



## Right to Privacy & Right to be Forgotten

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### Why in News

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A case was filed by an actor in the Delhi High Court, pleading to remove the videos that were uploaded on the online platforms, without her consent.

- The court observed that the right to privacy of the woman is to be protected.
- On the other hand, online platforms questioned their **right to publish**.

### Key Points

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- **Judgement: Right to privacy includes the right to be forgotten and the right to be left alone.**
- **About the Right to Privacy:** In Puttaswamy v. Union of India case, 2017, the Right to Privacy was declared a fundamental right by the Supreme Court.  
Right to privacy is protected as **an intrinsic part of the right to life and personal liberty under Article 21** and as a part of the freedoms guaranteed by Part III of the Constitution.
- **About Right to be Forgotten (RTBF):** It 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.
  - The RTBF **gained importance after the 2014** decision of the Court of Justice of the European Union (“CJEU”) in the Google Spain case.
  - In the Indian context, the Supreme Court in **Puttaswamy v. Union of India, 2017** noted that the RTBF was **a part of the broader right of privacy**.  
The RTBF emerges from the **right to privacy under Article 21** and partly from the **right to dignity under Article 14**.
- **About the Right to be Left Alone:** It doesn't mean that one is withdrawing from society. It is an expectation that society will not interfere in the choices made by the person so long as they do not cause harm to others.

- **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.
- **Enforceability Against Private Individuals:** The RTBF will normally be claimed against a private party (a media or news website).
  - 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 Judgements:** 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.

## Government Steps to Protect Privacy

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- **Personal Data Protection Bill 2019:**
  - To provide for protection of privacy of individuals relating to their Personal Data and to establish a Data Protection Authority of India for the said purposes and the matters concerning the personal data of an individual.
  - Framed on the recommendations of B N Srikrishna Committee (2018).
- **Information Technology Act, 2000:**

Provides for safeguard against certain breaches in relation to data from computer systems. It contains provisions to prevent the unauthorized use of computers, computer systems and data stored therein.

## Way Forward

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- 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**.

Source: TH