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2. Right To Be Forgotten- Delhi High Court's Landmark Digital Privacy Ruling – Polity

The Delhi High Court recently ruled that the Right to Be Forgotten (RTBF) is part of the Article 21 right to privacy and issued a judicial framework for de-indexing court records and masking personal details online in absence of parliamentary law. The court heard over 30 petitions from individuals acquitted of criminal charges, parties to matrimonial disputes, and people whose cases were quashed or settled – all sharing a common grievance that name-based searchability causes continuous harm to reputation, dignity, and life prospects. Significantly, the court declared that its de-indexing orders will operate globally, requiring search engine intermediaries to remove links across all global domains.

1. About the Right to Be Forgotten (RTBF)

Concept and Definition

1. Enables individuals to seek deletion, de-indexing, or restriction of access to personal data from digital platforms
2. When information becomes outdated, irrelevant, disproportionate, or harmful to privacy-reputation
3. Reflects core principle of **informational self-determination** – individuals controlling their digital footprint

Open Justice vs. Personal Dignity

1. "Open justice" means court processes must be transparent
2. However, does NOT mandate private person's name functioning as permanent commercial search keyword on Google
3. Balance required between transparency and individual dignity

Global Impact of Indian Orders

1. Delhi High Court's de-indexing orders operate globally
2. Search engine intermediaries must remove links from all global domains (not just India)
3. Significant jurisdictional assertion

2. Key Findings of the Judgement

Entitlement of the Acquitted

1. Persons acquitted, discharged, or whose proceedings quashed are fully entitled to have final legal determination reflected in their digital identity
2. Past legal troubles should not define digital identity permanently

Commercial Search Engines Restricted

1. Search engines cannot indefinitely link individuals to past legal troubles through name-based searches
2. Once case ended in acquittal or involves purely private disputes

Two-Tier Taxonomy (May 2026 New Standard)

Who CAN ask for de-indexing-

1. People fully acquitted or discharged
2. Individuals whose cases quashed or settled
3. Parties to private/matrimonial disputes
4. Names mentioned incidentally inside larger judgments

Who CANNOT ask (strict exceptions)-

1. Individuals convicted of crimes
2. Individuals involved in serious offences against women, children
3. Individuals involved in breach of public trust (corruption by public servants, politicians, fiduciary duty holders)

3. Global Evolution of RTBF**European Union**

1. Modern concept emerged from 2014 Google Spain case (Court of Justice of EU)
2. Forced search engines to remove links to personal data that is "inadequate or no longer relevant"
3. Codified under Article 17 of GDPR as formal "right to erasure"
4. Subject to exceptions- Public interest, freedom of expression

Other Jurisdictions

1. **United States-** California Online Eraser Law (2015) protecting minors; DELETE Act (2023) allowing adults to delete data held by commercial data brokers
2. **Canada-** Federal Court of Appeal (2023) ruled search engines fall under PIPEDA; Privacy Commissioner (2025) upheld limited right to de-indexing in harm-based cases
3. **UK, Argentina, Japan-** Evolved similar protections based on native enforcement models

4. RTBF in India- Constitutional and Statutory Position**Constitutional Basis**

1. Flows from Right to Privacy under Article 21
2. Recognized in K.S. Puttaswamy v. Union of India (2017)
3. Derivative right- Not absolute; balanced against-
 1. Freedom of Speech Article 19(1)(a)
 2. Transparency
 3. Legal/archival requirements

Statutory Position

1. **Digital Personal Data Protection (DPDP) Act, 2023-** Recognizes right to erasure when data's purpose is served
2. Statutory ambiguity persists regarding public court records, media archives, publicly available data
3. **IT Intermediary Guidelines (2021)-** Mandates intermediaries to remove privacy-violating content within strict timelines

5. Evolution of Judicial Approach in India

1. **R. Rajagopal (1994)-** First recognized "right to be let alone"; public records like court judgments open to publication
2. **Dharamraj Dave v. State of Gujarat (2017)-** Gujarat HC denied removal of acquittal record prioritizing judicial transparency
3. **Orissa High Court (2020)-** Highlighted need for legal framework protecting women in cyber-crimes (revenge porn)
4. **SC (2022) and Delhi HC (2021)-** Pro-privacy shift; directed removal of names in sensitive matrimonial disputes, livelihood cases
5. **Kerala High Court (2023)-** Refused RTBF in ongoing cases protecting open justice
6. **Himachal Pradesh High Court (2024)-** Ordered name redaction in rape case post-acquittal eliminating social stigma
7. **Delhi HC May 2026-** Settled variations creating clear two-tier taxonomy

6. Way Forward

1. Parliament enacting comprehensive RTBF legislation addressing public records, media archives
2. Clear guidelines for search engine compliance with Indian de-indexing orders
3. Balancing RTBF with journalists', researchers', historians' legitimate access needs
4. Grievance redressal mechanism for expeditious processing of de-indexing requests

7. Conclusion

Delhi High Court's May 2026 ruling on RTBF as Article 21 derivative right, creating globally applicable de-indexing framework with clear two-tier taxonomy, marks significant step in balancing digital privacy with open justice principles in absence of comprehensive parliamentary legislation.

Source- <https://www.thehindu.com/news/national/delhi-hc-recognises-right-to-be-forgotten-directs-search-engines-to-disable-name-based-search-in-court-orders-news/article71048040.ece>