Right to be forgotten

Why in news?

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The Karnataka High Court recently upheld the concept of and the right to be forgotten.

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What is right to be forgotten?

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- The ‘right to be forgotten’ has been in practice in Argentina and the European Union since 2006.
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- It **allows for the lawful removal of personal information of an individual if such request is made.**
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- The right is seen as significant in these jurisdictions as it can “determine the development of their life in an autonomous way, without being perpetually or periodically stigmatised as a consequence of a specific action performed in the past”.
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- The right to be forgotten is distinct from the right to privacy because the right to privacy constitutes 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.
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What is the experience in EU?

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- The European Union created a system that allows people to seek the

removal of search results from Google that are “inadequate, irrelevant or no longer relevant.”
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- The system does not result in the removal of the actual content, but rather makes it more difficult to find in light of the near-universal reliance on search engines to locate information online.
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- Since the European decision, Google has received nearly 700,000 requests for the removal of links.
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- Problems such as revenge porn sites appearing in a person's name, or references to petty crimes committed many years ago remaining unduly as prominent part of a person's Internet footprint can be addressed by it.
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- But there are concerns about its impact on the right to freedom of expression as it might decrease the quality of the Internet through censorship and a rewriting of history.
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What are the directives of Karnataka HC?

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- The father of the woman had moved the court seeking orders to block her name in an earlier order passed by the court, as his daughter feared the consequences of her name associated with this earlier matter and was afraid that this would affect her relationship with her husband and her reputation and good-will in society.
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- The Karnataka High Court upheld a woman’s 'right to be forgotten'.
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- The judgment stated that this is in line with the trend in western countries of the ‘right to be forgotten’ in sensitive cases involving women in general and highly sensitive cases involving rape or affecting the modesty and reputation of the person concerned.
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- The high court directed to its registry that it should be the endeavour of the registry to ensure that any internet search made in the public domain ought not to reflect the petitioner's daughter's name in the case-title of the order or in the body of the order in the criminal petition.
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- In the Indian context, the right to be forgotten poses a legal dilemma.
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- While the significance of such a right exists, **India has no legal provision, neither in the Information Technology (IT) Act 2000 (amended in 2008) or the IT Rules, 2011.**
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- And while the judicial construction of such a right should ideally be the balance between the right to privacy and the right to information and free speech, there is no privacy law at present either.
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- The Delhi High Court in an another case, had asked recently whether the right to privacy included the right to delink from the Internet the irrelevant information – from the Centre and Google.
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- Google Inc had stated to the Delhi High Court that there is no reason or creation of a separate legal framework under 'right to be forgotten' to delink 'irrelevant information' from the internet.
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What is the way ahead?

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- For now, there is no way to predict how the right to be forgotten would be moulded by the Indian courts.
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- Currently, it is a budding judicial concept that will take some amount of debate and deconstruction to make sense.
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- However, the Karnataka High Court judgment must be applauded for what it is, prudent and inventive.
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Source: FirstPost

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