

Critical Analysis of the Implementation of the Right to Be Forgotten in Addressing Digital Stigma and Personal Data Protection in Indonesia

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ABSTRACT

The development of information and communication technology has led to an increased distribution of personal data in the digital space, which has the potential to give rise to various legal issues, one of which is the emergence of digital stigma against individuals who have been involved in criminal justice processes. Information about criminal cases spread through digital media often remains available and easily accessible to the public even after the individual has been declared innocent by the court. This study critically analyzes the implementation of the Right to Be Forgotten (RTBF) in addressing digital stigma and personal data protection within Indonesia's criminal justice system. Using normative juridical methods with a conceptual approach and descriptive qualitative analysis. The person's social life, career prospects, and reputation may all suffer as a result of this illness. Thus, in the digital age, the idea of the Right to Be Forgotten (RTBF) is an essential legal tool for safeguarding personal information and individual privacy rights. The study's conclusions show that while the Indonesian legal system has adopted the Right to Be Forgotten idea, there are still a number of obstacles in the way of its actualization, including unclear data deletion mechanisms, conflicts between individual privacy protection and judicial system transparency, and technical obstacles in deleting digital information. Therefore, To guarantee that the Right to Be Forgotten can successfully safeguard people's rights to privacy and reputation in the digital era, more stringent laws and clear implementation procedures are needed.

INTRODUCTION

The style of living in contemporary civilization has been profoundly changed by the development of information and communication technologies, particularly in the way individuals interact, exchange information, and produce and disseminate data in the digital space (Wiryany, 2022). The internet, social media, and various digital platforms have become the primary means of disseminating information rapidly and widely without territorial boundaries (Aprianto, 2021). This condition has led to an increase in the production and distribution of personal data recorded in various electronic systems, whether in the form of identity, activity history, or other information related to a person's life. On the one hand, the development of digital technology provides significant benefits for communication efficiency and access to information. On the other hand, it also poses serious challenges related to personal data protection and the potential misuse of information (Danuri, 2019). Information that has been spread on the internet is often difficult to delete and can persist for long periods, potentially infringing on an individual's right to privacy (Gustryan, 2025).

Essentially, maintaining the right to privacy, which is recognized as a human right, includes safeguarding personal information. One aspect of the right to privacy is the protection of one's personal life, while another is the protection of records concerning one's identity and activities (Setiawan, 2022). From an international legal perspective, the right to privacy is widely recognized as a fundamental human right (Yuniarti, 2019). Indonesia, as a country that upholds human rights, has incorporated this concept into a number of laws and regulations, affirming that everyone has the right to protection of their privacy, honor, and dignity (Niffari, 2020). In the digital age, personal data protection is now acknowledged as a modern manifestation of the right to privacy because personal data represents an individual's identity and can affect a person's reputation, security, and social life.

In practice, the advancement of digital technology has also given rise to a phenomenon known as "digital stigma," namely a condition in which unfavorable information about a person circulating online persists and continues to affect public perception, even when the information is no longer relevant or has been disproven by a legitimate court ruling (Saragih, 2025). In the context of the criminal justice system, this phenomenon frequently occurs when a person who was previously a suspect or defendant in a case continues to experience social stigma as a result of information about the case remaining available online. In many cases, previous news or information about the case remains accessible on news websites, social media platforms, and search engines, even after a person has been found not guilty or cleared by the court (Simamora, 2026). The lives of those affected by this condition can be significantly impacted, including long-term psychological stress, social prejudice, reputational harm, and difficulty finding employment. Due to the persistent nature of digital content, individuals may endure stigma for a much longer period than the actual legal process itself.

These issues gave rise to the concept of the Right to Be Forgotten (RTBF), which allows individuals to request the erasure or restriction of access to personal data that is no longer relevant or that could damage their online reputation. This concept became widely recognized following the 2014 ruling of the Court of Justice of the European Union in *Google Spain v. AEPD and Mario Costeja González*, which affirmed an individual's right to request that search engines remove links containing irrelevant personal information (Arndarnijariah, 2024). According to this principle, data subjects have the right to have their personal information deleted without undue delay if the information is no longer needed, is being processed unlawfully, or causes harm to them (Ariesta, 2024). Thus, RTBF is viewed as a legal mechanism that gives individuals greater control over their personal data in the digital space and plays an important role in protecting individual reputation and privacy.

Indonesia has begun integrating the concept of the Right to Be Forgotten into its legal framework through a number of laws and regulations. The first regulation concerning the removal of unnecessary electronic data is found in Article 26 paragraph (3) of Law Number 1 of 2024 concerning Electronic Information and Transactions. This provision allows a person to request the removal of unnecessary electronic data on the basis of a court order. This norm was later strengthened through the enactment of the Personal Data Protection Law (Putri, 2022). A more comprehensive regulation of the data subject's right to control their personal data is provided in Article 26 of the PDP Law, which grants individuals the right to complete, update, correct, and request the deletion of irrelevant personal data. In addition, Article 37 of the PDP Law regulates the data controller's obligation to cease processing and delete data under specific conditions, while Article 43 of the PDP Law governs the obligation to destroy personal data that is no longer needed (Respati, 2024). The establishment of these regulations demonstrates the state's commitment to providing legal protection for personal data in the digital age.

Nevertheless, the implementation of the Right to Be Forgotten in the Indonesian legal system, particularly in the context of the criminal justice system, still faces various challenges. One major issue is the lack of clear technical regulations regarding the mechanism for deleting data related to criminal justice processes. On the one hand, individuals have the right to protect their privacy and reputation from the negative impact of information circulating in the digital space, as guaranteed by Article 28G of the 1945 Constitution, Article 26 of the ITE Law, and various provisions of the PDP Law. On the other hand, the criminal justice system also requires transparency and public accountability in relation to law enforcement processes. Information regarding criminal cases is often considered part of the public interest and cannot be completely deleted because of its connection to the principle of judicial transparency (Adkiras, 2023). This condition creates a legal dilemma between protecting individual privacy rights and maintaining transparency in the justice system.

Several studies have examined the application of the Right to Be Forgotten (RTBF) in the Indonesian legal system, both from the perspective of normative regulation and its implementation in society. Lie (2022) analyzes the need for an independent personal data protection commission as a prerequisite for the creation of an effective RTBF framework in Indonesia, concluding that an independent supervisory institution is indispensable. Ramadaani (2023) conducted a juridical analysis of RTBF regulation in the ITE Law and found that data deletion procedures requiring court determination remain significant administrative obstacles for individuals. Putri (2022) and Ariesta (2024) examine the application of RTBF principles in the context of removing negative content from digital platforms, but they do not specifically discuss its relationship with the criminal justice system and post-settlement digital stigma.

Meanwhile, Adkiras (2023) examines RTBF as an effort to support the recovery of victims of electronic-based sexual violence, while Respati (2024) focuses on the legal analysis of the prevention of deepfake cases. Both studies contribute to the protection of victims of digital crime, but they have not yet addressed the broader issue of individuals who have been found innocent by the courts but continue to suffer from digital stigma. Suari (2023) and Zulfaidah (2025) discuss the legal philosophy behind the right to oblivion and the paradox of data impermanence. However, their approaches are more conceptual-philosophical and do not provide empirical analysis of implementation barriers in Indonesia.

Furthermore, legal gaps remain in the regulation of RTBF in Indonesia, particularly regarding its application to data related to court decisions, criminal case archives, and media coverage. The PDP Law does not specifically regulate the criteria for determining when data related to the criminal justice process can be deleted. There are also no clear guidelines regarding coordination mechanisms among judicial institutions, mass media, and digital platform providers in responding to data deletion requests. This absence of clear standards regarding the limits of data deletion creates legal uncertainty for individuals seeking to exercise their right to be forgotten, as well as for institutions responsible for managing such data. Therefore, studying the implementation of the Right to Be Forgotten in the criminal justice system is crucial to identifying a regulatory model that balances the protection of individual privacy rights with the principles of transparency and accountability in the legal system. Research on this issue is also relevant given the increasing incidence of digital stigma in society and the need for a more comprehensive legal framework to protect personal data in the digital age. This research provides theoretical benefits by enriching the study of cyber law and personal data protection related to RTBF in the criminal justice system. It also offers practical benefits for policymakers in formulating data erasure regulations, for law enforcement officials

in strengthening inter-agency coordination, for the public in increasing legal awareness, and for digital platforms in developing clearer data erasure guidelines. Ultimately, this research is expected to promote a balance between individual privacy rights and judicial transparency in the digital age.

METHOD

A legal research strategy that concentrates on the examination of relevant legal norms in legislation is the normative juridical research method, legal doctrine, and legal principles, is used in this study established in scholarly literature. Normative juridical research is conducted by examining legal materials as the primary source for understanding how the law regulates a particular issue. In the meantime, legal concepts that have emerged in scientific doctrine and literature are analyzed using a conceptual approach, especially with regard to the concepts of digital stigma, the protection of personal information, the right to privacy, and the right to be forgotten from both domestic and international legal perspectives. The primary legal materials used in this study are pertinent laws and regulations; secondary legal materials are books, scholarly works, and scientific publications that discuss cyber law and personal data protection; and tertiary legal materials are definitions of the legal terms employed. To completely comprehend the application of the Right to Be Forgotten concept in Indonesian law and how it impacts the protection of private data and reputation in the digital era, those legal materials are examined using a descriptive qualitative analysis method, which involves reviewing and interpreting relevant legal norms.

RESULTS AND DISCUSSION

Implementation of the Right to Be Forgotten in the Indonesian Legal System

Information and communication technology advancements have significantly altered how individuals access, store, and disseminate information through digital media. The internet and various digital platforms allow personal information to spread quickly and widely without geographical boundaries, creating new challenges in protecting individual privacy rights. Information published online is often difficult to delete and can continue to appear in search engines even after the events related to that information have long passed. This situation raises the need for a legal mechanism capable of protecting individuals from the negative impacts of disseminating irrelevant digital information. This clause highlights the state's duty to safeguard individuals' reputations and privacy, especially online (Parihin, 2023).

In order to give individuals control over their personal data in the digital sphere, the concept of the Right to Be Forgotten (RTBF) emerged as a legal instrument. From a conceptual standpoint, RTBF grants individuals the right to request the removal of, or restriction of access to, personal data that is inaccurate, outdated, or potentially damaging to their reputation. This concept has helped shape contemporary data protection law. Later, it was incorporated into the European Union's General Data Protection Regulation (GDPR), particularly Article 17, which governs the right to erasure. This article gives data subjects the right to request the deletion of their personal data if it is no longer needed, is being processed unlawfully, or is causing harm to them. The evolution of this concept has subsequently influenced the development of

legislative frameworks for personal data protection in a number of countries, including Indonesia (Zulfaidah, 2025).

The Right to Be Forgotten was established in Indonesia through Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 regarding Electronic Information and Transactions. Under Article 26 paragraph (3) of the ITE Law, every electronic system operator is required to delete irrelevant electronic information and/or electronic documents under its control upon request from the individual concerned, based on a court order. This provision provides individuals with a legal basis to request the deletion of damaging digital data. Furthermore, Article 26 paragraph (1) of the ITE Law emphasizes that any use of a person's personal information through electronic media must be carried out with that person's consent. As a result, the ITE Law allows individuals to use existing legal channels to remove information that is no longer relevant and provides initial protection for the use of personal data online (Lie, 2022).

Later, Law Number 27 of 2022 concerning Personal Data Protection (PDP Law), a comprehensive piece of legislation on personal data protection, strengthened the concept of the Right to Be Forgotten in the Indonesian legal system. The PDP Law provides more detailed regulations regarding the rights of data subjects to control their personal data. According to Article 5 of the PDP Law, individuals as personal data subjects are entitled to information about the identity of the data controller and the purpose of data use. Additionally, data subjects have the right to update, correct, and request the erasure of irrelevant personal data under Article 26 of the PDP Law. If a data subject submits a legitimate deletion request, data controllers are required by Article 37 of the PDP Law to stop processing the data and delete it. Article 43 of the PDP Law also contains provisions concerning the destruction of personal data, stipulating that personal data must be destroyed when its retention period has ended or when it is no longer required for processing purposes (Maharaja, 2025).

Despite the legal foundation relating to the Right to Be Forgotten being outlined in several laws and regulations, there are still a number of barriers to its practical application. One significant problem is the data deletion procedure, which, according to Article 26 paragraph (3) of the ITE Law, requires a court decision. In practice, this requirement can create administrative obstacles for individuals seeking to exercise their right to be forgotten. Furthermore, the dissemination of information in the digital space often involves multiple parties, including mass media, digital platforms, and internet service providers, making the data deletion process more complex. Published information can easily be copied, stored, and redistributed by other parties, making complete data deletion difficult. This demonstrates that the implementation of RTBF depends not only on the existence of regulations but also on clear technical mechanisms and cooperation among the various parties involved in digital information management (Ramadaani, 2023).

Regulations and implementation procedures for the Right to Be Forgotten still need to be strengthened in the Indonesian legal system. Although the 1945 Constitution, the Electronic Information and Transactions Law, and the Personal Data Protection Law provide a strong legal basis for safeguarding personal data and eliminating irrelevant information, additional specific rules regarding the procedures, criteria, and limitations of RTBF implementation are still needed, particularly in the context of information related to the public interest. The development of a more comprehensive legal framework is necessary to ensure that individuals'

rights to privacy and reputation are optimally protected without neglecting the principles of transparency and accountability in the dissemination of information in the digital space. With clearer regulations and more effective implementation, the concept of the Right to Be Forgotten is expected to become a legal instrument capable of providing balanced protection between individual privacy rights and the public interest in the digital era.

The Impact of Digital Stigma on Individuals in the Criminal Justice System

Developments in information and communication technology have changed the way society accesses and disseminates information, particularly through digital media such as news portals, social media, and search engines. In the context of the criminal justice system, information regarding an individual's legal proceedings is often widely published by mass media and digital platforms. While this publication is intended to inform the public about the law enforcement process, the uncontrolled dissemination of information in the digital space can give rise to a phenomenon known as digital stigma. Digital stigma refers to a situation in which information about an individual who has been involved in a criminal case continues to circulate online and influence public perception of that individual, even after the legal process has concluded or after the court has declared the individual innocent. The permanence of digital information means that this stigma can persist for a long time and be difficult to erase, resulting in various negative impacts on the individual.

One of the main impacts of digital stigma is damage to an individual's reputation in social and professional life. In modern society, which relies heavily on digital information, searching for information online is often the first step in assessing someone's reputation. When information about a person's involvement in a criminal case continues to appear in internet search results, it can create a persistent negative perception of that individual, even if the person has been declared innocent. This situation can lead to social injustice because the stigma that arises in society often does not take into account the final outcome of the judicial process.

In addition to damaging reputation, digital stigma can also affect an individual's economic well-being, particularly in terms of employment opportunities. Many companies and institutions now conduct online searches for information about prospective employees before making hiring decisions. If information regarding a person's involvement in a criminal case remains available digitally, it can influence an employer's assessment of that individual, even if the person has been declared innocent by the court. As a result, the individual may experience difficulties in obtaining employment or accessing other economic opportunities. This impact demonstrates that outdated digital information can continue to affect a person's life in the long term from a legal perspective.

Digital stigma can also have broad social impacts on individuals who have been involved in the criminal justice process. Information disseminated digitally often triggers negative public opinion toward the individual, even after the legal process has concluded. In some cases, individuals who have been reported as being involved in a criminal case may experience social discrimination in their community, including in social relationships, the workplace, and family life. This situation demonstrates that the stigma arising from digital information not only affects an individual's reputation but also influences their social relationships and integration within society. In fact, one of the primary goals of the criminal justice system is to provide individuals with the opportunity to return to normal social life after the legal process is complete.

Therefore, the persistence of digital stigma in the digital space can hinder an individual's process of social reintegration.

In addition to social and economic impacts, digital stigma can also have significant psychological consequences for individuals. The social pressure arising from digital stigma can cause individuals to experience stress, anxiety, and other psychological problems. The constant appearance of negative information in the digital space can make individuals feel continuously monitored and judged by society, thereby affecting their mental health and self-confidence. In some cases, individuals experiencing digital stigma may even face social isolation because they find it difficult to be accepted back into society. This situation demonstrates that the impact of digital stigma is not only related to legal aspects but also to an individual's psychological well-being. Therefore, protecting individuals from the impact of digital stigma is crucial to ensuring the protection of human rights.

The protection of a person's honor and reputation is part of the globally recognized right to privacy from the perspective of human rights law. No one should be subjected to arbitrary interference with their privacy, family, home, correspondence, honor, or reputation. This principle affirms that everyone has the right to legal protection against unlawful interference with their honor and reputation. As a nation that respects human rights, Indonesia has a duty to ensure that these rights are adequately safeguarded, especially in light of the advancement of digital technology, which enables the permanent and extensive dissemination of information.

Thus, the phenomenon of digital stigma in the criminal justice system demonstrates that the dissemination of information in the digital space can have significant impacts on individuals' lives, including reputational, social, economic, and psychological aspects. While the publication of information regarding criminal justice processes aims to maintain transparency and accountability in the legal system, the uncontrolled dissemination of such information can lead to injustice for individuals undergoing legal proceedings. Therefore, a legal mechanism is needed to protect individuals from the negative impacts of digital stigma. The concept of the Right to Be Forgotten is one such mechanism, enabling individuals to request that information that is no longer relevant or that could damage their online reputation be deleted or restricted. This mechanism is expected to balance the public interest in obtaining information about law enforcement procedures with the protection of individual privacy rights.

Challenges and Legal Gaps in the Implementation of the Right to Be Forgotten in Indonesia

The implementation of the Right to Be Forgotten (RTBF) concept in the Indonesian legal system still faces various challenges related to regulatory aspects, implementation, and coordination among institutions involved in digital information management. The RTBF concept has not been fully implemented in practice, particularly in the context of data related to criminal justice processes. Article 26 paragraph (3) of the ITE Law states that electronic system operators are required to delete irrelevant electronic information upon request from the person concerned, as determined by a court order. This provision provides a legal basis for individuals to submit requests for data deletion, but it does not provide technical guidelines regarding the procedures, criteria, or limits of the information that can be deleted.

Additionally, if a data subject files a legitimate deletion request, the data controller is required by Article 37 of the Personal Data Protection Law to cease processing and delete the

data. However, these provisions remain general and do not specifically regulate the application of RTBF to data related to criminal justice processes, such as media coverage, court decision archives, or information stored in search engines. This lack of clarity creates legal uncertainty for individuals seeking to exercise their right to be forgotten, as well as for institutions or parties responsible for managing such data.

Another challenge in implementing the Right to Be Forgotten relates to the conflict between protecting individual privacy rights and the public interest in information transparency. In the criminal justice system, the principle of openness is crucial because it aims to ensure public oversight of law enforcement processes. This openness is intended to maintain accountability and public trust in the judicial system. However, the dissemination of information regarding judicial proceedings through digital media can have negative impacts on individuals involved in a case, especially if the information continues to circulate even after the individual has been declared innocent by the court. This situation creates a dilemma between protecting individual privacy rights, as guaranteed by Article 28G paragraph (1) of the 1945 Constitution, and maintaining transparency in the criminal justice system.

In addition to regulatory issues and legal conflicts of interest, the implementation of RTBF in Indonesia also faces technical challenges in deleting information from the digital space. Information published online is often spread across various digital platforms, including news sites, social media, and data storage services. This information can easily be copied, stored, or reshared by others, making the process of comprehensive data deletion extremely difficult. In many cases, removing information from one platform does not necessarily remove it from other platforms that have copied or redistributed it. This demonstrates that implementing RTBF requires not only clear legal regulations but also collaboration among the government, electronic system providers, mass media, and technology companies that provide digital services.

Furthermore, Indonesia's inadequate law enforcement system for protecting personal data contributes to the difficulties in implementing the Right to Be Forgotten (RTBF). The oversight of personal data processing still faces a number of challenges, despite the PDP Law's requirements for data controllers and its administrative and criminal sanctions for violations of personal data protection. This is due, among other factors, to the suboptimal capacity of supervisory institutions and limited public understanding of personal data protection rights. As a result, many people are not aware that they have the right to request the deletion of, or restriction of access to, personal information that is harmful or irrelevant in the digital sphere. This circumstance suggests that the Right to Be Forgotten (RTBF) requires not only regulatory strengthening but also increased public legal awareness and stronger institutional capacity among bodies responsible for overseeing personal data protection.

These challenges lead to the conclusion that legislators must address the legal gaps in Indonesia's implementation of the Right to Be Forgotten (RTBF). Although the 1945 Constitution, the ITE Law, and the Personal Data Protection Law provide a legal framework for safeguarding personal information, more detailed regulations are still needed regarding the RTBF implementation mechanism, particularly in the context of information related to criminal justice processes. These regulations should include criteria for the types of information that can be deleted, procedures for submitting data deletion requests, and coordination mechanisms among judicial institutions, mass media, and electronic system providers. With a clearer and

more comprehensive regulatory framework, the implementation of the Right to Be Forgotten concept is expected to provide more effective protection for individuals' privacy and reputation rights without compromising the principles of transparency and the public interest in accessing information.

CONCLUSION

Based on the findings of the discussion, the application of the Right to Be Forgotten (RTBF) in the Indonesian legal system is an important effort to protect personal information and individual privacy rights in the digital age. Due to the advancement of information technology, personal data can now be disseminated widely and rapidly online, allowing information related to an individual to remain available in the digital space even when it is no longer relevant or has been refuted through a legitimate legal process. In the context of the criminal justice system, this condition gives rise to the phenomenon of digital stigma, namely a social stigma that continues to attach to individuals because digital information regarding their involvement in a criminal case remains accessible, even after they have been declared not guilty by the court. The implementation of RTBF in Indonesia still faces several challenges, particularly unclear data deletion mechanisms, conflicts between individual privacy protection and the principle of judicial transparency, and technical obstacles in deleting information that has been disseminated across various digital platforms.

Therefore, strategic measures are required to strengthen the application of the Right to Be Forgotten (RTBF) in the Indonesian legal system. First, the government must formulate clearer and more comprehensive regulations concerning the RTBF implementation mechanism, especially with regard to the deletion of data related to criminal justice processes, including criteria for information that can be deleted and procedures for submitting data deletion requests. Second, coordination among judicial institutions, mass media, and electronic system operators is needed to ensure that data deletion requests can be implemented effectively without violating the principle of public information transparency. Third, increasing public legal awareness of personal data privacy rights is also crucial so that individuals can understand and exercise their rights to protect their privacy and reputation online. With clearer regulations, more effective law enforcement, and greater public awareness of the importance of personal data protection, the implementation of the Right to Be Forgotten is expected to provide optimal protection for individual privacy rights while maintaining a balance between individual interests and the public interest within Indonesia's legal system.

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