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THE RIGHT TO BE FORGOTTEN FOR AI MODELS IN INDIA

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INTRODUCTION

The world of literature treated memory and the desire to be remembered as integral to human identity. They explore the burden of forgetting and its emotional and existential cost. In contrast The Right to be forgotten in law frames forgetting as empowering, offering relief from the literal and symbolic mark of the past and allowing individuals riddled with this burden to reinvent themselves. At its core the right to be forgotten is a modern legal construct, empowering individuals to request deleting of any sort of personal data that is no longer relevant or threatens their right to privacy in this digital age. But as the AI models grow and learn from the vast amount of data, truly forgetting feels like science fiction.

EVOLVING LEGAL LANDSCAPE

The right to be forgotten emerged from a single promise that no one should be punished due to the existence of outdated data or irrelevant online records about their personal lives. The Supreme Court of India in the 2017 judgement affirmed that privacy is a fundamental right of the land and gave way to the claim that individuals can control their personal information.¹ This brought about the existence of the new Digital Personal Data Protection Act (2023)² which acknowledged the right to correct or erase one's data or information online. In the world where every click and post or information about ourselves, form the tapestry of our lives, this new legal innovation and the idea of being free from past biases feels liberating. However the challenge we face in the todays digital age is that the new law does not clearly spell out how can this law and the right this imparts on the people of our country will operate in complex AI contexts. But many early court cases in 2024 itself, hint at the change this might bring about where a few judges have ordered n news and media outlets to blur or remove an acquitted person's name after their exonerations form their databases, to protect their future and reputation going forward.³

PERSISTENT MEMORY STRUGGLES WITH AI

From the ongoing struggle of privacy from the digital world engineer and experts have been actively experimenting with "Machine Unlearning," but it's not providing a scalable or fool

¹ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (India).

² The Digital Personal Data Protection Act, No. 22 of 2023, Acts of Parliament, 2023 (India).

³ Del. H.C., Order dated Mar. 12, 2024, [Name Withheld] v. [Media Company] (India).

proof solution to the problem yet. Moreover AI systems do not store individual bits of data they learn from the patterns of use and their datasets. That's exactly why once personal information gets embedded in a language model such as ChatGPT or Google Gemini etc. it cannot be pinpointed and erased without proper machine unlearning. These are also affected by foreign policy and rules that cross international boundaries and sometimes we have no option but to comply. When ANI sued, OpenAI alleging that they used ANI and its digital data to train their model ChatGPT without their permission, OpenAI responded that complying with the Delhi high court's rules would breach U.S. laws that require extensive data preservation during litigation and that Indian courts lack jurisdiction as they have no base in India.⁴

BALANCING PERSPECTIVES

As India navigates the vast intersection of AI and privacy, different opinions and visions and have become worthy of notice. While privacy advocates believe that individual identity is important and once a case or allegation is declared false continued public visibility can cause mental and physical harm to the individual and make it harder to move on and forget their past. While policy maker's advocate for strict rules that are equipped with the ability to manage these emerging difficulties scholars and the civil society seek a balance path where the courts may strip the names of acquitted from search results but maintain and carefully preserve a public access to legal records. However engineer that are tasked with shaping the AI mourns their technical limitation as once data is absorbed by a model, erasing it is like taking away the flavour of the cake, but the cake still exists. India's evolving legal jurisprudence including the high profile cases and emerging regulatory framework does have the potential to play a key role in clarifying erasure norms such as the future data protection board and is now shaping how the right to be forgotten interacts with the cutting-edge AI technology.

REMEMBERING, FORGETTING, AND WHAT COMES NEXT?

Literature often depicts forgetting as tragic and not liberating. In Shakespeare's King Lear, the protagonist loses his memory and this highlights how forgetting can bring about the destruction of one's identity.⁵ While this literary lens reminds us that forgetting can carry emotional and existential costs, this tragedy sharply contrasts with the vision of courts that are working cautiously to empower and expand the right to be forgotten while systematically preserving transparency and due process. India now finds itself navigating a delicate junction—between the right to rebuild one's identity and the need to uphold public accountability. Meanwhile, AI technologies remain stubbornly resistant to selective erasure, blurring the path forward. Finally it's clear that the right to be forgotten is still in its foundational state and requires to be shaped by the determination of courts, regulators and that the technical infrastructure that must evolve to address emerging legal and ethical complexities of the digital world.

⁴ ANI Media Pvt. Ltd. v. OpenAI, W.P. (C) 8909/2024, Delhi High Court (pending).

⁵ William Shakespeare, King Lear, Act IV, Scene VII (1606).