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# AN ANALYTICAL STUDY ON THE RIGHT TO BE FORGOTTEN IN INDIA

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## ABSTRACT

The Right to Be Forgotten (RTBF) has emerged as a contentious issue globally, particularly in the realm of digital privacy and personal data protection. This study focuses on examining the applicability and implications of the RTBF within the constitutional framework of India, specifically under Article 21, which guarantees the fundamental right to life and personal liberty. The research begins by providing a detailed overview of the concept of the RTBF, tracing its origins and evolution in international jurisprudence, with particular emphasis on landmark cases in Europe, where the right has been most prominently recognized and debated. The study then proceeds to analyse the legal landscape in India, exploring the extent to which existing laws and judicial interpretations align with the principles underlying the RTBF. The research also investigates the theoretical underpinnings, practical challenges, and potential benefits associated with implementing the RTBF in India. It critically examines the connection between privacy rights, freedom of expression, and the digital age, considering the socio-cultural, technological, and legal dynamics that shape the discourse surrounding online privacy and data protection. It is found from the research that every individual should have the right to control their own identity and personal information, especially in today's digital era where information is easily accessible. Advances in information and communication technology have made it possible for both government and private entities to infringe on an individual's privacy by tracking and recording all online activities. At the same time, people are increasingly compelled to share large amounts of personal information on social media resulting in significant personal data being widely available on public platforms.

**Keywords:** Rights, Article 21, Forgotten, Privacy, Constitution.

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## INTRODUCTION

In an era where digital footprints often outlast our physical presence, the concept of the right to be forgotten has emerged as a crucial component of privacy rights worldwide. India, with its burgeoning digital landscape and evolving legal framework, has found itself grappling with the implications and intricacies of this right, particularly within the ambit of Article 21 of the Constitution. Understanding the Right to be Forgotten: The right to be forgotten encapsulates an individual's entitlement to have their personal information removed from the public domain, especially online platforms, under specific circumstances. It serves as a counterbalance to the permanence and ubiquity of information in the digital age, acknowledging the potential harm and stigma that outdated or irrelevant information can inflict on an individual's personal and professional life.

Article 21: The Bedrock of Indian Fundamental Rights, enshrines the fundamental right to life and personal liberty, encompassing within its ambit the right to privacy and dignity. While the explicit mention of the right to be forgotten is absent in the Constitution, the judiciary has interpreted Article 21 expansively to adapt to the evolving needs of society, including the protection of privacy rights in the digital sphere. India lacks specific legislation addressing the right to be forgotten, leaving it to the judiciary to delineate its contours through case law.

The landmark judgement in Justice K.S. Puttaswamy (Retd.) vs. Union of India in 2017 marked a watershed moment in Indian jurisprudence by affirming the right to privacy as a fundamental right evolving from Article 21. While this judgement laid the foundation for recognizing privacy rights, including the right to be forgotten, its application in the digital realm remains a subject of judicial scrutiny and debate. One of the primary challenges in implementing the right to be forgotten in India lies in balancing individual privacy rights with the freedom of expression and access to information, both of which are integral to a democratic society.

The lack of a comprehensive legislative framework further complicates matters, leaving a legal vacuum that can be exploited by various stakeholders. Moreover, the global nature of the internet poses jurisdictional challenges, as removing information from one platform does not necessarily erase it from the vast digital landscape. This raises concerns regarding the effectiveness and enforceability of any measures aimed at implementing the right to be forgotten. Despite the absence of specific legislation, Indian courts have begun to grapple with cases involving the right to be forgotten. In *X vs. Union of India*, the Delhi High Court

recognized the right to be forgotten as an integral facet of the right to privacy, emphasizing the need to balance competing interests in each case. Also in *Google v. Visakha Industries*, the Delhi High Court directed Google to de-index certain URLs containing defamatory content, acknowledging the right of individuals to control their online reputation and privacy.

As India continues to navigate the complexities of the digital age, there is a pressing need for comprehensive legislation addressing privacy rights, including the right to be forgotten. Such legislation should strike a delicate balance between individual privacy and freedom of expression, while also providing clear guidelines for implementation and enforcement. This may also involve establishing an independent regulatory authority tasked with adjudicating disputes and overseeing compliance with the right to be forgotten.

## OBJECTIVES

- To determine the level of awareness among the Indian population regarding the right to be forgotten as it pertains to Article 21 of the Indian Constitution.
- To investigate the attitudes and perceptions of individuals in India towards the right to be forgotten.
- To explore the legal and ethical considerations surrounding the implementation of the right to be forgotten in India.
- To assess the policy implications of recognizing and implementing the right to be forgotten under Article 21 in India.

## REVIEW OF LITERATURE

1. **Jeffrey Rosen (2011)** Viviane Reding, the European Commissioner for Justice, announced a proposal for a comprehensive new privacy right called the “right to be forgotten.” Although framed as a small update to current privacy laws, this new right, now included in a wide-ranging draft data protection regulation, has been the subject of intense debate in Europe. Rosen argues that, despite being presented as a minor change, it may pose the most serious challenge to online free expression in the next decade.
2. **Jef Ausloos (2012)** The concept of a “right to be forgotten” has sparked considerable

discussion in Europe's media, legal system, and regulatory bodies in recent years. Since there is still no clear definition, Ausloos's article seeks to clarify what the term means. The piece weighs both the advantages and disadvantages of this right, ultimately recognizing its value but emphasizing the need for clearer boundaries to avoid potential problems.

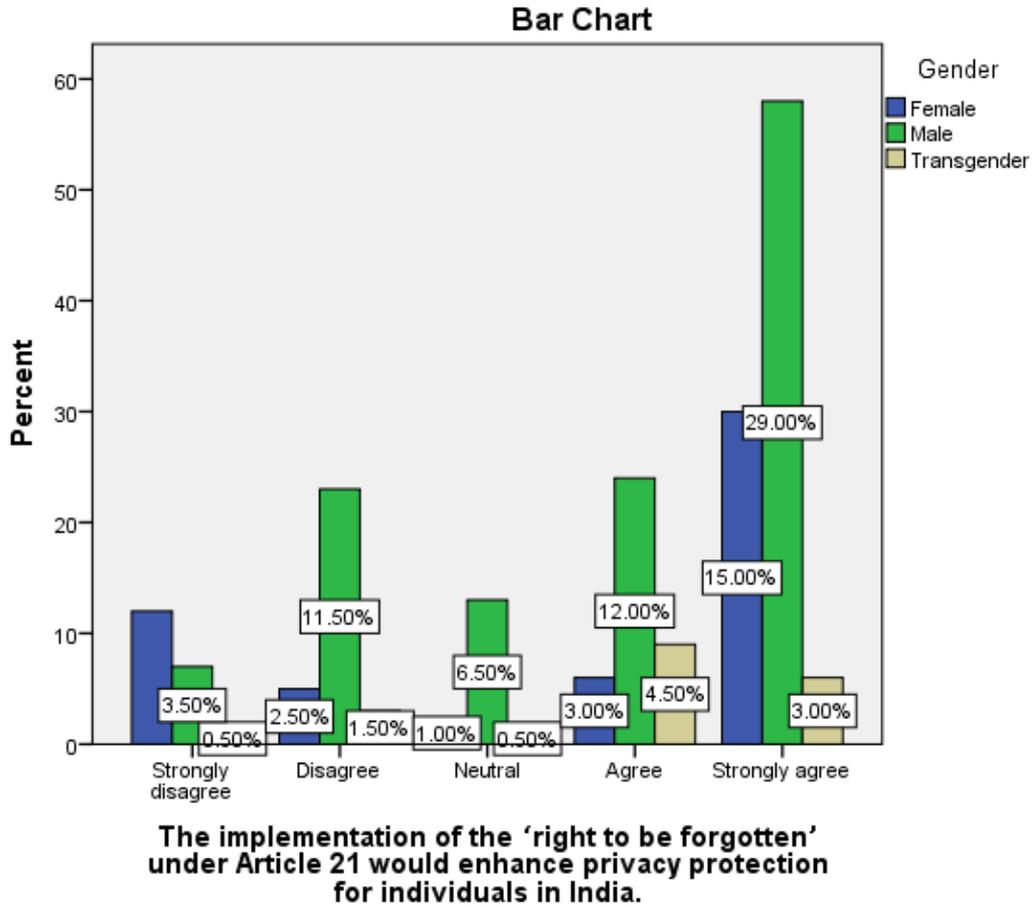
3. **Theo Bertram, Elie Bursztein (2019)** The "Right to be Forgotten" allows people in Europe to request that certain web links associated with their name be removed from search results. To better understand how this policy impacts access to information, the authors analyzed five years of data involving 3.2 million requests to remove URLs from Google Search.
4. **Dominic McGoldrick (2013)** For human rights lawyers, it has always been crucial to publish records of serious human rights abuses so that they are not forgotten and do not recur. This approach is supported by international human rights law, which ensures remedies and restricts amnesties or time limits for grave violations. The notion of a "Right to Be Forgotten" is a more recent addition to privacy rights in this context.
5. **Antoon De Baets (2016)** This essay examines how the "right to be forgotten," first proposed by the European Commission in 2012, affects historians. De Baets argues that this right is an extreme version of privacy, impacting how historians study public and private individuals. The essay also explores complex situations like erased criminal records and digital archives, considers if the right should apply to deceased individuals, and discusses how time influences the right's application.

## **METHODOLOGY**

The method of research followed is Empirical research. The sampling method was taken in a convenient sampling method & the sample size of the research is 200 samples. The sample frame was collected in a public area in & around Poonamallee, Chennai. The independent variables are Age, Gender & Occupation. The dependent variables are the The implementation of the 'right to be forgotten' under Article 21 would enhance privacy protection for individuals in India. The statistical tools used are Clustered Bar Graphs, Chi-Square Test, Correlation & One Way Anova.

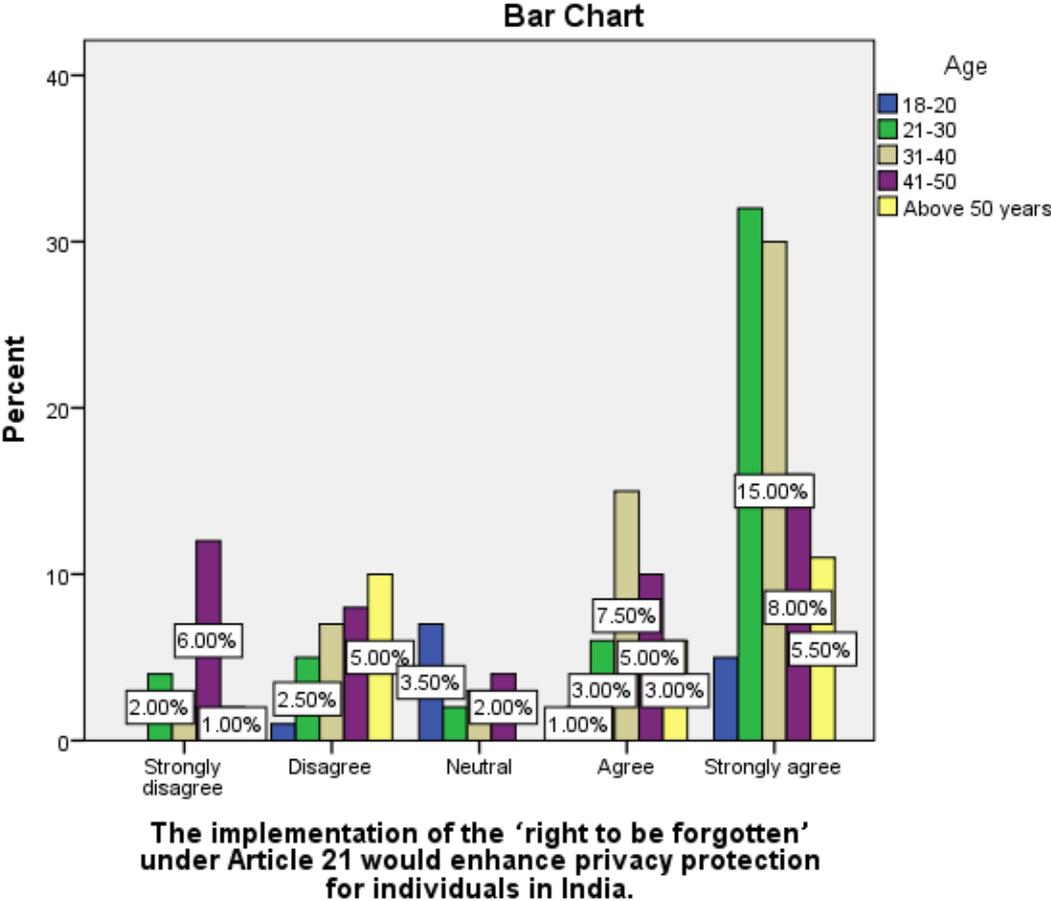
DATA ANALYSIS AND INTERPRETATION

FIGURE 1



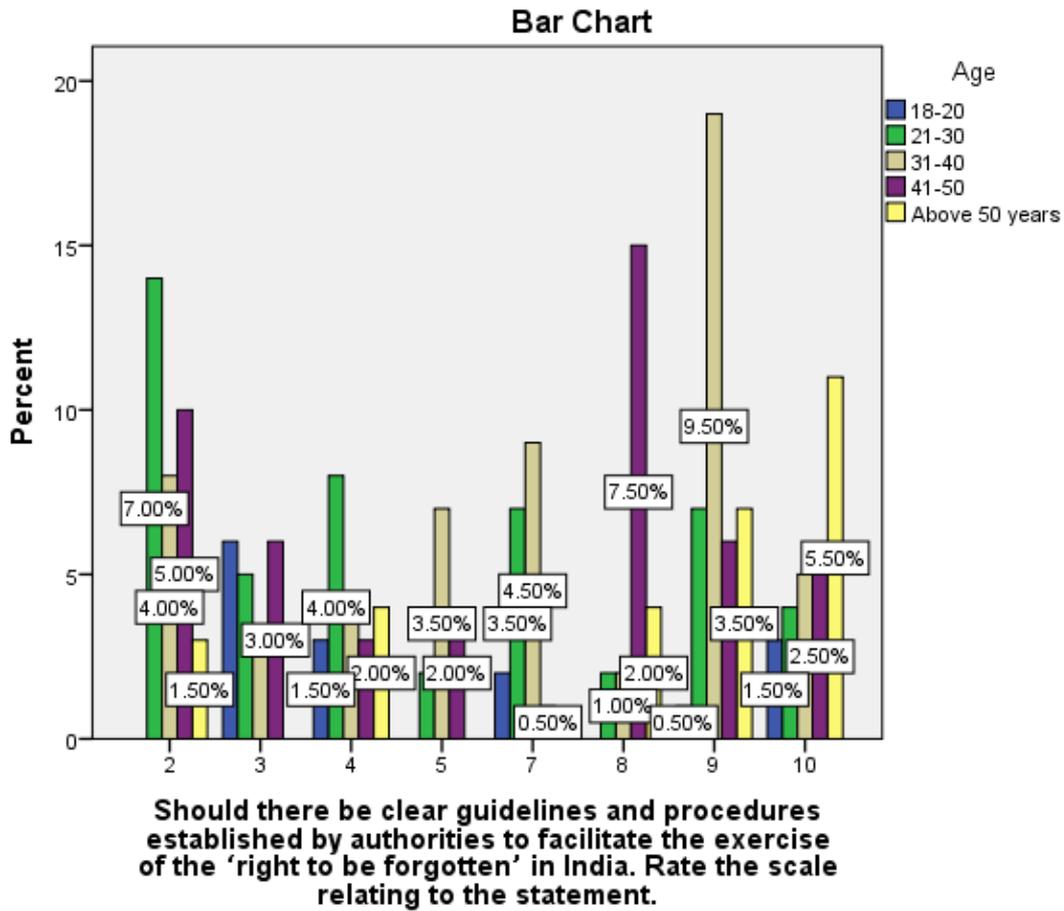
**LEGEND:** The figure shows the gender pertaining to the statement “The implementation of the ‘right to be forgotten’ under Article 21 would enhance privacy protection for individuals in India”.

FIGURE 2



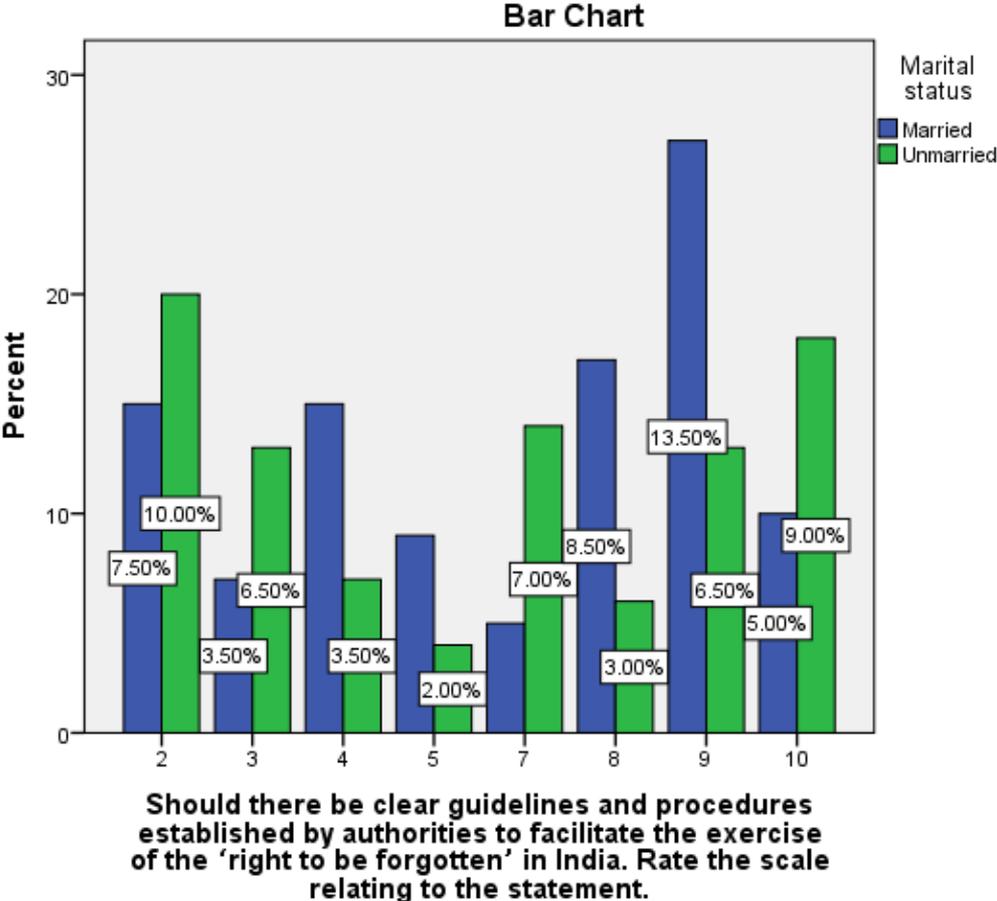
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FIGURE 3



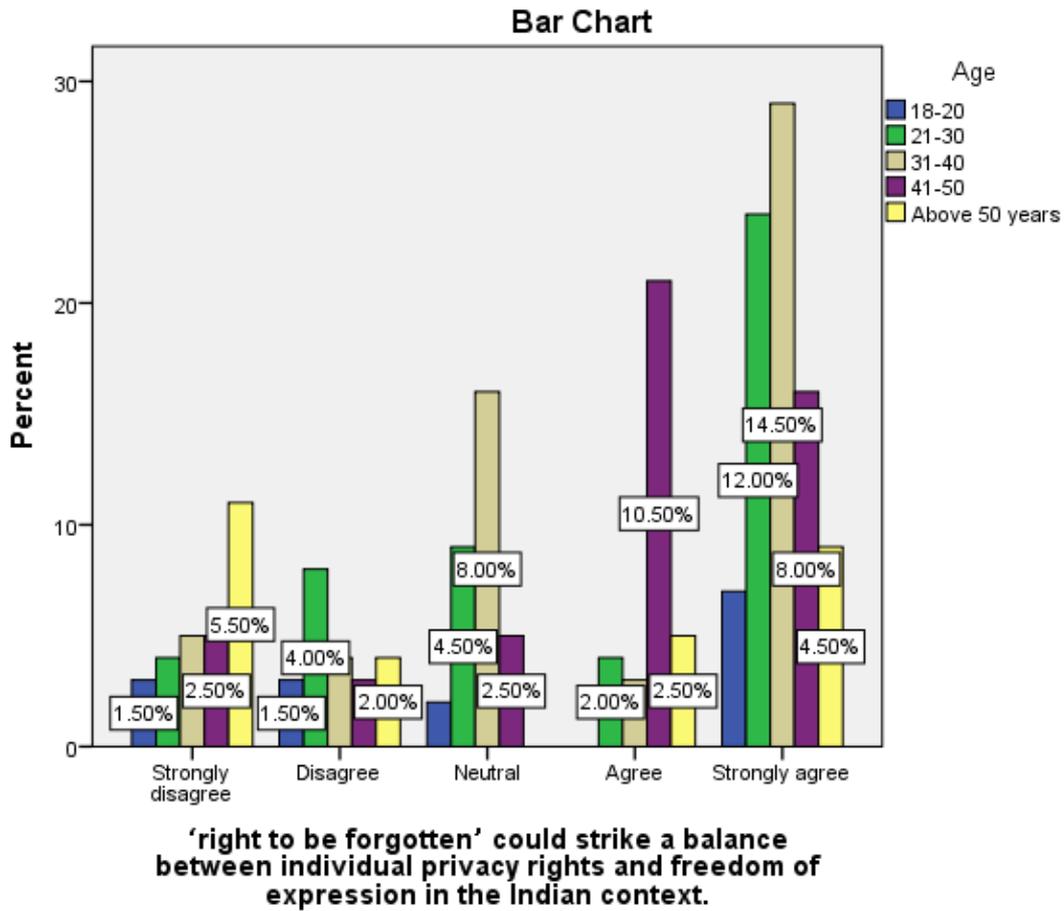
**LEGEND:** The figure shows the age pertaining to the statement “Should there be clear guidelines and procedures established by authorities to facilitate the exercise of the ‘right to be forgotten’ in India”.

FIGURE 4



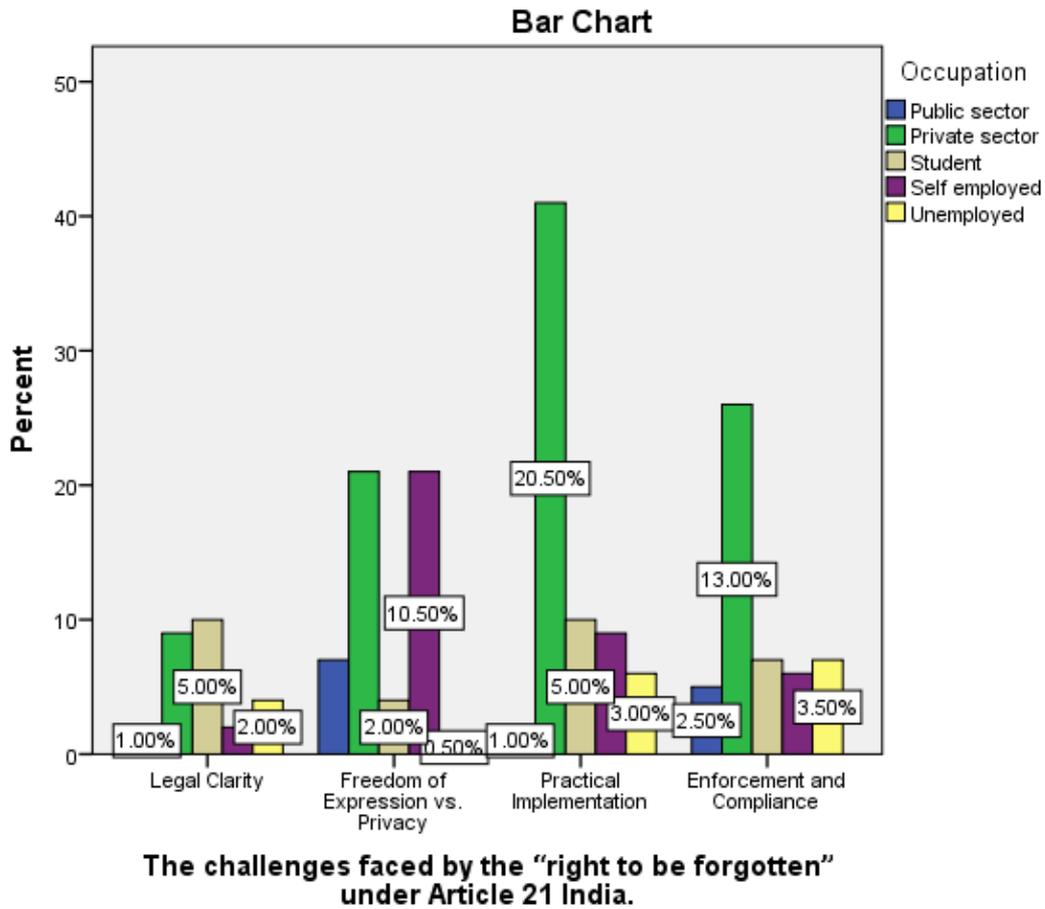
**LEGEND:** The figure shows the distribution of marital status pertaining to the statement “Should there be clear guidelines and procedures established by authorities to facilitate the exercise of the ‘right to be forgotten’ in India”.

FIGURE 5



**LEGEND:** The figure shows the age pertaining to the statement 'right to be forgotten' could strike a balance between individual privacy rights and freedom of expression in the Indian context.

FIGURE 6



**LEGEND:** The figure shows the occupation pertaining to the statement that the challenges faced by the “right to be forgotten” under Article 21 India.

## CHI-SQUARE TEST

**The implementation of the ‘right to be forgotten’ under Article 21 would enhance privacy protection for individuals in India. ^ Gender Crosstabulation**

Count

		Gender			Total
		Female	Male	Transgender	
The implementation of the ‘right to be forgotten’ under Article 21 would enhance privacy protection for individuals in India.	Strongly disagree	12	7	1	20
	Disagree	5	23	3	31
	Neutral	2	13	1	16
	Agree	6	24	9	39
	Strongly agree	30	58	6	94
Total		55	125	20	200

### Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	25.837 <sup>a</sup>	8	.001
Likelihood Ratio	23.699	8	.003
Linear-by-Linear Association	.284	1	.594
N of Valid Cases	200		

a. 5 cells (33.3%) have expected count less than 5. The minimum expected count is 1.60.

**NULL HYPOTHESIS:** There is no significant association between Gender and The implementation of the right to be forgotten under article 21 would enhance privacy protection for individuals in India.

**ALTERNATIVE HYPOTHESIS:** There is a significant association between Gender and The implementation of the right to be forgotten under article 21 would enhance privacy protection for individuals in India.

## RESULTS

**In (Figure 1)** 29.00% of the male respondents strongly agree and 3.00% of the females agreed to the statement “The implementation of the ‘right to be forgotten’ under Article 21 would enhance privacy protection for individuals in India”. **In (Figure 2)** 15.00% of the age group 21

to 30 strongly agree and 7.50% of the age group 31 to 40 agree with the statement “The implementation of the ‘right to be forgotten’ under Article 21 would enhance privacy protection for individuals in India”. **In (Figure 3)** 9.50% of the age group 31 to 40 rated line out of 10 and 4.00% of the age group 21 to 30 writer 4 out of 10 to the statement ”Should there be clear guidelines and procedures established by authorities to facilitate the exercise of the ‘right to be forgotten’ in India”. **In (Figure 4)** 9.00% of the unmarried rated 10 out of 10 and 13.50% of the married people rated 9 out of 10 to the statement “Should there be clear guidelines and procedures established by authorities to facilitate the exercise of the ‘right to be forgotten’ in India”. **In (Figure 5)** 14.50% of the age group 31 to 40 said strongly agree and 10.50% of the age group 41 to 50 said they agree that the statement ‘right to be forgotten’ could strike a balance between individual privacy rights and freedom of expression in the Indian context. **In (Figure 6)** 20.50% of the private sector, people said practical implementation and 5.00% of the students said legal clarity are the challenges faced by the “right to be forgotten” under Article 21 India. **In (chi-square test)** The P value is 0.001. Since the P value is less than 0.050, null hypothesis is rejected. So there is a significant association between Gender and The implementation of the right to be forgotten under article 21 would hence privacy protection for individuals in India.

## DISCUSSION

**In (Figure 1)** A notably higher percentage of male respondents strongly agree compared to female respondents. This suggests that male respondents may perceive the ‘right to be forgotten’ as a more effective means of enhancing privacy protection. **In (Figure 2)** While a higher percentage of respondents aged 21 to 30 strongly agree, a lower percentage of respondents aged 31 to 40 agree. This implies that younger age groups may have a stronger belief in the efficacy of the ‘right to be forgotten’ in enhancing privacy protection. **In (Figure 3)** Male and female respondents, as well as respondents from different age groups, show varying levels of agreement on the need for clear guidelines and procedures to facilitate the exercise of the ‘right to be forgotten’ in India. These differences in agreement could be influenced by factors such as awareness, understanding, or perceived importance of digital privacy rights among different demographic groups. **In (Figure 4)** A higher percentage of unmarried individuals rated maximum agreement (10 out of 10) compared to a higher percentage of married individuals rating slightly lower (9 out of 10). This could suggest differing priorities or perceptions of digital privacy rights between marital status groups. **In**

**(Figure 6)** This suggests that individuals from different occupational backgrounds perceive different obstacles in the implementation of the 'right to be forgotten', with professionals emphasising practical concerns and students focusing on legal ambiguities. **In (Chi-Square Test)** This indicates that gender influences how individuals perceive the effectiveness of the 'right to be forgotten' in safeguarding privacy rights, with potential implications for policy-making and awareness campaigns.

## **LIMITATIONS OF THE STUDY**

The major limitation of the study is the sample frame. The sample frame Collected through bus stands, malls, etc. where the respondents aren't devoted enough to answer the questions. The restrictive area of sample size is yet another drawback of the research. The foremost downside whilst presenting the research topic is that not many people are wise enough to distinguish feminism from the idea of hating men which shows clear lack of awareness.

## **CONCLUSION**

In the realm of digital privacy and personal autonomy, the right to be forgotten under Article 21 in India is still developing and is in a very fragile state. The right to be forgotten is a very significant and important right in the modern era where technology plays a major role in the lives of human beings. In this digital world accessing individuals data is very easy and can be accessed easily posing greater risks. Sometimes people make a single mistake during their bad period which leave a bad impression on their character making them suffer for lifelong and no one is ready to accept that it's not their mistake and make them suffer and treat them badly for the rest of their life. Their right to privacy and dignity is also being affected and there is no one to help them. For this particular reason, there must be Right to Forgotten so that in the era of digital world no one's privacy and dignity will be into doubt.

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