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Regulations of the Right to Be Forgotten for Minor Criminal Offenders in Indonesia's Digital Environment

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Abstract
The advancement of information technology has made personal data online difficult to erase, posing legal challenges for privacy and the enforcement of the right to be forgotten. This situation poses significant challenges for minor criminal offenders who have completed their sentences but continue to face social stigma due to persistent negative digital footprints. One emerging legal concept addressing this issue is the Right to Be Forgotten, this gives people the option to have their personal information erased if it's outdated, wrong, or acquired illegally. With a focus on juvenile offenders, this research intends to analyze how the Right to Be Forgotten is governed by Indonesian law. Using a legislative methodology that centers on Personal Data Protection Law Number 27 of 2022, the analysis concludes that, notwithstanding the official recognition of this right, its implementation with respect to minor offenders remains unclear and requires a more explicit legal framework that balances individual rights with the public interest.

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Introduction

In today's digital era, information disseminated on the internet is permanent and difficult to erase entirely. A person's digital footprint may persist even after legal proceedings or social events involving the individual have concluded. This poses a particular challenge for minor criminal offenders who have served their sentences and are attempting to reintegrate into normal life. Persistent negative information online can create lasting social stigma. This makes it hard for them to rejoin mainstream society and exercise their social rights. The Right to Be Forgotten is a new idea that tries to solve this problem. Any person or organization that may keep personal information about them has the right to be erased upon request [1].

If a person's personal information is erroneous, outdated, or no longer needed for its original purpose, they have the right to ask for its deletion under the "Right to Be Forgotten" law. An individual's right to have their personal data erased from storage or dissemination organizations is what this idea is all about. When the European Court of Justice (ECJ) ruled in May 2014 in the case of Google Spain SL v. Agencia Española de Protección de Datos and Mario Costeja González, the notion started to gain global attention. Under some circumstances, the ECJ ruled that people have the right to ask that search engines remove results mentioning their names, even if the information in question is legally accurate. This decision marked a significant milestone in the recognition of digital privacy rights and reinforced the notion that everyone has the right to control their digital footprint [2]. With the passing of Law Number 27 of 2022, regulating Personal Data Protection (PDP Law), the Right to Be Forgotten regulations in Indonesia started to acquire legal authority.

[1] Amalia, A. R., Taufik, Z. A., Apriliana, A. N. R., & Arsy, H. H. (2023). Right to be Forgotten: Perspektif Hukum HAM Internasional. Jurnal Risalah Kenotariatan, 4(2).
[2] Hutapea, S. A. (2021). Right to be forgotten sebagai bentuk rehabilitasi bagi korban pelanggaran data pribadi. Jurnal Jurisprudentia, 4(1), 1-10.

Every person has the right to ask for their personal data erased under this legislation if it's erroneous, no longer relevant, or acquired illegally, among other situations. An individual's right to manage the appearance of their personal data, particularly in the open and publicly accessible digital realm, is recognized by this clause, which serves as a basic basis. But how this right applies to criminal case data is still unexplained in the legislation.

Minor criminal offenses are legal violations that generally do not cause significant harm to the broader public. However, digital information related to such offenses can persist and spread even after legal proceedings have been completed. Individuals who have fulfilled their legal obligations may continue to face social barriers due to the ongoing exposure of such data. In a legal system that upholds the principle of justice, legal provisions should strike a balance between the dissemination of public information and the protection of individual rights for those who have completed their criminal sanctions. The mismatch between a concluded legal status and the continued social consequences in the digital realm presents a pressing issue for examination. Applying the Right to Be Forgotten to minor offenders raises complex legal questions. This right not only concerns privacy but is also closely tied to the principles of information transparency and legal openness. In practice, not all data can be erased, particularly if it originates from state documents or court records. Deleting such information may conflict with the principle of accountability within the legal system. Therefore, the scope of the Right to Be Forgotten must be carefully defined to respect public interests while ensuring that individual rights to social reintegration are not overlooked.

In Indonesian law, there are currently no specific provisions regulating the limitations or criteria for applying the Right to Be Forgotten to individuals involved in criminal offenses, including minor ones. There may be discrepancies in the application and satisfaction of the right to data deletion as a result of this legal ambiguity. Because not all data is of equal public importance, context is key when dealing with this kind of information. In several cases, information regarding minor criminal offenders continues to circulate widely in the digital space, even after legal proceedings have been concluded. For example, the case involving a minor identified as AAL in Palu accused of stealing a pair of flip-flops illustrates how public attention and media documentation can persist online, despite the court opting for a rehabilitative approach instead of imposing a prison sentence [3]. Cases like this raise questions about how personal data protection and the right to rehabilitation can be fairly applied in an era of information transparency. Balancing the right to rehabilitation with the public's right to know presents a unique challenge in the formulation of legal norms. A formal mechanism involving authorized institutions, such as the courts, may play a role in ensuring that deletion requests are made lawfully and proportionally. Based on these considerations, the author views it as essential to examine the feasibility of granting the Right to Be Forgotten to minor criminal offenders within the Indonesian legal system, as part of a broader study on the protection of personal data and the principle of legal rehabilitation.

Previous studies that have addressed similar issues to this paper include a 2022 study conducted by Arini Ferya Putri and Tantimin, entitled “Tinjauan Yuridis Tindak Pidana Pornografi dan Penerapan Prinsip Right to be Forgotten di Indonesia” [4]. The purpose of this research was to analyze how the law in Indonesia handles crimes involving pornography and to look at the situation of victims of cyberpornography in relation to the Right to Be Forgotten. Further, in 2023, researchers Faqi Rawni Arndarnijariah and Jeferson Kameo examined a comparable topic in their article named The Right To Be Forgotten Sebagai Hukum Perlindungan Data Pribadi Korban Revenge Porn [5]. The study focused on examining legal issues surrounding the Right to Be Forgotten in relation to the personal data of victims of revenge porn. However, both studies differ in their core discussion from this paper. This paper focuses on analyzing the Right to Be Forgotten as an instrument for reputation recovery for minor criminal offenders.

Problem Formulation

1. How is the Right to Be Forgotten regulated in the Indonesian legal system?
2. Can Minor Criminal Offenders Obtain the Right to Be Forgotten?

Purpose

The purpose of this study is to examine the regulation of the Right to Be Forgotten within the Indonesian legal system and to analyze whether minor criminal offenders have a legal basis to obtain such a right as part of rehabilitation efforts and reputation recovery in the digital age.

Discussion

A. Regulation of the Right to Be Forgotten in the Indonesian Legal System

The regulation of the Right to Be Forgotten within Indonesia’s legal system has emerged as a response to the growing legal need to protect individuals from the negative impacts of outdated or irrelevant digital information. This concept grants individuals the right to request the erasure of personal information that is no longer aligned with their legal or social interests. The guarantee of privacy and control over one’s personal data finds its legal foundation in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which states:

> "Every person shall have the right to protection of their personal self, family, honor, dignity, and property under their control, as well as the right to security and protection from threats or fear to do or not do something that constitutes a human right."

The existence of this norm strengthens the legitimacy of personal data protection within the constitutional dimension [6]. The specific regulation regarding the Right to Be

[3] Bidari, A. S., & SH, M. (2014). Ketidakadilan Hukum Bagi Kaum Sandal Jepit. Ratu Adil, 3(2).
[4] Putri, A. F., & Tantimin, T. (2022). Tinjauan Yuridis Tindak Pidana Pornografi dan Penerapan Prinsip Right to be Forgotten di Indonesia. Jurnal Justisia: Jurnal Ilmu Hukum, Perundang-undangan dan Pranata Sosial, 7(1), 168-187.
[5] Arndarnijariah, F. R., & Kameo, J. (2024). The Right To Be Forgotten Sebagai Hukum Perlindungan Data Pribadi Korban Revenge Porn. Jurnal Ilmu Hukum: ALETHEA, 8(1), 69-82.
[6] Hartanto, H., Noferani, R., & Ababil, M. A. (2023). Problematika Hak Untuk Dilupakan Dalam Undang-Undang Informasi Dan Transaksi Elektronik (Perspektif Ham Dan Transparansi Publik). Justitia et Pax, 39(2), 365-388.

Forgotten can be found in Article 26 paragraphs (3) and (4) of Law Number 19 of 2016 concerning the Amendment to Law Number 11 of 2008 on Electronic Information and Transactions, which stipulates the following:

> (3) "Every electronic system operator is obliged to delete electronic information and/or electronic documents under its control that are no longer relevant, upon the request of the person concerned and based on a court order;
>
> (4) Every electronic system operator is required to provide a mechanism for deleting information and/or electronic documents that are no longer relevant in accordance with the provisions of prevailing laws and regulations."

This provision indicates that the implementation of the Right to Be Forgotten cannot be carried out unilaterally without legal procedures. The deletion process must go through judicial institutions to ensure accountability and objective assessment.

Quoted from Hukumonline.com [7], the implementation of the Right to Be Forgotten in Indonesia must fulfill several requirements. Requests can only be submitted by the relevant data subject and must be filed with the local court to obtain a legal ruling. Once the ruling is issued, the electronic system operator controlling the information is obligated to delete it. Operators are also required to provide a system that allows users to formally request data deletion. This structure indicates that the protection of personal data is not only a legal obligation but also a technical responsibility of digital service providers. A comparison with practices in the European Union shows a different approach to the implementation of the Right to Be Forgotten. In European countries, information is typically removed only from search engine results and not from the original content source. Such deletion is limited in nature to maintain a balance between individual rights and freedom of information. In contrast, Indonesia's regulation mandates deletion from the original source, offering broader protection of personal data. This approach requires technological readiness and strict procedures from system operators to ensure the right can be effectively exercised.

Law Number 27 of 2022 on Personal Data Protection (hereinafter referred to as the Personal Data Protection Law) strengthens the normative aspects of the Right to Be Forgotten [8]. Article 8 of the Personal Data Protection Law stipulates that:

> "Personal Data Subjects have the right to terminate the processing, delete, and/or destroy their Personal Data in accordance with the provisions of the prevailing laws and regulations."

Article 45 of the Personal Data Protection Law stipulates that:

> "The Personal Data Controller is obliged to notify the Personal Data Subject of the deletion and/or destruction of their Personal Data."

This provision clarifies the roles and obligations of all parties in ensuring respect for the integrity of personal data. The application of the Right to Be Forgotten in Indonesia is not absolute, as there are explicit exceptions set out in the Personal Data Protection Law. Data deletion does not apply when it concerns national defense and security interests, law enforcement processes, state administration, financial sector supervision, or statistical and scientific research activities. These limitations indicate that the protection of digital privacy must still take into account broader public interests. The principle of balancing individual rights and public interest serves as an essential reference in the practical implementation and policy-making of this norm.

One of the international legal instruments that explicitly regulates the Right to Be Forgotten is the GDPR, a uniform data protection regulation applicable across all European Union member states. In an effort to bring data protection laws throughout the EU into line, the Parliament and Council of the EU passed the General Data Protection Regulation (GDPR). This regulation came into effect on May 25, 2018, replacing Directive 95/46/EC, which had previously served as the foundation for personal data protection since 1995. The provision concerning the Right to Be Forgotten is specifically set out in Article 17 of the GDPR, which states as follows:

(1) "The data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without undue delay where one of the following grounds applies:

- The personal data are no longer necessary in relation to the purposes for which they were collected or otherwise processed;
- The data subject withdraws consent on which the processing is based according to point (a) of Article 6(1), or point (a) of Article 9(2), and where there is no other legal ground for the processing;
- The data subject objects to the processing pursuant to Article 21(1) and there are no overriding legitimate grounds for the processing, or the data subject objects to the processing pursuant to Article 21(2);
- The personal data have been unlawfully processed;
- the personal data have to be erased for compliance with a legal obligation in Union or Member State law to which the controller is subject;
- The personal data have been collected in relation to the offer of information society services referred to in Article 8(1).

(2) Where the controller has made the personal data public and is obliged pursuant to paragraph 1 to erase the personal data, the controller, taking account of available technology and the cost of implementation, shall take reasonable steps, including technical measures, to inform controllers which are processing the personal data that the data subject has requested the erasure by such controllers of any links to, or copy or replication of, those personal data.

(3) Paragraphs 1 and 2 shall not apply to the extent that processing is necessary:

- For exercising the right of freedom of expression and information;
- For compliance with a legal obligation which requires

[7] Muhammad Raihan Nugraha, 2025, "Ketentuan Right to be Forgotten di Indonesia", Dikutip melalui URL: https://www.hukumonline.com/klinik/a/ketentuan-right-to-be-forgotten-di-indonesia-lt585783c080c40/.

[8] Yani, R., & Djanggih, H. (2023). Efektivitas penerapan restorative justice dalam tindak pidana ringan. Journal of Lex Philosophy (JLP), 4(2), 314-332.

processing by Union or Member State law to which the controller is subject or for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller;
- For reasons of public interest in the area of public health in accordance with points (h) and (i) of Article 9(2) as well as Article 9(3);
- For archiving purposes in the public interest, scientific or historical research purposes or statistical purposes in accordance with Article 89(1) in so far as the right referred to in paragraph 1 is likely to render impossible or seriously impair the achievement of the objectives of that processing; or
- For the establishment, exercise or defence of legal claims."

From the provisions of Article 17 of the GDPR, It is apparent that there are clear reasons for the establishment of the Right to Be Forgotten, yet it is not absolute. This privilege is subject to legislative constraints that aim to strike a balance between personal interests and the greater good, and it may only be used under certain circumstances.

B. The Feasibility of Granting the Right to Be Forgotten to Minor Criminal Offenders

Minor criminal offenses are a category of legal violations that carry relatively light criminal sanctions and are legally processed through simplified legal procedures. Within the framework of the Indonesian Criminal Procedure Code (KUHAP), minor offenses are examined through the Summary Procedure for Minor Offenses as regulated in Article 205 paragraph (1), This is applicable to instances that carry a maximum sentence of three months in jail and/or a fine of no more than IDR 7,500 [9], including cases of small defamation. Violations of any provision in the Indonesian Criminal Code, not just those in Book III (KUHP), may be considered minor crimes, but also includes *lichte misdrijven* (minor crimes) regulated in Book II of the KUHP, such as minor assault (Article 352), minor defamation (Article 315), petty theft (Article 364), minor embezzlement (Article 373), minor fraud (Article 379), minor destruction of property (Article 407), and minor concealment of stolen goods (Article 482) [10].The examination of these types of cases is conducted through a fast-track process, without a formal indictment, by a single judge, and with simplified procedures compared to regular criminal cases. This reflects the implementation of the principle of a swift, simple, and low-cost judiciary as enshrined in Article 4 paragraph (2) of the Law on Judicial Power.

Law No. 27 of 2022 on Personal Data Protection provides a legal basis for individuals to request the deletion of their data. The provision does not explicitly differentiate who may exercise this right, including whether criminal offenders are encompassed. This opens the possibility for interpreting the scope of the right to data erasure. In practice, the assessment of eligibility must consider the context of the offense, the impact of the information, and the role of such information in the public domain. Minor criminal offenders are individuals who have served their sentences for violations of law with relatively low penalties. Upon completing their sanctions, their legal status is formally concluded. However, information about their offenses often remains accessible in digital spaces such as online news platforms, search engine indexes, or social media. The high accessibility of such information can prolong social consequences that no longer reflect their current legal standing. Reputation, access to employment, and social relationships may be impaired due to the continued availability of this outdated information.

The removal of digital information can be considered a form of personal data protection for individuals who have fulfilled their legal responsibilities. Not all publicly available information serves the public interest. Much of it originates from media content rather than official documents with established legal authority. This type of information is particularly vulnerable to creating public opinion without fair context. The potential social harm caused by the exposure of such information can serve as a legitimate basis to assess the urgency of a deletion request. The application of the Right to Be Forgotten to minor criminal offenders must be guided by clear criteria and should not apply indiscriminately to all types of information. Official documents such as court decisions, investigation records, or criminal reports issued by competent authorities have archival value and must be preserved. These documents play a crucial role in ensuring transparency and accountability in the legal system. Deleting such records would contradict fundamental principles of legal openness. Therefore, careful screening of information types is essential to ensure that the right to erasure does not conflict with public interest.

Online news articles, search engine indexes, or media reviews that do not originate from official documents can be classified as non-essential information. This type of content often persists in the digital space without time limitations or updates regarding the individual's legal status. In cases involving minor criminal offenders, the nature and context of the offense do not always indicate a significant threat to public safety. Disproportionate dissemination of such information can result in additional social burdens that are not legally imposed. The digital space plays a major role in sustaining such stigma over time. An assessment of eligibility for the Right to Be Forgotten also requires scrutiny based on the principle of legal equality. Every individual has the right to personal data protection, provided no explicit legal restrictions exist. Minor offenders still hold the status of legal subjects entitled to protection. There is no normative basis indicating that former offenders must be categorically excluded from the right to information erasure. The determination of eligibility should be carried out through a formal mechanism grounded in proportionality and public interest considerations.

The deletion request mechanism can be designed to involve authorities capable of assessing the context and impact of such requests. Courts or data protection supervisory bodies can serve as entities ensuring that applications are submitted on sufficiently grounded reasons. Not all deletion requests should be granted, as each piece of information carries different values and functions. An objective and standardized evaluation can serve as a safeguard against misuse of the right, while also ensuring that public interests are not compromised. The Right to Be Forgotten, in the context of

[9] Wirajaya, A. N. B. K., Dewi, A. A. S. L., & Karma, N. M. S. (2022). Tindak Pidana Ringan Melalui Restorative Justice sebagai Bentuk Upaya Pembaharuan Hukum Pidana. Jurnal Konstruksi Hukum, 3(3), 545-550.
[10] Loleng, F. (2021). Tindak Pidana Ringan Dalam Hukum Pidana Dan Kitab Undang-Undang Hukum Acara Pidana Indonesia. Lex Crimen, 10(1).

minor criminal offenders, is not intended to erase legal history but to regulate the dissemination of information beyond formal legal systems. The assessment of eligibility should weigh the urgency of protecting personal reputation against the need to preserve the integrity of the state's legal records. A space for considering such requests may be opened within rational and measurable limits. The legal system must establish clear boundaries and transparent procedures to ensure that this right does not conflict with the principle of openness. A clear distinction between archival legal records and public digital information forms the foundation for determining the legitimacy of such requests.

Conclusion and Suggestion

Based on the author's analysis of the issues outlined above, it can be concluded that:

1. The right to be forgotten is a legal right recognized within the Indonesian legal system through the provisions of Law Number 19 of 2016 on the Amendment to the Electronic Information and Transactions Law and Law Number 27 of 2022 on Personal Data Protection. These regulations grant every personal data subject the right to request the deletion of data that is irrelevant, inaccurate, or unlawfully obtained, without distinguishing the legal status of the individual as either a perpetrator or a victim. Within the framework of positive law, this right is universal and non-exclusive, making it a potential basis for safeguarding digital reputation across various contexts;
2. Minor criminal offenders may be considered relevant subjects in the discourse on the application of the Right to Be Forgotten, particularly within the context of personal data protection and post-conviction reputation restoration. Although the nature of their offenses is considered minor, information related to such legal matters can persist in the digital sphere and generate disproportionate social consequences. The continued dissemination of digital information regarding actions that have already been legally resolved presents a conflict between the right to rehabilitation and the public's right to access information. Within the framework of restorative justice, the legal system may consider the possibility of deleting digital information, provided that it does not involve official documents or public state archives. Requests for deletion from minor offenders should be assessed through a formal mechanism, taking into account public interest, the proportionality of the information, and the principles of legal accountability.

Based on the analysis, it is important for policymakers to conduct further studies on the potential implementation of the Right to Be Forgotten for individuals with criminal records, including those categorized as minor offenses. Such studies should aim to formulate clear boundaries regarding the types of information that may be eligible for deletion, without undermining state archives or the principle of public information transparency. The procedures established must ensure that information deletion is not misused to obscure legal records of public interest. Involving judicial institutions or independent authorities in evaluating such requests can serve as part of an accountable oversight mechanism. Any regulatory framework adopted must strike a balance between an individual's right to social reintegration and the public's right to access legal information.

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