

Freedom of expression and right to be forgotten



How best can the tension between freedom of expression and the right to be forgotten be resolved?

Thesis statement

The right to be forgotten is one of the important human rights to protect individuals' privacy. It has been assumed that the right to be forgotten (RTBF) breaches the freedom of expression and that it justifies censorship. However, the tension between the RTBF and freedom of expression could be resolved by raising individuals' awareness and understanding of this right and its role in promoting individuals' personal information and their freedom on the Internet.

Justification

This paper considers how the tension between freedom of speech and the RTBF can be effectively resolved due to the growing international concern recognised as pertaining to the increasing conflict between 'informational privacy' and the protection of online communication in the European Union (EU) due to the European Court of Justice's (ECJ's) decision in Case C-131/12 *Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos, Mario Costeja González* [2014] All ER (EC) 717. This is because the achievement of informational privacy is meant to be weighed against the recognition of freedom of expression as a right for individuals to have been identified under the EU Charter of Fundamental Rights 2000 along with the European Convention on Human Rights 1950. Therefore, the key question to be resolved in this instance through the completion of this paper is: what can be done with a view to properly balancing the achievement of informational

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privacy with the recognition of the freedom of expression in the EU moving forward as a result of the ECJ's decision in *Costeja Case*?

Literature Review

When it comes to considering the literature to have arisen in this area, there has long been a significant amount of controversy regarding the practicality involved recognising a right to be forgotten as a human right internationally regarding access to information in view of current rulings' vagueness for the purpose of looking to implement this kind of right (McNealy, 2012). The reason for this is that there has been some significant uneasiness about the effect of the recognition of the right to be forgotten upon freedom of expression as a right (Craig and de Búrca, 2015). In addition, the same is also arguably true of the way in which the right to be interacts with the right to privacy. In order to discuss this problem, the RTBF must be defined. McNealy (2012) and Koops (2012) are agreed that the RTBF means ' the right to have information deleted after a certain time, the right to have a " clean slate," and the right to be connected only to present information.'