



Right To Be Forgotten

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Recently, the **European Court of Justice** has the links related to sensitive personal data **worldwide**.

As per the European law, Google is not under any obligation to remove such information globally on its search engine versions in lieu of request made by any particular state.

Background

- The case between France and Google to remove sensitive information available globally on the Google related to certain class of people was a test of whether individuals have the right to demand the removal of personal data from internet search results without stifling free speech and legitimate public interest.
- The court in its judgment **limited the reach** of the online privacy law known as '**right to be forgotten**', restricting people's ability to control what information is available about them on the internet and stated that the balance between privacy and free speech must be taken into account while deciding if websites should be delisted over the internet.

Right to be Forgotten in Indian Context

- Right to be forgotten 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.
It allows for the **lawful removal** of personal information of an individual if such request is made.
- The **right to be forgotten is distinct from the right to privacy** because the right to privacy comprises of the information that is not publicly known, whereas the right to be forgotten involves removing information that was publicly known at a certain time and not allowing third parties to access the information.

- **Legislative Stand:** In India, there are **no legal provisions** related to it.
 - Neither the **Information Technology (IT) Act 2000 (amended in 2008)** nor the IT Rules, 2011 deals with the right to be forgotten.
 - Only **Section 27 of the draft Data Protection bill** has listed out three scenarios in which an individual will have the right to restrict or prevent continuing disclosure of personal data, also known as the right to be forgotten.
 - This will be applicable if data disclosure is no longer necessary, or the consent to use data has been withdrawn, or if data is being used contrary to the provisions of the law.
- **Judicial Stand:** There have been instances, where the High courts have upheld the right of an individual to be forgotten.
 - For instance, the **Karnataka High Court** upheld a woman's right to be forgotten stating that the right is in line with the trend in the western countries. In the sensitive cases involving women in general and highly sensitive cases involving rape or affecting the modesty and reputation of the person concerned, it must be adhered to.
 - The **Delhi High Court** in another case had asked from the Centre and Google whether the right to privacy included the right to delink from the Internet the irrelevant information.

Way Forward

- There must be a balance between the right to privacy and protection 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** (Art. 14,19 and 21) of the Indian constitution.

Source: TH
