



Right to Be Forgotten

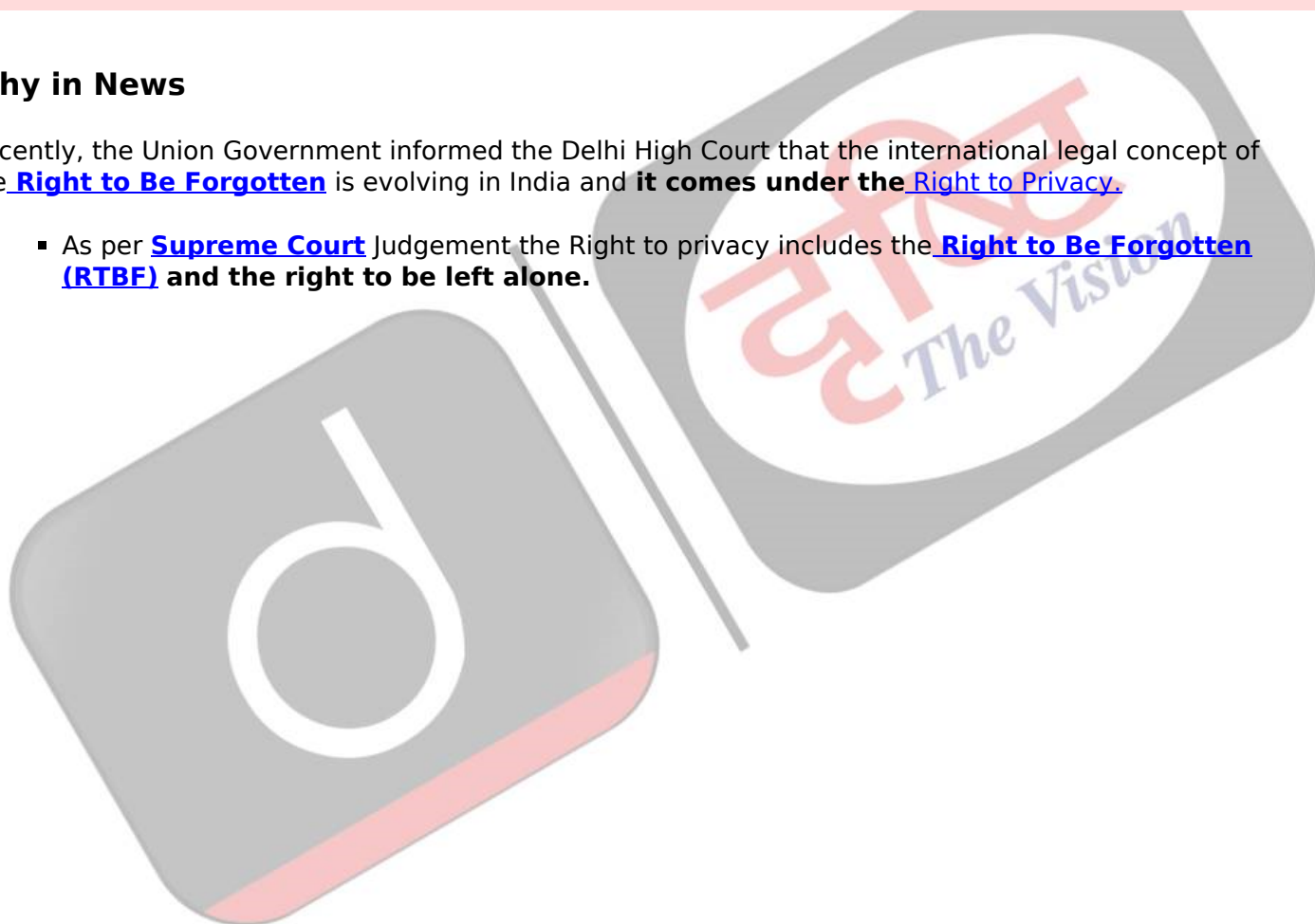
For Prelims: Fundamental Rights, Right to Privacy, the Puttaswamy case, B N Srikrishna Committee, Data protection bill.

For Mains: Issues Related to Right to be forgotten and government steps to protect privacy.

Why in News

Recently, the Union Government informed the Delhi High Court that the international legal concept of the [Right to Be Forgotten](#) is evolving in India and **it comes under the [Right to Privacy](#).**

- As per [Supreme Court](#) Judgement the Right to privacy includes the [Right to Be Forgotten \(RTBF\)](#) and the right to be left alone.



The right to be forgotten (RTBF)

is a right to have one's personal information removed from publicly available sources, such as search engines and online directories, on certain grounds.



INDIVIDUALS MAY SEEK TO HAVE THEIR INFORMATION (INCLUDING VIDEOS, PHOTOGRAPHS, IDENTIFYING INFO)

DELETED.

AN ONGOING DEBATE



FOR

THOSE IN FAVOUR OF RTBF ARGUE

- It is necessary due to issues such as **revenge porn uploads**
- To ensure references to petty crimes individuals may have **committed in the past don't haunt them**
- Potentially undue influence that such results exert upon a **person's reputation, if not removed**



AGAINST

WHAT THOSE AGAINST THE RTBF SAY

- Questions about the practicality in **attempting to implement** such a right
- Concerns about its impact on the **right to freedom of expression**
- Concerns that it would **decrease the quality of the Internet** through censorship and the rewriting of history

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Key Points

- **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.
- **Right to be Forgotten** : 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 21.**
- **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

▪ [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 unauthorised use of computers, computer systems and data stored therein.

Way Forward

- The Parliament and the Supreme Court should 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: IE](#)