

DOI: <https://www.doi.org/10.36719/2706-6185/03/9-11>

Asmar Azer Aliyeva
Baku State University
master
esmeraliyeva97@gmail.com

FIGHTING AGAINST FAKE NEWS THE RIGHT TO BE FORGOTTEN AS A DEFENSE MECHANISM

Summary

Fake news and propaganda are an issue that the whole world is struggling to prevent. In particular, it is very arduous for the states to manage fake news disseminate on the Internet that harms the interests of the states. In particular, it is very tough for states to adjust fake news that harms the authority of the state, because the information shared via the Internet is not abstracted from the Data Base. The purpose of this article is to analyze the utility of the right to be forgotten as a method, which is a novel concept in the realm of human rights.

Key words: *right to be forgotten, fake news, propaganda, freedom of expression, freedom of information*

Introduction

The viral spread of misinformation on the media is a critical concern at present. Online social networks are used as a propaganda vehicle to spread fake news within local, national, and global communities which have led to a renewed focus on the means of detection and defense. Given that the Internet is now the primary source of information for most people, it is reasonable to conclude that the misuse of social media for this purpose has lowered people's trust in the Internet and social media.

It is clear to everyone that in terms of the network nature of the Internet, preventing the rapid spread of information shared through it is a serious problem. Despite the deletion of users' posts from the original source, the diversification of information by others who got it people in possession makes it even more impossible to prevent the spread. Those looking for a solution to prevent the spread of fake news generally consider it acceptable to delete information from the entire database. The right to be forgotten, which is one of the relatively new concepts in law, is also a concept that involves the deletion of information.

The right to be forgotten is in itself related to a number of fundamental human rights, such as freedom of expression, freedom of information, the right to privacy, the protection of information and etc. Although the right to be forgotten has been repeatedly recognized as a human right to protect the information, its relation to freedom of expression is highly controversial. Thus, there are concerns among a group of persons that the censorship of the Internet under the right to be forgotten may affect the quality of the Internet. This article also seeks to clarify the right to be forgotten by linking it to freedom of expression as much as possible, and that it can be a mechanism for preventing spreading of fake news and the legal consequences of this.

The right to be forgotten includes the removal of personal information about a person from Internet searches. As a result, we believe that, in some situations, the granting of this privilege may, at least in part, limit the propagation of any fake news. The diffusion of Internet-based technologies has been changing the approach that people take to accessing information, managing their data, establishing relationships, constructing knowledge, relating to world events, reflecting upon past events, imagining the future, and so on. Current and emerging information technologies are mediating and forming the narratives we build both about ourselves as individuals. It seems that these will eventually constitute our future memories. However, the existence and permanence of these memories until a time when we do not yet know exactly does not always lead to a positive result. Thus, the information we enter the world of the Internet will remain in the form of our legacy to future generations, and control over this area is essential for the future, as these issues will serve as a guiding compass for future generations.

There are two well-known ways to delete information shared on the Internet, or more precisely on social networks.

1. The social networking tool (Facebook, Instagram, Twitter or etc.) Allows each user to delete a shared post.
2. The social network tool automatically blocks posts with banned content within the rules it has set. Sometimes the opinion of users is also important here (as a report function).

If these direct ways are not used or cannot be used, the legal aspect of the matter helps us, and the right to be forgotten may be one of the grounds for the exercise of this right.

The option to be neglected because of the association with the Internet is the option to have private data about an individual be taken out from Internet searches under certain conditions. Albeit the idea of the option to be neglected is believed to be another idea, given its association with the Internet, it is feasible to return in time while researching its history. According to some sources, his right to be forgotten has found express recognition in some places, such as France, since the middle of the nineteenth century (page 211, 1). Also the concept has been discussed and put into practice in both the European Union (EU) and in Argentina since 2006 (6).

Today, this right comprises a person's entitlement to access, control and, sometimes, erase personal data held by others. The existence of this right increases a person's authority in the social network, allows him/her to prevent the violation of his/her rights. In practice, the right to be forgotten serves as a shield against media platforms that would otherwise enjoy the right to publicize this fact or event (page 1, 1).

Thus, as a person's right to freedom of expression, the right to be forgotten also may, on the one hand, authorize one person to prevent violation of his or her rights, but on the other hand, may violate the other party's right to confidentiality. Like other fundamental human rights to which it is related or part of, the right to be forgotten is also unconditional, that is, it may be restricted in certain circumstances. In other words, the right to be forgotten depends on the perceived legitimacy of its limits on other fundamental rights.

As other fundamental human rights, the right to be forgotten also finds its roots in fundamental precepts of human dignity. Therefore, we believe that before discussing the recognition of the right to be forgotten as a separate human right, we must consider whether the right to be forgotten is related to human dignity and whether it is ethically acceptable. At this time one of the first question that arises is why do we need a 'right to be forgotten in a world that seems to celebrate the memory and condemn forgetfulness? And so, what is the role of the right to be forgotten? Why do we need it?

While forgetting is a normal function for humans, it contrasts with what is expected from computers: when our data are lost, this is considered a failure (O'Hara et al., 2006); yet, the demands for the infallibility of the 'total memory' of the Internet contrast with the limits of human memory (Székely, 2012).

Memory is a 'dualistic entity', composed of remembering. The ability to forget has always been valued as a negative human trait, encompassing features such as memory loss and inattention. But why do we need a 'right to be forgotten' in a world that seems to celebrate the memory and condemn forgetfulness? Because human has transferred his memory to information technology, which is a product of his brain. It is the job of philosophers to examine whether a person's memory or the ability to remember is morally beneficial to him/her. Because while memory is one of our most important functions for survival, sometimes forgetting is also good for one's spiritual convenience. Until the hype of connectivity and sharing, which Information and Communication Technologies (ICT) have stimulated, our memory was in some way materialized, expressed, and contained by the boundaries of our bodies and objects, and therefore somehow manageable (page 10, 2). Given this, we can say that if a person gives the ability that can harm himself to the technology he has created and does not impose any restrictions on it, he can arm the technology against himself. Because everything we have ever posted online could come back to haunt us someday. Accordingly, any traces left online would also remain even if we try to move away: like a shadow, our online life follows us wherever will go. While the main reason for the rapid spread of fake news shared on the Internet is that it is not deleted from the entire database, the exercise of the right to forget can be seen as a means to prevent this.

Despite numerous debates over the exercise of this right, the practice of recent years has shown that it is possible to exercise this right if necessary. After being expressly consecrated by the European Court of Justice in a 2014 ruling which involved a search engine on the Internet, this right seems to have its own path, apart from the existing legal regime of the data subjects' rights, as judicial and administrative practice shows it. As of the 25th of May 2018, a new European Union regulation directly and uniformly applies in all the Member States and specific legal provisions on the right to be forgotten have come into force (page 177, 1). The decision of the European Court of Justice ruled against Google in Costeja, a case brought by a Spanish man, Mario Costeja González still serves as a precedent for the courts in claims for the right to be forgotten.

Since the Costeja vs. Google decision, UK courts seem more receptive to privacy rights concerns. In Hegglin vs. Persons Unknown (2014) EWHC 2808 (QB), the Queen's Bench Division of the High Court dealt with a claim for an injunction under section 14 of the DPA 1998 relating to highly defamatory content posted anonymously on various websites. While this case was ultimately settled out of court, the initial proceedings show the possible wide-reach of the right to be forgotten, arguably beyond that envisaged in Google Spain. Even there seems little doubt that the judge would have found Google liable if the case had gone to trial (page 211-212).

Based on these case studies, we see that in practice the right to privacy is more protected than the right to freedom of expression. Peter Fleischer, Google's global privacy counsellor also commented in a blog post that the "right to be forgotten and the right to demand deletion of information reflect a current trend, namely, that data protection and personal rights are increasingly being used as justification for online censorship" (page 159, 1).

There are also approaches considering it insignificant that oppose the exercise of the right to be forgotten and that it is sufficient to have the right to demand to the deletion of a person's personal information. A more traditional right to request deletion of personal data under the Personal Data Protection Act is granted but is limited to data collected on the basis of individual consents and is subject to relatively broad secondary uses. It is not a proper basis for requesting the removal of search results containing personal information from a search engine.

Conclusion

Today, what we post on the Internet becomes a kind of tattoo etched into ourselves, which is hard and cumbersome to remove. The past is no longer the past, it is an everlasting present.

The way in which digital data is created, dispersed, and used, the way it changes and loses context as it lingers online and in databases, and the way it is or is not accessed as it ceases to represent its original substance—these attributes of digital culture matter to updating legal concepts of irrelevance, public interest, public figures, newsworthiness, and inaccuracy.

Only until the democratic value of the right to be forgotten is rightly appreciated would it be possible to properly strike a good balance between the right to know and the freedom of the press on the one hand, and, on the other, the right to control someone's personal data.

Although there are concerns that freedom of expression may be violated, the right to be forgotten does not prevent any individual from exercising their right to freedom of expression. The right to be forgotten simply recognizes the possibility for some information to be removed when its retention is not justified.

We consider that there isn't anything imaginative about allowing individuals to conceal whatever data they might want. The Internet, loaded with obsolete, off base data or without significant cultural content, can't be a wellspring of innovation.

References

1. The Right to be Forgotten, A Comparative Study of the Emergent Right's
2. Evolution and Application in Europe, the Americas, and Asia, Franz Werro, Springer, 2020;
3. The Ethics of Memory in a Digital Age Interrogating the Right to be Forgotten, Palgrave Macmillan, Alessia Ghezzi, Ângela Guimarães Pereira and Lucia Vesnić-Alujević, 2014.
4. Fake news, propaganda and plain old lies, Donald A Marclay, ROWMAN & LITTLEFIELD, 2018
5. Ctrl+Z The tight to be forgotten, Meg Leta Jones, New York University Press, 2016
6. Democracy and fake news, Information Manipulation and Post-Trust Politics, Routledge 2021
7. <https://www.nytimes.com/2010/08/20/technology/internet/20google.html>

Rəyçi: h.f.d. Ş.Mirzəyev

göndərildi 14.02.2021:

qəbul edildi 27.02.2021