
NAVIGATING DATA ERASURE: CHALLENGES AND PROSPECTS FOR THE RIGHT TO BE FORGOTTEN IN INDIA

Avichal Kumar, School of Law and Governance, Central University of South Bihar, Gaya

ABSTRACT

The Right to Erasure is a critical aspect of data protection gaining prominence in India's rapidly digitalizing society. This paper provides a comprehensive analysis of the legal, technological, and constitutional dimensions of this right. It begins by exploring the legal basis for the right to erasure in India, analyzing landmark judicial pronouncements, including the Justice K.S. Puttaswamy ruling, and the legislative framework established by the Digital Personal Data Protection Act, 2023. The study then delves into the complex technological challenges involved in the effective implementation of data erasure, such as the removal of information from search engines, social media platforms, and archived data sources. Furthermore, it examines the inherent conflicts and necessary balancing between the right to erasure and other fundamental rights enshrined in the Indian Constitution, most notably the right to freedom of speech and expression. Finally, the paper offers a critical evaluation of the current state of the right to erasure in India, highlighting key challenges and proposing directions for future legal and policy development.

1. Introduction: The Rising Significance of the Right to Be Forgotten in India

In the expanding digital era, characterized by the production, storage, and sharing of vast amounts of personal data at unprecedented ease, the notion of the Right to Be Forgotten (RTBF) has gained significant attention. The right, referring generally to the right of an individual to seek erasure of his/her personal data from web search results and electronic media on certain grounds, addresses the growing conflict between the enduring nature of digital data and the inalienable right of privacy. For India, which is experiencing rapid digitalization and struggling with data protection issues, the implementation of RTBF raises a distinct set of issues and opportunities. The composite socio-legal framework along with emerging technology requires thorough understanding of legal, technical, and constitutional implications of the evolving right. In this study, an attempt has been made to comprehend the multi-faceted dimensions, outlining an integrated study of existing scenario, issue areas, and possible future trajectory of the Right to Be Forgotten in India. Through the study of the origin, grounds in law, international perspectives, intersection with domestic laws, tech feasibility, and conflict with other constitutional rights, the report attempts to enhance knowledge about the key issue within the Indian framework.

2. Understanding the Right to Be Forgotten: Definition, Origins, and Global Evolution

2.1 Defining the Right to Be Forgotten

At its core, the Right to Be Forgotten (RTBF) empowers individuals to request the removal of their personal data from internet search results and various online platforms when certain conditions are met. This concept is distinct from the general right to privacy, which primarily concerns information that is not publicly known. Instead, RTBF addresses situations where information, once public, is sought to be removed from public accessibility. The term "right to erasure" is often used interchangeably with RTBF, particularly in legislative contexts, emphasizing the aspect of data deletion.

2.2 Origins and Evolution

The origin of the Right to Be Forgotten is traced back to the French legal concept of *"le droit à l'oubli"*, or the right of oblivion. Initially, the concept was limited to use within the criminal

justice system, where offenders who had completed their sentence and were deemed rehabilitated had the right to prevent the continued release of information relating to their past crimes and incarceration.^{1, 2} As the internet became a reality and online records were permanent, the scope of the right began to expand. The capability of the internet to store and release information meant that an individual's past wrongdoings or settled issues would recur through internet searches, thus impacting their current circumstances and future prospects.³

A landmark step towards global recognition of the Right to Be Forgotten (RTBF) was introduced by the Google Spain case of 2014.⁴ In Google Spain, the Court of Justice of the European Union (CJEU) held that people have a right to ask search engines like Google to remove links to personal data that is considered insufficient, irrelevant, or outdated. The decision emphasized the powerful role played by search engines in shaping online reputations and highlighted the need for people to control their online reputation to some extent. After the historical judgment of this case, the Right to Be Forgotten was officially added to the European Union's General Data Protection Regulation (GDPR), which is under Article 17.⁵ Article 17 describes the very conditions that qualify people to request erasure of data of a personal nature, like where data is no longer required for the purpose for which it was originally collected, consent has been withdrawn, or the data was processed illegally.

2.3 Beyond the EU Recognition

The Right to Be Forgotten has been recognized beyond the EU. Other countries have enacted similar legislation or have put forward proposals for its enactment. In Canada, while the Personal Information Protection and Electronic Documents Act (PIPEDA) lacks an explicit right of erasure, there is a developing trend in the recognition of a "right to be forgotten," with the province of Quebec leading the way by implementing an explicit right to de-indexation.^{6, 7} Argentina has had judicial precedents and continued debate regarding the "right to be

¹ *The Evolution of Right to Be Forgotten in India*, SCC OnLine Blog Exp 7 (2022), available here.

² Jeffrey Rosen, *The Right to Be Forgotten*, 64 Stan. L. Rev. Online 88 (2012), available here

³ *Ibid*

⁴ Chinmay Oza, *The Role of the Right to Be Forgotten in India's Data Privacy Framework*, Juris Centre (2024), available here

⁵ David L. Hudson Jr., *Right to Be Forgotten*, Free Speech Center (2023, updated July, 2024), available here.

⁶ *Right to be forgotten*, [https://en.wikipedia.org/w/index.php?title=Right to be forgotten&oldid=1279655239](https://en.wikipedia.org/w/index.php?title=Right_to_be_forgotten&oldid=1279655239) (last visited Mar. 28, 2025).

⁷ Xiangman Li & Jianbing Ni, *Accelerating Secure and Verifiable Data Deletion in Cloud Storage via SGX and Blockchain*, arXiv:2307.04316 [cs.CR] (2023), available here.

forgotten" or "right to be delisted," with the Supreme Court's ruling in *Natalia Denegri v. Google* being a landmark. In Japan, the Right to Be Forgotten is viewed through the lens of privacy, with judicial authorities balancing the harm of privacy intrusion against the importance of search results on a case-by-case basis. Other countries, such as the UK, South Korea, and Switzerland, have debated and, in some cases, implemented legislation that reflects the principles of the Right to Be Forgotten.

3. Legal Basis of the Right to Be Forgotten in India: Constitutional Basis and Judicial Interpretation

3.1 The Right to Privacy as a Fundamental Right

The foundation upon which the Right to Be Forgotten is grounded in India has been formulated in the wake of the landmark judgment of Justice K.S. Puttaswamy v. Union of India (2017).^{8, 9} In this landmark judgment, the Supreme Court of India reiterated that the right to privacy is a part of the right to life and liberty, as the Indian Constitution is under Article 21. This judgment made it easier to recognize various facets of privacy, with informational privacy being directly linked to the Right to Be Forgotten. Of specific significance, Justice Kaul, in his separate opinion to the Puttaswamy judgment, specifically took into account the Right to Be Forgotten as a part of the right of an individual to control his personal information and life in the virtual world.¹⁰ In his opinion, if India adopted a similar right as under the GDPR, it would necessarily mean that the individuals must be able to delete their personal information from the system when it has become outdated, unnecessary, or inaccurate and it no longer serves any legitimate purpose.

3.2 Judicial Recognition by High Courts

Following the Supreme Court's recognition of the right of privacy, several High Courts of India have engaged with the debate regarding the specific contours of the Right to Be Forgotten. Their judgments reflect a nuanced appreciation and a conservative approach to reconciling this right with other fundamental rights and social interests.

⁸ Prerna Shree, *DNLU Student Law Journal (SLJ)* | Dharmashastra National Law University, 04 April 2023 *Oblivisci and the Right to Be Forgotten in India.*, available [here](#),

⁹ *K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India), available [here](#)

¹⁰ *Ibid*

In *Sri Vasunathan vs The Registrar-General* (2017), the Karnataka High Court was the pioneer in unequivocally acknowledging the Right to Be Forgotten under Indian law.^{11, 12} In this judgment, the court examined a delicate scenario where a lady requested the erasure of her name from a court order regarding a matrimonial case, whereupon the court ordered the obscuring of the lady's name from electronic records by the High Court Registry. The judicial mindset focused on the need to follow the prevailing approach in Western countries on the Right to Be Forgotten, particularly in the case of a woman and in delicate matters, which would decide her dignity and reputation. Apart from this, the court balanced the injury that the privacy of her life and social reputation could suffer if her name continued to appear publicly as associated with the previous judicial proceedings.

In contrast, the Gujarat High Court in *Dharamraj Bhanushankar Dave v. State of Gujarat* (2017) was more limiting.^{13, 14} A petitioner who had been acquitted of serious criminal charges asked the record of his acquittal be removed from a legal online database. The court declined, largely on the grounds that court decisions are public documents and should be accessible to the general public. In addition, the court emphasized the absence of any express statutory provision for the Right to Be Forgotten in India at the time and emphasized the need to balance privacy interests with the public interest.¹⁵

The Delhi High Court has been more inclined to grant the Right to Be Forgotten in specific situations. In the case of *Jorawar Singh Mundy v. Union of India* (2021), the court granted the deletion of information about a criminal case from search results.¹⁶ The petitioner, acquitted of the crime, contended that the continued online presence of the case details was causing damage to his professional opportunities and social life. The court, although considering the requirement of a balance between the right to privacy and the right of the public to know, favored the petitioner, considering the likelihood of irreparable harm even after his acquittal.¹⁷

The Orissa High Court, in *Subhranshu Rout @ Gugul v. State of Odisha* (2020), highlighted the essence of the Right to Be Forgotten, particularly where victims of online harassment are

¹¹ Prashant Mali, *Privacy Law: Right to Be Forgotten in India*, 7 NLIU L. Rev. 17 (2022), available here

¹² *Sri Vasunathan v. Registrar General*, W.P. No. 62038/2016 (Karnataka HC Jan. 23, 2017), available here

¹³ *Dharamraj Bhanushankar Dave v. State of Gujarat*, 2017 SCC OnLine Guj 2493, available here

¹⁴ *Dave v. State of Gujarat*, *Global Freedom of Expression* (Columbia Univ. 2024), available here

¹⁵ *Ibid*

¹⁶ *Jorawar Singh Mundy v. Union of India*, 2021 SCC OnLine Del 2306, available here

¹⁷ *Amit Meharia & Bhavna Sharma, Right to Forgotten in India - Case Analysis of Jorawar Singh Mundy v. Union of India & Ors.*, MCO Legals (2022), available here

involved.¹⁸ While the case was one involving a bail application in the context of a rape accusation where the accused had circulated indecent material concerning the victim on the internet, the court held that the Right to Be Forgotten is part of the right to privacy and that victims should have a remedy for the maintenance of their privacy in the form of such material being deleted from the internet.¹⁹

In *Vysakh K.G. v Union of India* (2022), the Kerala High Court adopted a narrower position, holding that the Right to Be Forgotten does not override the doctrine of open justice in current or recently concluded judicial cases. The court suggested that it was for the legislature to enact the very contours of the invocation of the right. The court did acknowledge that where there were lengthy durations involved or delicate matters, it could grant de-indexation or erasure of individual information from search engine databases.²⁰

In the case of *Karthick Theodore v Registrar General, Madras High Court & Ors* (2021), the Madras High Court had initially denied the petitioner's request to get his name removed from an online judgment relating to a previous acquittal.²¹ The court underlined the importance of public records and referred to the lack of certain legal provisions that would make such redaction possible. This ruling has, however, been put on hold by the Supreme Court, suggesting a possible rethinking of this position.²²

In a recent judgment, the Delhi High Court in *ABC v. State & Anr.* (2024) ordered anonymization of the identity of the complainant as well as the accused in a case where the First Information Report (FIR) had been withdrawn.²³ The court recognized the Right to Be Forgotten as a part of the right to live a dignified life under Article 21, emphasizing the need to balance the public right to information with the privacy rights of the individual, especially after the withdrawal of the legal proceedings.

¹⁸ *Subhranshu Rout @ Gugul v. State of Odisha*, BLAPL No. 4592 of 2020 (Orissa HC Nov. 23, 2020), available [here](#).

¹⁹ *Ibid*

²⁰ *Vysakh K.G. v. Union of India*, 2022 SCC OnLine Ker 7337.

²¹ *Karthick Theodore v. Registrar General, W.A. (MD) No. 1901 of 2021* (Madras High Court Feb. 27, 2024), available [here](#).

²² *Ibid*

²³ *ABC v. State & Anr.*, CRL.M.C. 495/2019 (Delhi HC Nov. 6, 2024), available [here](#).

3.3 Supreme Court's Position Regarding Court Decisions

The Supreme Court's order to stay Madras High Court's order in the Karthick Theodore case indicates its inclination to go deeper into the issue of the Right to Be Forgotten, especially in the case of public documents such as court judgments. The Chief Justice of India, during the hearing, made the observation that "verdicts are part of public records," indicating a certain caution from permitting their erasure. The above observation brings out the natural conflict between a person's right to privacy and the doctrine of open justice, where court hearing and orders are generally open to the public. The Supreme Court's later judgments on the subject will go a long way in determining the legal regime of RTBF in India, particularly in the application of judicial records. Indian judiciary on the Right to Be Forgotten is typified by liberal legal principles and a clear intent to harmonize the principles of privacy, freedom of expression, and the public right to information. Although the Puttaswamy judgment set out the constitutional basis, the High Courts have provided diverse interpretations, which attest to the multifaceted nature of this right in the context of the modern digital era. The Supreme Court's continued focus on this aspect, especially judicial decisions, reiterates the necessity for a more defined legal framework to chart the application of the Right to Be Forgotten in India.

4. International Context: Recognition and Implementation of the Right to Be Forgotten

4.1 European Union's GDPR (Article 17)

The 2018 General Data Protection Regulation of the European Union provides a general framework in the case of the Right to Be Forgotten, or the "right to erasure," as provided in Article 17.²⁴ This article gives the power to individuals to request the erasure of their personal data by data controllers without delay, subject to the satisfaction of one or more of the conditions listed. These conditions are where the personal data is no longer necessary for the purposes for which it was collected or processed, where the person withdraws consent, where the person objects to the processing and there are no overriding legitimate grounds, where the person's erasure is necessary for compliance with a legal obligation, or where the data was collected in the context of the offering of information society services to a child.²⁵

²⁴ *General Data Protection Regulation, art. 17, 2016 O.J. (L 119) 1 (EU)*, available here.

²⁵ *Right to Be Forgotten, GDPR.eu*, available here.

The General Data Protection Regulation (GDPR) places obligations on data controllers who have made personal data publicly available and must erase such data.²⁶ These controllers are responsible for taking reasonable steps, considering the current technological means and the cost of implementation, to inform other data controllers processing the information that the individual has made a request for erasure of any related links, copies, or replications of that data. This regulation emphasizes the need for a concerted effort to ensure that the data is completely removed from the digital space. Nevertheless, the right to erasure as provided for by the GDPR is not absolute. Article 17(3) provides for several exceptions where this right does not exist, such as where processing is necessary for the exercise of the right to freedom of expression and information, for compliance with a legal obligation, for reasons of public interest in the area of public health, for archiving purposes in the public interest, for scientific or historical research, statistical purposes, or for the purposes of the formulation, exercise, or defense of legal claims.

Adoption of the GDPR Right to Be Forgotten has been contentious and highly advocated. Its proponents argue that it is a necessary protection of the privacy and online reputation of individuals in a world where past errors or outdated facts can have long-lasting negative effects. Its opponents, however, fear that an overexpansive use of RTBF would infringe on the freedom of speech and the right of the public to information and result in censorship and re-writing of history. Moreover, the practical challenges of applying RTBF over the vast and ubiquitous digital universe, such as the identification of all the personal data and its deletion, remain real.²⁷

4.2 Similar Legislation in Other Jurisdictions

Certain non-European Union states have also come to appreciate the necessity of giving individuals some measure of control over their own online personal data and have enacted RTBF-type laws or regulations. In Canada, although the Right to Be Forgotten is not explicitly mentioned in PIPEDA, the Office of the Privacy Commissioner of Canada has recommended that Canadian law as it currently exists may allow Canadians to ask search engine operators and other commercial actors to remove or de-index search results mentioning their name in certain contexts.²⁸ Specifically, the province of Quebec enacted a distinct right of de-

²⁶ *Supra* note 24.

²⁷ *Supra* note 2.

²⁸ *Office of the Privacy Commissioner of Canada, Privacy Commissioner Seeks Federal Court Determination on Key Issue for Canadians' Online Reputation, (2018), available here.*

indexation, styled after the Right to Be Forgotten, through legislative amendments which came into force in September of 2023.²⁹

Argentina has seen significant advancement in legal issues related to the Right to Be Forgotten. Even though there is no explicit legislation on RTBF, Argentine courts have addressed instances where people asked for the removal of search results and online content.³⁰ The 2022 Supreme Court ruling in *Natalia Denegri v. Google* ruled that the "right to be forgotten" does not apply when the content is deemed to be in the public interest, thus setting a precedent that encourages freedom of expression in certain instances.³¹

In Japan, the approach of the Right to Be Forgotten is primarily within the jurisdiction of the right to privacy. The Japanese Supreme Court has formulated a balancing test of weighing the adverse effects of invasion of privacy against the public interest in showing search results in deciding deletion of information. The court has contended that deletion is warranted if the maintenance of privacy outweighs decisively the public interest in the information.³²

Other legal systems, including South Korea, Switzerland, and Russia, have enacted or introduced legislation encompassing elements of the Right to Be Forgotten. These are trends towards an emerging international trend to recognize the individual's right to control their online narrative, but the legal vehicle and the balance struck with other rights may vary from the EU model.³³

5. Right to be Forgotten and Indian IT Laws: A Critical Analysis

5.1 Information Technology Act, 2000

The 2000 Information Technology Act, being the central legislative act of regulation of activities in cyberspace in India, has no specific provision explicitly mentioning the Right to Be Forgotten. While the Act addresses cybercrime, electronically entered into contracts, and data protection measures, the Act does not cover the direct right of individuals to request their

²⁹ *Standing Committee on Resource Stewardship, Legislative Assembly of Alberta, Emerging Issues: The Personal Information Protection Act, (2024), available here.*

³⁰ *Maia Levy Daniel, Argentina: The Right to Be Forgotten Strikes Again, Tech Policy Press (Mar. 15, 2022), available here.*

³¹ *Natalia Denegri v. Google Inc., Corte Suprema de Justicia de la Nación [CSJN] [National Supreme Court of Justice], (2022) (Arg.), available here.*

³² *Law Library of Congress, Erasure of Online Information: Japan, LIBRARY OF CONGRESS,, available here.*

³³ *Supra note 6*

personal data to be deleted from online forums.³⁴ Section 43A, which was added to the Act later, provides that compensation could be sought where a corporate body fails to prevent unauthorized access, disclosure, copying, or use of sensitive personal data, resulting in loss or unjust enrichment.^{35,36} But the mentioned provision is solely concerned with the consequences of a data leak and not charting an active data deletion right.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which have been passed under the IT Act, provide a framework that deals with some aspects of the Right to Be Forgotten.^{37,38} The rules mandate intermediaries, like social media websites and search engines, to remove or block access to content that infringes on one's privacy within 24 hours of receiving a complaint. This step provides a framework for individuals seeking to remove illegally disseminated or procured personal information and thus aligns with some of the aims connected with the Right to Be Forgotten.

5.2 Digital Personal Data Protection Act of 2023

The enactment of the Digital Personal Data Protection Act, 2023, is a significant step in Indian policy in the direction of data privacy and the Right to Be Forgotten.³⁹ In particular, Section 12 of the Act gives data principals the "Right to correction and erasure of personal data."⁴⁰ This allows individuals to request data fiduciaries to correct false or misleading personal data, complete incomplete data, update outdated data, and, most importantly, delete personal data which they had earlier consented to be processed, except where keeping such data is necessary for compliance with the law.

The inclusion of the right to erasure in the 2023 Act is reflective of the growing appreciation of the values underpinning the Right to Be Forgotten.⁴¹ Earlier drafts of the data protection bill and the recommendations of the Justice BN Srikrishna Committee had also referred to the

³⁴ Kunal Garg, *Right to be Forgotten in India: A Hustle over Protecting Personal Data*, *India Law Journal*, available here.

³⁵ Rashi Soni, *Right to Be Forgotten*, 8 INT'L J. NOVEL RSCH. DEV. (IJNRD) 9 (2023), available here.

³⁶ Information Technology Act, 2000, No. 21, Acts of Parliament, 2000 (India), available here.

³⁷ Ministry of Electronics and Information Technology, Government of India. *Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021*. Available here.

³⁸ Samriddhi Kapoor, *Is The 'Right To Be Forgotten' a Fundamental Right?*, *Times of India*, Apr. 13, 2023, available here.

³⁹ Digital Personal Data Protection Act, 2023, No. 22, Acts of Parliament, 2023 (India), available here.

⁴⁰ Ibid

⁴¹ Supra note 1

concept of RTBF.⁴² The Srikrishna Committee, for instance, had recommended a five-point framework of criteria for adopting RTBF, with parameters such as the sensitivity of the data, the extent of the disclosure, the level of public exposure of the data principal, the relevance of the data to the public, and the nature of the disclosure.⁴³ The final Act, while it does not take the same in the same explicit form recommended, has a provision for the right to erasure which provides a foundation for individuals to seek the erasure of their personal data on certain grounds. The operation and actual impact of the right would lie with the actual rules and regulations to be framed under the Act, which will hopefully outline the process and terms on which the right to erasure will be exercisable.

Feature	Digital Personal Data Protection Act, 2023 (India)	General Data Protection Regulation (EU)
Name of the Right	Right to correction and erasure of personal data	Right to erasure ('right to be forgotten')
Legal Basis	Section 12	Article 17
Condition for Erasure	Prior consent given by the data principal	Multiple grounds including withdrawal of consent, data no longer necessary, unlawful processing, etc.
Obligation of Fiduciary/Controller	Erase upon request unless retention is necessary for specified purpose or legal compliance	Erase without undue delay if grounds are met
Consent Requirement	Erasure right primarily linked to prior consent	Withdrawal of consent is one of several grounds
Exemptions	Retention necessary for specified purpose or legal compliance; broader exemptions for government entities	Exemptions for freedom of expression, legal obligations, public interest, research, etc.
Scope	Potentially narrower, focused on data processed with consent	Broader scope covering various scenarios of data processing

⁴² Bedi, *The Contestation Between Right to Be Forgotten and Freedom of Expression: Constitutional Silences and Missed Opportunities*, 6(1) COMP. CONST. L. & ADMIN. L.J. 1 (2021).

⁴³ CCG, *The Right to be Forgotten in India: An Evolution*, THE CCG BLOG (2024), available [here](#).

5.3 Proposed Legislative Frameworks (e.g., Digital India Bill)

The Digital Personal Data Protection Act, 2023, is a welcome move; yet, the upcoming Digital India Bill is proposed to supersede the current IT Act, 2000, and is more concerned with handling a broader range of issues in the digital space.^{44,45} The discussion on the proposed bill confirms continued interest in strengthening data security and privacy in India. The Digital India Bill will more clearly define and describe the laws that regulate data protection, e.g., the Right to Be Forgotten, or right to erasure. Depending on its terms, this proposed legislation may have a lasting impact on the recognition and enforcement of RTBF in India, perhaps resolving some of the ambiguities and deficiencies in the existing legal framework.

Indian information technology law development demonstrates a steady, if incremental, trajectory towards the acknowledgment and codification of the principles that accompany the Right to Be Forgotten. The 2023 Digital Personal Data Protection Act marks a significant milestone with the establishment of a law-recognized right of erasure. However, the scope of the impact and efficacy of the right will depend on the detailed rules and regulations subsequently developed, and the overall architecture established by subsequent legislation such as the Digital India Bill.

6. Judicial Interpretations of the Right to Be Forgotten in India: A Case Law Review

The court decisions in the context of the Right to Be Forgotten in India, as discussed in Section 3, demonstrate an advanced and evolving understanding of this right. The following table summarizes the major decisions, indicating their specific contexts, legal basis, and implications for the overall interpretation and application of RTBF in India.

⁴⁴ Ministry of Electronics and Information Technology, MoS Rajeev Chandrasekhar Holds Consultations with Stakeholders on the Proposed Digital India Bill (DIB), Govt. of India (2023), available [here](#).

⁴⁵ Press Information Bureau, Government of India, Digital Personal Data Protection Act is a world-class legislation: MoS Rajeev Chandrasekhar, (2023), available [here](#).

Case Name	Year	High Court/Supreme Court	Petitioner's Request	Court's Decision	Key Legal Reasoning	Implications
<i>Sri Vasunathan vs The Registrar-General</i> ⁴⁶	2017	Karnataka High Court	Removal of name from court order in a matrimonial dispute	Granted	Alignment with Western trends in sensitive cases, protection of women's modesty and reputation	Early recognition of RTBF in sensitive personal matters
<i>Dharamraj Bhanushankar Dave v. State of Gujarat</i> ⁴⁷	2017	Gujarat High Court	Removal of acquittal judgment from a legal website	Denied	Judgments are public records, absence of specific RTBF law	Emphasized open justice and the need for statutory basis for RTBF
<i>Jorawar Singh Mundy v. Union of India</i> ⁴⁸	2021	Delhi High Court	Removal of details of acquittal from search results	Granted	Balancing right to privacy with right to information, potential harm despite acquittal	Extended RTBF to protect career and social life after acquittal
<i>Subhranshu Rout @ Gugul v. State of Odisha</i> ⁴⁹	2020	Orissa High Court	Relief related to online circulation of victim's images	Observations made on RTBF, no specific relief granted in bail matter	RTBF is integral to right to privacy, need for mechanism to protect victims online	Highlighted the importance of RTBF for victims of online harassment

⁴⁶ Supra note 12⁴⁷ Supra note 13⁴⁸ Supra note 16⁴⁹ Supra note 18

<i>Vysakh K.G. v Union of India</i> ⁵⁰	2022	Kerala High Court	Removal of personal details from court systems	Partially denied for current proceedings	Open court justice system prevails, legislative clarity needed for RTBF	Restrictive view on RTBF in judicial proceedings
<i>Karthick Theodore v Registrar General, Madras High Court & Ors</i> ⁵¹	2021	Madras High Court (Stayed by SC)	Redaction of name from online judgment of acquittal	Initially Denied, Stayed by SC	Sanctity of public records, absence of specific legal provision for alteration	Raised questions about RTBF's applicability to judicial records, SC to decide
<i>ABC v. State & Anr.</i> ⁵²	2024	Delhi High Court	Masking of names in quashed FIR from records and search results	Granted	Right to live with dignity, proportionality and fairness, balancing with public's right to information	Recognized RTBF in the context of quashed proceedings to protect dignity

This review of case law highlights the variance in Indian courts' enforcement of the Right to Be Forgotten. While the Delhi and Karnataka High Courts have been more open to recognizing and enforcing this right, especially where sensitive personal information or damage to reputation is involved, the Gujarat and Kerala High Courts have been more cautious, placing emphasis on open justice considerations and the necessity of a clear statutory basis. The Supreme Court intervention in the Karthick Theodore case illustrates ongoing judicial consideration of the boundaries of RTBF and, in particular, its conflict with the public character of court documents. The judiciary is gravely weighing the individual right to privacy against other fundamental rights and interests of the public, and with the unusual facts of each case

⁵⁰ *Supra* note 20

⁵¹ *Supra* note 21

⁵² *Supra* note 23

being the determinative factor. The Supreme Court's upcoming decision in the Karthick Theodore case is observed with interest in that it would bring much-needed clarity and could institute a more consistent approach to the enforcement of the Right to Be Forgotten in India.

7. Technological Challenges in Implementing the Right to Be Forgotten in India

Implementation of Right to Be Forgotten in India is a series of intricate technical issues that need to be resolved in order to make the same a success.

7.1 Erasure of Information from the Search Engines

Delisting or de-indexing of data from search engine listings is the technical process by which search engines like Google and Bing can exclude certain URLs from search results for certain queries.⁵³ Complete removal, however, is riddled with several challenges. Firstly, ensuring that the data is delisted in all search engines used within India requires coordination with multiple stakeholders. Secondly, since search engines often have global domains, a delisting request filed in India might not necessarily extend to these international sites, which would defeat the purpose of the removal process.⁵⁴ Thirdly, search engines also have their own policies, which often balance an individual's right to privacy against the public interest in accessing information, leading to inconsistent results for delisting requests.⁵⁵

7.2 Removal of Information from Social Networks and Web-based Databases

Removal of personal data from social media websites and general online databases is a matter of some technical sophistication.⁵⁶ The spread of data across storage and ease of sharing material from one site to another makes it problematic for total removal of the initial content, and reposts or copies. Although most websites offer consumers the option to remove their own material, total erasure from their servers and backup systems is not always immediate or guaranteed.⁵⁷ Moreover, material input by others regarding an individual can be outside of the direct control of the subject of the removal.

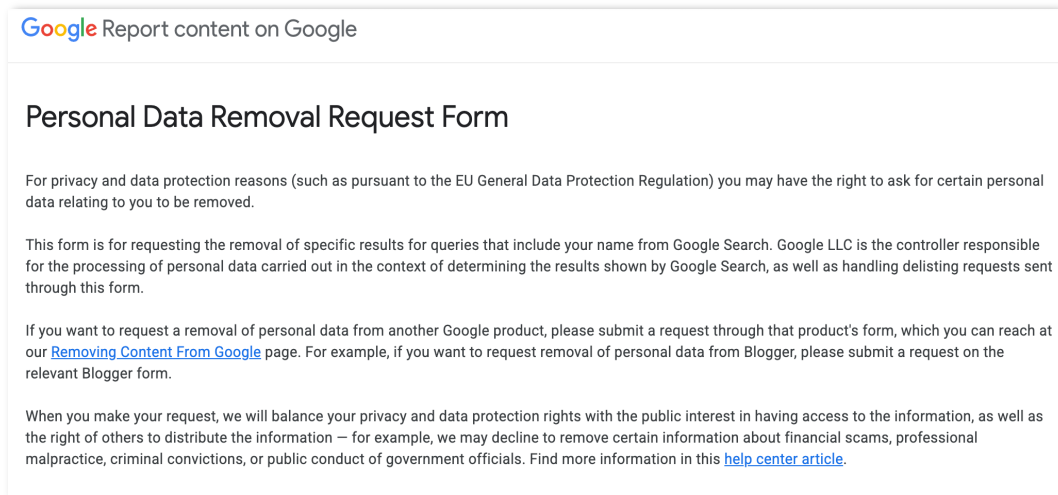
⁵³ *Media Defence, Trends in Censorship by Private Actors, Advanced Modules on Digital Rights and Freedom of Expression Online*, (2024), available [here](#).

⁵⁴ *Supra* note 11

⁵⁵ *Supra* note 32

⁵⁶ *Supra* note 11

⁵⁷ *Supra* note 2



Google Report content on Google

Personal Data Removal Request Form

For privacy and data protection reasons (such as pursuant to the EU General Data Protection Regulation) you may have the right to ask for certain personal data relating to you to be removed.

This form is for requesting the removal of specific results for queries that include your name from Google Search. Google LLC is the controller responsible for the processing of personal data carried out in the context of determining the results shown by Google Search, as well as handling delisting requests sent through this form.

If you want to request a removal of personal data from another Google product, please submit a request through that product's form, which you can reach at our [Removing Content From Google](#) page. For example, if you want to request removal of personal data from Blogger, please submit a request on the relevant Blogger form.

When you make your request, we will balance your privacy and data protection rights with the public interest in having access to the information, as well as the right of others to distribute the information — for example, we may decline to remove certain information about financial scams, professional malpractice, criminal convictions, or public conduct of government officials. Find more information in this [help center article](#).

Figure 1: Google Personal Data Removal Request Form, providing users with the ability to request the removal of personal data from Google Search results, including references to data protection regulations such as the EU General Data Protection Regulation (GDPR).⁵⁸

7.3 Data Persistence in Archived Data

Among the most striking challenges in enforcing the Right to Be Forgotten is the persistent existence of archived data.^{59, 60} Websites such as the Wayback Machine and web archiving initiatives on a daily basis crawl and store copies of websites. Even when data is deleted from the active web, such archived versions could still be available, thereby undermining the impact of the Right to Be Forgotten.⁶¹ The technological feasibility of accessing and requesting removal of data from all such archives worldwide is gigantic.

7.4 Identification and Classification of Personal Data

Another technological issue is identifying and classifying all types of personal data across the various online systems that exist in India.⁶² Personal data can be generally defined to include not just directly identifiable data but also derived data, metadata, and aggregated data that may

⁵⁸ Google LLC, *Personal Data Removal Request Form*, Google Support, available here.

⁵⁹ Diya Sarkar Ghosh, Arindam Mukherjee & Tulishree Pradhan, *Erasing Digital Footprints as a Means of Confidentiality Preservation and Balancing the Public's Informational Interest: A Legal Predicament*, in 10 *Erasing Digital Footprints as a Means of Confidentiality Preservation and Balancing the Public's Informational Interest* (2024), available here.

⁶⁰ Diya Sarkar Ghosh, Prafulla Mishra & Tulishree Pradhan, *The Conundrum of Erasing Digital Footprints: A Regulatory Challenge*, *Jindal Global L. Rev.* (2024), available here.

⁶¹ *Supra* note 2

⁶² *Supra* note 11

be traceable to an individual. Data fiduciaries require advanced systems to identify where such data is located, get context of the data, and ensure all instances of relevance are caught when a request to erase is made.

7.5 Enforcement and Verification

The authentication of the validity of Right to Be Forgotten requests and the assurance of their effective application on different websites, particularly global ones, constitutes an additional degree of technological complexity. The setup of secure and trustworthy channels through which individuals may authenticate their identity and through which custodians of information process these requests timely and in line with the law necessitates a strong technological system and standardized practices, which at present do not exist in India.⁶³

The successful implementation of the Right to Be Forgotten in India will depend crucially on overcoming these technological hurdles. It will demand the creation and deployment of sophisticated data management software, uniform procedures for data erasure, as well as efficient cross-platform and cross-jurisdictional enforcement mechanisms.

8. Balancing the Right to be Forgotten against Other Fundamental Rights in India

The Indian Right to Be Forgotten legislation is concerned with a fundamental requirement to balance this right with other fundamental rights enunciated in the Constitution, in particular the right to freedom of speech and expression (Article 19) and public access to information.

8.1 Incompatibility with Freedom of Speech and Expression (Article 19)

The Right to Be Forgotten can potentially clash with the fundamental right of freedom of speech and expression, which is assured under Article 19 of the Indian Constitution. Critics feel that allowing a free hand to individuals to seek deletion of information related to themselves from the internet could lead to censorship and stifling of factual information, thereby preventing free flow of ideas and opinions. Indian judicial institutions, as shall appear from the discussion of case law, have been aware of the potential clash and attempted to strike a balance, often weighing the character of the information, its temporal currency, and the

⁶³ Arunima, [Right to be Forgotten] Delhi High Court Directs Masking of Accused's Name in Quashed FIR from Case Records and Online Search Results, SCC Online (Nov. 27, 2024), available [here](#).

probable damage to the individual against the public interest in its ongoing circulation.

8.2 Dispute Concerning the Public's Right to Information

The Right to Be Forgotten raises serious issues regarding its potential impact on the public right to information, especially in the case of public interest issues, historical data, and judicial orders.⁶⁴ Access and preservation of such data are sometimes necessary to bring about transparency and accountability. Judicial authorities, as in the case of *Dharamraj* and originally *Karthick Theodore*, have emphasized the public nature of judicial orders. Balancing the individual's need to be forgotten and the public's right to information, especially in the case of public persons or matters of significant public interest, is a complex issue that Indian courts are currently trying to resolve.

8.3 Synergies with Other Fundamental Rights

Despite the presence of controversies, the Right to Be Forgotten can also be interpreted to promote other fundamental rights. Specifically, it is intrinsically connected with the right to dignity that is held to be a fundamental pillar of the right to life under Article 21.⁶⁵ In that it allows people mastery over their online identity and the power to remove outdated or redundant information, the RTBF can secure their reputation and allow them to live with dignity without the long-term shadow of past occurrences.

The implementation of the Right to Be Forgotten in India requires a delicate balancing of the fundamental right to freedom of speech and expression and the public's right to access information. The courts are attempting to do this presently, while the Digital Personal Data Protection Act, 2023, attempts to provide a legislative framework with these conflicting interests in mind. How well this balancing will work will be significant in determining the future direction of the RTBF in India.

9. Conclusion and Future Directions: Creating a Comprehensive Framework for the Right to Be Forgotten in India

This study has navigated the various aspects of the Right to Be Forgotten in India, highlighting

⁶⁴ *Supra* note 2

⁶⁵ *Supra* note 8

its growing significance in the age of the Internet. The Right to Be Forgotten (RTBF) in India is gaining significance as digital footprints become increasingly persistent. Despite the *Justice K.S. Puttaswamy* judgment establishing privacy as a fundamental right, inconsistent interpretations by various High Courts continue to pose challenges.^{66, 67} The Digital Personal Data Protection Act, 2023, marks progress by recognizing the right of erasure, but conflicts between RTBF and fundamental rights like freedom of expression and the public's right to information remain unresolved.⁶⁸ Effective implementation requires addressing legal, technological, and constitutional complexities while ensuring a balanced approach to data privacy and public interest.

To build a robust RTBF framework, legislative clarity is essential, with the DPDP Act incorporating detailed provisions and balancing freedom of expression.⁶⁹ Establishing a well-funded, independent Data Protection Agency (DPA) will aid enforcement and guidance. Technological solutions must address secure data erasure and archived content, while public awareness campaigns should inform citizens of their rights.⁷⁰ Ongoing collaboration between legal experts, technologists, and policymakers is crucial to adapting to evolving challenges. India's journey toward RTBF will shape a digital society that respects privacy while upholding transparency and public knowledge.

⁶⁶ Swati Pandita & Lovely Sharma, *Right to be Forgotten: A Study with Special Reference to India*, SSRN (July 20, 2023), available here.

⁶⁷ Arti Aasha, *Right to Be Forgotten in India—A Critical Analysis*, ResearchGate (June 2023), available here.

⁶⁸ S. Jayashree, *The Right to Be Forgotten: A Comprehensive Case Study Analysis*, 4(3) *Indian Journal of Legal Review* 233 (2024), available here.

⁶⁹ Priya Gupta & Abhay Chand Mall Visen, *Right to Be Forgotten with Special Reference to Indian Women: A Legal Study*, ResearchGate (December 2024), available here.

⁷⁰ Nikhil Aswani, *The Right to Be Forgotten and Its Enforcement in India*, *International Journal of Law and Digital Age* (May 2020), available here.