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INCORPORATING THE RIGHT TO BE FORGOTTEN INTO UZBEKISTAN'S PERSONAL DATA LAW: PROSPECTS, CHALLENGES, AND COMPARATIVE INSIGHTS FROM GLOBAL PRIVACY FRAMEWORKS

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Abstract

The rapid digitization of Uzbekistan's socio-economic landscape, driven by the "Digital Uzbekistan 2030" strategy, necessitates a modernization of the national legal framework governing personal data. This article provides a comprehensive legal analysis of the feasibility and necessity of explicitly incorporating the "Right to Be Forgotten" (RTBF) into the Law of the Republic of Uzbekistan No. LRU-547 "On Personal Data" (LRU-547). While the current legislation outlines basic principles of data destruction, it lacks a mechanism for de-indexing information from search engines, leaving citizens vulnerable to the permanent stigmatization of obsolete digital footprints. Through a comparative analysis of the European Union's General Data Protection Regulation (GDPR) and the landmark *Google Spain* jurisprudence, this study identifies critical gaps in Uzbek law. It examines the constitutional grounds for RTBF, explores the tension between privacy and freedom of information, and proposes specific legislative amendments to LRU-547, specifically creating a new Article 17[1]. The article concludes that a codified RTBF, balanced by robust public interest safeguards, is essential for protecting the digital dignity of citizens and fostering international trust in Uzbekistan's digital ecosystem.

Keywords

Right to Be Forgotten, Uzbekistan Personal Data Law, LRU-547, GDPR, Data Privacy, Digital Rights, Google Spain Case, De-indexing.

Introduction

The advent of the information age has fundamentally altered the nature of human memory. Historically, forgetting was the default human condition, and remembering required effort. In the digital era, this dynamic has been inverted: digital memory is practically infinite and permanent by default, while forgetting requires significant technical and legal intervention. This shift has given rise to the "Right to Be Forgotten" (RTBF)—the legal concept that allows individuals to request the removal of personal information from the internet when it is no longer necessary or relevant.

For the Republic of Uzbekistan, the management of personal data has become a priority as the state pursues aggressive digital transformation. The adoption of the Law of the Republic of Uzbekistan No. LRU-547 "On Personal Data" on July 2, 2019, marked a watershed moment, establishing a regulatory perimeter for data processing (Law of the Republic of Uzbekistan,

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2019). However, as the nation integrates deeper into the global digital economy, the limitations of LRU-547 are becoming apparent. Specifically, the law addresses the relationship between a data subject and a primary data operator (e.g., an employer or a bank) but fails to adequately regulate the secondary processing of data by information intermediaries such as search engines.

The absence of an explicit RTBF in Uzbekistan creates a significant protection gap. Citizens who have successfully rehabilitated their reputations in the physical world - whether after paying debts, serving criminal sentences, or resolving civil disputes - find themselves tethered to their pasts in the virtual world. This article argues that the introduction of the RTBF is not merely a technical update but a necessary evolution of human rights protection in Uzbekistan. The study examines the genesis of the RTBF through the lens of the EU's *Google Spain* case to understand the global standard, analyzes the current Uzbek legal framework to pinpoint specific lacunae, and presents a concrete legislative proposal to amend LRU-547.

Discussion

The Genesis of the Right: *Google Spain* and the GDPR

To understand why Uzbekistan requires this legal innovation, one must look to its origins. The Right to Be Forgotten did not emerge from a legislative vacuum but was crystallized through the landmark ruling of the Court of Justice of the European Union (CJEU) in *Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González* (2014).

In 1998, a Spanish newspaper, *La Vanguardia*, published two announcements regarding a real estate auction connected to attachment proceedings for social security debts owed by Mario Costeja González. By 2010, the debts had been fully resolved, yet a Google search of his name continued to prominently display links to the 1998 announcements. Costeja González argued that the proceedings were no longer relevant and that the continued availability of this data infringed upon his privacy.

The CJEU's ruling established two revolutionary legal principles. First, the Court held that search engines are not merely neutral conduits of information. By indexing, storing, and organizing data, they engage in "processing" of personal data and are therefore "controllers" subject to data protection laws. Second, the Court ruled that individuals have the right to request that search engines remove links to web pages containing personal data if that information is "inadequate, irrelevant or no longer relevant, or excessive in relation to the purposes for which they were processed."

This judicial doctrine was subsequently codified in Article 17 of the General Data Protection Regulation (GDPR), which came into force in 2018. Article 17 broadened the scope, allowing for erasure where consent is withdrawn, or data is unlawfully processed. Crucially, however, the GDPR included Article 17(3), which refuses the right when processing is necessary for "exercising the right of freedom of expression and information" (European Parliament and Council, 2016). This creates a mandatory balancing test, ensuring that the right to privacy does not inadvertently create a mechanism for censorship—a nuance critical for any potential Uzbek adaptation.

Analysis of the Uzbek Legal Framework (LRU-547)

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The current Uzbek legislation, Law No. LRU-547 "On Personal Data," follows a traditional data protection model similar to the EU's pre-GDPR directive (Directive 95/46/EC). While it provides a solid foundation, it lacks the specific instruments required to enforce digital oblivion.

Existing mechanisms are limited. Article 30 (Rights of the Subject) grants the subject the right to demand the "destruction" of their data if it is incomplete, outdated, inaccurate, or illegally obtained. Similarly, Article 17 (Destruction of Data) mandates that operators must destroy data when the purpose of processing is achieved or when the storage period expires. However, the fundamental weakness in LRU-547 regarding the RTBF is the definition of "Operator." In practice, Uzbek law treats the entity that *originally collects* the data (e.g., a news site or government agency) as the primary operator. It does not explicitly impose a duty on *search engines* (which generally do not have a physical presence or server localization in Uzbekistan for their core indexing functions) to de-index links to third-party content.

Furthermore, LRU-547 treats data destruction as a binary physical act (wiping a hard drive). It does not recognize the concept of "de-referencing"—where the data remains on the source site (preserving historical integrity) but is removed from search results (preserving individual privacy). Without this distinction, a citizen has only two extreme options: tolerate the privacy violation or demand the total erasure of the source record, which may damage the historical archive.

Rationale for Introduction in Uzbekistan

Three primary arguments support the introduction of this right. First is constitutional alignment and dignity. The Constitution of the Republic of Uzbekistan (as amended in 2023) places a renewed emphasis on human rights. Article 31 guarantees the right to privacy and protection of honor and dignity. In the digital age, "dignity" includes the ability to define oneself by one's current actions rather than past mistakes. Culturally, Uzbek society places high value on reputation (*obru*). The permanence of digital stains - such as an arrest record for a crime one was acquitted of, or a youthful indiscretion—can have disproportionate effects in a close-knit society, affecting marriage prospects, employment, and social standing. The RTBF serves as a digital rehabilitation mechanism, aligning legal protections with cultural values of forgiveness and redemption.

Second is economic modernization and "Digital Uzbekistan." Uzbekistan is actively courting international IT companies and foreign direct investment (FDI) through initiatives like IT Park. Global tech giants operate under strict compliance frameworks. By harmonizing LRU-547 with the GDPR (the global gold standard), Uzbekistan signals that it is a mature jurisdiction with predictable rules. This reduces compliance friction for international investors who are already set up to handle GDPR-style requests. Furthermore, as Uzbekistan seeks deeper integration with global markets (including WTO accession), data adequacy becomes a trade asset. A legal framework that lacks RTBF is increasingly viewed as "inadequate" by European and Western trade partners, potentially hindering cross-border data flows.

Third is security and data hygiene. From a cybersecurity perspective, the retention of indefinite data is a liability. "Dark data"—information that is collected, processed, and then forgotten but not deleted—is a prime target for data breaches. By empowering citizens to request the deletion

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of old data, the RTBF incentivizes companies to practice "data minimization," reducing the overall attack surface of the national digital infrastructure.

Challenges and Counter-Arguments

The most potent argument against the RTBF in Uzbekistan is the risk of it being weaponized to scrub public records—a concern for Freedom of Information. If a corrupt official can use the law to remove news articles about their malfeasance, the law becomes a tool for censorship rather than privacy. This risk is mitigated by drafting the law with a strict "Public Interest Exemption." The law must explicitly state that data regarding the professional conduct of public officials, criminal convictions (within a statutory period), and matters of public safety cannot be erased. The burden of proof must lie with the official to show that the information is false or wholly irrelevant, not just embarrassing.

There are also jurisdictional and technical implementation challenges. Uzbekistan faces the "territoriality" problem. If an Uzbek court orders Google to de-index a link, will Google apply this globally, or only on google.uz? The CJEU itself has struggled with this, generally limiting orders to EU domains. It is likely that removal would only be effective within the Uzbek jurisdiction (IP addresses within Uzbekistan). While imperfect, this covers the vast majority of local searches (employers, neighbors, family), thereby solving the immediate social problem even if the data remains theoretically accessible via VPN from abroad.

Proposed Legislative Amendments

To operationalize the Right to Be Forgotten, the following amendments are proposed for the Law of the Republic of Uzbekistan "On Personal Data" (LRU-547). This proposal suggests inserting a new Article 17^1 specifically dedicated to the Right to be Forgotten, distinguishing it from the general data destruction provisions in other articles.

Draft Text:

Article 17^1. The Right to be Forgotten (De-indexing of Personal Data)

1. The subject of personal data has the right to obtain from the operator of a search system (search engine) the termination of the issuance of links (de-indexing) allowing access to information about the subject, published on the Internet, if such information meets one of the following criteria: a) The personal data is no longer necessary in relation to the purposes for which it was collected or otherwise processed; b) The subject withdraws consent on which the processing is based, and there is no other legal ground for the processing; c) The personal data has been unlawfully processed; d) The personal data must be erased for compliance with a legal obligation in the legislation of the Republic of Uzbekistan.

2. The operator of a search system is obliged to satisfy the requirement of the subject specified in Part 1 of this Article within ten working days, unless the processing of such information is necessary for: a) Exercising the right to freedom of speech and mass information; b) Performance of functions of state bodies related to national security, combating crime, and preventing corruption; c) Archiving purposes in the public interest, scientific or historical research purposes, or statistical purposes in accordance with established legislation.

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3. In the event of a refusal by the operator to de-index the information, the subject has the right to appeal to the authorized state body or the court. The burden of proof regarding the relevance of the information lies with the operator.

This phrasing deliberately distinguishes between the "destruction" of source data and the "termination of issuance of links" (de-indexing). This ensures that while a newspaper archive remains intact (preserving history), the casual search capability is restricted for irrelevant private data. The "Public Interest" exception in Clause 2 is vital to prevent the erasure of politically or socially significant information.

Conclusion

The integration of the Right to Be Forgotten into the Law of the Republic of Uzbekistan "On Personal Data" represents a necessary convergence of technological reality and human rights protection. LRU-547, in its current form, provides a static shield for data privacy, whereas the digital age demands a dynamic one.

The precedents set by the *Google Spain* case and the GDPR demonstrate that it is possible to balance the right to privacy with the freedom of information. For Uzbekistan, the adoption of these amendments offers dual benefits: it empowers citizens to manage their digital reputations, aiding in social reintegration and dignity, and it harmonizes the national legal framework with international standards, boosting investor confidence.

However, the implementation of this right must be approached with caution. It requires a robust judicial or administrative oversight mechanism to ensure it does not morph into a tool for sanitizing the history of public figures. By adopting the proposed amendments, specifically the introduction of Article 17(1), Uzbekistan can assert its digital sovereignty and commit to a future where technology serves the citizen, rather than the citizen being a permanent captive of the technology.

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