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# **PERSONALITY RIGHTS UNDER INDIAN LAW: EVOLUTION, PROTECTION AND COMPARATIVE DIMENSIONS**

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## **ABSTRACT**

Personality rights, comprising the right to privacy and the right of publicity, have emerged as an important yet unsettled area within Indian law, lying at the intersection of individual dignity and commercial interests. This paper examines the conceptual basis, evolution, and present legal position of these rights in India, with particular attention to the role of judicial interpretation in shaping their scope in the absence of a dedicated statutory framework. It contends that while courts have progressively recognised elements of personality rights, especially through the expansion of Article 21 and the use of intellectual property and common law principles, the resulting framework remains fragmented and lacks doctrinal clarity.

The paper traces the development of personality rights from their philosophical foundations to their contemporary significance in a digital and media driven environment. It analyses the dual nature of these rights, highlighting the distinction between the protection of personal autonomy and dignity on the one hand, and the commercial value of identity on the other. The study further evaluates the Indian legal position, demonstrating how reliance on diverse legal mechanisms such as constitutional protections, trademark and copyright law, and the doctrine of passing off has led to a piecemeal approach that does not fully address emerging challenges.

A comparative analysis of the United States and the European Union provides useful insights into alternative models of protection. While the United States treats identity as a commercially exploitable interest through the right of publicity, European jurisdictions emphasise dignity, privacy, and data protection. Drawing from these approaches, the paper identifies key gaps in the Indian framework, particularly in relation to digital misuse, artificial intelligence, and the absence of clarity regarding the scope of protection.

The paper concludes by underscoring the need for a more coherent and

structured legal approach that can effectively respond to contemporary challenges while maintaining a balance between individual rights and competing societal interests.

**Keywords:** Personality Rights, Right to Privacy, Right to Publicity, Intellectual Property, Commercial Exploitation

## 1. Introduction

Personality rights denote the legal recognition of an individual's authority to control the use of attributes that constitute their identity, including name, image, voice, likeness, and other distinctive features of personal expression. These rights protect the persona, which represents the unique manifestation of an individual's identity possessing both moral and commercial value. The primary objective of personality rights is to safeguard human dignity, privacy, and autonomy, while also acknowledging the economic significance attached to an individual's identity, particularly in the case of celebrities and public figures. Thus, these rights operate at the intersection of personal liberty and proprietary interests.<sup>1</sup>

Personality rights broadly encompass two interrelated dimensions: the right to privacy and the right of publicity. The right to privacy protects individuals against unwarranted intrusion into their personal lives, whereas the right of publicity prevents unauthorized commercial exploitation of one's persona. Jurisdictions differ in their conceptualization of these rights. In the United States, the commercial aspect is recognized distinctly as the "right of publicity," while European jurisdictions often treat personality rights as a unified construct.<sup>2</sup> In India, the terms "personality rights" and "publicity rights" are frequently used interchangeably, though the legal framework lacks clarity and uniformity.

Historically, personality rights evolved from the notion of privacy, particularly the "right to be left alone," and gradually expanded to include the commercial value of identity. Philosophically, these rights find support in natural rights theory and the works of Immanuel Kant and Georg Wilhelm Friedrich Hegel, who emphasized the intrinsic link between personality and property.<sup>3</sup> This perspective reinforces the idea that the protection of one's identity is essential for self-expression and human development, thereby justifying recognition

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<sup>1</sup> J. Thomas McCarthy, *The Rights of Publicity and Privacy* § 1:3 (2d ed. 2023).

<sup>2</sup> Jennifer E. Rothman, *The Right of Publicity: Privacy Reimagined for a Public World* 3–5 (2018).

<sup>3</sup> Immanuel Kant, *The Metaphysics of Morals* 49–50 (Mary Gregor trans., Cambridge Univ. Press 1996) (1797); G.W.F. Hegel, *Philosophy of Right* 73–75 (T.M. Knox trans., Oxford Univ. Press 1952) (1821).

of such rights as inherent to individuals.

In the contemporary context, personality has emerged as a valuable commercial asset. The increasing reliance on advertising, branding, and celebrity endorsements has significantly enhanced the economic value of identity attributes. Businesses often associate their products with well-known personalities to influence consumer perception and generate financial gain. However, this practice has also led to a rise in unauthorized use of identity for commercial purposes, thereby necessitating effective legal protection against such exploitation.

The Indian legal position on personality rights remains evolving and fragmented. Although there is no explicit statutory or constitutional recognition of personality rights, judicial interpretation has played a crucial role in their development. The landmark decision in Justice K.S. Puttaswamy (Retd.) v. Union of India<sup>4</sup> recognized the right to privacy as a fundamental right under Article 21, thereby providing an implicit basis for the protection of personality rights. Indian courts have also extended limited protection through intellectual property laws, such as trademark protection for names and signatures, and copyright protection for performances. Nevertheless, these measures remain insufficient to comprehensively address all facets of personality rights, resulting in notable legal gaps.

In contrast, jurisdictions such as the United States and parts of Europe have developed more structured approaches, including statutory provisions and clearer judicial doctrines. The absence of a dedicated legal regime in India has led to inconsistencies in judicial outcomes, particularly in cases involving unauthorized commercial use of celebrity identity. For instance, disputes such as Anil Kapoor v. Simply Life India and Ors<sup>5</sup> highlight the growing need to protect attributes like voice, likeness, and mannerisms in the digital age.

The significance of personality rights has been further amplified by technological advancements, especially the rise of social media, digital platforms, and artificial intelligence. These developments have enabled the rapid creation and dissemination of content, increasing the risk of misuse of identity through practices such as deepfakes and digital manipulation. Such technological challenges not only threaten economic interests but also undermine personal dignity and reputation. Additionally, conflicts between personality rights and

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<sup>4</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1 (India).

<sup>5</sup> Anil Kapoor v. Simply Life India & Ors., CS(COMM) 652/2023 (Delhi High Court 2023).

competing interests such as freedom of expression continue to shape legal discourse.<sup>6</sup>

## 2. Evolution of Personality Rights

The evolution of personality rights reflects a gradual transformation in legal thought from a collectivist perception of identity to the recognition of individual autonomy and proprietary interests in one's persona. In ancient societies, personal identity was not regarded as an independent legal right. Civilizations such as Greece and Rome were structured on collectivist foundations, where an individual's identity was derived from their role and status within the community, and individual interests were subordinate to the larger societal or state framework. Consequently, the notion of legal protection over one's identity did not emerge during this period.<sup>7</sup>

A significant shift occurred during the Renaissance period in Europe, which emphasized humanism and individualism. Philosophers such as John Locke and Jean-Jacques Rousseau advanced the theory of natural rights, recognizing inherent entitlements to life, liberty, and property. Among these, Locke's labour theory laid an important conceptual foundation for personality rights. It posits that individuals have a proprietary interest in the fruits of their labour. Extending this principle, a person's reputation, fame, and public image may be understood as products of their effort, skill, and time, thereby justifying their right to control and commercially exploit such attributes.<sup>8</sup> This philosophical development contributed to the recognition of personality as a form of property, particularly relevant within the framework of intellectual property and publicity rights.

The twentieth century marked a critical phase in the evolution of personality rights, largely due to the emergence of mass media. The proliferation of newspapers, radio, and television enabled the widespread dissemination of personal information and images, creating new challenges related to unauthorized use of identity. The increasing commercialization of personal likeness, especially in advertising and marketing, highlighted the necessity for legal protection against exploitation of identity without consent.<sup>9</sup>

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<sup>6</sup> Daniel J. Solove, *A Taxonomy of Privacy*, 154 U. Pa. L. Rev. 477, 489–90 (2006).

<sup>7</sup> P.S. Atiyah & Robert S. Summers, *Form and Substance in Anglo-American Law* 92–94 (1987).

<sup>8</sup> John Locke, *Second Treatise of Government* §§ 27–30 (C.B. Macpherson ed., Hackett Publ'g Co. 1980) (1690); William M. Landes & Richard A. Posner, *The Economic Structure of Intellectual Property Law* 161–63 (2003).

<sup>9</sup> J. Thomas McCarthy, *The Rights of Publicity and Privacy* § 1:7 (2d ed. 2023).

The formal legal recognition of personality rights began in the early twentieth century, particularly in the United States and Europe. In the United States, the development of privacy jurisprudence was significantly influenced by Samuel D. Warren and Louis D. Brandeis through their seminal 1890 Harvard Law Review article, which articulated the “right to be let alone.”<sup>10</sup> This formulation emphasized protection against unwarranted intrusion into personal life and served as a foundation for subsequent legal developments. Over time, this right expanded to include protection against unauthorized commercial use of identity, eventually evolving into the distinct doctrine of the right of publicity.<sup>11</sup>

In Europe, the evolution of personality rights was shaped by the ideas of Rudolf von Jhering, who emphasized the importance of protecting personal honour and dignity. His contributions influenced German civil law, where personality rights were recognized as an essential aspect of individual dignity. European legal systems generally adopted a more unified approach, treating personality rights as encompassing both personal and economic interests, in contrast to the dualistic approach seen in the United States.<sup>12</sup>

The development of personality rights has also been significantly influenced by international legal standards. The adoption of the Universal Declaration of Human Rights by the United Nations marked a pivotal moment in the global recognition of privacy as a fundamental human right. Article 12 of the Declaration protects individuals against arbitrary interference with their privacy and attacks upon their honour and reputation. This recognition played a crucial role in shaping domestic legal frameworks across jurisdictions.

Judicial interpretation has been instrumental in expanding and adapting personality rights to evolving societal and technological contexts. In the United States, the landmark case of *Griswold v. Connecticut*<sup>13</sup> recognized the constitutional right to privacy, thereby strengthening the legal basis for personality rights. Similarly, European courts, particularly the European Court of Human Rights, have consistently upheld the protection of privacy and personal dignity as essential components of individual rights.

In India, the evolution of personality rights has been gradual and largely driven by judicial

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<sup>10</sup> Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harv. L. Rev. 193, 195 (1890).

<sup>11</sup> *Haelan Labs., Inc. v. Topps Chewing Gum, Inc.*, 202 F.2d 866, 868 (2d Cir. 1953).

<sup>12</sup> Rudolf von Jhering, *The Struggle for Law* 23–25 (John J. Lalor trans., 1879); Basil S. Markesinis et al., *The German Law of Torts* 390–92 (4th ed. 2002).

<sup>13</sup> *Griswold v. Connecticut*, 381 U.S. 479, 484–85 (1965).

interpretation rather than legislative enactment. The Constitution of India did not explicitly recognize the right to privacy at its inception. However, Indian courts have progressively expanded the scope of fundamental rights to include such protections. Influenced by international developments and comparative jurisprudence, the judiciary has interpreted the right to life and personal liberty to encompass elements of privacy and identity. Despite these advancements, the absence of a comprehensive statutory framework continues to create ambiguity and inconsistency in the protection of personality rights.<sup>14</sup>

### 3. Constituents of Personality Rights

Personality rights are multifaceted in nature, encompassing both personal and proprietary interests in an individual's identity. These rights are generally understood to comprise two principal constituents: the right to privacy and the right of publicity. While the right to privacy safeguards the individual's personal sphere from unwarranted intrusion, the right of publicity protects against the unauthorized commercial exploitation of identity attributes.<sup>15</sup> They create a comprehensive legal framework that secures both the dignity and economic value associated with an individual's persona.

#### 3.1 Right to Privacy

The right to privacy forms the foundational pillar of personality rights, as it delineates the boundaries within which an individual can exercise autonomy over their personal life. Privacy, in essence, protects individuals from unjustified interference by the state or third parties in matters relating to their personal information, bodily integrity, and decisional autonomy. Although not explicitly enumerated in the Constitution of India, the right to privacy has been judicially recognized as an intrinsic component of the right to life and personal liberty under Article 21.

The early contours of this right were articulated in *Kharak Singh v. State of Uttar Pradesh*<sup>16</sup>, where the Supreme Court examined the validity of police surveillance measures and acknowledged that intrusion into an individual's private space raises constitutional concerns.

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<sup>14</sup> Shamnad Basheer, Bipin Chandra & Prashant Reddy T., "Celebrity Rights in India: An Uncertain Terrain," 5 *Indian J.L. & Tech.* 1, 6–9 (2009); Arul George Scaria, *Privacy and Personality Rights in India: Emerging Jurisprudence*, 8 *NUJS L. Rev.* 1, 10–12 (2015).

<sup>15</sup> Jennifer E. Rothman, *The Right of Publicity: Privacy Reimagined for a Public World* 3–6 (2018)

<sup>16</sup> *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.

This position was further developed in *R. Rajagopal v. State of Tamil Nadu*<sup>17</sup>, wherein the Court recognised the right of individuals to safeguard the privacy of their personal life and prevent unauthorised publication of personal information without consent.

The jurisprudential position was conclusively settled in *Justice K.S. Puttaswamy (Retd.) v. Union of India*<sup>18</sup>, wherein a nine-judge bench of the Supreme Court recognized the right to privacy as a fundamental right under Article 21. The Court emphasized that privacy encompasses the protection of an individual's inner sphere, allowing them to make autonomous decisions free from external interference. It further clarified that this right extends against both state and non-state actors, thereby significantly strengthening its scope. Similarly, in *Govind v. State of Madhya Pradesh*<sup>19</sup>, the Court recognized that privacy is essential for the development of individual personality and autonomy.

Thus, the right to privacy operates as a protective shield, ensuring that personal identity and information are not unlawfully accessed, disclosed, or exploited. It provides the conceptual basis for personality rights by affirming that individuals possess an exclusive domain over their personal lives.

### **3.2 Right to Publicity**

Complementing the personal dimension of privacy is the right of publicity, which addresses the commercial aspect of personality rights. It enables individuals to control and derive economic benefit from the use of their identity attributes, such as name, image, voice, likeness, and other distinctive characteristics. In an era dominated by consumer culture and media influence, personality has evolved into a valuable commercial asset, particularly for celebrities, sportspersons, and public figures.

The concept of personality merchandising exemplifies the commercial significance of publicity rights, wherein the popularity and goodwill associated with an individual are utilized to promote products and services. However, the unauthorized use of such attributes not only infringes upon the individual's economic interests but may also mislead the public by creating false associations or endorsements.

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<sup>17</sup> *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

<sup>18</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

<sup>19</sup> *Govind v. State of Madhya Pradesh*, (1975) 2 SCC 148.

Indian jurisprudence has recognised this right primarily through judicial interpretation. A landmark decision in this regard is ICC Development (International) Ltd. v. Arvee Enterprises<sup>20</sup>, where the Court acknowledged that the unauthorized commercial use of a person's identity constitutes a violation of their publicity rights. The case also highlighted the applicability of the tort of passing off, which protects against the misappropriation of goodwill and prevents public deception.

Similarly, the Delhi High Court in DM Entertainment Pvt. Ltd. v. Baby Gift House<sup>21</sup> held that the unauthorized use of a renowned singer's persona for commercial gain amounted to infringement of publicity rights, awarding damages to the plaintiff. In Titan Industries Ltd. v. Ramkumar Jewellers<sup>22</sup>, the Court granted an injunction against the use of well-known personalities in advertisements without consent, thereby reaffirming the necessity of authorization for commercial use. In Gautam Gambhir v. D.A.P. & Co.,<sup>23</sup> the Court restrained the defendants from using the cricketer's name and image for business promotion without permission, recognizing such use as a violation of his publicity rights.

The interrelationship between privacy and publicity rights is further illustrated in Manisha Koirala v. Shashilal Nair<sup>24</sup>. In this case, the actress had initially consented to certain scenes in a film, which were later altered and released in a manner that allegedly misrepresented her image and exceeded the scope of her consent. The Bombay High Court acknowledged that even where limited consent is granted, any use of an individual's image beyond the agreed terms constitutes a violation of both privacy and publicity rights. The Court restrained the defendants from releasing or exploiting such material, emphasizing that an individual retains control over how their persona is portrayed and commercially used. This case is significant as it highlights that personality rights not only protect against outright unauthorized use but also against misuse or distortion of consent.

#### **4. Existing Legal Protection of Personality Rights in India**

The protection of personality rights in India is not governed by a single, comprehensive statute; rather, it emerges from a combination of constitutional guarantees, intellectual property laws,

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<sup>20</sup> 2003(26) PTC245 (DEL)

<sup>21</sup> 2010 SCC OnLine Del 4790

<sup>22</sup> 2012 (50) PTC 486 (Del)

<sup>23</sup> CS(COMM) 395/2017

<sup>24</sup> 2003 (1) AllMR 426.

contractual principles, and common law remedies.<sup>25</sup> This fragmented framework reflects the judiciary's central role in recognising and enforcing such rights.

#### 4.1 Constitutional Framework

At the constitutional level, the protection of personality rights is primarily anchored in Article 21 of the Constitution, which guarantees the right to life and personal liberty. Although personality rights are not expressly recognised, judicial interpretation has expanded the scope of Article 21 to include the right to privacy, thereby providing an implicit constitutional foundation for the protection of individual identity.

As discussed earlier, the recognition of privacy as a fundamental right in Justice K.S. Puttaswamy (Retd.) v. Union of India<sup>26</sup> firmly establishes autonomy, dignity, and control over personal information as constitutionally protected interests. This constitutional grounding enables individuals to challenge both intrusion into their private sphere and the misuse of their identity.

In addition, Article 19(1)(a), which guarantees the right to freedom of speech and expression, also has relevance. While primarily designed to protect expressive freedoms, it has been interpreted to encompass aspects of personality rights, particularly the right of publicity. The ability to control the commercial use of one's identity can be viewed as an extension of expressive autonomy.<sup>27</sup>

#### 4.2 Protection under Intellectual Property Laws

In the absence of a specific statute on personality rights, Indian courts have frequently relied on intellectual property laws to protect certain attributes of personality. The Copyright Act, 1957 plays a crucial role in this regard by recognizing moral rights of authors and performers. Under Section 57, authors are granted the right of attribution and the right of integrity, allowing them to claim authorship and prevent any distortion, mutilation, or modification of their work that may harm their reputation.<sup>28</sup> Additionally, performers' rights under Sections 38 and 38B

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<sup>25</sup> Agnes Augustian, Protection of Personality Rights in India: Issues and Challenges, 2024 NLUD Current Issues L. Rev. 44, 45–46

<sup>26</sup> Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

<sup>27</sup> Priyadarshini Singh, Quest for Protection of Personality and Its Attributes under Trademark Laws in India, 2021 ILI L. Rev. 103, 108–09

<sup>28</sup> The Copyright Act, 1957, No. 14, 1957, § 57.

provide protection to actors, singers, and other artists by granting them control over the recording and reproduction of their performances.<sup>29</sup> These provisions indirectly safeguard aspects of personality by protecting creative expressions closely linked to an individual's identity.<sup>30</sup>

Similarly, the Trade Marks Act, 1999 offers limited protection by enabling the registration of names, signatures, and other identifying features as trademarks under Section 2(m).<sup>31</sup> Celebrities often adopt this route to prevent unauthorized use of their names or brand identity. Section 14 further restricts the use of names or likenesses of living or recently deceased persons without consent, thereby offering a statutory safeguard against misappropriation. Judicial interpretation has also expanded the scope of trademark law to include personality attributes. In *Arun Jaitley v. Network Solutions Pvt. Ltd.*, the Court recognized that a person's name, particularly when it has acquired distinctiveness, can function as a valuable commercial identifier deserving protection.<sup>32</sup>

A landmark case illustrating the application of intellectual property principles is *DM Entertainment Pvt. Ltd. v. Baby Gift House*<sup>33</sup>. In this case, the defendants sold dolls modeled after the popular singer Daler Mehndi, which also played his songs. The Court held that such unauthorized use amounted to false endorsement and passing off, as it created a misleading impression of association with the celebrity. In the absence of a dedicated statute, the Court relied on trademark principles and the doctrine of passing off to grant relief, thereby recognizing the commercial dimension of personality rights in India.

### 4.3 Common Law Remedies: Passing Off and Torts

The doctrine of passing off, rooted in common law, has emerged as a significant tool for protecting personality rights in India. Passing off is a form of misrepresentation whereby one party falsely represents its goods or services as being associated with another, thereby causing damage to the goodwill and reputation of that person. Traditionally applied in commercial contexts to protect business goodwill, the doctrine has been extended by courts to safeguard personality rights, particularly in cases of unauthorized endorsements and identity misuse. By

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<sup>29</sup> Id. §§ 38, 38B.

<sup>30</sup> "The Business of Being You: Evolving Law of Personality Rights in India," 5 *TIPR* 1, 12–14 (2025)

<sup>31</sup> The Trade Marks Act, 1999, No. 47, 1999, § 2(m).

<sup>32</sup> *Arun Jaitley v. Network Solutions Pvt. Ltd.*, 2014 (5) *Bom. C.R.* 121.

<sup>33</sup> *DM Entertainment Pvt. Ltd. v. Baby Gift House & Ors.*, 2008 (37) *PTC* 417 (Del.).

preventing false suggestions of association or approval, it protects both the economic interests of individuals and the public from deception.

Courts have consistently relied on this doctrine in cases involving the unauthorized commercial use of a person's identity, recognising that such acts not only exploit the individual's reputation but also mislead consumers into believing a non-existent endorsement.

In addition to passing off, the law of torts provides remedies against defamation, disparagement, and misappropriation of identity. These remedies protect individuals from harm to reputation and unauthorized use of their persona. The flexibility of tort law enables courts to address a wide range of violations, particularly in situations where statutory provisions remain inadequate.

#### **4.4 Contractual Protection**

The Indian Contract Act, 1872 also plays a vital role in the protection of personality rights, particularly in the context of commercial exploitation. Agreements relating to endorsements, licensing, and use of image or likeness are governed by principles of free consent under Section 14.<sup>34</sup> Any unauthorized use of an individual's identity in violation of contractual terms can give rise to claims for damages and injunctive relief. This is especially relevant in industries such as entertainment and advertising, where personality rights are routinely commercialized through contractual arrangements.

#### **4.5 Digital and Technological Protection**

With the rise of digital platforms and artificial intelligence, the protection of personality rights has extended into the technological domain. The Information Technology Act, 2000 provides certain safeguards against online identity misuse, including morphing, impersonation, and unauthorized dissemination of personal content. Courts have increasingly recognized the need to address emerging challenges such as deepfakes and AI-generated impersonations.

A significant procedural innovation in this context is the use of "John Doe" or "Ashok Kumar" orders, which allow courts to grant ex parte injunctions against unidentified defendants. These orders are particularly effective in curbing fast-moving online infringements, such as piracy

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<sup>34</sup> The Indian Contract Act, 1872, No. 9, 1872, § 14.

and unauthorized digital exploitation of identity.<sup>35</sup>

Recent judicial trends further demonstrate the evolving nature of personality rights protection. In *Abhishek Bachchan v. Bollywood Tee Shop*<sup>36</sup>, the Court granted protection against unauthorized AI-generated content misusing the actor's persona. Similar relief was extended in *Karan Johar v. India Pride Advisory Pvt. Ltd.*<sup>37</sup> and *Akkineni Nagarjuna v. WWW.BFXXX.ORG*<sup>38</sup>, where courts addressed deepfake technology and misleading endorsements. Protection has also been extended to distinctive attributes such as voice, as seen in cases involving Asha Bhosle, and broader personality rights recognition has been affirmed in matters involving Sunil Shetty, where courts ordered the removal of infringing AI-generated content.<sup>39</sup>

However, these mechanisms address only limited aspects of personality rights and often rely on judicial interpretation for effective enforcement. The growing challenges posed by technological advancements and digital exploitation underscore the need for a comprehensive and coherent statutory framework to ensure robust protection of personality rights in India.

## 5. Judicial Recognition of Personality Rights in India

In the absence of a dedicated statutory framework, the recognition and development of personality rights in India have been predominantly shaped by judicial intervention. Through a series of landmark judgments, the judiciary has progressively acknowledged that an individual possesses a protectable interest in their identity, encompassing both personal dignity and commercial value.

An important articulation of the right of publicity as a distinct legal concept can be found in *Titan Industries Ltd. v. Ramkumar Jewellers*<sup>40</sup>, where the Court observed that the objection to unauthorized commercial use of a celebrity's identity is not against commercialization per se, but against the absence of consent. It emphasized that individuals must have the autonomy to determine when and how their identity is used for commercial purposes, thereby defining the

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<sup>35</sup> Pragya Kolay, Rethinking Personality Rights in India, 19 NUJS L. Rev. 1, 28–31 (2026).

<sup>36</sup> *Abhishek Bachchan v. The Bollywood Tee Shop*, 2025 SCC OnLine Del 5944

<sup>37</sup> *Karan Johar v. India Pride Advisory Private Ltd.*, 2025 SCC OnLine Bom 546

<sup>38</sup> CS(COMM) 1023/2025

<sup>39</sup> Personality Rights in India and the Need for a Comprehensive Statute, 3 NLU Assam J. IPR & Tech. L. 81, 90–92 (2024).

<sup>40</sup> CS(OS) No.2662/2011

right of publicity as the right to control the commercial exploitation of one's persona.

The judiciary has further strengthened this recognition through a series of recent decisions addressing both traditional and digital forms of identity misuse. In *Amitabh Bachchan v. Rajat Negi*,<sup>41</sup> the Delhi High Court granted an ex parte omnibus injunction protecting the actor's name, image, voice, and other personality attributes from unauthorized use. The case arose from the misuse of his identity in fraudulent schemes, including fake "Kaun Banega Crorepati" promotions and scam calls. The Court not only restrained the defendants but also directed government authorities and intermediaries to take down infringing content and block associated digital infrastructure. This judgment is significant for recognizing the need for comprehensive and immediate remedies in the digital age.

Similarly, in *Anil Kapoor v. Simply Life India*,<sup>42</sup> the Court granted an omnibus injunction against multiple entities for unauthorized use of the actor's persona, including his voice, mannerisms, dialogue delivery, and gestures. Importantly, the Court extended protection to emerging forms of misuse such as deepfakes, GIFs, and AI-generated content, thereby acknowledging the evolving nature of personality rights in a technologically advanced environment.

The Delhi High Court in *Jaikishan Kakubhai Saraf v. Peppy Store*,<sup>43</sup> restrained the unauthorized use of actor Jackie Shroff's name, image, and registered trademarks in merchandise, online content, and even derogatory materials. The Court emphasized the potential for irreparable reputational and financial harm arising from such misuse.

In *Aaradhya Bachchan v. Bollywood Time*<sup>44</sup>, the Court addressed the circulation of false and misleading videos on digital platforms. It granted a John Doe injunction restraining unidentified parties from publishing such content and directed intermediaries to remove the same.

In *Neela Film Productions Pvt. Ltd. v. Taarakmehtakaooltahchashmah.com*,<sup>45</sup> the Court restrained the unauthorized use of television content, including AI-generated explicit material,

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<sup>41</sup> (2022) 6 HCC (Del) 641

<sup>42</sup> (2023) SCC OnLine Del 6914

<sup>43</sup> 2024 SCC OnLine Del 3664

<sup>44</sup> 2023 SCC OnLine Del 2268

<sup>45</sup> CS(COMM) 690/2024

recognizing the broader implications of identity misuse in digital media. Similarly, in *Karan Johar v. India Pride Advisory Pvt. Ltd.*, the Court restrained the use of the filmmaker's name in a film title, holding that even indirect or modified use of a well-known personality's identity for commercial gain may infringe personality rights.

The Bombay High Court has also contributed significantly to the jurisprudence on personality rights. In *Arijit Singh v. Codible Ventures LLP*,<sup>46</sup> the Court granted protection to the singer's voice, style, and other distinctive attributes, including against AI-generated exploitation. This trend continued in *Asha Bhosle v. Mayk Inc.*,<sup>47</sup> where the Court restrained unauthorized voice cloning and merchandising, recognizing the unique value of vocal identity. Similarly, in *Aishwarya Rai Bachchan v. AishwaryaWorld.com*,<sup>48</sup> the Court granted an injunction against the misuse of the actor's name, image, and likeness across digital platforms, including deepfake content.

The courts have also addressed cases involving religious and public figures. In *Ravi Shankar v. John Doe*,<sup>49</sup> the Court restrained the circulation of deepfake videos falsely depicting spiritual leader Sri Ravi Shankar endorsing unverified remedies. Similarly, in *Akkineni Nagarjuna v. www.BFXXX.Org & Ors.*,<sup>50</sup> the Court ordered the removal of pornographic and misleading content using the actor's identity, emphasizing both reputational harm and economic loss.

In *Abhishek Bachchan v. The Bollywood Tee Shop*,<sup>51</sup> the Court granted interim relief against unauthorized use of the actor's persona in merchandise and AI-generated content, directing immediate removal of infringing material.

An earlier yet significant precedent is *Shivaji Rao Gaikwad v. Varsha Productions*,<sup>52</sup> where the Court restrained the release of a film titled "Main Hoon Rajinikanth," holding that the unauthorized use of a well-known celebrity's name could mislead the public and harm the individual's reputation. The Court recognized that personality rights arise when an individual has acquired distinctiveness and public recognition, thereby affirming the commercial and

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<sup>46</sup> (2024) SCC OnLine Bom 2445

<sup>47</sup> 2025 SCC OnLine Bom 3485

<sup>48</sup> 2025 SCC OnLine Del 5943

<sup>49</sup> 2025 SCC OnLine Del 6332

<sup>50</sup> 2025 SCC OnLine Del 6331

<sup>51</sup> 2025 SCC OnLine Del 5944

<sup>52</sup> (2015) 62 PTC 351

reputational value of identity.

Through innovative remedies such as omnibus injunctions and John Doe orders, the judiciary has adapted to the complexities of the digital age. However, the reliance on case-by-case adjudication highlights the need for a comprehensive statutory framework to ensure uniformity and certainty in the protection of personality rights.

## 6. Comparative Analysis: United States and European Union

The protection of personality rights across jurisdictions reveals a marked divergence in the underlying philosophy, objectives, and methods of enforcement. While both the United States and the European Union recognise the need to safeguard individual identity, the doctrinal basis and scope of protection differ substantially, reflecting broader constitutional and philosophical orientations.

### 6.1 United States

In the United States, personality rights have evolved primarily through judicial interpretation, culminating in the recognition of the right of publicity as a distinct and enforceable legal interest. Early judicial acknowledgment in *Pavesich v. New England Life Insurance Co.*<sup>53</sup> established the right to privacy, which subsequently developed into a broader framework encompassing commercial interests in identity. The decision in *Haelan Laboratories Inc. v. Topps Chewing Gum Inc.*<sup>54</sup> marked a decisive shift by recognising the right of publicity as independent of privacy, thereby affirming that an individual possesses a proprietary interest in the commercial value of their persona.

This proprietary understanding was further consolidated in *Zacchini v. Scripps-Howard Broadcasting Co.*,<sup>55</sup> where the Supreme Court underscored that unauthorised dissemination of a performer's act constitutes an infringement of economic interests, notwithstanding competing claims under the First Amendment. The judgment clarified that personality rights extend beyond dignitary concerns and encompass the protection of commercial exploitation.

American jurisprudence thus conceptualises personality rights as an economic asset, capable

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<sup>53</sup> 122 Ga. 190 (Ga. 1905).

<sup>54</sup> 202 F.2d 866 (2d Cir. 1953).

<sup>55</sup> 433 U.S. 562 (1977).

of licensing, assignment, and, in certain jurisdictions, post-mortem transmission. This approach is reinforced through both statutory and common law mechanisms, with states such as California and New York providing explicit legislative protection, while others rely on judicial doctrines. The absence of a uniform federal framework results in significant inter-state variation regarding the scope, duration, and enforceability of these rights.

At the same time, the American model incorporates well-defined limitations. The requirement of consent, recognisability, and applicability exclusively to natural persons delineates the boundaries of protection. Additionally, constitutional safeguards, particularly freedom of speech and expression, impose constraints on the enforcement of publicity rights. Judicially developed standards, such as the transformative use doctrine, attempt to balance proprietary interests against artistic and expressive freedoms.

## **6.2 European Union**

In contrast, the European Union approaches personality rights through the lens of human dignity, privacy, and data protection. Rather than recognising a distinct right of publicity, European legal systems derive protection from a composite framework consisting of data protection law, privacy rights, and personality doctrines.

The General Data Protection Regulation (GDPR) constitutes the central legal instrument in this regard, treating elements of personal identity, such as name, image, and likeness as personal data. The regulation grants individuals extensive control over the processing, dissemination, and retention of such data, including rights to consent, erasure, and data portability. This framework is supplemented by Article 8 of the European Convention on Human Rights, which safeguards the right to respect for private and family life. Judicial interpretation, as seen in *von Hannover v. Germany*, has extended this protection to prevent unauthorised commercial and intrusive use of an individual's image.

The European approach is thus grounded in the protection of personal autonomy and dignity rather than the commercial exploitation of identity. Personality rights are regarded as inherently personal and, as a general rule, are neither transferable nor descendible. Although certain jurisdictions within Europe have begun to acknowledge the economic dimension of identity, the dominant emphasis remains on preventing intrusion, misrepresentation, and misuse of personal attributes.

Recent regulatory developments, including the EU AI Act, further illustrate the region's concern with emerging technological threats, such as synthetic media and deepfakes, by imposing transparency obligations in relation to AI-generated content. However, enforcement challenges persist, particularly in addressing cross-border digital misuse.

### **6.3 Points of Convergence and Divergence**

A comparative assessment highlights both convergence and divergence in the two systems. The United States adopts a market-oriented perspective, treating personality as a commodifiable interest capable of economic exploitation. Protection is therefore structured around preventing unjust enrichment and safeguarding commercial value. In contrast, the European Union adopts a rights-based approach rooted in dignity and autonomy, focusing on consent and informational self-determination rather than economic control.

Another significant point of divergence lies in transferability. While American law permits the licensing and, in some cases, posthumous transfer of publicity rights, European systems generally resist commodification, maintaining the inalienable character of personality rights. Furthermore, the decentralised nature of American law, with its reliance on state-specific regimes, contrasts with the relatively harmonised framework established by the GDPR across EU member states.

However, an emerging convergence can be observed in the increasing recognition of the commercial value of identity in Europe and the growing importance of data protection and privacy considerations in the United States, particularly in the digital context.

The comparative experience of these jurisdictions offers instructive insights for the Indian legal framework. The American recognition of publicity rights as a proprietary interest suggests the utility of a distinct and enforceable legal category addressing commercial exploitation. Simultaneously, the European emphasis on data protection and individual autonomy underscores the importance of safeguarding personal information in an era of pervasive digital processing.

Indian developments, including the recommendations of the Justice B.N. Srikrishna Committee and the enactment of the Digital Personal Data Protection Act, 2023, indicate a movement

towards recognising informational privacy as an aspect of individual autonomy.<sup>56</sup> However, the absence of explicit statutory recognition of personality rights, particularly the right of publicity, results in doctrinal uncertainty and fragmented protection.

## **7. The Way Forward**

The foregoing discussion indicates that the protection of personality rights in India has developed in a piecemeal manner, largely through judicial intervention. While courts have attempted to extend protection by drawing upon constitutional principles, intellectual property law, and common law remedies, the absence of a coherent statutory framework continues to create uncertainty.<sup>57</sup> The following recommendations are therefore proposed with a view to strengthening and systematising the protection of personality rights in India.

### **7.1 Need for a Dedicated Legislative Framework**

At the outset, there is a compelling need for a comprehensive statute specifically addressing personality rights. At present, individuals seeking protection must rely on indirect remedies under the Trade Marks Act, 1999, the Copyright Act, 1957, and the doctrine of passing off, none of which were designed to deal with personality rights as a distinct legal category. This results in both conceptual and practical limitations.

A dedicated legislation would provide clarity by defining the scope of personality rights and identifying the attributes that merit protection, such as name, image, voice, likeness, and other distinctive features. It should also lay down clear standards for determining infringement and provide for appropriate remedies, including injunctions and damages. Such a framework would not only assist courts in adjudication but also enable individuals to better understand and enforce their rights.

### **7.2 Clarifying the Nature of Personality Rights**

Another issue that requires attention is the juridical character of personality rights. While the recognition of privacy as a fundamental right has strengthened the protection of individual autonomy, the commercial dimension of personality rights remains insufficiently defined.

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<sup>56</sup> Comm. of Experts Under the Chairmanship of Justice B.N. Srikrishna, Report of the Committee of Experts on a Data Protection Framework for India 1 (2018)

<sup>57</sup> Legal Framework for Protecting Personality Rights in India, 7 J. Inst. Pub. Res. 1, 1–3 (2025)

Judicial observations in recent cases indicate a willingness to view publicity rights within the broader framework of privacy. However, the question of whether such rights can be treated as fundamental rights remains unsettled. In this context, legislative clarification would be valuable in determining whether personality rights should be conceptualised as a purely statutory right, a facet of fundamental rights, or a combination of both.<sup>58</sup>

### **7.3 Extending Protection Beyond Public Figures**

Indian jurisprudence has, in practice, focused largely on celebrities and public figures, given the evident commercial value of their identity. However, limiting personality rights to such individuals risks undermining their normative basis. At its core, the right is grounded in dignity and autonomy, which are not contingent upon public recognition.

A well-structured legal framework should therefore make it clear that all individuals are entitled to protection against misuse of their identity, particularly in cases involving privacy violations, identity theft, and digital impersonation. At the same time, it may be recognised that the commercial dimension of publicity rights will vary depending on the extent to which an individual's persona has acquired market value.

### **7.4 Addressing Post-Mortem Rights**

The question of whether personality rights survive the death of an individual remains inadequately addressed in Indian law. Courts have yet to adopt a consistent position on the descendibility or duration of such rights. A statutory framework should therefore specify whether, and to what extent, publicity rights may be inherited or enforced by legal heirs.

### **7.5 Responding to Technological Developments**

The rapid growth of digital media and artificial intelligence has introduced new dimensions to the misuse of personality. Practices such as deepfakes, AI-generated impersonations, and unauthorised use of biometric data have made it easier to exploit an individual's identity without consent. Existing legal mechanisms offer only limited protection in this regard.

There is, therefore, a need for legal provisions that specifically address such technological

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<sup>58</sup> Personality Rights in India: Life, Legacy, and the Law, *supra* note 58, at 14–15

challenges. This may include obligations on digital platforms to remove infringing content, mechanisms for rapid redress, and clear liability standards for those responsible for generating or disseminating such content.

### **7.6 Strengthening Enforcement Mechanisms**

Effective protection of personality rights also depends on the availability of timely and accessible remedies. Courts in India have, in certain instances, adopted innovative approaches such as John Doe orders to address unidentified infringers, particularly in the online context. While such measures have proved useful, their application remains largely ad hoc. Thus, incorporating such procedural tools within a statutory framework would enhance their consistency and effectiveness.

Additionally, the establishment of specialised mechanisms or designated forums for adjudicating personality rights disputes may be considered, especially in cases involving digital infringements that require prompt intervention.

### **7.7 Ensuring Accessibility and Awareness**

Mechanisms such as trademark registration, though useful in certain cases, are not always accessible due to cost, procedural complexity, and lack of awareness. A comprehensive legal framework should therefore aim to simplify enforcement procedures and promote awareness regarding personality rights. This would ensure that protection is not limited to those with the resources to pursue complex legal remedies, but is available more broadly.<sup>59</sup>

## **8. Conclusion**

The analysis undertaken in this paper shows that personality rights in India have gained recognition in principle but remain insufficiently developed in structure. Courts have played a decisive role in shaping these rights, particularly by expanding the scope of the right to privacy under Article 21 and acknowledging the commercial value of identity in cases involving publicity rights. However, in the absence of a clear and unified legal framework, their protection continues to depend on scattered doctrines and case-specific reasoning.

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<sup>59</sup> Shivank Duseja & Janvi, Personality Rights in India and the Need for a Codified Provision, 3 NLUA J. Intellectual Prop. Rts. 192 (2025)

At present, the Indian position is marked by reliance on a combination of constitutional interpretation, intellectual property law, and common law remedies such as passing off. While these mechanisms have enabled courts to respond to instances of misuse, they were not designed to address personality rights in a comprehensive manner. This has led to a degree of uncertainty, especially in cases involving commercial exploitation, digital misuse, and emerging technologies, where existing legal tools often fall short of providing consistent and effective remedies.

The comparative study further brings into focus the value of a more structured approach. The United States treats personality as a commercially valuable interest capable of protection and, in certain cases, transfer. European jurisdictions, in contrast, emphasise dignity, autonomy, and control over personal data, embedding these protections within a broader rights-based framework. Although these approaches differ in emphasis, both underline the importance of clarity in defining the nature and scope of such rights.

In India, the continued reliance on judicial development, though significant, cannot by itself ensure coherence or predictability. The increasing commercialisation of identity, coupled with the challenges posed by digital platforms and artificial intelligence, makes it necessary to move beyond an ad hoc approach. A clearer legal framework is required, that defines the scope and limits of protection, provides accessible remedies, and accommodates competing concerns such as freedom of expression.

Ultimately, the question is not limited to the protection of commercial interests. It concerns the extent to which the law recognises and safeguards individual identity in a rapidly changing social and technological environment. A more settled and principled approach would not only reduce uncertainty but also ensure that the law remains responsive to both present and future challenges.