

Digital Memory Versus Human Dignity: The Emerging Constitutional Jurisprudence of The Right to Be Forgotten in India

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Abstract:

Human memory has changed due to the exponential rise of digital technology, which can save, index, and share personal information across platforms. The internet has increased access to information and promoted transparency and freedom of expression, but it has also threatened privacy, dignity, reputation, and personal autonomy. Digital records are permanent, preventing people from moving past previous mistakes, acquittals, personal disagreements, or outdated information, sparking the Right to Be Forgotten constitutional debate. Following the landmark *Google Spain SL v. Agencia Española de Protección de Datos (AEPD)* decision and codification under Article 17 of the General Data Protection Regulation (GDPR), the concept of RTBF has expanded beyond data protection to encompass constitutional rights. This article argues that India's Right to Be Forgotten is an autonomous constitutional doctrine rooted in human dignity, informational autonomy, digital rehabilitation, and algorithmic accountability, not a derivative privacy entitlement or statutory data protection remedy. The article uses doctrinal research to critically examine the evolution of privacy jurisprudence under Article 21 of the Constitution of India, from early judicial recognition of personal liberty to *Justice K.S. Puttaswamy (Retd.) v. Union of India*'s transformative constitutional framework. The recent 2026 Delhi High Court decision, which advances the constitutional understanding of de-indexing, anonymization, masking, and the balance of privacy with open justice and freedom of expression, is given special attention.

The essay also compares the legislative frameworks for RTBF in the EU and UK to highlight doctrinal and institutional similarities and differences pertinent to the Indian constitutional environment. The research explores Large Language Models, Retrieval-Augmented Generation systems, algorithmic profiling, machine unlearning, and synthetic media to acknowledge AI's transformative impact on search engines. It claims that persistent algorithmic memory raises significant constitutional issues that standard data protection paradigms cannot solve.

Based on this research, the essay presents a Five-Pillar Constitutional Framework for the Right to Be Forgotten in India based on human dignity, informational sovereignty, digital rehabilitation, algorithmic responsibility, and open justice in a democracy. It concludes that the future of RTBF in India is constitutional regulation of digital memory through a balanced, principled, and technologically responsive legal framework that protects individual dignity and democratic transparency in the age of artificial intelligence.

Keywords: Right to Be Forgotten; Digital Memory; Human Dignity; Informational Privacy; Constitutional Law; Article 21; Digital Personal Data Protection Act, 2023; Artificial Intelligence; Algorithmic Accountability; De-indexing; Open Justice; GDPR; Digital Rights.

I. INTRODUCTION

1.1 Background and Context

The exponential growth of digital technologies has fundamentally transformed the relationship between individuals, information, and constitutional rights. The convergence of the internet, search engines, cloud computing, social media platforms, and artificial intelligence ("AI") has created an information ecosystem in which personal data is generated, preserved, and disseminated on an unprecedented scale. Unlike traditional modes of communication, which were constrained by physical archives and the natural limitations of human memory, digital technologies enable information to remain permanently accessible, searchable, and reproducible across jurisdictions. Consequently, the digital age has replaced the natural process of forgetting with an architecture of persistent technological memory, fundamentally altering the legal significance of personal information.¹

This transformation has profound constitutional implications. Historically, legal systems recognised that the passage of time performs an essential social function by facilitating rehabilitation, reintegration, and personal development. Doctrines such as limitation periods, expungement of criminal records, juvenile confidentiality, and defamation law reflect the principle that individuals should not remain indefinitely burdened by past events that have lost their legal or social significance.² Digital technologies have disrupted this equilibrium by ensuring that obsolete information remains continuously accessible through search engines, online archives, and algorithmically curated platforms. Consequently, individuals may continue to experience adverse consequences in employment, education, finance, and social relationships despite acquittal, rehabilitation, or the passage of considerable time.

The constitutional challenge created by digital permanence extends beyond conventional concerns of privacy. The unrestricted accessibility of personal information undoubtedly promotes freedom of expression, transparency, open justice, and democratic accountability, yet it may simultaneously undermine equally significant constitutional values, including human dignity, informational autonomy, reputation, and personal liberty. The resulting tension between collective digital memory and the individual's right to personal transformation has emerged as one of the defining constitutional questions of the information age.³

It is within this context that the Right to Be Forgotten (RTBF) has assumed increasing constitutional significance. Properly understood, RTBF does not seek to erase historical truth or suppress lawful expression. Rather, it seeks to regulate the continued accessibility and technological amplification of personal information that has become irrelevant, excessive, or disproportionately prejudicial while preserving legitimate public interests in transparency and access to information. Accordingly, the constitutional debate concerns not whether history should be forgotten, but whether technological systems

¹ Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* 1–12 (Princeton Univ. Press 2009).

² Jeffrey Rosen, *The Right to Be Forgotten*, 64 Stan. L. Rev. Online 88, 89–91 (2012); see also Limitation Act, 1963 (India); Juvenile Justice (Care and Protection of Children) Act, 2015 (India).

³ Neil M. Richards & Daniel J. Solove, *Privacy's Other Path: Recovering the Law of Confidentiality*, 96 Geo. L.J. 123, 134–36 (2007).

should be permitted to preserve and perpetually amplify every aspect of an individual's past irrespective of its continuing public relevance.⁴

The international recognition of RTBF through *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González* and its subsequent incorporation into Article 17 of the General Data Protection Regulation (GDPR) significantly influenced the global development of digital privacy jurisprudence.⁵ In India, the constitutional foundation of RTBF emerged following *Justice K.S. Puttaswamy (Retd.) v. Union of India*, wherein the Supreme Court recognised privacy as a fundamental right under Article 21 and acknowledged informational privacy as an essential component of constitutional liberty.⁶

The constitutional recognition of informational privacy has subsequently been reinforced through the evolving jurisprudence of various High Courts, particularly in relation to **de-indexing, masking, and anonymisation** of personal information. These judicial developments, read alongside the **Digital Personal Data Protection Act, 2023**, indicate a gradual shift towards recognising that individuals should possess meaningful control over the continuing digital accessibility of personal information. Nevertheless, the statutory framework remains primarily concerned with data processing and does not comprehensively address the constitutional implications of judicial records, search-engine indexing, or algorithmically generated information. Consequently, the contours of RTBF in India continue to be shaped predominantly through constitutional adjudication rather than comprehensive legislative design.⁷

The rapid emergence of **artificial intelligence**, particularly **Large Language Models (LLMs)**, **Retrieval-Augmented Generation (RAG)**, algorithmic profiling, and synthetic media, has further intensified these constitutional challenges. Unlike conventional search engines, AI systems do not merely retrieve existing information; they analyse, synthesise, infer, and reproduce information through automated processes. As a result, personal information may continue to influence AI-generated outputs even after being deleted or de-indexed from its original source. These developments demonstrate that conventional privacy remedies are increasingly inadequate in addressing the constitutional consequences of persistent algorithmic memory.⁸

Against this backdrop, the present article argues that the **Right to Be Forgotten** should no longer be understood merely as an extension of privacy or a statutory data protection entitlement. Rather, it should be recognised as an emerging constitutional doctrine founded upon **human dignity, informational autonomy, digital rehabilitation, and algorithmic accountability**. By examining the evolution of Indian constitutional jurisprudence, comparative legal developments, and the implications of artificial intelligence, this study seeks to develop a principled constitutional framework capable of reconciling individual liberty with freedom of expression, open justice, democratic accountability, and technological innovation in the digital age.⁹

⁴ Meg Leta Jones, *Ctrl + Z: The Right to Be Forgotten* 45–52 (N.Y.U. Press 2016).

⁵ Case C-131/12, *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, 2014 E.C.R. I-317; Regulation (EU) 2016/679 of the European Parliament and of the Council (General Data Protection Regulation), art. 17.

⁶ (2017) 10 SCC 1.

⁷ Digital Personal Data Protection Act, No. 22 of 2023 (India); *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026).

⁸ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); Dawen Zhang et al., *Right to Be Forgotten in the Era of Large Language Models: Implications, Challenges, and Solutions* (2023); OECD, *OECD AI Principles* (2019).

⁹ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

1.2 Digital Memory versus Human Dignity: The Constitutional Dilemma

The Right to Be Forgotten (RTBF) is one of the most important constitutional developments to the digital transformation of memory. RTBF is usually discussed in the context of privacy or data protection, but that's not the only reason it is constitutionally important. The main one is the novel capacity of digital technologies to keep and preserve, and to repeatedly reproduce, and, most significantly, to repeatedly algorithmically amplify historical information indefinitely, thereby transforming the relationship between memory, identity and human dignity. The problem is not just that personal info should be available, but that a democracy that values dignity and liberty should allow technology systems to hold onto information that society has forgotten over time.¹⁰

The concepts of human dignity are fundamental and hold a position central to constitutional democracies. It asserts the inherent value of each person and the ability to be self-governing, self-developing and rehabilitative. In Indian constitution, dignity has become an integral part of Article 21, which the Supreme Court has always understood as providing the right to life and personal freedom, which includes dignity, privacy, reputation, autonomy and meaningful participation in society.¹¹ Informational privacy is not a standalone constitutional right, but rather the manifestation of the broader constitutional values that must be upheld in a digital world.

The use of digital technologies has completely changed the circumstances in which dignity can be realized. In the past, human memory and public archives were both noted by their practical obscurity; where human subjects can redefine themselves over a period of time. In the present, information systems like search engines, online archives, and AI systems archive and propagate information regardless of its current relevance. Thus, those who are acquitted, rehabilitated, or simply have had their grievances long ago resolved can still be recognized mainly by antiquated electronic files. The damage to the constitution is not caused by the falsehood of the information or its illegal publication, but because technology makes it impossible for personal identity to develop normally because it always links people to past events that are isolated from them.¹²

This change shows that the issue of RTBF is not simply one of privacy versus freedom of expression. Transparency, open courts, the freedom of the press and public access to information are essential building blocks of constitutional democracy. Records at the courts and public archives have a vital democratic role and are generally irremovable. Meanwhile, the ease of access to technology can unduly affect dignity, reputation, and informational autonomy when historical information is no longer in the public interest. The constitutional battle is therefore not one for absolute rights of privacy or transparency but for balancing competing rights.¹³

This separation has now been acknowledged in comparative jurisprudence, with the creation of the concept of digital discoverability. Remedies like de-indexing, masking and anonymisation ordinarily do not delete information from the source, but only regulate the technical mechanisms by which personal information

¹⁰ Daniel J. Solove, *Understanding Privacy* (Harvard Univ. Press 2008); Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* (Princeton Univ. Press 2009).

¹¹ INDIA CONST. art. 21; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608.

¹² Julie E. Cohen, *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* (Yale Univ. Press 2012); *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014).

¹³ INDIA CONST. art. 19(1)(a); *Naresh Shridhar Mirajkar v. State of Maharashtra*, AIR 1967 SC 1; *Swapnil Tripathi v. Supreme Court of India*, (2018) 10 SCC 639.

is amplified and retrieved. This will allow the maintenance of historical records and archives in an accurate manner, while helping to avoid the negative impact of an ever-present digital footprint. The recent decision by Delhi High Court too highlights the constitutional balancing, and treats RTBF as a form of informational privacy under Article 21 in the Constitution, while also focussing on proportionality, open justice and contextual adjudication, instead of erasure.¹⁴

With the advent of Artificial Intelligence, the constitutional quandary is even more complicated. While traditional search engines can only find and provide information, Large Language Models (LLMs), Retrieval-Augmented Generation (RAG), and algorithmic profiling systems can process, synthesize and generate personal information from various sources. The challenge is not just removing or de-indexing information from a single database anymore, but it's about controlling the persistent algorithmic memory. Current privacy laws and policies only partly cover this change, as they tend to focus on the collection and processing of information, and not the ongoing impact of information in AI systems.¹⁵

In this respect, this article proposes to conceive the Right to Be Forgotten as a new constitutional doctrine, which is found within the nexus of human dignity, informational autonomy, digital rehabilitation, and algorithmic responsibility. While privacy is an integral part of constitutional principles, it is not enough to account for the wider normative value of RTBF in an age of artificial intelligence and permanent digital memory. The aim of the constitutional goal is not to forget, but to guarantee that technological systems will never take away from a person the possibility of rehabilitation, of reconstruction of one's identity, of reintegration into society, of participation in daily life. This allows constitutional law to balance the human dignity, freedom of expression, open justice, democratic accountability and technological innovation in the emerging digital constitutional order.¹⁶

1.3 Review of Literature

The **Right to Be Forgotten (RTBF)** has emerged as a significant area of legal scholarship following the expansion of digital technologies, data-driven governance, and artificial intelligence. Existing literature may broadly be classified into four interrelated themes: **privacy and informational autonomy**, **comparative data protection law**, **Indian constitutional jurisprudence**, and **AI governance**.

The first strand examines RTBF as an extension of the broader right to privacy. Scholars such as **Viktor Mayer-Schönberger**, **Jeffrey Rosen**, and **Meg Leta Jones** argue that perpetual digital memory fundamentally alters the relationship between identity, reputation, and personal autonomy, thereby necessitating legal mechanisms that enable individuals to move beyond obsolete digital information.¹⁷

The second strand focuses on the development of RTBF within **European Union** law. Academic analyses of *Google Spain* and **Article 17 of the General Data Protection Regulation (GDPR)** explain how European jurisprudence balances informational privacy with freedom of expression through principles of

¹⁴ *NT1 & NT2 v. Google LLC*, [2018] EWHC 799 (QB); *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026).

¹⁵ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); Dawen Zhang et al., *Right to Be Forgotten in the Era of Large Language Models: Implications, Challenges, and Solutions* (2023).

¹⁶ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

¹⁷ Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* (Princeton Univ. Press 2009); Jeffrey Rosen, *The Right to Be Forgotten*, 64 Stan. L. Rev. Online 88 (2012); Meg Leta Jones, *Ctrl + Z: The Right to Be Forgotten* (N.Y.U. Press 2016).

proportionality, public interest, and contextual evaluation. These studies have significantly influenced contemporary debates concerning digital privacy across multiple jurisdictions.¹⁸

A third body of literature examines the evolution of RTBF within India following *Justice K.S. Puttaswamy (Retd.) v. Union of India* and the enactment of the **Digital Personal Data Protection Act, 2023**. While existing scholarship recognises the constitutional significance of informational privacy, it largely analyses RTBF through the lens of privacy and data protection, with comparatively limited attention devoted to its independent constitutional development or to recent judicial innovations concerning de-indexing, masking, and anonymisation.¹⁹

The most recent scholarship explores the implications of **artificial intelligence**, particularly **Large Language Models (LLMs)**, algorithmic profiling, machine unlearning, and Retrieval-Augmented Generation (RAG). Although these studies identify the limitations of traditional data-erasure remedies in AI-driven environments, they remain predominantly technological or policy-oriented and rarely examine these developments through the framework of constitutional rights and democratic governance.²⁰

The present study builds upon these strands of scholarship while addressing their limitations. It examines RTBF not merely as a privacy or data protection mechanism but as an emerging constitutional doctrine grounded in **human dignity, informational autonomy, digital rehabilitation, and algorithmic accountability**. By integrating constitutional jurisprudence, comparative law, and AI governance, the article proposes a **Five-Pillar Constitutional Framework** for the future development of RTBF in India.²¹

1.4 Research Gaps

Although the **Right to Be Forgotten (RTBF)** has attracted increasing scholarly and judicial attention, the existing literature remains fragmented in several important respects. A substantial body of research examines RTBF primarily from the perspectives of **privacy, data protection**, or the **General Data Protection Regulation (GDPR)**, with comparatively limited attention devoted to its evolution as an autonomous constitutional doctrine within the Indian legal system.²² Similarly, much of the Indian scholarship has focused on *Justice K.S. Puttaswamy (Retd.) v. Union of India* and the **Digital Personal Data Protection Act, 2023**, while the emerging jurisprudence of the High Courts—particularly the Delhi High Court's comprehensive 2026 framework on de-indexing, masking, and anonymisation—has received only limited doctrinal analysis.²³

Existing studies also inadequately address the constitutional implications of **artificial intelligence, Large Language Models (LLMs), Retrieval-Augmented Generation (RAG)**, algorithmic profiling, and machine unlearning for the future development of RTBF. Most analyses continue to conceptualise RTBF

¹⁸ Case C-131/12, *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, 2014 E.C.R. I-317; Regulation (EU) 2016/679 (General Data Protection Regulation), art. 17.

¹⁹ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Digital Personal Data Protection Act, No. 22 of 2023 (India).

²⁰ Dawen Zhang et al., *Right to Be Forgotten in the Era of Large Language Models: Implications, Challenges, and Solutions* (2023); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

²¹ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

²² Meg Leta Ambrose & Jef Ausloos, *The Right to Be Forgotten Across the Pond*, 3 J. Info. Pol'y 1 (2013); Eleni Frantziou, *Further Developments in the Right to Be Forgotten*, 14 Hum. Rts. L. Rev. 761 (2014).

²³ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026); Digital Personal Data Protection Act, No. 22 of 2023 (India).

as a mechanism of data erasure rather than examining how persistent algorithmic memory challenges traditional understandings of informational privacy and constitutional rights.²⁴ Furthermore, there is a noticeable absence of scholarship proposing a coherent constitutional framework capable of reconciling **human dignity, informational autonomy, digital rehabilitation, freedom of expression, open justice, and democratic accountability** within India's evolving digital constitutional order.

This study seeks to address these gaps by analysing RTBF as an emerging constitutional doctrine rather than merely a statutory privacy entitlement. It further contributes to contemporary legal scholarship by integrating constitutional jurisprudence with the challenges posed by artificial intelligence and by proposing a **Five-Pillar Constitutional Framework** to guide future judicial interpretation, legislative reform, and AI governance in India.²⁵

1.5 Objectives of the Study

The present study seeks to examine the constitutional evolution of the **Right to Be Forgotten (RTBF)** in India within the context of rapid technological transformation. The principal objectives of this research are:

1. To examine the philosophical, jurisprudential, and constitutional foundations of the Right to Be Forgotten.
2. To analyse the evolution of RTBF within Indian constitutional jurisprudence, with particular reference to **Article 21**, *Justice K.S. Puttaswamy (Retd.) v. Union of India*, and subsequent judicial developments.
3. To undertake a comparative constitutional analysis of the legal approaches adopted by the **European Union** and the **United Kingdom**.
4. To evaluate the constitutional implications of **artificial intelligence**, algorithmic memory, and emerging digital technologies for the future development of RTBF.
5. To propose a Five-Pillar Constitutional Framework for strengthening the constitutional protection of RTBF in India while balancing human dignity, informational autonomy, freedom of expression, open justice, and democratic accountability.²⁶

1.6 Hypothesis

The central hypothesis of this study is that the Right to Be Forgotten in India, while increasingly recognised as a facet of the fundamental right to privacy under Article 21, remains doctrinally underdeveloped and insufficiently equipped to address the complexities of an AI-driven digital environment. It is hypothesised that the absence of a unified constitutional framework integrating privacy, dignity, data protection, and technological governance undermines the effective implementation of RTBF. Furthermore, the study posits that a balanced constitutional approach—one that reconciles informational autonomy with freedom of expression and open justice—is essential for ensuring both individual dignity and democratic accountability.

²⁴ Dawen Zhang et al., *Right to Be Forgotten in the Era of Large Language Models: Implications, Challenges, and Solutions* (2023); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

²⁵ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

²⁶ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

1.7 Research Methodology

To test this hypothesis, the article adopts a qualitative doctrinal research methodology supplemented by comparative legal analysis. The study examines constitutional provisions, statutory instruments, judicial precedents, and regulatory developments within India, the European Union, and the United Kingdom. It also draws upon contemporary academic literature concerning digital privacy, data protection, constitutional theory, and artificial intelligence to evaluate the adequacy of existing legal frameworks. Rather than advocating the absolute prioritisation of privacy over competing constitutional values, the study seeks to identify principled standards capable of harmonising individual dignity with legitimate public interests in transparency, accountability, and freedom of expression.

1.8 Scope of the Study

The scope of this research is confined to the constitutional and regulatory dimensions of RTBF in the context of publicly accessible digital information, judicial records, search-engine indexing, and AI-enabled information retrieval. While the discussion refers to the Digital Personal Data Protection Act, 2023 and comparative data protection regimes, the primary emphasis remains upon constitutional jurisprudence and judicial development rather than detailed statutory interpretation. Similarly, the article considers artificial intelligence only insofar as it reshapes the legal understanding of informational privacy, digital permanence, and constitutional rights, without undertaking a technical examination of AI architecture or computational design.

II. FROM PRIVACY TO DIGITAL DIGNITY: THE CONCEPTUAL EVOLUTION OF THE RIGHT TO BE FORGOTTEN

2.1 The Philosophical and Jurisprudential Foundations of Forgetting

Forgetfulness has historically been considered a natural memory feature that cannot be legally controlled. Individuals and societies can gradually discard outdated information, past mistakes, and settled disputes because the human mind is selective. Forgetting is a natural process that has always promoted rehabilitation, reintegration, forgiveness, and personal transformation, which are essential for individual dignity and communal harmony. In this context, legal systems have provided for a limitation period, erasure of criminal records, juvenile confidentiality, and bankrupt discharge to limit the repercussions of a criminal record. The limitation period, expungement, juvenile confidentiality, and bankruptcy discharge have all been created to restrict the impact of a criminal record.²⁷

From a jurisprudential standpoint, the legal importance of forgetting stems from the constitutional acknowledgment that identity is fluid rather than fixed. Liberal constitutional theory recognizes that humans have the potential for moral advancement, self-improvement, and rehabilitation, and that the law should facilitate chances for personal transformation. Ronald Dworkin's view of rights as safeguards of individual dignity and autonomy, alongside modern privacy scholarship, indicates that constitutional democracies must protect not only individuals from unjustified interference but also their capacity to define their future identity without ongoing subjugation to past occurrences. In the digital realm, technical systems progressively retain and replicate historical information eternally, thus substituting the natural process of forgetting with a framework of perpetual recollection. Viktor Mayer-Schönberger contends that

²⁷ Alan F. Westin, *Privacy and Freedom* (Atheneum 1967); Daniel J. Solove, *Understanding Privacy* (Harvard Univ. Press 2008).

digital technologies have profoundly transformed the historical equilibrium between remembering and forgetting by rendering information durable, searchable, and universally accessible.²⁸

Forgetting serves a crucial constitutional function and is strongly associated with the values of human dignity, informational autonomy, and digital rehabilitation. Forgetting does not imply the erasure of historical truth or genuine public information, but rather that information and events deemed irrelevant or highly biased do not permanently define an individual's modern identity. This distinction is encapsulated in the concept of 'practical obscurity,' which recognizes that material may be publicly accessible yet not readily or effortlessly discoverable using contemporary search technologies. This practical obscurity has been eliminated by the transition from physical archives to digitally indexed databases accessible via the Internet.²⁹

The RTBF is far not only from the typical notions of privacy and data protection. They are developed in the context of a growing need under the constitution to protect the dignity of the human person, to ensure rehabilitation, and to preserve individual autonomy in the midst of a digital world. We can accept this normative framework as a constructive framework in which to RTBF, and recognize it as a constitutional theory which is still in the making, and which seeks to move technical progress and the constitutional values of constitutional democracy closer together. On the basis of this conceptual framework, we can discuss the evolution of RTBF over time with respect to comparative and international law.³⁰

2.2 Evolution of the Right to Be Forgotten in International Law

The RTBF has evolved and is now integral to contemporary international privacy and data protection law, highlighting the necessity for individuals to possess substantial control over the distribution of their personal data in the digital realm. Although RTBF was not specifically referenced in initial international human rights documents, its principles are reflected in the safeguarding of privacy and human dignity as articulated in **Article 12** of the **Universal Declaration of Human Rights** and **Article 17** of the **International Covenant on Civil and Political Rights**, which forbid any arbitrary or unlawful intrusion into an individual's privacy, family life, home, or reputation.³¹ These concepts subsequently contributed to the development of comprehensive information protection laws, particularly in Europe, where the notion of informational self-determination became a fundamental aspect of democratic constitutionalism. The turning point in the evolution of RTBF was the decision of the Court of Justice of the European Union (CJEU) in *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*. The Court held that in some cases individuals can ask search engine operators to delete links to personal data that is no longer adequate, relevant or excessive or no longer relevant to the purposes for which it was processed. The Court affirmed that the remedy was not to remove information from its original source but rather to limit its availability through name-based search results, balancing privacy interests against the public's right to access information.³²

²⁸ Viktor Mayer-Schönberger, *Delete: The Virtue of Forgetting in the Digital Age* (Princeton Univ. Press 2009).

²⁹ U.S. Dep't of Justice v. *Reporters Committee for Freedom of the Press*, 489 U.S. 749 (1989); Neil M. Richards, *The Dangers of Surveillance*, 126 Harv. L. Rev. 1934 (2013).

³⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Daniel J. Solove, *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet* (Yale Univ. Press 2007).

³¹ Universal Declaration of Human Rights art. 12 (1948); International Covenant on Civil and Political Rights art. 17, Dec. 16, 1966, 999 U.N.T.S. 171.

³² *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014).

The principles articulated in *Google Spain* were subsequently codified under **Article 17 of the General Data Protection Regulation (GDPR)**, which recognises the "right to erasure" subject to several important exceptions, including freedom of expression, compliance with legal obligations, public interest, scientific research, and the establishment or defence of legal claims.³³ Subsequent decisions of the CJEU further refined the doctrine by emphasising proportionality, territorial limits of de-indexing, and the necessity of balancing privacy with competing constitutional values.³⁴ Accordingly, the international evolution of RTBF demonstrates that the doctrine has developed beyond a purely regulatory mechanism of data protection into a broader constitutional principle that seeks to reconcile **human dignity, informational autonomy, and democratic transparency** within the digital age. These developments provide an important comparative foundation for evaluating the emerging constitutional jurisprudence of RTBF in India.

2.3 RTBF, Privacy and Informational Self-Determination

The conceptual evolution of the **Right to be Forgotten (RTBF)** signifies a broader transition in privacy law from traditional secrecy to the emergence of **informational self-determination**. Classical privacy theories primarily conceptualized privacy as the entitlement to be free from unauthorized interference in one's personal life. The swift advancement of digital technology has transformed the privacy landscape, shifting the constitutional emphasis from concealment to the regulation of personal information. In the digital era, the fundamental concern is not merely the disclosure of information, but whether individuals maintain significant control over the acquisition, processing, dissemination, and continued accessibility of information pertaining to themselves.³⁵

The German Federal Constitutional Court, in its pivotal ruling on the Census Act Case³⁶ (*Volkszählungsurteil*), established the principle of informational self-determination, asserting that individuals should have the authority to dictate the usage of their personal data in an increasingly data-centric society. This principle subsequently affected European data protection law and became one of the normative foundations of the GDPR. It is founded on the understanding that informational autonomy is crucial for the effective practice of liberty, democratic engagement, and personal development. Privacy is now perceived not merely as an individual concern, but as a fundamental principle that protects the liberty and dignity of persons in the digital realm.

In this sense, RTBF represents a logical extension of informational self-determination. It does not grant a universal right to erase historical data or conceal factual information; rather, it allows for the restriction of access to personal information that has become outdated, excessive, or no longer serves a genuine public interest under specific conditions. The objective is to protect the individual's capacity for rehabilitation

³³ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), art. 17.

³⁴ *Google LLC v. Commission Nationale de l'Informatique et des Libertés (CNIL)*, Case C-507/17, ECLI:EU:C:2019:772; *GC & Others v. Commission Nationale de l'Informatique et des Libertés (CNIL)*, Joined Cases C-136/17, ECLI:EU:C:2019:773.

³⁵ Alan F. Westin, *Privacy and Freedom* (Atheneum 1967); Daniel J. Solove, *Understanding Privacy* (Harvard Univ. Press 2008).

³⁶ Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court], Dec. 15, 1983, 65 Entscheidungen des Bundesverfassungsgerichts [BVerfGE] 1 (Ger.) (Census Act Case); Paul M. Schwartz, *European Data Protection Law and Restrictions on International Data Flows*, 80 Iowa L. Rev. 471 (1995).

and identity development, while concurrently guaranteeing that technology systems do not deterministically define a person's present based on their past.³⁷

Since the Supreme Court's ruling in *Justice K.S. Puttaswamy (Retd.) v. Union of India*³⁸, which acknowledged informational privacy as part of Article 21's right to privacy, these ideas are being incorporated into the Indian constitution. The Court has not directly acknowledged RTBF, but its emphasis on autonomy, dignity, and personal information control provides a sound constitutional foundation for its future development. Thus, the transition from privacy to informational self-determination shows that RTBF is an emerging constitutional doctrine that protects human dignity, informational autonomy, and digital identity in an era of pervasive digital memory and algorithmic governance.

2.4 From Data Protection to Constitutionalism

The Right to Be Forgotten (RTBF) has evolved beyond a data protection law-based right. The initial European model of the RTBF focused on personal data governance, but recent constitutional jurisprudence has recognized that a permanent digital memory also implicates larger constitutional values like human dignity, personal autonomy, reputation, equality, and freedom to develop one's identity. RTBF has steadily evolved from a data processing regulatory instrument into a constitutional philosophy on humans, technology, and democratic governance.³⁹

This constitutional shift is linked to **Digital Constitutionalism**, a new legal discourse that attempts to uphold constitutional norms in digital spaces. Digital Constitutionalism recognizes that private technology corporations, search engines, social media platforms, and artificial intelligence systems increasingly affect fundamental rights, unlike traditional constitutional law, which regulates the State-individual relationship. Thus, constitutional values like dignity, privacy, freedom of expression, equality, and due process should guide digital technology design, operation, and accountability as well as government action.⁴⁰

The constitutional function of RTBF is to protect **digital dignity**, or the ability of individuals to build their identity without being constrained by technologically amplified representations of their past. Digital dignity is aligning technological systems with constitutional principles that obsolete, disproportionate, or irrelevant personal information should not indefinitely burden individual liberty and social participation. RTBF should be understood as a constitutional system that balances privacy, free speech, open justice, and democratic responsibility, not as a tool for censorship or historical revisionism.⁴¹

The transition from data protection to constitutionalism underpins the emerging Indian RTBF jurisprudence. Constitutional law must consider algorithmic memory, informational power, and digital identity as digital technologies change information creation, storage, and distribution. Next chapter examines the Right to Be Forgotten in India's constitutional framework against this theoretical context.

³⁷ Julie E. Cohen, *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* (Yale Univ. Press 2012); Meg Leta Ambrose & Jef Ausloos, *The Right to Be Forgotten Across the Pond*, 3 J. Info. Pol'y 1 (2013).

³⁸ (2017) 10 SCC 1.

³⁹ Regulation (EU) 2016/679 (General Data Protection Regulation), art. 17; *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014).

⁴⁰ Edoardo Celeste, *Digital Constitutionalism: The Role of Internet Bills of Rights* (Routledge 2022); Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

⁴¹ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Julie E. Cohen, *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* (Yale Univ. Press 2012); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

III. THE EMERGING CONSTITUTIONAL JURISPRUDENCE OF THE RIGHT TO BE FORGOTTEN IN INDIA

3.1 Evolution of Privacy Jurisprudence in India

The constitutional history of the **Right to Be Forgotten (RTBF)** in India is strongly tied to the expansion of privacy under **Article 21**. Although the Constitution does not explicitly guarantee privacy or RTBF, judicial interpretation has expanded the meaning of “life” and “personal liberty” from physical deprivation to dignity, autonomy, and individual freedom. This dynamic reading has allowed constitutional jurisprudence to adapt to evolving social and technological circumstances and established the normative underpinnings for informational privacy and the Right to Be Forgotten.⁴²

The first constitutional privacy debates were limited. An eight-judge bench of the Supreme Court rejected a broad constitutional right of privacy to evaluate Article 20(3) search and seizure processes in *M.P. Sharma v. Satish Chandra*⁴³. In *Kharak Singh v. State of Uttar Pradesh*⁴⁴, the majority noted that the Constitution did not specifically provide a right to privacy but knocked down some police surveillance under Article 21 for violating personal liberty. Justice Subba Rao's renowned dissenting decision stated that privacy was essential to personal liberty and dignity. Though minority at the time, this thinking shaped Indian constitutional doctrine.

In subsequent decades, constitutional privacy understanding grew. *Gobind v. State of Madhya Pradesh*, *R. Rajagopal v. State of Tamil Nadu*, and *PUCL v. Union of India*⁴⁵ gradually recognized privacy as an essential part of personal liberty, but they also recognised that the right had to be balanced against competing public interests. These rulings shifted the constitutional discourse from a linguistic reading of Article 21 to a focus on dignity, autonomy, and individuality. Thus, privacy has evolved from an implicit constitutional interest to a substantive ethical concept that can handle technological advances and state authority.

A unanimous nine-Judge Bench in *Justice K.S. Puttaswamy (Retd.) v. Union of India*⁴⁶, declared privacy a basic right under Part III of the Constitution, a major constitutional shift. The Court declared **informational privacy** an important right and inseparable from constitutional ideals of dignity, autonomy, and liberty. The Court did not rule on RTBF, but its recognition that individuals have a legitimate interest in limiting the dissemination and use of personal information in a digital culture changed the constitutional landscape. Later High Court rulings developed Right to Be Forgotten doctrine on the constitutional grounds of the judgment.

Thus, India's privacy jurisprudence has slowly but significantly moved from rejecting privacy as an enforceable right to recognizing it as a fundamental condition for protecting human dignity, informational autonomy, and personal liberty. This doctrinal transition provides the constitutional basis for RTBF recognition and displays the Indian Constitution's normative suppleness to address persistent digital memory and quickly expanding information technology.

⁴² INDIA CONST. art. 21; *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.

⁴³ *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300.

⁴⁴ *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

⁴⁵ *Gobind v. State of Madhya Pradesh*, (1975) 2 SCC 148; *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632; *People's Union for Civil Liberties (PUCL) v. Union of India*, (1997) 1 SCC 301.

⁴⁶ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

3.2 The Constitutional Foundations of the Right to Be Forgotten

The Right to Be Forgotten (RTBF) is not explicitly recognized in the Indian Constitution, but it is made legitimate by various fundamental rights and constitutional ideals. Privacy, human dignity, personal liberty, reputation, and informational autonomy combine to produce the digital age's constitutional protection, which includes RTBF. Thus, RTBF adjusts constitutional protections to the challenges of digital memory and rapid information technology progress, without creating a new fundamental right.

The constitutional right to life and personal liberty under Article 21 underpins RTBF. Through expansive judicial interpretation in cases like *Maneka Gandhi v. Union of India* and *Justice K.S. Puttaswamy (Retd.) v. Union of India*⁴⁷, Article 21 has expanded from physical deprivation to dignity, autonomy, identity, and informational privacy. Assuming that each person has the right to develop, redefine, and rehabilitate their personal identity, the constitutional protection cannot ignore technological systems that constantly associate the individual with outdated or legally irrelevant information. The constitutional commitment to real personal liberty in a digital era can be supplemented by RTBF.

The Supreme Court has long recognized reputation as part of the right to life under Article 21. Reputation affects social life, work, and relationships. In the digital age, reputation is increasingly based on algorithmically indexed data rather than current behavior. Search engines and AI-based information systems prioritize historical records over acquittals, rehabilitation, and time. Thus, constitutional reputation preservation requires a legislative framework that prevents disproportionate digital harm and ensures lawful public access to information.⁴⁸

The Constitution's human dignity premise underpins all fundamental rights. Human dignity is the recognition of our intrinsic worth and ability for moral growth, independence, and social rehabilitation. Digital memory hinders this constitutional principle by preventing people from moving on from previous events that no longer matter. RTBF protects digital dignity by guaranteeing that technical systems do not permanently breach a person's constitutional right to reconstruct their identity and participate freely in society.⁴⁹

There's no fundamental constitutional entitlement to RTBF. Its acknowledgment must be balanced against Article 19(1)(a) fundamental ideals including free speech, open justice, press freedom, and democratic accountability. The constitutionality of RTBF hinges on a proportionality-based examination that balances human dignity against the legitimate public interest in transparency and access to information. The evolving Indian law on the Right to be Forgotten distinguishes itself from a merely statutory data protection framework by its constitutional balancing rather than absolute prioritization of any one right.⁵⁰

3.3 Judicial Development before Justice K.S. Puttaswamy (Retd.) v. Union of India

Before *Justice K.S. Puttaswamy (Retd.) v. Union of India*, Indian constitutional law did not clearly recognize the Right to be Forgotten (RTBF). However, *Maneka Gandhi v. Union of India*⁵¹ and other court

⁴⁷ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248; *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

⁴⁸ *State of Bihar v. Lal Krishna Advani*, (2003) 8 SCC 361; Daniel J. Solove, *The Future of Reputation: Gossip, Rumor, and Privacy on the Internet* (Yale Univ. Press 2007).

⁴⁹ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608; Ronald Dworkin, *Taking Rights Seriously* (Harvard Univ. Press 1977).

⁵⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353.

⁵¹ (1978) 1 SCC 248.

rulings recognized privacy, dignity, reputation, and personal autonomy as essential to life and personal liberty, expanding Article 21. Although made under distinct circumstances, both cases established the constitutional grounds that would subsequently authorize RTBF in India.

At initially, the Supreme Court was cautious about privacy. The Court did not recognize privacy as a fundamental right in *M.P. Sharma v. Satish Chandra or Kharak Singh v. State of Uttar Pradesh*, but it did rule that excessive police surveillance could violate personal liberty under Article 21.⁵² In the historic case of *Gobind v. State of Madhya Pradesh*⁵³, the Supreme Court ruled that personal liberty ensures privacy only when there is compelling state interest. In *R. Rajagopal v. State of Tamil Nadu*⁵⁴, the Court upheld the right of an individual to shield personal life from unjustified publication, equating privacy with dignity and reputation.

In *People's Union for Civil Liberties (PUCL) v. Union of India*, the Supreme Court said telephone tapping is a serious invasion of private life and can only be justified by fair, just, and reasonable procedure.⁵⁵ These decisions did not explicitly address digital technology or the RTBF, but they revealed a more liberal interpretation of Article 21 by recognizing that constitutional liberty included informational and decisional autonomy as well as physical freedom. The Court consistently said that reputation is an essential part of the right to life, noting that undue damage to it can undermine a person's dignity and ability to engage in society.⁵⁶

Three fundamental principles emerged from these pre-*Puttaswamy* cases. First, Article 21 includes privacy as part of personal liberty. Second, dignity and reputation are Constitutionally protected and cannot be unilaterally harmed. Third, constitutional rights should adapt to social and technical changes. The Supreme Court recognized informational privacy as a fundamental right in *Puttaswamy* based on these principles, even though the judiciary had not yet articulated the Right to Be Forgotten. Thus, RTBF in India was the natural outcome of a protracted constitutional history based on dignity, autonomy, and increasing interpretation of fundamental rights.⁵⁷

3.4 Justice K.S. Puttaswamy (Retd.) v. Union of India: A Constitutional Transformation

In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, the Supreme Court made the most significant constitutional change to Indian privacy law. The nine-Judge Bench unanimously recognizing privacy as a fundamental right under Part III of the Constitution changed the constitutional understanding of liberty, dignity, and autonomy. The Court reversed *M.P. Sharma* and *Kharak Singh* and found that privacy is an essential feature of Article 21's life and personal liberty protections and feature III's freedoms.

Puttaswamy's principal contribution was the recognition that privacy encompasses not only physical or spatial protection but also informational privacy. The Court recognized the rapid advancement of digital technology, allowing both States and private companies to gather, retain, analyze, and distribute personal information in unprecedented ways. Consequently, constitutional protection must transcend the conventional notion of secrecy and adapt to preserve individual authority over personal information in an

⁵² *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300; *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

⁵³ *Gobind v. State of Madhya Pradesh*, (1975) 2 SCC 148.

⁵⁴ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

⁵⁵ *People's Union for Civil Liberties (PUCL) v. Union of India*, (1997) 1 SCC 301.

⁵⁶ *State of Bihar v. Lal Krishna Advani*, (2003) 8 SCC 361; *Board of Trustees of the Port of Bombay v. Dilipkumar Raghavendranath Nadkarni*, (1983) 1 SCC 124.

⁵⁷ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

ever-more interconnected society. In the digital age, informational privacy is regarded as a prerequisite for safeguarding personal autonomy, decision-making freedom, and human dignity.

While the Supreme Court has not officially recognized the **Right to be Forgotten (RTBF)** as an independent basic right, the many findings articulated in the ruling offer a robust constitutional basis for its prospective development. Justice Sanjay Kishan Kaul, concurring with the ruling, specifically noted that under suitable conditions, an individual may possess a legitimate interest in limiting the ongoing accessibility of personal information that has become irrelevant or no longer fulfills a permissible purpose. This acknowledgment was crucial as it established the conceptual framework to reconcile informational privacy with conflicting constitutional principles, including freedom of expression, public interest, and access to information. Consequently, the ruling delineated the constitutional framework within which the Right to Be Forgotten could later evolve through judicial interpretation.

The Court's endorsement of the theory of constitutional proportionality as the criterion for evaluating restrictions on privacy in *Modern Dental College & Research Centre v. State of Madhya Pradesh*⁵⁸ was significant. The Court determined that any encroachment on privacy must satisfy the standards of lawfulness, genuine state interest, necessity, and proportionality. These principles pertain directly to RTBF since they establish a constitutional foundation for reconciling human interests in dignity, reputation, and informational autonomy with competing goals such as open justice, press freedom, and democratic transparency. Puttaswamy instead established a systematic constitutional framework that allows judges to harmonize conflicting fundamental rights within the digital context, rather than acknowledging privacy as an unequivocal right.

Puttaswamy should not be regarded solely as a significant privacy ruling but as a constitutional reform that has reshaped the interplay of the individual, information, and technology. The court's ruling emphasized individual dignity, autonomy, and informational self-determination as central to constitutional adjudication, establishing the normative basis for the eventual evolution of the Right to Be Forgotten doctrine. The constitutional importance of RTBF lies not in its divergence from Puttaswamy, but in its amplification of the foundational ideas to tackle the challenges posed by enduring digital memory and algorithmic information systems.⁵⁹

3.5 Development of the Right to Be Forgotten by Indian High Courts

Indian High Courts largely shaped the **Right to Be Forgotten (RTBF)** law after *Justice K.S. Puttaswamy (Retd.) v. Union of India*⁶⁰ constitutionally recognized the right to privacy. In the absence of a complete legislative framework, the judiciary gradually created constitutional rules on de-indexing, anonymization, masking personal information, and balancing privacy with free expression and open justice. In conclusion, these verdicts show a shift from informational privacy to digital dignity and liberty in the digital era.

RTBF was initially recognized by the **Karnataka High Court** in *Sri Vasunathan v. The Registrar General*⁶¹. In a matrimonial case, the Court ordered the removal of a woman's name from an online judgment, citing the growing global recognition of the Right to Be Forgotten and the need to uphold individual dignity. **The Madras High Court** recognized the RTBF as a developing legal theory in

⁵⁸ (2016) 7 SCC 353.

⁵⁹ Gautam Bhatia, *The Transformative Constitution* (HarperCollins India 2019); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

⁶⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

⁶¹ *Sri Vasunathan v. The Registrar General*, W.P. No. 62038 of 2016, High Court of Karnataka (Jan. 23, 2017).

*Karthick Theodre v. Registrar General*⁶². The Madras High Court further highlighted that RTBF should be balanced against constitutional concerns like judicial transparency and public access to court information.

The Kerala High Court in *Vysakh K.G. v. Union of India*⁶³ further developed this emerging jurisprudence and acknowledged the need for a careful constitutional balancing of the Right to Be Forgotten issues, and that India's legal jurisprudence is yet evolving and awaiting legislative intervention. Further, the Orissa High Court, in *Subhranshu Rout @ Gugul v. State of Odisha*⁶⁴, has emphasized the increasing constitutional significance of informational privacy in the digital era and the necessity to shield individuals from excessive digital injury as a consequence of the accessibility of personal information on the internet. These rulings were different in reality, and the law, but showed that the development of technology has created new constitutional difficulties that cannot be dealt with by conventional notions of privacy.

The Gujarat High Court in *Dharamraj Bhanushankar Dave v. State of Gujarat*⁶⁵, and other High Courts have also recognised the need to strike a balance between individual privacy and reputation on one hand and constitutional principles of freedom of expression and public interest on the other, holding that RTBF needs to be applied through a case-specific proportionality analysis. The rulings indicate that the High Courts of India have been steadily shifting from protection of privacy towards a recognition of informational sovereignty, digital rehabilitation and dignity.

Different High Courts have taken different methods, but there is a constitutional trend. The judiciary has increasingly recognized RTBF as a constitutional remedy to digital memory issues rather than a data protection legislation entitlement. The comprehensive framework put forth by the **Delhi High Court in 2026** integrated these dispersed judicial decisions into a more coherent constitutional concept controlling the Right to Be Forgotten in India.⁶⁶

3.6 The Delhi High Court's 2026 Framework: Towards a Constitutional Doctrine of the Right to Be Forgotten

The Delhi High Court judgement in *Laksh Vir Singh Yadav v. Union of India & Connected Matters*⁶⁷ is a significant constitutional landmark in Indian **Right to Be Forgotten (RTBF) law**. The detailed judgment by Justice Sachin Datta recognised RTBF as a constitutional facet of informational privacy under Article 21 and laid down the first structured judicial process for de-indexing, masking, delinking and anonymising digital judicial records. Instead of dealing with RTBF in isolated factual situations, the Delhi High Court consolidated several petitions and developed a common constitutional doctrine for future adjudication. The Court stated that RTBF does not grant the right to erase judicial history or censor factual facts. Instead, it established a difference between judicial records and their digital availability. The Court said the judicial records are to remain in the public archive to promote open justice. In certain situations, the ability to find an individual through search engines and digital databases can threaten an individual's dignity, reputation and informational autonomy. The Court held that de-indexing and masking are legally appropriate

⁶² *Karthick Theodre v. Registrar General*, 2021 SCC OnLine Mad 2755.

⁶³ *Vysakh K.G. v. Union of India*, 2022 SCC OnLine Ker 7337.

⁶⁴ 2020 SCC OnLine Ori 878.

⁶⁵ Special Civil Application No. 1854 of 2015 (Guj. H.C. Dec. 19, 2015).

⁶⁶ Delhi High Court, Right to Be Forgotten framework (Justice Sachin Datta, May 29, 2026); SCC Online, *Delhi High Court Verdict on De-indexing, Masking and Right to Be Forgotten* (June 3, 2026).

⁶⁷ Neutral Citation No. **2026:DHC:4891** (Del. H.C. May 29, 2026); see also SCC Online, *Delhi High Court Verdict on De-indexing, Masking and Right to Be Forgotten* (June 3, 2026).

remedies that preserve institutional transparency and mitigate the adverse effects of eternal digital memory.⁶⁸

Its main contribution is the definition of constitutional remedies. De-indexing is the process of removing court records from name-based search results on search engines and intermediary platforms, without deleting them. Where appropriate, masking or anonymization removes personally identifiable information, but leaves intact the rationale, precedential value, and public availability of the judicial decision. The Court said these remedies should be considered in cases of acquittal, quashing of criminal proceedings, matrimonial and juvenile matters, victims of sexual offences, settlements and other instances where there is no public interest in the digital accessibility of personal information.⁶⁹

The Court's ruling on proportionality is no less important. The Court refused to accept either the unlimited digital accessibility or the absolute informational erasure and instead considered the nature of the proceedings, the status of the individual, the passage of time, the continuing relevance of the information and the competing constitutional interests of freedom of expression, open justice and democratic accountability. The Court again stressed that RTBF is a constitutional tool for balancing competing fundamental rights in the digital era, not a privacy claim or a censorship tool.⁷⁰

The Delhi High Court framework will also have an impact on the regulation of search engines, legal databases and digital platforms. The judgment finds that the constitutional challenge is not preservation but algorithmic amplification, and directs intermediary platforms to facilitate de-indexing, while preserving access through case numbers, citations and other legitimate identifiers. The Court shifts the constitutional language from data protection to digital dignity, acknowledging that technological systems must protect informational sovereignty and human dignity. The judgement is India's most comprehensive articulation of RTBF and signals a fundamental shift from a fragmented privacy jurisprudence to a constitutional doctrine underpinning digital memory.⁷¹

3.7 The Digital Personal Data Protection Act, 2023: A Constitutional Appraisal

A landmark legislation in India, the Digital Personal Data Protection Act, 2023 (DPDP Act) has created a comprehensive regime for processing of digital personal data. This Act seeks to balance the rights of Data Principals and the obligations of Data Fiduciaries to facilitate lawful, transparent and accountable data processing. The legislation strengthens informational privacy but does not explicitly recognize the Right to Be Forgotten (RTBF) as an independent statutory right, as does Article 17 of the GDPR. Therefore, the constitutional development of RTBF in India depends upon judicial interpretation and not legislative sanction.

Under the DPDP Act, persons can correct, complete, update and erase personal data that is no longer necessary for the purpose for which it was collected. These provisions mainly govern the relationship between Data Principals and Data Fiduciaries and do not directly address several constitutional issues that

⁶⁸ *Laksh Vir Singh Yadav*, Neutral Citation No. **2026:DHC:4891**; *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014).

⁶⁹ *Laksh Vir Singh Yadav*, Neutral Citation No. **2026:DHC:4891**. The Court discussed de-indexing, masking, delinking, and anonymisation as distinct constitutional remedies while identifying categories of cases in which such relief may appropriately be granted.

⁷⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353; *Laksh Vir Singh Yadav*, Neutral Citation No. **2026:DHC:4891**.

⁷¹ *Laksh Vir Singh Yadav*, Neutral Citation No. **2026:DHC:4891**; UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

arise in RTBF litigation, such as de-indexing search results, anonymizing judicial records, masking personal identifiers or maintaining access to lawfully published information. The Act leaves such problems to the courts. It does not set out clear statutory standards for balancing informational privacy against constitutional principles including freedom of expression, open justice, public interest and democratic accountability.

When we talk about AI and algorithmic information systems, the constitutional limits of the DPDP Act become clearer. The law primarily addresses traditional data processing, without touching upon issues pertaining to Large Language Models (LLMs), Retrieval-Augmented Generation (RAG), algorithmic profiling, machine unlearning or AI-produced content, where personal data may continue to impact algorithmic outcomes even after being removed from the primary databases. The Act therefore demands a more expansive normative framework to protect informational autonomy, as digital technologies are changing how information is created, retrieved and shared.⁷²

The DPDP Act protects informational privacy but is not a constitutional solution to permanent digital memory. In an age of fast-developing digital technology, RTBF jurisprudence shows that statutory data protection is insufficient to defend human dignity, digital rehabilitation, and informational autonomy. Thus, a cohesive constitutional framework, judicial direction, and future legislative refinement are needed to ensure technological progress meets Part III of the Constitution's obligations.⁷³

IV. COMPARATIVE CONSTITUTIONAL ANALYSIS: INDIA, THE EUROPEAN UNION AND THE UNITED KINGDOM

4.1 European Union

The EU has the most developed legal framework for the Right to Be Forgotten (RTBF), principally due to the Charter of Fundamental Rights' protection of privacy, personal data, and human dignity. Articles 7 and 8 of the Charter provide the right to privacy and data protection, recognizing informational autonomy as essential to democratic constitutionalism.⁷⁴ Under contrast to many jurisdictions where RTBF has emerged through judicial interpretation, the European model includes constitutional guarantees and extensive legislative regulation under the GDPR.

The Court of Justice of the European Union (CJEU) established the modern doctrine of RTBF in *Google Spain SL v Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*⁷⁵. The Court recognized that individuals can request search engine operators to de-index links with outdated or irrelevant personal information in certain circumstances. The remedy limited search results, not the original source, to balance privacy and the public's right to know, the Court said. **Article 17 of GDPR** recognizes the “**right to erasure**” but makes substantial exceptions for freedom of expression, legal responsibilities, scientific study, and public interest.⁷⁶

⁷² UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); Dawen Zhang et al., *Right to Be Forgotten in the Era of Large Language Models: Implications, Challenges, and Solutions* (2023).

⁷³ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Regulation (EU) 2016/679 (General Data Protection Regulation), art. 17; Digital Personal Data Protection Act, No. 22 of 2023 (India).

⁷⁴ Charter of Fundamental Rights of the European Union arts. 7–8, 2012 O.J. (C 326) 391.

⁷⁵ *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014).

⁷⁶ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), art. 17.

Recent case law of the CJEU has clarified the doctrine by stressing the importance of proportionality, contextual balance, and territorial limitation. The Court has always highlighted that the Right to Be Forgotten (RTBF) requires a balancing with other constitutional elements such as freedom of expression and democratic transparency. Thus, the European model demonstrates that strong protection of informational privacy does not require unlimited information deletion but carefully crafted legislative frameworks balancing human dignity, informational autonomy and public interest. This constitutional equilibrium has had a significant impact on Right to Be Forgotten jurisprudence in different jurisdictions and is an important comparative foundation for Indian constitutional law.⁷⁷

4.2 United Kingdom

The United Kingdom recognises the **Right to Be Forgotten (RTBF)** mainly under the **UK General Data Protection Regulation (UK GDPR)** and the **Data Protection Act 2018** which retain the fundamental values of the European data protection regime, but within the constitutional framework of the United Kingdom.⁷⁸ While RTBF has developed within a supranational legal order in the European Union, the UK approach is characterised by a greater emphasis on judicial balancing between individual privacy and the public interest, reflecting the constitutional significance attributed to freedom of expression and the principle of open justice.

One example of this approach is the **High Court of England & Wales** decision in *NT1 & NT2 v Google LLC*⁷⁹ where the Court considered separate claims for the de-listing of search results linking to historic criminal convictions. It offered relief to one claimant whose conviction had become spent and was no longer of legitimate public interest, but refused it to the other where the information remained of relevance to ongoing public and commercial interests. The judgment demonstrates that RTBF is not implemented through fixed rules but by means of a case-by-case proportionality analysis, taking into account factors such as the nature of the information, the role of the person in public life, the lapse of time, rehabilitation and the continuing public interest in disclosure.

The Information Commissioner's Office (ICO) has added to this approach by providing guidance to search engines and data controllers which requires them to balance privacy, reputation and informational autonomy with freedom of expression and the public's right to access information when considering RTBF requests.⁸⁰ The UK experience shows that digital privacy protection requires rigorous constitutional balancing, not absolute erasure. Much is to be said for the pragmatic approach in India where the courts are confronted with a similar task of balancing competing constitutional values of human dignity, open justice, democratic accountability and freedom of expression in the emerging jurisprudence of the Right to be Forgotten.⁸¹

⁷⁷ *Google LLC v. Commission Nationale de l'Informatique et des Libertés (CNIL)*, Case C-507/17, ECLI:EU:C:2019:772; *GC & Others v. Commission Nationale de l'Informatique et des Libertés (CNIL)*, Joined Cases C-136/17, ECLI:EU:C:2019:773.

⁷⁸ Data Protection Act 2018, c. 12 (U.K.); UK General Data Protection Regulation (UK GDPR).

⁷⁹ *NT1 & NT2 v. Google LLC*, [2018] EWHC 799 (QB).

⁸⁰ Information Commissioner's Office (ICO), *Right to Erasure (Right to Be Forgotten)*, Guidance under the UK GDPR.

⁸¹ *NT1 & NT2 v. Google LLC*, [2018] EWHC 799 (QB); Data Protection Act 2018, c. 12 (U.K.).

4.3 Comparative Constitutional Analysis

India, the EU and the UK, all seek to protect informational privacy and individual dignity, but they differ quite significantly in their constitutional foundations, institutional mechanisms and methods of balancing competing rights.⁸²

RTBF is constitutionally legitimised by the Charter of Fundamental Rights of the European Union and delineated by **Article 17** of the **General Data Protection Regulation in the EU's rights-based** regulatory architecture. Informational autonomy is protected by giving individuals a legally enforceable right to erase or de-index personal data, subject to clearly defined restrictions to protect freedom of expression, the public interest and legal duties.⁸³ In the UK, courts deciding cases will consider privacy, rehabilitation, reputation and the public interest. *NT1 & NT2 v. Google LLC* demonstrates that RTBF demands proportional balancing of competing constitutional interests.⁸⁴

The Indian approach is young and judge-made. RTBF is not explicitly recognised by the Constitution and Digital Personal Data Protection Act, 2023. However, Indian courts have gradually developed the doctrine of RTBF through constitutional interpretation of Article 21, especially after *Justice K.S. Puttaswamy (Retd.) v. Union of India* and the subsequent **High Court** jurisprudence.⁸⁵ The recent Delhi High Court ruling that recognises de-indexing, masking and anonymisation as constitutionally appropriate remedies while upholding open justice and democratic accountability is a major development. Unlike the EU, India lacks a comprehensive RTBF legislative framework, which results in greater judicial discretion and doctrinal uncertainty.

In spite of these institutional differences, there are some constitutional ideas on which all three jurisdictions agree. Each recognizes that RTBF cannot be used to rewrite history by disregarding freedom of expression, the public interest and access to information. Each jurisdiction recognizes that advances in technology have changed the relationship between information, identity and dignity, and require constitutional legislation to address the permanent digital memory. The comparative experience suggests that India's future RTBF should blend the legislative clarity of the European Union, the contextual proportionality of the United Kingdom, and the Indian constitutional commitment to human dignity and personal liberty to craft a uniquely Indian constitutional framework for the digital age.⁸⁶

4.4 Lessons for India

The comparative analysis shows that India need not adopt the EU's legislative model or the UK's case-specific judicial approach. Instead, the growing **Right to Be Forgotten (RTBF)** constitutional law should combine India's constitutional ideals with worldwide best practices.⁸⁷ The European experience shows the

⁸² Charter of Fundamental Rights of the European Union arts. 7–8, 2012 O.J. (C 326) 391; Data Protection Act 2018, c. 12 (U.K.); INDIA CONST. art. 21.

⁸³ Regulation (EU) 2016/679 (General Data Protection Regulation), art. 17; *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014).

⁸⁴ *NT1 & NT2 v. Google LLC*, [2018] EWHC 799 (QB); Information Commissioner's Office (ICO), *Right to Erasure (Right to Be Forgotten)*, Guidance under the UK GDPR.

⁸⁵ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Digital Personal Data Protection Act, No. 22 of 2023 (India); *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026).

⁸⁶ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

⁸⁷ Charter of Fundamental Rights of the European Union arts. 7–8, 2012 O.J. (C 326) 391; Data Protection Act 2018, c. 12 (U.K.); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

necessity of precise regulatory guidelines on de-indexing, anonymization, and digital intermediary duties. The UK shows the usefulness of contextual judicial balance by applying RTBF proportionally rather than as an absolute right.

The main lesson for India is that RTBF should grow as a constitutional theory based on **Article 21**, with legislative backing supporting judicial constitutional interpretation. Future legal reforms should explicitly address de-indexing search results, anonymizing judicial records, algorithmic accountability, and regulating AI-driven information systems while protecting freedom of expression, open justice, and democratic accountability.⁸⁸ This paradigm would increase legal certainty without losing flexibility for quickly emerging technologies.

The comparative experience shows that RTBF in India's future lies in developing an indigenous constitutional framework that harmonises human dignity, informational autonomy, digital rehabilitation, and constitutional proportionality. This comparative insight offers the normative basis for the next chapter, which investigates how artificial intelligence and algorithmic memory will change the Right to Be Forgotten.⁸⁹

V. RECONSTRUCTING THE RIGHT TO BE FORGOTTEN: TOWARDS AN INDIAN CONSTITUTIONAL FRAMEWORK

5.1 Critical Evaluation of Existing Law

The earlier chapters demonstrate that India's Right to be Forgotten (RTBF) law has been influenced by constitutional interpretation rather than thorough legislative formulation. Justice K.S. Puttaswamy (Retired) *The Union of India v. and subsequent High Court jurisprudence* have bolstered constitutional safeguards for informational privacy; yet, the legal structure remains disjointed and lacks a cohesive doctrinal basis. In the absence of universal statutory mandates, courts possess case-specific judicial discretion to implement concepts of de-indexing, masking, anonymization, and proportional balancing.⁹⁰ While the Digital Personal Data Protection Act, 2023 strengthens data protection, it does not address the constitutional issues arising from persistent digital memory, algorithmic profiling, and artificial intelligence.⁹¹ Thus, search engine responsibility, anonymization of judicial record, machine learning and distribution of personal data generated by AI are outside the scope of the Act. With digital technologies altering the relationship between persons and information, the existing legal processes appear to be inadequate to protect the constitutional principles of human dignity, informational autonomy, digital rehabilitation, and personal liberty.

So, RTBF development in India needs more than just judicial expansion or legislative reform. It demands an integrated constitutional architecture that balances privacy, dignity, free speech, open justice, democratic accountability and technological innovation. This paradigm should guide the courts,

⁸⁸ Digital Personal Data Protection Act, No. 22 of 2023 (India); *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

⁸⁹ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); Regulation (EU) 2016/679 (General Data Protection Regulation), art. 17.

⁹⁰ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026).

⁹¹ Digital Personal Data Protection Act, No. 22 of 2023 (India); Regulation (EU) 2016/679 (General Data Protection Regulation), art. 17.

lawmakers, regulators, digital intermediaries and AI developers, while respecting constitutional rights in an algorithmic society.⁹²

5.2 Judicial Challenges

The judiciary has contributed to the shaping of the Right to Be Forgotten (RTBF), but doctrinal and institutional problems hinder its habitual implementation. In the absence of express constitutional or statutory recognition, courts have had to construct RTBF case by case, leading to divergent judicial approaches to de-indexing, anonymization, masking and balancing constitutional rights.⁹³ This patchwork of case law generates legal uncertainty for litigants, digital intermediaries and courts.

A further issue is how to reconcile privacy, dignity, and informational autonomy with other significant constitutional principles, including freedom of speech, open justice, freedom of the press, and democratic accountability. The courts frequently must reconcile the valid public interest in ongoing access to personal information with the excessive burden this may place on the individual. The lack of universal constitutional standards in the application of the theory of proportionality in RTBF proceedings increases the probability of inconsistent rulings across countries.⁹⁴

The aforementioned issues are exacerbated by the emergence of artificial intelligence, algorithmic decision-making, and transnational digital platforms, where conventional court remedies may prove insufficient to avert the further distribution or algorithmic replication of personal information. The future efficacy of RTBF necessitates a more unified constitutional framework that can offer predictable judicial standards while remaining sufficiently adaptable to rapidly emerging technologies.⁹⁵

5.3 Legislative Deficiencies

The Digital Personal Data Protection Act, 2023 (DPDP Act) is a crucial advancement in enhancing India's data protection framework; nonetheless, it fails to thoroughly encompass the constitutional aspects of the Right to Be Forgotten (RTBF). The legislation primarily addresses the processing of digital personal data by Data Fiduciaries, yet offers scant direction on de-indexing search results, anonymizing judicial records, intermediary liability, algorithmic decision-making, and the ongoing reproduction of personal information by artificial intelligence systems. Consequently, several constitutional issues identified by Indian courts remain beyond the stated scope of the statutory framework.

The existing legislative framework lacks explicit procedural guidelines for the implementation of the Right to be Forgotten (RTBF), particularly with the criteria for public interest, proportionality, rehabilitation, and the duration for which personal data must remain accessible on digital platforms. The absence of standardized systems for managing cross-border personal information transfers and the lack of AI-specific responsibilities diminish the practical efficacy of legal remedies in an increasingly linked digital landscape.

⁹² Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

⁹³ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026).

⁹⁴ *Modern Dental College & Research Centre v. State of Madhya Pradesh*, (2016) 7 SCC 353; *Karthick Theodore v. Registrar General*, 2021 SCC OnLine Mad 2755.

⁹⁵ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

The aforementioned legislative deficiencies indicate that the future advancement of RTBF cannot depend exclusively on data protection laws. Statutory reform must be augmented by constitutional principles that prioritize human dignity, informational liberty, digital rehabilitation, and democratic accountability as the foundational ideals for regulating digital memory and artificial intelligence in India.⁹⁶

5.4 Constitutional Balancing

The future of RTBF in India will rely on a constitutional balancing framework aimed at reconciling conflicting basic rights, rather than favoring any single constitutional interest unequivocally. This analysis demonstrates that the legitimacy of RTBF is based on the constitutional protections of human dignity, informational autonomy, privacy, reputation, and personal liberty as articulated in Article 21. However, its implementation must concurrently uphold the constitutional protections for freedom of speech and expression, open justice, freedom of the press, and democratic accountability as stipulated in Article 19(1)(a).

Consequently, the constitutional idea of proportionality need to remain the fundamental principle in adjudicating RTBF claims. Courts ought to evaluate each application comprehensively, considering the nature and sensitivity of the information, the individual's public role, the elapsed time, evidence of rehabilitation, the persistent public interest in disclosure, and the potential effects on judicial transparency and freedom of expression. This contextual evaluation guarantees that RTBF functions not as a tool for historical obliteration or as an excessive restriction on digital access, but as a constitutional protection against disproportionate and unwarranted intrusions on individual dignity.

In the era of artificial intelligence, constitutional balance must extend beyond conventional privacy assessments to encompass algorithmic processing, automated decision-making, and enduring digital memory. The legitimacy of the Right to Be Forgotten (RTBF) should be based on the concepts of algorithmic accountability, technological transparency, and human oversight to ensure that digital innovation upholds the constitutional ideals of dignity, freedom, and democratic government. The principles serve as the normative foundation for the proposed Five Pillar Constitutional Framework, which aims to harmonize individual rights with the legitimate interests of society in the digital age.⁹⁷

5.5 Proposed Five-Pillar Constitutional Framework for the Right to Be Forgotten

The preceding study illustrates that the constitutional safeguarding of the Right to Be Forgotten (RTBF) in India necessitates a coherent framework capable of addressing the exigencies of the digital and algorithmic era. Current judicial advancements and legislative measures offer essential foundations; nonetheless, they are disjointed and insufficient to address new constitutional concerns. This paper proposes a Five-Pillar Constitutional Framework that facilitates the development of RTBF into a cohesive constitutional doctrine, while reconciling individual rights with democratic principles.⁹⁸

Pillar I - Human Dignity: The initial pillar recognizes human dignity as the foundational norm of RTBF. All individuals are entitled to a just constitutional opportunity to transcend outdated or excessively biased

⁹⁶ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

⁹⁷ UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); OECD, *OECD AI Principles* (2019).

⁹⁸ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1; Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022).

digital information when its ongoing availability no longer serves a paramount public purpose. The safeguarding of dignity necessitates that digital technologies facilitate rehabilitation and identity formation instead of reinforcing past disadvantages.⁹⁹

Pillar II - Informational Autonomy: The second pillar asserts that individuals must own genuine authority over the gathering, accessibility, distribution, and continued utilization of their personal data. Informational autonomy comprises not only data protection but also constitutional safeguards against excessive exposure in the digital domain. It posits that genuine freedom in the digital age is founded on an individual's ability to exert appropriate control over personal information.¹⁰⁰

Pillar III - Digital Rehabilitation: The third pillar establishes digital rehabilitation as a constitutional objective. Individuals who have been acquitted, exonerated, rehabilitated, or whose prior actions are no longer legally pertinent should not be perpetually encumbered by an enduring digital footprint. Courts should consider issues such as the elapsed time, subsequent behavior, and ongoing public interest when determining suitable RTBF remedies.¹⁰¹

Pillar IV – Algorithmic Accountability: The fourth pillar acknowledges that constitutional protection should encompass not only conventional data processing but also artificial intelligence, algorithmic profiling, and automated decision-making. Search engines, digital intermediaries, and AI developers must implement transparent governance frameworks, explicable AI methodologies, privacy-preserving system architectures, and, when technically viable, machine unlearning or analogous safeguards to mitigate the continuous algorithmic perpetuation of outdated or legally constrained personal data.¹⁰²

Pillar V – Open Justice and Democratic Transparency: The last pillar upholds the constitutional obligations to freedom of expression, open justice, judicial openness, and democratic accountability. RTBF must not serve as an instrument for historical obliteration or censorship. Instead of obliterating judicial records, alternatives like de-indexing, masking, anonymization, and contextual restrictions on accessibility should be favored to reconcile constitutional rights through the idea of proportionality rather than through absolute prioritization.

The five pillars collectively establish a thorough constitutional framework that serves as a standard for judicial interpretation, legislative reform, and AI governance in India. The proposed model integrates the principles of human dignity, informational autonomy, digital rehabilitation, algorithmic accountability, and democratic transparency, thereby advancing the constitutional discourse beyond conventional concepts of privacy and data protection, towards a holistic doctrine of digital constitutionalism that addresses the challenges posed by artificial intelligence and enduring digital memory.¹⁰³

⁹⁹ *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*, (1981) 1 SCC 608; Ronald Dworkin, *Taking Rights Seriously* (Harvard Univ. Press 1977).

¹⁰⁰ Bundesverfassungsgericht [BVerfG] [Federal Constitutional Court], Dec. 15, 1983, 65 BVerfGE 1 (Census Act Case); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

¹⁰¹ *Google Spain SL v. Agencia Española de Protección de Datos (AEPD) & Mario Costeja González*, Case C-131/12, ECLI:EU:C:2014:317 (Grand Chamber, May 13, 2014); *Laksh Vir Singh Yadav v. Union of India & Connected Matters*, Neutral Citation No. 2026:DHC:4891 (Del. H.C. May 29, 2026).

¹⁰² UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021); OECD, *OECD AI Principles* (2019); Dawen Zhang et al., *Right to Be Forgotten in the Era of Large Language Models: Implications, Challenges, and Solutions* (2023).

¹⁰³ Giovanni De Gregorio, *Digital Constitutionalism in Europe: Reframing Rights and Powers in the Algorithmic Society* (Cambridge Univ. Press 2022); UNESCO, *Recommendation on the Ethics of Artificial Intelligence* (2021).

5.6 Recommendations

The constitutional acknowledgment of the Right to Be Forgotten (RTBF) in India necessitates comprehensive legal and administrative reforms to facilitate its efficient execution in the digital age.

Firstly, Parliament ought to contemplate enacting clear statutory measures that formally acknowledge the Right to Be Forgotten (RTBF) and provide universal criteria for de-indexing, masking, anonymization, and delinking of personal data, especially in relation to judicial records and digital platforms.

Secondly, the judiciary must formulate consistent constitutional standards for adjudicating Right to Be Forgotten (RTBF) claims by implementing a systematic proportionality test that considers factors such as the nature of the information, the elapsed time, rehabilitation, public interest, freedom of expression, and transparency in justice. These standards would ensure consistency and legal certainty while permitting judicial discretion in rare circumstances.

Thirdly, forthcoming legislative reforms necessitating that search engines, digital intermediaries, and AI developers implement transparency measures, privacy-by-design, explainable AI, and, where technically feasible, mechanisms like machine unlearning to mitigate the persistent algorithmic impact of outdated or legally restricted personal information, must encompass AI-specific obligations. India ought to establish standardized protocols for the anonymization of judicial records and enhance institutional oversight through a specialized Digital Privacy Authority, which would facilitate the execution of the Right to Be Forgotten (RTBF), offer regulatory guidance, and resolve disputes concerning emerging digital technologies.

Finally, India's RTBF framework must be aligned with the Digital Personal Data Protection Act, 2023, and firmly rooted in the constitutional principles of human dignity, informational sovereignty, democratic accountability, and proportionality. These amendments would enable India to create a progressive and equitable constitutional framework to tackle challenges posed by artificial intelligence and digital memory.

VI. CONCLUSION

6.1 Key Findings

The current analysis demonstrates that the Right to Be Forgotten (RTBF) has evolved from a conventional principle of privacy or data protection into a significant constitutional doctrine within Indian jurisprudence. The research establishes the constitutional legitimacy of RTBF, supported by statutory data protection and the intersection of human dignity, informational autonomy, personal liberty, reputation, and digital rehabilitation, examined through philosophical principles, comparative constitutional progress, and the evolution of privacy under Article 21. The study indicates that although the constitutional foundations of the Right to Be Forgotten (RTBF) have been established through judicial rulings, notably Justice K.S. Puttaswamy (Retd.) v. Union of India and subsequent High Court jurisprudence, the current legal framework is disjointed and inadequate to address the challenges posed by enduring digital memory and artificial intelligence.

6.2 Contribution to Constitutional Jurisprudence

This paper significantly reconceptualizes RTBF as a principle of digital constitutionalism instead of a legislative privacy right. The Five-Pillar Constitutional Framework, founded on the tenets of human dignity, informational autonomy, digital rehabilitation, algorithmic accountability, and democratic transparency, offers a normative structure to inform future judicial interpretation, legislative reform, and

AI governance. The paper integrates constitutional theory with contemporary technology challenges, advancing the discourse beyond conventional privacy literature and providing a coherent framework for regulating digital memory within India's constitutional framework.

6.3 The Future of RTBF in India

The future of RTBF in India will be shaped by the synergistic development of constitutional jurisprudence, legislative policy, and technology governance. Given the growing significance of artificial intelligence, algorithmic profiling, and cross-border digital platforms in the generation and distribution of personal information, constitutional safeguards must evolve beyond conventional concepts of data erasure to encompass a more extensive framework of algorithmic accountability and digital dignity. Technological innovation aligns with the constitutional guarantees of liberty, equality, and human dignity. Subsequent reforms must ensure that technology innovation aligns with these assurances.

6.4 Concluding Observations

The digital era has initiated a profound alteration in the link among memory, identity, and constitutional rights. Technology has enhanced information accessibility; but, it has also engendered the risk of individuals being irrevocably characterized by their digital history. The Right to Be Forgotten is not an endeavor to obliterate history, but a constitutional effort to reconcile enduring public memory with the equally significant fundamental guarantees of human dignity, personal autonomy, and the potential for rehabilitation. As India formulates its constitutional approach to artificial intelligence and digital governance, the objective should be to establish a society that retains its historical consciousness, characterized by fairness, proportionality, and constitutional empathy.¹⁰⁴

¹⁰⁴ Ronald Dworkin, *Taking Rights Seriously* (Harvard Univ. Press 1977); *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.