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MIMBAR KEADILAN

Right to be Forgotten vs. Public Information Disclosure to Public Officials in Indonesia

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Abstract

The advancement of information technology, which renders digital footprints permanent, has generated new problems in the protection of personal data, including for public officials who possess narrower privacy boundaries than private citizens. Research aims to explore the potential conflicts between the right to be forgotten and long-standing principle of transparency in Article 28F of the 1945 Republic of Indonesia's Constitution. Additionally, this paper looks at which public servants should be protected by the Right to Forget Law under Indonesian national laws or administrative regulations. This research deals with the difference between Indonesian National Laws for public servants and the right to be forgotten. It also discusses laws from "Republic of Indonesia No. 19/2016 Electronic Information Transactions Law of Republic of Indonesia No. 14/2008 Disclosure of Public Information Laws". EU policy as well as the direction taken in member states such as France. The findings of the research show that the applicability of the Right to be Forgotten for public servants cannot be in an absolute form since information about their tasks of offices, track records, alleged ethical or legal violations, and actions that have an impact on the public is information that must remain accessible as part of public accountability. Additionally, this research reveals discrepancies in the court's and the Information Commission's authority when it comes to responding to information removal requests, which may lead to jurisdictional disputes. In conclusion, the public interest must be considered when evaluating any use of the Right to be Forgotten by public officials. Considering the proportionality principle and regulatory harmonization is required to sustain transparent and accountable government by ensuring the proper finding a balance between protecting people's privacy and giving the public the right to know.

1. Introduction

Change has been witnessed in the way people interact, communicate and handle personal data due to the development of information technology. Digital 5.0 Information dissemination takes place not only quickly but permanently since the digital traces can be accessed, recorded and stored by a number of digital platforms. Therefore, the privacy of individual information has become highly susceptible to the scrutiny of the masses, even confidential information pertaining privacy that had been hard to access before. The subject of this article raises many legal issues concerning the right of privacy and personal information. The so-called "Right to be Forgotten" is one possible solution to this problem. It has gotten a lot of attention, especially on the Internet.[1] "Right to be Forgotten" denotes that of individuals, they can ask for personal information if they want to, that has become outmoded, harmful, or no longer effective in the purpose of its spread, should be removed. The European Union, the General Data Protection Regulation (GDPR), and the landmark ruling in Google Spain SL v.

[1] Merizqa Ariani, FL. Yudhi Priyo Amboro, and Nurlaily, "Guardians of Privacy : Unraveling the Tapestry of Personal Data Protection in Indonesia and France," *Legal Spirit* 8, no. 2 (2024): 379–90, https://doi.org/10.31328/ls.v8i2.5460.

Agencia Espanuela de Proteccion de Datos and Mario Costeja Gonzalez, case C-131/12 (2014) by the European Court of Justice (ECJ), which recognized an individual's right to demand the removal of irrelevant or erroneous information, brought the concept to the interest in the entire world. This case proves that information on the digital is not always permanent and that everyone has the right to privacy.[2]

Article 26, paragraph (3) of Law No. 19/2016, which changed "Law No. 11/2008 on Electronic Information and Transactions (the Electronic Information and Transactions Law)", added new rules that protect the right to be forgotten in Indonesia. The government did not come up with the idea of the Right to be Forgotten, according to Mr. Teguh Arifiyadi, who is in charge of the "Sub-Directorate of Investigation and Enforcement in the Directorate of Information Security at the Ministry of Communication and Informatics. Instead, it came up when the Ministry of Communications and Informatics and Commission 1 of the House of Representatives talked".[3] Article 26 paragraph (3) of the Electronic Information and Transactions Law stipulates that "Every electronic system operator is obliged to delete irrelevant electronic information and/or electronic documents under their control at the request of the person concerned based on a court decision". Under this provision, Electronic System Operators must take part in erasing the personal information under their possession following a court ruling. There are two ways to get rid of personal data that isn't needed, according to Article 15 of Government Regulation No. 71 of 2019 on the Operation of Electronic Systems and Electronic Transactions. The Right to Enurescence and the Right to Delist from the Database are two rights that let you get rid of personal information that isn't useful.

The concept of the Right to be Forgotten becomes even more complicated when appealed by the representatives of the state power, as people themselves are the objects of the organizations of the state. Being the agents of state administrator and policy formulation that directly impacts society, the scope of public officials' privacy is less abundant compared to that of ordinary citizens. The principle of transparency in the information dissemination is an essential element of accountability and social control over the administration of the government. The 1945 constitution's Articles 28F and 28J and the Publicly available information Disclosure Law are the laws that constitutionally support this idea. Information transparency is one of the essential principles of a democratic state like Indonesia since it protects the people's sovereignty and advances good government. The achievement of citizens' rights to access information is expected to indirectly improve national resilience.[4] The government such as the public officials in the context of information technology are expected to provide access to all the public and fundamental information. Achieving transparency of

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[2] Jure Globocnik, "The Right to Be Forgotten Is Taking Shape : CJEU Judgments in GC and Others (C-136/17) and Google v CNIL (C-507/17)," *GRUR International* 69, no. 4 (2020): 380–88, https://doi.org/10.1093/grurint/ikaa002.

[3] Evyta Rosiyanti Ramadhani, Ayudya Rizqi Rachmawati, and Roro Hera Kurnikova, "Integrating Islamic Values with the Right to Be Forgotten : A Legal Approach to Addressing Deepfake Pornography in Indonesia," *De Jure: Jurnal Hukum Dan Syar'iah* 17, no. 1 (2025): 112–31, https://doi.org/10.18860/j-fsh.v17i1.28880.

[4] Arumbela Bangun Negara, Osgar S Matompo, and Moh. Yusuf Hasmin, "Pemenuhan Terhadap Hak Warga Negara Dalam Memperoleh Informasi Publik Menurut Undang-Undang Nomor 14 Tahun 2008 Tentang Keterbukaan Informasi Publik," *Jurnal Kolaboratif Sains* 5, no. 5 (2022): 248–55, https://doi.org/10.56338/jks.v5i5.2416.

information to the populace to ensure that the citizens can participate in an instrumental part in decision-making that are more informed and effective with the government institutions can be listed as one of the key clues in attaining the goal of achieving a smart city that is being pursued by cities worldwide (smart decision making).[5] Based on this, adoption of transparency requirements facilitates the effectiveness of the leadership of any political authority, since they form part of the governing bodies, in optimization of their roles and their obligation to the citizens.

Openness, accountability, and involvement are the core values of good governance. The work of representatives of the state is also open to social control since they are chosen by the electorate or appointed to pursue the interests of the population, and the citizens in relation to their actions during the term of power, as it is in Article 19 under the Universal Declaration of Human Rights (UDHR). Although information about public officials is part of the public's right some restrictions should be allowed concerning the applicability of the information provided and the effect it may have on the personal reputation of the concerned official. This is based on the fact that even the officials in the populace are people whose individual rights should still be safeguarded by the State. As an example, one can refer to the case of corruption against a former Minister of Trade of Indonesia, Thomas Trikasih Lembong, also referred to as Tom Lembong, who served in the position of the Minister of Trade between 2015 and 2016. Tom Lembong was involved in corruption cases which generated much public attention and media coverage, where his policies were recalled at the time he served as the Minister of Trade and brought out all sorts of speculations, some offering suggestions of abuse of power by a government official. Though the court proceedings involving courts of first instance up to appeal process in the High Court, the court finally ruled in favor of Tom Lembong by acquitting him of all the charges and declaring him as innocent. However, the e-evidence of these accusations is still available on social media and this may violate his rights to data protection, including the right to have personal information protected.

Immediately and free access to information obtained digitally is very useful for the public to find out about an individual's track record of individuals, especially the former, current, and prospective officials, former and current institutions, as well as domestic and international institutions. The citizens have a right to information regarding the government officials to establish their previous behavior, whether they have been dealing with violations of human rights, abuse of power, environmental negligence, or corruption.[6] This information is a valuable factor to a person during decision making, even during general elections. Right to be Forgett seems to offer a loophole over how to conceal negative record of government officials. Even Larry Page, who is the founder of Google, has indicated that the Right to be Forgotten has a potential to be abused not to mention the fact that the country is less developed and rife with corruption like Indonesia which had a Corruption Perceptions Index of 34/100

[5] Naomi Jacobs et al., "Who Trusts in the Smart City? Transparency, Governance, and the Internet of Things," *Cambridge University Press* 2, no. e11 (2020), https://doi.org/10.1017/dap.2020.11.
[6] Probojati Bayu Herlambang and Wiwik Afifah, "The Right to Access Information and Data Collection on Social Assistance in Sidioarjo Regency," *Proceeding International Conference on Religion, Science and Education* 2, no. 63 (2023): 885–89, https://sunankalijaga.org/prosiding/index.php/icrse/article/view/1009.

and this country ranks as number 115 of the 180 the most corrupt countries in the world.[7] However, it should also be pointed out that the officials of the state are not only the members of a personal data subject, but also the individuals that hold personal rights, which the State must defend as the part of the basic human rights.

Thus, even though the duty of providing publicly available information to the population is attributed to the officials, they are still human beings and therefore have personal rights that should be taken care of by the State as a part of the basic rights that people have. In this case, comprehensive research is needed to understand to analyze the causes of the conflict between the right to be forgotten and publicly available information transparency, as well as the limitations on the application of the right to be forgotten under Indonesian law to public officials.

2. Methods

The type of research used in this paper is normative legal research that studies the existing rules or norms of law that could be studied on different dimensions such as the history of the law, the systematic organization of legal norms, and the legal concepts held in statutory law. The approaches to methodology include statute approach, conceptual approach and the comparative approach. The legal sources used in conducting this study are national laws, international legal tools, jurisprudence and academic provisions and journals.

3. Results and Discussion

3.1. Conceptualising the Right to Be Forgotten and the Principle of Public Information Disclosure within a Human Rights Framework

The rapid development of information and communication technology has fundamentally transformed the manner in which information is produced, stored, and accessed. Digitalisation enables information, including personal data, to be preserved indefinitely, easily retrievable, and disseminated across jurisdictions. This technological reality gives rise to a structural normative tension between two constitutionally recognised human rights regimes: the right to privacy and personal data protection on the one hand, and the right to information together with the principle of public openness on the other. This tension becomes particularly salient in debates surrounding the Right to Be Forgotten (RTBF), especially when the right is invoked in relation to information concerning public officials. Conceptually, the RTBF refers to the entitlement of data subjects to request the erasure or delisting of certain personal information that is no longer relevant, excessive, or disproportionately harmful to their individual interests. However, when such information pertains to the digital footprint of public officials, private interests inevitably collide with the public's interest in transparency and accountability. Consequently, any conceptualisation of the RTBF cannot be detached from the principle of public information disclosure, which constitutes a core element of democratic governance.

The RTBF is rooted in the right to privacy and the right to personal data protection. The right to privacy has long been recognised as a fundamental human right, as enshrined in Article 12 of the UDHR and Article 17 of the International Covenant on Civil and Political Rights (ICCPR). In the Indonesian constitutional framework, privacy protection derives from

[7] "Transparency International, 'Corruption Preceptions Index 2023,'" 2023, https://www.transparency.org/en/cpi/2023/index/idn.

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Article 28G (1) of the 1945 Constitution of the Republic of Indonesia, which guarantees protection of personal security, dignity, and honour. Data protection scholars such as Paul De Hert and Serge Gutwirth argue that the RTBF represents a normative response to the distinctive characteristics of the digital environment, where collective memory becomes effectively permanent, thereby diminishing individual control over personal narratives. In this sense, the RTBF functions as a corrective mechanism aimed at restoring equilibrium between informational freedom and personal autonomy.[8]

At the regional level, the RTBF gained significant legal legitimacy through the landmark decision of the Court of Justice of the European Union in *Google Spain v. AEPD and Mario Costeja González* (2014), which affirmed that individuals may request search engines to delist links to personal information that is no longer relevant or proportionate. This principle was subsequently codified in Article 17 of the General Data Protection Regulation (GDPR). Nevertheless, scholars such as Viktor Mayer-Schönberger caution against interpreting the RTBF as an absolute right. He emphasises that data erasure claims must be assessed through the principle of proportionality, with due regard to the public interest in access to information, particularly within democratic societies.[9] Conversely, public information disclosure represents a manifestation of the right to seek, receive, and impart information, as guaranteed by Article 19 of both the UDHR and the ICCPR. In Indonesia, Article 28F of the 1945 Constitution explicitly safeguards the right of every person to obtain information for personal development and social participation. This constitutional guarantee is operationalised through Law No. 14 of 2008 on Public Information Disclosure, which positions transparency as a prerequisite for good governance. Mark Bovens conceptualises transparency as a mechanism of both horizontal and vertical accountability, enabling public scrutiny over the conduct of state officials and public institutions. In such a framework, transparency effectively functioned as a mechanism of democratic accountability as a relationship in which public actors are obliged to explain and justify their conduct before a forum capable of judgment and sanction. In the digital environment, however, this assumption no longer holds. Digital information is persistent, easily searchable, and endlessly reproducible, meaning that disclosures made for legitimate public purposes may continue to circulate long after their relevance has diminished. The RTBF emerges precisely as a corrective response to this phenomenon of permanent digital memory, recognizing that indefinite accessibility may transform transparency from a tool of accountability into a source of continuous reputational punishment. This diminished expectation arises from their moral and legal obligation to account for the exercise of public power.[10] The normative conflict between the RTBF and public information disclosure thus emerges when individual privacy claims particularly those of public officials confront society's interest in accessing information relating to integrity, performance, and accountability. This

[8] Serge Gutwirth and Paul De Hert, "Privacy, Data Protection and Law Enforcement. Opacity of the Individual and Transparency of Power," *Assunto Especial* 18, no. 100 (2021): 500–549, https://doi.org/10.11117/rdp.v18i100.6200.

[9] Paul Lambert, *The Right to Be Forgotten*, Second (London: Bloomsbury, 2022), www.bloomsburyprofessional.com.

[10] Mark Bovens and Anchrit Wille, "Indexing Watchdog Accountability Powers a Framework for Assessing the Accountability Capacity of Independent Oversight Institutions," *Regulation & Governance*, no. April 2020 (2021): 856–76, https://doi.org/10.1111/rego.12316.

conflict is not merely technical, but fundamentally normative and structural. Similarly, Ministerial Regulation No. 5 of 2020 poses constitutional risks to freedom of expression when its vague and unclear standards allow for discretionary content control without adequate judicial oversight. This criticism reinforces the argument that any mechanism resembling the RTBF must be subject to strict proportionality and judicial authorization to prevent administrative censorship and maintain democratic accountability.[11] Such an approach requires contextual analysis, taking into account the nature of the information, its relevance to the public interest, and the potential impact of its disclosure on individual rights. In the context of public officials, information concerning official conduct, ethical violations, or past legal cases often carries substantial public value. The application of the RTBF to such information therefore risks undermining democratic oversight and obscuring public accountability.

Within the Indonesian legal system, the conflict between the RTBF and public information disclosure must be interpreted in light of Articles 28F and 28J of the 1945 Constitution. Article 28J (2) permits limitations on human rights insofar as they are prescribed by law and are necessary to ensure the recognition and respect of the rights and freedoms of others, as well as to meet demands of justice based on moral considerations, religious values, security, and public order. However, constitutional law scholars such as Jimly Asshiddiqie emphasise that limitation clauses must not be applied arbitrarily. Any restriction of rights must satisfy the principles of legality, legitimate aim, and proportionality.[12] In the context of the RTBF, the critical question is the extent to which the erasure of public information concerning state officials can be justified as a form of privacy protection without disproportionately impairing the public's right to information.

Contemporary discourse increasingly places public officials within a category of data subjects entitled to a more limited scope of RTBF protection. International bodies such as the OECD and the European Data Protection Board assert that information relating to public functions, integrity, and accountability cannot readily be classified as fully protected personal data. This position aligns with Helen Nissenbaum's theory of contextual integrity, which posits that privacy must be evaluated according to social context and individual roles. In the case of public officials, the inherent public interest attached to their office necessarily lowers their expectation of privacy.[13] Accordingly, the conceptualisation of the RTBF within Indonesia's human rights framework should adopt a contextual and balanced model. The RTBF should not be construed as a right to erase public history, but rather as a protective mechanism against the misuse of irrelevant, inaccurate, or disproportionate information. As argued by contemporary digital law scholars, the most rational approach lies in case-by-case

[11] Ridho Dwi Rahardjo and Wiwik Afifah, "Kesesuaian Permenkominfo Nomor 05 Tahun 2020 Dengan Prinsip Kebebasan Berpendapat Dan Berekspresi Dalam Hak Asasi Manusia," *Bureaucracy Journal : Indonesia Journal of Law and Social-Political Governance* 2, no. 2 (2022): 472–86, https://doi.org/10.53363/bureau.v2i2.48.

[12] Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia*, ed. Tarmizi, Kedua (Jakarta: Sinar Grafika, 2021).

[13] Helen Nissenbaum, "Protecting Privacy in an Information Age: The Problem of Privacy in Public," *The Ethics of Information Technologies*, 2020, https://www.taylorfrancis.com/chapters/edit/10.4324/9781003075011-12/protecting-privacy-information-age-problem-privacy-public-helen-nissenbaum.

balancing, with public interest serving as the primary variable when the data subject is a public official. Through this approach, the RTBF may operate as a human rights safeguard without eroding the principles of transparency and accountability that underpin democratic governance.

3.2. Implications of the Right to Be Forgotten for Transparency and Democratic Accountability in Indonesia

The prevailing discourse on the implementation of the RTBF in Indonesia has thus far been dominated by a largely procedural narrative, particularly the requirement that data erasure or delisting be authorised by a court decision. While judicial authorisation is frequently presented as a technical safeguard, such an approach risks obscuring the deeper constitutional significance of judicial involvement in the governance of information. A purely procedural framing fails to account for the role of courts as institutions of democratic accountability tasked with mediating conflicts between fundamental rights and preventing the emergence of administrative censorship. From a constitutional perspective, judicial authorisation should not be understood merely as a formal prerequisite, but as a substantive mechanism designed to ensure that limitations on access to public information are subject to independent, reasoned, and transparent scrutiny.[14] Courts function as neutral arbiters capable of balancing competing rights, specifically the right to privacy and reputation against the public's right to access information, within a framework of proportionality and due process. In this sense, judicial oversight serves as a constitutional safeguard against unilateral or discretionary removal of information by executive or administrative bodies, which could otherwise result in opaque, unaccountable forms of censorship. The democratic value of judicial authorisation therefore lies not in procedural compliance per se, but in its capacity to subject RTBF claims to public justification and legal reasoning.

This constitutional function is particularly salient when public officials advance RTBF claims. Unlike private individuals, public officials occupy positions that inherently attract heightened public scrutiny. The main reason is that government officials' duties for the public interest must follow the fundamentals of good governance, and in this case, the public officials must honor the roles of good governance, transparency, accountability, and participation. Therefore, the data concerning the conduct of official performances, the decision-making process, or the breach of the law or any other ethics committed by a public office holder cannot just be erased based on the privacy rights. Indeed, the restrictions on the publication of information that may damage the state security and may expose the personal secrets of a person are permitted in Article 17 letter a number 4 and letter h of the Publicly available information Disclosure Law, but these restrictions are very limited (strict and and limited test) and subject to an evaluation of the public interest in compliance with Information Commission of 2017 Regulation No. 1 regarding the categorization of publicly available information. This implies that any order to delete information by a government official should be evaluated so as to decide whether the information at hand addresses the interest of the wider population at large. Article 19 of the Publicly available information Disclosure Law in Indonesia provide the Publicly available information and Documentation Officer (PPID) the rights to includes the

[14] Misnah Irvita and Asriani, "Transparency and Accountability in the Justice System : Building Public Trust and Justice," *Priviet Social Sciences Journal* 5, no. 4 (2025), https://doi.org/10.55942/pssj.v5i4.367.

public interest test. In this case, however, public officials can use the Right to Be Forgotten to the extent that the requested deletion does not diminish the public oversight, transparency, or accountability in the conduct of governance.[15]

Any limitation on publicly available information transparency by a public official is to follow the principle of proportionality, implying that the limitation should be founded on the law, pursued with a valid purpose, and measured between the right that is restricted and the interest that is safeguarded within the current laws and regulations.[16] The Right to Be Forgotten's applicability can be exercised by a public official as a request to have a public item removed, which is purely personal and not related to the interest of the population. The personal information referred to in this case is based on the Law on Publicly available information Disclosure, Article 17h, which has the following categories:

a. the background and state of a person's relatives;
b. a person's medical or psychological care, treatment, history, and condition;
c. the assets, income, bank accounts, and financial status of an individual;
d. the findings of aptitude tests, intellectual evaluations, and suggestions about an individual's skills; and/or
e. documents pertaining to an individual's involvement in formal or informal educational establishments.

The exemption concerning the disclosure of such information can be perceived as a way of exercising the human rights of the public officials. This captures the fact that even the officials in the government have their own rights that should be honored. Such individual rights as the right to privacy are protected by the Constitution and by the law protecting personal data.[17] All people, the officials of the government included, are entitled to the right to make sure that their personal information is not spread randomly, especially in situations where such information is not related to their professional competence. This is a critical right in protecting the personal life and security of the officials of the government against the abuse of personal information.

Consequently, their claims to privacy and reputation cannot be presumed to carry equal constitutional weight in all circumstances. The RTBF must be explicitly recognised as a derogable right, rather than an absolute entitlement. Human rights analysis in this context should therefore be recalibrated to focus narrowly on three interrelated rights: the right to privacy, the right to reputation, and the right of the public to access information.[18] Overly broad references to general human rights provisions, such as Article 4 of the Human Rights Law, risk conflating non-derogable rights with interests that are constitutionally subject to

[15] Indra Ashoka Mahendrayana et al., "Responsibility of the Information Commission in Developing Information and Documentation Management Officials in Public Information Disputes," *Journal Juridisch* 2, no. 1 (2024): 64–74, https://doi.org/10.26623/jj.v2i1.8945.
[16] Ricky and Muh. Ranzil Aziz Rahimallah, "Public Information Disclosure in Indonesia (Accountability, Transparency and Participation Perspective)," *Jurnal Ilmiah Wahana Bhakti Praja* 12, no. 2 (2022): 62–75, https://ejournal.ipdn.ac.id/index.php/JIWBP/article/view/2911/1480.
[17] Asep Mahbub Junaedi, "Urgensi Perlindungan Data Pribadi Dalam Era Digital: Analisis Undang-Undang Nomor 27 Tahun 2022," *Jurnal Inovasi Hasil Penelitian Dan Pengembangan* 5, no. 2 (2025): 167–86, https://doi.org/10.51878/knowledge.v5i2.5269.
[18] Ayu Riska Amalia et al., "The Right to Be Forgotten: International Human Rights Law Perspective," *Jurnal Risalah Kenotariatan* 4, no. 2 (2023), https://doi.org/10.29303/risalahkenotariatan.v4i2.180.

limitation. Such conflation may inadvertently suggest that all personal interests of public officials warrant maximal constitutional protection, thereby diluting the normative distinction between private harm and public accountability. Comparative reference to the French *Commission nationale de l'informatique et des libertés* (CNIL) further illustrates the need for constitutional, rather than purely institutional, analysis. Descriptively, the CNIL represents an administrative model of data protection oversight with authority to assess RTBF claims. Analytically, however, its legitimacy derives from a broader framework of administrative constitutionalism, in which independent regulatory bodies are endowed with quasi-judicial functions, procedural safeguards, and a high degree of institutional autonomy.[19] The CNIL's flexibility in balancing data protection with freedom of expression is constitutionally anchored in France's long-standing tradition of strong administrative courts and a mature system of checks on regulatory discretion.

Transposing the CNIL model into the Indonesian context without corresponding institutional reform would therefore be constitutionally problematic. Indonesia's administrative law framework lacks an equivalent level of insulation against executive influence, as well as a consolidated tradition of administrative constitutional review. Granting an administrative body broad discretion to determine the erasure of publicly accessible information risks bypassing judicial scrutiny and weakening the separation of powers. In the absence of robust procedural guarantees, such a model could enable administrative actors to engage in content-based restrictions on information, thereby undermining both legal certainty and democratic transparency. Consequently, while the CNIL model may appear efficient, it is not institutionally or constitutionally compatible with Indonesia without substantial reforms to administrative adjudication and judicial review mechanisms.[20]

The issue of overlapping authority between courts and the Information Commission has similarly been treated as a technical coordination problem, rather than as a constitutional governance issue. In reality, this overlap reflects a jurisdictional conflict concerning who possesses the final authority to determine the accessibility of public information. Framed constitutionally, this conflict implicates the principles of legal certainty and due process, as inconsistent or competing decisions may create unpredictability in the enforcement of transparency obligations. More critically, such ambiguity creates structural opportunities for strategic litigation by public officials, who may exploit procedural fragmentation to forum-shop or delay disclosure through repeated legal challenges. Strategic litigation of this nature poses a tangible threat to democratic accountability. When RTBF mechanisms are used to suppress or delay access to information of public interest, the result is not merely individual reputation management but a systemic weakening of public oversight. Judicial authorisation, if reduced to a formalistic requirement, may inadvertently legitimise such practices rather than constrain them. This underscores the necessity of a substantive constitutional framework that

[19] Globocnik, "The Right to Be Forgotten Is Taking Shape : CJEU Judgments in GC and Others (C-136/17) and Google v CNIL (C-507/17)."
[20] Adinda Setyaning Putri, "Comparison of Right To Be Forgotten (RTBF) Between Indonesia and Several Countries To Establising Certain Legal Data Protection in Indonesia," *Iblam Law Review* 3, no. 3 (2023): 53–61, https://doi.org/10.52249/ilr.v3i3.147.

explicitly prioritises public interest considerations when RTBF claims intersect with transparency obligations.[21]

Accordingly, the constitutional implications of RTBF implementation in Indonesia cannot be adequately addressed through procedural requirements alone. Judicial authorisation must be reaffirmed as a democratic accountability mechanism aimed at preventing administrative censorship and safeguarding freedom of information. Comparative administrative models such as the CNIL should be evaluated through the lens of institutional compatibility and separation of powers, rather than efficiency alone. Most importantly, the RTBF must be clearly positioned as a limited and conditional right, subject to restriction where its application would undermine transparency, public oversight, and democratic governance. Such an approach avoids the false equivalence of personal interests and constitutional rights, while preserving the normative integrity of both privacy protection and public accountability.

4. Conclusions

Implementation of the RTBF in Indonesia raises a fundamental constitutional tension between the protection of privacy and reputation, and the principles of transparency and democratic accountability. While the permanence of digital information justifies the recognition of RTBF as a personal data protection mechanism, this right cannot be construed as absolute, particularly when invoked by public officials whose functions are inherently subject to public scrutiny. In such contexts, privacy and reputation must be weighed against the public's constitutional right to access information relevant to accountability and governance. The requirement of judicial authorization for RTBF enforcement should be interpreted as a substantive constitutional safeguard rather than a mere procedural condition. Judicial oversight serves as a mechanism of democratic accountability by ensuring proportionality, due process, and independent balancing between competing rights, while simultaneously preventing administrative censorship. This function is especially crucial in Indonesia's constitutional framework, where unchecked administrative discretion in information removal could undermine transparency and legal certainty.

Comparative reference to the French CNIL model demonstrates that administrative flexibility in RTBF governance is constitutionally viable only within a mature system of administrative constitutionalism supported by strong institutional independence and effective judicial review. Absent such conditions, the transplantation of the CNIL model into Indonesia risks weakening the separation of powers. Accordingly, RTBF in Indonesia must be positioned as a limited and conditional right, subject to heightened scrutiny when public officials are involved, in order to preserve transparency, prevent strategic litigation, and uphold democratic accountability.

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[21] Anita Marta Klimas, "The 'Right to Be Forgotten' and the Right to Freedom of Expression and Information-Legal Problems on the Basis of the Judgment of the Supreme Administrative Court of 9 February 2023," *Central European Academy Law Review* 2, no. 1 (2024): 103–24, https://doi.org/10.62733/2024.1.103-124.

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