[27] Pornography viewing has expanded substantially in the era of the internet, likely because of specific aspects of the internet (relating to anonymity, affordability, and availability).[28]

### 7.5.3 *Increased Vulnerability Online*

Everybody using the internet is subject to increased vulnerability. Two aspects are particularly important. First, every user of the internet is vulnerable to internet platforms, especially large ones, because of the power the platforms often have in defining, interpreting, and applying the rules governing online matters. Second, everybody is exposed to the possibility of technological vulnerabilities owing to the large amounts of personal data available online, lack of clarity regarding the algorithms used by platforms, possibilities of targeting individuals based on their profile, and so on. These two features make everybody vulnerable and in need of protection against the platforms interested in gaining attention for their products and designing their products accordingly, without necessarily warning the users of the danger of excessive use or addiction.

At the same time, some groups of internet users are particularly vulnerable (such as children) and require special protection, which suggests that the law and policy response should combine measures aimed at the general protection of all internet users and specific protection of particular vulnerable groups.

### 7.5.4 *Specific Vulnerable Groups*

Only a minority of internet users develop addiction, but belonging to certain groups increases the likelihood of developing such an addiction.

European studies show that relevant proportions of the population suffer from internet addiction, particularly in young age groups. Internet addiction is associated with the male gender, younger age, mental health problems, and unfavourable

[27] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', pp. 12–14.
[28] Lee and Chung, 'Conceptualization of internet addiction', pp. 477–9.

social conditions.[29] Research confirms the importance of gender, age, mental health issues, personality, and neuroscientific traits, as well as social factors as risk factors for developing an internet addiction.

In terms of gender, even though the male gender is a bigger risk factor (as shown, for example, in a study concerning the relationship between internet addiction and obesity),[30] in some cases (such as explored in a study on cyber-victimisation and internet addiction where thirteen-year-old girls reported the highest proportions of both cyber-victimisation and electronic media communication problematic use),[31] females are more vulnerable.

Severe forms of internet addiction are more likely in people of a young age.[32] However, older persons are not immune to internet addiction, but the risk factors for older and younger people are different. Internet addiction for older individuals is strongly associated with obsessive-compulsive disorder and generalised anxiety disorder, whereas internet addiction in the young is strongest among those with ADHD and social anxiety disorder.[33]

In terms of mental health problems, research has confirmed that the occurrence of internet addiction in people with psychiatric problems is higher than in the general population. All substance use, early alcohol use, and smoking strongly indicate a high risk of developing internet addiction. Abuse of multiple substances is even more strongly associated with internet addiction. There is a high rate of internet addiction in people suffering from ADHD. Obsessive-compulsive personality traits such as rigidity, perfectionism, being dependent on others, and harm avoidance are common in problematic internet users, suggesting that an obsessive temperament may also predispose an individual to the development of an internet addiction.[34]

More generally, personality traits can be important. Research findings have shown that depression seems to be the strongest risk factor for internet addiction and the trait of optimism has a protective effect. In addition, the personality factor of extraversion was found to be associated negatively with internet addiction.[35]

Research suggests that neuroscientific traits can be important too. Recent studies suggest a neurobiological component for internet addiction. Anatomical and

[29] H.-J. Rumpf, 'General population-based studies of problematic internet use: data from Europe', in M. N. Potenza, K. A. Faust, and D. Faust (eds.), *The Oxford Handbook of Digital Technologies and Mental Health* (Oxford: Oxford University Press, 2020), pp. 57–64.

[30] A. K. Tsitsika et al., 'Association between problematic internet use, socio-demographic variables and obesity among European adolescents' (2016) 26 *European Journal of Public Health* 4, 617–22.

[31] Marengo et al., 'Cyberbullying and electronic media communication'.

[32] Dell'Osso and Fineberg, 'Learning to deal with problematic usage of the internet', p. 5.

[33] Ibid., 28.

[34] Ibid., 27–8.

[35] J. Benka, O. Orosova, and L. Hricova, 'Risk and protective factors of problematic internet use in the context of prevention: Jozef Benka' (2016) 26 (Supplement 1) *European Journal of Public Health*, 367–8.

functional changes, genetic polymorphisms, and impairment of neurotransmitter systems have been found in brains of individuals with an internet addiction.[36]

Social factors, such as family life and parent–child relationships play a strong role in the development of persistent behaviours (e.g., gaming to escape parental conflict).[37] Maternal depression is related to children's internet addiction; in particular, mothers at graduate level or above, male children, and a child's normal or better academic performance show the strongest relationship with child internet addiction.[38]

Furthermore, we should not overlook the legal requirement to be connected and the prevailing culture of connectivity as risks that may contribute to the development of internet addiction.

This outline of risk factors enables us to identify vulnerable groups characterised by one or more such factors. Law and policymakers should adopt evidence-based measures targeted at most vulnerable groups, primarily children, especially where other risk factors co-occur.

### 7.5.5 *Specific Challenges: Conflicting Findings regarding the Harms and Benefits of Internet Usage*

One specific challenge in trying to prevent and fight internet addiction is related to conflicting findings regarding the overall assessment of the harms and benefits of internet usage. The internet paradox – that the technology provides conditions for better communication but using it leads to worsening social interactions – is well known. Some researchers have suggested that online social interaction and ICT use are likely to undermine social bonds as well as decrease social capital at both individual and societal levels, arguing that the more time one spends online, the less one can spend socialising with others. On the other hand, others have found that digital media use is associated with an increase in interpersonal communication and community participation, and in turn may provide both bridging and bonding of social capital.[39] The internet provides an important source of information and a precious channel for communication. More generally, it is considered to be a medium where human rights are exercised. Therefore, notwithstanding the risks associated with the excessive use of the internet, limiting access to the internet is frowned upon, as it limits opportunities to exercise human rights.

[36] R. Pezoa-Jares and I. Espinoza-Luna, '629 – neurobiological findings associated with internet addiction: a literature review' (2013) 28 (Supplement 1) *European Psychiatry*, 1.

[37] D. L. King and P. H. Delfabbro, 'The natural history of problematic internet use and gaming: recent findings, challenges, and future directions', in M. N. Potenza, K. A. Faust, and D. Faust (eds.), *The Oxford Handbook of Digital Technologies and Mental Health* (Oxford: Oxford University Press, 2020), pp. 65–74.

[38] D. W. Choi et al., 'The association between parental depression and adolescent's internet addiction in South Korea' (2018) 17 *Annals of General Psychiatry*, Article 15.

[39] E. Hargittai and Y. P. Hsieh, 'Digital inequality', in W. H. Dutton (ed.), *The Oxford Handbook of Internet Studies* (Oxford: Oxford University Press, 2013), pp. 129–50.

The possibility of different viewpoints on the harms and benefits of the internet practically results in a difference of attitudes of various government agencies based on their functions and relative interest in public health and economic value.[40] This makes it difficult to promote a consistent approach regarding, for example, limiting supply of online products containing addictive features and limiting screen time in the process of education, among others.

Another challenge related to the use of online media is the lack of knowledge on how to safely use the internet. Knowledge gaps in the domain of digital media use may be more severe than gaps in uses of traditional media, given that meaningful internet use requires new skill sets, such as refined search strategies and critical approaches to evaluating content credibility that are less associated with using traditional media.[41] Recognising the addictive design of online products, applying protective strategies, and knowing where to turn for professional help when everything else fails are the skills that need to be taught to diminish the threat of internet addiction.

## 7.6 LAW AND POLICY RESPONSES AND SOLUTIONS

Law and policy responses and solutions in different legal systems vary and are not necessarily very elaborate or comprehensive. Four approaches are presented by way of example here.

### 7.6.1 *Public Health Policies: Comprehensive Approach*

Given the predominance of health aspects in addressing PUI, one could expect health policy responses to internet addiction. At present, there have been limited public health interventions with regard to many forms of PUI, with the partial exception of online gambling disorder and gaming disorder. Public health approaches have been attempted in countries particularly affected by online gaming disorder, including South Korea, China, Japan, and Germany. Broadly in line with existing approaches to substance use disorders, these interventions have largely focused on (a) limiting supply, (b) reducing demand, and (c) reducing harms.[42]

Researchers note that the substance use disorders approach is suitable because internet addiction has similar clinical characteristics to, for example, an alcohol use disorder.

The public health model of alcoholism, which is composed of three risk factors (including host, agent, and the environment) can also be applied to excessive (or addictive) internet use. This differs from the medical model, which explains a

[40] Lee and Chung, 'Conceptualization of internet addiction', pp. 94–5.

[41] Hargittai and Hsieh, 'Digital inequality', pp. 129–50.

[42] D. J. Stein and A. Hartford, 'Health-policy approaches for problematic internet use: lessons from substance use disorders' (2022) 45 *Current Opinion in Behavioral Sciences*, 101151.

disease mainly based on individual vulnerability. Under the public health model, public health policy interventions are necessary to reduce all the relevant internet addiction risk factors.

Furthermore, people using the internet can be grouped as regular users, users at the initial stage of the addiction process, and an addicted group experiencing clear addiction symptoms with various impairments in a wide range of areas. Similar to substance addiction, internet addiction should also be understood as a problem on a continuum. Therefore, public health policy interventions need to be adjusted to the severity of the internet addiction. Such a model has already been applied to alcohol and gambling.

Preventative education in combination with the public health promotion campaigns proposed in gambling addiction can be proposed as a primary intervention targeting the general population. Secondary interventions would implement screening and intensive prevention programmes using screening tools. Educating individuals who are most likely to encounter others with internet addiction problems and help them cope with their addiction is another form of secondary intervention. Tertiary interventions involve constructing an infrastructure to employ evidence-based treatment programmes, fostering addiction experts, and constructing a community-based aftercare system for relapse prevention.

The Korean public health policy response to internet addiction has largely followed the public health model described here, as it addresses various risk factors and is adjusted to different levels of the severity of internet use.

In response to the internet addiction problem, Korea established the Third Internet Addiction Prevention & Resolution Comprehensive Plan in 2016, led by the Ministry of Science, ICT, and Future Planning in cooperation with the Ministry of Culture, Sports, and Tourism (governing game contents), and the Department of Education, the Ministry of Gender Equality and Family, and the Ministry of Health and Welfare (governing youth protection services). Measures applied include education and group counselling at schools aimed at prevention, screening students and providing counselling for those identified as at risk, and psychiatric treatment for excessive gamers. Help is provided inter alia via Internet Addiction Response Centres in sixteen metropolitan cities, internet addiction counsellors in the forty-five Education District Offices, Excessive Gaming Healing Centres, the Rescue School (a short-term residential treatment programme), community-based Addiction Management Centres, and social service institutions. One of the institutional challenges is to ensure better collaboration and avoid overlap of activities conducted by different agencies. Owing to conflicting perspectives in regard to the public health risks and economic value of the digital media industry, there are different attitudes to internet addiction-related problems even in government agencies.[43]

[43] Lee and Chung, 'Conceptualization of internet addiction', pp. 87–96.

The European Union (EU) also considers taking a comprehensive public health policy approach to address the problem of internet addiction. Public health policy options offered by researchers for consideration to the European Parliament (EP) include health promotion, strengthening health services available for internet users that engage in harmful use, and the creation of units to address the harmful use of the internet within various EU Commission Directorates-General and Member State ministries. Information campaigns can create awareness and help users to develop skills that prevent harm. Public recognition of internet addiction as a disorder is believed to encourage people to seek help. Strengthening health services means providing support for health professionals so that they are able to recognise cases of harmful internet use and offer clinical services. If internet addiction were to be recognised as a mental disorder, this would (a) enhance psychological and pharmacological treatment options ('digital detox') available to individuals affected by this condition, (b) facilitate reimbursement by insurance companies, and (c) increase the screening that could be undertaken for children with preliminary symptoms of internet addiction.[44]

### 7.6.2 *Consumer Protection: Product Safety Standards*

Loot boxes have been identified as an example of a problematic element of computer game design, which is akin to gambling and can potentially lead to addiction to gambling online. Some game designs resemble addictive designs of conditioning known, for example, from slot machines.

Loot boxes are subject to general national legislation on contracts and consumer protection. In addition, several national authorities have investigated the conditions under which loot boxes may qualify as gambling. With the exception of Belgium, the Netherlands, and Slovakia, no EU country has come to the conclusion that loot boxes fulfil their national gambling criteria. As a result, only those countries have so far taken or are considering taking regulatory steps to ban loot boxes. In those countries that have already banned them, this has led to the withdrawal of the loot box feature from games in these markets. In other countries, less invasive action has been taken including awareness raising and developing guidelines for parents and players.

As gambling belongs to the sphere of national competence, it has been suggested that the EU could approach the issue of loot boxes and problematic game design more generally from the consumer protection perspective.[45]

Qualifying loot boxes as gambling may not work also in those cases where loot boxes are just one element of chance in an otherwise skill-based game, which was the

[44] G. Quaglio and S. Millar, 'Potentially negative effects of internet use' (2020), European Parliamentary Research Service, www.europarl.europa.eu/RegData/etudes/IDAN/2020/641540/EPRS_IDA(2020)641540_EN.pdf.

[45] A. Cerulli-Harms et al., 'Loot boxes in online games and their effect on consumers, in particular young consumers' (2020), European Parliament Research Service, www.europarl.europa.eu/RegData/etudes/STUD/2020/652727/IPOL_STU(2020)652727_EN.pdf.

verdict reached by the Dutch Administrative Jurisdiction Division in overturning a fine for developers of the FIFA game,[46] who had previously been fined €10 million over a failure to obtain a gambling licence to operate 'Ultimate Team' packs, which gave in-game players who pay for the packs access to an unspecified group of players they could add to their squad or onwards trade.[47]

The practice of marking the products as fit for a certain age based on inter alia its loot box feature is in line with the consumer protection rationale. Germany introduced such marking as of 2023.[48]

In 2023, the EP adopted a resolution on consumer protection in online video games in line with a European single market approach.[49] The resolution calls for gamers to be better protected from addiction and other manipulative practices and stresses that children's games must take into account their age, rights, and vulnerabilities. At the same time, it notes the enormous potential for growth and innovation in the video game sector and its need of support.[50] The resolution contains specific proposals on how to enhance consumer protection in this field. It notes that aggressive commercial practices used in the manipulative design of some games are already prohibited under EU law (para. 15). It calls on the Commission to assess whether the current consumer law framework is sufficient to address all the consumer law issues raised by loot boxes and in-game purchases and, if not, to present the necessary legislative proposals. 'These proposals should assess whether an obligation to disable in-game payments and loot box mechanisms by default or a ban on paid loot boxes should be proposed to protect minors, avoid the fragmentation of the single market and ensure that consumers benefit from the same level of protection, no matter their place of residence' (para. 27). It suggests an *ex-ante* child impact assessment might be required from providers of online video games (para. 28). The resolution also calls on the Commission and the Member States' consumer protection authorities to ensure that consumer law is fully respected and enforced (para. 48).

### 7.6.3 *Vulnerable Groups Approach: Rights of the Child*

Taking a consumer protection perspective and protecting children from the harm of loot boxes and other problematic video game design features is one example of

[46] T. Phillips, 'EA's €10m Dutch FIFA loot box fine overturned' (2020), www.eurogamer.net/eas-10m-dutch-fifa-loot-box-fine-has-been-overturned.

[47] G. Van Mansfeld, 'Consumer law arguments raised against gaming "loot boxes"' (2022), www.pinsentmasons.com/out-law/news/consumer-law-arguments-gaming-loot-boxes.

[48] D. O'Boyle, 'Germany to add loot boxes to video game age-rating criteria' (2022), https://igamingbusiness.com/esports/video-gaming/germany-to-add-loot-boxes-to-video-game-age-rating-criteria/.

[49] EP resolution of 18 January 2023 on consumer protection in online video games: a European single market approach (2022/2014(INI)).

[50] European Parliament, 'Protecting gamers and encouraging grow in the video games sector', 18 January 2023, www.europarl.europa.eu/news/en/press-room/20230113IPR66646/protecting-gamers-and-encouraging-growth-in-the-video-games-sector.

the vulnerable group protection approach. Other examples of activities aimed at protecting children from internet addiction abound.

At the global level, the World Health Organization has been defining standards of healthy sedentary screen time for children of various age groups. Under its recent guidelines, for children under one year screen time is not recommended. For one-year-olds, sedentary screen time (such as watching TV or videos, playing computer games) is not recommended. For those aged two years, sedentary screen time should be no more than one hour; less is better.[51] On the other hand, medical research also suggests that with twenty-four-hour connectivity and when digital and social media technologies are an integral part of the experiences and identities of children and young people, it is the quality and nature of engagement rather than its quantity that determine inappropriate use of digital media or the internet.[52]

The need for an approach that enables the reaping of the benefits of internet use while avoiding the risks of its overuse has been highlighted by international human rights bodies both at the global and regional level.

The United Nations (UN) Committee on the Rights of the Child (CRC) in its General Comment on children's rights in relation to the digital environment recognises that the digital environment affords new opportunities for the realisation of children's rights,[53] but also poses a risk of their violation or abuse (para. 3). It recognises health risks related to the use of digital tools but does not specifically identify the problem of internet addiction as a health issue. It does, however, admit the importance of a healthy balance of digital and non-digital activities and sufficient rest (para. 98), which resembles the rationale of public health policy interventions aimed at limiting screen time for those suffering from internet addiction. The CRC also recognises the need to address other risks that are related to internet addiction. Notably, the CRC admits that measures may be needed to prevent unhealthy engagement in digital games or social media, such as regulating against digital designs that undermine children's development and rights (para. 96). Furthermore, the General Comment mentions the increasing importance of children gaining an understanding of the digital environment, including its infrastructure, business practices, and persuasive strategies (para. 105). These two provisions remind us of the internet addiction research into the problematic design of video games, such as loot boxes, as a result of which online gaming can lead to online gambling and develop into an addiction.

The Council of Europe, in its guidelines to respect, protect and fulfil the rights of the child in the digital environment,[54] recognises that access to and use of the digital

[51] World Health Organization, 'To grow up healthy, children need to sit less and play more', 24 April 2019, www.who.int/news/item/24-04-2019-to-grow-up-healthy-children-need-to-sit-less-and-play-more.

[52] Megele and Longfield, *Safeguarding Children and Young People Online*, p. 116.

[53] UN Committee on the Rights of the Child (CRC), 'General comment No. 25 (2021) on children's rights in relation to the digital environment' (2 March 2021) CRC/C/GC/25.

[54] CoE, 'Guidelines to respect, protect and fulfil the rights of the child in the digital environment', Recommendation CM/Rec(2018)7 of the Committee of Ministers.

environment is important for the realisation of children's rights and fundamental freedoms. Where children do not have access to the digital environment or where this access is limited owing to poor connectivity, their ability to fully exercise their human rights may be affected (para. 10). The Guidelines recognise some health risks related to the use of the internet – excessive use, sleep deprivation, and physical harm (para. 51) – but do not specifically identify internet addiction as a health risk. They do, however, recognise the importance of safety by design as a guiding principle for product and service features and functionalities addressed to or used by children (para. 54), and, despite the strong protection of the right of access to the internet, recognise the legitimacy of and encourage the development of parental controls installed in various products as a measure to mitigate risks for children in the digital environment (para. 54). The Guidelines also specifically recognise the problem of premature exposure to the internet (para. 55). States are expected to require the use of effective systems of age verification to ensure children are protected from products, services, and content in the digital environment that are legally restricted with reference to specific ages (para. 56) and to take measures to ensure that children are protected from commercial exploitation in the digital environment, including exposure to age-inappropriate forms of advertising and marketing (para. 57).

### 7.6.4 *Right to Disconnect and Its Insufficiency*

There is growing attention to 'disconnection' as a solution to digital technology overuse. Disconnection is a new area of focus for both tech and health and wellness industries, which develop and sell a wide range of digital well-being interventions, ranging from digital detox programmes to screen time monitoring apps to products that create physical barriers to use. These interventions are intended to help individuals achieve a 'healthier' relationship to their technology, and therefore stand in opposition to conceptualisations of 'unhealthy' overuse.[55] Disconnection also features as a research question in new media studies.[56] Researchers have acknowledged the existence of the so-called digital divide of disconnection as certain individuals and social groups lack the privilege to disconnect.[57] Importantly, the right to disconnect has also become an object of law and policymaking.

According to Eurofound (the EU Agency for the Improvement of Living and Working Conditions), the right to disconnect refers to a worker's right to be able to disengage from work and refrain from engaging in work-related electronic communications, such as emails or other messages, during non-work hours.[58] This

[55] Vanden Abeele and Mohr, 'Media addictions as Apparatgeist', pp. 1536–57.
[56] S. Lomborg and B. Ytre-Arne, 'Advancing digital disconnection research: introduction to the special issue' (2021) 27 *Convergence* 6, 1529–35.
[57] Vanden Abeele and Mohr, 'Media addictions as Apparatgeist'.
[58] European Observatory of Working Life, 'Right to disconnect' (2021), www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/right-to-disconnect.

applies in the context of work and refers to one aspect of safe and healthy working conditions.

In January 2017, France passed a new employment law allowing workers in organisations with more than fifty employees to negotiate the conditions of a 'right to disconnect' from work after working hours. Article 55 under Chapter II 'Adapting the Labour Law to the Digital Age' of the Labour Code was introduced, aiming to protect workers against the problems associated with the increasing use of digital technology in the workplace.[59] Scholars do not necessarily see this law as a solution to the problem of being required to be connected. Some consider that with the passing of this law, it would seem that the employee can no longer invoke this 'right' under the traditional conditions of waged labour, where it would be on a par with one's unpaid or free time. Instead of protecting the employee, the law runs the risk of turning *all* our available hours into the time of (unwaged) labour, thus feeding into the very problematic it tries to oppose, a problematic that characterises our current 'culture of connectivity'.[60]

Notwithstanding the lack of clear evidence that legislation on the right to disconnect effectively contributes to solving the problem of the requirement to be connected, some other EU Member States have also adopted or debated the need to adopt similar legislation. According to a 2021 Eurofound report, to date, Belgium, France, Italy, and Spain have legislation that includes the right to disconnect and in five other EU Member States (Finland, Germany, Lithuania, Slovenia, Sweden) policy debate on the right to disconnect was in progress.[61] In various EU Member States, the right to disconnect was also an object of company-level initiatives. In Germany, Volkswagen was reportedly the first company to implement a company-wide freeze on out-of-hours emails in 2012.[62] Moreover, the German Labour Ministry itself has also adopted policies regarding after-hours communication, in order to encourage other employers to follow suit. The ministry has banned any communication with staff outside working hours, except in emergencies, and implemented rules that do not allow managers to take disciplinary action against employees who switch off their mobile devices or fail to respond to communication after working hours.[63]

The EP adopted a resolution in 2021 on the right to disconnect,[64] inter alia calling on the Commission to prepare a directive 'that enables those who work

[59] Eurofound, *Right to Disconnect: Exploring Company Practices* (Luxembourg: Publications Office of the European Union, 2021), p. 18.

[60] P. Hesselberth, 'Discourses on disconnectivity and the right to disconnect' (2018) 20 *New Media & Society* 5, 1994–2010.

[61] Eurofound, *Right to Disconnect*.

[62] European Observatory of Working Life, 'Right to disconnect'.

[63] K. Müller, 'The right to disconnect' (2020) European Parliamentary Research Service, p. 4.

[64] European Parliament resolution of 21 January 2021 with recommendations to the Commission on the right to disconnect, OJ C 456, 10.11.2021, pp. 161–76.

digitally to disconnect outside their working hours'. This directive 'should also establish minimum requirements for remote working and clarify working conditions, hours and rest periods'. Members of the EP believe that 'workers' right to disconnect is vital to protecting their physical and mental health and well-being and to protecting them from psychological risks', requesting the Commission to submit a proposal for an act on the right to disconnect. In its EU strategic framework on health and safety at work, the Commission explains that it will 'ensure appropriate follow-up'. The Commission admits that working remotely full time, which increased during the pandemic together with other remote-working trends, such as permanent connectivity, a lack of social interaction, and the increased use of ICT, has given an additional rise to psychosocial and ergonomic risks.[65] Importantly, the EP resolution among risks posed by excessive use of technological devices mentions (in recital E) techno-addiction (along with isolation, sleep deprivation, emotional exhaustion, anxiety and burnout), which implies that the right to disconnect might also be instrumental for addressing concerns related specifically to internet addiction.

The right to disconnect is also included in the Declaration on Digital Rights and Principles for the Digital Decade signed on 15 December 2022 by the presidents of the EU Commission, the EP, and the Council.[66] The preamble (para. 4) mentions that the EP called for a strengthened protection of 'workers' rights and a right to disconnect'. The main body of the declaration (para. 6) contains a commitment to 'ensuring that everyone is able to disconnect and benefit from safeguards for work–life balance in a digital environment'.

Academic debate on the right to disconnect in the EU focuses on a possible need to redefine the rest period under the Working Time Directive to ensure that a person is entitled to be not only outside the workplace but also beyond the employer's reach, to urge Member States to consider introducing the right to disconnect into their domestic law,[67] or to do nothing as the issue can already be resolved using existing EU legislation or settled case law.[68] The EU has the necessary competence to pass legal acts on the right to disconnect. Even if there is no enacted or proposed EU regulation that directly addresses the right to disconnect, Articles 153 and 154 TFEU could be the basis for the adoption of directives setting out minimum requirements,

[65] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 'EU strategic framework on health and safety at work 2021–2027, Occupational safety and health in a changing world of work', COM(2021) 323 final.

[66] European Commission, 'Digital rights and principles: Presidents of the Commission, the European Parliament and the Council sign European Declaration', 15 December 2022, https://ec.europa.eu/commission/presscorner/detail/en/ip_22_7683.

[67] L. Mitrus, 'Potential implications of the Matzak judgment (quality of rest time, right to disconnect)' (2019) 10 *European Labour Law Journal* 4, 386–97.

[68] M. Glowacka, 'A little less autonomy? The future of working time flexibility and its limits' (2021) 12 *European Labour Law Journal* 2, 113–33.

as well as supporting and complementing the activities of the Member States in the area of working conditions.[69]

Domestic legal standards related to the right to disconnect were also adopted or debated beyond Europe. On 2 December 2021, the Ontario government in Canada introduced the 'Right to Disconnect' policy in the Employment Standards Act of 2000. Employers that employ twenty-five or more employees are required to have a written policy on disconnecting from work in place for all employees. The Employment Standards Act of 2000 defines 'disconnecting from work' as 'not engaging in work-related communications, including emails, telephone calls, video calls or the sending or reviewing of other messages, so as to be free from the performance of work'. This is not an exhaustive list, meaning that other forms of work-related communications can also fall under this definition. The goal of the right to disconnect law is to allow employees to disconnect from work and enjoy downtime. Ideally, the ability to disconnect from work will protect an employee's mental well-being and avoid burnout.[70] The Working for Workers Act was proposed by the provincial government in 2021 in response to concerns around burnout, particularly during the pandemic, when working from home meant lines between work and home blurred even further.[71]

Although the right to disconnect may be seen as contributing to the prevention of internet addiction, it is of limited value for this purpose.

First, for those addicted to the internet, merely having a right to disconnect would not suffice to change their addictive behaviour patterns. In an exploratory qualitative study of professionals working in various industries in France, some participants indicated setting barriers to protect themselves from the negative side of being always hyperconnected. However, they felt it was not easy to overcome a technology addiction as it required willpower and wisdom to regain control of the technology. As not everyone manages to regulate it by themselves, some interviewees pinned their hope on the law as a way to help protect workers from the overuse of digital tools. Although almost every survey participant declared being in favour of the 'right to disconnect' legislation, they were not sure how the law could make them more productive. The study also revealed the importance of educative actions. Awareness campaigns and training sessions advising on how to use digital tools more productively and reminding workers of the benefits of disconnecting could help significantly.[72]

[69] Müller, 'The right to disconnect'.

[70] Monkhouse Law, 'Right to disconnect Ontario – the law in Ontario 2022', 13 September 2022, www.monkhouselaw.com/right-to-disconnect-ontario/.

[71] S. Ho, 'Ontario's 'right to disconnect' law: who qualifies and what are the loopholes?', 7 June 2022, www.ctvnews.ca/business/ontario-s-right-to-disconnect-law-who-qualifies-and-what-are-the-loopholes-1.5936773.

[72] L. Pansu, 'Evaluation of 'right to disconnect' legislation and its impact on employee's productivity' (2018) 5 *International Journal of Management and Applied Research* 3, 99–119.

Second, research shows that being connected when required to do so (notably, for the purpose of studying) is less likely to result in an internet addiction than being connected during leisure time. Research carried out in Lithuania shows that for schoolchildren of all ages it is the length of screentime as well as internet activities specifically aimed at amusement that increase the risk of PUI.[73] In north Tanzania, undergraduate students using the internet at the college were less likely to be addicted to the internet compared with those using it both at a hostel or home and college.[74] Therefore, the right to disconnect, if its application was limited to the work context, would not be of use in those situations where internet addiction manifests itself when digital tools are used in other contexts.

This suggests that to combat the overuse of digital tools, more proactive methods, such as raising awareness of the dangers and the safe use of the internet, are necessary, and even being required to disconnect could be considered.

Arguably, the requirement to disconnect has already become a cultural requisite and a lifestyle component for some. Media researchers note the prevalence of the self-responsibility narrative, which now takes the form of the 'responsibility to disconnect' as a precondition to keeping up with digital society. This expectation of self-discipline also comes with a heavy moral component: Societal assumptions about what is healthy or good feed into a moral superiority for those who can dutifully disconnect and shame for those who cannot. By framing 'failure to disconnect' as a problem of willpower, feelings of shame and guilt are legitimised and even capitalised on as mechanisms that could be used to effect change. In doing so, disconnection is implicitly framed as an act of self-improvement.[75] In the legal context, the requirement to disconnect has been attempted for schools in some countries where a ban on the use of cell phones was introduced, notably in France, the province of Ontario in Canada, and the state of Victoria in Australia.

Research shows that for most children across Europe, smartphones are now the preferred means of going online. This often means that they have 'anywhere, anytime' connectivity, with the majority of children reporting using their smartphones daily or almost all the time.[76] One study has shown that the restrictions on the use of smartphones can have a positive impact on academic performance. Restricting mobile phone use can also be a low-cost policy to reduce educational inequalities.[77]

[73] R. Jusienė et al., 'Ilgalaikis ekranų poveikis vaikų fizinei ir psichikos sveikatai: mokslinio projekto ataskaita' (Valstybinis visuomenės sveikatos stiprinimo fondas, 2022) ['Long-term effects of screen exposure on children's physical and mental health: scientific project report' (State Public Health Strengthening Fund)], https://lt.mediavaikai.lt/copy-of-results, p. 39.

[74] Mboya et al., 'Internet addiction and associated factors among medical and allied health sciences students in northern Tanzania', p. 8.

[75] Vanden Abeele and Mohr, 'Media addictions as Apparatgeist'.

[76] D. Smahel et al., 'EU Kids Online 2020: Survey results from 19 countries' (2020), DOI: 10.21953/lse.47fdeqj010fo, p. 6.

[77] L.-P. Beland and R. Murphy, 'Ill communication: technology, distraction & student performance' (2015), https://cep.lse.ac.uk/pubs/download/dp1350.pdf.

In France, the ban was introduced at the level of national legislation. Under the Code of Education as amended in 2018, schoolchildren are not allowed to use mobile phones or any other electronic communication at schools and during all school activities even if they are held outside school. Exceptions are allowed for teaching purposes and for children with special needs. The phone can be confiscated for a certain period if the rule is not followed.[78] At the time of the ban, the French Education Minister mentioned the problem of screen addiction as a phenomenon of bad mobile phone use and talked about the role of the state in protecting children by means of education.[79] In the state of Victoria in Australia, the ban on the use of mobile phones at schools was introduced in 2020,[80] as a policy of the Minister of Education,[81] aimed at improving student performance and managing risks related to the use of technology, without specifically identifying the problem of addiction but mentioning that the use of mobile phones requires more and more of the user's time. In Canada, the ban was introduced in the province of Ontario in 2019,[82] but not in Quebec after a debate leaving the decision for the management of individual schools.[83] Similarly, in the UK and the US it is up to individual schools to set their own rules. In the UK, parents seem to support the idea of such a ban. In the US, the situation is different. Owing to the spate of school shootings, parents tend to want the reverse – the opportunity to contact their children to remain open. Reportedly, this was one of the reasons why a school cell phone ban in New York was overturned in 2015.[84] Such variety of approaches shows that the problematic use of the internet among schoolchildren and the value of being temporarily disconnected is recognised, the bans on the use of the internet are not necessarily recognised as a necessary approach and even when such bans are introduced they apply only in certain situations, for certain people and not without exceptions. Finally, the role of education and educators in creating a culture of better managed use of the internet is acknowledged, which suggests that responsibility to disconnect or disconnection as a lifestyle can be taught.

[78] République française, Code de l'éducation, Article L511-5, www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000037286581.

[79] R. Smith, 'France bans smartphones from schools', CNN, 31 July 2018, https://edition.cnn.com/2018/07/31/europe/france-smartphones-school-ban-intl/index.html.

[80] Government of Victoria, Australia, 'Mobile phones in schools', www.vic.gov.au/mobile-phones-schools.

[81] Government of Victoria, Australia, 'Mobile phones – student use, a ministerial policy formally issued by the Minister for Education under section 5.2.1(2)(b) of the Education and Training Reform Act 2006 (Vic)', last updated in 2022, www2.education.vic.gov.au/pal/students-using-mobile-phones/policy.

[82] The Canadian Press, 'Cellphone ban in Ontario classrooms comes into effect today', *CTV News*, 4 November 2019, https://toronto.ctvnews.ca/cellphone-ban-in-ontario-classrooms-comes-into-effect-today-1.4668824.

[83] S. Parent, 'Québec rejette l'interdiction des cellulaires à l'école comme en Ontario', 14 March 2019, www.rcinet.ca/fr/2019/03/14/quebec-rejette-linterdiction-des-cellulaires-a-lecole-comme-en-ontario/.

[84] A. Ledsom, 'The mobile phone ban in French schools, one year on. Would it work elsewhere?', 30 August 2019, www.forbes.com/sites/alexledsom/2019/08/30/the-mobile-phone-ban-in-french-schools-one-year-on-would-it-work-elsewhere/.

## 7.7 HOW INTERNATIONAL HUMAN RIGHTS LAW CAN HELP

International and European human rights law provide the necessary preconditions for protecting a person against the human rights harms caused by internet addiction, but those preconditions have not been spelled out in the context of concrete cases. Nevertheless, international human rights law is slowly growing as soft law instruments on internet addiction-related matters are adopted.

### 7.7.1 *Existing Norms at the Global Level*

International human rights law already contains norms relevant for preventing and addressing internet addiction. The best interests of the child, which is one of the underlying principles of the UN system of the protection of the rights of the child, encompasses interests related to the safe usage of the internet. The fact that the UN Committee on the Rights of the Child has already addressed the issue of rights in the digital realm is important as it provides a basis for further interpretations of what it takes to ensure that children do not develop unhealthy habits when using the internet.

The right of everyone to the enjoyment of the highest attainable standard of physical and mental health provided for in Article 12 of the International Covenant on Economic, Social and Cultural Rights is a basis for interpretations requiring states to take measures to prevent internet addiction and to provide medical services for those affected. As demonstrated in this chapter, efforts by the state should be directed at the development of a comprehensive public health model aimed inter alia at the problem of internet addiction. The challenge in this respect is that under a surviving dichotomic civil and political versus socio-economic rights system, the right to health enjoys relatively weak protection as its implementation is dependent on the available resources of the state. One way to diminish this weakness is to rely either on the core of the right to health, which under the concept of core obligations needs to be guaranteed in any circumstances,[85] or on the non-discrimination element of the right to health, which is required irrespective of existing limitations as to available resources.[86]

Protection from discrimination in the context of internet addiction is possible on various grounds. On the ground of young age and on the ground of sex it can be claimed that children and, depending on the context, boys or girls require special protection against internet addiction compared with the general population. On the ground of disability, claiming that internet addiction because of resulting obstacles amounts to a disability (an approach inspired by Canadian experience: the Ontario Human Rights Commission takes an expansive and flexible approach to defining

[85] UN Committee on Economic, Social and Cultural Rights (CESCR), 'General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1 of the Covenant)' (14 December 1990) E/1991/23, para. 10.

[86] Ibid., para. 1.

mental health disabilities and addictions that are protected by the Ontario Human Rights Code; it considers that the Code protects people with mental health disabilities and addictions from discrimination and harassment on the grounds of disability),[87] it could be argued that it is under the UN Convention of the Rights of Persons of Disabilities that states should take measures to provide the required services for those afflicted by internet addiction.

### 7.7.2 *Avenues to be Explored Based on Regional Experience*

Regional human rights law often acts as a laboratory in which new definitions and interpretations of human rights are developed and tested. In regard to internet addiction, the Council of Europe approach towards the protection of children in the digital realm is an example of how this process of identifying existing threats and developing the required standards gradually progresses (even though at present internet addiction has not yet been clearly identified by the Council of Europe as a human rights issue).

EU law has tools that enable it to expand into new areas faster than would be possible under international (global or regional) human rights law. The EU fundamental rights catalogue – the Charter of Fundamental Rights – is not limited to any specific type of human rights and, notably, contains provisions on health (as an element of working conditions and in Article 35 on healthcare) and consumer protection (Article 38). Even though official explanations of the Charter state that both Article 35 and Article 38 contain principles rather than rights,[88] Charter provisions have the potential to be transformed from vaguely described principles to specifically defined rights. This potential derives from the fact that the EU can concretise its commitments by way of adopting, within the scope of its competencies, secondary legal acts. Moreover, the EU's fundamental rights can be a trump card in a political discussion on the need to adopt further legal acts on a certain issue. If the Charter applies in a certain type of legal relationship, this indicates that a fundamental right is at issue, and in this manner raises the importance of the question at issue.

When we specifically consider internet addiction, the EU approach of addressing problematic video game design via the consumer rights perspective is novel and instructive, as consumer rights protection is included in the catalogue of human (fundamental) rights only in the EU Charter of Fundamental Rights but not in international human rights law documents. Similarly, the right to disconnect, which first became a subject matter of certain domestic laws, entered the rights debate first in the EU where, even though it is not a right contained in the Charter, it was included in the declaration on digital rights, where it will serve as an indicator

[87] Ontario Human Rights Commission, 'Policy on preventing discrimination based on mental health disabilities and addictions' (2014), www3.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions Chapter 4.

[88] Explanations relating to the Charter of Fundamental Rights, OJ C 303, 14.12.2007, pp. 17–35.

for EU institutions that the protection of this right will have to be further developed. As international human rights law follows a similar path of putting ideas into soft law and then gradually transforming these into hard law, it is advisable to consider including the ideas tested in the EU in texts of non-binding resolutions of relevant international institutions (such as the UN Human Rights Council and UN human rights treaty bodies documents) to spark further debate on the required action at the global level. Reflecting on the experience of regional human rights law systems, such as the Council of Europe, should also continue to be an inspiration in developing the global system for the protection of human rights and, in particular, addressing the problem of internet addiction.

## 7.8 CONCLUSION

This chapter has shown that a multidisciplinary approach is useful for the purpose of identifying human rights issues related to the phenomenon of internet addiction and, ultimately, for improving human rights law. Mental health research, in particular, can provide lawyers with evidence necessary to assess the severity of internet addiction-related threats, to identify the most vulnerable groups and the required legal response. Understanding that children are the most vulnerable group but that other age groups are not immune to internet addiction is one example where medical research findings can lead to legal research on which human rights instruments can provide protection for persons of different ages afflicted by internet addiction. Importantly, mental health research also shows that moving online makes certain addictions more likely, which proves that internet addiction is a novel type of addiction that requires a novel human rights law response.

Within the discipline of law, the interaction of various legal systems is necessary to transplant best practices from one legal system to another. Whether or not 'the right to be disconnected' will continue its journey from domestic legal systems to international human rights law via its most recent appearance in EU law, remains to be seen, but the fact that there are domestic practices related to disconnecting seems to invite further dialogue of legal systems.

Finally, as we see the limits of available medical evidence to validate diagnoses of internet addiction and realise that the law may remain uninformed by medical research for some time to come, human rights law and its interpretation can be influenced by cultural factors. Where the connectivity (or 'always on') culture is perceived as increasing the risk of burnout, and disconnection for a short time is seen as an escape, further research into the right to disconnect as a human rights issue seems to be required. Disconnection as a lifestyle can possibly alleviate the severity of internet addiction problems, but whether it is states or internet platforms that can act as better influencers promoting such practices and what is the minimum required from states in this case by international human rights law (e.g., can the state leave it to the platforms to promote healthy internet use?) is a question for further research.