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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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Description

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THE RIGHT TO BE FORGOTTEN IN INDIA: RECONCILING PRIVACY, FREE SPEECH AND THE RIGHT TO INFORMATION

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Abstract

The rapid expansion of digital technologies has fundamentally transformed the manner in which personal information is created, stored, disseminated and accessed. Unlike information in the physical world, digital information can remain permanently searchable, replicable and accessible long after the circumstances that originally justified its publication have ceased to exist. This phenomenon has generated a growing demand for a legal right to control the continuing accessibility of personal information, commonly described as the "Right to Be Forgotten" (RTBF). The right has developed significantly in European data-protection jurisprudence, particularly through *Google Spain SL v. Agencia Española de Protección de Datos* (2014), and has subsequently influenced privacy discourse across jurisdictions. In India, the constitutional recognition of privacy as a fundamental right under Article 21 in *K.S. Puttaswamy v. Union of India* (2017) provided an important foundation for the emergence of the RTBF. Indian High Courts have subsequently addressed requests for de-indexing, removal and masking of personal information from digital platforms and judicial databases. The Digital Personal Data Protection Act, 2023, further recognises a statutory right to correction and erasure of personal data, although it does not expressly employ the terminology of a "Right to Be Forgotten." The Delhi High Court's 2026 decision in *Laksh Vir Singh Yadav v. Union of India* represents an important development by articulating a structured approach to de-indexing and masking of judicial records. This article argues that the RTBF should be understood in India as a qualified dimension of informational privacy and human dignity rather than an absolute right to erase the past. Its exercise must be governed by proportionality and carefully balanced against freedom of speech and expression, freedom of the press, open justice and the public's right to information.

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Keywords: Right to Be Forgotten; Informational Privacy; Article 21; Digital Personal Data Protection Act; De-indexing; Digital Rights.

1. Introduction

The digital revolution has altered not merely the quantity of information available to society but also its relationship with time. Information that was once temporary, geographically confined or difficult to locate can now remain permanently accessible through search engines, social media, online news archives, legal databases and other digital platforms. A past allegation, criminal proceeding, matrimonial dispute, professional controversy or personal disclosure may therefore continue to appear whenever an individual's name is searched online, even after the underlying dispute has been resolved (Browning, 2010; Sykes, 1999). Digital technology has consequently created what may be described as a problem of permanent digital memory. The persistence of information is not necessarily undesirable. Public access to information is essential to democratic accountability, freedom of expression, historical research and the administration of justice. At the same time, the indefinite accessibility of personal information can cause serious consequences for privacy, dignity, reputation, autonomy and the ability of individuals to move beyond past events. The problem becomes particularly acute where information is outdated, inaccurate, excessive, irrelevant to its original purpose, or concerns an individual who was acquitted, discharged or otherwise cleared of wrongdoing.

It is within this tension between digital memory and individual autonomy that the concept of the Right to Be Forgotten (RTBF) has emerged. Broadly understood, the RTBF enables individuals, subject to specified conditions and exceptions, to seek deletion, restriction or de-indexing of personal information that is no longer necessary, relevant or justified by a legitimate public interest. The international development of the right is closely associated with the decision of the Court of Justice of the European Union (CJEU) in *Google Spain SL v. Agencia Española de Protección de Datos* (2014) (Perosa Rivero, 2017). The CJEU recognised that search engines engage in the processing of personal data and may, in appropriate circumstances, be required to remove links to information relating to an individual from search results. The European model subsequently received a more explicit statutory foundation through Article 17 of the General Data Protection Regulation (GDPR) (Burri & Schär, 2016).

In India, the constitutional foundation for the RTBF lies principally in the development of the right to privacy under Article 21 of the Constitution (Bedi, 2021). In *K.S. Puttaswamy v. Union of India* (2017), Justice S.K. Kaul, while discussing informational privacy, specifically

referred to an individual's ability to control his or her existence on the internet and acknowledged the concept of the right to be forgotten, while simultaneously cautioning that the right could not be absolute. The statutory landscape has also developed. The Digital Personal Data Protection Act, 2023 (DPDP Act) provides a right to correction and erasure of personal data under Section 12, subject to legal retention requirements and other statutory limitations. (Usha & Neeral, 2025). The Digital Personal Data Protection Rules, 2025 were subsequently notified, establishing the operational framework for the data-protection regime, although the substantive provisions have a phased commencement schedule. (NJP et al., 2025).

The most significant recent development is the Delhi High Court's decision in *Laksh Vir Singh Yadav v. Union of India & Ors.* (2026). The Court considered a large group of petitions involving the continuing online accessibility of judicial records and held that the RTBF can constitute a facet of informational privacy under Article 21(Ranjan, 2024).It directed de-indexing in appropriate cases while preserving access to judicial records through case numbers, citations, court details and dates. This article therefore examines whether and to what extent the RTBF can be accommodated within the Indian constitutional framework. It argues that India should recognise the RTBF as a qualified dimension of informational privacy and dignity, while rejecting an unrestricted right to erase information from the public domain (Sampat, 2025). A proportionality-based approach that distinguishes between deletion, de-indexing, masking and contextualisation offers a more constitutionally sustainable model.

2. Conceptualising the Right to Be Forgotten

The RTBF is best understood not as a simple right to erase one's past but as a claim to exercise a degree of control over the continuing accessibility and dissemination of personal information. Its contemporary significance arises from the distinctive characteristics of digital information: persistence, replication, searchability, scalability and the ability of algorithms to aggregate otherwise fragmented information. (Tripathi et al., 2024). The concept should also be distinguished from the conventional right to privacy. Privacy traditionally protects individuals against unwanted intrusion into their private sphere. In the digital environment, however, privacy increasingly concerns an individual's ability to control the collection, processing, dissemination and accessibility of information about oneself. (Acquisti, et al., 2015). This has been described as informational autonomy.

The RTBF is therefore closely related to three interconnected values; privacy, dignity and autonomy. An individual may reasonably object to the perpetual availability of information

where its continued accessibility disproportionately affects employment, social relationships, reputation or personal development (Rouvroy & Poullet, 2009). The underlying concern is not necessarily that the information was originally unlawful. Even lawfully published information may become disproportionately harmful because of its indefinite digital accessibility. An important conceptual distinction must nevertheless be made between the right to erasure and the Right to Be Forgotten. Erasure generally concerns the deletion of personal data held or processed by a data fiduciary or controller. The RTBF is potentially broader because it can concern the accessibility and discoverability of information already available in the public domain (James, 2026).

Similarly, de-indexing is not equivalent to deletion. De-indexing removes a particular result from name-based search results while leaving the original information available through other means (Singh & Malik, 2026). This is particularly significant in cases involving judicial records. A court judgment may remain accessible through its case number or citation even if a person's name is removed from ordinary search results (Martineau, 1994). The distinction allows privacy interests to be protected without completely destroying public access to legal information. The contemporary understanding of the RTBF should therefore move away from the simplistic question "Should this information be deleted?" ; towards a more nuanced inquiry; "What degree of continuing accessibility is justified by the competing rights and interests involved?"

3. International Development of the Right to Be Forgotten

3.1 *Google Spain* and the Emergence of De-indexing

The landmark development in RTBF jurisprudence occurred in *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González*, Case C-131/12 (2014) (Kropf, 2014). Mario Costeja González objected to the continued appearance of newspaper reports concerning an old property auction associated with social-security debts. Although the original publication was lawful, the information appeared whenever his name was entered into Google's search engine. The CJEU distinguished between the original publisher and the search engine and recognised that search-engine processing could have an additional and significant impact on an individual's privacy (Lindsay, 2014).The decision is important because it demonstrated that the problem of digital privacy does not necessarily arise from the original publication alone. A search engine can transform information by making dispersed information immediately retrievable through a person's name. Thus, discoverability

itself can generate a privacy harm (Zimmer, 2008).The CJEU nevertheless did not establish an unconditional right of removal. The individual's privacy interests must be balanced against the interest of internet users in accessing information and, particularly, against the public interest associated with the individual's role in public life (Horielova et al., 2026).

3.2 The GDPR

The European Union subsequently gave more explicit statutory recognition to the right through Article 17 of the GDPR, generally described as the "right to erasure" or "right to be forgotten."The European model is significant because it demonstrates that the RTBF is inherently qualified (Alexiou, 2024). Erasure may be restricted where processing is necessary for freedom of expression and information, compliance with legal obligations, reasons of public interest, archiving, scientific or historical research, or the establishment and exercise of legal claims. The European approach therefore offers an important lesson for India; protecting privacy does not require treating information as disposable whenever an individual finds it inconvenient or harmful (Alexiou, 2024). Instead, the legitimacy of continued accessibility must be assessed against the competing public interest.

4. The Right to Be Forgotten in India

4.1 Constitutional Foundation under Article 21

The constitutional foundation of the Indian RTBF lies in the transformation of Article 21 from a narrowly conceived protection against deprivation of life and personal liberty into a broader guarantee of dignity and autonomy (Yadav, 2021). The nine-judge Bench in *K.S. Puttaswamy v. Union of India* (2017) recognised privacy as a constitutionally protected fundamental right (Singh, 2022). The judgment situated privacy within the broader values of dignity, autonomy and individual choice. Of particular importance to the RTBF is Justice Kaul's discussion of informational privacy. He observed that control over personal data and control over one's life can encompass control over one's existence on the internet. At the same time, he expressly cautioned that the right is not absolute and does not mean that an individual can simply obliterate his or her past. This formulation provides the appropriate constitutional starting point for RTBF jurisprudence in India. The constitutional basis of the RTBF is therefore not an independent and unlimited right to erase history (Sarkar et al., 2024). Rather, it may be understood as a derivative dimension of privacy, dignity and informational autonomy under Article 21.

4.2 Development through Indian Judicial Decisions

Indian High Courts have increasingly confronted claims involving digital persistence. In *Zulfiqar Ahman Khan v. Quintillion Business Media Pvt. Ltd.* (2019), the Delhi High Court considered a claim concerning articles published in the context of the Me Too movement (Bedi, 2021). The Court recognised privacy-related concerns and granted interim protection concerning publication and republication. The case demonstrated the tension between personal dignity and freedom of expression in the digital environment. The issue became particularly significant in cases involving criminal proceedings. In *Jorawar Singh Mundy v. Union of India* (2021) (Basu, 2025), the Delhi High Court dealt with a petition by an individual who had been acquitted in criminal proceedings but continued to experience difficulties because search results linked his name to the proceedings. The Court granted interim relief concerning online accessibility of the relevant material. The case illustrated a central problem with digital records; acquittal may end legal liability but may not end the reputational consequences of searchable allegations.

Similarly, cases before the Madras High Court and other High Courts have considered requests for removal or restriction of judicial information where continued online accessibility was alleged to violate privacy and dignity (Basu, 2025).These cases demonstrate that Indian courts have generally approached the RTBF through the constitutional language of privacy rather than treating it as an entirely autonomous fundamental right.

4.3 *Laksh Vir Singh Yadav v. Union of India*: A Major 2026 Development

The Delhi High Court's 29 May 2026 judgment in *Laksh Vir Singh Yadav v. Union of India & Ors.* Represents a major development in this jurisprudence. The judgment arose from a large batch of petitions concerning judicial records available through search engines and legal databases (Liebman et al., 2020). The factual situations included acquittals, quashing of proceedings, settled disputes, private matrimonial disputes, incidental references to individuals and cases involving sensitive personal information (Agarwal et al., 2018).The Court expressly described the RTBF as a facet of informational privacy. It held that the right, understood as the ability to seek removal or restriction of personal information from public digital accessibility where the information is no longer relevant or serves no legitimate public purpose, flows from the constitutional recognition of informational privacy under Article 21.

Importantly, the Court did not adopt a simplistic deletion model. It directed search engines to de-index relevant content from name-based searches in cases where relief was

warranted (Protection, 2025). It also directed Indian Kanoon to restrict name-based searches while preserving access through case numbers, citations, court details and dates (Singh et al., 2026). Petitioners were additionally permitted to seek masking of personal identifiers from the courts that had issued the original judgments. This approach is significant because it creates a distinction between public access to judicial information and indiscriminate name-based discoverability. The judgment therefore demonstrates how technological remedies can reconcile privacy with open justice.

5. The Digital Personal Data Protection Act, 2023 and the Statutory Dimension

The Digital Personal Data Protection Act, 2023 represents India's principal contemporary legislative framework for digital personal data. Its long title expressly recognises both the right of individuals to protect personal data and the need for lawful processing of such data (Hoofnagle et al., 2019).Section 12 provides a right to correction, completion, updating and erasure of personal data. A Data Principal may request erasure, and the Data Fiduciary is required to erase the data unless retention is necessary for the specified purpose or for compliance with law (Bansal, et al., 2025,).The provision is significant but should not automatically be equated with the complete RTBF. The statutory right is principally directed toward personal-data processing by Data Fiduciaries. The broader constitutional RTBF raises questions concerning search engines, news archives, judicial databases and other forms of public accessibility.

The distinction is particularly important in cases involving information that was lawfully published in the public interest. A data-erasure mechanism cannot automatically authorise the deletion of judicial records, investigative journalism or historically significant material. The 2025 Rules further develop the operational framework. The Government notified the Digital Personal Data Protection Rules, 2025 in November 2025, with different provisions scheduled to commence at different stages (Bansal, 2026).The Indian statutory framework should therefore be viewed as complementing, rather than completely replacing, the constitutional development of the RTBF.

6. Constitutional Conflicts: Privacy, Free Speech and Public Interest

The greatest difficulty surrounding the RTBF is that privacy is not the only constitutional value implicated by digital information (Ranjan, 2024). Article 19(1) (a) protects

freedom of speech and expression. This includes the freedom of the press and the ability to disseminate information. An unrestricted RTBF could therefore create the possibility of private censorship. Suppose a newspaper lawfully reports an individual's involvement in a major public controversy (Cofone Eds, 2020). If the individual subsequently demands deletion merely because the report damages reputation, an unrestricted RTBF could undermine the constitutional protection of journalism. The relevant distinction is therefore between unlawful information and lawful but potentially harmful information. The former may justify conventional legal remedies. The latter requires a more careful balancing exercise.

Further, Judicial records raise an additional concern. Courts operate on principles of open justice, transparency and accountability. Judgments are not merely personal documents; they constitute part of the legal record and contribute to the development of law. However, open justice does not necessarily require unlimited name-based discoverability forever. The *Laksh Vir Singh Yadav* judgment demonstrates the possibility of preserving the legal record while restricting the disproportionate consequences of name-based searchability (Singh & Malik, 2026).This distinction between accessibility and discoverability provides a particularly useful framework for Indian jurisprudence. The RTBF may also come into conflict with the broader public interest in transparency and access to information (James, 2026). Certain categories of information, particularly those relating to corruption, abuse of public office, serious criminality, regulatory violations, or matters involving individuals performing public functions, may continue to possess substantial public value even after a considerable period has elapsed.

In such circumstances, the passage of time alone should not automatically justify the removal, de-indexing, or erasure of information from the public domain (Tiberi, 2017). An individual's claim to privacy may reasonably carry comparatively less weight where the person occupies or has occupied a public office, where the information directly concerns the discharge of public functions, where the conduct has significant implications for public safety, or where it relates to corruption, serious wrongdoing, or other matters of legitimate public concern. Similarly, information possessing continuing historical, legal, or societal significance may warrant preservation despite an individual's interest in limiting its digital accessibility (Lor & Britz, 2012). The determination of whether the RTBF should be granted must therefore involve a careful assessment of the continuing public interest in the information. Accordingly, the RTBF should not operate as an absolute entitlement to erase inconvenient or damaging aspects of one's past; rather, it must function as a qualified right, subject to appropriate public-interest

exceptions and a contextual balancing of individual privacy, dignity, and informational autonomy against the societal interest in transparency and access to information.

7. Towards a Proportionality-Based Indian Framework

The emerging jurisprudence on the RTBF in India would benefit from the adoption of a structured proportionality-based framework capable of balancing the competing interests involved in claims relating to the continued digital accessibility of personal information (Alexiou, 2024). As a preliminary matter, courts should determine whether the information in question constitutes personal information capable of implicating the individual's rights to privacy, dignity and informational autonomy (Rouvroy, 2008). The nature and sensitivity of such information should then be carefully examined, as certain categories of information, including those relating to health, sexual offences, and children, intimate relationships and private family matters, ordinarily warrant a higher degree of protection because of their potential impact on individual dignity and personal autonomy. Courts should further consider the age of the information and its continuing relevance (Whalen et al., 2017). Although the mere passage of time should not automatically extinguish a legitimate public interest in information, particularly where the material concerns matters of historical, legal or public significance, outdated information should not necessarily remain permanently prominent or readily discoverable through ordinary name-based searches.

Another relevant consideration is the status of the individual concerned. Public figures and public officials may reasonably possess a lower expectation of privacy in relation to information directly connected with the performance of their public functions, although their public status should not result in the complete loss of privacy. The court must also undertake a substantive assessment of the public interest in the continued accessibility of the information, taking into account whether its availability contributes meaningfully to public debate, transparency, accountability, historical knowledge or the administration of justice (Bugaric, 2004). An equally important component of this proportionality-based framework is the requirement to consider whether the individual's privacy can be adequately protected through a less restrictive remedy (Bassan, 2021). The available remedies should not be treated as a binary choice between unrestricted public accessibility and complete deletion. This approach is consistent with the principle of proportionality, as it requires the selection of a measure that adequately protects the individual's privacy while causing the least possible interference with freedom of expression, access to information and other legitimate public interests.

Complete deletion should ordinarily be regarded as the most intrusive remedy because it may permanently remove information possessing historical, legal or public value (Marco et al., 2026). De-indexing, by contrast, may provide a more balanced solution in appropriate cases by addressing the specific harm arising from the ease of name-based discoverability while preserving the underlying material for access through alternative means. Such an approach is also consistent with the emerging Indian judicial understanding of the RTBF, particularly the 2026 decision of the Delhi High Court, which sought to distinguish between unrestricted name-based search ability and the continued availability of judicial material through case numbers, citations, court details and dates. The adoption of a structured and graduated proportionality framework would therefore enable Indian courts to move beyond an all-or-nothing approach to digital information and instead develop remedies that reconcile the individual's legitimate interest in privacy and dignity with the equally significant constitutional values of freedom of expression, open justice, transparency and public access to information.

8. Conclusion

The Right to Be Forgotten represents one of the most significant challenges posed by digital technology to traditional understandings of privacy, identity and freedom of expression. The fundamental difficulty is that the internet has transformed the relationship between individuals and their past. Information that was once naturally forgotten through the passage of time can now remain permanently searchable, searchable by name and capable of affecting an individual's life long after the original circumstances have disappeared (Ambrose, 2012).In India, the constitutional recognition of privacy in *K.S. Puttaswamy* provides a strong normative foundation for recognising the RTBF as a dimension of informational privacy, dignity and autonomy. Justice Kaul's observations regarding control over one's existence on the internet were particularly significant in anticipating the contemporary problem of digital permanence. The subsequent development of High Court jurisprudence demonstrates that Indian courts increasingly recognise the practical consequences of permanent online accessibility (Ranjitsingh, 2025.)

The Digital Personal Data Protection Act, 2023 and the accompanying 2025 Rules further strengthen India's data-protection framework by recognising rights concerning the correction and erasure of personal data (Bhati, 2026). However, statutory erasure should not be treated as synonymous with an unrestricted constitutional right to erase information from public memory. The RTBF must operate within a constitutional ecosystem that also protects

freedom of speech and expression, freedom of the press, open justice and legitimate public interest. The 2026 decision in *Laksh Vir Singh Yadav v. Union of India* offers an important model for reconciling these competing interests (Singh & Malik, 2026). Its distinction between name-based search ability and continued access to judicial records demonstrates that privacy protection need not require the destruction of public records. The future of Indian RTBF jurisprudence should therefore move away from the binary choice between "remembering" and "forgetting."

The more appropriate constitutional objective is proportionate digital remembrance. Information that serves a legitimate public purpose should remain accessible, while individuals should be protected from disproportionate, perpetual and context-free exposure to information whose relevance has substantially diminished. Ultimately, the Right to Be Forgotten should be understood not as a right to rewrite history, but as a right to prevent the permanent digital amplification of aspects of one's past where continued accessibility is no longer justified by a legitimate public interest. Such an understanding would enable Indian law to reconcile informational privacy with democratic transparency and to ensure that technological permanence does not become a permanent denial of human dignity (Mishra, 2025).

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