



Right to be forgotten

Description

Theme:

- The first draft of India's 'Personal Data Protection Bill, 2018' is out in July 2018. BN Srikrishna's committee took the responsibility to draft this bill. 'Right to be forgotten' was also included in this draft of the bill.

What is 'Right to be forgotten' :

- 'Right to be forgotten' is the right of an individual to delete, correct or delink the personal data that is irrelevant, embarrassing and misleading.
- For example – when you googled your name, fake news or past accusations are coming in search results that affect your personal reputation, you may take the help of law to stop those links from coming in the search results.

Why 'Right to be forgotten' is important:



- Because it's important to move on in life. Past should just be a memory. But with the technology and internet, it's increasingly becoming difficult to move forward. For example, if one is falsely accused of a crime and is declared innocent after fighting with the case for several years, the news of this incident stays on the internet and will haunt him/her forever.
- Even if a criminal is convicted and served the sentence, he/she may want to change and be a good person. Reformation is possible. But his/her image online may become an obstacle in their reformation process.
- Some people face the revenge of their enemies in terms of fake news and information about them online. In these cases, not just the 'Right to be forgotten', but also the 'Right to get the information deleted' is also important.
- In some cases, people give personal information for one purpose, but the companies use it for different purposes. For example – medical information, political preferences. It's risky if these details come in search results. So, the right to be forgotten will be of help for them.

How did it become a right:

- Though the 'right to be forgotten' has been discussed since 2006 in European Union, it was in May 2014 that the 'European Court of Justice' termed it as a legal right at the time of judgement in the "Google vs Costeja case".
- From then, other countries too started discussing it and are adding it in their data protection acts.

'Right to be forgotten' in India:

- In 2017, in Justice Puttaswamy vs Union of India case, the Supreme court stated that "The right of an individual to exercise control over his personal data and to be able to control his/her own life would also encompass his right to control his existence on the Internet".
- Currently, one notable case is pending in Delhi High court asking for this right. The petitioner asked to remove the judgement involving the names of his mother and wife. He stated that his name in the judgement is affecting his employment opportunities.
- In another case, the Karnataka High court gave judgement in the favor of the petitioner in 2017, whereas Gujarat high court dismissed the plea in another case. As there is no law on the 'right to be forgotten' yet, different courts are treating the issue differently.

Challenges for 'Right to be forgotten':

- 'Right to be forgotten and 'Right to privacy' can come into conflict with 'Right to freedom of speech. Sometimes, the public has the right to know the information. For example – If an online magazine publishes a politician's past corruption cases, he/she may file a case to delete it, whereas the magazine defends their actions with 'Freedom of speech and expression' and 'Right of the public to know.
- Even if the data is deleted from that particular sites, completely deleting the content whether it is an article or video is nearly impossible in the present times especially with the proliferation of cloud computing services.
- 'Right to be forgotten' may be misused by the government and may lead to censorship. This



may discourage the journalists from publishing genuine information that exposes the scams of government.

- To what extent the right can extend may create conflicts. That means whether the data should be delinked or deleted or modified etc.
- Receiving and resolving the requests of removing the data will be a huge burden on search engines and companies.
- There are internet archives on the internet that preserve the entire history of the changes in websites. This comes into conflict with the right to be forgotten.

Conclusion:

It's a good thing that the 'Right to be forgotten' is included in the draft of 'Personal Data Protection Bill', 2018. Updating the law and adding the new rights as per the changing times is essential for every country. The legal framework should have a balanced approach between the right to be forgotten and freedom of speech. It should also mention whether the law is permissible for everyone.

Your Turn!

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