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"Exploring the Right to be Forgotten"

PRIYANSHI VARSHNEY

INTRODUCTION

In an era of rapid technological advancement, the concept of privacy has been profoundly reshaped, raising critical concerns about personal data collection and storage. Central to this discourse is the Right to Be Forgotten (RTBF), a key provision of the EU's General Data Protection Regulation (GDPR), empowering individuals to request the removal of outdated or irrelevant personal data from digital platforms. While aimed at enhancing privacy, RTBF sparks global debates over its subjective enforcement, ethical implications, and potential misuse. From Europe to India and Africa, this article explores how RTBF navigates the delicate balance between individual privacy, public interest, and the preservation of historical truth in a digitized world.

Technological Impact on Privacy

Technological innovations have completely redefined the concept of privacy, making its maintenance even more difficult in today's digital age. As technology is advancing, there is much change and transformation in the ways of collecting and storing personal data so that raising new concerns about privacy.

RTBF in Global Context

The Right to Be Forgotten is among the more fraught and relevant aspects of the EU's General Data Protection Regulation. RTBF is entailed to individuals that initiate removal of personal, deemed irrelevant, out-of-date, or otherwise inappropriate, data from search engines as well as other platforms. The concept serves as an avenue for enforcement, where millions in the European countries receive requests from users requesting Google to take down links to their personal data for measures meant to assure privacy in a more digital world. Such requests exceeded 1.1 million for the time between 2014 and 2021 in the case of Google

under RTBF request for removal under GDPR, with an acceptance rate of approximately 46%.[1]

However, as such, these do not come without RTBF implementation challenges and criticisms. Subjectivity was one of the major "rights" on concern. The said subjective terms "outdated" or "irrelevant" combine with further their broad interpretation, which contributes significantly in drawing the right boundaries. It consequently involves quite subjective judgment, and that in many cases, ends up being inconsistent within enforcement. For example, while archived information is irrelevant for one person, it may be understood as important public interest or historical information for others and therefore, develops a disparity between personal privacy and the public's right to know.

Therefore, debates have stirred on the right balance between the individual's claim for privacy and the need for public knowledge preservation in instances where this information touches on

The RTBF approach differs from that by which it is conceived under GDPR; it reflects growing concern among Indians concerning privacy in this digital age and introduces its own model of personal data protection under the Digital Personal Data Protection Act (DPDPA) 2023. With the knowledge of India's position as the second most digitally active people in the world, privacy has thus become imperative. While the DPDA shares a lot with GDPR on such areas as data protection, its conceptualization of RTBF differs quite a lot. Under the DPDPA, the RTBF is a limited right, and according to public interest, it will be prone to evaluation by a Data Protection Board. This Board will assess the requests for erasure with respect to wider public interests. The aim is to have one's privacy protection that does not negate the much-needed public access to information.[2]

Global Implications

Several complexities of RTBF are increasingly pronounced in developing countries like India. In fact, India's implementation of the Digital Personal Data Protection Act (DPDPA) of 2023 has provisions similar to RTBF in the GDPR. According to one study by the Internet Freedom Foundation in 2023, 32% of India's planned framework on RTBF[3] requests could be

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[1] SWATI PANDITA & LOVELY SHARMA, RIGHT TO BE FORGOTTEN: A STUDY WITH SPECIAL REFERENCE TO INDIA, HTTPS://PRSINDIA.ORG/BILLTRACK/THE-PERSONAL-DATA-PROTECTION-BILL-2019.

2 MANUEL GALEA, *The Right to Be Forgotten: A Balance between Privacy and Public Rights?*, (2015).

3 PRASHANT MALI, *PRASHANT MALI PRIVACY LAW: RIGHT TO BE FORGOTTEN IN INDIA PRIVACY LAW: RIGHT TO BE FORGOTTEN IN INDIA*, https://www.loc.gov/law/help/online-privacy-law/france.php.

attempts at using the RTBF to erase certain information related to a claim of corruption or public accountability. Thus raises serious questions about the way privacy laws can possibly help create, in emerging economies, what may be termed as unaccountability, where persons or entities may use RTBF provisions to hide or escape scrutiny regarding unethical deeds.

RTBF provisions may, in such contexts, tend, ironically, to create a culture of impunity even in those cases where they were originally intended to protect privacy. When such culture evolves, it erodes the foundations of transparency and public trust. It would therefore now call for a balancing act as India and other emerging economies suffer the consequences of having to implement their data protection laws-the bane of efforts to ensure that RTBF does not become a shield for wrongdoers or a tool against public discourse.

Ethical Issues like Censorship and Rewriting History

The ramifications of RTBF can sometimes include worries about historical revisionism. When an individual or organization uses the right to delete online records of past actions, the erasure of such data poses a real risk to the critical strands of history. For instance, a public figure, business leader, or politician might seek to erase all traces of past wrongs, thus distorting the historical record and eroding public trust that such records will someday be accurately reflected in the information available online. The ethical issue here is the conflict between privacy and truth in history.[4]

In some cases, deleting material could come under the classification of censoring, given that individuals or institutions will conflict through the means of right to be forgotten to manipulate history, i.e., hide uncomfortable truths. It creates an interval between a private person and the public interest in the accountability and transparency of an act. Censorship of RTBF will help delete proving or embarrassing information, thus exposing the public to making decisions by false knowledge, thus barricading the integrity of the information ecosystem.[5]

There is also an ethical controversy about using RTBF to suppress dissent. When the government and other powerful institutions use RTBF to delete any records of criticism, activism, or whistleblowing," they are committing an act such as censorship, stifling public discourse, and infringing on freedom of speech. The ethics dilemma is significant: how to

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4 TRIPATHI, *supra* note 9.

[5] Gupta, *supra* note 3.

ensure this use of RTBF is not made to limit the flow of information, especially where it is most politically sensitive.[6]

African Union & Right to be Forgotten

Issuance of the Right to Be Forgotten (RTBF) regarding international and regional frameworks has gathered momentum in the past few years. For instance, Article 19 of the Malabo Convention recognizes RTBF as one of the essential elements in privacy and upholding personal dignity in a digital age. This assertion tallies with the principles of SERAC that call for personal autonomy and preventive measures against harmful exposure to old or injurious information.[7]

The RTBF is implicitly recognized in the African human rights context under ***Articles 9(1) & 22 of the AFCHPR (African Charter on Human and Peoples' Rights[8]).*** These provisions take into account individual freedom regarding expression and accessing information while at the same time affording protection to one's privacy and dignity within individuals. The African Commission has ruled in Social and Economic Rights Action Centre & Another v Nigeria (SERAC), stressing the need for protection of such rights as digitalization becomes egregiously increasing and individuals become vulnerable to reputation harm caused by historical or irrelevant online content.

Research on RTBF requests under the proposed Data Protection and Digital Privacy Act (DPDPA) framework in India is estimated to be 32% [9]with respect to demands for deletion of public allegations relating to corruption or public accountability as per the Internet Freedom Foundation (2023). It lays bare the emerging trend towards exploiting the RTBF to balance personal privacy and accountability with public interest demands; and therefore, RTBF as a human right is increasingly emerging as an important way to protect dignity in the digital age. Using this it is possible to navigate the growing complexity of privacy, freedom of speech, and accountability issues with which most human beings will deal today.

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[6] Tambini, D. (2014). Implementing the "right to be forgotten": The Article 29 Working Party speaks up.

[7] African Union, *African Charter on Human and Peoples' Rights*, arts. 9(1), 22 (1981).

[8] Social and Economic Rights Action Centre (SERAC) & Another v. Nigeria, African Commission on Human and Peoples' Rights, Comm. No. 155/96 (2001)

CONCLUSION:

The Right to Be Forgotten (RTBF) exemplifies the tension between privacy and public interest in a technologically driven world. While it empowers individuals to reclaim dignity, its subjective enforcement and potential for misuse threaten transparency and historical truth. Globally, RTBF demands a nuanced balance to protect privacy without compromising accountability or free discourse.