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The Applications of The Right to Be Forgetting

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ABSTRACT

The Right to be Forgotten (RTF) has appeared since the 1960s and has emerged again as the idea conflicted with the imposition of technical reality in terms of retaining personal data for unknown periods of time that may be difficult unless it is impossible to erase it from the virtual map. There are many activities that users carry out over the Internet, whether in the form of comments, special news, pictures, or personal information, whether the user himself puts it or another party publishes it, which includes a process of transition from the control of an owner of the information over to the control of other parties. This transition process has brought many problems to Internet users and has become a clear threat to their privacy and their right to enter forgotten. Hence, this has precipitated the emergence of a new legal concept, which is the right to digital forgetting as a right to the private life of the individual. This research aims to define the right to digital forgetting, define areas of its application, and clarify the viewpoint of legislators, jurisprudence and the judiciary, as it is an emerging concept in the international and local legal arena.

Introduction:

The issue of how individuals control their personal data that is processed through information technology devices and their networks has imposed itself as a major issue in the technical reality, as it has become difficult to control it after accessing the

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Internet given that the ability to save data is due to the digital revolution which has undermines the most basic human rights, which is the right to be forgotten. This means that the problem is the ability to keep personal data with other party for an indefinite period of time, which might lead to threatens individuals in the future. Accordingly, the confrontation between those controlling such channels and the people in charge of managing such data become obvious.

Consequently, the European Court ruling No. C-131/12 of May 13, 2014 against the search engine "Google", has revived this right again, and enabled the European users to demand the right to erase their personal data and respect their right to enter into digital forgotten.

This ruling has sparked a wide debate about its feasibility to the extent that some doubted the RTF effectiveness and its implementation on the ground. However, the European legislature did not take into account these doubts, but rather responded to the recommendations of the ruling and included this right in Article 17 of the draft of the new European General Regulation known as The General Data Protection Regulation (2016/679) (GDPR) became directly applicable law May 28, 2018.)

This research we will adopt two methodologies, the original approach is the content analysis, as we presented a recent case raised in the European legal arena recently, and then the research would use the comparative approach, where we will show the French position that had a jurisprudential, legislative and judicial experience prior to the issuance of the European Court's ruling, and compare the position of the Iraqi legislator in the electronic legislation. Accordingly, we divided the research as follows:

1 Chapter One: The Concept of The Right to Be Forgotten

2 Chapter Two: The Mechanism for Preserving Personal Data and Exploring Its Risks

3 Chapter Three: The Scope of Criminalizing Violating the Right To be Forgotten.

4 Chapter Four: Conclusion.

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Chapter One: The Right to Be Forgotten Concept

1.1: The Concept of RTF

The right to be forgotten basically refers to the right to an individual to request from a search engine provider certain to delete data from past events so third person would no longer see them. [1] This right leads to admitting the individuals to have some information such as videos or photographs to be deleted from internet so that others cannot gins such data by search engines.

There has been dispute about the usefulness of determining a right to be forgotten as a tool could damage international human rights in the light of freedom of information. Furthermore, there are anxieties about its effect on the freedom of expression. However, the main interaction is with the right to privacy and whether creating a right to be forgotten might shrinkage the value of censorship.

The right to be forgotten derived from the fundamental right of privacy which guarantee the interest of people to have a 'personal space', from intervening by others and organizations. "The right to privacy has been entrenched in many international human rights instruments, including the Universal Declaration of Human Rights (UDHR)14, the International Covenant on Civil and Political Rights (ICCPR)15 as well as the European Convention of Human Rights (ECHR)16. Article 12 of the UDHR provides that, 'no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation'. A similar right is provided under Article 17 of the ICCPR, with the exact same words and reference to honour and reputation. Under the ECHR, Article 8 provides for the right to respect for private and family life. The main distinction between the right to privacy and the right to be forgotten is that the first establishes information that is not publicly open, however, the right to be forgotten implicates deleting information that publicly open and published in the past to not allowing third persons to access them.

[1] Quillet, E. (2011). The right to digitalization on social networks. *Master of Human Rights and Humanitarian Law Directed by Emmanuel Decaux, University year, Panthéon Assas University*. P.901

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Historically, this right has been discussed since 2006 in Europe and Argentina. In 1995, European Union adopted the European data protection Directive 95/46/EC) to regulate the processing of personal data. The new European proposal for general protection affords protection and exemption. However, Google was not listed as a "media" company and so is not protected. “Judges in the European Union ruled that because the international corporation, Google, is a collector and processor of data it should be classified as a "data controller" under the meaning of the EU data protection directive.” Hence it is required to delete "inadequate, irrelevant, or no longer relevant". The term "right to be forgotten" is a very newly adopted concept, however, it has appeared theoretically since 1960, when the European Court of Justice legally adopted that the "right to be forgotten” is a human right when they ruled against Google in the Costeja case.[2]

The right to be forgotten works through a request removal to a search engine, a person must complete a form through the search engine’s website. Google’s has a removal request process that people could identify their country of living, information, the link to be removed along with a description of, and attachment of legal identification.

In Google Spain SL, Google Inc. v Agencia[3] Española de Protección de Datos, Mario Costeja González (2014) is a decision by the European court of justice. which held that any research engine provider is required to carries out of personal information which appears on web pages published by third parties. A Spanish man, Mario Costeja González, requested the removal of a link back to 1998 by in a newspaper about him. In articulating the acknowledgement of the right to be forgotten, the Court ruled that the ‘data subject may, in the light of his fundamental rights under Articles 7 and 8 of the Charter, request that the information in question no longer be made available to the general public by its inclusion in such a list of results’.

[2] Walker, R. K. (2012). The right to be forgotten. *Hastings LJ*, *64*, 257.
[3] Frantziou, E. (2014). Further Developments in the Right to be Forgotten: The European Court of Justice's Judgment in Case C-131/12, Google Spain, SL, Google Inc v Agencia Espanola de Proteccion de Datos. *Hum. Rts. L. Rev.*, *14*, 761.

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It was held that the right doesn't aggregate to a total obligation of the data controllers to remove the data, however, the research engine provider is to seek a 'fair balance' between the public interest of users and 'the subject's fundamental rights under Articles 7 and 8 of the Charter mentioned above. The Court also explained that the right to be forgotten is not absolute, and must be equalized with other fundamental rights, such as freedom of information and expression.

1.2: The Legal Nature of RTF

There is a jurisprudence agreement that the right to be forgotten is one of the inherent personal rights. However, other jurists have differences about the extent of its independence.[4] (Quillet, 901) Those defending the RTF as one of the elements of private life indicates that its concept extends to include all personal elements even if they are public data on the grounds that what was public from previously published data will be within life private in the future, or in other words, it will become a secret in the future, and then after that it will be forgotten by its owner.

In an example of this notion, French judicial court ruled that explicitly expressed this trend was what the Paris Court of First Instance ruled in the judgment issued on February 15, 2012 in a case whose facts are summarized by the existence of an old video clip in which the identity of the complainant was identified due to an unidentified person publishing this content on pornographic sites, and it appeared to her from During the results of the Google search engine, which caused damage to her life and work, the search engine demanded Google to cancel the indexing of the content, and the latter refused because it does not have the authority to manage the content, while the court found that Google participated in this damage based on a violation of its privacy and justified its decision that the complainant She has the right to forget his past life.[5]

[4] Tribunal de grande instance de Paris 2012، 15 février, please see: Boyer, J. (2012). La 17e chambre du tribunal de grande instance de Paris et la question prioritaire de constitutionnalité. *LEGICOM*, (1), 19-25.

[5] Bennett, S. C. (2012). The right to be forgotten: Reconciling EU and US perspectives. *Berkeley J. Int'l L.*, *30*, 161.

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It is worth mentioning in this regard that the French civil judiciary is subject to the protection of the right to forgetting Article 9 of the French Civil Code, that is, it considers it an element of the right to private life. In addition to the ruling of the European Court of Justice referred to in advance, as it stated in the merits of its ruling, and specifically in paragraph 91 thereof, that the right to forget is one of the rights included in the right to private life.

On the other hand, others argue that the right to forgetting is not included in the elements of the right to private life, but is a right independent of other rights despite the perception that they coincide with each other in the event of the consent of the owner, but they differ in terms of time and in terms of nature or objective scope. As for the temporal dimension, the right to privacy is not limited to recent facts, but includes facts that have passed a long time, and this is limited to the right to forget in general. In terms of nature, the right to be forgotten is more extensive than the right to private life as the first includes facts and events in all their forms, whether public, private or secret.[6] (Bennett, 161)

This notion reflects the goal of the right to be forgotten, as human identity is the goal of this protection, different from the private life notion that is not related to public facts or events. Given that the characteristic of privacy in such a case is not available for its prior publication to the public, whether with the consent of its owner or for reasons related to public interest, such as facts related to crimes, historical cases and events, or other things that focus on the public's right to know. The owners of this trend relied on the provision of Article 35 of the Press Law promulgated on July 29, 1881, which stipulates that it is not permissible to prove the incidents of defamation if ten years have passed, and it was also decided that facts relating to private life may not be proven.

This paper argues that that the right to be forgotten is an independent right of the right to private life, just like other personal rights as it is not acceptable to rely on

[6] Bertram, T., Bursztein, E., Caro, S., Chao, H., Chin Feman, R., Fleischer, P., ... & Kammourieh Donnelly, L. (2019, November). Five Years of the Right to be Forgotten. In *Proceedings of the 2019 ACM SIGSAC Conference on Computer and Communications Security* (pp. 959-972).

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facts that have passed over a certain period of time. And what we rightly see is that the idea of private life has begun to recede due to the requirements imposed by the digital age that invite us to disclose our personal data in order to enjoy various services via the Internet or in computer systems.

1.3: The Difference Between RTF and other Fundamental Rights:

The European Court of Justice ruling issued in May 2014 raised a big problem in terms of the mechanism of its application and its conflict with other rights and acquisitions, as widespread protests appeared due to requests to delete electronic links from the research results, especially since some questioned the feasibility of applying the right in question on the ground due to technical reasons. It is represented in how to remove the vast amount of data required to be deleted from the search results and the time required to delete them. It is worth noting that Google received many cancellation requests, amounting to nearly half a million requests between May and October 2014, and it responded to 58% of them, and this response is clear evidence of Its technical and technical ability to examine, index and remove requests from links.[7] (Bertram, Bursztein, Caro, Chao, Chin Feman, Fleischer, 959-972)

Others argue that the application of this right greatly contradicts basic rights stipulated in Articles 7 and 8 of the European Convention on Human Rights[8] (Rustad and Kulevska, 349) such as the right of press and media agencies to own informational content that deals with specific events or issues of interest to society, and what may ensue as well. A conflict between those authorities and the service provider as a host for this content, which may have to remove the electronic links without referring to

[7] Rustad, M. L., & Kulevska, S. (2014). Reconceptualizing the right to be forgotten to enable transatlantic data flow. *Harv. JL & Tech.*, *28*, 349

[8] Article 57 of the Egyptian Constitution of 2014 states that: Private life Private life is inviolable, safeguarded and may not be infringed upon. Telegraph, postal, and electronic correspondence, telephone calls, and other forms of communication are inviolable, their confidentiality is guaranteed and they may only be confiscated, examined or monitored by causal judicial order, for a limited period of time, and in cases specified by the law. The state shall protect the rights of citizens to use all forms of public means of communication, which may not be arbitrarily disrupted, stopped or withheld from citizens, as regulated by the law.

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the publishers. Also, removing those links may lead to an explicit conflict with the freedom of expression and thought and the public's right to know and obtain information. In addition, some believe that the erasure of such data may constitute a source of threat to the security of society if its subject is related to persons convicted in economic or criminal cases. Thus, the issue of submitting requests to delete from search engines based on their right to be forgotten may be a moody matter.

2: The Mechanism for Preserving Personal Data

Regarding the above-mentioned, it has been clear that the issue of the right to be forgotten relates primarily to personal data. We will examine the relationship between these data and RTF, then explain the mechanism for preserving personal data considering the provisions stated in legal legislations.

The French Law No. 17 of 1978 concerning the data protection, amended by the provisions of Law No. 108 of August 6, 2004, which defined personal data in paragraph 1 of Article 2 as: “A personal statement is any information related to a natural person whose identity is identified or whose identity can be determined directly or indirectly. However, in 2018, a new law No. 493 on personal data protection was enacted which amends the existing French Data Protection law to comply with the provisions of the GDPR. The recently amended law defined "Personal data" in Article 4) as "any information relating to an identified or identifiable natural person."

Egypt has sought, in many of its legislations, to regulate the right to privacy, through many legal articles, most notably Article 41 of the Egyptian Constitution. Many legal texts have affirmed that private life has its sanctity that it is not allowed to transgress, but without the existence of an independent law that fully regulates these rights.[9] On the other hand, Tunisia has issued Basic Law No. 63 of 2004 on “Protection of Personal Data”. Through this law, similar to the French situation, an independent administrative authority was established, which is: The National Authority for the Protection of Personal Data. This is in addition to the continuation of the Tunisian

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legislator in this context until 2014, when it stipulated in Article 24 of the constitution issued in the same year: "The state protects private rights, the inviolability of homes, and the confidentiality of correspondence, communications and personal data" As for Algeria, it is among the countries that have been affected, like other neighboring countries, to the information revolution, which prompted the legislator to amend the penal code in order to face all the attacks that may occur through information and what can be achieved through it to harm individuals. It is noted that the penal code stated that "Violating the automatic data processing systems", and several amendments that confirm that the Algerian legislation regards private life through Law No. 23.06 of 2006.

As for the Kuwaiti legislator, it is defined under the term electronic data in Article 1 of Law No. 20 of 2014 regarding electronic transactions, as: "Data with electronic characteristics in the form of texts, symbols, sounds, drawings, pictures, computer programs, or data bases." The same definition was mentioned in Article 1 of Law No. 63 of 2015 regarding combating information technology crimes, meaning that the two definitions are satisfied with the formal aspect of the data related to the electronic moral nature.

Yet, the Iraqi legislature is still away from passing a legislation that protect data. Iraq, like most of the developing countries, has not established any basis for the spread and use of electronic information technologies, and the Iraqi legal system still lack legislation that regulates the information environment, hence the new draft for the (Information Crimes Law) that was presented 2011 and still has not been passed is the only draft the regulates data and information regulation. The draft has been postponed several times due to the presence of many intersecting views on its contents, paragraphs, expected results and its implications on social life and individual freedoms for data related to electronic nature.

The draft law is still controversial, however, Article (2) of the draft law states: "This law aims to provide legal protection for the lawful use of the computer and the information network, to punish the perpetrators of acts that constitute an assault on the rights of its users, whether natural or moral, and to prevent misuse of it in committing computer crimes." Many criticisms have been raised regarding its impact

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on freedom of expression, especially as it includes harsh penalties for violations related to verbal expression, which were vaguely defined in the text of the draft law. Article 3 stipulates that life imprisonment will be imposed with heavy fines for those against whom convictions are issued, "using the computer and the Internet to undermine the independence, unity, and safety of the country, or its higher economic, political, military or security interests, or to incite sectarian discord and destabilize the security and public situation or inflict Damage to the country's reputation."[10]

2.1 Preserving Data:

The procedure for preserving personal data in the memory is one of the important procedures announced by some Internet sites, including social networking sites. The European Guide on General Data Protection Regulation regarding the legal protection of the right to be forgotten is the establishment of databases related to sensitive data, and most importantly, this guide is of a personal nature by not preserving data after accessing a network. The French legislator; on the other hand, made a general commitment on the service provider in the second and third clauses of Article 6 of the Law on Trust in the Digital Economy which was issued in 2004 requiring the service provider request from the subscribers obtaining their personal data to allow identifying them, whether they are a natural or legal person, in order to know the source of the content creation. In implementation of this, the Court of First Instance in Paris ruled on January 30, 2013 convicting the company "Puiggs" for telecommunications services because of its refusal to respond to a court order to specify the identity of the protocol address of one of its clients. Its refusal was justified by the existence of a legal and organizational impossibility to do so, and that the hypothesis to do so violates the provision of Article 134 of the Postal and Electronic Communications Act issued in 2005 1952, which decided not to reveal the identity of its clients except in cases of searching for, uncovering and prosecuting criminal offenses. However, the court responded that the service provider is bound under

[10] Draft of Informatic Crimes Law.

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Article 6 of Law No. 21 of 2004 regarding confidence in the digital economy that decides to respond to judicial orders, whether in criminal or civil cases.[11]

In France, the legitimacy of retaining personal data is based on either the consent of the person concerned or the approval of the National Committee for the Protection of Information Freedoms, which prohibits the processing of some personal data stipulated in Article 8 related to sensitive data such as ethnic or sexual origin, political or religious affiliation, as well as in Article 9 which concerning crimes and convictions, and Article 10 related to processing judicial decisions. In an example of the French judicial applications is what was issued by the French Court of Cassation on November 19, 2014 in rejecting the appeal of a person who requested the erasure of his baptism, as he declared that he did not belong to the Catholic Church. However, the court held that baptism was a fact of an unquestionable historical nature.[12]

On the other hand, a law might require the delete of a data after a certain period of time or at the end of the its purpose. The French legislature; for instance, stipulated that a person in charge of personal data is required to preserve it for a period of time which does not exceed the purpose of its collection. The policy of those in charge of data processing differs from site or forum to other, as each one adopts a different policy regarding the purpose and duration of preserving personal data, for example on social networking sites such as Twitter its police clarifies that the users data will be erased after thirty days after the account deletion, while Facebook determines the period of retention of personal data 90 days after deleting the account. This determination is the result of the findings of the European Consultative Commission G29 in its recommendation No. 2009/5, where it stated what social networks should do with the necessity to specify a period for the retention of personal data[13] (Guillaume Desgens, 850).

[11] Tribunal de grande instance de Paris، ord 30janvier 2013. Cour de cassation، chambre civile1، arrêt du 19novembre 2014, please see: Boyer, J. (2012). La 17e chambre du tribunal de grande instance de Paris et la question prioritaire de constitutionnalité. *LEGICOM*, (1), 19-25.

[12] Guillaume Desgens-Pasanau، op، cit،p52. Et Luc Grynbaum et Caroline Le Goffic،op، cit، P850

[13] Article 17 of the 2005 constitution provides that every individual shall have the right to personal privacy, so long it does not contradict the rights of others and public morals.

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In conclusion one can say that that the commitment of different legislatures, such as the French one, shows that data protection and the right to be forgotten has been guaranteed. However, the Iraqi legislature is still has not explicitly protecting data and assuring the right of personal to call for erasing their online data. However, the Iraqi constitution has implicitly guaranteed the existence of the right to be forgotten through stipulating the right of a personal privacy.[14] Nevertheless, there is a need for an explicit legislative devotion and a comprehensive touch that frames the protection of human rights and freedom in the digital world.

2.3: The Scope of Criminalizing the Violation of RTF

The French legislator incriminated the violation of the preservation conditions stipulated in Paragraph 5 of Article 6 of the Law for the Protection of Information Freedom, 1978, and subjected it to Article 20-226 with penalties which stipulated that: "Whoever saves personal data after exceeding the period specified in the law or regulation, in requesting approval or prior notification. For the sender to the National Commission for Informatics and Freedoms, he shall be punished with imprisonment for a term of five years and a fine of 300,000 euros, unless storing such data for historical, statistical or scientific purposes as stipulated in the law. Whoever processes personal data for other non-historical, statistical or scientific purposes that exceed the period stipulated in the application or the regulation submitted to obtain approval for processing or requesting prior notification of processing to the committee shall be punished with the same penalty. From the face of the text; We find that the aim of the French legislator in this criminalization is clear, as it is to protect the personal data of individuals from the dangers of data banks and their enormous capabilities in storing various data and their mechanisms that are developing day after day, especially since we have recently witnessed the emergence of electronic clouds belonging to companies that accept data storage or Keep them according to different storage capacities.

[14] Bobić, A. (2020). Developments in the EU-German Judicial Love Story: The Right To Be Forgotten II. *German Law Journal*, *21*(S1), 31-39.

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The French legislator has also set a five-year prison sentence and a fine of 300,000 euros, in addition to granting the judge the power to order the removal of data that are the subject of the crime, and the National Liberties Committee has the authority to monitor this procedure in which the person responsible may fail to implement it, and we will clarify later the position of the legislators on This issue. The legislator has designated Article 24-226 to hold the legal person accountable for illegal personal data processing, in accordance with the provision of Article 122-3 stipulated in the Penal Code. This is in addition to the fine penalty stipulated in Article 38-131 and the penalties stipulated by the legislator also in Article 38-131, which stipulate the imposition of one or more penalties, such as the penalty of confiscation, closure, deprivation, erasure, etc. It also imposed a penalty for violations of the fifth category for all crimes related to the processing of personal data. The penalty is a fine of 1,500 euros and up to a maximum of 3,000 euros in the case of recidivism, in accordance with Articles 10-625 and 13-625 penalties. The Kuwaiti legislator did not criminalize this behavior under the Electronic Transactions Law, nor did it criminalize it in the Law on Combating Information Technology Crimes.

Moreover, the French legislator addressed the right of users to object in Article 38-1-1 of the Information Freedom Protection Act, and criminalized failure to respond to its requests in Article 266-18-1 penalties, stating that the accused shall be punished with five years' imprisonment and a fine of 300,000 euros for processing Personal data related to a natural person despite his opposition to the reasons for commercial processing or his opposition was for other legitimate reasons. This text highlights the extent to which the legislator wants to give users a license that allows them to confront the person responsible for data processing during the period of the objection, and there is no doubt that this gives users a sense of confidence and security in safeguarding their basic rights such as the right to private life and also the right to digital forgetting, so they can in light of That objection to the data processor

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or service provider, whatever his capacity, and at any time they are allowed to do so, and at any stage of the processor [15] (Bobić, 31-39)

In implementation of the above-mentioned scenario, Paris Court of First Instance responded to a woman's request to delete a link on the Google search engine after notifying them of the damage caused to her due to the existence of an article published that dealt with an old fraud case in 2006. The Paris court considered that the lady's request is legitimate based on the text of Article 38 and her right to forget the past, and she obliged the site Google pays a fine of 1,000 euros for each day of delay. (25) It is not required that responding to requests for the right of objection is always acceptable, so the person responsible for the processing has the right to examine the objection requests and then decide on them, and objection requests may not be considered before the court except after notifying the person responsible for Treatment of damage to the data subject[16] (Goldmann, 45-54).

3: Conclusion

In conclusion the research presents the following findings and recommendations of this study:

3.1 First – Findings:

1. The decision of the European Court is limited to the European scale only. The European Court has ruled that Google does not have to apply the right to be forgotten globally[17] (Bobić, 31-39). This decision means that the google is only required to remove related links from its engine in Europe and not globally- after reception of a proper request. The European Court of Justice stated that "Currently, there is no obligation under EU law, for a search engine operator who grants a request

[15] Goldmann, M. (2020). As Darkness Deepens: The Right to be Forgotten in the Context of Authoritarian Constitutionalism. *German Law Journal*, *21*(S1), 45-54.
[16] Bobić, A. (2020). Developments in The EU-German Judicial Love Story: The Right To Be Forgotten II. *German Law Journal*, *21*(S1), 31-39.
[17] Martín, B. (2020). Google v. CNIL and the Right to Be Forgotten: A Judgment of Solomon. *Global Privacy Law Review*, *1*(1).

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for de-referencing made by a data subject... to carry out such a de-referencing on all the versions of its search engine"[18] (Martín, 1)

2. The right to be forgotten is a personal right that allow individuals to request entities, whether governmental or private, to delete relevant information once the purpose of the processing is completed.

4- The right to be forgotten is a restricted right to other rights and freedoms; particularly, related to public and the state.

5. This right is related to two main elements, first, is a time element which is related to the period of personal data preservation, and second, a substantive element which is related to its nature.

6. The Iraqi legislature implicitly recognizes the right to be forgotten in its constitution; however, no exact law or/rule explicitly states the right.

3.2 Second – Recommendations:

1- Establishing a definition of personal data, ensuring that Iraq passes a law on Electronic and Data Protection. Moreover, explicitly recognizing the right to be forgotten.

2- Setting controlled system on personal data protection, especially if the processor is run by private entities such as companies, institutions, etc. such a system is essential on specifying the retention period and linking this period to the purpose of processing.

3. Assuring sanctions if a data processor violates the obligations that impose protection personal information. Also, it is important that the Iraqi legislator to clearly organize a mechanism to demand the timeframe on erasure of personal data.

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4- The Iraqi legislator needs a clear procedural mechanism to ensure the implementation of its prospect provisions, especially outside the territory of the State, except by expediting the establishment of a charter with Internet service providers to ensure the protection of customer data, and to ensure international cooperation in this regard.

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Article 17 of the 2005 constitution provides that every individual shall have the right to personal privacy, so long it does not contradict the rights of others and public morals.

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بەکارهێنانەکانی مافی بیرکردن

پـوخـتـە: مافی لەبیرکردن (**RTF**) یەکێکە لەو بیرۆکە کۆنانەی کە لە دەیەی 1960 وە سەری هەڵدا و دووبارە دەرکەوتەوە وەک ئەو بیرۆکەیەی کە ناکۆکە لەگەڵ داتای تەکنیکی دا لە ڕووی پاراستنی داتا کەسییەکان بۆ ماوەی نادیاری کات کە لەوانەیە قورس بێت مەگەر لە نەخشە مەجازییەکە بسڕێتەوە . چەندین چالاکی هەیە کە بەکارهێنەران لەسەر ئینتەرنێت ئەنجامیان دەدەن چ لە شێوەی سەرنج وتێبینی وهەواڵی تایبەت ووێنە یان زانیاری کەسیدا چ خودی بەکارهێنەر داینێت یان لایەنی تر بڵاوی دەکاتەوە کە ئەمەش پرۆسەی گواستنەوەی تێدایە لە کۆنترۆڵی خاوەن زانیاریەکەوە بۆ سەر و کۆنترۆڵی لایەنی تر. ئەم پرۆسەی گواستنەوەیە چەندین کێشەی بۆ بەکارهێنەرانی ئینتەرنێت هێناوە وبۆتە هەڕەشەیەکی ڕوون لەسەر تایبەتمەندییان ومافی چوونە ناو لەبیرکراوەوە. بۆیە ئەمەش سەرهەڵدانی چەمکێکی یاسایی نوێی لێکەوتاوە، کە مافی لە دەستدانی دیجیتاڵی وەک مافێک بۆ

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ژیانی تایبەتی تاک. ئەم توێژینەوەیە ئامانجیەتی مافی بیرچوونەوەی دیجیتاڵ پێناسە بکات وناوچەکانی کارپێکردنی دیاری بکات وڕوانگەی یاسادانەران ودادوەری وڕوون بکاتەوە، بەو شێوەیەی کە چەمکێکی دەرکەوی نێو گۆڕەپانی یاسایی نێودەوڵەتی وناوخۆییە.

تطبيقات الحق في النسيان

الملخص:

الحق في النسيان هو واحد من الأفكار القديمة التي ظهرت منذ بداية 1960 ولكن ظهرت افكار واراء تتعارض مع فرض الواقع التقني من حيث الاحتفاظ البيانات الشخصية لفترات غير معروفة من الزمن التي قد تكون صعبة ما لم يكن من المستحيل محوها من الخريطة الافتراضية. وهناك العديد من الأنشطة التي يقوم بها المستخدمون عبر الإنترنت، سواء في شكل تعليقات أو أخبار خاصة أو صور أو معلومات شخصية، سواء كان المستخدم نفسه يضعها أو يقوم طرف آخر بنشرها، والتي تشمل عملية انتقال من سيطرة مالك المعلومات إلى سيطرة أطراف أخرى. وقد جلبت هذه العملية الانتقالية العديد من المشاكل لمستخدمي الإنترنت وأصبحت تشكل تهديدا واضحا لخصوصيتهم وحقهم في الدخول منسية. ومن ثم، فقد أدى ذلك إلى ظهور مفهوم قانوني جديد، وهو الحق في النسيان الرقمي كحق في الحياة الخاصة للفرد. يهدف هذا البحث إلى تعريف الحق في النسيان الرقمي، وتحديد مجالات تطبيقه، وتوضيح وجهة نظر المشرعين والفقه والقضاء، لأنه مفهوم ناشئ في الساحة القانونية الدولية والمحلية.