

THE RIGHT TO BE FORGOTTEN IN INDIA: FROM CONSTITUTIONAL ASPIRATION TO JUDICIAL DOCTRINE

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ABSTRACT

The right to be forgotten (“RTBF”) the claim of an individual to have information about them delinked, de-indexed, or erased from public digital access has moved in India from a marginal privacy doctrine into a live constitutional controversy. The Delhi High Court's 144-page ruling in *Laksh Vir Singh Yadav v Union of India* (2026), Indian courts have increasingly recognised RTBF as a facet of the right to privacy and dignity under Article 21 of the Constitution, though without expressly invoking the four-fold proportionality standard that the Supreme Court's own *Aadhaar* judgment supplies for testing exactly this kind of interference.. This article traces the doctrinal journey of RTBF in India from *Justice K.S. Puttaswamy v Union of India* (2017), through the divergent approaches of the Madras, Kerala, and Delhi High Courts, to the pending Supreme Court appeals concerning the removal of judgments and news reports and examines the limited statutory erasure right under Section 12 of the Digital Personal Data Protection Act, 2023, demonstrating why that provision, confined to consent-based processing, cannot address requests concerning judicial records, which are public acts of the State. the United Kingdom's fact-sensitive balancing in *NT1 & NT2 v Google LLC*, Canada's confrontation with the territorial limits of de-indexing in *Google v Equustek*, and the United States' First-Amendment-driven rejection of the right, the article argues that India's evolving jurisprudence particularly the de-indexing/erasure distinction crafted by the Delhi High Court offers a workable middle path, though one whose enforceability against mirror sites, foreign search engines, and unresolved hard cases remains untested. The article concludes with proposed criteria the nature of the

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offence, elapsed time, public-figure status, and continuing public interest that could inform a uniform national standard for adjudicating RTBF claims involving court records.

Keywords: *Right to be Forgotten; Informational Privacy; Article 21; Open Justice; Digital Personal Data Protection Act, 2023; De-Indexing.*

I. INTRODUCTION

The internet does not forget easily. A newspaper report published two decades ago, an FIR uploaded onto a police website, or a matrimonial dispute reproduced in a district court's cause list can now be retrieved by a search engine within a fraction of a second, indefinitely, regardless of whether the underlying proceeding ended in conviction, acquittal, discharge, or quiet withdrawal. In an age when a prospective employer, a marriage broker, or a curious neighbour is only a search query away from a person's entire litigation history, the gap between legal closure and social closure has widened considerably. The right to be forgotten ("RTBF") responds to this gap. It asks whether an individual, having been exonerated by law or having simply moved on from an event of the past, may compel the removal, de-indexing, or masking of digital traces of that event.

India's engagement with RTBF has been unusually compressed. What began as scattered single-judge orders permitting redaction of names in a handful of matrimonial and acquittal matters has, within roughly five years, become one of the most closely watched constitutional controversies before the Supreme Court of India one that pits Article 21's guarantee of privacy and dignity against the equally foundational principle of open justice, and against the institutional interests of legal databases, search engines, and the press. The Delhi High Court's judgment of 29 May 2026 in *Laksh Vir Singh Yadav v Union of India*,² running to 144 pages, represents the most elaborate judicial attempt yet to reconcile these interests through a structured framework of de-indexing and masking.³ Yet barely weeks earlier, the Supreme Court had stayed two other orders one against the *Indian Express* and one against *Indian Kanoon* that had gone

²*Laksh Vir Singh Yadav v Union of India & Connected Matters*, Delhi High Court, Neutral Citation 2026:DHC:4891 (29 May 2026) (Datta J).

³*Delhi High Court Recognises Right To Be Forgotten, Lays Down Framework For De-Indexing Judicial Records* (LiveLaw, 8 June 2026) <<https://www.livelaw.in/high-court/delhi-high-court/>> accessed 1 August 2026.

further and directed removal of news reports and original court records altogether, signalling that the contours of RTBF in India remain very much unsettled.⁴

This article maps that doctrinal journey. Part II sets out the conceptual foundations of RTBF and distinguishes it from the cognate but broader remedies of erasure and masking. Part III traces its constitutional roots in the Supreme Court's privacy jurisprudence and the latent standard of proportionality review that underlies it. Part IV examines the limited statutory erasure right under the Digital Personal Data Protection Act, 2023 ("DPDP Act") and explains why it does not, by itself, resolve the judicial-records controversy. Part V surveys the case law chronologically, from the Madras High Court's early redaction orders to the pending Supreme Court appeals, and draws out the doctrinal logic connecting them. Part VI situates the Indian experience against comparable developments in the European Union, the United Kingdom, Canada, and the United States. Part VII isolates the central doctrinal tension privacy against open justice and Part VIII offers a critical assessment of the practical and normative gaps in the present framework, including the technological limits of de-indexing and the harder cases the existing criteria do not resolve, before Part IX proposes criteria for a uniform national standard.

A methodological note is in order. This article is a work of doctrinal legal research: it proceeds through constitutional, statutory, and case-law analysis, supported by comparative reference to foreign jurisdictions, rather than through empirical or quantitative methods. Because several of the developments discussed below particularly the 2025–2026 Supreme Court orders and the Delhi High Court's Laksh Vir Singh Yadav judgment postdate their formal reporting in standard law reports, the article relies in places on contemporaneous case reporting by legal news services and practitioner commentary, cross-checked against primary sources (the DPDP Act, the GDPR, and reported precedent) wherever available. This is an unavoidable feature of writing on a rapidly evolving area of law rather than a substitute for primary authority, and the article's central doctrinal claims rest throughout on the constitutional and statutory text itself.

⁴"Supreme Court Stays Order Invoking the "Right to Be Forgotten" for Removal of News Reports & Judicial Records from the Public Domain" (Internet Freedom Foundation, 2 March 2026) <<https://internetfreedom.in/supreme-court-stays-order-invoking-the-right-to-be-forgotten-for-removal-of-news-reports-judicial-records-from-the-public-domain/>> accessed 1 August 2026.

II. CONCEPTUAL FOUNDATIONS

RTBF is often used loosely to describe three distinct remedies, which this article treats separately because Indian courts increasingly do so as well. Erasure is the permanent deletion of information from the platform or record that hosts it. De-indexing (also called de-linking) is the removal of a specific URL from the results generated by a search engine or legal database in response to a name-based query, without touching the underlying record, which continues to exist and remains accessible through non-name-based searches such as case number or citation. Masking is the redaction of a party's name from a judgment or order while the substantive text remains public. The Delhi High Court's 2026 judgment turns substantially on this taxonomy, holding that de-indexing does not erase the judicial record and is therefore a proportionate remedy where erasure would not be.⁵

The phrase itself owes its currency to the Court of Justice of the European Union's 2014 decision in *Google Spain*,⁶ which held that a search engine operator could be required to remove links to lawfully published information that had, with the passage of time, become inadequate, irrelevant, or excessive relative to the purposes for which it was originally processed. The European Union subsequently codified a version of this remedy as the right to erasure in Article 17 of the General Data Protection Regulation (“GDPR”),⁷ qualified by express exemptions for freedom of expression, compliance with legal obligations, public-interest archiving, and the exercise of legal claims. India has no equivalent codified right addressed specifically to judicial records; what exists instead is a constitutional right fashioned case-by-case by High Courts exercising writ jurisdiction, alongside a narrower statutory erasure right under the DPDP Act discussed in Part IV.

III. CONSTITUTIONAL FOUNDATIONS IN INDIA

A. Privacy, Dignity, and the Article 21 Foundation

⁵‘Delhi High Court Frames Right to Be Forgotten Rules’ (GKToday, 2 June 2026) <<https://www.gktoday.in/delhi-high-court-frames-right-to-be-forgotten-rules/>> accessed 1 August 2026.

⁶Case C-131/12 *Google Spain SL v Agencia Española de Protección de Datos (AEPD)* and Mario Costeja González [2014] ECLI:EU:C:2014:317.

⁷General Data Protection Regulation (EU) 2016/679, art 17.

The doctrinal starting point for every RTBF claim in India is the Supreme Court's nine-judge bench decision in Justice K.S. Puttaswamy v Union of India,⁸ which recognised the right to privacy as intrinsic to the right to life and personal liberty under Article 21 of the Constitution. Central to RTBF's constitutional pedigree is Justice Sanjay Kishan Kaul's concurring opinion, which explicitly recognised a right to be forgotten as an aspect of informational self-determination,⁹ anticipating by several years the wave of High Court litigation that would follow. Subsequent High Court decisions have built on this foundation to hold that RTBF forms part of the right to live with dignity under Article 21. In ABC v State & Anr, for instance, the Delhi High Court held that the right to be forgotten is part of the right to live with dignity guaranteed under Article 21, directing the masking of the petitioner's name from orders and pleadings in a criminal case notwithstanding the absence of any statute expressly conferring such a right.¹⁰

What is notable is the manner in which Indian courts have proceeded in the absence of legislation. Unlike the position in the European Union, where Article 17 GDPR supplies a codified right subject to codified exceptions, Indian High Courts have derived RTBF directly from Article 21, treating the absence of specific legislation as no bar to constitutional courts recognising and enforcing the right.¹¹ This has produced doctrinal flexibility, but at some cost to consistency: as later Parts show, the Kerala, Madras, and Delhi High Courts have not spoken with one voice, and it has fallen to the Supreme Court to arbitrate.

B. Proportionality as the Latent Standard of Review

Puttaswamy did not merely declare privacy a fundamental right; it also fixed the standard against which any interference with that right must be tested. In the subsequent Aadhaar judgment, the Supreme Court through Chandrachud J's formulation, built on the majority's "just, fair and reasonable" standard articulated a four-fold proportionality enquiry: whether the measure pursues a legitimate state aim; whether it is suitable, in the sense of having a rational connection to that aim; whether it is necessary, in the sense that no less restrictive but equally

⁸Justice K.S. Puttaswamy v Union of India (2017) 10 SCC 1.

⁹Justice K.S. Puttaswamy v Union of India (2017) 10 SCC 1, per Kaul J (concurring).

¹⁰ABC v State & Anr, Delhi High Court (Mahajan J).

¹¹LiveLaw (8 June 2026) (n 2).

effective alternative exists; and whether, on balance, its impact on the right-holder is proportionate to the good it secures.¹² This four-fold test has since become the default lens through which Indian courts assess restrictions on privacy in fields as varied as biometric identification and internet access.

RTBF case law has not expressly invoked this test by name, but its logic runs through the reasoning nonetheless most visibly in the Delhi High Court's preference for de-indexing over erasure. That choice is, in substance, a necessity determination: de-indexing is treated as the least restrictive measure capable of achieving the privacy objective, since it removes the practical source of reputational harm (discoverability by name) while preserving the record for anyone who can identify it by citation or case number.¹³ What is comparatively underdeveloped is the fourth limb an explicit balancing of the residual harm to open justice against the reputational harm avoided. None of the judgments surveyed in Part V weighs these competing interests using an articulated metric; the balance is struck, but largely intuitively, on the facts of each case. A more self-conscious application of the proportionality framework already available in Indian constitutional law rather than a free-standing RTBF doctrine developed in isolation would supply exactly the analytical discipline that Part VIII argues is currently missing.

IV. THE STATUTORY FRAMEWORK: SECTION 12 OF THE DPDP ACT, 2023

The DPDP Act, India's first comprehensive data protection statute, contains a codified erasure right in Section 12, which entitles a "Data Principal" to correction, completion, updating, and erasure of personal data processed on the basis of her consent.¹⁴ Under Section 12(3), a Data Fiduciary must erase personal data upon request unless retention is necessary for the specified purpose or for compliance with law. Some commentary has read Section 12(3) as India's statutory embodiment of the right to be forgotten.¹⁵

¹²Justice K.S. Puttaswamy (Retd) v Union of India (Aadhaar) (2019) 1 SCC 1, per Chandrachud J.

¹³GKToday (2 June 2026) (n 4).

¹⁴Digital Personal Data Protection Act 2023, s 12.

¹⁵'Data Principal Chakra Rights Under DPDP Act' (DPDPIndia.in) <<https://www.dpdpindia.in/chakra-data-principals.html>> accessed 1 August 2026.

This reading requires an important qualification for present purposes. Section 12 applies only to personal data processed with the Data Principal's consent by a private Data Fiduciary; it has no application to judicial records, which are neither collected on the basis of consent nor held by a private fiduciary, but are instead official acts of the State, generated and published by courts in the exercise of the judicial function and reproduced by legal databases in the exercise of a function closely allied to open justice. A litigant seeking removal of a matrimonial judgment from a legal database, or de-indexing of a news report about an acquittal, cannot invoke Section 12 against the concerned High Court Registry or against a legal database in the manner the provision contemplates. This gap is precisely what has driven petitioners to Article 21 writ jurisdiction rather than to the Data Protection Board constituted under the DPDP Act, and it explains why the statutory scheme and the constitutional case law addressed in Part V have developed along parallel, largely disconnected tracks.¹⁶

V. JUDICIAL EVOLUTION: THE CASE LAW

A. The Early Redaction Orders (2021–2022)

The Madras High Court took an early and consequential step in 2021 when, in proceedings concerning a petitioner who had been acquitted, it directed that his name be deleted from the acquittal judgment as reported online, reasoning that continued digital visibility of the accusation caused disproportionate harm once he had been cleared. The order was affirmed by a Division Bench of the same High Court in 2024.¹⁷ The Kerala High Court, however, struck a markedly different note the following year. In *Vysakh K.G. v Union of India*,¹⁸ it explicitly declined to extend RTBF to judicial orders, holding consistently with the principle that judicial records are public documents forming part of the administration of justice that redaction of names from published judgments could not be granted as a matter of course.

¹⁶'Section 12 DPDPA 2023 – Right to Correction and Erasure of Personal Data' (DPDPA.com) <<https://www.dpdpa.com/dpdpa2023/chapter-3/section12.html>> accessed 1 August 2026.

¹⁷'The Right to be Forgotten | How Delhi HC Rewrote India's Digital Privacy Landscape' (CyberPeace, 10 June 2026) <<https://cyberpeace.org/resources/blogs/the-right-to-be-forgotten-how-delhi-hc-rewrote-the-indias-digital-privacy-landscape>> accessed 1 August 2026.

¹⁸*Vysakh K.G. v Union of India*, Kerala High Court (2022) (unreported).

This divergence between two High Courts on essentially the same question whether RTBF extends to judicial records set the stage for the litigation that followed, in which Indian Kanoon, the principal free online repository of Indian case law, became the recurring respondent.

B. Indian Kanoon's Appeals and the Supreme Court's Intervention (2024–2025)

Indian Kanoon challenged the Madras High Court's approach before the Supreme Court in *Ikanoon Software Development Pvt Ltd v Karthick Theodore*,¹⁹ arguing that public records remain public, relying on the Supreme Court's own precedents in *R Rajagopal v State of Tamil Nadu*²⁰ and *Swapnil Tripathi v Supreme Court of India*,²¹ and pointing to the doctrinal inconsistency between the Madras High Court's approach and the Kerala High Court's contrary ruling in *Vysakh K.G.* Indian Kanoon further submitted that Puttaswamy, while recognising privacy as a fundamental right, did not endorse blanket erasure of public records, and that its own removal policy already masked names in categories where the law specifically requires it for instance, offences to which Section 228-A of the Indian Penal Code applies, or matters involving minors.²² A bench of the Supreme Court, then headed by Chief Justice D.Y. Chandrachud, issued notice and stayed the Madras High Court's directive, framing the question for decision as whether RTBF extends to the removal of court judgments from the public domain.²³ A related petition, *Alka Malhotra v Union of India*, in which the petitioner sought redaction of her name from divorce and matrimonial judgments, was tagged with the Karthick Theodore appeal and remains pending before the Supreme Court.²⁴

C. The “John Doe” Orders and a Widening Docket (2024–2025)

¹⁹*Ikanoon Software Development Pvt Ltd v Karthick Theodore*, SLP(C) No. 15311 of 2024 (Supreme Court of India).

²⁰*R Rajagopal v State of Tamil Nadu* (1994) 6 SCC 632.

²¹*Swapnil Tripathi v Supreme Court of India* (2018) 10 SCC 639.

²²‘Supreme Court to Decide Contours of the “Right to be Forgotten” in Judicial Records’ (Internet Freedom Foundation, 15 September 2025) <<https://internetfreedom.in/supreme-court-to-decide-contours-of-the-right-to-be-forgotten-in-judicial-records/>> accessed 1 August 2026.

²³‘Supreme Court Stays Madras HC's Right To Be Forgotten Directive’ (Mondaq, 17 December 2024) <<https://www.mondaq.com/india/privacy-protection/1557460/>> accessed 1 August 2026.

²⁴Internet Freedom Foundation (15 September 2025) (n 21).

Parallel to the Indian Kanoon litigation, the Delhi High Court developed a distinct line of “John Doe” orders directing intermediaries, media houses, and search engines to take down or de-index specific content concerning named individuals. In *The India Today Group and Ors*, decided in 2024, the Delhi High Court directed removal of news articles and social media posts concerning a businessman.²⁵ In November 2025, a Delhi court at Patiala House went further, directing Indian Kanoon, prominent media organisations, and Google LLC to remove or de-index content naming a man who had been fully exonerated in the 2019 Moser Baer money-laundering proceedings, reasoning that the continued availability of the accusation served no legitimate purpose and caused ongoing reputational harm after acquittal.²⁶ This order was significant for extending RTBF-style relief, for the first time, to an individual cleared in a high-profile economic offence rather than a matrimonial or minor criminal matter.

D. The Second Supreme Court Stay: Indian Express and Indian Kanoon (2026)

The tension between these expanding trial-court and High Court orders, and the Supreme Court's own pending consideration of the question, came to a head in early 2026. A district court's interim order dated 10 November 2025, upheld on appeal by a High Court on 18 December 2025, directed both the Indian Express and Indian Kanoon to remove news reports and, notably, original court records from public access, based solely on an asserted right to be forgotten.²⁷ The Indian Express and Indian Kanoon separately approached the Supreme Court; in the resulting Special Leave Petition, the Supreme Court, by its order of 6 February 2026, stayed the operation of both the District Court's and the High Court's directions signalling unease at trial and appellate orders directing removal of original judicial records, as opposed to mere de-indexing, on the strength of RTBF alone.²⁸

²⁵‘Right to Be Forgotten’ (Drishti Judiciary, 2026) <<https://www.drishtijudiciary.com/current-affairs/right-to-be-forgotten>> accessed 1 August 2026.

²⁶‘The Right to Be Forgotten: Reclaiming Dignity in Digital Age’ (Cyril Amarchand Mangaldas Dispute Resolution Blog, 26 September 2025) <<https://disputeresolution.cyrilamarchandblogs.com/2025/09/the-right-to-be-forgotten-reclaiming-dignity-in-digital-age/>> accessed 1 August 2026.

²⁷Internet Freedom Foundation (2 March 2026) (n 3).

²⁸*ibid.*

E. The Delhi High Court's Comprehensive Framework: Laksh Vir Singh Yadav (2026)

It is against this backdrop of divergent High Court approaches and an unresolved Supreme Court reference that the Delhi High Court delivered its 144-page judgment on 29 May 2026 in a batch of writ petitions led by Laksh Vir Singh Yadav v Union of India.²⁹ Justice Sachin Datta held that the right to be forgotten is an integral facet of the fundamental right to privacy under Article 21, and critically that the absence of specific legislation on the subject does not preclude constitutional courts from recognising and enforcing the right.³⁰ The Court then constructed an operative framework rather than a case-specific order: it distinguished de-indexing and masking, both of which preserve the underlying judicial record while limiting its discoverability through name-based search, from erasure, which it treated as a materially more drastic remedy inappropriate for judicial records as a category.

On the facts, the Court directed search engines, including Google, and legal database platforms, including Indian Kanoon, to de-index name-based search results in specified categories of cases principally involving acquittal, discharge, or matrimonial proceedings while leaving the underlying judgments accessible through citation or case-number search.³¹ The Court additionally granted petitioners liberty to seek masking of their names before the courts that had originally rendered the judgments in question, and directed the Ministry of Electronics and Information Technology to ensure compliance by intermediaries and to file a compliance affidavit.³² These twin remedies were designed to protect privacy and dignity without erasing judicial history altogether.³³ As Justice Datta observed, privacy in the digital age is ‘not about secrecy but about an individual's control over the dissemination of personal information’.³⁴

²⁹Laksh Vir Singh Yadav (n 1).

³⁰LiveLaw (8 June 2026) (n 2).

³¹GKToday (2 June 2026) (n 4).

³²LiveLaw (8 June 2026) (n 2).

³³‘When the Internet Won't Let You Move On: Delhi High Court's Landmark Ruling on the Right to Be Forgotten’ (Cyril Amarchand Mangaldas Dispute Resolution Blog, 10 June 2026) <<https://disputeresolution.cyrilamarchandblogs.com/2026/06/when-the-internet-wont-let-you-move-on-delhi-high-courts-landmark-ruling-on-the-right-to-be-forgotten/>> accessed 1 August 2026.

³⁴CyberPeace (10 June 2026) (n 16).

The Laksh Vir Singh Yadav framework is, at the time of writing, the most detailed judicial articulation of RTBF in India, but it remains a High Court ruling operating alongside not in place of the pending Supreme Court appeals in Karthick Theodore and the 2026 Indian Express/Indian Kanoon matter. Whether the Supreme Court will adopt, modify, or displace the de-indexing/masking taxonomy fashioned by the Delhi High Court is, as matters stand, an open and closely watched question.

F. Synthesis: The Doctrinal Logic Beneath the Case Law

Read together rather than sequentially, these decisions are not simply a list of similar disputes decided differently they trace an implicit, if unstated, set of variables that courts have treated as doing the real work of decision. Three variables recur. The first is outcome: courts have been markedly more willing to grant relief to individuals who were acquitted, discharged, or exonerated (the Moser Baer petitioner, the ABC petitioner) than the reasoning in Vysakh K.G. suggests they would be for a convicted person, or indeed for the petitioner in Karthick Theodore, whose underlying case outcome is precisely what remains contested before the Supreme Court. The second is the nature of the forum in which the information appears: courts have distinguished between the judgment or order itself (as a public record whose integrity Rajagopal and Swapnil Tripathi protect) and its discoverability through a name-based search (which de-indexing targets) explaining why relief has clustered around de-indexing and masking rather than deletion of the underlying record. The third is institutional posture: the Supreme Court's interventions in Karthick Theodore and in the 2026 Indian Express/Indian Kanoon matter have consistently stayed orders that went furthest directing wholesale removal of records rather than de-indexing suggesting that the apex court is, at minimum, sceptical of remedies broader than those the Delhi High Court eventually settled on. None of the decisions surveyed above states these variables as a formal test; extracting them is itself the analytical move this Part has sought to make, and it is this implicit logic, rather than any single holding, that Part IX draws upon in proposing an explicit set of criteria.

VI. COMPARATIVE PERSPECTIVE: FOUR MODELS OF FORGETTING

A. The European Union: A Codified, Balanced Right

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The European experience offers the most developed comparator. Google Spain established that a search engine operator is itself a data controller for the purposes of processing personal data appearing in search results, and can therefore be compelled to de-index though not necessarily to compel removal from the source webpage content that has become inadequate or excessive with time.³⁵ Article 17 GDPR subsequently codified a right to erasure but hedged it with express, legislated exceptions for freedom of expression and information, compliance with legal obligations, public health, archiving in the public interest, and the establishment or defence of legal claims.³⁶ This gives European data controllers and courts a settled statutory checklist against which to test an erasure request a predictability that, as explained below, India's judge-made doctrine still lacks.

B. The United Kingdom: Individualised Balancing on the Facts

The United Kingdom's post-Google Spain experience is instructive precisely because it shows a domestic court applying the European right at a granular, fact-specific level rather than as an abstract entitlement. In *NT1 & NT2 v Google LLC*, two businessmen with old criminal convictions sought delisting of search results concerning those convictions.³⁷ Mr Justice Warby allowed the claim of NT2, whose spent conviction for phone-tapping no longer served any protective public function, but dismissed the claim of NT1, holding that his conviction for conspiracy to account falsely remained relevant to assessing his trustworthiness in continuing business activities. The case demonstrates that even within a single jurisdiction applying a single statutory test, outcome, gravity of offence, and continuing relevance to public trust can point in opposite directions for near-identical claims a caution against the kind of categorical, offence-type-based rules that Indian courts have occasionally gestured toward, and a model for the individualised weighing Part VIII argues Indian courts should make explicit rather than implicit.

C. Canada: The Limits of Territorially Bounded Remedies

³⁵Google Spain (n 5).

³⁶GDPR, art 17 (n 6).

³⁷*NT1 & NT2 v Google LLC* [2018] EWHC 799 (QB) (Warby J).

Canada's experience exposes a different problem: the practical efficacy of a de-indexing order that stops at a jurisdictional border. In *Google Inc v Equustek Solutions Inc*, the Supreme Court of Canada upheld a worldwide de-indexing injunction against Google, reasoning that a Canada-only order was ineffective because the offending content simply remained accessible through Google's non-Canadian domains.³⁸ Although Equustek concerned trade secrets rather than privacy, its underlying insight is directly relevant to RTBF: a remedy that binds only the platforms and domains before a particular court does little to prevent continued access through mirror sites, foreign domains, or search engines never made parties to the proceeding. As Part VIII argues, Indian courts have not yet confronted this problem, since the *Laksh Vir Singh Yadav* directions bind only the platforms that appeared before the Delhi High Court.

D. The United States: Free Speech as a Structural Bar

At the opposite end of the comparative spectrum, the United States has consistently declined to recognise anything resembling a general right to be forgotten. In *Garcia v Google Inc*, the Ninth Circuit, sitting en banc, rejected a claim for removal of an actress's brief appearance from a controversial film, holding that no such right existed under American law and that compelling a platform to remove lawfully published, truthful content would raise serious First Amendment concerns.³⁹ American courts have since treated compelled removal of truthful information as a form of prior restraint on speech, permitting only narrow, targeted statutory carve-outs such as state laws entitling minors to request deletion of their own posts rather than any general erasure or de-indexing entitlement modelled on the European approach.⁴⁰ India's constitutional structure differs from the American in a critical respect relevant here: freedom of speech and expression under Article 19(1)(a) is, unlike the First Amendment, subject to reasonable restrictions in the interests of, among other things, decency and morality, giving Indian courts markedly more room than their American counterparts to recognise a privacy-based limit on the discoverability of personal information without confronting a comparable free-speech absolutism.

³⁸*Google Inc v Equustek Solutions Inc* 2017 SCC 34.

³⁹*Garcia v Google Inc* 786 F 3d 733 (9th Cir 2014) (en banc).

⁴⁰'Right to Be Forgotten' (The First Amendment Encyclopedia, Middle Tennessee State University) <<https://firstamendment.mtsu.edu/article/right-to-be-forgotten/>> accessed 1 August 2026.

E. Locating India on the Spectrum

Placed against these four models, India's evolving jurisprudence sits closest to the United Kingdom's individualised, fact-sensitive balancing, but without either the UK's codified statutory test or the EU's legislated exceptions to anchor that balancing exercise. It is considerably more permissive of RTBF claims than the United States, where the constitutional structure itself forecloses the enquiry, but it has not yet grappled as Canada's courts were compelled to in *Equustek* with the question of whether a domestically bound de-indexing order can meaningfully protect an individual's privacy in a borderless information environment. That gap is compounded by the absence, noted in Part IV, of any statutory equivalent of Section 12 reaching judicial records at all: the comparative exercise in this Part is therefore a comparison of judge-made Indian doctrine against legislated foreign regimes, not a comparison between equivalent statutory frameworks.

VII. THE CENTRAL TENSION: PRIVACY VERSUS OPEN JUSTICE

Every RTBF claim touching a judicial record engages a second constitutional value with an equally firm doctrinal pedigree: open justice. In *R Rajagopal v State of Tamil Nadu*, the Supreme Court held that the press did not require the consent of a public official, or indeed of a private citizen involved in a matter of public record, to publish material available in public records, subject to defined exceptions.⁴¹ In *Swapnil Tripathi v Supreme Court of India*, the Court extended the open-justice principle to permit live-streaming of court proceedings, reasoning that transparency of the judicial process is itself a constitutional good flowing from Article 19(1)(a)'s guarantee of freedom of speech and expression, which encompasses the public's right to know.⁴² Indian Kanoon's own submissions before the Supreme Court in the *Karthick Theodore* litigation invoked precisely this lineage, arguing that *Puttaswamy*'s recognition of privacy could not be read to license blanket erasure of court records, which are simultaneously private disputes and public acts of the State.⁴³

⁴¹Rajagopal (n 19).

⁴²Swapnil Tripathi (n 20).

⁴³Internet Freedom Foundation (15 September 2025) (n 21).

The Delhi High Court's 2026 framework represents the most serious judicial attempt to reconcile these two values, rather than to declare one superior to the other. By preserving the underlying record while limiting its name-based discoverability, de-indexing allows a researcher, journalist, or litigant who already knows the case number or citation to access the full judgment, while an ordinary name-based search the modality by which reputational harm to a rehabilitated individual typically arises no longer surfaces it.⁴⁴ This is, in effect, a proportionality-based compromise: it treats open justice and privacy not as a zero-sum contest but as competing interests each entitled to partial satisfaction depending on the mode of access sought, an analytical move broadly consistent with the structured-proportionality approach the Supreme Court itself has used in other privacy contexts since *Puttaswamy*.

VIII. CRITICAL ANALYSIS AND EMERGING CONCERNS

Several difficulties remain unresolved even after the Delhi High Court's 2026 judgment.

A. The Practical Limits of De-Indexing as a Remedy

Even accepting de-indexing as doctrinally preferable to erasure, its practical efficacy is open to serious question, for at least three reasons the case law has not yet confronted. First, a de-indexing order typically binds only the search engines and legal databases that were parties before the court; mirror sites, screenshot-sharing platforms, cached pages retained by web archives, and search engines with no presence in the jurisdiction remain wholly unaffected. Canada's experience in *Equustek* is instructive here: the Supreme Court of Canada found it necessary to order worldwide de-indexing precisely because a domestically bound order proved ineffective against circumvention through non-Canadian domains.⁴⁵ The *Laksh Vir Singh Yadav* directions, by contrast, bind only the platforms before the Delhi High Court and say nothing about foreign-hosted mirrors or third-party aggregators that may already have scraped and republished the delisted content a gap Indian courts have not yet been asked to address.

Second, de-indexing litigation risks a *Streisand* effect: a reported judgment about the removal of a name from an earlier judgment is itself liable to attract fresh reporting, drawing

⁴⁴GKToday (2 June 2026) (n 4).

⁴⁵*Equustek* (n 37).

renewed attention to the very facts the petitioner sought to obscure. Third, and more structurally, reliance on private intermediaries as the delivery mechanism for what is now recognised as a constitutional remedy raises concerns of its own. A search engine's internal review process, rather than a court, becomes the practical forum in which the first, and often only, determination of a delisting request is made a difficulty England's NT1 & NT2 litigation encountered directly, since it was Google's own refusal to delist that generated the litigation in the first place.⁴⁶ None of this is an argument against de-indexing as a remedy; it is an argument that Indian courts, having adopted it, must now also specify how it is to be enforced against actors and content beyond the immediate parties, failing which the remedy risks becoming symbolically significant but practically porous.

B. Hard Cases: When Should Public Interest Override RTBF?

The criteria proposed in Part IX are more easily stated than applied at the margins, and the case law to date has clustered around comparatively easy fact patterns acquittals, discharges, and matrimonial disputes without yet testing categories where the public-interest case against RTBF is considerably stronger. A conviction for corruption by a public official, for instance, raises a public-interest claim that ordinary acquittal cases do not: the information bears directly on fitness for public office and public trust in government, a concern closely analogous to the distinction the English High Court drew in NT1 & NT2 between a claimant whose past conduct remained relevant to assessing his trustworthiness in ongoing business dealings and one whose spent conviction served no further protective purpose.⁴⁷ Corporate fraud and financial-sector misconduct present a similarly resistant case: professionals subject to “fit and proper” assessments by financial regulators arguably retain a public interest in the continued discoverability of adverse findings against them regardless of elapsed time.⁴⁸ Environmental violations raise the concern in a different register again, since the relevant public interest may lie less in assessing individual character than in preserving a community's ability to trace a corporate entity's compliance history. Sexual offence cases sit at the opposite end of the

⁴⁶NT1 & NT2 (n 36).

⁴⁷ibid.

⁴⁸‘Right to be Forgotten and Right to Erasure’ (Chambers and Partners, 8 December 2025) <<https://chambers.com/articles/right-to-be-forgotten-and-right-to-erasure>> accessed 1 August 2026.

spectrum: here Indian practice already tilts decisively toward protecting victims, through the masking obligations that Section 228-A of the Indian Penal Code and Indian Kanoon's own removal policy impose,⁴⁹ rather than toward the convicted offender, whose own RTBF claim if one were ever advanced would have to overcome a strong argument that continued identifiability serves a legitimate protective and deterrent function. None of these categories admits of a bright-line rule; each calls for the kind of individualised, evidence-based weighing NT1 & NT2 modelled, which Indian courts, still operating without express legislative guidance, have only begun to develop.

First, doctrinal fragmentation persists. The Kerala High Court's 2022 rejection of RTBF for judicial orders in Vysakh K.G. has not, so far as the record shows, been formally reconciled with the Madras and Delhi High Courts' contrary approaches; until the Supreme Court decides the pending Karthick Theodore appeal, litigants in different States may obtain materially different outcomes on functionally identical facts an unsatisfactory position for a right said to flow from Article 21, which admits of no territorial variation.

Second, the institutional burden of implementing de-indexing and masking has fallen substantially on private and quasi-private actors principally legal-database operators and search engines with the Ministry of Electronics and Information Technology cast in a compliance-monitoring role.⁵⁰ Indian Kanoon has repeatedly stressed, including in its submissions before the Supreme Court, that it already operates a removal policy masking names in categories the law itself specifies, such as sexual offences and cases involving minors under Section 228-A of the Indian Penal Code, and has resisted extension of masking to all acquittals or all matrimonial disputes as administratively unworkable and inconsistent with its function as a public legal-research resource.⁵¹ A workable national standard will need to specify, with more precision than existing orders provide, which categories of case qualify for de-indexing as of right and which require an individualised judicial determination.

⁴⁹Internet Freedom Foundation (15 September 2025) (n 21).

⁵⁰LiveLaw (8 June 2026) (n 2).

⁵¹Internet Freedom Foundation (15 September 2025) (n 21).

Third, there is a genuine risk of selective and unequal access to the remedy. RTBF litigation to date has been driven overwhelmingly by petitioners with the resources to approach a High Court an acquitted professional whose overseas career prospects were affected, a businessman able to retain senior counsel, a well-placed individual seeking redaction from a matrimonial judgment.⁵² Absent a simpler, more accessible administrative or trial-court mechanism, RTBF risks becoming a remedy available chiefly to those already possessed of the means to litigate it, while ordinary acquitted persons whose names continue to circulate online remain without practical recourse.

Fourth, and more structurally, RTBF for judicial records sits at some distance from the DPDP Act's erasure right, which as Part IV explained does not reach this context at all. This leaves the entire body of RTBF case law resting on judge-made constitutional doctrine, with no legislative anchor specifying, for instance, time-based thresholds for when de-indexing may be sought after acquittal, the treatment of appeals and retrials, or the position of public figures and public officials, whose conduct in office is ordinarily treated in comparable jurisdictions as a matter of continuing public interest resistant to RTBF claims.

IX. TOWARDS A UNIFORM FRAMEWORK: RECOMMENDATIONS

Three steps would meaningfully stabilise the law.

First, the Supreme Court's decision in the pending Karthick Theodore and Indian Express/Indian Kanoon appeals should, ideally, articulate uniform criteria for adjudicating RTBF claims involving judicial records, rather than leaving the question to be worked out case-by-case in each High Court. Relevant criteria drawing on the reasoning already visible across the Delhi, Madras, and Kerala decisions might include: the nature and gravity of the underlying offence or dispute; the final outcome of the proceeding (acquittal, discharge, settlement, or conviction); the length of time elapsed since that outcome; whether the individual is or was a public figure or public official whose conduct remains a matter of continuing public interest; and whether the relief sought is de-indexing, which preserves the record, or erasure, which does not.

⁵²Chambers and Partners (n 47).

Second, the de-indexing/masking distinction crafted by the Delhi High Court in *Laksh Vir Singh Yadav* merits express endorsement as the default remedy, with outright erasure of judicial records reserved for the narrow, legislatively defined categories sexual offences, cases involving minors, and matters where a statute specifically bars disclosure that legal databases already apply as a matter of policy.⁵³ This preserves the historical and research value of the judicial record while directly addressing the reputational harm that arises specifically from name-based discoverability.

Third, Parliament could usefully consider amending the DPDP Act, or enacting freestanding legislation, to bring judicial-record RTBF claims within a structured statutory regime including defined timelines, an accessible grievance mechanism (potentially through the High Court Registry rather than plenary writ jurisdiction alone), and codified exceptions mirroring, but adapted to Indian constitutional conditions, the freedom-of-expression and public-interest carve-outs found in Article 17 GDPR.⁵⁴ This would relieve constitutional courts of the burden of developing doctrine afresh in every petition and would extend the remedy to petitioners without the resources currently required to litigate it at the High Court level.

X. CONCLUSION

Within the span of roughly five years, the right to be forgotten has travelled from a handful of individual redaction orders to a live question awaiting authoritative resolution by the Supreme Court of India. The Delhi High Court's 2026 judgment in *Laksh Vir Singh Yadav v Union of India* stands as the most considered judicial attempt so far to reconcile the constitutional guarantee of privacy and dignity under Article 21 with the equally foundational principle of open justice, through the analytically useful distinction between de-indexing, masking, and erasure.⁵⁵ Yet the Supreme Court's own repeated interventions staying both the Madras High Court's 2021 order in *Karthick Theodore* and the 2026 orders directing removal of Indian Express reports and Indian Kanoon records confirm that the doctrine remains unsettled, and that a Bench dedicated to the question will, sooner rather than later, have to decide how far RTBF extends over records

⁵³Internet Freedom Foundation (15 September 2025) (n 21).

⁵⁴GDPR, art 17 (n 6).

⁵⁵*Laksh Vir Singh Yadav* (n 1).

that are, simultaneously, intensely personal and irreducibly public.^{56,57} Until that decision arrives, or until Parliament legislates directly on the point, India's right to be forgotten will remain what it has been since Justice Kaul first gestured towards it in Puttaswamy: a constitutional aspiration in search of a settled doctrinal home.⁵⁸



⁵⁶Karthick Theodore SLP (n 18).

⁵⁷Internet Freedom Foundation (2 March 2026) (n 3).

⁵⁸Puttaswamy (Kaul J, concurring) (n 8).