

'Right to Be Forgotten' Exposes Russia to Risks

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Russia is literally disappearing.

I don't mean in the physical sense; in fact, as we all know, the country's borders enjoyed a bit of an expansion last year. Russia as an entity is not vanishing insomuch as information about it is being struck from the public record.

On Tuesday, President Vladimir Putin signed into law the "right to be forgotten," a measure allowing Russian citizens to request that links to material about them that they claim is false or irrelevant be deleted from Internet search engine results. The law is seen as a counterpart to a similar policy recently adopted in the EU. The European version, though, drew a distinction between privacy and freedom of information — mainly that a person's desire for obscurity can be outweighed by the public's right to know damaging information about them, especially when it is socially significant or relates to the person's professional activities. Simply put, if a business owner was accused of not paying his workers' salaries last year or if an accountant was investigated for falsifying financial records a decade ago,

the public has a right to know about it.

This balance between personal and public interest, though, is a nuance that goes unrecognized in Russia's interpretation. The law does exclude information concerning criminal records or allegations of crimes for which the statute of limitations has not yet expired. Still, Russia's statute of limitations ranges from two to only 15 years, even for the gravest of crimes. Aside from the justice system's other issues with bureaucracy, corruption and inefficiency, the passing of this law means that if an individual is accused of fraud but not convicted within two years, or investigated for murder or for sexual abuse of a child but not convicted within 15 years, he will not only never be punished, but can also request that links to this information be deleted from search engine results — like the allegations themselves never even existed.

Russia's policy, like the EU's, requires only links to be deleted, not the original records. But public records in Russia are problematic. Corporate records are available online, but are not comprehensive, and litigation records even less so. Websites for the Russian investigators and courts tend to be cumbersome and equipped with poor or impossibly finicky search functions.

Media articles often end up providing the most detailed accounts of allegations or developing criminal cases, as well as indications of where state documents and other records can be found. But here too information seekers are in trouble. The Kremlin's crackdown on independent media over the last 18 months means that there are fewer news agencies — and fewer critically thinking journalists — working in the country. Some organizations and journalists emigrated abroad to avoid pressure from Russian authorities. Many of the organizations that remain in the country now have a smaller staff and tighter budget. Foreign news bureaus remain fully operational and independent of the Russian government, but tend to have a significantly smaller staff than a Russian agency could maintain, and therefore less capacity to cover all the stories worth writing. With heightened government pressure and fewer resources to work with, Russia's independent media agencies are less and less able to conduct the longer and more detailed investigations that time and money allow.

And these investigations, especially in Russia, play a vital role in identifying and documenting events happening behind the scenes: both major and far-reaching issues like human rights abuses in Chechnya or embezzlement in the defense industry, as well as the banal corruption and bribery that take place in Russia, like in many other countries around the world, every day. These problems continue, but fewer stories of the type that newspapers like *Novaya Gazeta* became famous for — and journalists like Anna Politkovskaya and Sergei Novikov presumably died for — can feasibly be produced in the current media environment. The public record of current events is being simultaneously manipulated and destroyed, and as a result an information gap is being created that will have major consequences in the years to come. For one, people both inside Russia and out will have a less comprehensive and documented understanding of the day-to-day goings-on in the country. But another effect of the information gap, not as obvious but no less damaging, has serious implications for the international viability of Russian business.

In developed countries, doing due diligence on potential overseas business partners is becoming more widespread. Partly this is because financial regulations are getting

increasingly strict, with legislation like the Foreign Corrupt Practices Act in the U.S. and the Bribery Act in Britain placing heavier burdens on companies to conduct pre-transactional due diligence. Checking up on potential partners is also generally gaining traction as a business best practice — as in, it's usually best practice not to go into business with a criminal, and even if you choose to do so, it's better to know what kinds of risks you're exposing yourself to.

With the volume of reliable information being produced about Russian current affairs rapidly decreasing, risk management companies have less useful material to work with. Russia already has a reputation for pervasive corruption; if overseas companies and financial institutions are unable to distinguish between low-risk Russian companies and high-risk ones, they'll likely be more unwilling to conduct business with any of them at all.

That the Russian state is conducting an information war is well-known; but it's also waging a war on information itself. Russians have a right to know what's happening in their country — and despite what the law says, Russia does not have the right to be forgotten.

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