

**ADUNNI ADEWALE V POLANCE MEDIA LIMITED & ANOR. (2025): THE CONSTITUTIONALISATION OF  
DIGITAL PRIVACY AND THE EMERGENCE OF THE RIGHT TO BE FORGOTTEN IN NIGERIAN  
JURISPRUDENCE**

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**ABSTRACT**

*The paper critically examines the landmark Nigerian High Court decision in Adunni Adewale v Polance Media Limited & Anor. (2025), which established a crucial domestic precedent for the protection of digital privacy and the emergence of the Right to be Forgotten (RTBF). As traditional torts like defamation prove inadequate for an era of perpetual digital memory and data monetisation, the Court adopted a rights-based approach grounded in the Constitution and the Nigerian Data Protection Act (NDPA) 2023. The central question was whether a digital publisher's use of the applicant's name and photograph in a false and prejudicial context, primarily for traffic generation and advertising revenue, breached her right to privacy and violated the NDPA's principles of fairness, lawfulness, transparency, and accuracy. The Court answered affirmatively, holding that the publication constituted a "false light" invasion of privacy, awarding ₦20,000,000 in damages, and ordering the deletion or expungement of the content. This paper examines the judgment's progressive implications alongside its structural tensions. It interrogates the Court's dismissal of the Respondents' objection concerning the failure to first lodge a complaint with the Nigeria Data Protection Commission (NDPC), a decision that, while affirming constitutional access, risks undermining the NDPA's regulatory coherence. It further questions whether the reliance on NDPA standards of "inaccuracy" and "misleading" processing lowered the evidential threshold required in defamation, potentially unsettling doctrinal clarity. Finally, the paper argues that the simple erasure order overlooks the technological complexities of data persistence in the age of Artificial Intelligence (AI). Ultimately, Adewale signifies the constitutionalisation of digital privacy in Nigeria and the urgent need for harmonisation between judicial and regulatory mechanisms.*

**Keywords:** *Artificial Intelligence and Data Protection, Defamation, Nigerian Data Protection Act (NDPA), Right to Erasure, Right to be forgotten.*

## **1. INTRODUCTION**

The landmark decision in *Adunni Adewale v Polance Media Limited & Anor.* (2025),<sup>1</sup> marks a significant, perhaps foundational, moment in how Nigerian jurisprudence confronts the inherent vulnerabilities embedded within the digital information economy. Where traditional common law torts, such as defamation, prove inadequate to protect dignity in the era of perpetual digital memory<sup>2</sup> and data monetization, the courts are rightly compelled to adopt a robust, rights-based approach rooted in both the Constitution and the nascent Nigerian Data Protection Act (NDPA) 2023.

The central matter adjudicated in *Adewale* was whether a digital news publisher's use of an applicant's personal data (name and photograph) in a false and prejudicial context, primarily to generate traffic and advertising revenue, constituted a breach of her fundamental right to privacy and violated the core data processing principles of the NDPA 2023. The Applicant, a renowned actress, successfully argued that an article placed her in a "false light" through insinuation, infringing her constitutional rights.

The High Court answered affirmatively, granting damages of ₦20,000,000 and,<sup>3</sup> most critically, issuing a Consequential Order compelling the Respondents to "delete or expunge"<sup>4</sup> the offending content.<sup>5</sup> This order, concerning content that had remained online for over eighteen months, represents a potent judicial application of the Right to Erasure, or the Right to be Forgotten (RTBF), aligning Nigerian remedial jurisprudence with global standards for digital privacy protection.<sup>6</sup> Furthermore, the Court affirmed jurisdiction under the Fundamental Rights Enforcement Procedure (FREP) Rules and found that the publication violated the NDPA principles requiring data to be processed in a fair, lawful, transparent, and accurate manner.

This paper critically dissects the Court's reasoning, examining its navigation of jurisdictional rules, its modernization of constitutional privacy, and its implicit adoption of the RTBF in an era increasingly defined by Artificial Intelligence (AI). While the decision is lauded for its progressive orientation, this paper highlights crucial nuances. We analyze the soundness of the Court's decision to allow the Applicant to bypass the specialist Nigeria Data Protection Commission (NDPC), which, though upholding constitutional access, risks undermining the NDPA's necessary regulatory structure. Furthermore, the analysis questions whether the reliance on the NDPA standard of "inaccuracy" or being "misleading" effectively lowered the rigorous evidential burden traditionally required by established defamation precedents, risking legal instability.

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<sup>1</sup> *Adunni Adewale v Polance Media Limited & Anor Suit No LD/17781MFHR/2024 (High Court of Lagos State, 24 June 2025.*

<sup>2</sup> S Mandolessi, 'The Digital Turn in Memory Studies' (2023) 16(6) *Memory Studies* 1513 <<https://doi.org/10.1177/17506980231204201>> accessed 13 October 2023.

<sup>3</sup> *Adewale (n 1) 11.*

<sup>4</sup> *ibid* 12,

<sup>5</sup> *ibid.*

<sup>6</sup> Case C-131/12 *Google Spain SL and Google Inc v Agencia Española de Protección de Datos (AEPD) and Mario Costeja González* ECR I-317; 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, and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, art 17; Personal Information Protection Law of the People's Republic of China (adopted 20 August 2021, effective 1 November 2021), art 47.

Finally, we critique the efficacy of the simple erasure order in light of data persistence within cached systems and AI knowledge bases. Ultimately, this paper argues that Adewale signals a clear legal shift, demanding accountability for the commercial exploitation of personal data against specialized, principled legal regimes.

## 2. SUMMARY OF FACTS AND DECISION

The Applicant, a renowned actress,<sup>7</sup> initiated proceedings under the Fundamental Rights Enforcement Procedure (FREP) Rules against a digital news publisher and a writer.<sup>8</sup> She alleged that an article titled "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye"<sup>9</sup> infringed her right to privacy by placing her in a false light through insinuation. The publication, which remained online for over eighteen months, was framed as a deliberate effort to boost the Respondents' advertising revenue.<sup>10</sup>

The Respondents raised three key defenses:

1. The claim was essentially one of defamation and should have been commenced by a writ of summons, not under the FREP Rules.
2. The Applicant, as a public figure with a large social media following, had courted publicity and thus had a diminished expectation of privacy.
3. The action was premature, as the Applicant had not first lodged a complaint with the Nigeria Data Protection Commission (NDPC) per Section 46 of the NDPA.

### The Court Held:

1. **Jurisdiction and Procedure:** The Court dismissed the preliminary objections.<sup>11</sup> It affirmed that the main claim was the enforcement of the fundamental right to privacy, with defamation being merely an ancillary issue, thus validating the use of the FREP Rules. It also ruled that lodging a complaint with the NDPC is not a precondition for enforcing a constitutional right in court.
2. **Breach of Privacy:** The Court found that the publication's portrayal of the Applicant constituted a "false light" invasion of privacy, thereby infringing her rights under Section 37 of the Constitution.<sup>12</sup>
3. **Violation of Data Principles:** The Respondents, as data controllers, were found to have violated Sections 24(1) (a) and (e) of the NDPA 2023.<sup>13</sup> The Applicant's data (name and picture) was not processed in a fair, lawful, and transparent manner and was not accurate or non-misleading.

<sup>7</sup> 'Adunni Ade' (IMDb) <<https://www.imdb.com/name/nm7970788/>> accessed 13 October 2025; Adunni Ade, 'Adunni Ade' <<https://adunniade.com/>> accessed 13 October 2025.

<sup>8</sup> Guardian Nigeria, 'Polance Media launches online newspaper, Naija News' *The Guardian Nigeria News* (25 December 2016) <<https://guardian.ng/appointments/polance-media-launches-online-newspaper-naija-news/>> accessed 13 October 2025

<sup>9</sup> Naija News, 'Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye' (Facebook, OfficialNaijaNews 2025) <<https://www.facebook.com/OfficialNaijaNews/posts/six-popular-nigerian-celebrities-who-have-been-accused-of-dating-dino-melaye/1897404773946486/>> accessed 13 October 2025.

<sup>10</sup> *Adewale (n 1)* 4.

<sup>11</sup> *Adewale (n 1)* 9.

<sup>12</sup> *ibid* 9-11.

<sup>13</sup> *ibid* 11.

4. **Remedy:** The Court awarded ₦20,000,000 in general damages and issued a Consequential Order compelling the Respondents to delete or expunge the Applicant's name and picture from the article.<sup>14</sup>

### 3. CONTEXTUAL LEGAL LANDSCAPE

#### 3.1 Constitutional Privacy and the Scope of FREP Rules

The Nigerian Constitution, under Section 37, guarantees the privacy of citizens, their homes, correspondence, telephone conversations, and telegraphic communications. Judicial precedent, has interpreted this right expansively, positing that the "sum total of the rights of privacy... is that an individual should be left alone to choose a course for his life, unless a clear and compelling overriding state interest justifies the contrary".<sup>15</sup>

The High Court in *Adewale* correctly leveraged this expansive reading. By finding that the publication constituted "publicity placing an individual in a false light", the Court moved the constitutional right beyond mere physical or communication intrusion and into the realm of reputational and informational control.

Furthermore, the dismissal of the objection regarding the FREP Rules is consistent with the established principle that rules governing fundamental rights enforcement must be interpreted liberally and expansively.<sup>16</sup> The rule that the main claim must be fundamental rights, and not an ancillary tort (such as defamation), guided the Court in upholding the jurisdiction.

#### 3.2 Defamation Law, Privacy Torts, and Data Protection

The traditional tort of defamation (libel) requires the plaintiff to prove publication, reference to the plaintiff, a defamatory meaning (exposing the plaintiff to hatred, contempt, or ridicule), falsity, and lack of justification.<sup>17</sup> The core defence in media law, often relevant here, is fair comment,<sup>18</sup> which requires the comment to be based on true facts, concerning a matter of public interest, and be genuinely fair.

The modern data protection regime, enforced by the NDPA 2023, provides a distinct avenue for redress. It mandates processing based on the principles of fairness, lawfulness, transparency, and accuracy.<sup>19</sup> Crucially, the NDPA introduces an actionable duty of care and accountability on data controllers.

By framing the issue as a violation of the NDPA principles of fairness and accuracy, rather than relying solely on defamation, the Court effectively deployed the NDPA as a mechanism to address the specialized digital harm known internationally as "false light" invasion of privacy. This approach acknowledges that a

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<sup>14</sup> *ibid.*

<sup>15</sup> *Medical Dental Practitioners Disciplinary Tribunal v Dr Emewulu Okonkwo* (2001) 7 NWLR (Pt 711) 206.

<sup>16</sup> *Nancy Okafor v Victor Okafor* Suit No LD/12264MFHR/21 (High Court of Lagos State, 5 February 2022).

<sup>17</sup> *Abalaka v Akinsete* (2023) 13 NWLR (Pt 1901) 343

<sup>18</sup> *The Sketch Publishing Company Ltd v Alhaji Azeez A Ajagbemokeferi* (1989) 1 NWLR (Pt 100) 678; *Abalaka (n 17)*.

<sup>19</sup> Nigerian Data Protection Act 2023, s 24(1)(a) and (e)

statement can be untrue and unfair (breaching NDPA) and damaging to privacy,<sup>20</sup> even if the elements required to succeed in a complex libel suit are not strictly met.

### 3.3 The Right to be Forgotten (RTBF)

The most notable aspect of the judgment is the consequential order mandating the Respondents to "delete or expunge" the content forthwith.<sup>21</sup> While the NDPA 2023 grants data subjects the right to restrict further processing or erasure, the Court's direct order to remove content that had been permanently published online for over 18 months<sup>22</sup> represents a potent judicial application of the Right to Erasure, or the Right to be Forgotten (RTBF).<sup>23</sup>

The RTBF originated from the EU case *Google Spain SL v. Costeja González*<sup>24</sup> and addresses the imperative of protecting human dignity and societal reintegration against the persistent, unforgiving memory of the digital realm. The High Court's order, therefore, aligns Nigerian remedial jurisprudence with global best practices in digital privacy protection,<sup>25</sup> ensuring that the harm caused by inaccurate or unfair processing does not linger indefinitely online.

## 4. Analysis: a Progressive but Complicated Jurisprudence

The High Court's decision is laudable for its courage and progressive orientation, successfully leveraging the new data protection framework alongside the Constitution to address contemporary digital media harms. However, a critical review reveals nuances and deeper structural issues that warrant scholarly reflection.

### 4.1 The Soundness of Jurisdictional Interpretation: The NDPA Precondition

The High Court was spot-on in rejecting the Respondents' argument that the action should be struck out because the Applicant failed to first comply with Section 46 of the NDPA (lodging a complaint with the Commission). Where the right being enforced is explicitly constitutional,<sup>26</sup> the Fundamental Rights (Enforcement Procedure) Rules provide a clear pathway to the High Court.<sup>27</sup> Placing a statutory precondition on the enforcement of a constitutionally guaranteed right would be structurally flawed and highly problematic, functionally denying the citizen immediate judicial redress. This lateral thinking ensures that the new data protection statute acts as a shield to enhance constitutional rights, rather than becoming a bureaucratic barrier.

However, the decision to allow the Applicant to bypass the specialist regulatory body the Nigeria Data Protection Commission (NDPC) under the auspices of the Fundamental Rights Enforcement Procedure

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<sup>20</sup> *Adewale (n 1)* 9.

<sup>21</sup> *ibid* 11.

<sup>22</sup> *Adewale (n 1)* 4.

<sup>23</sup> NDPA 2023 (n 19), s 34(1)(c)–(d), s 34(2).

<sup>24</sup> *Google Spain SL* (n 6)

<sup>25</sup> General Data Protection Regulation (n 6), art 17; Personal Information Protection Law of the People's Republic of China (n 6), art 47.

<sup>26</sup> Constitution of the Federal Republic of Nigeria 1999 (as amended), s 37.

<sup>27</sup> *Okafor* (n 16)

(FREP) Rules,<sup>28</sup> while technically supported by the liberal interpretation of fundamental rights proceedings, could create negative public policy implications for the efficacy of the data protection regime itself.

### 1. Undermining NDPA's Regulatory Structure

The NDPA 2023 established the NDPC to oversee its implementation and enforce accountability.<sup>29</sup> The NDPC is structured to develop guidance,<sup>30</sup> conduct compliance audits, and handle complaints,<sup>31</sup> particularly in relation to complex issues like Data Protection Impact Assessments (DPIAs),<sup>32</sup> emerging technologies,<sup>33</sup> and the balancing of necessity and proportionality<sup>34</sup> amongst other capabilities.

By allowing the Applicant to proceed directly to the High Court under FREP, thereby dismissing the argument that she ought to have lodged a complaint with the Commission first, the Court, though upholding constitutional access, effectively:

- a. **Frustrates Expert Regulatory Review:** The NDPC is better positioned to investigate the specific technical and organizational measures Polance Media had in place, assess the legitimacy of their processing basis, and evaluate the data ecosystem surrounding the publication, especially the nature of data flows and storage (relevant for the erasure order). Bypassing this expertise leads to a generalized judicial remedy, rather than a precision regulatory correction.
- b. **Encourages Procedural Masquerading:** While Adunni Adewale had a legitimate privacy angle, the ease with which it circumvented the administrative framework may encourage future litigants to pursue specialized data protection claims via the omnibus FREP rules, clogging judicial dockets with matters better suited for administrative resolution.

### 2. Judicial Capacity v Technical Complexity

The NDPA and GAID envision complex compliance assessments involving forensic audits, simulations, and evaluation of disparate outcomes. A specialized court or administrative body is necessary for this work. The High Court, by adopting the core NDPA claims and remedies, commits itself to a future where it must develop expertise in technicalities of emerging technology that would typically reside with the regulator. The court's reasoning, in this regard, fails to account for the need for specialized regulatory competence in the digital age.<sup>35</sup>

<sup>28</sup> *Adewale (n 1)* 10.

<sup>29</sup> NDPA 2023 (n 19), s 4.

<sup>30</sup> *ibid* s 5(c).

<sup>31</sup> *ibid* s 46, 4(5)(g).

<sup>32</sup> Nigeria Data Protection Commission, 'Nigeria Data Protection Act 2023 General Application and Implementation Directive (GAID) 2025' (NDPC/NDP ACT-GAID/01/2025), art 48(5) <<https://ndpc.gov.ng/wp-content/uploads/2025/07/NDP-ACT-GAID-2025-MARCH-20TH.pdf>> accessed 13 October 2025.

<sup>33</sup> *ibid* art 43.

<sup>34</sup> *ibid* art 5(4).

<sup>35</sup> While the opinion of an expert witness in courts is not a new matter, and it is a benefit for our jurisprudence that expert evidence can be called upon to clarify complex technical matters, this differs fundamentally from the continuous, proactive, and in-depth oversight that a specialized regulatory body possesses. An expert witness is reactive, providing a focused opinion on specific issues within the context of a particular case. A regulator, by contrast, operates on a systemic level, developing and maintaining a deep, evolving expertise on the broader technological landscape, conducting ongoing audits, and preempting future harms through sustained engagement with emerging technologies. By adopting these inherently technical disputes, the court risks being in a position where it must adjudicate cases without the benefit of this constant, institutionalized competence, a competency that is a core function of the NDPC as envisaged by the Nigeria Data Protection Act.

#### 4.2 The Strategic Pivot: Data Protection's Gain, Defamation's Dilemma?

The Respondents argued that the action sounded primarily in defamation. A traditional approach, viewing the matter solely through the narrow lens of libel, might lead to unsatisfactory outcomes in digital privacy cases. The Court wisely framed the issue as "false light" infringement of the right to privacy.<sup>36</sup>

The publication was deliberately structured to maximize clicks and advertising revenue ("to boost its advertisement revenues").<sup>37</sup> This shifts the focus from a simple common law dispute between two individuals to a major public policy concern regarding the commercial exploitation of personal data for private gain, often at the expense of fairness and accuracy. The court identified this abuse by holding that the publication was done in a "prejudicial and unfair manner" and violated the NDPA principles requiring data to be "fair, lawful, and transparent".

This interpretation might be more appropriate than relying solely on defamation because it addresses the core harm: the unfair and non-consensual processing of personal data for a commercially extractive purpose (traffic generation), which incidentally created a false impression. This aligns perfectly with the statutory mandates of the NDPA, which exist primarily to safeguard individuals from the abusive processing of their data.<sup>38</sup>

This decision while lauded for its innovative interpretation of the law risks opening a Pandora box of unintended consequences.

Nigerian jurisprudence places a notoriously high burden on a plaintiff seeking relief for libel. The plaintiff must prove, among other essential ingredients that the words complained of are false or untrue.<sup>39</sup>

In *Adewale*, the High Court based its decision heavily on the finding that the publication violated the NDPA principle that personal data must be processed in a "fair, lawful, and transparent manner"<sup>40</sup> and must be "accurate, complete, and not misleading".<sup>41</sup>

The critique here is critical and two-fold:

##### 1. Lapse in Evidential Rigour

By allowing the successful establishment of the claim based on the NDPA's standard of "inaccuracy" or being "misleading",<sup>42</sup> the court arguably failed to impose the rigorous common law burden necessary to succeed in a defamation action, particularly the proof of falsehood of the core assertion (that Adunni Adewale dated

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<sup>36</sup> *Adewale (n 1)* 8,9.

<sup>37</sup> *ibid* 4.

<sup>38</sup> NDPA 2023 (n 19), s 1, s 24.

<sup>39</sup> *Abalaka* (n 17)

<sup>40</sup> NDPA 2023 (n 19), s 24(c).

<sup>41</sup> NDPA 2023 (n 19), s 24(e).

<sup>42</sup> NDPA 2023 (n 19), s 24.

Dino Melaye). If the court found the NDPA violation sufficient for remedy, it suggests that merely proving data was processed in a manner that created a "false light" or was "misleading" served as a substitute for explicitly proving the fundamental falsity required by judicial precedents.<sup>43</sup> This potential lowering of the bar for what constitutes actionable reputational harm under the guise of data protection presents a legal instability that future courts must reconcile.

## 2. Judicial Precedent Conflict

The court's reasoning must withstand comparison with definitive statements on defamation ingredients. For instance, the Supreme Court has made it clear that to succeed in libel, the plaintiff must prove that the statement was false.<sup>44</sup> Furthermore, if the statement appears derogatory or disparaging, "it may still not amount to defamation unless the party or person complaining proves that it was false statement".<sup>45</sup> The court's reliance on NDPA principles, while innovative, risks creating conflicting rationes decidendi between the constitutional/statutory path (privacy/NDPA) and the traditional common law path (defamation), thereby jeopardizing the clarity provided by established defamation precedents.

### 4.3 Avoiding the 'Law of the Horse': A Modern Solution for a Modern Problem

The critique of the "Law of the Horse"<sup>46</sup> suggests that technology-neutral laws may fail when the technology's architecture fundamentally alters the constraints on behavior.<sup>47</sup> Traditional defamation law was devised for print media.<sup>48</sup> The digital platform economy, represented by Polance Media, operates on "code" algorithms designed to maximize engagement, virality, and traffic through sensationalism. The business model (traffic-for-revenue) necessitates the weaponization of personal information, regardless of accuracy.

The Court implicitly acknowledged this structural challenge. By finding a violation of data processing principles,<sup>49</sup> the Court subjected the media platform's data collection and monetization process to specialized regulatory scrutiny that traditional libel law could not offer. The argument put forth by the defense that the Applicant, having wide public exposure, has implicitly surrendered her privacy was rightly deemed insufficient in the face of statutory data protection requirements.<sup>50</sup> The quantity of data online does not negate the fundamental legal obligation that any specific processing of that data must be fair and

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<sup>43</sup> *Abalaka* (n 17).

<sup>44</sup> *ibid.*

<sup>45</sup> *ibid.*

<sup>46</sup> Frank H Easterbrook, 'Cyberspace and the Law of the Horse' [1996] U Chi Legal F 207 <<https://chicagounbound.uchicago.edu/uclf/vol1996/iss1/7>> accessed 15 October 2025.

<sup>47</sup> Lawrence Lessig, 'The Law of the Horse: What Cyberlaw Might Teach' (1999) 113 Harv L Rev 501 <<https://cyber.harvard.edu/works/lessig/finalhls.pdf>> accessed 15 October 2025.

<sup>48</sup> Melissa A Troiano, 'The New Journalism: Why Traditional Defamation Laws Should Apply to Internet Blogs' (2005) 55 Am UL Rev 1447

<<https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1081&context=aulr>> accessed 26 October 2023.

<sup>49</sup> NDPA 2023 (n 19), s 24(1)(a) and (e)

<sup>50</sup> *Adewale* (n 1) 5, 9.

accurate. This is a clear demonstration that specialized legislation (NDPA) provides the necessary "specificity" for effective enforcement against new technological harms.

#### 4.4 The Remedial Laps: Efficacy of Erasure in the Age of AI

The Court's consequential order for the immediate "deletion or expungement" of the name and picture (the RTBF equivalent) represents a landmark application of the data subject's right to erasure. However, this remedy introduces technical and legal ambiguity when viewed through the lens of emerging technologies (ETs) and AI.<sup>51</sup>

The effectiveness of erasure in the digital environment is limited,<sup>52</sup> especially where the data has been scraped and ingested by Large Language Models (LLMs) or other AI systems.<sup>53</sup> While guardrails exist, AI systems operate on databases and knowledge bases that retain information even after the source is removed.<sup>54</sup>

The court's simple order to "delete or expunge" from Polance Media's platform does not address the complexity of third-party processing platforms, cached data, or data used for AI training. This is a key public policy failure: granting a right without ensuring its technological feasibility creates a sense of false security for the data subject and imposes a potentially impossible compliance burden on the data controller/processor.<sup>55</sup> The court should have considered the necessity of enforcing specific technical measures to mitigate the risk of data persistence.

However, moving forward, the burden shifts to the NDPC to translate these judicial victories into clear, standardized regulatory guidance. Given the recognized tension between AI advancement and data protection principles like erasure, continuous interdisciplinary engagement is crucial. The judiciary provides the binding authority, but administrative bodies must provide the technical pathway for compliance, lest the digital age renders legal rights impractical due to technological architecture.

<sup>51</sup> Meem Arafat Manab, 'Eternal Sunshine of the Mechanical Mind: The Irreconcilability of Machine Learning and the Right to be Forgotten' (2024) arXiv preprint arXiv:2403.05592 <<https://arxiv.org/abs/2403.05592>> accessed 14 October 2025.

<sup>52</sup> M R Allegri, 'The Right to be Forgotten in the Digital Age' in F Comunello, F Martire and L Sabetta (eds), *What People Leave Behind* (Frontiers in Sociology and Social Research, vol 7, Springer 2022) [https://doi.org/10.1007/978-3-031-11756-5\\_15](https://doi.org/10.1007/978-3-031-11756-5_15) accessed 15 October 2025.

<sup>53</sup> Palikhe, Avash, Zhenyu Yu, Zichong Wang, and Wenbin Zhang. "Towards Transparent AI: A Survey on Explainable Large Language Models." arXiv preprint arXiv:2506.21812 (2025).

<sup>54</sup> This observation highlights a limitation in content moderation for Large Language Models. The Google Gemini 2.5 Flash model was queried with the prompt, "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye ... Give me a fair commentary of the 6 popular celebrities," and subsequently generated a response referencing or relying upon information derived from an article that the court had ordered to be deleted due to its documented inaccuracy. This demonstrates the model's reliance on a training corpus that retains content despite real-time legal injunctions against its public availability. See: Google Gemini, 'Melaye Dating Rumors: Celebrity Denials' (Gemini, 14 October 2025) <<https://g.co/gemini/share/d248b545efb3>> accessed 14 October 2025.

<sup>55</sup> At the time of writing, the original article titled "Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye" has been removed from the website of Naija News, in compliance with the court's order.

However, a post containing the article's title and a functional link (though leading to a dead page) remains on the official Facebook page of Naija News. See: Naija News, 'Six Popular Nigerian Celebrities Who Have Been Accused of Dating Dino Melaye' (Facebook, *OfficialNaijaNews* 2025) <<https://www.facebook.com/OfficialNaijaNews/posts/six-popular-nigerian-celebrities-who-have-been-accused-of-dating-dino-melaye/1897404773946486/>> accessed 13 October 2025.

This scenario raises a critical question regarding the enforcement of defamation and right-to-privacy judgments against digital media: does the persistence of the linking post on a major social media platform constitute an oversight in fully following the court's order, or is it a reflection of the technical limitations in completely erasing content and its digital footprint across *all* connected platforms? This difficulty in achieving a total "right to be forgotten" underscores the enduring challenge of content moderation and the permanence of information in the online ecosystem, even after a legal ruling.

## 5. CONCLUSION

*Adunni Adewale v Polance Media Limited & Anor (2025)* is a landmark victory for digital privacy in Nigeria. The judgment skilfully integrates the NDPA 2023 with constitutional principles to hold digital media accountable for the commercial exploitation of personal data. By establishing a powerful precedent for the Right to be forgotten, the Court has moved beyond mere damages to offer a remedy fit for the digital age.

This case is a profound call to action for all stakeholders. It signals that digital publishers cannot hide behind "public interest" to monetize falsehoods. More importantly, it underscores that as human memory is increasingly outsourced to the "mechanical mind"<sup>56</sup> of digital platforms and AI, the law must evolve specific, enforceable mechanisms to protect human dignity from technological persistence. This case is, ultimately, a demonstration that the Law of the Horse, when pertaining to new technological architectures, must give way to specialized, principled legal regimes that protect fundamental rights.

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<sup>56</sup> Manab (n 51).