



RIGHT TO BE FORGOTTEN

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Abstract

The “right to be forgotten” is a legal concept that grants individuals the ability to request the removal of their personal information from online platforms .It originated from a ruling by the European Court of Justice in 2014, stating that search engines should consider removing links to outdated or irrelevant information about individuals upon request.

The rationale behind this right is to protect the individual’s privacy and allow them to control their presence .Supporters argue that people should have ability to move on from past mistakes or unwanted information that may have a negative impact on their personal or professional lives .They believe that individuals should have the right to control the information that is associated with their identity and that outdated or inaccurate information should not continue to haunt them indefinite.

In India, the case of Justice **K.S. Puttaswamy v. Union of India** framed the debate on data protection and privacy, with the Supreme Court recognizing the right to privacy as a fundamental right. Standing and Parliamentary Committees have also recommended the need for specific regulations on data protection and privacy. In May 2018, the Justice B.N. Srikrishna Committee proposed a new data protection bill, which includes provisions for the 'Right to be Forgotten' to safeguard personal data. However, Minister Ravi Shankar Prasad submitted The Personal Data Protection Bill to the Lok Sabha on December 11, 2019.

On the other hand, opponents of the “right to be forgotten” raise concerns about potential limitations on freedom of expression and access to information. They argue that removing information from the internet can hinder the public’s right to know and impede the historical record .They also express concerns about the potential for abuse, where individuals may attempt to suppress information that is in the public interest or relevant to ongoing discussions.

Implementing the “right to be forgotten” requires a careful balance between privacy and freedom of information .It involves assessing the individual’s right to privacy against the public’s right to access the information. Different jurisdictions have approached this issue differently, with some countries enacting legislation to enforce the “right to be forgotten”, while others have taken a more cautious approach.

Ultimately, whether the “right to be forgotten” should be implemented or not is a complex question that requires careful consideration of competing interests involved. It involves weighing the individual’s right to privacy and potential benefits of allowing people to control their online presence against the potential limitations on freedom of expression and access to information.

Introduction

Do you have a “right to be forgotten”? Here’s what it means and how Indian courts view it?

Right to be forgotten is the right to have publicly available personal information removed from internet search, databases, and websites or other public platforms once it’s no longer relevant.

What’s the case?

Jorawar Singh Munday had now approached the HC claiming that the previous case of 2013 and its judgment appearing on Google and Indian Kanoon has sullied his efforts to get a job.

Delhi HC observed that there can be “irreparable prejudice “that may be caused to Mundy’s “social life and his career prospects” despite him having been ultimately acquitted in 2013 case.

Delhi HC asked Google was asked to remove the judgment from its search results and Indian Kanoon was directed to block the judgment from being accessed by using search engines such as Google and Yahoo.

Note: -

The HC has granted him just interim protection, the case will be next heard on 20 August.

Right to be forgotten: -

The “right to be forgotten” is the right to have publicly available personal information removed from the internet, search, databases, websites or any other public platforms, once the personal information in question is no longer necessary, or relevant. ‘Information in public domain is like toothpaste out of tube’.

Revenge Porn Fake information

Fake case/#me too misuse Defamation /Slandering etc.

In today’s era the whole population is totally depend on social media where entire personal information is not limited or restricted to the records of government, each and every individual has the access to the details or personal information that has been put online. Meanwhile internet is considered as the fastest medium of conveying the message or communication, information goes viral in a half a second on a blink of an eye.

The detail which is simply obtainable on the internet/online portals is overflowing with the private information of an individual making it bounteous clear that male or female in a world of “big data”. Sometimes the personal data which we don’t feel to share on the public domain is put for each and every one to access except or without our allowance.

“Right to be forgotten” is a concept which refers to the right to have an individual’s private data or information removed from the public domain, including the internet, and the light to right to erasure the Right to be forgotten under the EUGDPR has also provided basically it is necessary to take consent of an individual before floating the individual’s personal data on public domain.

So, if an individual has posted his/her personal data on public domain and afterwards that individual has to erase his /her personal information from the internet then the owner having a right to erase his data, because as this is a part of an individual’s Right to privacy which additionally is a part of Right to Life mentioned under the Article 21 of the Indian Constitution. It gives right to each and every individual to ask organization to remove his / her private information. It is generally for the private data of an individual of an individual which has been put upon the cyberspace without the knowledge of the person. Right to be forgotten is not a clear- cut right that granted to the individuals of this country. In the international context it is proper established but at the same point of time the Indian Courts have not had much occurrence to compact with it.

Issues Associated with RTBF:

Privacy vs. Information: The existence of RTBF in a given situation depends on its balancing with other conflicting rights such as the right to free expression or other publication rights.

For example, a person may want to de-link information about his criminal records and make it difficult for people to access certain journalistic reports when they Google him.

This brings the person’s right to be left alone, derived from Article 21, directly in conflict with the rights of the media to report

on issues, flowing from Article 19.

This issue elevates a question that whether a part 3 of the constitution can be enforced opposed to the private person, which is mainly enforceable opposed or against to the state.

As per the Article 15(2); Article 17 and the Article 23 give protection against a private party that is take exception to the based in its violation of our Indian Constitution.

According to the courts which are established in India have repeatedly either rejected or accepted the concept of Right to be forgotten.

The concept of Right to be forgotten depends on its balancing with other conflicting rights like the other publication rights or the right to free expression.

INTERNATIONAL CONTEXT

The droit a lobule, which means to “Right to oblivion” from this concept the “Right to be forgotten”, had been originated. Earlier this concept is applied is some exceptional cases that involved a person who served a lawbreaker sentence and express his tendency to have his designation or name detach from all the records.

In nations like United States of America and United Kingdom the concept of Right to be forgotten has been recognize as a part of the Right to Privacy. Be that as it may, including the United Kingdom and United States of America this right is not considered as an absolute one and it is necessary to balance with right to information and right to freedom and expressions.

EVOLUTION OF THE LAW

As per the case of **Melvin v. Reid** – Cal App 285 297.P91 in the year 1931; this is a case of US wherein held that the concept of the Right to be Forgotten has been perceived as a part of the right to privacy.

The court held that “any individual living a life of righteousness has to right to contentment which also cover a privilege from unnecessary attacks on his character, reputation or social standing, which also gave rise to the concept of Right to be Forgotten, in spite of the fact that it’s still not systematize by legislature there. In the

year 2014, European Union’s the court of justice delivered a judgment in the case of **Google Inc. v. Agency**, which held that a discussion on a time head of private data and search engines. Considering this, the cyberspace or internet was determined as a place of permanent recollection.

It was in this case the court held that Right to be forgotten has been perceived as a part of right to privacy. According to the GDPR that is General Data Protection Regulation, as per the Article 17 of the regulation the concept of Right to be forgotten has been covered under this. It states that the personal information subject may have the Right to erasure of private data by concerning that individual without any undue delay, from the owner and that controller shall have to erase the personal information of that individual. In the year 2019, the European Court of Justice governs that the concept of Right to be forgotten under European Law shall not apply far of the borders of EU (European Union) member states.

ISSUES ASSOCIATED WITH THE CONCEPT OF Right to be forgotten

1. The first and foremost issue is the enforceability against the private person – The concept of Right to be Forgotten will normally be claimed opposed to a private party (a news website / or a media).

This issue elevates a question that whether a part 3 of the constitution can be enforced opposed to the private person, which is mainly enforceable opposed or against to the state.

As per the Article 15(2); Article 17 and the Article 23 give protection against a private party that is take exception to the based in its violation of our Indian Constitution.

2. The second issue must be the Ambiguous Judgments- In the last few years without the data protection law to systematize the concept of Right to be Forgotten there are some peculiar adjudications and inconsistent of the right by mostly high courts. According to the courts which are established in India have repeatedly either rejected or accepted the concept of Right to be forgotten.

3. The last but not the least the third issue is Privacy vs. Information- The concept of Right to be forgotten depends on its balancing with other conflicting rights like the other publication rights or the right to free expression.

For example- Any individual may want that he/she have to de-link the information related to his lawbreaker or criminal records and make it strenuous for the people to access journalistic reports when the people find him on the internet. As per Article of the Indian Constitution which brings that the individual's right to be left alone, straight in dispute with rights of media to report the issues flowing from the Article 19 of the Indian Constitution.

INDIAN CONTEXT-

In India, the concept of the Right to Privacy and the Right to be forgotten was not initially given much importance. It was only in 1963, in the case of *Kharak Singh vs. State of UP*, that privacy was recognized as an aspect of personal liberty and not in violation of Article 19 of the Indian Constitution. The concept of the Right to be forgotten had no judicial recognition in India until 2015, when the case of *Dharamraj Bhanu Shankar Dave vs. State of Gujarat* brought it to light. This case dealt with the withdrawal of a non-reportable judgment, but the Gujarat High Court did not perceive it as the Right to be forgotten. However, it opened up the path for discussion on this new concept. On the other hand, the Karnataka High Court in the case of *Sri Vasunathan vs. The Registrar General* (2017) upheld the idea of the Right to be forgotten, particularly in cases involving sensitive matters such as rape or crimes against women. In the case of *K.S. Puttaswamy vs. Union of India* (2017), the Supreme Court recognized the Right to Privacy as a fundamental right.

❖ GOVERNMENT STEPS TO PROTECT PRIVACY-

a. Information Technology Act, 2000-

This act contains the sections to prevent the unsanctioned use of computer systems and data stored therein, and it also provide for safeguard opposed to certain breaches in relation to data from the computer systems.

b. PERSONAL DATA PROTECTION BILL, 2019-

To provide for defense of privacy of a person's relating to their private data and to setup a Data Protection Authority of India for the utter motive and the matters regarding the private information of an individual.

Framed on the advice of **BN Sri Krishna Committee, 2018.**

c. Enforceability against Private Individuals: The RTBF will normally be claimed against a private party (a media or newswebsite).

This raises the question of whether fundamental rights can be enforced against the private individual, which is generally enforceable against the state.

Only Article 15(2), Article 17 and Article 23 provides protection against a private act of a private party that is challenged based on its violation of the Constitution.

Ambiguous Judgments: In recent years, without a data protection law to codify RTBF, there are some inconsistent and peculiar adjudications of the right by various high courts.

Courts in India have repeatedly either accepted or rejected the application of RTBF while completely ignoring the wider constitutional questions associated with it.

Background: -

The General Data Protection Regulation [GDPR] governs how personnel data must be collected, processed and erased. The right to be forgotten, which received a lot of press after the 2014 judgment from the EU Court of Justice, set the precedent for the right of erasure provision contained in GDPR. Of course, given competing interests and the hyper – connected nature of the internet, the right to be forgotten is much more complicated than an individual simply requesting that an organization erase their personal data. This article takes a closer look at when people can make a right to be forgotten request, the value it adds for

EU residents, and how organizations can create a right to be forgotten form to ensure GDPR compliance.

Let's talk about India

In India, there is no law that specifically provides for the right to be forgotten. However, the **Personal Data Protection Bill, 2019** recognized this right.

Section 20 of the Bill gives an individual the right to restrict or prevent the continuing disclosure of their personal data when such data has served the purpose for which it was collected or is no longer necessary for said purpose; was made with the consent of individual, which consent has since been withdrawn was made contrary to the PDP Bill or any law in force. This provision is enforceable only on an order passed by the adjudicating officer appointed under the Bill.

Cases observed in India

Case-1 Jorawar Singh Mundy v. Union of India (2021)

Facts of the case

In 2009, the petitioner arrived in India from the USA and was charged under the NDPS Act. However, in 2011, the Trial Court acquitted the petitioner. The petitioner returned to the USA for education but faced difficulty in finding employment due to their criminal records being publicly available. The petitioner sent a notice to vLex.in, Google India Pvt. Ltd., Google LLC, and Indian Kanoon, asking them to remove the verdict from the public domain. VLex.in complied, but the others argued that the petitioner's request falls under the Right to be forgotten, which is not guaranteed by the Indian Constitution. As a result, the petitioner filed a writ petition before the Delhi High Court, seeking the deletion of the judgment from all the respondent's websites. The petitioner argued that since all charges were cleared, there was no purpose in displaying the case in the public domain, which infringed upon their Right to Privacy under Article 21 of the Indian Constitution.

Issues of the case

Issue 1. Whether Article 21 of the petitioner is violated?

Issue 2. Whether the Right to be forgotten is guaranteed under the Indian Constitution and is a Fundamental Right? Issue 3. Whether the Right to Privacy of the petitioner is superior to the Right to Information of the public?

Issue 4. Whether a court order can be removed from online platforms?

Judgment of the Court

The Court mentioned that currently, there is no statutory provision for Indians to have the 'Right to be Forgotten', meaning there is no legal requirement to permanently delete a person's information from social media. The Court referred to the European Union precedent, which stated that citizens have the right to request commercial websites to delete misleading or irrelevant information about them. The European Union also emphasized that a citizen's Right to Privacy is superior to the economic interests of any firm and, in certain situations, even superior to the Right to Information of the public.

The Court held that the Right to Privacy and the Right to be forgotten are interconnected. As a result, the Delhi High Court ordered Google India Pvt. Ltd., Google LLC, and Indian Kanoon to remove the petitioner's case from their domain.

Case-2 Dharmaraja Bhanu Shankar Dave v. State of Gujarat 2017 case.

Gujarat HC rejected demand of removal of a judgment acquitting him in a kidnapping and murder case, passed by the same court.

Case-3 Sudhanshu Rout vs. State of Orissa 2020 case.

The Orissa High Court examined the right to be forgotten as a remedy for victims of sexually explicit videos/pictures often posted on social media platforms by spurned lovers to intermediate and harass women.

Case-4 "X" vs. Registrar general 2017 case.

Karnataka HC recognized the right to be forgotten in "sensitive cases involving women in general and highly sensitive cases involving rape or affecting the modesty and reputation of the person concerned.

Case 5 In the right to privacy judgment [KS Puttaswamy vs. Union of India case 2017].

The Supreme Court had clarified that the recognition of right to be forgotten “does not mean that all aspects of earlier existence are to be obliterated, as some may have a social ramification”.

SC explained: “If we were to recognize a similar right, it would only mean that an individual who is no longer desirous of his personal data to be processed or stored, should be able to remove it from the system where the personal data/information is no longer necessary, relevant, or is incorrect and serves no legitimate interest.”

Case – 6 State of Karnataka vs. Putta Raja [2003]

Conjured a prior to the Gujarat High Court and this was the first case which analyze the concept of right to be forgotten and this case was dealing with the drawl of a non-reportable judgment.

Case -7 Kharak Singh vs State of UP .1963

That the concept of privacy was considered as the one of the ingredients of personal liberty and is not in breach of Indian Const. under Article 19.

Case -8 R. Raja Gopal vs. State of Tamil Nādu [1994].

The right to privacy of prisoners was recognized by the Supreme Court for the first time.

Case -9 State of Punjab vs. Gurmit Singh and ors. [1996]

The Supreme Court has held that a anonymity can help protect victims of sexual offence from social ostracism.

Case-10 In Sri Vasu Nathan vs. The Registrar General [2017].

The Karnataka High Court recognized RTBF principles in sensitive cases involving women in general as well as highly sensitive cases involving rape or affecting the modesty of the person.

Case -11 V. vs. High Court of Karnataka.

The Karnataka HC recognized right to be forgotten. The purpose of this case was to remove the name of the petitioner’s daughter from the cause title since it was easily accessible and defame her reputation. The court held in favor of the petitioner and ordered that the name of the petitioner’s daughter to be removed from the cause title and the orders. The court held that “this would be consistent with the trend in western countries, where the “right to be forgotten “is applied as a rule in sensitive cases concerning women in general, as well as particularly sensitive cases involving rape or harming the modesty and reputation of the individual concerned”. Noticeably, the right to be forgotten has now been perceived as a basic face of the right to privacy.

Case-12 Rout v. State of Odisha

Subhranshu Rout, a young male, visited his classmate Rupali Amanta on May 3, 2020, and committed a serious crime against her. He threatened to harm her and share intimate videos on social media if she told anyone. He created a fake Face book account in her name and posted videos of the incident. The police intervened and he removed the content. Rout has been charged with rape, distribution of obscene content, forgery, harm to reputation, and outraging a woman's modesty under the Indian Penal Code. He is also facing charges related to computer offenses, identity theft, and publishing explicit content under the Information Technology Act.

Research Through Innovation

Judgment

The judgment was given by Justice S.K. Panigrahi, a single bench judge of the High Court. The Court examined the impact of the videos and photos posted on Face book and also considered the right to be forgotten in India.

The Court emphasized that once information is in the public domain, it cannot be erased, comparing it to toothpaste that cannot be put back into the tube. However, the Court recognized the importance of protecting a victim's right to privacy and stated that if a victim's privacy is seriously violated, they or the prosecution can request the court to have the offending information removed from public platforms. The Court ordered the removal of such content to safeguard the victim's fundamental rights.

Way Forward –

Eventually, the concept of Right to be privacy was contemplated to be a subject of discussion in the Parliament of India meanwhile it was must contained in the **Personal Data Protection Bill, 2019** which is so far to be passed by the Indian Parliament. The Personal Data Protection Bill, 2019 absolutely address about the concept of Right to be forgotten.

Right to be forgotten has been perceived as a necessary ingredient of the Personal Data Protection Laws as the Indian Government looks to hand more control to an individual over details related to them.

According to the Personal Data Protection Bill, the right to privacy is considered a fundamental right and it is important to protect private data as a crucial aspect of informational privacy. Section 27 of the bill outlines three conditions in which a person can restrict or stop the disclosure of private data, known as the Right to be forgotten. These conditions include: if the disclosure is no longer necessary, if the use of the information goes against the law or if the information has been withdrawn. However, it's important to note that the Right to be forgotten does not guarantee the erasure of private data. The bill does require data fiduciaries to delete private data if it is no longer needed to be stored.

As per the Personal Data Protection Bill ,2019 the concept of Right to be forgotten is a restrained right and is subject to accredit by the Adjudicating Officer as it can be provided only when the Personal Data Protection Bill,2019 this Bill appointed the 'Adjudicating Officer' and it bring a favorable order on an application made by an individual. As per the case of **Sudhanshu Rout @Gugal vs. State of Orissa, 2020**, this case is also considered as one of the most important cases in this context. This case is based on sexual assault wherein the perpetrator filmed the assault, making a social media profile fake and upload all the private content on social media. This case is of Orissa High Court and the court dismissed the bail applications which was filed by the accused and also noted the ineffective remedies for the victims to seek the removal of the objectionable material from the cyberspace from the internet. Yes, the court in the Sudhanshu Rout @Gugal vs. State of Orissa, 2020 case emphasized the need for a broader debate on the implementation of the Right to be forgotten. In this particular case, the court denied bail due to the heinous nature of the crime and expressed concerns about the potential negative impact of inappropriate legislation on ongoing criminal proceedings. The court suggested that victims consider approaching social media platforms to have objectionable content taken down.

Interestingly, together with the dissimilar Indian High Court's judgments; the court observed that European decisions on the concept of Right to be forgotten in the judgment, addition to the European Court of Justice's 2019, decision in **Google LLC vs. CNIL 2019, and the Wales High Court's 2018 decision in NT1 AND NT2 v. Google**, as well as the treatment of Right to be forgotten under Indian's proposed data protection legislation. As there was another case regarding in the favor of the concept of Right to be forgotten before the High Court of Delhi and the name of the case is **Jorawar Singh Munday vs. Union of India, 2021**. Under this case the Petitioner was belongs to Indian – American citizen who had visited India in the year 2009. Therefore, the case lodged opposed to the Petitioner under the Narcotics Drugs and Psychotropic Substances Act, 1985. In few year, a Trial Court had acquitted the Petitioner in its verdict and after sometimes the High Court of Delhi affirmed his acquittal on appeal by the state. After he came back he found that the judgment was easily available on the internet. He thinks about that it can affect his future or his reputation as well. As a result of this, he filed a petition in the High Court of Delhi by requesting that to remove the digital records that are mentioned on a online portals as it was affect his

Fundamental right that is Right to Privacy which is mentioned under Article 21 of the Indian Constitution .He also facilitate that in spite of maintaining a proper academic record, he was facing so many problems to find a job as all the employers had a knowledge to the judgment that was there was there on the online portals.

The court in the Sudhanshu Rout @Gugal vs. State of Orissa, 2020 case considered the petitioner's Right to Privacy and the preservation of transparency in judicial records and the public's Right to Information. The court addressed the question of whether a judgment from the Delhi High Court can be removed from online portals, which had two conflicting views.

- In order to implement the right to be forgotten, privacy needs to be added as a ground for reasonable restriction under Article 19(2) by a major amendment to the constitution.

- There must be a balance between the right to privacy and protection of personal of personal data (as covered under Article 21 of the Indian Constitution), on the one hand and the freedom of information of internet users under Article 19 on the other.

A comprehensive data protection law must address these issues and minimize the conflict between the two fundamental rights that form the crucial part of the golden trinity (Article 14, 19 and 21) of the Indian Constitution.

The Parliament and the Supreme Court to engage in a detailed analysis of RTBF and evolve a mechanism for balancing the conflicting rights of privacy and freedom of expression.

In this digital age, data is a valuable resource that should not be left unregulated. In this context, the time is ripe for India to have a robust data protection regime thus; the government should expedite the enactment of the Personal Data Protection Bill 2019.

Opinion On “Right To Be Forgotten A Fundamental Right” ?

□ The Right to Be Forgotten is about recognizing that we all have experienced embarrassing moments and made mistakes in our lives. It acknowledges that as individuals, we have a natural need for privacy and control over our personal information. In today's digital age, our data is easily accessible through the internet and public platforms. Therefore, it is crucial for everyone to protect their data. Many countries have implemented data privacy laws, and the European Union's GDPR has brought global attention to this issue. In India, the case of Justice K.S. Puttaswamy v. Union of India framed the debate on data protection and privacy, with the Supreme Court recognizing the right to privacy as a fundamental right. Standing and Parliamentary Committees have also recommended the need for specific regulations on data protection and privacy. In May 2018, the Justice B.N. Srikrishna Committee proposed a new data protection bill, which includes provisions for the 'Right to be Forgotten' to safeguard personal data. However, Minister Ravi Shankar Prasad submitted The Personal Data Protection Bill to the Lok Sabha on December 11, 2019. Under certain conditions, individuals have the right to request the removal of personal information, such as images, videos, and other identifiable data, from publicly accessible sources like internet searches. Section 43A of the Information Technology Act of 2000 states that businesses holding sensitive personal data must ensure its security, and if a breach occurs, they may be liable for compensation. The 'Right to be forgotten' is not explicitly mentioned in the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 by the Government of India. However, the rules provide a process for individuals to file complaints with the Grievance Officer to remove content containing personal information without their consent. In 2021, reality TV star Ashutosh Kaushik, who won the Bigg Boss season in 2008 and appeared on MTV Roadies, filed a petition with the Delhi High Court. He requested the removal of all posts, videos, and articles from the internet that contained information about his 2009 arrest for drunk driving and his 2013 dispute at a Mumbai café. He invoked his "Right to Privacy" and "Right to Be Forgotten."

□ The "Right to be forgotten" was first brought up in an Indian court in the case of Dharamraj Bhanushankar Dave v. State of Gujarat & Ors (2015) at the Gujarat High Court. The petitioner, who had been accused of criminal conspiracy, murder, and kidnapping but was acquitted, requested that the respondent be prohibited from publishing the non-reportable judgment on the internet. The petitioner argued that it could harm their personal and professional life. However, the court did not acknowledge the existence of the "Right to be Forgotten" in India. In the case of Jorawar Singh Mundy vs. Union of India (W.P. (C) 3918/2020), the "Right to be Forgotten" was claimed.

Justice Pratibha M. Singh, in a Single Judge bench, recognized the petitioner's right to privacy and the public's right to information and transparency in judicial records. However, the court prioritized the petitioner's right to privacy, ruling that it had been violated. The court ordered the respondents to remove access to the judgment from their websites.

□ The "Right to be forgotten" is a subset of the right to privacy under Article 21 of the Indian Constitution. While it is not yet recognized as a fundamental right in India, the Personal Data Protection Bill, 2019, may make it a statutory right. This bill aims to give individuals more control over their personal information online. The "Right to be forgotten" is a developing right in India and is important for protecting one's dignity after being exonerated from past mistakes.

Conclusion

As per the discussion it can be concluded that the given **Personal Data Protection Bill 2019** is already tabled in parliament, there needs to be a comprehensive debate.

So, as to minimize the conflict between the two fundamental rights that form the crucial part of the golden trinity [Art 14, 19, 21] of the Indian Constitution Individuals may attempt deletion of their data from the public domain under other statutory provisions such as defamation (libel), indecency and obscenity, child pornography, outraging women's modesty, and intellectual property law violations, among others, even if they do not have a clear and specific RTBF under existing legislation.

As previously stated, there has been a trend of court rulings emphasizing the necessity of prohibiting the publication, or continuous exposure, of private details to prevent injury to the individual and especially acknowledging the presence of the RTBF. While the PDP Bill was introduced in the Indian Parliament about two years ago, there have been significant delays in its passage into law as of December 2019. It will be fascinating to watch how the Government of India considers such an idea along with the award of RTBF to citizens under the PDP BILL. So, the Right to Privacy should be given its attention considering the evolving times. Basically, the Right to be forgotten conduct to the fore the tightness among the right to privacy and the right to freedom and expression and given the rapid pace at which the digital space is changing day by day it is likely these tensions will be persists.

The court in the *Sudhanshu Rout @Gugal vs. State of Orissa, 2020* case discussed the concept of the Right to be forgotten in the Indian context. It noted that there are constitutional inconsistencies and conflicts with the Indian Constitution, particularly with regards to the right to freedom of expression under Article 19. The court stated that the wider conception of private data, as defined in the General Data Protection Regulation, cannot be protected under the Indian Constitution without violating the right to freedom of expression. Therefore, the concept of the Right to be forgotten, in its current form, would be irreconcilable in the Indian context. The court suggested that a statutory establishment of the Right to be forgotten in Indian Jurisprudence is needed, extending its coverage to private individuals and the state. It also recommended strengthening and specifically wording data protection laws, such as the Information Technology (Intermediary Guidelines) rules, 2011, to provide better protection.

Learning Outcomes-

- The right to be forgotten empowers individuals to ask organizations to delete their personal data.
- It is provided by the EU's General Data Protection Regulation (GDPR), a law passed by the 28-member bloc in 2018.
- According to the General Data Protection Regulation (GDPR), individuals have the right to request the deletion of their personal data from the data controller in a timely manner.
- Under Article 2 of the GDPR, "personal data" means "any information relating to an identified or identifiable natural person ("data subject")".
- "Controller" means "the natural or legal person, public authority, agency or any other body which determines the purposes and means of the processing of personal data".
- According to the GDPR website, "undue delay" is considered to be about a month.
- Justice BN Sri Krishna Committee's draft Personal Data Protection Bill 2018, has introduced a new right called the right to be forgotten, which refers to the ability of an individual to limit, delink, delete, or correct the disclosure of the personal information on the internet that is misleading, embarrassing, or irrelevant.
- According to Section 27 of the Bill, a data principal has a right to prevent the data fiduciary from using such data or information if data disclosure is no longer necessary, the consent to use data has been withdrawn or if data is being used contrary to the provisions of the law.
- Further, section 27(2) says the adjudicating officer (Data Protection Authority) can decide on the question of disclosure, and the circumstances in which he thinks such disclosure can override the freedom of speech and the citizen's right to information.
- Right to be forgotten is in sync with the right to privacy, which was hailed by the Supreme Court as an integral part of Article 21 (right to life) of the constitution in *Puttaswamy judgment 2017*.
- Right to be forgotten gets in conflict with the right to information.
- This can be depicted in the cases where a rape victim has a right that her past is forgotten and at the same time a criminal cannot claim that he has the right to insist that his conviction should not be referred to by the media.
- Whether the data online has to be retained (right to information) or erased (right to be forgotten) from the web, the decision has to be taken by the Data Protection Authority.
- This may turn the right to be forgotten into danger to press freedom as a journalist has to wait for the decision of

theadjudicating officer.

- Thus, the freedom to criticize the public personalities for their public policies based on their past statements and activities will be in jeopardy.
- Also, a citizen seeking access to such information will be confused, whether to approach the Central Information Commission or Data Protection Authority.
- The state retains unbridled powers to collect and process data, without the need for consent, for the national interest.
- “Undue Delay” is considered to be about a month according to the General Data Protection Regulation (GDPR) website.

- Personal Data mentioned under Article 2 of the General Data Protection Regulation which means that any detail relating to an identifiable natural person (data subject).

The freedom to criticize the public personalities for their public policies based on their past statements and activities will be in jeopardy.

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