



# An Appraisal of the Right to Erasure as a Part of the Right to Privacy with Special Reference to Data Protection in India and Sri Lanka

Jayamol Padivathukkal Sasidharan\*

## Abstract

*Privacy is a concept with different dimensions. The traditional approach to privacy has considerably changed due to the advancement in science and technology. In this digital world, a vast amount of data is collected, stored and distributed. Right to erasure is an area of privacy, where the courts have acknowledged pleas of litigants who experience social boycotts or harm to reputation. It is an admitted fact that understanding the right to privacy must include the right to erasure because there is no privacy when everything is social. Data Protection is acknowledged in India and Sri Lanka through the Digital Personal Data Protection Act, 2023(DPDP) and the Personal Data Protection Act, 2022(PDPA )respectively. This paper aims to analyze the right to erasure as an essential part of the right to privacy. It is crucial for celebrities and people with fame who attract media glare. This is required in the case of a person who is acquitted and to those who come out of prison after reformation. In this paper, the author examines the right to erasure as a part of the right to privacy in India and Sri Lanka. It also explores the International arena of the right to erasure and highlights the need to have separate statutory protection for the right as there are only judicial decisions and few provisions in the Data Protection laws in this regard. The paper concludes by pointing out the emerging social need to recognize the right to erasure as an essential aspect of the right to privacy.*

**Keywords:** *Right to Erasure, Right to Privacy, Data Protection, Constitution, Data Privacy*

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\* LL.B. (Karnataka), LL.M. (Kerala), Ph.D. (Karnataka), Assistant Professor, Vaikunta Baliga College of Law, Udipi, Karnataka, India.

## Introduction

The impact of colonization is still visible in India and Sri Lanka in their society, tradition, culture and even in the political sphere. Both countries have many similarities in their political and legal streams in the form of democracy and Parliamentary form of government. These countries have adopted constitutions enumerating fundamental rights. The right to privacy has not been recognized as an enforceable right in the constitutional textbooks of India and Sri Lanka. Even though heated deliberations took place in the Constituent Assembly of India regarding the right to privacy, it was not recognized and inserted as a fundamental right neither in the draft nor in the original constitution.<sup>1</sup> The advancement in science and technology in this globalized world has opened many challenges to the right to privacy. In this digital world, the explosive growth of online transactions for the delivery of a wide variety of goods and services has led to the generation of huge amounts of data. This has also paved the way for issues in the collection, storage, processing, and usage of data, particularly personal data.<sup>2</sup> The digital eternity has a lasting effect.<sup>3</sup> Once a matter goes online, it cannot be erased easily. The internet can search and find out even the hushed-up news. The right to erasure has relevance in this context. When data or information defames a person, he has every right to erase it. It is a part of the privacy aspect of a person. This paper analyses in detail the right to erasure and its link with the right to privacy aspect of a person. It also analyses the international and national context of the right to privacy and concludes the paper by stating that the right to erasure is an essential part of privacy and should be recognized. The author analyses the concept of the right to erasure by adopting the doctrinal method of

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<sup>1</sup> Rahul Mithan, Even If Privacy Is Not a Fundamental Right, We Still Need a Law to Protect, available at <https://thewire.in/law/privacy-is-not-a-fundamental-right-but-it-is-still-extremely-important> (accessed on 8<sup>th</sup> August 2023).

<sup>2</sup> Joint Parliamentary Committee Report on Data Protection Bill, 2019.

<sup>3</sup> David Lindsay, 'The "Right to Be Forgotten" in European Data Protection Law' in Normann Witzleb et al, *Emerging Challenges in Privacy Law: Comparative Perspectives* (Cambridge, 2014) 290, 293.

study focusing mainly on the Constitutions, data protection laws and judicial decisions of both countries.

### **Conceptual Understanding**

Privacy is the condition or state of being free from public attention or intrusion into or interference with one's acts or decisions.<sup>4</sup> The right to be in this condition has been described as 'the right to be let alone' by noted American jurist, Thomas Cooley.<sup>5</sup> The concept of privacy is not amenable to any precise definition. The right to privacy insists for allowing a person to be totally secluded from the intrusion of others. This is the most important aspect of the right. These intrusions may be physical or visual and may take any of several forms including peeping over one's shoulder to eavesdropping directly or through instruments, devices, or technological aids.<sup>6</sup> It is considered a compendium of domestic privacy, physical privacy, privacy in marital or sexual relations, right to be let alone against undue publicity, defamation, public disclosure of private facts, surveillance, and interception of communication.<sup>7</sup>

As it is noted above privacy can be interpreted and experienced in different forms. Informational privacy is an emerging area where privacy is hiding behind technological advancement. Informational privacy is a broader concept, encompassing information or data about persons or their communications.<sup>8</sup> In this digital world, intrusion into private life is very easy because every aspect of privacy is related to informational privacy. The right to privacy in this context is a suitable safeguard against the unwanted circulation of personal data, according to the whims and fancies of the processors of the data.

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<sup>4</sup> Black's Law Dictionary (Bryan Garner Edition) 3783 (2004).

<sup>5</sup> Samuel D. Warren and Louis D. Brandeis, "The Right To Privacy," 4 *Harv L Rev.* 193 (1890).

<sup>6</sup> Subhranshu Rout v State of Odisha MANU/OR/0270/2020.

<sup>7</sup> P.Ishwara Bhat, *Fundamental Rights: A Study of their Interrelationship* 324 (Eastern Law House, Calcutta, 2004)

<sup>8</sup> Anita Allen, *Unpopular Privacy: What Must We Hide?* 25(Oxford University Press, USA, 2011).

The right to erasure is a right intrinsically related to the privacy of a person. The right to privacy as a concept has undergone multifaceted changes across the globe and has become an important aspect of a person's daily life for many reasons. There will be dark sides in every human being's life which they try to forget and try to evade from others' knowledge. Right to erasure refers to 'the ability of an individual to limit, delink, delete, or correct the disclosure of personal information on the internet that is misleading, embarrassing, or irrelevant, etc. as a statutory right.'<sup>9</sup> It is rightly pointed out by Justice B.N.Srikrishna Committee<sup>10</sup> that the sensitivity of the personal data which is to be restricted and the scale of disclosure also matters while exercising the right to erasure.<sup>11</sup>

### Evolution of Privacy as a Right

In the beginning, the Supreme Court of India itself has taken a firm view that privacy cannot be brought under fundamental rights as it was something not related to the Indian Constitution.<sup>12</sup> The narrower interpretation followed in the landmark case of *Kharak Singh v. State of U.P.*<sup>13</sup> where the question of whether the right to privacy comes under the fundamental right or not has been answered negatively. The majority judgment refused to accept privacy as a fundamental right and therefore any attempt to ascertain the movement of an individual merely in a way in which privacy is invaded is not an infringement of a fundamental right guaranteed under Part III of the Indian Constitution.<sup>14</sup> The nature of Privacy has been significantly

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<sup>9</sup> Supra n 3.

<sup>10</sup> Justice Srikrishna Committee Report

<sup>11</sup> According to Justice Srikrishna Committee, the right to be forgotten (the committee has used the term forgotten instead of erasure) can be entertained looking into five aspects by the adjudicating officers.

1.the nature and gravity of the personal data to be prevented from public access 2.The quantity of the data to be released and the extent of accessibility to be restricted3.The role of the data principal in the society life, his recognition and reputation in the society 4.The relevance of such a private data to the public and (v) The credibility of the data fiduciary. The restriction of the data is important rather than mere content creation.

<sup>12</sup> M.P Sharma v Satish Chandra, AIR 1954 SC 300.

<sup>13</sup> AIR 1963 SC 1295.

<sup>14</sup> Ibid.

changed in Govind's case,<sup>15</sup> where the Supreme Court has observed that, in the absence of legislative enactment, the right to privacy will go through a case-by-case development. Just one single case will be inadequate to see the exceptions and consequences of the right to privacy.<sup>16</sup> This decision has indirectly enriched the scope of Article 21<sup>17</sup> and the right to privacy. Later in *R.Rajagopal's* case,<sup>18</sup> the right to privacy has been elevated by saying that, it is implicit in the right to life and personal liberty. The Supreme Court of India has extended the scope of the right to privacy in phone tapping cases.<sup>19</sup> However, the unanimous decision in *K.S.Puttaswamy's* case<sup>20</sup> ended up all the discrepancies that existed and recognized the fundamental right to privacy of every individual guaranteed by the Constitution, within Article 21 of the Constitution. The right to life and personal liberty of a citizen can be curtailed only through a procedure established by law. So through the judicial interpretations, it became a settled position that every person has a right to be let alone without the disturbance of others. That 'let alone' in different contexts<sup>21</sup> makes the life of a human being meaningful. As a result, now right to privacy is a fundamental right of the citizen which also empowers him or her to ensure the protection of his data being shared.

A landmark judgment pronounced by the Court of Appeal of Sri Lanka equated the right to privacy to a fundamental right. The decision has made drastic changes in the legal system.<sup>22</sup> Here the court observed that, even though the President is a public figure, she has to be left alone in her private space. She has the right to privacy

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<sup>15</sup> Govind v. State of M.P, AIR 1976SC 1207.

<sup>16</sup> People's Union for Civil Liberties v. Union of India, AIR 1997 SC 568.

<sup>17</sup> Article 21 of the Indian Constitution deals with the right to life and personal liberty

<sup>18</sup> R. Rajagopal v. State of Tamil Nadu, AIR 1995 SC 264.

<sup>19</sup> PUCL v.UOI,AIR 1997 SC 568.

<sup>20</sup> K.S.Puttaswamy v. Union of India, AIR 1997 SC 568.

<sup>21</sup> The right to privacy has been analyzed by the courts in different contexts. In phone tapping (*R.M. Malkani v. State of Maharashtra* AIR 1973 SC 157), data protection (*Puttuswamy* case), right to publication of autobiography (*Rajgopal's* case), etc.

<sup>22</sup> *Sinha Ratnatunga v.State* (2001) 2 SLR 172.

when she is not doing any public functions. Even before that, in *A.M.K Azeez v W.T Senevirathne*,<sup>23</sup> the right to privacy of couples in the household was admitted by the court. The right to privacy and invasion of privacy became a topic for heated debate in Sri Lanka only during the aftermath of the COVID-19 outbreak. There were proposals to include the right to privacy in the new Constitution but due to some issues, the efforts done on those matters became futile. At present, the right to privacy is recognized as a part of right to life in Sri Lanka.

### **International Scenario of Right to Erasure**

The right to be erasure is a concept that recently emerged as a right in the global scenario. However, the basic right to privacy was recognized by international instruments a long way back. The right against arbitrary interference against privacy, family, honor, reputation, etc. has been widely recognized in the Universal Declaration of Human Rights.<sup>24</sup> The International Covenant on Civil and Political Rights recognizes the right to privacy and states the need to have protection by law against unlawful interference against private life.<sup>25</sup> As a result, the right to privacy has been widely acknowledged by almost all countries.

The development in technology and the fast-growing nature of the internet have invaded the right to privacy. As a result, data protection and the right to erase data as a specific area of the right to privacy have developed in the European Union. The European Union's General Data Protection Regulation (GDPR)<sup>26</sup> is more

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<sup>23</sup> 69 NLR 209.

<sup>24</sup> Article 12 of the Universal Declaration of Human Rights: No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

<sup>25</sup> Article 17 of the Civil and Political Rights: 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor unlawful attacks on his honor and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.

<sup>26</sup> Regulation (EU) 2016/679 (General Data Protection Regulation)-This Regulation lays down rules relating to the protection of natural persons about the processing of personal data and rules relating to the free movement of personal data.

crucial in this regard. It was designed to provide safeguards whenever information technology is used for processing information relating to individuals. This was based on the early conviction that the extensive use of information technology would lead to far-reaching impacts on the rights and interests of individuals.<sup>27</sup> The Regulation has inserted a specific provision for the right to erasure.<sup>28</sup> According to the Regulation, the data subject shall have the right to obtain from the controller the erasure of personal data concerning him or her without undue delay and the controller shall have the obligation to erase personal data without delay.<sup>29</sup> It also prescribes when such a right cannot be exercised. If the data processing is for exercising the right to freedom of expression and information, for compliance with a legal obligation that requires processing by a Union or Member State, for reasons of public interest, and for the defense of legal claims data erasure cannot be exercised.<sup>30</sup>

The Regulation also deals with ‘data accuracy’ which insists that the personal data collected must be kept up to date and every reasonable step must be taken to ensure that inaccurate personal data, having regard to the purposes for which they are processed, are erased or rectified without delay.<sup>31</sup> To ensure ‘integrity and confidentiality,’ the Regulation directs that, the personal data shall be processed in an appropriate manner ensuring protection against unauthorized or unlawful processing and against accidental loss, destruction, or damage by using appropriate technical or organizational measures.<sup>32</sup> The case of *Google Spain SL, Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*,<sup>33</sup> is

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<sup>27</sup> Peter Hustinx, “EU Data Protection Law: The Review of Directive 95/46/EC and the Proposed General Data Protection Regulation,” [https://edps.europa.eu/sites/edp/files/publication/14-09-15\\_article\\_eui\\_en.pdf](https://edps.europa.eu/sites/edp/files/publication/14-09-15_article_eui_en.pdf). (accessed on 8<sup>th</sup> August 2023).

<sup>28</sup> Article 17 of the General Data Protection Regulation.

<sup>29</sup> Ibid.

<sup>30</sup> Article 17(3).

<sup>31</sup> Article 5 of the GDPR.

<sup>32</sup> Article 5 (6) of GDPR.

<sup>33</sup> ECLI:EU:C:2014:317, Case C-131/12.

important in this regard. In this case, the European Court of Justice recognized an individual's right to erasure, enabling a person to obtain the removal of search results that violated his or her privacy interests. The seeds of the right to erasure were very accurately sowed in the Regulation which became instrumental in the adoption of this right to Indian context by the judiciary in India.

### **Right to Erasure in India**

The genesis of a legal mechanism to deal with privacy and data protection in India stems from the judgment of the nine Judge Constitution Bench of the Supreme Court, in the matter of *Justice K.S. Puttaswamy and Another v. Union of India*.<sup>34</sup> The journey towards the protection of personal data and data legislation in India can be traced back to 2017 when an expert committee was constituted by the Ministry of Electronics and Information Technology.<sup>35</sup> As a result, the earlier Personal Data Protection Bill, 2019 drafted which seeks to bring a robust data protection framework for India and to set up an Authority for protecting data and empowering the citizens with rights relating to their data ensuring their fundamental right to privacy and protection of personal data.<sup>36</sup> The present Digital Personal Data Protection Act, 2023<sup>37</sup> (DPDP Act, 2023) protects the rights of the users. They can seek corrections, completion, update, and erasure of their data for the processing of which she has previously given consent.<sup>38</sup> Accordingly, upon receiving a request for correction, the data fiduciary<sup>39</sup> shall correct the inaccurate or misleading personal

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<sup>34</sup> Supra note 20.

<sup>35</sup> Radhika Roy and Tejasi Panjiar, 'What is the Data Protection Bill of 2023', The Hindu, August 6, 2023 page 16.

<sup>36</sup> Google India Private Limited v. Visakha Industries and Ors. (10.12.2019-SC): MANU/SC/1708/2019.

<sup>37</sup> This Act is to provide for the processing of digital personal data in a manner that recognizes both the right of individuals to protect their data and the need to process such personal data for lawful purposes and matters connected therewith or incidental thereto

<sup>38</sup> Section 12 of the DPDP Act, 2023.

<sup>39</sup> Section 2(i) defines 'Data Fiduciary' means any person who alone or in conjunction with other persons determines the purpose and means of processing personal data.



data, and complete and update the personal data.<sup>40</sup> The Act ensures the right to erasure by stating that, the data principal shall request the data fiduciary for erasure of her data, and upon receipt of such a request the data fiduciary shall erase her data.<sup>41</sup> It also clarifies that, if the data is necessary for the specified purpose or compliance with any law for the time being in force the data fiduciary can retain the same.

The concept of privacy and private information includes the right to be free from interference and intrusion, whether from the prying eyes of a neighbor, the eavesdropping ears of an associate, or even the intrusive camera of a photographer.<sup>42</sup> The Right to Information Act, of 2005 which ensures fairness and transparency also comes into the realm. How much information can be published and protected is a question coming under this context. The information that relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause an unwarranted invasion of the privacy of the individual can be erased. On the other hand, the Central Public Information Officer the State Public Information Officer, or the Appellate Authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information, it is to be published under the Right to Information Act.<sup>43</sup> The right to privacy is protected hereunder and unwarranted invasion of privacy is prohibited as per this provision if it doesn't have any public nature.

The concept of personal space and information also carries with it the right to erasure. Any information shared with another or put in the public domain does not mean that the information of the source must remain in public memory for all times to come. In other words, concomitant to the right to private information is the

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<sup>40</sup> Ibid. Section 12(2).

<sup>41</sup> Ibid.

<sup>42</sup> Mahendra Kumar Jain vs. State of West Bengal and Ors. (29.09.2022-CALHC): MANU/WB/1442/2022.

<sup>43</sup> Section 8(1)(j) of the Right to Information Act, 2005

right to be erased.<sup>44</sup>

### Judicial Approach towards Right to Erasure in India

In the absence of any statutory framework specific to the area, the judiciary has elevated the right to be forgotten as a right. The High Court of Karnataka in the case of *Vasunathan v. The Registrar General*,<sup>45</sup> has acknowledged the right to be forgotten in a limited sense. The petitioner's request to remove his daughter's name from a judgment involving claims of marriage and forgery was upheld by the Court. It is observed by the court that, recognizing the right to be forgotten is the initiatives by western countries which uphold this right when sensitive cases concerning the modesty or reputation of people, especially women, were involved.' The High Court of Delhi in *Zulfiqar Ahman Khan vs. Quintillion Business Media Pvt. Ltd. and Ors*,<sup>46</sup> has also recognized the right to be forgotten and the Right to be left alone as an integral part of an individual's existence. However, the Gujarat High Court<sup>47</sup> declined to recognize the right to erasure by removing a judgment published in the public domain stating that:

“The prayers prayed for in this petition would not amount to any violation of Article 21 of the Constitution as averred by the petitioner. The judgment in appeal is part of the proceedings and the said judgment is pronounced by this Court therefore, merely publishing on the website would not amount to the same being reported as the word ‘reportable’ used for judgment is about it being reported in a law reporter. As pointed out earlier, even under the relevant High Court Rules, a third party can get a copy of the said judgment. In light of the aforesaid, therefore, the petition deserves to be dismissed.”

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<sup>44</sup> Supra note 35.

<sup>45</sup> 2017 SCC OnLine Kar 424.

<sup>46</sup> MANU/DE/1648/2019 : 2019(175) DRJ 660.

<sup>47</sup> Dharamraj Bhanushankar Dave v. State of Gujarat and Ors.(19.01.2017-GUJHC): MANU/GJ/0029/2017.

While discussing the refusal to remove a defamatory matter from social media, the Hon'ble Supreme Court observed that it amounts to publication. "Having regard to all the facts of the case is the proper inference that by not removing the defamatory matter, the defendant made himself responsible for its continued presence in the place where it has been put." The question, as to whether there was power and the right to remove any such matter and despite having such power and ability to remove the matter, if the person does not respond, it would amount to publication.<sup>48</sup>

The term right to erasure has been vehemently discussed in depth in *Subhranshu Rout v. State of Odisha*.<sup>49</sup> It is observed by the Court that, the right to be forgotten is an integral part of the right to privacy and that there must be a mechanism through which a victim can protect her privacy by having the content deleted from the servers of intermediaries. In this case, the court has analyzed the right to erasure from the side of the victim and stated that even though the obnoxious content is removed from the social media platform, it will not go away from the servers:

"It is in fact, the information in the public domain is like toothpaste, once it is out of the tube one can't get it back in and once the information is in the public domain it will never go away. Under the Indian Criminal Justice system a strong penal action is prescribed against the accused for such heinous crime but there is no mechanism available concerning the right of the victim to get the objectionable photographs deleted from the server of the Facebook."<sup>50</sup>

The Calcutta High Court in *Mahendra Kumar Jain v. State of West Bengal and Others*,<sup>51</sup> while directing the authorities not to disclose the WhatsApp messages of a deceased lady, observed that the

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<sup>48</sup> Google India Private Limited v. Visakha Industries and Ors. (10.12.2019 - SC) : MANU/SC/1708/2019.

<sup>49</sup> MANU/OR/0270/2020

<sup>50</sup> Ibid

<sup>51</sup> Supra note 42.

concept of personal space and information also carries with it the right to erasure.

Any information shared with another or put in the public domain does not mean that the information of the source must remain in public memory for all times to come. In other words, concomitant to the right of private information is the right to be erased from public memory.<sup>52</sup> The right to privacy draws within its fold, the right to be left alone and the right to treat one's intimacies, relationships, beliefs, and associations as information that is to remain within the private domain. The court directed the authorities to ensure that the WhatsApp messages and the photographs are not disclosed to any person or authority by way of an application under the Right to Information Act or otherwise.

### **Right to Erasure in Sri Lanka**

The Parliament of the Democratic Socialist Republic of Sri Lanka has enacted Personal Data Protection Act,(PDP) 2022,<sup>53</sup> exclusively to regulate the processing of personal data<sup>54</sup> and to establish an authority to deal with data protection. The Act has dealt with the obligation to comply with the data processing requirements. Personal data can be processed only for specified, explicit, and legitimate purposes.<sup>55</sup> Moreover, the enactment is more crucial in identifying and strengthening the rights of the data subjects.<sup>56</sup> PDP Act applies to the processing of personal data within Sri Lanka by a processor.<sup>57</sup> The Act prescribes rights of data subjects where they have the right to access personal data<sup>58</sup> as well as the right to withdraw his consent.<sup>59</sup> Moreover, the data subject has the right to request to rectify the inaccurate or incomplete data. The request has to be

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<sup>52</sup> Ibid.

<sup>53</sup> No.9 of 2022

<sup>54</sup> Section 2(3) of the PDP Act, makes it clear that the PDP Act does not apply to personal data processed purely for personal, domestic, or household purposes

<sup>55</sup> Section 6 of the PDP Act, 2022.

<sup>56</sup> Preamble of the PDP No.9 of 2022

<sup>57</sup> Ibid, Section 2(a) of the PDP Act

<sup>58</sup> Ibid, Section 13

<sup>59</sup> Ibid, Section 14

given in writing to the data controller.<sup>60</sup>

The right to erase personal data is provided under the Act.<sup>61</sup> A written request from the data subject to the controller has to be given under three circumstances. First of all, the processing of personal data was against the provisions of the PDP Act, 2022, secondly if the data subject withdraws his consent and finally, the removal of data is required by a court of law.<sup>62</sup> In case of erasure, refusal, or refraining from further processing of data requested under sections 13, 14, 15, or 16, the data controller has to inform the data subject within twenty days.<sup>63</sup> The refusal can be based on national security, public order, any inquiry conducted, and for dealing with criminal offenses. The right to erasure can also be denied subject to the rights and freedoms of other persons, the technical feasibility of the controller, the identity of the data subject, and the requirements under any law to process personal data.<sup>64</sup> The appeal is allowed under the Act against the refusal of erasure.<sup>65</sup>

## **Suggestions and Conclusions**

The data protection laws in both countries carry almost similar provisions in tune with the General Data Protection Regulation of the European Union. As a result, there are no prominent intricacies found in both the legislations. The right to erasure subjected to certain conditions is provided in both data protection laws.

The right to erasure has not fully developed from its crucial format. Even though the judiciary has done a lot to ensure and elevate the right to erasure to the amplitude of the right to privacy, it has been challenged from various quarters. In the absence of a specific statutory framework and constitutional mandate, the right survives only with the

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<sup>60</sup> Ibid, Section 15

<sup>61</sup> Ibid, Section 16

<sup>62</sup> Ibid, Section 16 (a) to (c)

<sup>63</sup> Ibid, Section 17.

<sup>64</sup> Ibid, Section 17 (a) to (h)

<sup>65</sup> Ibid, Section 19 (1) (C)

protection granted by the judiciary. The relief is granted in the form of a provision inserted in the DPDP Act, 2023. It is pertinent to note that, the enforcement of the right deprives the internet user's access to information. In this contemporary scenario, all sorts of information are available at the fingertip. But, when the right to erasure is exercised, most of the information can be erased from the public domain if it contains private data. Moreover, the right to privacy is not absolute. Likewise, the right to erasure is not unfettered as it has restrictions prescribed. At the same time, a close reading of the GDPR of the European Union creates the impression that it is more sophisticated and wider than DPDP and PDP enactments.

More than a mere right, the right to erasure involves some emotional aspects. The right is a boon to common people as well as to the people who attract media glare. The acknowledgment of this right from the prism of the fundamental right to privacy is to be acclaimed owing to the potential of social boycotts or harm to the reputation not only of litigants but also of their families. It will allow a convict to lead a normal life after the period of conviction. But in an age of massive internet activity, it is challenging for search engines or data fiduciaries to delete or erase the contents of personal or defamatory information. The present DPDP Act, 2023 in India and the PDP Act in Sri Lanka will not be sufficient to meet all the requirements and antecedents of data dissemination and data processing in the future. There is no proper legislation for people who are framed, falsely accused, and acquitted during the trial by proving their innocence, to regain and retain their dignity. The right to erasure should be viewed as an emerging need of society and it should be protected and highlighted by a proper statutory framework.