

RIGHT TO BE FORGOTTEN ONLINE LIABILITY ONLINE MEMORY

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Abstract:

The Internet is a marvellous tool for mediated relationships an intense instrument for developing and maintaining contacts. The power of Internet in social relation evolution is studied as a phenomenon for social change, social participation accreditation and multiple identity. Using this new way of communication it is easy to collect information data and details without property. In the social online life there is always a memory for everything also if we want to forget. Who has the power to forget? A part of the analogical world need to remember historical and everyday events, the internet world need to forget what is always online. The present research is a tool for evaluation and analysis of European regulations proposed and social participation remedy. Online evolution and social aspect have to be connected to existing rules. An analysis of liability, social aspects of online presence, legal cases online permanent memory effects

Keywords: right to be forgotten, data deletion, social relationship, internet memory

1. RIGHT TO BE FORGOTTEN - ONLINE LIABILITY ONLINE MEMORY

The Internet is by definition a mediated communication system devoid of compactness, a social tool for social aggregation with non-uniform distribution. The ground of application for this preferred scope of accreditation and social inclusion are social-network. The participation system created by the online network provides constant presence, updating of social identity and social lived experience, the presence in any case in the world of immaterial aspects. A system that finds its apex of participation in tagging and participative forms of "Selfie" one aspect of the new Digital Native generation that immortalize, share, participate, instantly publish the presence almost a scream to the world of appearance, the need to be and let the people know to be. These phenomena of immediate and obsessive participation grow when you need to forget, not to know or learn and immediately forget. From this same phenomenon of specific application, new app development that goes in the opposite direction of the cancellation and the emptiness of memory. Latest technological creations go in the direction of sharing only temporary and fixed-term cancellation. A new definition of temporary memory, not permanent participation aimed at sharing knowledge and not to permanent storage, a temporary archive without memory, a snapshot, an open and empty file on which temporarily dwell information. The inclusion society is increasingly brittle and fast and expresses impatience toward perennial reminder. The persistence of memory has historical roots that the analogical world hasn't solved. The real history cannot be forgotten because represents the roots of identity and the memory keeps alive the hope and social identity of religions, races, traditions. The analog world doesn't want to forget the wars of the past century and even the memory of persistent storage is necessary for the education of new generations. The real world should not forget the world of the web should do it, or should at least allow an intelligent memory management that allows the management of the past without storing it permanently. The right to be forgotten is ripened to be qualified in the vast category of human rights, like the right to be blacked out and regain possession of their virtual identities unknowingly delegated. Nobody in real life would deliver to third unknown parties their family, their home, their bank private data, why should do so on the web, why should handle by strangers without feeling the need to be in the possession of its existence. The time has come for a definitive division of profiles, one public and accessible and one private inaccessible, one manageable and one forbidden, a world right of distinction the right to the fence of affections. At the beginning of the access era postulated by Rifkin was mentioned the return of the missing word in the digital era after the historic route where the man from gesture came to the word and again returned to silence, the network now has the need to generate an artificial silence on data generated by the desire of protecting data and any opportunity in which man expresses his own personality. the perception of sharing in an environment based on the desire to devote their personal information, true or false, accredits the uncertainties and falsehoods in a digital ecosystem considered friendly and truthful. Is everywhere recognized, especially in philosophy that friendship is subject to demonstration and not to declaration, but in any case every declaration of friendship include in the same case a declaration of not friendship as a prerequisite of the web . Credibility, even in analogical environment raises over time and reliability but the web, in the absence of the material part of social life should resort to feedback to create loyalty and confidence, but also the feedback can be faked or manipulated and even in that case the persistence memory becomes an issue not resolved. a qualitative and quantitative comparison, through a study on students of various ages would determine, with absolute certainty, the real value of online relations compared to the real world, how many of them survive in real life and how much data you entered in the network are real compared to what in real life cannot be hidden. An in-depth study of this issue involves the analysis of social capital in the network and the different modes of relation, but a study about the memory and how memory have to be respected is necessary.

In this highly critical landscape, devoid of law and order, some new categories are classified as new rights of the net as the right to be forgotten, a new form of online protection from web find easy implementation in cases as reputational or bankruptcy requires, a decennial reset web memory and still the extension of the right to adjustment online notice. Even those rights as the right to oblivion, or right to be forgotten as it's classified, with an evident characteristic of digital right are attributable to the category of human rights. The web does not forget and stores, sometimes postpone, an information but do not delete as a scarlet letter, and the right to a free new reputation cannot be precluded from the web or entrusted to private companies that treat the data deletion or moving memory queues at exorbitant prices. The right to reputation may not have a market price established by private individuals because as all rights should be on the State rules of respecting and protecting.

1.1 Online memory effects and discrimination

Waiting for a new web, probably divided in more singular web as asked for diversity by several parties in Europe into individual national or continental web as a result of scandals and revelations of privacy violation, waiting for the true digital revolution created by digital independence from ICANN, the rules network are those adopted by several years and which do not meet the traceability of data that does not pass on the web but they are carved in the web. The network due to the perennial memory raises discrimination and diversity. The price to be paid for access, endless possibilities and availability is the free of charge transfer of personal data and individual liberties that are sold to third parties and the sale of "Consensus" is made fraudulently through simple use. The data and relationships become tradable assets in marketing virtual souk where the original bartering is replaced by the coin of the merchantability of the data, the sale of privacy on the net is not subject to direct State taxes but not fiscal taxation of companies that steal user account virtual memory into saleable goods. The relationships plotted and not darkened generate the end of oblivion and the emergence of persistent memory and man becomes the sum of his past with no chance to redeem himself from possible reputational bankruptcy. The web makes eternal and plotted the information and stores it permanently causing the merchantability of the information. The internet, through its memory, stores data that are transformed into instruments of discrimination, of isolation and of judgment. Network memory creates digital discrimination, a new form of digital divide with effects in society hotel in analog world.

Civil society is committed to protect the social re-education and inclusion but does not take measures for excessive inclusion in the network and the need of education to the web and to educate the web to forget as real form of social reintegration. European Union policy considers the necessity of a specific regulation of matter considering the absolute importance of the right to oblivion as human right, as the right to manage own data, as it happen for goods and will. The right to permanent or occasional digital cancellation with timing and duration to erase every memory and every digital transit, an innovation that need global recognition and not just European drawings of law. The social-network enables new categories of configurable rights which must be counted and cataloged as a result of the web. The right to the absence on the net is one of the new rights and arises from the need for parity, equal consideration and respect. Traceability increases the number of available data and the processing of data by creating discrimination.

Autonomous desire expressions as "Like" allow detections of categories and sets of people: a volunteer sample of 600 schools students makes on percentage to distinguish on the basis of "Like" lent between boys and girls(98%), homosexuals and heterosexuals(77%), political ideas on right or left policy (78%) and different religion(58%).

This distinction generated by the web and voluntary confirmation of pleasures allows to identify and distinguish between sick and not sick (70%)subjects between smoking and non-smoking subjects(90%), subjects with susceptibility to drugs and not(65%). All these data can be sold and can be used against someone with the possibility of social rejection, isolation, difficulties in integration and job retrieval. The acquisition of material goods on the net, the online research of information generate constant traceability.

It's possible, as doctrine effect, to distinguish between a positive and a negative traceability, but the search for specific drugs, chemist or else, or the expression of a "Like" on a medication says something about our State of health and create a marketable information. a personal information, a private value determines a marketable value and good value. Structured research developed for marketing through "Like" involves data collection and dissemination, a value marketable occult monetary nature. The same occult value turns into easy discrimination because through the data it's profile easily to distinguish the user for classes, faults, pleasures, interests, personal life. The reduction of the consumer in skeleton without filters in the bare and the network discriminates by attributing it to consumer-compliant categories divided by core membership.

Discriminatory profiling in the network manages to be more precise and dangerous than multiple virtual identities dispelling the doubts of personality focusing on actual requests and user searches on the net, called diversity, stripping him of privacy and reporting him network profiles and in the real life where the traceability is a resource of data collection.

Data market does not include weight-contrasting with the citizen or to hear his opinion but the digital citizen is treated as a person caught without the right of reply. The citizen communicates the data without knowledge of any danger and leaves him floating on the net as a common good which no longer has any exclusive.

The lack of knowledge of the use of data related to any online preference raises important social difficulties of which you may not be aware of. A photo holding an alcoholic beverages or finding a detoxifying might preclude minimum or important work opportunities. The new theory on which the doctrine has to work on intensively is the right of correction and reply and online recovery procedures for reputation cleaner, a new form of rectification but also opposition to indiscriminate data treatment to avoid the contexts elimination with the public one crushed on the private sector and the consequent deprivation of basic rights to privacy.

The new USA doctrine on theme has specified many times the need for a human right recourse to due process network data with holder right be heard and opposition about the effect of the discriminatory contents removability uploaded online, lost or abandoned, stolen or given voluntarily.

1.2. Online liability

The Internet is the best tool of data storage with extreme tracking and perennial memory. The data appeared and removed as well as those simply not removed generate legal responsibility. The doctrine has been occupied repeatedly to deepen legal issues of liability networked storage by identifying it with the responsibility of the provider, the equivalent of the responsibility of the Publisher in the analogical world.

One of the most comprehensive legislative efforts by EU regulators is the Data Protection Regulation to replace the existing directives so far, a proposing drawing of law regulation of the legal framework of the online user-consumer.

In daily use of the network by pouring a lot of content on the network we abandon them to their fate. we store content on servers at the same time we produce and distribute content in multiple forms, then track memory-based on-line repositories-making them available and stored; Loading data on network profiles accompanied by like on social networks, raises perennial and distinctive profiling. Freedom of loading information and data on the network load or researching them belongs to the rights and freedoms of expression and information, data storage in the cloud creates new rights and new protections to be exercised on third-party platforms which are daily entrusted historical information, memories, photographs, videos, performs medical analysis results, reports, personal images relating to medical data, notable data, information worthy of extreme care and protection.

Adding external memory to the traditional computer mobile memory, smartphone and tablets with grafts of memory on cloud further delegate the original scope in terms of security and protection. What is filed on personally held memories certainly has a different destiny in terms of protection than what is stored elsewhere on separate servers.

Public or private loading data on the web, wanted and practiced by the user through the visibility of content or simply private storage makes different and multifaceted responsibility of the keepers, the servers that store and protect the memories. The distribution of information on the Web, those that generate positive and negative tracking, makes available certain services free of charge to the price of private personal data. The attitude of the server is never neutral and aseptic but interested through memory systems and use of business information. The data protection Directive 5 and its implementations and thin so far transposed national law created different voices on the topic of data protection. The new regulation on the liability of the provider is an important news on the topic. On the one hand, legislation specifies the obligations of the provider's aim to control how specific monitoring, obligations of controllers are particularly burdensome in terms of identification and respect and obligation of formalities.

The right to be forgotten and data cancellations, as well as processed on art. 17 of regulation specifically invokes the right to obtain from the controller the erasure of personal data and the abstention from further dissemination of such information, regardless if it is: the data subject material

that the person concerned herself has put on the provider or, in the second case, the data subject material that others have put on the platform of the provider.

It appears quite normal that an interested person should have the right to delete all personal information that have chosen to load provider platforms, would be unfair and abnormal the contrary. In general the rule base, without distinction, is that everyone should have the right and the power, subject to the removal of any given that it regardless of who has it uploaded and the ability to know which possible third loaded the data. This is a legitimate expectation of law and fairness of online citizen and a need for a lawfully organized civil society.

The optics of the keeper of the data identified as controller generates, in the provision in Article 79 (5), threatening such a high penalty for the refusal to take down illegal information, and it would induce up-loaders to capitulate to any request to remove information unwanted by the concerned data subject, whenever there is even a minimal risk that the information will be considered to be illegal.

This would entail a serious impairment to freedom of expression: up-loaders would face the choice between yielding to the request, or risking the penalty in case they were unable to satisfy the authorities that they had posted the data “solely for journalistic purposes or the purpose of artistic or literary expression,” and that in the particular case freedom of expression should prevail over data protection, according to a proportionality assessment. Conversely, if the suppliers were considered only as processors, would not be subject to penalties for not respecting the predictions regarding the right to be forgotten that apparently only apply traffic controllers. According to that other suppliers only import would run the risk of having to compensate for the damages according to article 77 (1), which is supplemented by the arrangement of 77 (3), which excludes responsibility if the controller or processor proves that they are not responsible for the event giving rise the damage.

Despite the legislation provides a significant step forward in the management of the right of cancellation of data and right to be forgotten it doesn't seem yet certain on final responsibility for handling network for those that hold memories and with them the right to memory and to oblivion. Doctrinal distinctions between controllers and data providers throw in the absence of matter and unique rule, the question of legality and with it the question of application and with it the uncertainty not ever League with the requirements of the law and the Elimination of all forms of illegality.

Appears very clear that any new legislation, in any case, in this regard must necessarily be coordinated with universally recognized fundamental freedoms such as freedom of thought and speech, freedom of information, also in respect of those who generate information and give them voice.

Thematic development linked to IT always generates more attention to new emerging rights and prevent the foreclosure of existing ones. It is certain that the network highlights fragility that already exist and not resolved in the real world with the certainty that the monitoring of compliance with the State never fully achieved in live analog is even more complex and more precarious online, land of artificial identity and identity detected. The time has come to establish equality between analog and digital rights regardless of application where it is absolutely certain that we are first in the category of human rights. The need for a human rights catalogue on the web through a digital human rights code is a need with the ability to prevent violations and precepts through digital standards without waiting for the events of the web to determine the classification of new rights and of old and new violations. This reading line and interpretation come up with all the different ways to legislate in Europe and the USA, with different law systems of ius and common law, with the propensity of part of the planet for deregulation.

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