

Right to Be Forgotten

The right to be forgotten (RTBF) is the right to have private information to be removed from internet searches under special circumstances.

The issue of Right to be Forgotten was in the news recently when an American citizen of Indian origin filed a petition to remove a judgement about him which was still available on internet searches.

The Delhi High Court passed an interim order in April 2021 which recognised the petitioner's 'right to be forgotten' while at the same time directing Google and Indian Kanoon to remove a judgment pertaining to the individual.

This article will further give details about the right to be forgotten within the context of the UPSC Exams.

Understanding the 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.

The first known instance where Right to Be Forgotten was used was in 2014. In Spain, a man asked Google to remove links to an old newspaper article which spoke about his previous bankruptcy. Since his debts were paid in full there was little relevancy of that article being online.

As a result, the European Court of Justice ruled against Google and declared that under certain circumstances a European Union citizen could have his personal information removed from the public database. Of course this ruling does not apply outside the borders of the EU.

Right to be forgotten is different from the right to privacy. Right to privacy deals with information that is not there in the public domain while right to be forgotten deals with publicly known information and preventing third parties from accessing that information

Limitations of application in a jurisdiction include the inability to require removal of information held by companies outside the jurisdiction.

As of now, Right to be Forgotten is mainly exercised in countries part of the European Union.

Pros and Cons of Right to be Forgotten

Although the right to be forgotten is an inalienable right that protects a reputation of an individual, proponents of free speech argue that should it be implemented outside the European Union, it can be used as a tool for censorship.

Authoritarian governments can use this to remove information that puts them under a bad light or puts information out there which they wouldn't otherwise put out in the public domain.

Below we have listed out the pros and cons of the Right to Be Forgotten

Pros and Cons of Right To Be Forgotten	
Pros	Cons
An Individual can control what information anyone sees	The individual's need for privacy may be overridden by the public's overall interest in viewing and accessing information
RTBF can remove slanderous, libelous information form the net	It places potential restriction on the freedom afforded to media, journalist and other parties
Can remove illegally uploaded content by a third party	RTBF is a broad and underdeveloped concept without any precedent
An opportunity for a fresh start	Google and other search engines may be backed up with requests to remove information, so it may not be removed immediately
Details that are a threat to personal and financial security can be removed	Lack of transparency surrounding important information about businesses or persons

Right to Be Forgotten - Indian Context

Although there are no laws in India that provides the Right to Be Forgotten, it is recognised under the Personal Data Protection Bill 2019.

Among the Fundamental Rights an Indian Citizen is entitled to, Right to be Forgotten can be linked to Right to Privacy

There have been certain cases where the Right to be Forgotten was exercised to a certain degree:

- In April 2016, the Delhi High Court examined the issue after a Delhi banker put in a request to remove details about his marriage dispute. He argued that since the dispute was resolved there was no need for it to be up in the public domain. The High Court has asked for a reply from Google and other search engine companies by September 19, upon which the court will continue to investigate the issue.
- The High Court of Karnataka in January 2017, upheld the RTFB of a woman who went to court in order to annul a marriage. She claimed that she had not married the man whose name was on the certificate. Once the case was resolved, the woman's father requested that her name be removed from search engines since her name still showed for enquiries regarding criminal cases in high court.
- The Delhi Court presided over a case in February 2017, where a man requested to have information regarding his wife and mother removed from search engine results. The man was of the opinion that the search engine results that were linked to his name were proving a roadblock to future employment prospects.

Currently, there is no legal standard for the right to be forgotten, but if implemented, this would mean that citizens no longer need to file a case in order to request for information from search engines to be removed. This case could have significant impacts on the right to be forgotten and search engines in India.