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The Opinion Pages | OP-ED COLUMNIST

# Remember to Forget

Maureen Dowd MAY 20, 2014

WASHINGTON — The Right to Be Forgotten.

It sounds like the title of a classic novel about desire and memory, perhaps Marcel Proust's sequel to "Remembrance of Things Past."

It is, in fact, based on a French legal phrase, *le droit à l'oubli*, the "right of oblivion," which allows criminals who have paid their debt to society to object to the publication of information about their conviction and jail time.

That French concept was the underpinning of the European Court of Justice's jolting ruling last week that Google and other search engines can be forced to remove search results about ordinary citizens linking to news articles, websites, court records and other documents if the information is deemed "inadequate, irrelevant or no longer relevant" — even if it is truthful.

There goes the Internet.

At a time when American society is obsessed with memory and how it slips away, the Europeans are focused on forgetting and how it slips away.

As James Gleick wrote in "The Information," "Forgetting used to be a failing, a waste, a sign of senility. Now it takes effort. It may be as important as remembering."

Still stung by the overreaches of the N.S.A., collaborating with American tech companies, the Europeans are challenging what is far more accepted here: the right

of Big Data to have All Data, the right of knowing to trump the right of privacy.

They are implicitly rebuking America, the land of Gatsbyesque reinvention, by defending the right to reinvention.

The suit against Google was brought by Mario Costeja González, a self-proclaimed Google fan and graphologist who is a consultant on nonverbal communication. He resented a Google link to a 1998 Barcelona newspaper article that said the government had forced him to sell a house to settle unpaid debts.

About the Internet, he told The Financial Times, “There is data that is not relevant and that affects your dignity and your private life.”

A New York Times editorial warned that the ruling could lead to a purge that “would leave Europeans less well informed and make it harder for journalists and dissidents to have their voices heard.”

Laura Handman, a First Amendment lawyer and partner at Davis Wright Tremaine, notes that “the right to be forgotten” is an effort to restore the legal concept of “practical obscurity,” which meant, in the old days, people would have to go to a library and look up stories on microfiche to delve into someone’s past.

“There’s no more practical obscurity with search engines,” Handman said. She worries that information from the past that is relevant to the present — be it about criminals, predators, aspiring politicians or even Spanish deadbeats — could be taken down. It could be hard for search engines to make nuanced responses to claims so they might yank chunks of information off, she said, and then, “What gets lost?”

There’s already a measure to help the most innocently reckless, topless, tiptling and selfie-obsessed among us. California lawmakers passed a law last year that, in 2015, will give minors the legal right to delete their online indiscretions.

Gleick is dismayed to find himself defending Google. “Forgetting is a skill we have to relearn because it’s a balm, a safety valve, a blessing,” he said. “But lobotomizing the Internet is not the answer.

“We need to be aware that this kind of perfect, prosthetic memory that the Internet has created for us is a burden as much as it is a useful tool. But that doesn’t mean that people suddenly have the right to burnish their reputations by distorting the record in the infosphere.”

Meg Ambrose, an assistant professor at Georgetown University who is writing a book on the subject, praises the European skepticism.

“People are sick of walking on eggshells and censoring themselves,” she said. “They would like a bit of leniency in our personal data and how it’s used.”

Jaron Lanier, the author of “Who Owns the Future?” and a man known as “the father of virtual reality,” vehemently agrees, comparing Gonzáles to “the guy in Tiananmen Square who stood up to a row of tanks.”

He notes that the rich and powerful tech elites — like Google’s Eric Schmidt, who lamented the ruling — seek the ability to control and restrict information about themselves.

He thinks the ruling rebuts Big Data’s “infantile desire for immediate gratification where you get to know everyone else’s secrets even as you seek to keep your own. In order for others to be free, that means you don’t get to stuff your nose into all their orifices all the time. It’s this horrible fusion of nerd supremacy with hyper-libertarianism that has taken over in Silicon Valley.

“We have to give each other some space and trust and room and faith and privacy,” he said. “There should be a right to self-definition, self-invention and how you present yourself.”

Or else we’re digitally doomed to be like Gatsby, “borne back ceaselessly into the past.”

A version of this op-ed appears in print on May 21, 2014, on page A29 of the New York edition with the headline: Remember to Forget.