

## Original Paper

# Legislative Obstacles to the Right to Be Forgotten in China's Network Environment

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### Abstract

*In recent years, the rapid development of network technology in China has changed our lives and at the same time triggered new challenges to our right to information. Since ancient times, human beings have been trying to challenge to overcome forgetting, and the Internet has changed the law of people's memory. The right to be forgotten has come into people's attention since the "Gonzalez v. Google Inc. and Pioneer Newspaper" in the European Union in 2014, which triggered discussions in the academic community, and then the first case of the right to be forgotten in China, "Ren Jiayu v. Baidu", has pushed the localization of the study of the protection of personal information and the right to be forgotten to a new level in our country. The case of Ren Jiayu v. Baidu, the first case of the right to be forgotten in China, also pushed the protection of personal information and the localization of the right to be forgotten to a climax. However, the right to be forgotten in China is facing multi-level legislative difficulties. In this paper, we will discuss it once and for all.*

### Keywords

*Right to be forgotten, localization, legislative barriers*

## 1. Summary of the Right to Be Forgotten

### 1.1 The Origin of the Right to Be Forgotten

Human beings are social creatures, connected by a network of human relationships that are inextricably linked. The right to be forgotten was born in the context of the Internet era, and has developed over a long period of time from its inception to its establishment, and did not happen overnight. In France, the "right to forget" is regarded as the predecessor of the right to be forgotten, which refers to the right of criminals to conceal their incarceration after committing a crime and record the facts of the crime, so as to help criminals reintegrate into the normal social life after being released from imprisonment, and so the European Union countries realized a breakthrough of the right to be forgotten, and Directive

95/46/EC was enacted in 1995. Directive 95/46/EC was promulgated in 1995, although the directive did not specifically elaborate on the concept of the right to be forgotten, but clearly pointed out the partial application of the right to be forgotten, and then with the development of the economy and the needs of the masses, the EU amended Article 17 of the proposal in 2016 to formally establish the right to be forgotten in the national legislation of the EU (Xu, 2024, pp. 45-50, p. 56).

And in recent years, network information development by leaps and bounds, we enjoy the development of the network industry to bring us convenience and speed at the same time, we will also use the network platform to leave footprints, and silently bear the adverse consequences it brings us, the network platform has changed the scope of sharing and dissemination of information, affecting our daily life style. Before the popularization of the Internet, it was human nature to forget, and with the passage of time, most information would gradually fade away. However, in such a transparent and gigantic “information prison” as the Internet, remembering becomes the norm, while forgetting becomes the exception. Against this backdrop, our control and ownership of personal information, such as shopping records, transportation records, and other social information, is gradually being eroded, and all traces of information are retained unscreened and at risk of leakage. This information is collected and stored by information thieves to gain profit. Therefore, forgetting is necessary, since we have obtained the right to leave information, then corresponding we should also obtain the right to choose to forget, the network information to breed the right to be forgotten, the right to be forgotten to help us get rid of once, to protect personal rights, the establishment of the right to be forgotten when the network information age is a product of necessity (Moreno, 2023, pp. 313-331).

## *1.2 The Right of the Right to Be Forgotten*

### *1.2.1 Theory of Privacy*

Shao stressed that the right to be forgotten belongs to privacy, That the right to be forgotten is an extension and supplement to the right to privacy, Foreign scholar Napoleon Xanthoulis agrees; Tao Qian said that the right to privacy includes the right to be forgotten, Content is all enjoying the control of personal information and all, The right not to be disturbed by others; Zhang said the right to privacy should be equal to the right to be forgotten, The right to be forgotten is the compound right of the right to forget; Zhang Xinlu believes that the two connotations are obviously different in, It is inappropriate to attribute the right to privacy to be forgotten; Zhou Lina concluded through her research, Network information is constantly being harassed, Make the right to be forgotten in strengthening the protection of information, Provides a good solution. From the research results of many scholars, we analyze, can be found that in the exercise of purpose, be forgotten is to wrong outdated information to privacy, dilute the influence on normal life, the right to privacy in the purpose of protecting information from the public know similar, but in other ways, has obvious differences.

The right to be forgotten is indeed closely related to the right to privacy, and both emphasize that the individual has complete control and ownership of personal information. However, the direction scope of the right to be forgotten is not fully covered by the right to privacy.

In terms of right object, the right to privacy emphasizes the peace of private life and only protects the information not disclosed to the public. If the right person makes the personal information through legal channels independently, on the contrary, the right to privacy will lose its protection effect.

The subject of rights is different, and the subject of the right to be forgotten is a natural person, but only limited to the natural person related to its information. The subject of the right to forget is also a natural person, and the natural person has no special requirements.

In terms of the efficiency of rights, the right of privacy tends to be a passive defense mechanism after the event. Only when specific and clear infringement results appear, such as illegal use and illegal publication, can the subject of rights claim the right relief. The right to be forgotten is the active relief and protection mechanism in advance, not on the actual infringement results.

The two information is released in different ways. The infringement of privacy is caused by the violation of the information control and ownership of the information subject, and the illegal use of the information without the consent of the information subject. The information release of the forgotten right is legal and released by the information subject itself, but the information becomes inaccurate and irrelevant, so as to avoid the right to correct and delete the normal life (Yun, Chuan, Hongyan et al., 2023, pp. 829-850).

#### 1.2.2 Right to Personal Information

Generally believed, personal information right is a kind of positive initiative rights, is a kind of information subject control of their information, the value is the core protection of information subject dignity and respect the autonomy of personal information, specific meaning for the information subject to control information and control the information, when the information subject found data thieves illegal collection and publish their information, enjoy the right to delete and correct information subject to personal information enjoy absolute exclusive dominance, unconditionally exclude others to their information. Therefore, as long as there is an infringement, there is no need to wait for the specific results, you can exercise the right to protect personal information. In a word, it enjoys the freedom to control personal information. In this concept, there is a certain connection between the right to be forgotten and the right to personal information. The emergence of the right to be forgotten is to retain private information, which is a remedy for the excessive abuse and unreasonable preservation of information caused by the wide application of network technology.

However, Yang Lixin and Han Xu believe that the right to personal information contains the right to be forgotten, and the right to be forgotten mainly adopts correction, deletion and concealment; while the right to personal information has the same or more exercise methods.

In the object of protection, the right to personal information also contains the right to be forgotten. The right to be forgotten is protected by outdated, inaccurate and irrelevant information, while the object of personal information right protection is wider, including the protection object of the right to be forgotten. To some extent, the latter can be regarded as an extension of the former. But Mei Xiaying

believes that the core of the right to be forgotten is not entirely the content of the personal information protection law.

In terms of right attributes, both are active rights. After meeting the exercise conditions, both have the right to decide how to exercise their rights independently. In terms of relief, they are similar relief rights in advance, which do not need to wait for the emergence of harmful results, but only specific acts. The information subject believes that the disclosed information will infringe on their rights and interests, no matter whether it will cause infringement or not, it can exercise relief means.

### 1.2.3 The Right of Personality Theory

Scholar Duan Weili pointed out that the right to be forgotten belongs to one of the new rights of personality. Most scholars who agree with this view generally believe that the right of personality is the legal protection given by the society to self-identified people, and the right to be forgotten involves a number of personality interests. Therefore, the number of forgotten power is the right of personality. The theory is divided into two schools, divided into general personality rights and specific personality rights.

With Mr. Liao Lei as the representative of the general personality right said. The general personality right, as a cover clause, contains multiple abstract concepts, and its protection of interests is also abstract. However, the content concept of the right to be forgotten is indeed relatively specific.

Secondly, for the specific personality right, the specific personality right is derived from the basis of the general personality right, which includes the specific right of portrait, the right to name and the right to life. Most scholars who support this view believe that the information content protected by the right to be forgotten is attached to a specific personality right, and may be attached to the right of privacy, or the right of reputation. Therefore, the right to be forgotten is a personality right balanced with multiple personality rights. In his research, Man Hongjie pointed out that the right to be forgotten belongs to a specific kind of personality right, and the right to be forgotten needs the right to freedom of speech and the public's right to know to balance the interests.

From the current academic research, there are many theories about the legal nature of the right to be forgotten. But the author thinks that the right to be forgotten is a specific personality right.

First of all, the author classifies the right to be forgotten as a personality right because of the following reasons: First, from the analysis of the subject of rights, the subject of personality right is limited to protecting the rights and interests of natural persons. The right to be forgotten develops with the development of Internet technology. In this context, special attention is paid to the protection of human dignity, and such subjects themselves are natural persons with legal control of their own information, excluding legal persons and illegal organizations.

Second, in terms of the object of rights, the content of the right to be forgotten also roughly overlaps with the right of personality. The right to be forgotten protects the personal interests and dignity behind personal information.

Third, in the content level of rights, they also have a certain degree of similarity. The right to be forgotten refers to the right of the subject to own the information and require the information controller to delete the information; the content of personality right has the right to ask others to act or act, and the subject has the obligation to act and act, so as to protect its own interests.

Secondly, the author thinks that the right to be forgotten is a specific right of personality, because of the following reasons:

First, the information protected by the right to be forgotten contains specific interests such as portrait, name and privacy.

Secondly, the concept, content, identification and tort relief mechanism of specific personality rights in the civil law have special protection provisions, which is very effective in protecting the specific personality interests of the information subject, and also provides an exact legal source for the protection of the right to be forgotten.

Thirdly, if the right to be forgotten is determined as a specific personality right, the content and system of the personality right can be improved accordingly. In the Internet era, the free and high circulation of information inevitably lead to the abuse of information and the infringement of people's information, and the right to be forgotten is established as the specific right of personality.

## **2. Necessity and Feasibility of the Application of the Right to Be Forgotten**

### *2.1 The Need to Localize the Right to Be Forgotten*

Since entering the 21st century, China's network industry has developed rapidly, the personal information collected by many types of payment methods, the full popularity of short video applications, etc., people leave more and more footprints on the network, the information subject of the information rights are subjected to a very serious test, the introduction of the right to be forgotten is in line with the reality of our country's need to be access to information has infiltrated into every aspect of our lives, so China should consider the right to be forgotten into our legal system. Therefore, China should consider incorporating the right to be forgotten into our legal system.

First of all, in the Internet era, all platforms are collecting personal information, personal information leakage is serious, and the right to be forgotten can change the status quo of information leakage to a certain extent. With the further development and improvement of the network industry, personal information began to be stored in the network platform in the form of digitalization, online shopping records, browsing videos, face recognition and other information constitutes a unique symbol about the individual, and these data have become the object of deep excavation and analysis, through which the gender, age, preferences and other information of the subject of the information can be accurately identified, and accurate delivery can be realized. The analyzed data has brought huge commercial benefits, but also many serious security risks, allowing more and more people with the intention to obtain illegal benefits through these data. Personal information left on the Internet can be easily retrieved, and when searched by some fraudulent groups, it can also cause greater economic losses to

the people. Moreover, when there are some negative events, the subject of the information will be likely to suffer from the attack of “human flesh search”, which will bring the subject of the information both physical and psychological blows. However, through the establishment of the right to be forgotten, can to a certain extent compensate for the infringement of the subject of information. The subject of information can request the deletion of links and content related to him/her as soon as possible in order to stop the further expansion of the infringement and to stop the damage in a timely manner. Thus, the establishment of the right to be forgotten can effectively improve the current situation of information leakage.

Secondly, the existing laws and regulations in China are insufficient for the protection of personal information. At present, China has a number of laws and regulations related to the protection of personal information, although the number is large, but the provisions are fragmented and fragmented system, operability is not strong, in the application of the many difficulties faced. For the right to be forgotten legislation, China’s academic circles have been concerned. For example, Article 1037(2) of the People’s Republic of China stipulates that if a natural person finds that an information processor handles his/her personal information in violation of laws and regulations or the agreement between the two parties, he/she shall have the right to request that the information processor delete the information; these provisions are of a guiding nature and in principle, and are not sufficiently specific and detailed in their application, and are not sufficient to effectively and comprehensively realize the protection of the right to be forgotten.

Finally, for the subject of information, his or her network footprints will side by side passively outline his or her own character image, but it is not completely accurate, and once there is a wrong suspicion, it will negatively affect his or her own image as well as his or her personal dignity. In the commercial field, due to the huge value potential of information, major enterprises have become more and more active in collecting information. The rapid development of network technology, the blurring of the boundaries between personal and non-personal information, and the simplicity of information processing have led to the collection and processing of a large amount of data, resulting in the overexposure and inappropriate use of many pieces of information, which can lead to serious consequences (Wang, 2023, pp. 162-172).

## *2.2 Feasibility of Localizing the Right to Be Forgotten*

Although China has not formally established the right to be forgotten, but there are relevant similar legal norms, with a certain legislative basis, and there have been relevant rights and interests in China have been infringed on the judicial cases, in summary, China for the introduction of the right to be forgotten has a sufficient basis for the establishment of the right to be forgotten is feasible.

With the advent of the era of big data, although China is relatively late compared to the development of Western countries, but the continuous updating of Internet technology, as well as the attention of citizens to the issue of personal information security, in the protection of personal information has shown a trend of later to catch up. As for the right to be forgotten, China has not yet stipulated it as a

separate type of right, but it can be seen from the existing legal norms, there are still some legal provisions similar to the right to be forgotten. In order to enhance the safe development of the Internet economy and to reasonably regulate citizens' online information, Article 41 of China's Cybersecurity Law, introduced in 2017, stipulates that network operators shall obtain the consent of the collected person when processing the collected person's information. Article 42 stipulates that network operators shall not arbitrarily leak, tamper with, or destroy personal information, and shall take necessary technical measures to safeguard information security. Article 43 stipulates that when an individual discovers that a network operator has collected and used personal information in violation of laws, administrative regulations and relevant agreements, the individual has the right to request the network operator to delete the personal information, and when the individual discovers that the personal information is incorrect, the individual has the right to request the network operator to delete and correct the information. Although these provisions reflect the exploration of the right to be forgotten, they are not the right to be forgotten in the true sense of the word, and the scope of application of the provisions is relatively narrow. There is also legal exploration of the right to be forgotten in the Civil Code. Article 1037 of the Civil Code stipulates that a natural person has the right to request an information processor to delete his/her personal information in a timely manner when he/she discovers that the information processor has handled his/her personal information in violation of the law or the agreement between the two parties. Meanwhile, Article 1195 of the Tort Liability Section of the Civil Code stipulates that when a right holder finds that an Internet user has committed an infringing act, he/she has the right to notify the Internet service provider to take measures such as deleting, blocking and disconnecting the link. At the same time, the network service provider has the obligation to notify the relevant network users and take the necessary measures, and if it fails to take the necessary measures, resulting in the expansion of the loss, it shall be jointly and severally liable with the other network users for the expanded portion of the loss. From the above provisions, it can be found that Article 1195 of the Civil Code is similar to the right to be forgotten, both of which take place in the Internet, and can realize part of the function of the right to be forgotten. But the difference is that the article only for infringement of information, and here the right to delete and the right to be forgotten has the essential difference, the article is essentially the regulation of infringement, and for some unnecessary, outdated information processing law and regulations and the right to be forgotten in the information often does not have the damage behavior and the consequences of the damage occurs, but on the whole, the civil code article 1195 does not have the right to be forgotten of direct protection. However, in general, although Article 1195 of the Civil Code does not provide direct protection for the right to be forgotten, it has played a positive role in maintaining network order and safeguarding the information security of information subjects. As China's legal reform becomes more and more in-depth, China's information security protection legislation is also gradually maturing. The Personal Information Protection Law of the People's Republic of China was formally passed on August 20, 2021,

providing for the collection, deletion, and use of personal information in the form of specialized legislation.

The first paragraph of Article 47 of the Personal Information Protection Law stipulates the specific circumstances in which the right to erasure applies, allowing the subject of information the right to demand that the processor of the information fulfill the obligation to erase under specific circumstances. Although the right to erasure here is a further exploration of the right to be forgotten, compared to the right to be forgotten, the right to erasure of personal information in this case is only for erasure in the case of violation of law and fulfillment of the purpose of the processing, and does not provide for erasure of outdated or inaccurate information, and the subjects covered by the right to erasure are limited to the subject of the information and the person in control of the information. Personal information published by a third party through the dissemination of a link cannot be protected under the existing framework of the right to erasure. As a result, it appears that the protection of human dignity is insufficient, and cannot make the subject of information maintain an objective and true image in the Internet space. At present, China's laws do not clearly stipulate the concept of the right to be forgotten, the exploration of which is distributed in a variety of laws and regulations (Long, 2018, pp. 69-80).

### **3. The Legislative Dilemma of the Right to Be Forgotten and Ways to Resolve It**

#### *3.1 The Contradiction between the Right to Freedom of Expression and the Right to Be Forgotten*

The right to freedom of expression is a fundamental right granted to citizens by the Constitution to freely express their opinions and views by speaking and listening to others of their own free will. The guarantee of this right strengthens the development and integration of cultural pluralism and promotes the democratic development and progress of society.

The Constitution of China clearly stipulates that citizens enjoy the right to freedom of expression in the "Fundamental Rights and Duties of Citizens". The right to be forgotten, also known as the "right to erasure", was introduced to protect the human dignity of the subject of information and the right to control and protect information. The right to be forgotten stipulates that the subject of information has the right to delete information that is irrelevant, inaccurate or outdated.

The Internet space is somewhat hidden, which to some extent strengthens the degree of citizens' freedom of expression on the Internet, while the right to be forgotten emphasizes the deletion of information that the subject of information wants to delete, so the two are in relative opposition to each other. When an information subject makes a request for deletion to the information controller, the information controller usually uses the right to freedom of expression as a defense. Unlike the European Union, the United States focuses more on freedom of speech, so American scholars are more opposed to the right to be forgotten, while domestic scholar Liang Chenxi is concerned that the right to be forgotten will adversely affect freedom of speech, freedom of the press, and so on.

From the perspective of rights norms, the right to freedom of expression is a fundamental right protected by the Constitution, while the right to be forgotten is regarded as a personality right in the



academic circles, which also belongs to the fundamental rights protected by the Constitution, and both of them are constrained by each other to a certain extent, but at the same time equally protected by the Constitution. Therefore, when the right to be forgotten and the right to freedom of expression are in conflict, they should be analyzed in the following aspects:

First, it should be divided according to the nature of the information. If the information belongs to the private information of the information subject, and the behavior of the information controller such as controlling and processing is itself prohibited by law, then the information protection interests of the right to be forgotten should be prioritized over the public's right to freedom of expression. As far as the author is concerned, when we are dealing with the personality interests of individuals, the information protection interests of the information subject should not be swayed by the right to freedom of expression.

Secondly, the identity of the subject of information is different, some subjects of information are ordinary citizens, but some subjects of information are public figures with special identity and status, this kind of special subjects because of their special characteristics will lead to the exercise of the right to be forgotten have restrictions, they will be subject to freedom of expression and public opinion supervision constraints, requiring this kind of special subjects to bear certain public opinion risk, with certain tolerance obligations. Therefore, the author believes that we should categorize the information subjects from their identity.

Finally, we should uphold the principles of legality, openness and transparency in dealing with the priority of the right to be forgotten and the right to freedom of expression. In the context of today's era focusing on the protection of personal privacy, information controllers will face the controversy of overly strict speech regulation when they change or delete information according to the request made by the subject of the information, but for the information controllers, they are only executing the request made by the subject of the information, which is the obligation of the information controllers, not the right. Information controllers will ignore the public's freedom of speech to restrict the public's free expression in order to avoid getting themselves into a dispute over the right to be forgotten. When dealing with the relationship between the two, we should consider whether the processing of information is in accordance with the principle, whether the subject of information requests to exercise the right to be forgotten out of malice, and whether the controller of information is lawful and reasonable in processing the information. In summary, we should consider a number of factors in order to properly deal with the priority between the two (Silva & Nazarovets, 2023, pp. 651-666).

### *3.2 Conflict between the Public's Right to Know and the Right to Be Forgotten*

The concept of the public's right to information refers to the freedom and right of the general public to obtain information and to know the content of that information, and is one of the important rights of citizens. Depending on the means of access to information, it can be categorized into official and unofficial information. Third-party dissemination other than active dissemination by the information

subject are all unofficial information. In the Internet era, obtaining information from online platforms is by far the most common way, so online platforms store a large amount of information.

The exercise of the right to be forgotten by the information subject will lead to the deletion and tampering of the information in the platform, relegating the information that has already been made public to the private sphere and reducing the public's access to and circulation of information, that is to say, the exercise of the right to be forgotten by the information subject restricts the free dissemination of information, which creates a kind of artificial manipulation of the access to and circulation of information. This kind of behavior is contrary to the concept of the public's right to know and damages the public's right to know. It can be seen that the right to be forgotten and the public's right to know are contradictory in the legal provisions, and there is also a conflict in judicial decisions. Scholar Zheng Zhifeng is even more worried that the right to be forgotten will become a weapon to erase a person's bad black history.

### *3.3 Gaming the Solution—The Principle of Proportionality*

The principle of proportionality refers to a restriction on the freedom of other interests within a reasonable and proportionate range in the exercise of strong rights. The principle emphasizes the regulation of the interests of strong rights, as a way to balance the interests of other weak rights, reflecting the balance and moderation, the use of this principle can effectively avoid the imbalance between the two sides due to the dominant position of the strong rights.

With the rapid development of Internet technology, emerging rights continue to increase, but the emerging rights and the traditional rights of the border fuzzy, unclear concept, resulting in the exercise of rights in the process of friction, the essence of the reason is not to deal with the balance of interests between the rights. The European Union has applied the principle of proportionality to solve the problem of conflicts and contradictions of the right to be forgotten, which provides a reference for countries around the world.

The right to be forgotten, as an emerging specific personality right, aims to protect the personal information of the information subject, but the value of its protection should not be higher than the value of the public's right to know and the right to freedom of expression as a matter of course, and the protection of personal information does not necessarily have to be prioritized over the corporate interests of the network platform operators. Therefore, the principle of proportionality is applied to harmonize the conflict between the right to be forgotten and other rights.

In the current study, when applying the principle of proportionality, there is a difference in the order of priority. First, the purpose justification should be analyzed first. In our country's civil code has specially set up the personality right, which reflects the importance of our country's human dignity and the protection of the important position, and the establishment of the right to be forgotten in order to better protect the subject of the information of the human dignity, once to avoid the inaccurate, outdated information on the subject of the information of the impact of the present life, so when the right to be forgotten and other rights conflict, in order to protect the dignity of the human being, the

right to be forgotten is rightfully considered to be the right to be forgotten, the right to be forgotten is the right to be forgotten. is rightfully considered to be justified. After that, we analyze the principle of the right to be forgotten, which is based on whether or not the action meets the conditions conducive to the realization of the purpose. In order to achieve the purpose of “forgetting”, the subject of information exercises the right to be forgotten to request the controller of the information to delete unfavorable information about him or her, and in this way, realizes the protection of human dignity of personal information. Finally, the principle of necessity of means is analyzed, i.e., the principle of least infringement, which means that in the face of a variety of means of exercising the right to be forgotten, a means of choosing the one that is least detrimental to the interests. The most favorable means of exercising the right to be forgotten is deletion, at this time to measure the deletion is the least damaging means, need to be analyzed through specific cases.

In conclusion, objectively, the friction between the right to be forgotten and other rights is inevitable, and the friction will become an obstacle to the exercise of the right to be forgotten, but it can not become an obstacle to the establishment of the right to be forgotten, and when the friction between the right to be forgotten and other rights arises, the principle of proportionality should be used to establish the practical standard and the exercise boundary of the principle of proportionality based on the circumstances of the specific case.

#### *3.4 Impacting the Growth of the Network Industry*

Since the 21st century, China's information network technology has developed significantly, and China's economy has been riding on the express train of network technology development, which has brought unprecedented opportunities to our country, and at the same time, it has also become one of the key factors for our country's ability to overtake in the international arena. In recent years, the state will network information technology development as an important national strategy to focus on planning, therefore, China's information network technology can be rapid development, to a certain extent, also promotes the development and improvement of the law, and the law also reacts to information technology. The development of information network technology extends the scope of application of law and expands the field of legal research, but it may also hinder the development of information network technology. The information industry collects all kinds of information through processing to enhance interests. If the right to be forgotten, once established, enhances the information subject's right to control personal information, it will have a negative effect on the information processing of the information industry.

The information network platform, which brings together a lot of information, contains great value. In the current context, if the right to be forgotten is established, it will lead to many information subjects requesting the deletion of their corresponding information, and the deletion of too much information will lead to the optimization of the algorithm performance of the relevant engine companies and data exploration and mining problems, which will cause concern, and for the sake of their own company's interests, they will not be willing to provide too much of the collected data to the public for reference,

and the data will lose its value. At the same time, each network platform also needs to spend a lot of human and financial costs to complete and approve the information subject's request for the right to be forgotten, which will cause the company's research and development costs to increase, inefficient, after the establishment of the right to be forgotten in Europe, Google and other companies to deal with all kinds of requests, specializing in the establishment of expert advisory groups, to approve and delete the information, which is a huge cost. Therefore, the establishment of the right to be forgotten has led to an increase in the burden of the obligation of information network platforms, and the cost is too high for individual platforms. In addition to China's Ali, Baidu, Tencent and other financially strong companies, there is no shortage of small and medium-sized enterprises, including some will have to invest a lot of human and financial resources, hindering the development of the company.

The above concerns also triggered social thinking, but the healthy development of the information industry is conducive to social development, so we need a more standardized institutional environment, the need for legal escort. In the context of network technology, the development of network technology has led to too much imbalance between the rights and obligations of information subjects and network operators, resulting in unequal processing of information between the two sides. The current international community's control over the strength of self-information calls for more protection, and calls for brand-new norms and laws to be introduced to adjust the current mode of data processing. The fact that the right to be forgotten has been established in many countries around the world shows that there is a general trend to strengthen the protection of personal information. If our country rejects the right to be forgotten due to the fear that the establishment of the right to be forgotten will have an impact on the information industry, it will hinder the development of our international business.

Therefore, for network platforms, they should independently strengthen the industry norms, enhance self-regulation, reasonably dispose of the rights and obligations between them and the information subject, rebuild the possibility of expectation of the information subject, and transform the respect for the information right of the information subject into the competitiveness of each platform to the outside world, and do not regard it as their own burden, so as to realize a win-win situation with the information subject. Therefore, at the system level, under the background of the present network technology era, referring to the legislative experience of various countries, we should try to take into account the rights and obligations of the information subject and the network platform operators.

In summary, the author believes that we should take the initiative to explore the legislative path of localization of the right to be forgotten in China. For example, by setting the information retention period, the information subject can utilize the information retention period provided by the network platform operator to set their own information retention time, which can effectively avoid the unlimited disclosure of personal information in cyberspace, and the enterprises can also use the network platform with more confidence because the information subject's right to information has been adequately protected and respected, and the network operator's pressure on the application of the right to be

forgotten can be alleviated to a certain extent. The pressure of the application of the right to be forgotten can be alleviated by this move.

#### **4. Resulting in a Squeeze on Judicial Resources**

Once the right to be forgotten is established, in the context of the present Internet era, related judicial disputes will also appear in large numbers, which will bring more pressure on the already strained judicial system in China. However, according to past experience, the birth of any law will lead to a surge of new types of judicial disputes, which will put more pressure on the judicial system. However, we should not think too much about what kind of pressure and burden the establishment of a new legal system will bring to the judicial system, but rather, we should consider how much positive effect it will have on the society, the feasibility and necessity of its construction, and consider how to make the judicial system less burdensome.

For the above views, the author believes that we can follow the example of the European Union, the establishment of the Data Protection Authority (China can be the Ministry of Industry and Information Technology under the Information and Communication Administration as), the use of a system similar to the review of our country's predecessor to neutralize the two. According to the Central Editorial Office [2015] No. 17 document, the Information and Communication Bureau in China should undertake the supervision and protection of personal information, designation of information protection system, etc., the Information and Communication Bureau can serve as a review subject after the legislation of the right to be forgotten, accept the application of the subject of the information, review the content of the application whether the application is reasonable, the network platform operator whether it is properly operated, if the subject of the information is dissatisfied with the disposition of the Information and Communication Bureau If the information subject is not satisfied with the Information and Communications Bureau's handling of the application, the information subject shall then proceed to the next step of litigation.

Specifically, the information subject should first request the information network operator to delete the relevant information and links, and if the other party does not agree, then the application will be made to the Data Protection Authority, and if it still fails, the information subject will then take the option of judicial remedies. The Data Protection Authority here can act as a front-loaded role, playing a shared review obligation and reducing the pressure on the judicial system.

#### **5. Conclusions**

According to the current development speed of China's network, the right to be forgotten of the localization of the legislation has provoked intense discussion in the academic community, with the introduction of Article 47 of the Personal Information Protection Act to a certain extent laid down the right to be forgotten of the legislation, but at the same time the right to be forgotten of the legislation in our country is faced with a number of contradictions, how to resolve these contradictions with the right

to be forgotten of the conflicts, is the direction of the research that we want to focus on in the future to provide a better platform for the protection of information in our country. It is the direction we should focus on in the future, so as to provide a better platform for the progress of information protection in China.

## Reference

- Long, Y. (2018). On the construction of the “right to be forgotten” system in the personal information protection legislation in China. *Journal of Jinan (Philosophy and Social Sciences edition)*, 40(12), 69-80.
- Moreno, Á. B. (2023). Digital Rights in Europe After the Entry Into Force of Regulations for the Protection of Personal Data: Before and After the Right to Be Forgotten. *Communication Law and Policy*, 28(4), 313-331. <https://doi.org/10.1080/10811680.2023.2271461>
- Silva, D. T. A. J., & Nazarovets, S. (2023). Can the principle of the “right to be forgotten” be applied to academic publishing? Probe from the perspective of personal rights, archival science, open science and post-publication peer review. *Learned Publishing*, 36(4), 651-666. <https://doi.org/10.1002/leap.1579>
- Wang, Y. (2023). The connotation, value and realization of the right to be forgotten in the Chinese context. *Journal of Wuhan University (Philosophy and Social Sciences edition)*, 76(05), 162-172.
- Xu, H. (2024). The realistic logic and construction path of the right to be forgotten in the era of big data credit investigation. *Proceedings of Zhongzhou University*, 41(02), 45-50, 56.
- Yun, Z., Chuan, L., Hongyan, W. et al. (2023). “A right to be forgotten”: Retrospective privacy concerns in social networking services. *Behaviour & Information Technology*, 42(7), 829-850. <https://doi.org/10.1080/0144929X.2022.2046162>