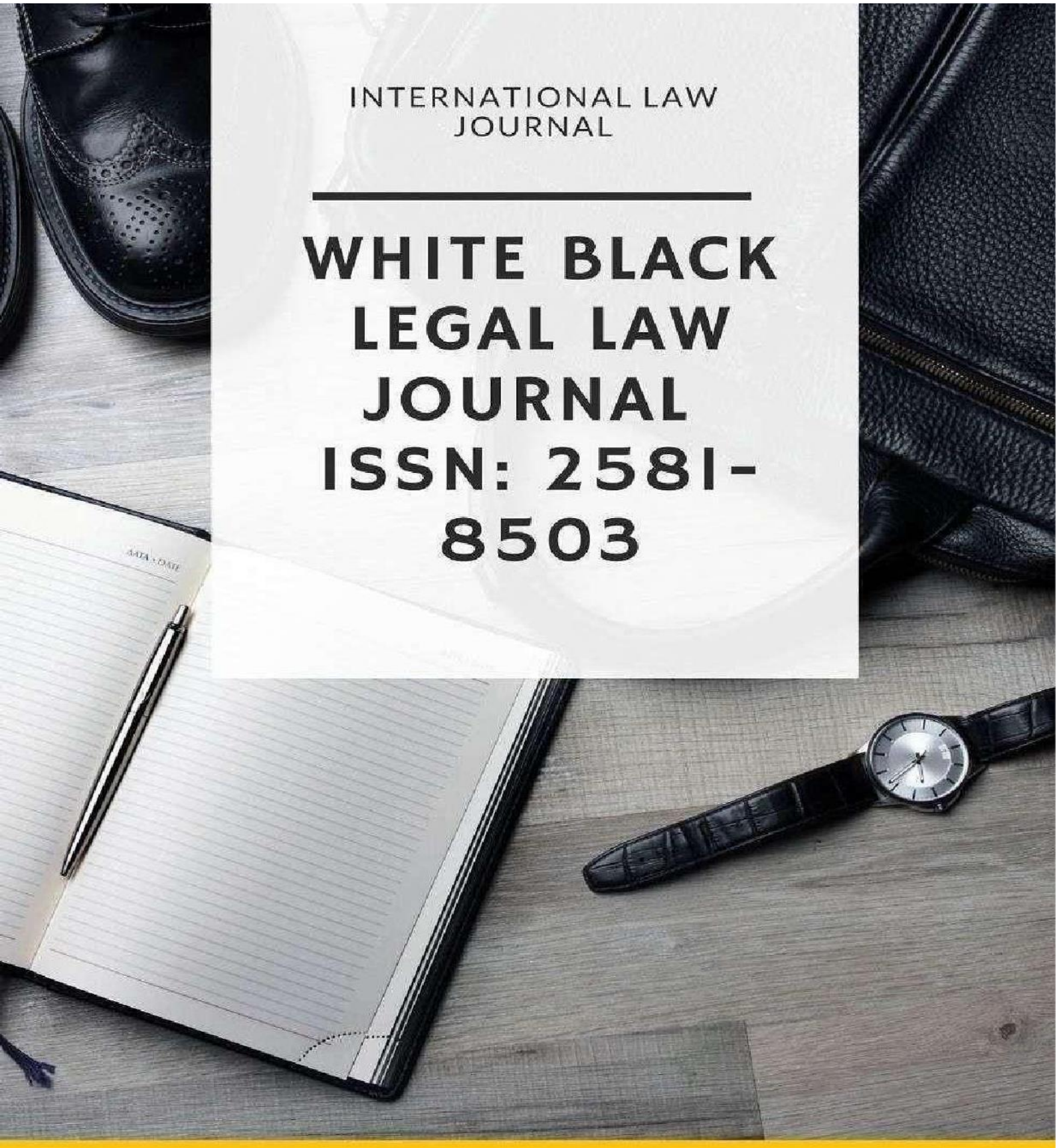

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REDACTING THE RECORD: THE RIGHT TO BE FORGOTTEN AND THE CASE FOR MANDATORY ANONYMISATION OF ACQUITTED INDIVIDUALS IN INDIA

AUTHORED BY - SAMBHAV NIRMAL SHAH

ABSTRACT

Acquittal by a court of law ought to mark the end of criminal liability. In the digital age, it does not. Court records indexed by search engines ensure that an acquitted individual's association with serious criminal allegations persists indefinitely in the public domain, producing reputational, professional, and social harm that no legal remedy presently addresses as a matter of right. This paper examines the case for mandatory anonymisation of acquitted individuals in Indian court records, arguing that such anonymisation is not merely a desirable policy choice but a constitutional and statutory imperative. Drawing on the Supreme Court's recognition of informational privacy as a fundamental right in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), the paper traces the evolving judicial treatment of the right to be forgotten in India, from the Karnataka High Court's pioneering recognition in *Sri Vasunathan v. The Registrar General* (2017) through the Madras High Court's application of the Digital Personal Data Protection Act, 2023 in *Karthick Theodre v. The Registrar General* and situates this trajectory within the broader international framework of the European Union's General Data Protection Regulation. The paper contends that the right to information under Article 19(1)(a) of the Constitution does not require the permanent, searchable identification of individuals who have been found innocent, and that the DPDP Act's principle of data minimisation, when read alongside Article 21's non-derogable guarantee of life and personal liberty, shifts the constitutional default in favour of redaction. It proposes a framework under which anonymisation of acquitted persons is the norm and disclosure the exception, with the burden of justifying retention resting on the party seeking it. The paper also addresses the tension between anonymisation and the open-court principle, proposing amendments to the Model Rules for Live Streaming and Recording of Court Proceedings to extend identity protection to acquitted litigants.

Keywords*:* right to be forgotten, informational privacy, acquittal, anonymisation, Article 21, DPDP Act, open-court system, data minimisation

I. INTRODUCTION

An individual faced criminal proceedings under sections 417 (cheating) and 376 (rape) under the Indian Penal Code, 1860 (IPC). Subsequently, he was convicted by the trial court. However, upon appeal, the High Court of Madras reversed the decision and the accused was acquitted of all charges.[1] Is it right, then, to continue identifying him as an "accused" when no proof of the charges levied against him ultimately survived judicial scrutiny? The internet answers in the affirmative. It is important to remember that *"humans forget, but the internet does not forget and does not let humans forget."*[2] The social ramifications that come with being arrayed as an accused in a crime cannot be bracketed in quantitative terms, nor can they be exemplified in the qualitative. The stigma faced by an accused casts a shadow of shame and sorrow which hangs over their heads like the sword that hung over Damocles' neck. The legal system that boasts of equality in law perpetuates the very inequality it seeks to mitigate by permitting public access to the personal details of those who have been acquitted.

This paper does not seek to take away from the fact that courts in India are courts of record, and that upon conviction, personal details ought to be entrenched in institutional memory. On the contrary, the authors advocate for such records to remain accessible to the public where a conviction subsists. However, this paper is an effort to provide a second chance to those who have been acquitted, to enable them to achieve a better quality of life by giving them the freedom to rewrite the second chapter of their lives away from the public eye. This freedom must be construed as a derivative of the right to be forgotten, which has its origins in European data protection law,[3] and is an intrinsic element of the fundamental right to privacy as recognised by the Supreme Court in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017) (hereinafter "***K.S. Puttaswamy***").[4] To give effect to this freedom, the authors argue for the masking of private details of those acquitted from court records and from the internet, and further seek to balance the right to information and the right to privacy by laying down certain principles and guidelines as to the discretionary powers of courts in redacting the names and private details of acquitted persons.

The paper proceeds as follows: Part II traces the statutory and judicial recognition of the right to be forgotten in India. Part III examines the international framework, with particular focus on

[1]Karthick Theodre v. Registrar General, 2024 SCC OnLine Mad 6529 (Mad).
[2]Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1, para 631.
[3]Council Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data (General Data Protection Regulation) [2016] OJ L119/1 (GDPR), art. 17.
[4]Supra Note 2

the European Union's General Data Protection Regulation (GDPR). Part IV provides the normative analysis, balancing the competing constitutional claims under Articles 19 and 21. Part V addresses the tension between anonymisation and the open-court system. Part VI concludes with a proposed framework for mandatory redaction.

II. THE RIGHT TO BE FORGOTTEN IN THE INDIAN CONTEXT

A. STATUTORY RECOGNITION

The right to be forgotten already exists in limited statutory form in India as a right to anonymisation in specific circumstances. Section 228A of the IPC criminalised the printing or publishing of the name or identity of victims of rape and sexual assault.[5] This right has been re-enacted in Section 72 of the Bharatiya Nyaya Sanhita, 2023 (BNS), which prohibits disclosure of the identity of victims of sexual offences under Sections 64–71. Section 73 of the BNS, however, contains an explanation clause stating that the printing or publication of a judgement of any High Court or the Supreme Court does not amount to an offence under Section 72.[6] While a bare reading of this explanation might suggest that the right to be forgotten has not been extended to judicial records, the Supreme Court in *Bhupinder Sharma v. State of Himachal Pradesh* (2003), *State of Karnataka v. Puttaraja* (2004) and *State of H.P. v. Shree Kant Shekari* (2004) shred all doubt on the applicability of this provision.[7] The Court categorically stated that the social object of Section 228A of the IPC is to prevent the social victimisation and ostracisation of victims of sexual offences and thus it would be appropriate to mask the names of victims in judgements rendered by any court.

Similarly, victims of sexual abuse below the age of eighteen are accorded anonymity under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). Section 23(2) of the POCSO Act imposes an obligation on the media not to disclose the identity of a child victim,[8] and Section 33(7) obliges Special Courts to ensure non-disclosure of the child's identity during investigation and trial.[9] In *Nipun Saxena v. Union of India* (2019), the Supreme Court called for the use of pseudonyms such as 'X' or 'Y' to identify victims in the public domain and issued nine directions to the Registries of all High Courts to ensure strict non-disclosure of victim identities, including the suppression of even the remotest information that may lead to

[5]Indian Penal Code, 1860, § 228A (repealed and re-enacted as Bharatiya Nyaya Sanhita, 2023, § 72).
[6]Bharatiya Nyaya Sanhita, 2023, §§ 72–73 (explanation clause).
[7]Bhupinder Sharma v. State of Himachal Pradesh, (2003) 8 SCC 551; State of Karnataka v. Puttaraja, (2004) 1 SCC 475; State of H.P. v. Shree Kant Shekari, 2004 INSC 518.
[8]Protection of Children from Sexual Offences Act, 2012, § 23(2).
[9]Protection of Children from Sexual Offences Act, 2012, § 33(7).

their identification.[10]

Thus, while statutory recognition of anonymity exists in Indian law, it remains confined to specific categories of vulnerable individuals, primarily victims of sexual offences and children subjected to sexual abuse. There exists no corresponding statutory right for individuals who have been acquitted of criminal charges and subsequently seek to protect their identity from the public domain. This legislative gap has necessitated judicial intervention to address the privacy concerns of those who, despite being exonerated, continue to suffer reputational harm due to the perpetual availability of their personal information in digital court records.

B. Judicial Genesis of the Right to Be Forgotten

The first Indian case to recognise the right to be forgotten, specifically, the removal of personal information displayed on the internet was *Sri Vasunathan v. The Registrar General* (2017), decided by the High Court of Karnataka.[11] A woman (X) had filed an FIR against a man (Y), accusing him of forgery, extortion, and coercion to get married. X subsequently reached an out-of-court settlement with Y. Her father filed a petition seeking redaction of his daughter's name from the cause list and judgements available on search engines such as Google and Yahoo, as the continued visibility of her name damaged her reputation and was detrimental to her relationship with her husband.

The High Court, perusing the trend in Western countries that provided for the right to be forgotten especially in sensitive cases involving women and their modesty, granted the relief sought. It did not, however, expunge the name of the petitioner's daughter from the original judgement available on the High Court's own website. This judgement marked a significant step towards safeguarding the privacy of a woman whose personal, social, and professional reputation continued to be under societal scrutiny even after the dispute had been resolved. While the High Court's emphasis on protecting a woman's privacy is commendable, the judgement falls short in ensuring substantive equality, as it does not extend comparable protection to men who have been absolutely acquitted.[12]

C. Constitutional Foundation: K.S. Puttaswamy

Perhaps the most detailed judicial analysis of the right to be forgotten as a subset of the right to privacy was rendered in *K.S. Puttaswamy*. The Supreme Court opined that digital footprints,

[10]Nipun Saxena v. Union of India, (2019) 2 SCC 703.
[11]Sri Vasunathan v. The Registrar General, 2017 SCC OnLine Kar 424.
[12]Kunika Khera, Case Commentary: Right to Be Forgotten, 3 Jamia L.J. 219 (2018).

in certain circumstances, should not be permitted to remain, as their perpetual retention is an anti-thesis to the right to be forgotten.[13] The Court observed that in the digital age, the actions and lives of individuals who make mistakes remain permanently stored on the internet, leaving behind digital footprints that continue to haunt them even as they change and grow. Individuals should have the autonomy to change the trajectory of their lives and live without the fear of continued association with mistakes made in the past. This autonomy is facilitated through privacy, as it is privacy that removes *"the shackles of unadvisable things done in the past."*

The Supreme Court also observed that every individual has the right to exercise a certain degree of control over their personal data on the internet, a control that must be simultaneously balanced with the fundamental rights to freedom of expression and freedom of the press. It further observed that if the right to be forgotten were to be recognised, an individual no longer desirous of their personal data being stored would have the right to erasure, subject to restrictions in instances requiring legal compliance, public interest purposes (including public health), scientific or historical research, or the exercise, establishment, and defence of legal claims.

D. Divergent Approaches to the Masking of Party Identities

Since *Sri Vasunathan*, the judicial trend with respect to the right to be forgotten has undergone a sea of changes. Taking a contrarian stance in 2020, the Kerala High Court in *Vysakh K.G. v. Union of India*,[14] approached the recognition of the right to be forgotten from judicial records with caution and scepticism. While denying relief to the writ petitioner who prayed that no public interest was served by her personal information remaining in the public domain, the Court explicitly called for legislation to lay down the circumstances in which the right to be forgotten can be exercised once court proceedings have been quashed. The Court also relied on *Swapnil Tripathi v. Supreme Court of India* (2018),[15] in which the Supreme Court elaborated upon the principle of open justice in the context of the live-streaming of court proceedings, to hold that a claim for the protection of personal information based on the right to privacy cannot co-exist with an open court justice system.[16]

In *Karthick Theodre v. The Registrar General*, the High Court of Madras recognised the writ petitioner's right to erasure of his personal data from public record through an application of

[13]Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1, paras 180, 631.
[14]Vysakh K.G. v. Union of India, 2020 SCC OnLine Ker 2945.
[15]Swapnil Tripathi v. Supreme Court of India, (2018) 10 SCC 639.
[16]R. Rajagopal v. State of Tamil Nadu, (1994) 6 SCC 632.

the Digital Personal Data Protection Act, 2023 (DPDP Act).[17] The writ petitioner sought to redact his name and personal details from a judgement rendered in 2014 that overturned his conviction in offences relating to cheating and rape. The judgement fully acquitted him on merits yet continued to display his identity details, strongly associating him with allegations of rape and cheating. As a consequence, the writ petitioner was denied a visa to Australia and suffered immense reputational harm. The High Court allowed the plea for redaction by conceptualising the right to be forgotten as a derivative of the fundamental right to privacy recognised in *K.S. Puttaswamy*. It additionally acknowledged that digitised judicial orders constitute "digital personal data" under Section 2(n) of the DPDP Act and that courts may function as "data fiduciaries" for the limited purpose of processing such data. A data fiduciary is mandated to erase personal data once the specified purpose is no longer served.[18] While this obligation is inapplicable to courts by virtue of Section 17(1)(b) of the DPDP Act, the Court held that the discretion as to whether personal data is to be made publicly available rests fully with the institution and that there is no duty cast upon courts to make personal information publicly available.

Subsequent judicial decisions have progressively widened the scope of protection. In *XXXX v. YYYY* (2022), the Supreme Court, in a dispute between a husband and wife, directed the Karnataka High Court to evolve a methodology to mask the names of both the accused and the victim.[19] The High Court of Delhi in *SJ v. Union of India* (2023),[20] held that the demonstrable harm caused by the continued online availability of the petitioner's personal information outweighed the public interest in disclosure, and accordingly directed the masking of the petitioner's name across all search engines. In a pace-setting judgement in 2024, the High Court of Karnataka in *Mr. XXXX v. The Registrar General*[21] observed that Art. 21 of the Constitution empowers every citizen to live a life of dignity, and that this dignity is tarnished by the continued availability of personal information associating an individual with a case in which they have been absolved of all charges. Justice Nagaprasanna observed that in a particular proceeding, once an accused is discharged by a competent court and the order absolving them becomes final, it would be a travesty of the concept of life under Art. 21 to permit the shadow of crime to linger in place of the shadow of dignity.

[17]Supra Note 1
[18]Digital Personal Data Protection Act, 2023, § 8(7).
[19]XXXX v. YYYY, 2022 SCC OnLine SC 1123.
[20]SJ v. Union of India, 2023 SCC OnLine Del 3309.
[21]Mr. XXXX v. Registrar General, W.P. No. 25557 of 2023 (Karnataka H.C.).

III. THE INTERNATIONAL PERSPECTIVE: GDPR AND COMPARATIVE FRAMEWORKS

The notion of the right to be forgotten has developed in different wavelengths across the world. The most recurring instrument cited in Indian judgements on this subject is the European Union's General Data Protection Regulation (GDPR). Article 17 of the GDPR allows for the erasure of personal data in certain instances, including where the personal data is no longer necessary for the purpose for which it was originally collected or processed.[22] This instrument was enacted following the landmark decision of the Court of Justice of the European Union in *Google Spain SL v. AEPD and Mario Costeja González* (2014), which held that search engines could be mandated to protect the fundamental rights to privacy and to the protection of personal data when a search is carried out on the basis of an individual's name.[23] The Court of Justice derived this right from Article 8 of the EU Charter of Fundamental Rights, which establishes that every individual has a right to the protection of personal data processed fairly for specified purposes on the basis of consent or another legitimate reason.[24]

In the United Kingdom, the Queen's Bench Division in *NT 1 v. Google LLC* (2018) held that while a successful claim can be brought against search engines, no outright claim can be made for erasure from the public record.[25] The Data Protection Act 2018 operationalises the GDPR in the United Kingdom and contains an explicit provision exempting judicial bodies from certain provisions.[26] The UK's Civil Procedure Rules include provisions enabling the anonymisation not only of parties or witnesses but also of any "person" involved in proceedings, as confirmed in *Brearley v. Higgs & Sons* (2023).[27] Anonymisation is, however, not a matter of right but of necessity, applied in instances involving children, witnesses at risk of harm, or highly sensitive personal information, with the primary test being a balance between public interest and the individual's right to privacy under Articles 8 and 10 of the European Convention on Human Rights.

In Germany, the Federal Court of Justice (BGH) has laid down that there is no automatic right to be forgotten under the GDPR, and that a balance must be established between the right to privacy and freedom of information.[28] While countries such as France and Germany have made greater progress on post-acquittal privacy, and even have frameworks for the delisting and de-

[22]Council Regulation (EU) 2016/679, art. 17.
[23]Case C-131/12, Google Spain SL v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González, ECLI:EU:C:2014:317 (Ct. Justice EU 2014).
[24]Charter of Fundamental Rights of the European Union, art. 8.
[25]NT 1 & NT 2 v. Google LLC, [2018] EWHC 799 (QB).
[26]Data Protection Act 2018 (UK), sch. 2.
[27]Civil Procedure Rules (UK), r. 39.2(4); Brearley v. Higgs & Sons [2023] EWHC 1092 (KB).
[28]Bundesgerichtshof (BGH), VI ZR 476/18 (2020); see also NA.

indexing of convicts over time, no established right to erasure from court judgements and subsequent reporting exists. The GDPR has thus established a robust framework for personal data protection; however, its application to judicial records remains carefully circumscribed, and in most jurisdictions, redaction of names upon acquittal is not the norm. The right to know the identity of the acquitted individual is accorded a relatively higher pedestal, a balance that this paper argues must be reconsidered in the Indian context.

IV. THE NORMATIVE CASE: BALANCING ARTICLES 19 AND 21

A. THE RIGHT TO INFORMATION AND ITS LIMITS

The right to be forgotten has its intellectual roots in French law, which recognises the principle of *le droit à l'oubli*, the right of oblivion, a right that allows a convicted criminal who has served their time and been rehabilitated to object to the publication of the facts of their conviction and incarceration.[29] This facilitates the rehabilitation process and enables them to turn a new page in their lives. To enable this, it is essential to draw a balance between the right to information and the individual's right to privacy. While it is a settled position that every citizen has a right to information, it is submitted that this does not extend to accessing the personal information of acquitted individuals.

The Right to Information Act, 2005 (RTI Act) is the anchoring law of the public's right to information in India. It sets out a practical regime for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability, while also laying down the need to harmonise the right to information and the preservation of the confidentiality of sensitive information.[30] The RTI Act provides for certain exemptions from disclosure under Section 8, including the exemption in respect of information which could endanger the life of any person.[31] This right to life is enshrined under Article 21 of the Constitution of India, which provides the fundamental right to life and personal liberty.[32] If the result of a court proceeding ends with the absolute acquittal of an individual, that individual attains the fundamental right to live with dignity once again and cannot carry the sword of accusation over their head for the rest of their life.[33] In the digital age, where humans forget but the internet does not let them forget, it is essential that this sword of accusation be hidden.

[29]Jeffrey Rosen, The Right to Be Forgotten, 64 Stan. L. Rev. Online 88 (2012).
[30]Right to Information Act, 2005, pmbl.
[31]Right to Information Act, 2005, § 8.
[32]INDIA CONST. art. 21
[33]X v. Registrar General, 2017 SCC OnLine Kar 424.

Justice must not only be done but must also be seen to be done.[34] When the life and personal reputation of an acquitted individual are likely to be jeopardised due to the continued presence of their personal information in court records accessible through a simple internet search, it must qualify as an "endangerment of life" under Section 8 of the RTI Act.

B. The Constitutional Balance

Indian courts are courts of record, and that status carries genuine institutional weight. Judgements are authoritative; they form the archive of the legal system's reasoning and serve as precedent for generations of legal practice. But this status has been conflated with an entirely different proposition: that every detail within a judgement - including the full name and personal particulars of every party - must remain publicly accessible in perpetuity. These are not the same thing. A court can preserve its legal reasoning, its factual findings, and its precedential value without embedding the name of an acquitted private individual into a searchable, permanently indexed public record.

The RTI Act has its roots in the fundamental right to speech and expression under Article 19(1)(a) of the Constitution, which includes the right to seek information.[35] However, Article 19(1)(a) is not an absolute right and is subject to reasonable restrictions under Article 19(2). The Supreme Court in *State of Madras v. V.G. Row* explained that courts must consider the nature of the right alleged to have been infringed, the underlying purpose of the restriction, the extent and urgency of the evil sought to be remedied, the disproportionality of the imposition, and the prevailing conditions at the time.[36] When carrying out a balancing exercise between two conflicting fundamental rights, what must be ascertained is whether the right at risk of being irreparably affected can be remedied once the infringing action has continued.[37]

In *S. Rangarajan v. P. Jagjivan & Ors.* (1989), the Supreme Court explained the nature of reasonable restrictions under Article 19(2) and acknowledged the need for a compromise between the right to privacy and freedom of speech. It stated that the freedom of expression may be suppressed in situations where community interest is endangered, but the anticipated danger must not be remote or conjectural; it must have a proximate and direct nexus with the expression.[38] In *Kaushal Kishor v. State of U.P.*, the Supreme Court placed the two rights on separate scales and held that while the right to freedom of speech and expression (including the

[34] S. Rangarajan v. P. Jagjivan & Ors., (1989) 2 SCC 574.
[35] INDIA CONST. art. 19, cl. 1(a).
[36] State of Madras v. V.G. Row, [1952] SCR 597.
[37] Sahara India Real Estate Corpn. Ltd. v. SEBI, (2012) 10 SCC 603.
[38] S. Rangarajan v. P. Jagjivan Ram, (1989) 2 SCC 574

right to information) is sacrosanct, the dignity of an individual enshrined under Article 21 cannot be overridden on the premise that it places an unreasonable restriction on free speech.[39] Along the same lines, the Kerala High Court in *Dejo Kappan v. Deccan Herald* (2024) held that the right of the press, and consequently the right to information, must yield to the individual's right to personal reputation when the dignity of the parties involved is adversely affected.[40]

C. The Nature of the Harm

In *K.S. Puttaswamy,* the Supreme Court held that the right to privacy is an inalienable right that inheres in every human being by virtue of their personhood. The right to life and personal liberty includes within its sweep the right to privacy,[41] and courts in India have now incorporated the right to be forgotten under this right.[42] The need to allow the masking of names of acquitted individuals arises from the most basic notions of fairness and equality. When, after the quashing of proceedings, no public interest can be served by keeping personal information alive on the internet, there is no reason why an acquitted individual must be allowed to be haunted by the remnants of such accusations which are easily available to the public.[43]

What makes this particularly acute is the nature of the harm caused when names are not redacted. When a person's name appears in a judgement, it appears without the interpretive context that a legal professional would naturally apply. A potential employer, landlord, or matrimonial contact searching a name does not read the judgement carefully. They see the word "accused," the name of a serious statute, perhaps the name of an offence, and they stop reading. The acquittal, buried in the operative portion, does not register the way the allegation does. This is not a failure of individual readers; it is a predictable consequence of how information is processed under conditions of time pressure and incomplete attention.

The harm is also irreversible in a way that most defamatory harm is not. A newspaper can print a retraction. A review can be taken down. A false statement can be corrected. A judgement on Indian Kanoon carries the institutional authority of the court itself, which makes its capacity for reputational damage uniquely severe and uniquely resistant to remedy. In India's deeply networked communities, a name attached to a narcotics charge, a sexual offence allegation, or

[39] Kaushal Kishor v. State of U.P., (2023) 4 SCC 1.
[40] Dejo Kappan v. Deccan Herald, 2024 SCC OnLine Ker 6494.
[41] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1; Kaushal Kishor v. State of U.P., (2023) 4 SCC 1.
[42] K.S. Puttaswamy: X v. Union of India, (2023) 3 HCC (Del) 63, para 43; Zulfiqar Ahman Khan v. Quintillion Business Media Pvt. Ltd., 2019 SCC OnLine Del 8494.
[43] A1 v. State, 2024 SCC OnLine Del 8113, paras 11–12.

financial fraud - even where the outcome is full acquittal - can destroy a marriage, rupture a family, end a career, and exile a person from their community. The law that exonerated them has simultaneously, and invisibly, condemned them. Justice Kaul, in his *K.S. Puttaswamy* judgement, stated that the right to privacy in India must be understood through the lens of the country's specific socio-cultural context, and the social cost of being associated with any wrongdoing is especially high in India.

Indian courts have, in scattered decisions, acknowledged this harm. In *Jorawer Singh Mundy v. Union of India* (2021), the Delhi High Court ordered Google to de-index a judgement confirming the petitioner's acquittal under the Narcotic Drugs and Psychotropic Substances Act, 1985, because its continued presence in search results was materially damaging his professional life.[44] Each of these decisions is correct. Each is also inadequate, because each required the affected individual to know they had this right, retain a lawyer, and successfully plead a writ petition before a constitutional court. Most acquitted persons, who may already have been financially devastated by criminal proceedings, cannot do this. A non-derogable fundamental right is not a privilege that must be earned through litigation. The fact that protection is available to those with resources to seek it is not a defence of the current system; it is an indictment of it.

D. THE DPDP ACT AS LEGISLATIVE ARCHITECTURE

The Digital Personal Data Protection Act, 2023, now provides the legislative architecture to move from case-by-case judicial indulgence to a rule of general application. Section 12 of the DPDP Act introduces a right to erasure, empowering data principals to request deletion of personal data that is no longer necessary for the purpose for which it was processed.[45] The Act places affirmative obligations on data fiduciaries - including State entities and government-operated legal databases, to process personal data only to the extent necessary for a defined, lawful purpose. This principle of data minimisation is not merely procedural; it is a codification of the proportionality test that *K.S. Puttaswamy* itself mandated for any infringement of Article 21. When a person is acquitted, the criminal proceeding that collected their personal data has reached its lawful conclusion. The purpose for which their name was embedded in a court record - the adjudication of a criminal charge - has been fulfilled. There is no longer a lawful basis under the DPDP Act's framework for the continued, unrestricted public availability of

[44]Jorawer Singh Mundy v. Union of India, 2021 SCC OnLine Del 3419.
[45]Digital Personal Data Protection Act, 2023, § 12.

their personal information in searchable digital form.

The Act's carve-outs for legal obligations and public interest do not displace this reasoning. Section 3(c) exempts persons under an obligation to make personal data publicly available;[46] however, as the Madras High Court correctly observed in *Karthick Theodre*, courts are not under any such statutory obligation. The discretion as to whether personal data is to be made publicly available rests fully with the court, and the default position - in the absence of a specific order for disclosure - must, on a harmonious reading of the DPDP Act and Articles 19 and 21, favour redaction.

V. BALANCING ANONYMISATION WITH THE OPEN-COURT SYSTEM

An equally important feature of the functioning of the Indian judiciary is the open-court system. In *Swapnil Tripathi v. Supreme Court of India* (2018), the Supreme Court laid down the importance of opening the doors of the courts to the public and held that proceedings must be broadcast in the interest of the right to justice and transparency.[47] The proponents of the open-justice system often argue that it overrides the right to privacy and, in turn, overrides an acquitted individual's right to seek anonymisation of personal details - such that the public is entitled to full disclosure including the personal and intimate details of the acquitted. Notwithstanding the public's right to access live court proceedings, it may also be practically impossible to redact the names of acquitted individuals during the course of a trial.

However, a solution to this conundrum finds its roots in the exceptions to live broadcasting of court proceedings established by the Supreme Court. In *Swapnil Tripathi*, it was established that all matters shall be live-streamed unless the bench is of the view that such streaming is antithetical to the administration of justice.[48] This antithesis to justice must be viewed in the backdrop of the harm caused to the personal life of an acquitted individual. When the prospects of harm are such that they render the acquitted individual practically incapable of turning over a fresh page in their life, the court must step in as the flagbearer of justice and protect that individual. This protection may be devolved through uploading the recording of court proceedings after a certain amount of time has elapsed following the final verdict of acquittal - similar to the practice of the International Criminal Court, which allows for live streaming with a thirty-minute delay to permit redactions of confidential and sensitive information.[49]

[46]Digital Personal Data Protection Act, 2023, § 3(c).
[47]Swapnil Tripathi v. Supreme Court of India, (2018) 10 SCC 639.
[48]*Id.*
[49]Understanding the International Criminal Court, ICC Pub. (2013), https://www.icc-cpi.int/iccdocs/pids/publications/uicceng.pdf.

Similarly, the Court of Appeal for England and Wales broadcasts proceedings live with a seventy-second delay, and the broadcast shows only the arguments of lawyers and the comments of judges, while defendants, witnesses, and victims are not shown.[50]

The Model Rules for Live Streaming and Recording of Court Proceedings, posted by the e-Committee of the Supreme Court of India, took into account the confidentiality of litigants and witnesses.[51] Rule 8.1 of the Model Rules lays down certain general precautions that the court must take before broadcasting and states that personal information of related parties such as close relatives, witnesses, and other participants will be deleted or muted during live streaming using masking techniques. However, on close observation, one may find that this protection does not presently extend to the litigants themselves. It is proposed that if an individual has been acquitted after due process of law, and the availability of their personal identity in connection with the trial would cause irreparable reputational harm, the delay period prescribed in the Model Rules must be utilised to extend the protection under Rule 8.1 to such individuals and the Model Rules must be amended to reflect the same.

Indian courts are courts of record, and that status carries genuine institutional weight. But this status must not be conflated with an entirely different proposition: that every detail within a judgement must remain publicly accessible in perpetuity. A court can fully preserve its legal reasoning, its factual findings, and its precedential value without embedding the name of an acquitted private individual into a searchable, permanently indexed public record. The constitutional foundation for correcting this is Article 21. The 44th Amendment to the Constitution makes Article 21 non-derogable, such that it cannot be suspended even in a national emergency.[52] When a non-derogable right is being routinely overridden - not by legislation, not by judicial order, but by institutional inertia - the legal system owes itself a serious reckoning. Article 19(1)(a) guarantees the right to receive information,[53] animating the public interest in transparent courts. But the question that the current system never actually asks is whether Article 19's interest in transparency requires the permanent, searchable identification of every private individual who passed through criminal proceedings and was found not guilty. It does not.

[50]Court of Appeal Proceedings Televised, The Guardian (Oct. 30, 2013), https://www.theguardian.com/law/2013/oct/30/court-of-appeal-proceedings-televised.
[51]e-Committee, Supreme Court of India, Model Rules for Live Streaming and Recording of Court Proceedings, r. 8.1 (2021), https://prsindia.org/files/parliamentry-announcement/2021-06-30/2021060752.pdf.
[52]INDIA CONST., 44th Amendment
[53]INDIA CONST. art. 19(1)(a).

VI. CONCLUSION: TOWARDS A FRAMEWORK FOR MANDATORY REDACTION

What the DPDP Act does, when read alongside Article 21's non-derogable guarantee, is shift the constitutional and statutory default. Redaction of an acquitted individual's name from the publicly accessible version of a judgement is not an exception to be earned; it is the baseline position that the law now demands. Where any party contends that the retention of a name serves a legitimate and demonstrable public interest, that party must apply to the court and establish, on specific grounds, why disclosure is necessary and proportionate to the aim pursued. The name of a public official acquitted of corruption charges may remain relevant to public accountability. A judgement involving systemic institutional abuse may require identification to serve its broader social function. There are genuine cases where the Article 19 interest will outweigh the Article 21 claim, and a principled framework accommodates them. But the burden of making that case must rest on those who seek disclosure, not on the individual who has already been found innocent.

Courts must translate this into binding directives. In every criminal judgement where the accused is acquitted, the names and personal identifying information of acquitted individuals must be redacted from the version made publicly available on court websites, case management portals, and legal databases. Legal research platforms must be required to treat redacted versions as the authoritative public record and must be prohibited from publishing unredacted judgements involving acquitted private individuals without a specific court order. Where a name must be retained, the judgement must make explicit, in both its title and its body, that the individual was acquitted, ensuring that any reader encounters the outcome before encountering the allegation. Contextualisation is the minimum obligation where disclosure is ordered; it is not a substitute for the default rule of redaction.

The framework is not complex. It does not impede access to justice, undermine journalistic freedom, or compromise the court's function as an institution of record. It simply ensures that the cost of that record is not borne by the people the record acquitted. Redaction of names is the norm, and retention is the exception.

The right to privacy under Article 21 is non-derogable. The right to information under Article 19 is real, but it is not absolute, and it does not require the identification of the innocent. The DPDP Act's data minimisation framework, applied to the specific context of criminal proceedings, gives statutory expression to what the Constitution has always demanded: that once the State's purpose in naming a person is spent, the name must not linger as an instrument of harm. Acquittal must mean something. At present, it means innocence in a courtroom and accusation everywhere else. The law has the tools to fix that. Courts need only use them.