



Article

The Right to Be Forgotten Across Jurisdictions

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Abstract: The “Right to Be Forgotten” (RTBF) has emerged as a pivotal element of digital privacy, offering individuals the ability to request the erasure or delisting of personal data that is outdated, irrelevant, or unlawfully processed. Originating with the landmark 2014 Google Spain ruling by the Court of Justice of the European Union (CJEU) and later codified under Article 17 of the General Data Protection Regulation (GDPR), RTBF reflects the growing demand for digital dignity in an age of persistent online memory. This article offers a comparative analysis of RTBF’s legal foundations, implementation, and controversies in the European Union, India, the United States, and other jurisdictions. The paper explores the tension between RTBF and competing rights such as freedom of expression and the public’s right to know. While the EU has implemented a comprehensive, albeit balanced, version of RTBF, India is in the process of integrating it via constitutional interpretation and the Digital Personal Data Protection Act, 2023. The U.S., constrained by First Amendment protections, has only limited and fragmented adoption of RTBF principles. Through global case studies, legal analysis, and visual data, the article critically examines RTBF’s evolving role in shaping privacy law, reputational management, and digital governance in the 21st century. It concludes with a forward-looking view on cross-border enforcement, algorithmic delisting, and legal harmonization.

Keywords: Right to Be Forgotten, GDPR Article 17, digital privacy, data erasure, data delisting, freedom of expression, reputational rights, Google Spain case, constitutional privacy, Puttaswamy judgment,

INTRODUCTION

The “Right to Be Forgotten” (RTBF) has emerged as a cornerstone issue in data protection, pitting individual privacy against freedom of expression and the public’s right to know. It allows individuals to request the removal or delisting of personal data from digital platforms, databases, and internet search engines in specific circumstances. The RTBF is a complex, evolving right shaped by landmark rulings, divergent legal traditions, and ongoing digital transformation. This research article critically examines the RTBF’s legal framework, implementation, and controversies across the European Union, India, the United States, and beyond.

1. CONCEPT AND EVOLUTION

The RTBF grants individuals the right to have certain data “forgotten”—i.e., erased, delisted, or otherwise removed—when it is no longer relevant, is inaccurate, or has been unlawfully processed. It is distinct from the right to privacy, as it deals with information that has already entered the public domain but is now contested for removal^{[1][2]}.

- The term gained global attention in 2014 after the Court of Justice of the European Union (CJEU) ruled in *Google Spain SL, Google Inc v Agencia Española de Protección de Datos, Mario Costeja González*, that individuals could request search engines to delist links to outdated or irrelevant content^{[3][4][5]}.
- The right is now codified under Article 17 (“Right to Erasure”) of the European Union’s General Data Protection Regulation (GDPR)^{[6][4][7][8]}.

2. LEGAL FRAMEWORKS: COMPARATIVE OVERVIEW

European Union

- **Legal Basis:** Article 17, GDPR. Individuals may request data erasure when data is no longer necessary, consent is withdrawn, data is being unlawfully processed, or data processing lacks a legitimate basis^{[6][4][7][8]}.
- **Implementation:** Both data controllers and search engines must comply with legitimate requests, within limits. Not absolute—balanced against freedom of expression, public interest, scientific/historical research, and legal claims^{[6][4][5]}.
- **Key Cases:**
 - *Google Spain (2014)*: Established the obligation for search engines to honor delisting requests.
 - Scope is territorially limited: CJEU held that EU search engine versions must comply, but not globally^[9].

India

- **Judicial Recognition:** Indian courts have acknowledged the RTBF as a facet of the right to privacy and dignity under Article 21 of the Constitution, notably post-*Justice K.S. Puttaswamy v. Union of India* (2017)^{[10][11][12][13]}.
- **Statutory Reference:** The Digital Personal Data Protection (DPDP) Act, 2023, empowers data principals to request erasure of their data if it is outdated, irrelevant, or processed without consent. The right is not absolute; reasonable restrictions include legal obligations, journalistic freedom, and public interest^{[10][14][12][13]}.
- **High Court Judgments:** Multiple high courts have directed redaction of names or anonymization in specific cases^{[10][11]}.
- **Scope:** Still evolving, with practical challenges around application to judicial records, public archives, and private platforms^{[14][13]}.

United States

- **No Federal RTBF Law:** The First Amendment (free speech) heavily constrains broad RTBF adoption, but elements appear in privacy torts (e.g., the right to sue for public disclosure of private facts) and expungement laws^{[15][16][17]}.
- **State Initiatives:** California’s “Eraser Law” allows minors to request deletion of personal online content; some states provide mechanisms to expunge juvenile or bankruptcy records^[15].
- **Balancing Test:** Courts weigh individual reputation/privacy against newsworthiness and freedom of expression, with a presumption in favor of public interest and transparency^{[16][17]}.

Other Jurisdictions

- The RTBF is gaining legal traction in some Latin American and Asian countries but remains hotly debated due to risks of censorship and practical enforcement barriers^[2].

3. LEGAL AND SOCIAL IMPLICATIONS

Arguments in Favor

- **Reputation Management:** Offers people a way to recover from outdated mistakes, acquittals, old debts, and internet defamation.
- **Protection from Harm:** Mitigates harm from revenge porn, old criminal records, and stigmatizing legacy content^{[1][18]}.

Critiques and Concerns

- **Freedom of Expression:** Deletion or delisting can restrict journalism, transparency, and the public’s right to know^{[1][2]}.
- **Risk of Abuse:** May be exploited to erase legitimate public information, interfering with accountability and historical integrity^{[18][2]}.
- **Technical and Territorial Limits:** The internet’s global reach makes national enforcement patchy and inconsistent^{[18][9][2]}.
- **Transparency:** Many removal processes are not transparent, making oversight difficult.

4. ILLUSTRATIVE TABLES AND GRAPHS

Table: RTBF Across Select Jurisdictions

Jurisdiction	Legal Basis / Statute	Scope	Key Limitations	Notable Feature
EU	GDPR, CJEU case law	Broad	Free expression, public interest, law	Legally codified, applies to controllers/search engines ^{[6][4][5][7][8]}
India	Constitution (Art. 21), DPDP	Evolving	Public interest, law, archival, research	Judicially recognized, statutes emerging ^{[10][14][11][12][13]}

US	State law, privacy torts	Limited, case-by-case	First Amendment, newsworthiness	Expungement, minor protections, no federal law ^{[15][16][17]}
Other	Mixed approaches	Narrow to moderate	Freedom of speech/press, state sovereignty	Often inspired by EU example ^[2]

Graph: Global Expansion of the Right to Be Forgotten (2014–2025)

[image:1]

Graph illustrates the spread of RTBF claims and legal provisions globally since the CJEU ruling in 2014, highlighting adoption spikes following major court decisions and data protection statutes.

5. Case Studies

- **EU: Google Spain**—First major delisting victory; over 1million removal requests processed by Google post-ruling^{[3][6][7]}.
- **India:** Delhi High Court (2024) directed anonymization in a criminal case, applying RTBF principles to court orders for reputational harm mitigation^[10].
- **US:** California’s “Eraser Law” for minors; expungement of juvenile records illustrates RTBF principles in action^[15].

6. Challenges and Future Directions

- **Cross-Border Enforcement:** Lack of global rules leads to forum shopping and inconsistencies.
- **Balancing Rights:** Crafting fair balancing tests for privacy vs. public interest remains contentious.
- **Algorithmic Delisting:** Platforms and data controllers must develop transparent, fair mechanisms.
- **Legal Developments:** More countries may adopt statutory RTBF as digital privacy movements gain ground, but expect continuing legal, ethical, and technical debates^[2].

CONCLUSION

The Right to Be Forgotten is transforming how legal systems approach online privacy, reputation, and digital identity. Its future will likely see converging—but never identical—frameworks, as national values and constitutional principles mediate between the right to be forgotten and enduring freedoms of speech and information. Understanding and navigating RTBF’s nuances remain crucial for policymakers, technology firms, and individuals worldwide.

[image:1]

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