SALOT & SHAH ASSOCIATES

NEWSLETTER

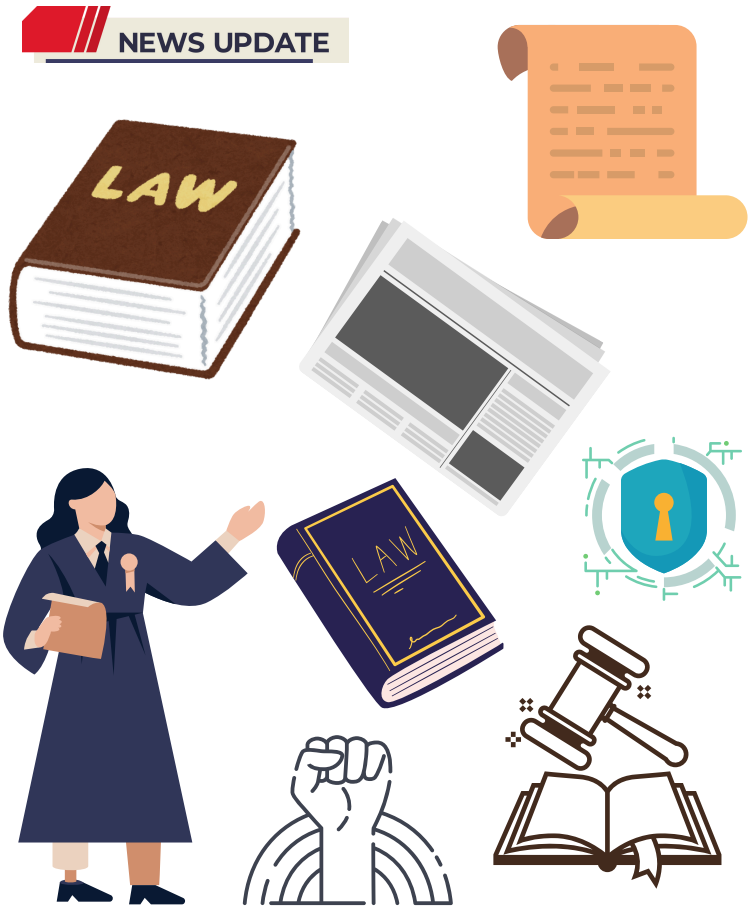
DECEMBER 2025

ABOUT NEWSLETTER

Presenting 10th Edition of our newsletter!

We're excited to bring you the latest updates and industry insights.

This Edition presents a brief overview of key legal themes, drawing attention upon India's approach to international commercial arbitration alongwith a overlook upon legal response to challenges arising from online harassment, and the continuing discourse on recognising the Right to Be Forgotten as a fundamental right. The contents aim to provide readers with a clear and focused understanding of these developing areas of law.



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INTERNATIONAL COMMERCIAL ARBITRATION AND INDIA:

INTRODUCTION

With an ever-increasing phase of globalization, cross-border business relationships are now becoming the driving force of global trade and investment. Such an upsurge has its automatic counterpart in increased transnational commercial disputes. In order to manage these in a cost effective way, International Commercial Arbitration (ICA) has become the mechanism of choice in dispute settlement, providing neutrality, procedural versatility, enforceability, and comparative swiftness of decision as compared to classical court adjudication.

ICA stands for a procedure of settling commercial differences that have arisen due to international dealings through a procedure of arbitration instead of a judicial proceeding. According to Section 2(1)(f) of the Indian Arbitration and Conciliation Act, 1996, an International Commercial Arbitration is an arbitration in relation to disputes arising out of legal relationships, whether contractual or not, which are commercial according to Indian law, where a minimum of one of the parties is:

- A person who is a national of or habitually resident in any other country than India;
- A body corporate formed outside India;
- A company or an association or a body of persons whose central control and management is exercised outside India; or
- A government of a foreign nation.

The system is founded on the doctrine of party autonomy, where the parties in conflict may nominate arbitrators, decide on the place of arbitration, and select applicable procedural and substantive law. It is an informal and consensual system that takes place outside the regular judicial system, normally ending up in an award that is binding and enforceable in terms of international conventions.

1. ARBITRATION AND INDIA:

The legislation covering arbitration in India is almost entirely codified by the Arbitration and Conciliation Act, 1996 ("the Act"), which largely derives from the UNCITRAL Model Law on International Commercial Arbitration, 1985. The Act came into force with a view to consolidate and amend the law relating to domestic arbitration, international commercial arbitration, and foreign arbitral awards.

India enforces and recognizes both domestic and foreign arbitral awards. Four parts constitute the Act:

- Part I regulates domestic arbitration and ICA which is seated in India.
- Part II addresses recognition and enforcement of foreign arbitral awards.
- Part III pertains to conciliation.
- Part IV provides supplementary provisions.

Arbitral awards made in India, either domestic or international (if the seat is in India), are enforceable under Part I, while foreign arbitral awards made outside India are enforceable under Part II, i.e., Chapter I (New York Convention Awards) and Chapter II (Geneva Convention Awards).

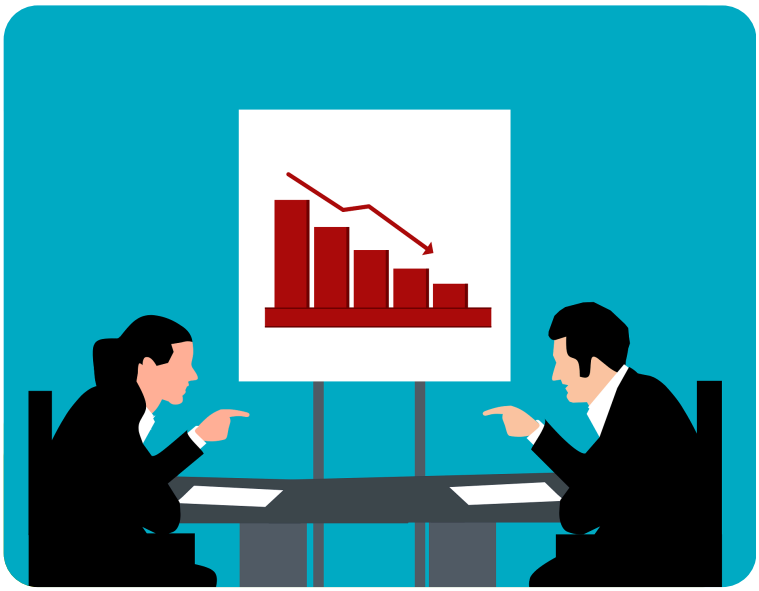
The enforceability of a foreign arbitral award in India would depend on whether the award is rendered in a reciprocating territory notified by the Government of India under the New York Convention (1958) or the Geneva Convention (1927). India had acceded to the New York Convention in 1960 with two declarations:

It will apply the Convention to awards made in the territory of another contracting state only. It will subject the Convention only to those disputes arising out of legal relations, contractual or otherwise, which are regarded as commercial in terms of Indian law.

2. International Commercial Arbitration and India

India has progressively evolved into an arbitration-friendly jurisdiction, particularly in the context of international commercial disputes. By harmonizing its laws with international best practices as well as conventions, India has shown renewed commitment to maintaining the dignity of arbitral proceedings and awards.

The Arbitration and Conciliation Act, 1996, as amended in 2015, 2019, and 2021, is a result of progressive amendments to further institutional arbitration, minimize judicial intervention, and achieve timely disposal of cases. For example:



The 2015 Amendment limited judicial intervention and stipulated timelines for completion of arbitration.

The 2019 Amendment was directed towards encouraging institutional arbitration with the establishment of the Arbitration Council of India.

The 2021 Amendment also tightened enforcement provisions, permitting courts to stay awards where there is a prima facie case of fraud or corruption.

CONCLUSION

International Commercial Arbitration is an important mechanism for facilitating effective, neutral, and enforceable resolution of disputes in international trade. India's adherence to arbitration is reflected in its legislative changes, judicial statements, and growing efforts to become a global arbitration center. Though there are still challenges, especially in the form of delays in enforcement and judicial overreach at times, the trend is encouraging. The Indian arbitration regime, in consonance with international standards and strengthened by a developing jurisprudential framework, continues to build confidence among foreign investors and parties involved in cross-border trade.

In summary, the intersection of ICA and India is no longer a topic of theoretical debate—it is an applied, developing, and dynamic relationship that will craft the future of dispute resolution in the globalized business environment.

ONLINE HARASSMENT AND LEGAL RESPONSES: PROTECTING VICTIMS IN THE DIGITAL SPHERE

No doubt the internet has changed communication, networking, and even daily living. Much of social interaction nowadays happens in these digital spaces, ranging from sharing private moments with friends to participating in public discourse. But as convenience went on, online harassment became another growing concern. Suddenly, casual browsing or social engagement for many turns into being bombarded with unwanted messages, threats, or anything that exposes them. Hence, the digital world, which was once seen as endless space for freedom of expression, has now become a new realm for harassment, opposing freedom in more intrusive ways than expected.

Online harassment does not merely entail offensive comments or hurtful jokes. They get down to a personal level with the perpetrators setting up almost imaginary profiles with altered photos; releasing information without consent; or by pestering the victim with an unending stream of threatening and intimidating messages. The emotional scar inflicted by such acts is usually very grave. Often, they felt anxious; with an extraordinary sense of vulnerability creeping upon them; with much of their sleepless nights passing by in distress, if not in wholly numbing experiences. However strongly the screen may attempt to create a veneer of privacy or protection, the hurt felt and resulting impact are completely tangible. For young users, women, and members of minority groups, such harassment, if left unchecked, can lead to serious damaging consequences psychologically, to the extent of ostracizing them from online life.

In the Indian legal system, online abuse is treated very seriously, and several layers of protection have been created to shield users from it, because in recent years, India has witnessed several serious incidents that have brought cyberbullying and online harassment into national focus.

The 2020 Bois Locker Room case exposed the scale of abusive online conduct among minors, including the circulation of obscene content and non-consensual sharing of images, acts that fall within the ambit of offences under the Information Technology Act, 2000 and the Bhartiya Nyaya Sanhita 2023. In 2021, the suicide of a schoolgirl in West Bengal following sustained online harassment underscored the severe psychological impact such conduct can have on young victims. These cases illustrate both the growing vulnerability of children in digital spaces and the urgent need for stronger awareness, reporting mechanisms, and enforcement of existing cyber laws. Getting through the window that is the cyber legal realm are the Information Technology Act, 2000, and various Bhartiya Nyaya Sanhita (BNS) of 2023, sections that are enforced in conjunction with it.

Whether online stalking (section 78 BNS, where the persistent Direct messages, repeated social media contact, email harassment despite clear interests by the victim clearly makes the offence), transmission of obscene material (section 294, 295 BNS), identity theft (section 66C of Information Technology Act 2000), or criminal intimidation (section 351 BNS), etc., these acts are punishable under these laws.

A victim has the option to lodge a complaint with the local police station or that of a cybercrime cell operating within the city. In response to the rising incidents of cyberbullying and online harassments, the law enforcement agencies across India has also established dedicated the National Cyber Crime Reporting Portal, cyber cells at both state and city levels, thereby strengthening institutional capacity for investigation and victim support. Simultaneously, the Ministry of Women and Child Development, in collaboration with the National Council of Educational Research and Training (NCERT), has issued advisories directing schools to adopt comprehensive anti-bullying policies, implement preventive measures, and integrate digital safety awareness making it easy for victims to report the harassment from the safety of their homes.

Further, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 impose stringent compliance obligations on intermediaries. These include the mandatory appointment of a grievance officer resident in India, expeditious processing of takedown requests, and the obligation to remove unlawful content within prescribed timelines. Collectively, these measures demonstrate the government's attempt to create a safer online environment and impose accountability on both educational institutions and digital platforms.

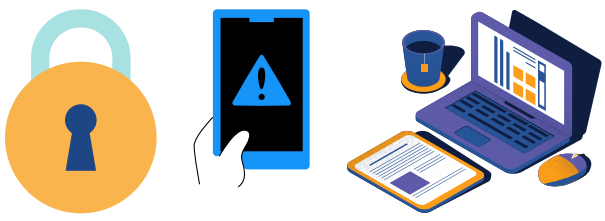
However, while laws apply, enforcement is a challenge. Many victims, especially women, hesitate to report due to the possibility of being guilty or not being seriously. There have been cases where police officers dismissed complaints as "minor online quarrels", ignoring the serious losses caused by them. Even when cases are raised, investigation is often delayed and lack of aggressive materials, causing further trauma to the victim. Judicial issues also complicate matters – criminals may sit miles away in another state or country, making them difficult to track or bring them to do justice rapidly.

Another issue lies in awareness. A large number of Internet users are still uncertain about their rights

and legal responses. There is a lack of understanding regarding the preservation of digital evidence and reporting methods. The absence of digital literacies leaves them vulnerable, muted and disconnected. With the rapid growth of the Internet, there is a pressing need to educate people on how to use technology and protect themselves in these spaces.

Even so, there are opportunities for change. Many NGOs, legal aid organizations, and independent activists have started organizing workshops and materials to support internet users. Cybercrime in general is becoming more common among police departments across the country, who have dedicated cybercrimes officers. Increasingly, technology platforms are under pressure to take user complaints seriously, provide quick answers, and create safer digital environments. Despite the improvements in reporting mechanisms, there are still many more to come.

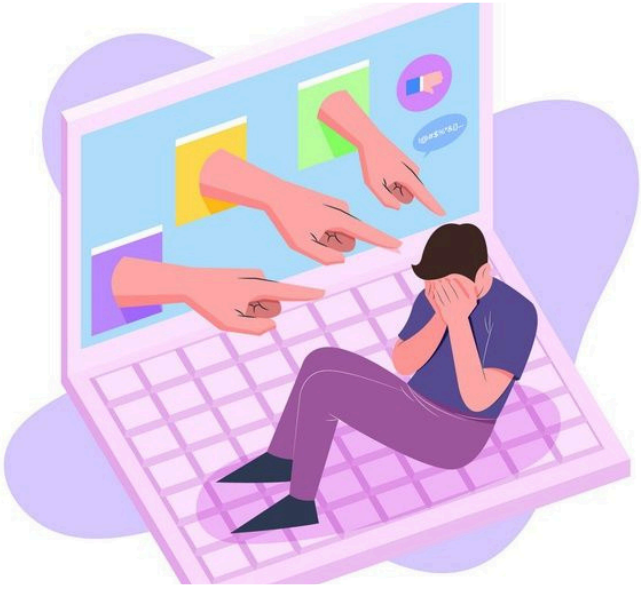
It's a straightforward truth: No one deserves to feel safe, whether it'll be online or in person. Fear should not thrive on the internet without a visible face. Why? Instead, it should be a place where ideas and creativity are nurtured along with



connections. Only when harassment victims are heard, supported, and protected will this be possible.

Discussions about cyberbullying must be ongoing in educational, work, and domestic settings. Silence only enables harassers. On the flip side, promoting awareness, encouraging victims to speak out, and guaranteeing legal accountability sends a powerful message that the internet isn't invincible. The time has come to cease online harassment not as a fleeting inconvenience but as an unpatriotic threat to privacy and personal belongings.

Indian courts have increasingly acknowledged the gravity of cyberbullying and the limitations inherent in the current statutory framework. In Kalindi Bose v. State of Delhi (2018), the Delhi High Court granted urgent relief to a victim of image based sexual abuse and directed the prompt removal of the offending content from online platforms, recognising the irreparable harm caused by the continued circulation of such material. Likewise, in Priya Prakash Varrier v. Union of India (2019), the Supreme Court examined the delicate balance between the constitutional right to freedom of expression and the need to protect individuals, particularly women and other vulnerable groups from targeted digital harassment and threats.



However, in most cases, judicial interventions remain constrained by the fragmented and outdated nature of existing laws, compelling courts to rely on ad hoc or improvised remedies that can result in inconsistent outcomes. Even where courts issue timely protective orders, their implementation is frequently impeded by infrastructural shortcomings, procedural delays, and limited enforcement capacity on the ground. This gap between legal relief and practical enforcement continues to pose a significant barrier to effective protection against cyberbullying in India.

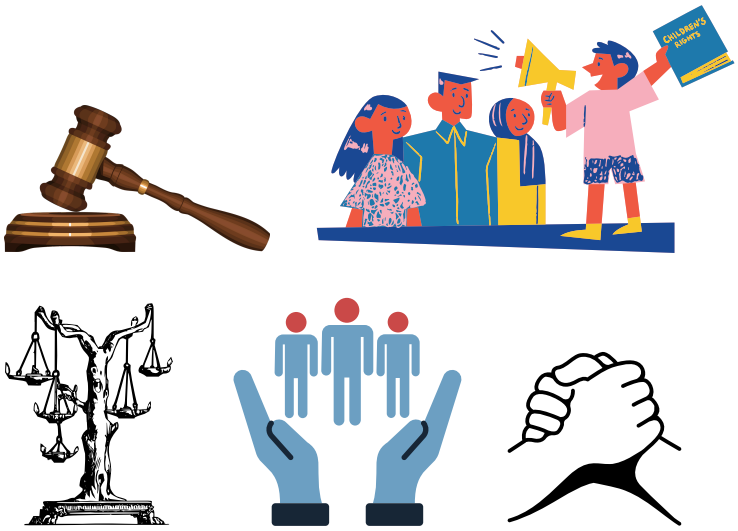
CONCLUSION

The task of dealing with online harassment isn't just as daunting for law enforcement or tech companies, it's an all-out battle that we as users and citizens have to tackle together. Behind each screen there is a human. We should be concerned about their safety in both the virtual and actual world.

While India has undertaken incremental measures to address online harassment and cyberbullying within the contours of existing statutes, principally the Information Technology Act, 2000 and the Indian Penal Code, there remains a compelling need for a dedicated, comprehensive legislative framework tailored specifically to digital abuse. The evolving nature of online harm, coupled with jurisdictional and enforcement challenges, underscores the inadequacy of relying solely on general criminal provisions and intermediary liability rules.

RIGHT TO BE FORGOTTEN SHALL BE A FUNDAMENTAL RIGHT

INTRODUCTION



Privacy is a dynamic concept that includes mental, physical, and digital dimensions. The right to privacy is a broad framework, within which the right to be forgotten is a narrower, yet essential, component. It ensures individuals can request the removal of personal information, thereby reinforcing their control over their digital identity. The right to privacy was discussed from the time of M.P Sharma and K.S Puttaswamy. In that context, Right to be forgotten is the right given to an individual, who wants to erase their personal data from the internet records and databases.

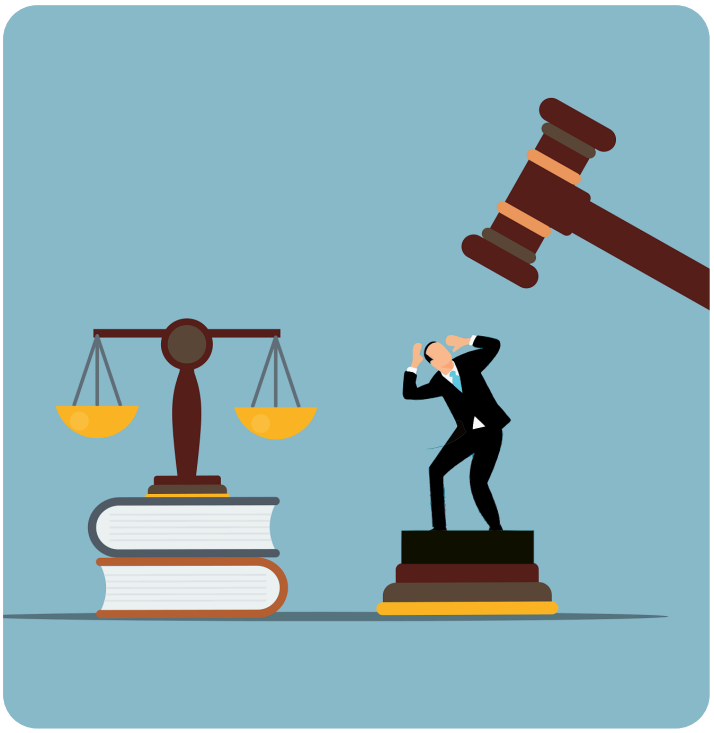
One emerging legal doctrine in this context is the right to be forgotten the right of an individual to have their personal data erased from internet records and databases, especially when the information is outdated, irrelevant, or no longer necessary. First time, right to be forgotten has been discussed in case of Google Spain SL v. Agencia Española de Protección de Datos (2014), at Court of Justice of European Union, where court provided the individual right to request search engine to remove any kind of link which considered as personal data under specific conditions.

Right to Be Forgotten under the Digital Personal Data Protection Act, 2023 and Article 21 of the Constitution

In Indian Legislation, right to be forgotten was described under the Digital Personal Data Protection Act, 2023. The Act operationalizes this principle by giving individuals control over the retention and dissemination of their personal data. The right to be forgotten falls within ambit of Article 21 of the Indian Constitution, as it comes in the purview of the fundamental right to privacy, which ensures an individual's autonomy over personal information

The Digital Personal Data Protection Act, 2023, is a progressive step toward safeguarding personal data in India, however it has several limitations, with regards to right to be forgotten. One of the major shortcomings is that the Digital Personal Data Protection Act, 2023 does not explicitly recognize right to be forgotten as a distinct legal right. It merely allows individuals, to be known as data principals, to request the erasure of their personal data, but it does not establish specific standards, conditions, or legal frameworks under which such requests should be evaluated. Furthermore, the Act lacks a clear enforcement mechanism. In cases where a data fiduciary (entity who have a data) refuses to delete the data, the law does not offer a well-defined process or authority for appeal. Although the Data Protection Board of India is established to regulate the compliance under Data Protection laws, but its powers and procedures in right to be forgotten cases, remain vague. There is a lack of judicial review and a balanced framework when addressing the tension between the right to privacy and the freedoms of speech and public interest. This imbalance is effecting negatively in cases involving the "right to be forgotten," where sensitive personal information is often at stake, and the right to privacy may be compromised in the name of

public interest or freedom of expression.



Digital Personal Data Protection Act, 2023 provides broad exceptions of data, which is subject to different interpretation to retain the personal data for legal compliance, law enforcement and public interest that makes the individual's position weak in case of control over their data. The Digital Personal Data Protection Act, 2023, permits individuals to withdraw their consent; however, the lack of clearly defined boundaries around this provision may be open to exploitation by Data Processors.

While the Digital Personal Data Protection Act, 2023, recognizes the right to erasure, it remains a statutory remedy subject to limitations and executive interpretation. In contrast, elevating the right to be forgotten to the status of a fundamental right ensures stronger constitutional protection and judicial oversight. Right to be forgotten empowers individuals to seek removal of personal data that is no longer relevant, necessary, or lawful to retain—thus protecting their dignity, autonomy, and right to move forward in life.

CONCLUSION

In the digital age, where information spreads rapidly and remains permanently accessible, outdated or misleading data can cause irreversible harm. The right to erasure, as provided in Digital Personal Data Protection, 2023 is a starting point, but without constitutional backing, it lacks enforceability against the state or public authorities in broader contexts. Making right to be forgotten a fundamental right under Article 21 strengthens the right to privacy, offering individuals lasting protection and control over their digital identities.