# Topic Description

The “Right to be Forgotten” has been cemented into the laws of the European Union via the General Data Protection Regulation Article 17 (Wolford). It focuses on removing data that is “inadequate, irrelevant or no longer relevant, or excessive” (Pírková, Massé) along with unlawful uses of data (Wolford) by Data Controllers. A data controller being any company that determines the purpose and means by which data is processed (European Commission), most notably search engines and employers.

This right stems from the French “le droit à l’oubli” or right of Oblivion (Jeffrey), which is the right of a criminal who has served their prison sentence to strike their record unto oblivion once they have proven they are rehabilitated. This right is not shared with the United States, whose strong First Amendment protections prevent attempts at controlling the spread of information.

The most important aspect of the “Right to be Forgotten” is the fact no articles or information is being deleted from its host sites. Names may be removed and changed for the hosts, but the “Right to be Forgotten” focuses on Data Controllers. This means that exercising this right cannot override someone’s Freedom of Speech or Expression (Pírková, Massé), and a confusion on this topic has been known to spark debate.

Beyond that, there are times when the “Right to be Forgotten” does not apply. Notably, when the public good is being discussed, when being used as a legal defense, or in accordance with Court orders (Wolford).

The major considerations to this right are: The ability to find information, by limiting how Data Controllers can hold and present information, it makes finding certain types of information harder to access for certain requests; That companies decide enforcement, meaning any disputes could take months or years in a court system to resolve an issue that might otherwise be time-sensitive; The potential for censorship, namely that articles speaking about or against certain topics may be removed from search platforms, and therefore be harder to seek out; Privacy, or rather how it can be used in different ways based upon whether one is rather rich or rather not, meaning a rich person could use this to hide information on themselves that they would rather the public not know, whereas someone in a more desperate position might use it to hide information they would be better off forgetting.

Ultimately, the EU believes it is empowering for its citizens to be able to control their personal data and know where and when it is being used by Data Controllers, giving them a strong method to use and improve their lot in life.

Sources:

Wolford, Ben. “Everything You Need to Know about the ‘Right to Be Forgotten.’” GDPR.Eu, 14 Sept. 2023, gdpr.eu/right-to-be-forgotten/.

Rosen, Jeffrey. “The Right to Be Forgotten.” Stanford Law Review, 12 Apr. 2019, www.stanfordlawreview.org/online/privacy-paradox-the-right-to-be-forgotten/.

Eliška Pírková, Estelle Massé. “EU Court Decides on Two Major ‘Right to Be Forgotten’ Cases: There Are No Winners Here.” Access Now, 13 Jan. 2023, www.accessnow.org/eu-court-decides-on-two-major-right-to-be-forgotten-cases-there-are-no-winners-here/.

“What Is a Data Controller or a Data Processor?” European Commission, commission.europa.eu/law/law-topic/data-protection/reform/rules-business-and-organisations/obligations/controllerprocessor/what-data-controller-or-data-processor\_en. Accessed 3 Apr. 2024.

# 

# Pro/For Arguments

The overall argument for enforcing the right to be forgotten is that this will give people greater control over what personal information they allow to be searched on themselves. This comes from the evolving issue of being in a digital age where everyone has a digital footprint of some kind whether they want it or not. Even when the person decides to limit their access to the internet they can still run into the issue of having certain information about them be exposed online.

The ethical theory is that the right to be forgotten is being posed as a positive right or claim right as this allows people to restrict access to personal information that is found on the information. Another ethical theory that could be applied to this is the golden rule as just like you wouldn’t want anything incorrect or irrelevant searched online. Someone else wouldn’t want to have anything searchable about them that might be seen as incorrect or irrelevant just like the golden rule of you don’t want personal information to be searchable someone else won’t want their personal information to be searchable.

Cases or examples that justify why the right to be forgotten should be enforced include the 2010 case of Costeja Gonzalez, who complained that an auction notice of his home invaded his privacy rights. Despite the matter being settled years ago, the persistence of this information in search results was deemed irrelevant and a violation of privacy. This case underscores the importance of allowing individuals to move on from past events that are no longer relevant to their current circumstances. Everyone having a right to privacy was one of the topics that we covered during this class and supports the enforcement of this right. Personal information that is outdated or no longer significant should not be indefinitely accessible to the public, especially if it can cause unwarranted harm or embarrassment to the individual. Another enforcement of this right would be if a professional adult has a spotless record goes to apply for a job but when the employer looks them up on a search engine it shows a the potential employee was charged with disorderly conduct for a non-destructive and non-violent prank that they did at age 18, several years before the current age they are now. Should they not be considered for this position because of disorderly conduct when they were 18 even if it didn’t result in jail or a fine for that charge?

In favor of the argument of the right to be forgotten in wanting it to be implemented, it enhances the need for privacy since everything is searchable and everyone has a digital footprint currently. In addition not wanting irrelevant past experiences that are now searchable prevents you from gaining a job or something similar.

# Con/Against Arguments

The first major issue with the right to be forgotten is that its enforcement requires censorship. Censorship is not always wrong. For instance, in this class we have talked about laws concerning slander and libel. These laws censor speech or writing that is false and damages a person or organization’s reputation. There are also laws in place to prevent the dissemination of secrets that may threaten national security. In these two cases, the speech being censored is either false or has the potential to cause great harm. This is what ethically justifies the censorship. In cases where the right to be forgotten applies, the speech is true information that causes harm to a single individual. From a utilitarian standpoint, it could be argued that these are not sufficient conditions to warrant censorship. Consider the stakeholders. There is the person whose reputation is at stake, the publisher of the article or document which contains the information, people who want the article or document to still be accessible, and the public at large. If the article remains available, a single individual suffers reputational harm. This could make it harder for them to get a job or find a romantic partner. All other parties benefit. In the case where the article is removed, the individual’s reputation is spared. However, there is harm caused to all other parties. The publisher loses profit. The information is no longer easily accessible to those who want to access it. It could also be the case that the person whose reputation is at stake is a criminal and their victims see the article's availability as a form of justice. The public at large suffers because true information, which is crucial in a functioning free society, has been lost and other true information may be at risk.

Another issue with the right to be forgotten is that its enforcement is not carried out by governments. Rather, private companies, such as Google, are given the authority to make judgements about which requests for removal are granted or denied. Google’s guidelines for what constitutes a grantable request are not public (Pírková, Massé), raising concerns that these guidelines may not align with principles that are in spirit with the right to be forgotten or could lead to inconsistencies. In fact, we can reasonably assume that the guidelines are designed solely to maximize Google's profits, as is the case with most if not all actions performed by large companies. So, it is natural to ask what kinds of guidelines would we expect given Google’s profit motive?

Overall, the enactment of the right to be forgotten laws in the United States could bring more harm than it does good. These laws jeopardize the public's access to information, something that is essential for a well informed society. Allowing individuals to selectively erase information from online platforms creates a risk for record on any topic to become distorted or incomplete. The laws also carry with them logistical challenges that would arise in both their implementation as well as their execution would create even more issues, inconsistencies, and concerns over the effectiveness of the laws.

COMP 4730

Debate Group Member Task Allocation Form

|  |  |
| --- | --- |
| Debate Task Student Names | Brian Bales, Jackson Allison, Keniyah Alexander, Tyler Waldo, Yufei Wang, Laura Wilson |
| Topic Introduction | Keniyah Alexander |
| Pro/For Arguments | Laura Wilson |
| Con/Against Arguments | Tyler Waldo, Brian Bales |
| Pro/For Rebuttals | Yufei Wang |
| Con/Against Rebuttals | Jackson Allison |

Open Debate:

For: Laura, Yufei, Keniyah

Against: Tyler, Jackson, Brian

**COMP 4730**

**Debate Group Member Peer Evaluation Form**

Your Name: Laura Wilson

Date of debate: 4/4/2024

First, enter the names of your group members on the first row of the table below. Include your own name.

Next, in the second row fill in a percentage between **0 and 100** indicating your estimate of the contribution or effort EACH OF THE GROUP MEMBERS INCLUDING YOU put into the debate relative to the equal expected effort: each group member is expected to contribute equally to the group’s work.

So for example, if you feel that one group member contributed only a quarter of his/her fair share of the work (or only participated one fourth of the extent to which he/she should have participated) you would fill in 25% for that person.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Names | Keniyah Alexander | Andrew Allison | Brian Bales | Tyler Waldo | Yufei Wang | Laura Wilson | Yunqi Zhao |
| Contribution | 100 | 100 | 100 | 100 | 100 | 100 | 0 |

Last, provide any additional comments you have about your own or that of any other group member’s participation (optional):

Yunqi Zhao never answered any of us in the groupchat we set up even though he was added in by Keniyah and she emailed him about it. He never responded or even came to the meetings.