
THE CONSTITUTIONALIZATION OF PERSONA IN INDIA: PERSONALITY RIGHTS, PUBLICITY AND DIGITAL IDENTITY IN THE AGE OF ARTIFICIAL INTELLIGENCE

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ABSTRACT

The rapid expansion of artificial intelligence, deepfake technologies, voice cloning, and synthetic media has transformed individual identity into a valuable commercial and digital asset, raising complex legal questions regarding the protection of personality rights. This article examines the evolution of personality rights within the Indian legal framework, tracing their constitutional foundations under Article 21 and their development through judicial interpretation. The study analyzes the relationship between privacy, dignity, autonomy, and publicity rights while exploring the fragmented statutory framework comprising constitutional protections, copyright law, trademark law, and common law remedies. Through an examination of landmark decisions including Justice K.S. Puttaswamy v. Union of India, D.M. Entertainment v. Baby Gift House, Titan Industries v. Ramkumar Jewellers, Anil Kapoor v. Simply Life India, and Arijit Singh v. Codible Ventures LLP, the article evaluates the judiciary's response to emerging digital threats. The paper further undertakes a comparative analysis of the legal regimes governing personality rights in the United States, the United Kingdom, and Germany. It argues that the increasing commercialization and technological manipulation of identity necessitate a comprehensive statutory framework capable of balancing individual dignity, commercial interests, and freedom of expression. The study concludes by proposing legal reforms to create a coherent and future-oriented personality rights regime in India capable of addressing the challenges posed by artificial intelligence and the digital economy.

Keywords: Personality Rights, Right of Publicity, Privacy, Article 21, Artificial Intelligence, Deepfakes, Digital Identity, Constitutional Law.

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I. INTRODUCTION

The twenty-first century has witnessed an unprecedented transformation in the manner in which human identity is perceived, represented, and exploited. Traditionally, an individual's identity was understood primarily as a personal attribute connected with dignity, reputation, and social recognition. However, the emergence of digital technologies, social media platforms, artificial intelligence systems, and sophisticated data analytics has fundamentally altered this understanding. In the contemporary digital economy, identity has evolved into a valuable commercial asset capable of generating substantial economic value.² Names, photographs, voices, signatures, gestures, mannerisms, and other distinctive attributes are no longer merely indicators of individuality; they have become commodities capable of commercial exploitation on a global scale. The rapid development of artificial intelligence has accelerated this transformation. Technologies such as deepfakes, voice cloning, generative artificial intelligence, synthetic media, and digital avatars now possess the ability to recreate an individual's likeness with remarkable precision. Unlike traditional forms of identity misuse, these technologies can generate entirely new content using a person's appearance, voice, or behavioural characteristics without their knowledge or consent.³ Consequently, the risks associated with identity exploitation have expanded beyond conventional concerns relating to privacy and reputation. Individuals increasingly face threats involving unauthorized commercial endorsements, fabricated public statements, digital impersonation, misinformation campaigns, and the creation of synthetic representations capable of influencing public perception.⁴

These developments have exposed significant challenges within existing legal frameworks. Traditional legal doctrines were developed in an era when identity could not be replicated, manipulated, or distributed instantaneously across digital networks.⁵ Consequently, many legal systems have struggled to address the complex questions arising from technological innovations. Central among these questions is whether individuals possess a legal right to control the use of their identity and, if so, the extent to which such control should be protected

² Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harvard Law Review 193 (1890).

³ Jennifer E. Rothman, *The Right of Publicity: Privacy Reimagined for a Public World* (Harvard University Press, 2018)

⁴ Mark P. McKenna, *The Right of Publicity and Autonomous Self-Definition*, 67 University of Pittsburgh Law Review 225 (2005).

⁵ Artificial Intelligence Revolution technologies such as deepfakes and synthetic media have raised new concerns regarding identity misuse and digital impersonation; see Daniel J. Solove, *Understanding Privacy* (Harvard University Press, 2008)

against technological and commercial exploitation.⁶ The legal concept that seeks to address these concerns is commonly referred to as personality rights. Personality rights may be broadly defined as the collection of rights that enable an individual to control the commercial and public use of attributes associated with their identity. These rights generally include protection over a person's name, image, likeness, voice, signature, distinctive gestures, and other identifying characteristics. While the precise scope of these rights varies across jurisdictions, their fundamental objective remains the protection of individual autonomy, dignity, and economic interests against unauthorized exploitation.

In many jurisdictions, personality rights have developed through a combination of privacy law, intellectual property law, and statutory protections. Some countries view personality rights primarily as extensions of personal dignity and privacy, while others recognize them as transferable property interests capable of commercial licensing and posthumous inheritance. The diversity of international approaches reflects the complex nature of personality rights, which simultaneously encompass elements of constitutional liberty, personal autonomy, commercial value, and freedom of expression. The Indian legal framework presents a particularly interesting example of this evolution. Unlike several foreign jurisdictions that have enacted specific legislation governing publicity or personality rights, India has developed this doctrine predominantly through constitutional interpretation and judicial innovation. The absence of a dedicated statutory framework has compelled courts to derive protection from existing constitutional guarantees, intellectual property statutes, and common law principles. As a result, Indian personality rights jurisprudence represents a unique synthesis of constitutional values and private law remedies.

The constitutional foundation of personality rights in India is rooted primarily in Article 21⁷ of the Constitution, which guarantees the right to life and personal liberty. Through a series of landmark judgments, the Supreme Court has progressively expanded the scope of Article 21 beyond mere physical existence to encompass human dignity, privacy, autonomy, and individual self-determination.⁸ This constitutional expansion has created the normative basis for recognizing control over one's identity as an aspect of dignified human existence.⁹

⁶ David J. Gunkel, *Deepfakes and the Problem of Synthetic Media*, 34 *Ethics and Information Technology* 1 (2022).

⁷ Constitution of India, art. 21.

⁸ Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

⁹ Maneka Gandhi v. Union of India, (1978) 1 SCC 248.

Simultaneously, the increasing commercialization of celebrity identities has encouraged courts to recognize the economic dimension of personality rights. Modern celebrities invest substantial resources in cultivating their public personas, transforming their identities into commercially valuable assets. Unauthorized exploitation of such identities therefore causes not only dignitary harm but also economic injury. Judicial recognition of this reality has contributed significantly to the emergence of publicity rights within Indian jurisprudence.

The challenges posed by artificial intelligence have further intensified the need for a coherent legal framework. Deepfake technologies can fabricate realistic videos depicting individuals engaging in activities that never occurred. Voice cloning software can reproduce a person's speech patterns with minimal source material. Generative artificial intelligence can create digital replicas capable of simulating human interaction and expression. These technologies blur the distinction between reality and fabrication, raising profound legal and ethical concerns regarding identity, consent, and authenticity. Particularly concerning is the ability of artificial intelligence systems to exploit identity at an unprecedented scale. Whereas traditional misappropriation typically required direct human intervention, contemporary AI systems can automate the generation and dissemination of synthetic content involving thousands of individuals simultaneously. The resulting harm extends beyond individual victims and threatens broader societal interests including trust, democratic discourse, and informational integrity.

The constitutionalization of personality rights therefore represents one of the most significant developments in contemporary Indian jurisprudence. By locating identity protection within the framework of fundamental rights, courts have elevated personality rights beyond purely commercial interests. The doctrine increasingly reflects a recognition that control over one's identity is intimately connected with personal autonomy, human dignity, and individual freedom. Consequently, unauthorized appropriation of identity is no longer viewed solely as a commercial wrong but as a potential violation of constitutional values. This article examines the constitutional foundations, judicial evolution, and contemporary challenges associated with personality rights in India. It traces the development of the doctrine from its roots in privacy and dignity jurisprudence to its present manifestation as a distinct legal right protecting both personal and commercial interests. The study further evaluates the impact of artificial intelligence, deepfakes, and digital identity technologies on existing legal principles while analysing the adequacy of current statutory and judicial responses. Through a comparative

examination of legal developments in the United States, the United Kingdom, and Germany, the article identifies potential models for reform and proposes the establishment of a comprehensive framework capable of addressing the evolving challenges of identity protection in the digital age.

II. CONSTITUTIONAL FOUNDATIONS OF PERSONALITY RIGHTS UNDER ARTICLE 21

The development of personality rights in India cannot be understood without examining the transformative evolution of Article 21 of the Constitution. Unlike many legal systems where personality rights emerged primarily from property law or statutory enactments, Indian jurisprudence has constructed personality rights upon constitutional principles of dignity, liberty, privacy, and autonomy. This constitutional foundation distinguishes the Indian approach and provides the normative basis for protecting identity against unauthorized exploitation. Article 21 provides that no person shall be deprived of life or personal liberty except according to procedure established by law. At the time of the Constitution's adoption, this provision was interpreted relatively narrowly and was primarily viewed as a safeguard against arbitrary executive action. However, judicial interpretation gradually expanded its scope, transforming Article 21 into one of the most dynamic and influential provisions of the Constitution.¹⁰

A significant turning point occurred in the landmark decision of *Maneka Gandhi v. Union of India*.¹¹ The Supreme Court rejected a narrow procedural interpretation of personal liberty and adopted a broader understanding rooted in fairness, reasonableness, and human dignity. The Court emphasized that constitutional rights must be interpreted in a manner consistent with the values of a democratic society. This decision fundamentally altered the trajectory of constitutional jurisprudence by recognizing that the right to life encompasses far more than mere physical survival. Following *Maneka Gandhi*, Article 21 evolved into a repository of substantive rights designed to protect various dimensions of human existence. Judicial decisions progressively recognized rights relating to dignity, education, livelihood, health, environmental protection, and personal autonomy. The underlying rationale of these developments was that meaningful enjoyment of life requires protection of those conditions

¹⁰ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

¹¹ *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248

necessary for the full development of human personality.

The concept of dignity occupies a central position within this constitutional framework. Human dignity recognizes every individual as an autonomous and self-determining person entitled to respect and protection. Identity forms an essential component of this dignitary conception because an individual's name, image, voice, and personal attributes represent manifestations of their unique personality. Unauthorized appropriation of these attributes therefore implicates fundamental concerns regarding personal autonomy and self-determination. The constitutional significance of privacy further strengthened the foundations of personality rights. Although early judicial decisions expressed reservations regarding the existence of a constitutional right to privacy, subsequent jurisprudence gradually acknowledged privacy as an essential aspect of personal liberty. This evolution culminated in the landmark judgment of Justice K.S. Puttaswamy (Retd.) v. Union of India¹², where a nine-judge bench of the Supreme Court unequivocally recognized privacy as a fundamental right protected under Part III of the Constitution.

The Puttaswamy judgment represents the most significant constitutional foundation for contemporary personality rights jurisprudence. The Court observed that privacy protects the inner sphere of individual existence and enables persons to preserve their autonomy, dignity, and identity. Privacy was recognized not merely as freedom from state intrusion but as a condition necessary for the exercise of individual choice and self-expression. By emphasizing autonomy and control over personal information, the Court established principles directly relevant to personality rights. The judgment also introduced an important distinction between negative and positive dimensions of constitutional rights. Privacy operates as a negative right by restricting arbitrary interference by the State. Simultaneously, it functions as a positive right by imposing obligations upon the State to protect individuals against violations by private actors. This dual dimension has profound implications for personality rights because most contemporary instances of identity exploitation arise from actions undertaken by private entities rather than governmental authorities.

The Court further emphasized that constitutional protection extends to the preservation of individual identity and personal choices. Control over personal information, representations, and expressions was recognized as an essential component of human dignity. Consequently,

¹² Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

unauthorized commercial exploitation of identity can no longer be viewed merely as a private dispute; it potentially implicates constitutional values relating to autonomy and self-determination. The constitutionalization of personality rights thus reflects a broader transformation in Indian constitutional jurisprudence. Identity is increasingly recognized as an aspect of personal liberty deserving protection against both governmental and private interference. This constitutional foundation has subsequently influenced the development of judicial doctrines concerning publicity rights, celebrity rights, and digital identity protection, laying the groundwork for the contemporary legal framework governing personality rights in India.

III. EVOLUTION OF PERSONALITY RIGHTS AND THE EMERGENCE OF THE RIGHT OF PUBLICITY IN INDIA

The concept of personality rights in India did not emerge through a single constitutional provision or legislative enactment. Rather, it evolved gradually through judicial interpretation, drawing upon principles of privacy, dignity, reputation, intellectual property, and unfair competition. Unlike several jurisdictions that expressly recognize publicity rights through statutory frameworks, Indian courts have developed the doctrine incrementally while attempting to respond to changing social, commercial, and technological realities. Historically, Indian law did not recognize personality rights as an independent legal category. Protection against misuse of identity was generally sought through traditional legal remedies such as defamation, breach of confidence, copyright infringement, trademark protection, and the common law tort of passing off. These remedies were often inadequate because they addressed only specific aspects of identity-related harm rather than recognizing identity itself as a legally protected interest.¹³

The growing commercialization of sports, cinema, entertainment, and mass media significantly altered this position. With the expansion of advertising industries and celebrity culture, public personalities increasingly became valuable commercial assets. Celebrity names, photographs, signatures, voices, and endorsements acquired substantial economic value. Businesses frequently sought to capitalize on this value by associating products and services with popular public figures. Consequently, disputes concerning unauthorized commercial exploitation of identity became more frequent, compelling courts to formulate legal principles capable of

¹³ D.M. Entertainment Pvt. Ltd. v. Baby Gift House, 2010 SCC OnLine Del 479.

addressing these emerging challenges.¹⁴ The theoretical basis of personality rights is often traced to the distinction between privacy rights and publicity rights. Privacy rights primarily protect individuals from unwanted intrusion into their personal lives, whereas publicity rights protect the commercial value associated with a person's identity. While privacy seeks to safeguard seclusion and personal autonomy, publicity rights seek to prevent unauthorized economic exploitation of identity. Despite this distinction, the two concepts remain closely interconnected. The ability to control one's image, voice, and personal characteristics reflects both an aspect of privacy and an aspect of economic autonomy. Consequently, Indian courts have generally treated publicity rights as an extension of broader constitutional protections relating to dignity and personal liberty.¹⁵

An important influence on the development of personality rights is the work of American legal scholar Dean William Prosser, who classified privacy-related harms into four distinct categories: intrusion upon seclusion, public disclosure of private facts, false light publicity, and appropriation of name or likeness. The fourth category, namely appropriation of identity for commercial purposes, eventually evolved into what is now known as the right of publicity. Although Indian courts have not formally adopted Prosser's framework, many judicial decisions reflect similar concerns regarding the unauthorized commercial use of identity.¹⁶ In the absence of dedicated legislation, Indian courts have relied upon a combination of constitutional principles and common law doctrines. The tort of passing off has been particularly significant in this regard. Traditionally, passing off protects commercial goodwill by preventing misrepresentations that lead consumers to believe that goods or services originate from, or are associated with, another person. Courts gradually recognized that a celebrity's identity itself generates goodwill capable of legal protection. Unauthorized use of that identity could therefore constitute a form of commercial misrepresentation.

The transition from protecting goodwill to protecting identity is evident in several landmark judicial decisions. One of the earliest and most influential cases in this regard was *D.M. Entertainment Pvt. Ltd. v. Baby Gift House*. The dispute concerned the unauthorized manufacture and sale of dolls closely resembling the famous singer Daler Mehndi. The Delhi High Court observed that celebrities possess a proprietary interest in their identity and that

¹⁴ Justice K. S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

¹⁵ Madow, M. (1993). Private ownership of public image: Popular culture and publicity rights. *California Law Review*, 81(1), 125–240. <https://doi.org/10.2307/3480783>

¹⁶ McCarthy, J. T. (2024). *The rights of publicity and privacy* (2nd ed.). Thomson Reuters.

unauthorized commercial use of their likeness amounts to unjust enrichment by third parties. The Court recognized that a celebrity's persona possesses independent commercial value developed through years of professional effort and public recognition. Permitting others to exploit that value without consent would undermine both economic interests and personal autonomy. The judgment therefore marked a significant step towards recognizing publicity rights as a distinct legal doctrine within Indian jurisprudence. The principles articulated in *D.M. Entertainment* were further strengthened in subsequent decisions. In *Titan Industries Ltd. v. Ramkumar Jewellers*¹⁷, the Delhi High Court considered an advertisement that utilized images resembling prominent public figures without authorization. The Court expressly recognized the right of publicity as the right to control the commercial use of one's identity. Importantly, the Court emphasized that identity extends beyond physical appearance and includes those attributes through which an individual becomes recognizable to the public.

This decision significantly broadened the scope of personality rights. Rather than limiting protection to names or photographs, the Court acknowledged that any distinctive characteristic capable of identifying a person may attract legal protection. Such recognition reflected a growing judicial awareness of the commercial realities surrounding celebrity endorsements and brand associations. Another important development involved the increasing emphasis on identifiability rather than consumer confusion. Traditional passing off actions generally required proof that consumers were likely to believe that a celebrity endorsed a particular product or service. However, modern courts have increasingly recognized that unauthorized exploitation itself constitutes a form of injury. Consequently, liability may arise even where consumers are not actually deceived, provided that the defendant has appropriated the commercial value associated with another person's identity. This evolution reflects a broader conceptual shift in personality rights jurisprudence. The focus is no longer confined to preventing consumer confusion. Instead, courts increasingly recognize an individual's entitlement to control the economic and reputational value generated by their identity. Such an approach aligns more closely with the constitutional principles of autonomy and dignity articulated under Article 21.

¹⁷ *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382.

IV. THE STATUTORY FRAMEWORK GOVERNING PERSONALITY RIGHTS IN INDIA

Although Indian courts have played a central role in developing personality rights jurisprudence, statutory provisions continue to provide important mechanisms for protection. However, these protections remain fragmented across multiple legislative enactments. No single statute comprehensively regulates personality rights, resulting in a patchwork framework that often requires courts to reconcile overlapping legal principles. One of the most relevant statutes is the Copyright Act, 1957¹⁸. While copyright law primarily protects creative works rather than personal identity, certain provisions offer indirect protection to performers and public personalities. Section 2(qq) recognizes actors, singers, musicians, dancers, and other artists as performers. This recognition forms the basis for a series of performer rights designed to safeguard creative performances from unauthorized exploitation.

Section 38 grants performers exclusive rights over their performances, enabling them to prevent unauthorized recording, broadcasting, and reproduction. These rights acknowledge the commercial value associated with artistic expression and provide a degree of control over the dissemination of performances.¹⁹ While not equivalent to personality rights, these provisions contribute to protecting aspects of an individual's public persona. Further protection is provided through Sections 38A and 38B, which establish performers' economic and moral rights.²⁰ These provisions allow performers to restrain unauthorized modifications, distortions, or alterations that may damage their reputation. Similarly, Section 57 safeguards the moral rights of authors by enabling them to prevent acts that prejudice their honour or reputation. These provisions reflect a broader concern with preserving the integrity of personal and creative identity.²¹

Trademark law also plays an important role in personality rights protection. Under the Trademarks Act, 1999²², names, signatures, slogans, and other distinctive identifiers may acquire trademark significance if they become associated with particular goods or services. Celebrities often register names, logos, and catchphrases as trademarks to prevent unauthorized commercial exploitation. However, trademark law provides only partial protection because it

¹⁸ Copyright Act, No. 14 of 1957, Acts of Parliament, 1957 (India).

¹⁹ Jain, A. (2021). Personality rights and emerging technologies: Challenges for Indian intellectual property law. *Journal of Intellectual Property Rights*, 26(4), 235–244.

²⁰ McCarthy, J. T. (2024). *The rights of publicity and privacy* (2nd ed.). Thomson Reuters.

²¹ Reddy, P. N. (2011). The right of publicity in India: An analysis. *Journal of Intellectual Property Rights*, 16(3), 189–198.

²² Trade Marks Act, No. 47 of 1999, Acts of Parliament, 1999 (India).

primarily focuses on source identification and consumer confusion. Many personality rights disputes involve misuse of identity that does not necessarily constitute trademark infringement. Consequently, courts frequently supplement trademark principles with common law remedies.

The tort of passing off remains particularly significant within this framework. Through passing off actions, individuals may restrain unauthorized representations suggesting endorsement, sponsorship, or association. The doctrine protects the commercial goodwill developed through public recognition and prevents third parties from unfairly benefiting from another person's reputation. Defamation law also provides a limited avenue of protection. When unauthorized use of identity damages an individual's reputation or exposes them to public ridicule, civil and criminal remedies may be available. However, defamation addresses reputational harm rather than commercial appropriation. Consequently, it cannot serve as a comprehensive mechanism for personality rights protection. The fragmented nature of this framework creates substantial legal uncertainty. Copyright law protects performances, trademark law protects source identifiers, passing off protects goodwill, and defamation protects reputation. None of these doctrines were originally designed to protect the integrated concept of human identity. As a result, courts are often required to adapt existing legal principles to address contemporary forms of identity exploitation.

The rise of artificial intelligence has exposed the limitations of this fragmented approach. Modern technologies can replicate voices, facial expressions, gestures, and behavioural patterns without directly copying copyrighted works or infringing registered trademarks. Consequently, traditional intellectual property doctrines frequently fail to provide adequate remedies against AI-generated identity misuse. The absence of a dedicated statutory framework therefore remains one of the most significant challenges facing personality rights jurisprudence in India. While judicial innovation has successfully expanded legal protection, reliance upon multiple overlapping doctrines has produced inconsistencies and uncertainty. As technological developments continue to transform the nature of identity and its commercial exploitation, the need for a coherent and comprehensive legislative response becomes increasingly evident.

V. JUDICIAL EXPANSION OF PERSONALITY RIGHTS IN INDIA: FROM COMMERCIAL GOODWILL TO DIGITAL IDENTITY

The development of personality rights in India has largely been driven by judicial innovation. In the absence of comprehensive legislation, courts have assumed the responsibility of defining

the scope, content, and limitations of these rights. What began as a mechanism for protecting celebrity goodwill has gradually evolved into a broader doctrine safeguarding identity, dignity, autonomy, and commercial interests. The judiciary has increasingly recognized that a person's name, image, likeness, voice, and other distinctive characteristics constitute valuable components of identity deserving legal protection against unauthorized exploitation. The transition from conventional publicity disputes to contemporary digital identity concerns reflects the dynamic nature of Indian constitutional jurisprudence. Courts have progressively expanded personality rights to address new technological threats, particularly those arising from artificial intelligence, deepfakes, synthetic media, and voice cloning technologies. This evolution demonstrates the judiciary's willingness to adapt existing legal principles to emerging realities while remaining grounded in constitutional values.²³

The foundation of modern personality rights jurisprudence was firmly established in *D.M. Entertainment Pvt. Ltd. v. Baby Gift House*.²⁴ This case involved the unauthorized manufacture and sale of dolls resembling the popular singer Daler Mehndi. The defendants had attempted to commercially exploit the singer's distinctive appearance and persona without obtaining authorization. The Delhi High Court recognized that celebrities possess a valuable proprietary interest in their identity and that unauthorized commercial exploitation constitutes an actionable legal wrong. The Court observed that a celebrity invests considerable effort, skill, and resources in cultivating public recognition and goodwill.²⁵ Consequently, allowing third parties to capitalize upon that goodwill without permission would amount to unjust enrichment. More importantly, the Court acknowledged that identity possesses an independent commercial value capable of legal protection. This recognition represented a significant departure from traditional legal approaches that focused exclusively upon tangible property or intellectual creations. The judgment laid the groundwork for subsequent judicial recognition of publicity rights by establishing that commercial appropriation of identity is actionable even when no traditional intellectual property right is infringed. The Court thereby moved personality rights beyond the narrow confines of trademark and copyright law, treating identity itself as a legally protected interest.²⁶ A further expansion occurred in *Titan Industries Ltd. v. Ramkumar Jewellers*. The dispute arose when a jewellery business used images resembling prominent

²³ *Amitabh Bachchan v. Rajat Nagi*, CS (Comm) No. 819 of 2022, Delhi High Court.

²⁴ *D.M. Entertainment Pvt. Ltd. v. Baby Gift House*, 2010 SCC OnLine Del 479.

²⁵ *Anil Kapoor v. Simply Life India & Ors.*, 2023 SCC OnLine Del 6914.

²⁶ *Arijit Singh v. Codible Ventures LLP*, Interim Application (L) No. 30136 of 2024, Bombay High Court.

public personalities in promotional advertisements without authorization. The Delhi High Court seized the opportunity to elaborate upon the nature and scope of publicity rights.²⁷

The Court described the right of publicity as the right to control the commercial use of human identity. Significantly, it emphasized that identity extends beyond a person's name or photograph. Any distinctive attribute through which an individual becomes identifiable to the public may attract legal protection. This includes physical appearance, voice, gestures, mannerisms, signatures, catchphrases, and other unique characteristics. The Titan Industries decision reinforced the principle that unauthorized commercial use of identity constitutes a legal wrong irrespective of whether direct economic loss can be established.²⁸ The emphasis shifted towards protecting individual control over the commercial exploitation of personal attributes. This approach reflected a deeper understanding of identity as both a dignitary interest and an economic asset. These early decisions established the basic framework of Indian publicity rights jurisprudence. However, the rapid advancement of digital technologies soon presented challenges far beyond those contemplated in traditional commercial disputes. Social media platforms, digital content creation, artificial intelligence systems, and online marketplaces enabled identity exploitation on an unprecedented scale. Consequently, courts were required to address increasingly sophisticated forms of unauthorized appropriation.

One of the most significant recent developments occurred in *Amitabh Bachchan v. Rajat Nagi*. The dispute involved the unauthorized use of the actor's name, image, voice, likeness, and distinctive personality traits in fraudulent schemes and commercial activities. The Delhi High Court recognized that the plaintiff's identity possessed immense commercial value and that misuse of such identity could cause substantial reputational and economic harm. The Court granted broad interim protection covering multiple aspects of the actor's persona. Importantly, the judgment reflected an understanding that personality rights extend beyond traditional advertising disputes. Digital impersonation, online scams, and deceptive commercial practices increasingly rely upon unauthorized use of public identities. The Court therefore adopted a proactive approach aimed at preventing misuse before irreparable harm could occur. The most comprehensive judicial examination of personality rights in the context of artificial intelligence

²⁷ Jain, A. (2024). Artificial intelligence, deepfakes and personality rights: Emerging challenges for Indian law. *Journal of Intellectual Property Rights*, 29(1), 15–28.

²⁸ Citron, D. K. (2019). Deepfakes and the new disinformation war: The coming age of post-truth geopolitics. *Foreign Affairs*, 98(1), 147–155.

emerged in *Anil Kapoor v. Simply Life India & Ors.*²⁹ This case involved the unauthorized use of the actor's name, image, voice, likeness, gestures, signature style, and the famous catchphrase "Jhakaas" across various digital platforms. The defendants had created merchandise, GIFs, digital content, and AI-generated images incorporating elements of the actor's persona without authorization.

The Delhi High Court recognized that technological advancements have fundamentally altered the nature of identity exploitation. Artificial intelligence tools now enable individuals to manipulate facial features, generate realistic digital representations, and create synthetic content capable of misleading the public. Such technologies significantly increase the risk of unauthorized commercialization and reputational harm. Justice Prathiba M. Singh emphasized that personality rights must evolve to address contemporary technological realities. The Court granted an extensive interim injunction protecting numerous facets of the actor's identity. Importantly, the judgment clarified that personality rights are not limited to physical appearance alone. Distinctive expressions, dialogue delivery, gestures, and catchphrases may also constitute protectable elements of identity where they have become strongly associated with a particular individual.

At the same time, the Court acknowledged the importance of maintaining constitutional balance. It observed that genuine satire, parody, criticism, artistic expression, and news reporting remain protected under Article 19(1)(a) of the Constitution. Personality rights cannot be interpreted so broadly as to suppress legitimate forms of expression. The Court therefore attempted to distinguish between protected expressive activities and unauthorized commercial exploitation. This distinction is particularly significant because personality rights frequently intersect with freedom of speech. Overly expansive protection risks creating monopolies over cultural symbols, public discourse, and creative expression. Consequently, courts must ensure that identity protection does not undermine constitutional commitments to free expression and democratic debate.

The growing influence of artificial intelligence became even more apparent in *Arijit Singh v. Codible Ventures LLP.*³⁰ This case represented one of the first major Indian judicial decisions directly confronting AI-driven voice cloning technology. The defendants operated platforms

²⁹ *Anil Kapoor v. Simply Life India & Ors.*, 2023 SCC OnLine Del 6914.

³⁰ *Arijit Singh v. Codible Ventures LLP*, Interim Application (L) No. 30136 of 2024, Bombay High Court.

enabling users to transform audio recordings into synthetic reproductions of the singer's voice through Retrieval-Based Voice Conversion technology. The underlying AI models had reportedly been trained using hundreds of songs associated with the singer's repertoire. As a result, users could generate entirely new recordings that appeared to have been performed by the artist despite lacking any actual participation or consent. This technological capability raised unprecedented legal questions regarding identity, consent, creativity, and ownership.

The Bombay High Court recognized that a person's voice constitutes one of the most distinctive aspects of individual identity. Just as a face enables visual recognition, a voice enables auditory identification. Unauthorized cloning of a person's voice therefore represents a direct appropriation of their identity. The Court granted interim protection and held that providing AI tools capable of replicating a celebrity's voice without consent violates personality rights. Justice R.I. Chagla emphasized that voice cloning undermines an individual's ability to control the commercial and reputational use of their persona. The judgment also highlighted the interaction between personality rights and performers' moral rights under the Copyright Act, 1957. The significance of Arijit Singh extends far beyond the entertainment industry. Voice cloning technology is increasingly accessible and can be employed for purposes ranging from entertainment and advertising to fraud and political misinformation. The judgment therefore represents an important attempt to adapt traditional legal principles to emerging technological threats.

Another notable development is the extension of personality rights beyond conventional celebrities. Courts have increasingly recognized that personality rights are not exclusive privileges reserved for actors, singers, or sports personalities. Any individual whose identity is exploited without consent may potentially invoke legal protection. This broader understanding was reflected in cases involving public figures, spiritual leaders, and non-entertainment personalities. The misuse of deepfake technologies to create false endorsements, fabricated statements, and deceptive promotional content demonstrates that identity exploitation affects a diverse range of individuals. Consequently, personality rights have gradually evolved from a celebrity-centric doctrine into a broader mechanism for protecting personal autonomy and identity. The emergence of deepfake technology has significantly intensified these concerns. Deepfakes utilize machine learning algorithms to generate highly realistic audio and visual content depicting individuals saying or doing things that never occurred. Unlike traditional forms of manipulation, modern deepfakes are often indistinguishable from authentic

recordings. This capability poses serious threats to reputation, privacy, commercial interests, and democratic institutions. The dangers associated with deepfakes extend beyond economic exploitation. Fabricated videos can damage reputations, influence public opinion, manipulate elections, and facilitate fraud. Individuals may find themselves associated with statements, products, political positions, or activities they never endorsed. The resulting harm is often amplified by the speed and scale of digital dissemination.

Artificial intelligence has also created challenges relating to consent and ownership. Many generative systems are trained using vast quantities of publicly available data, including photographs, videos, voice recordings, and social media content. Individuals frequently have little knowledge regarding how their data is collected, processed, or utilized. Consequently, AI systems may generate synthetic representations without obtaining meaningful consent from affected individuals. These technological developments reveal the limitations of existing legal frameworks. Traditional doctrines such as copyright infringement, trademark protection, and passing off were developed in an era when identity replication required direct copying or misrepresentation. Modern AI systems often generate entirely new content while nevertheless appropriating the distinctive characteristics that make an individual recognizable. This creates substantial uncertainty regarding the applicability of existing legal rules.³¹

Indian courts have attempted to address these challenges through innovative judicial interpretation. However, the reliance upon case-by-case adjudication has resulted in an evolving and sometimes inconsistent body of jurisprudence. While recent decisions demonstrate a growing willingness to protect identity against technological misuse, significant questions remain unresolved regarding the precise scope of protection, posthumous rights, intermediary liability, and the relationship between personality rights and freedom of expression. Nevertheless, the judicial expansion of personality rights represents one of the most important developments in contemporary Indian law. By recognizing identity as a legally protected interest grounded in dignity, autonomy, and commercial value, courts have laid the foundation for a more comprehensive legal response to the challenges posed by artificial intelligence and the digital economy.

³¹ McCarthy, J. T. (2024). *The rights of publicity and privacy* (2nd ed.). Thomson Reuters.

VI. CONSTITUTIONAL BALANCING: PERSONALITY RIGHTS, FREEDOM OF SPEECH AND THE RISK OF OVER-PROTECTION

While the recognition of personality rights serves the important objectives of protecting dignity, autonomy, and commercial interests, their expansion also raises significant constitutional concerns. Every legal system must reconcile the protection of individual identity with the equally important commitment to freedom of speech and expression. In India, this balance assumes particular significance because both interests derive constitutional protection. Personality rights emerge from Article 21 and the broader principles of dignity and privacy, whereas freedom of speech is guaranteed under Article 19(1)(a). Consequently, courts are frequently required to determine where legitimate identity protection ends and where constitutionally protected expression begins.

The challenge arises because identity frequently becomes the subject matter of public discourse, artistic expression, political commentary, journalism, and historical documentation. Public figures, celebrities, politicians, social activists, and cultural icons often occupy an important position within public consciousness. Their actions, statements, achievements, and controversies naturally attract public attention and discussion. If personality rights are interpreted too broadly, they risk creating private monopolies over information and expression, thereby undermining democratic values and public discourse. Indian constitutional jurisprudence has consistently recognized that no right is absolute. The Supreme Court has repeatedly emphasized that competing constitutional interests must be harmonized through careful balancing. Accordingly, the protection of personality rights cannot justify unreasonable restrictions upon speech, criticism, artistic creativity, satire, or public debate. One of the most important judicial principles in this regard is the public record doctrine articulated in *R. Rajagopal v. State of Tamil Nadu*.³² Commonly known as the *Auto Shankar* case, the judgment established that matters forming part of the public record may generally be published without obtaining consent from the concerned individual. The Court held that the right to privacy cannot be invoked to suppress information already available within the public domain.

The significance of this principle extends beyond conventional privacy disputes. Personality rights cannot be employed to prevent legitimate discussion of publicly known facts. Once information enters the public domain through lawful means, constitutional protection of free

³² *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

speech assumes greater importance. This principle has subsequently influenced judicial approaches to biographical works, documentaries, historical accounts, and journalistic reporting involving public personalities. The importance of the public record doctrine became evident in *Krishna Kishore Singh v. Sarla A. Saraogi*.³³ The dispute arose following the death of actor Sushant Singh Rajput and concerned the release of a film allegedly based upon events associated with his life. The plaintiff argued that the film constituted an unauthorized exploitation of the deceased actor's personality and reputation. The Delhi High Court rejected these arguments, emphasizing that the disputed work relied substantially upon information already available in the public domain. The Court observed that constitutional protection of artistic and creative expression prevents courts from restraining works merely because they depict or draw inspiration from publicly known events. The decision reaffirmed the principle that personality rights cannot be used to suppress legitimate creative expression grounded in publicly available information.

Another important aspect of constitutional balancing involves distinguishing between commercial exploitation and protected expression. Indian courts have generally demonstrated greater willingness to intervene where identity is used primarily for commercial gain. Unauthorized advertisements, endorsements, merchandise, and promotional campaigns directly appropriate the economic value associated with an individual's identity and therefore attract stronger legal scrutiny. By contrast, activities such as journalism, political commentary, criticism, parody, satire, and artistic expression occupy a privileged constitutional position. These forms of expression contribute to democratic discourse and cultural development. Consequently, courts have generally been reluctant to extend personality rights in ways that could discourage public discussion or creative engagement.

This distinction was clearly reflected in *Anil Kapoor v. Simply Life India & Ors.*³⁴ While granting extensive protection against unauthorized commercial exploitation, the Delhi High Court simultaneously emphasized that genuine satire, parody, criticism, and news reporting remain constitutionally protected. The Court recognized that personality rights must not become instruments for suppressing legitimate public expression. Such an approach reflects a nuanced understanding of the relationship between identity protection and free speech. The danger of over-protection becomes particularly apparent when courts are asked to protect

³³ *Krishna Kishore Singh v. Sarla A. Saraogi*, 2021 SCC OnLine Del 3724.

³⁴ *Anil Kapoor v. Simply Life India & Ors.*, 2023

common phrases, gestures, styles, or cultural expressions. Public personalities often become associated with particular catchphrases, expressions, mannerisms, or appearances. However, granting exclusive legal control over such characteristics may have unintended consequences for artistic freedom and cultural participation.

For example, if courts were to recognize broad monopolies over generic expressions, common gestures, or widely used phrases, creators may hesitate to engage in parody, imitation, commentary, or artistic representation due to fear of litigation. Such outcomes would undermine the constitutional commitment to free expression and restrict the public domain. Consequently, courts must carefully distinguish between genuinely distinctive elements of identity and cultural expressions that should remain freely available for public use.

The balancing exercise becomes even more complex in the digital age. Social media platforms have transformed ordinary users into content creators capable of producing memes, parody videos, commentary, and transformative works involving public personalities. Many such creations serve expressive rather than commercial purposes. Excessive enforcement of personality rights in these contexts risks chilling online expression and discouraging public participation in digital discourse. The constitutional challenge therefore lies in preserving an equilibrium between individual control over identity and society's interest in maintaining open channels of communication, criticism, creativity, and democratic engagement. Indian courts have increasingly acknowledged this tension and have attempted to develop principles that prevent both identity exploitation and excessive restrictions upon speech.

VII. COMPARATIVE PERSPECTIVES: UNITED STATES, UNITED KINGDOM AND GERMANY

A comparative examination of foreign legal systems provides valuable insights into the strengths and weaknesses of India's evolving personality rights framework. Different jurisdictions have adopted distinct approaches depending upon their constitutional traditions, legal cultures, and policy priorities. The experiences of the United States, the United Kingdom, and Germany are particularly instructive because they represent three fundamentally different models of identity protection. The United States follows a predominantly property-oriented approach. The American right of publicity emerged from privacy law but gradually evolved into an independent proprietary interest. Under this framework, an individual's identity is treated as a valuable commercial asset capable of licensing, assignment, and inheritance.

Unlike India, there is no comprehensive federal statute governing publicity rights. Instead, individual states regulate the subject through a combination of legislation and common law principles. States such as California, New York, and Indiana provide extensive statutory protection for names, images, voices, signatures, and other identifying characteristics. A notable feature of the American system is the recognition of posthumous publicity rights. In several states, personality rights survive death and may be inherited by the deceased individual's heirs. Depending upon the jurisdiction, these protections may continue for periods ranging from fifty to one hundred years after death. This approach reflects the view that identity possesses enduring commercial value similar to other forms of property.

At the same time, American courts have developed sophisticated mechanisms for balancing publicity rights against First Amendment protections. The Transformative Use Test, developed in *Comedy III Productions, Inc. v. Gary Saderup, Inc.*³⁵, examines whether a work merely exploits a celebrity's likeness or instead adds significant creative expression. If the work substantially transforms the original identity, constitutional protection of expression generally prevails.

Similarly, the Rogers Test formulated in *Rogers v. Grimaldi*³⁶ protects expressive works provided that the use of a person's identity possesses artistic relevance and does not explicitly mislead consumers regarding endorsement or sponsorship. These doctrines attempt to preserve robust protection for artistic and expressive activities while preventing unauthorized commercial appropriation. The United Kingdom adopts a markedly different approach. English law does not recognize an independent right of publicity or image right. Instead, claimants must rely upon a collection of related doctrines including passing off, breach of confidence, trademark infringement, and misuse of private information.

The passing off doctrine has played a particularly important role in celebrity identity disputes. Cases such as *Irvine v. Talksport Ltd.* and *Fenty v. Arcadia Group Brands Ltd.*³⁷ demonstrate that unauthorized representations suggesting endorsement may be actionable where they damage commercial goodwill. However, English law generally requires proof of misrepresentation and resulting harm, making protection narrower than in many American jurisdictions. The tort of misuse of private information represents another significant

³⁵ *Comedy III Productions, Inc. v. Gary Saderup, Inc.*, 25 P.3d 797 (Cal. 2001).

³⁶ *Rogers v. Grimaldi*, 875 F.2d 994 (2d Cir. 1989).

³⁷ *Irvine v. Talksport Ltd.* [2002] EWHC 367 (Ch).

mechanism. Developed through decisions such as *Campbell v. MGN Ltd.*³⁸, this doctrine protects individuals against unjustified intrusions into private life. Courts apply a balancing test that weighs privacy interests against freedom of expression. This approach reflects the influence of the European Convention on Human Rights, particularly the relationship between privacy rights under Article 8 and freedom of expression under Article 10.

Germany offers perhaps the most comprehensive and theoretically sophisticated model. German law recognizes a General Right of Personality derived from constitutional guarantees of human dignity and free development of personality. Unlike the American model, which emphasizes commercial interests, or the British model, which relies upon fragmented common law doctrines, the German framework integrates both dignitary and economic dimensions of identity protection. The German approach treats personality rights as fundamental rights grounded in human dignity. Consequently, protection extends beyond commercial exploitation to encompass broader concerns relating to personal autonomy, self-development, and individual identity. This constitutional foundation bears certain similarities to the Indian emphasis upon dignity under Article 21.

A particularly notable feature of German law is its recognition of posthumous personality rights. The landmark *Marlene Dietrich* decision acknowledged that the commercial aspects of personality may survive death and pass to heirs. This approach reflects the understanding that identity possesses enduring economic value and that unauthorized exploitation after death may undermine both dignitary and commercial interests. German law also incorporates important safeguards for freedom of expression. Public figures may be depicted without consent where there exists a genuine public interest in dissemination of information. However, this exception generally does not extend to purely commercial exploitation. The result is a carefully balanced framework that protects both individual dignity and democratic communication.

The comparative analysis reveals several important lessons for India. The American experience demonstrates the benefits of statutory clarity and posthumous protection. The British model highlights the importance of balancing identity interests against freedom of expression. The German framework illustrates how personality rights can be integrated within constitutional principles of dignity and autonomy. India currently occupies an intermediate position between these approaches. Its jurisprudence increasingly recognizes both dignitary and commercial

³⁸ *Campbell v. MGN Ltd.* [2004] UKHL 22.

aspects of identity, yet it lacks the legislative certainty present in many foreign jurisdictions. The continuing reliance upon judicial innovation underscores the need for a more coherent and comprehensive framework capable of addressing contemporary technological challenges while preserving constitutional freedoms.

VIII. POSTHUMOUS PERSONALITY RIGHTS, DIGITAL RESURRECTION AND THE CHALLENGES OF ARTIFICIAL INTELLIGENCE

One of the most complex questions confronting contemporary personality rights jurisprudence concerns the survival of identity rights after death. Traditionally, legal systems have viewed rights such as privacy and personal autonomy as inherently individual in nature. Since these rights are closely linked to the existence of the individual, they have generally been considered incapable of surviving death. However, technological advancements and the increasing commercialization of identity have challenged this traditional understanding. The emergence of artificial intelligence has created entirely new possibilities for exploiting the identities of deceased individuals. Advanced machine learning systems can analyze photographs, videos, audio recordings, social media content, interviews, and personal communications to generate highly realistic digital recreations. These technologies can reproduce a deceased person's voice, facial expressions, behavioural patterns, and conversational style with remarkable accuracy. As a result, identity has acquired an afterlife that extends beyond biological existence.³⁹

This phenomenon, commonly described as digital resurrection, has created a rapidly expanding commercial market. Artificial intelligence systems are increasingly capable of generating virtual performances, synthetic endorsements, interactive avatars, and digital replicas of deceased individuals. These technologies have significant commercial applications in entertainment, advertising, education, and historical preservation. At the same time, they raise profound legal and ethical concerns regarding consent, dignity, authenticity, and ownership. The Indian legal position on posthumous personality rights remains uncertain and largely underdeveloped. The most significant judicial pronouncement on the issue emerged in *Krishna Kishore Singh v. Sarla A. Saraogi*.⁴⁰ The dispute arose following the death of actor Sushant

³⁹ Citron, D. K. (2019). Deepfakes and the new disinformation war: The coming age of post-truth geopolitics. *Foreign Affairs*, 98(1), 147–155.

⁴⁰ *Krishna Kishore Singh v. Sarla A. Saraogi*, 2021 SCC OnLine Del 3724.

Singh Rajput and concerned an attempt to restrain the release of a film allegedly based upon events connected with his life.

The Delhi High Court rejected the claim and observed that privacy rights, publicity rights, and personality rights are personal rights that ordinarily extinguish upon death. The Court emphasized that such rights cannot generally be asserted by third parties in the absence of specific legal authorization. Furthermore, because the disputed work relied primarily upon information already available in the public domain, it was entitled to protection as a form of creative expression.⁴¹ While the judgment is consistent with traditional understandings of privacy and personal autonomy, it reveals significant limitations when examined in the context of artificial intelligence. The decision effectively creates a legal vacuum regarding posthumous identity exploitation. If personality rights cease immediately upon death, there may be no effective mechanism to prevent unauthorized digital recreations, synthetic endorsements, or commercial exploitation of a deceased person's identity.

This concern becomes particularly significant when viewed against contemporary technological realities. Artificial intelligence systems can create realistic virtual performances involving deceased actors, generate synthetic speeches attributed to historical figures, or produce commercial advertisements featuring digital replicas of individuals who never consented to such uses. The absence of posthumous protection enables third parties to commercially exploit these identities without meaningful legal constraints. The problem is further complicated by the inadequacy of existing remedies. Family members may occasionally rely upon defamation law where digital recreations damage the reputation of the deceased or cause distress to surviving relatives. However, defamation is fundamentally reactive in nature and requires proof of reputational injury. It does not provide a comprehensive mechanism for controlling commercial exploitation or unauthorized identity appropriation.⁴²

This situation creates a striking legal inconsistency. Tangible property, intellectual property rights, copyrights, trademarks, patents, and various economic interests routinely pass to heirs following death. Yet the very attributes that constitute a person's identity their voice, likeness, image, and public persona may receive no comparable protection despite possessing substantial

⁴¹ Madow, M. (1993). Private ownership of public image: Popular culture and publicity rights. *California Law Review*, 81(1), 125–240. <https://doi.org/10.2307/3480783>

⁴² Markesinis, B., & Unberath, H. (2002). *The German law of torts: A comparative treatise* (4th ed.). Hart Publishing.

commercial value. As artificial intelligence increasingly transforms identity into a commercially exploitable asset, this inconsistency becomes progressively more difficult to justify.⁴³

Comparative legal developments offer alternative approaches. The United States recognizes posthumous publicity rights in several states, permitting heirs to control commercial exploitation for specified periods following death. Germany similarly acknowledges the continuing commercial value of identity and allows certain personality interests to survive death. These models reflect an understanding that identity may possess enduring economic significance that justifies legal protection beyond the lifetime of the individual. The debate surrounding posthumous personality rights therefore extends beyond commercial considerations. It also implicates broader concerns relating to dignity and memory. Unauthorized digital resurrection may distort an individual's legacy, attribute views they never expressed, or associate them with causes and products they would never have endorsed. Such practices potentially undermine both personal dignity and historical authenticity.

IX. LEGISLATIVE GAPS IN INDIA'S EXISTING LEGAL FRAMEWORK

Despite the substantial progress achieved through judicial interpretation, India's current legal framework remains fragmented and ill-equipped to address many of the challenges posed by artificial intelligence and digital identity exploitation. Existing statutory mechanisms were developed in a technological environment fundamentally different from that of the contemporary digital economy. Consequently, significant regulatory gaps continue to exist. One major limitation arises from Section 79 of the Information Technology Act, 2000.⁴⁴ This provision grants intermediaries safe harbour protection against liability for third-party content hosted on their platforms, provided that they comply with applicable due diligence requirements. Although the provision serves important objectives relating to innovation and digital communication, its operation presents difficulties in the context of deepfakes and synthetic media. The existing framework is largely reactive. Intermediaries are generally required to act only after receiving actual knowledge of unlawful content through court orders, governmental directions, or formal complaints. By the time such procedures are completed, harmful content may already have been viewed, shared, downloaded, and replicated across

⁴³ Marlene Dietrich Case, BGHZ 143, 214 (Federal Court of Justice of Germany, 1999).

⁴⁴ Copyright Act, No. 14 of 1957, Acts of Parliament, 1957 (India).

multiple platforms. Deepfakes and AI-generated content often spread rapidly, causing irreversible reputational and economic harm long before formal legal remedies become effective.⁴⁵

A second limitation concerns the inadequacy of intellectual property laws in addressing modern identity-related harms. Copyright law protects original creative expressions and recorded performances, but it does not effectively regulate synthetic content generated through machine learning systems. Artificial intelligence models frequently produce entirely new outputs without directly reproducing existing recordings. Consequently, many AI-generated voice clones and digital recreations fall outside the traditional boundaries of copyright infringement. Similarly, trademark law offers only partial protection. Trademark infringement generally requires proof of commercial use and the likelihood of consumer confusion. Many deepfakes, synthetic videos, and digital impersonations do not involve conventional commercial transactions and therefore escape the reach of trademark-based remedies. Even where commercial use exists, proving confusion may be difficult in rapidly evolving digital environments.

The Digital Personal Data Protection Act, 2023⁴⁶ represents another important component of India's regulatory framework. The legislation seeks to regulate the collection, processing, storage, and use of personal data. However, its primary focus remains data governance rather than personality rights protection. While the Act may address unauthorized collection or processing of personal data, it does not specifically regulate the creation of synthetic identities, digital replicas, deepfakes, or AI-generated representations. The transformation of personal information into realistic digital recreations involves concerns extending beyond conventional data protection. Consequently, many personality rights violations remain outside the statute's immediate scope. The cumulative effect of these limitations is the emergence of a fragmented legal regime in which different aspects of identity are protected through unrelated doctrines. Privacy law safeguards personal information, copyright law protects performances, trademark law protects commercial identifiers, and defamation law protects reputation. However, no unified framework exists to protect personality as an integrated legal interest.

⁴⁵ Franks, M. A., & Wittes, B. (2020). The challenge of synthetic media and deepfakes. *Journal of National Security Law & Policy*, 11(3), 443–458.

⁴⁶ Copyright Act, No. 14 of 1957, Acts of Parliament, 1957 (India).

X. TOWARDS A COMPREHENSIVE PERSONALITY RIGHTS FRAMEWORK: RECOMMENDATIONS AND CONCLUSION

The challenges posed by artificial intelligence, deepfakes, voice cloning, digital resurrection, and synthetic media demonstrate the urgent need for a coherent and future-oriented legal framework governing personality rights in India. Continued reliance upon fragmented statutory provisions and case-by-case judicial intervention is unlikely to provide sufficient protection in an increasingly digital society.

The first reform should involve the formal recognition of personality rights as an independent legal category grounded in Article 21 of the Constitution. Although judicial decisions have already linked personality rights to dignity, privacy, and autonomy, statutory recognition would provide greater clarity and certainty. Such legislation should expressly acknowledge that every individual possesses the right to control the commercial and digital use of attributes associated with their identity, including names, images, voices, likenesses, signatures, behavioural characteristics, and biometric identifiers.

Second, the law should establish explicit consent as the foundational requirement for identity exploitation. Any commercial use, synthetic recreation, digital replication, or AI-generated representation of an individual's persona should require prior authorization. Such an approach would shift the focus from proving consumer confusion or reputational harm towards ensuring meaningful control over personal identity.

Third, India should reconsider its approach to posthumous personality rights. The commercial elements of identity should not necessarily disappear immediately upon death. A limited period of posthumous protection, exercisable by legal heirs or designated representatives, would address the growing risks associated with digital resurrection and unauthorized AI-generated recreations. Such protection would align Indian law with emerging international trends while preserving appropriate safeguards for historical scholarship, journalism, and artistic expression.

Fourth, intermediary regulation requires modernization. Digital platforms should be encouraged to implement proactive technological measures capable of detecting and responding to unauthorized deepfakes, voice clones, and synthetic media. A purely reactive

notice-and-takedown model is increasingly inadequate in an environment where harmful content can achieve viral dissemination within minutes.

Fifth, specialized enforcement mechanisms should be established to ensure rapid remedies. Traditional litigation often proceeds too slowly to address the realities of digital harm. Dedicated administrative bodies or specialized tribunals could provide expedited procedures for evaluating complaints and ordering timely removal of unauthorized synthetic content. Finally, any future legislation must maintain an appropriate balance between personality rights and freedom of expression. Protection of identity should not become a mechanism for suppressing criticism, satire, journalism, political commentary, academic inquiry, or artistic creativity. Constitutional safeguards must therefore remain central to the design and implementation of any regulatory framework.

CONCLUSION

The evolution of personality rights in India reflects the broader transformation of constitutional law in response to changing social and technological realities. Beginning as a doctrine rooted in privacy, dignity, and autonomy under Article 21, personality rights have gradually developed into a significant mechanism for protecting both personal and commercial aspects of identity. Judicial decisions such as *D.M. Entertainment*, *Titan Industries*, *Anil Kapoor*, and *Arijit Singh* demonstrate an increasing willingness to recognize identity as a legally protected interest capable of generating economic value and deserving protection against unauthorized exploitation. At the same time, the emergence of artificial intelligence, deepfakes, voice cloning, synthetic media, and digital resurrection has exposed the limitations of existing legal frameworks. Traditional doctrines developed for an earlier technological era are increasingly unable to address contemporary forms of identity appropriation. The absence of comprehensive legislation has resulted in uncertainty, fragmentation, and inconsistent protection.

The constitutionalization of personality rights therefore represents both an achievement and a challenge. It affirms the principle that control over one's identity is intimately connected with human dignity, privacy, and personal autonomy. However, the realization of these constitutional values requires a legal framework capable of responding effectively to technological innovation while preserving freedom of expression and democratic discourse. As artificial intelligence continues to blur the boundaries between reality and fabrication, the protection of identity will become one of the defining legal questions of the digital age. India

now stands at a critical juncture. By adopting a coherent and balanced personality rights regime, it can ensure that technological progress serves human dignity rather than undermining it, while safeguarding both individual autonomy and constitutional freedom in the evolving digital society.