
FROM SATIRE TO MISUSE: RETHINKING THE LEGAL BOUNDARIES OF DEEPFAKES, PERSONALITY RIGHTS, AND EXPRESSION IN INDIA

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Introduction

The rapid evolution of artificial intelligence (AI) has ushered in a new era of digital creativity, where synthetic media—colloquially known as “deepfakes”—are increasingly deployed for purposes ranging from parody to political misinformation. A deepfake refers to synthetic audio, video, or image content created through generative AI models, often depicting a person saying or doing something that never occurred. While deepfakes raise pressing concerns about misinformation, fraud, and non-consensual sexual exploitation, they also open new possibilities for cultural critique, pedagogy, satire, and artistic experimentation. In this duality lies a legal and normative puzzle: when should deepfakes be considered violative of individual rights, and when should they be embraced as legitimate exercises of creativity and expression?

In India, this puzzle is particularly acute. The judiciary has only begun to engage with deepfake disputes, and the jurisprudence that emerges will shape the contours of personality rights, free expression, and digital culture for decades. Two cases, decided within a short span of each other, highlight the competing trajectories of Indian law. In *Anil Kapoor v. Simply Life India & Ors.*, the Delhi High Court issued a sweeping injunction restraining the unauthorized use of the actor’s likeness, gestures, and catchphrases in deepfakes, memes, and merchandise. By contrast, in *Jackie Shroff (Jaikishan Kakubhai Saraf) v. The Peppy Store*, the court adopted a more measured approach, allowing limited use of Shroff’s persona in memes and creative works while prohibiting exploitative commercial misuse. Together, these cases underscore the “grey zone” of interpretation: how far should the law go in protecting celebrity image rights, and how much space should it leave for parody, satire, and cultural creativity?

This paper argues that deepfakes made with creative intent—such as memes, parody, satire, or educational illustrations—should not be treated as inherently violative of personality rights. Instead, Indian law must adopt a calibrated framework that distinguishes between exploitative,

harmful uses and transformative, creative expression. To build this argument, the paper proceeds as follows. Part II examines the foundations of personality rights in Indian jurisprudence, situating them within privacy, property, and constitutional doctrines. Part III analyzes the Anil Kapoor and Jackie Shroff cases in detail, highlighting their divergent interpretive approaches. Part IV explores the grey zone of creative deepfakes, analyzing their constitutional protection under Article 19(1)(a) and their cultural role in digital society. Part V engages in a comparative study of the United States, European Union, United Kingdom, and China, distilling lessons for India. Part VI proposes statutory and doctrinal reforms for India, emphasizing proportionality, safe harbor, labeling, and educational exemptions. Finally, Part VII concludes by arguing for a nuanced framework that protects dignity while fostering creativity.

Personality Rights in Indian Jurisprudence

A. Conceptual Foundations

Personality rights, sometimes referred to as the right of publicity, encompass an individual's control over the commercial use of their name, likeness, voice, and distinctive features. These rights straddle the domains of privacy, property, and intellectual property, often justified on the basis of autonomy (control over self), labor-desert (fruits of one's effort), or unjust enrichment (preventing free riders). In India, personality rights lack a clear statutory foundation. Instead, they have emerged through constitutional interpretation and judicial innovation. The Supreme Court, in *R. Rajagopal v. State of Tamil Nadu*, recognized a right to privacy that included control over one's life story and images. Later, in *Justice K.S. Puttaswamy v. Union of India*, the Court enshrined privacy as a fundamental right under Article 21, emphasizing dignity and informational self-determination. Though neither case directly addressed personality rights, both provide the normative basis for them.

At the same time, Indian courts have treated celebrity personas as quasi-property interests. In *ICC Development (International) Ltd. v. Arvee Enterprises*, the Delhi High Court held that publicity rights vest in individuals, not event organizers, and cannot be commercially appropriated without consent. In *DM Entertainment Pvt. Ltd. v. Baby Gift House*, the court restrained the sale of dolls resembling the singer Daler Mehndi, holding that unauthorized commercial exploitation infringes his personality rights. These cases reflect a recognition that celebrity identity possesses commercial value warranting protection.

Yet, personality rights in India are not absolute. They exist in tension with free expression under Article 19(1)(a). Courts must balance an individual's right to control their persona with the public's right to critique, parody, and creatively engage with cultural figures. It is in this balance that the law of deepfakes will be forged.

B. International Parallels

The evolution of personality rights in India mirrors developments abroad. In the United States, the right of publicity has been judicially recognized since *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc.*, where the Second Circuit held that a baseball player's image carried commercial value beyond privacy interests. In the European Union, the protection of personality aligns with Article 8 of the European Convention on Human Rights (privacy) and Article 10 (expression), requiring proportionality in conflicts. These comparative trajectories suggest that India must similarly balance protection with free speech, rather than adopting an absolutist approach.

Anil Kapoor v. Simply Life India & Ors.

In September 2023, Bollywood actor Anil Kapoor sought an injunction from the Delhi High Court against websites, e-commerce platforms, and individuals exploiting his persona through memes, merchandise, and deepfake videos. Kapoor argued that unauthorized use of his name, image, signature, and catchphrases such as "jhakaas" violated his personality rights. The court granted broad relief, restraining defendants from using his likeness, voice, mannerisms, and even gestures without consent.

The judgment reflects a maximalist approach. It treated virtually any unauthorized use of Kapoor's persona as violative, regardless of whether the use was exploitative or satirical. While protecting celebrities from commercial misuse is legitimate, the injunction risked extending protection into the realm of parody, memes, and cultural creativity. In effect, Kapoor was granted near-monopoly over cultural expressions associated with him.

Critics argue that the decision failed to consider Article 19(1)(a) and its protection of satire and parody. By conflating exploitative uses with creative expression, the judgment risks chilling online culture, where memes and deepfakes often serve as tools of humor and critique. The Kapoor case thus exemplifies the restrictive pole of Indian jurisprudence, privileging celebrity

control over public creativity.

B. Jackie Shroff (Jaikishan Kakubhai Saraf) v. The Peppy Store

By contrast, in May 2024, actor Jackie Shroff filed suit against online platforms using his persona for memes, merchandise, and digital content. The Delhi High Court granted an injunction against exploitative commercial use but carved out space for parody and humor. Justice Sanjeev Narula observed that while Shroff's name and image cannot be commercially misappropriated, memes and satirical content may fall within free expression, especially where they do not cause reputational harm.

The judgment acknowledged the cultural role of memes and deepfakes, noting that celebrity personas often serve as vehicles for humor and critique. By permitting limited creative use, the court struck a balance between personality rights and Article 19(1)(a). This nuanced approach prevents unjust enrichment while safeguarding cultural vibrancy.

C. Comparative Implications

The divergence between Kapoor and Shroff illustrates the grey zone of interpretation in Indian law. Kapoor's case leans toward a proprietary, restrictive model, while Shroff's reflects a speech-protective stance. Without statutory guidance, courts may continue to oscillate, creating uncertainty for creators and celebrities alike. The task ahead is to reconcile these approaches into a coherent doctrine.

The Grey Zone of Creative Deepfakes

A. Parody, Satire, and Cultural Critique

Deepfakes used for parody or satire occupy a unique place in democratic discourse. They allow creators to comment on social, political, and cultural phenomena by exaggerating or recontextualizing celebrity personas. For instance, a deepfake meme of a politician dancing might lampoon policy failures, while a humorous video of a celebrity delivering unexpected lines may highlight cultural absurdities. Far from exploiting identity, such uses contribute to the marketplace of ideas.

Under Indian constitutional law, satire and parody fall squarely within Article 19(1)(a). The

Supreme Court has recognized that “freedom of speech includes the right to express one’s opinions by words of mouth, writing, printing, picture or in any other manner.” Satire, even if offensive, is protected so long as it does not cross into defamation or incitement. Creative deepfakes thus enjoy constitutional shelter, provided they are non-commercial and transformative.

B. Pedagogical and Educational Uses

Deepfakes also hold transformative potential in education. Teachers may use them to recreate historical speeches, illustrate scientific concepts, or enhance language learning. For example, a deepfake of Mahatma Gandhi delivering a lesson on non-violence in Hindi and English could enrich pedagogy. Criminalizing such uses under broad personality rights would hinder innovation in education and research.

C. The Risk of Overreach

The danger lies in overbroad enforcement of celebrity control. If every meme or humorous deepfake requires prior consent, digital culture will be impoverished. Memes often rely on spontaneity and remixing; imposing licensing regimes would effectively stifle the medium. The grey zone requires doctrinal recognition that not all deepfakes are harmful—many are integral to cultural and political discourse.

D. Toward a Balancing Test

To resolve this grey zone, Indian law must adopt a balancing test:

1. Purpose of use (commercial exploitation vs. parody/education);
2. Transformative character (literal reproduction vs. new meaning);
3. Risk of harm (defamation, privacy invasion, reputational damage); and
4. Public interest (contribution to discourse).

Such a test, rooted in proportionality, would ensure that harmful deepfakes are restrained while creative uses thrive.

Comparative Perspectives: Deepfake Regulation in Other Jurisdictions

The challenges posed by deepfakes are global, and jurisdictions have adopted varying approaches depending on their constitutional traditions, technological capacities, and socio-political contexts. A comparative analysis with the United States, the European Union, the United Kingdom, and China illustrates both possibilities and pitfalls. This comparison sheds light on the lessons India may learn while crafting its own framework.

A. The United States: First Amendment and Transformative Use

In the United States, the regulation of deepfakes intersects with two major bodies of law: the right of publicity and the First Amendment. The right of publicity grants individuals control over the commercial use of their identity, including name, likeness, and voice. At the same time, the First Amendment robustly protects freedom of expression, including satire, parody, and artistic creativity.

The U.S. Supreme Court has long emphasized that parody and satire lie at the “core” of the First Amendment. Consequently, courts have developed the doctrine of transformative use to mediate the tension between the right of publicity and expressive freedom. Under this doctrine, if a work adds significant creative elements or alters the celebrity’s likeness to convey a new expression, message, or meaning, it is protected.

For instance, in *Comedy III Productions, Inc. v. Gary Saderup, Inc.*, the California Supreme Court held that while literal reproductions of the Three Stooges’ likenesses violated the right of publicity, transformative works that infused creative elements would be protected. By analogy, deepfakes that parody or comment upon celebrities could fall within this protection, while commercial advertisements misappropriating celebrity images without transformation would not.

Recent legislative initiatives also reflect this balance. States such as Texas and California have enacted laws criminalizing deepfakes used to interfere in elections or create non-consensual sexual imagery. However, these laws carefully carve out exceptions for parody and satire, recognizing the First Amendment’s reach. The U.S. thus provides an instructive model: protection of identity is strong, but free speech remains paramount.

B. The European Union: Privacy, Dignity, and Proportionality

The European Union approaches deepfakes primarily through the lenses of data protection, privacy, and dignity. The General Data Protection Regulation (GDPR) treats biometric data as sensitive personal data, requiring explicit consent for processing. A deepfake that manipulates a person's face or voice without consent therefore risks violating data protection law.

At the same time, the European Court of Human Rights (ECtHR) employs a proportionality framework to balance privacy rights under Article 8 of the European Convention on Human Rights against freedom of expression under Article 10. The Court has repeatedly emphasized that public figures enjoy narrower privacy protections when speech contributes to public debate.

The EU's Digital Services Act (DSA) also addresses deepfakes by requiring platforms to label manipulated media. Transparency obligations empower users to recognize synthetic content, mitigating harm without stifling creativity. Thus, while the EU prioritizes privacy and dignity, it recognizes that satire and parody are legitimate expressive forms.

C. The United Kingdom: Image Rights Through Tort and Passing Off

Unlike the U.S. or EU, the United Kingdom lacks a standalone right of publicity. Instead, individuals rely on tort law, including passing off, defamation, and misuse of private information. The leading case, *Irvine v. Talksport Ltd.*, recognized that unauthorized use of a celebrity's image implying endorsement could amount to passing off.

Applied to deepfakes, this suggests that commercial exploitation of a celebrity likeness may be actionable, while parodic or humorous uses may escape liability absent reputational harm. The U.K. framework is thus narrower than the U.S. right of publicity but avoids overreach by requiring proof of damage.

The U.K. also implements strong defamation and privacy protections, which can address harmful deepfakes without categorically banning creative uses. Its case-by-case approach may offer India a model for balancing interests through tort-based remedies rather than broad statutory monopolies over identity.

D. China: State-Centric Regulation and Strict Liability

China has adopted one of the most stringent regimes for deepfake regulation. The Provisions on the Administration of Deep Synthesis Internet Information Services (2022) require that deepfake content be clearly labeled and prohibit the creation or distribution of synthetic media that could “endanger national security, harm the public interest, or disrupt social order.” Providers of deep synthesis services must verify user identities, retain data logs, and ensure traceability of content.

While these measures enhance accountability, they also demonstrate the risks of excessive state control. By framing deepfakes as a threat to national security, China grants authorities broad discretion to suppress content, including satire or dissent. Such a regime may prevent misuse but risks stifling creativity and chilling free expression.

Lessons for India

The comparative survey highlights four key lessons for India:

1. From the U.S.: adopt transformative use and carve-outs for parody and satire;
2. From the EU: implement proportionality and labeling obligations;
3. From the U.K.: rely on harm-based tort remedies rather than broad prohibitions;
4. From China: avoid excessive state control that chills creativity.

India’s constitutional framework, which protects free speech but allows reasonable restrictions, positions it closer to the U.S. and EU models than China’s. The challenge is to craft a legal framework that protects dignity without suppressing legitimate cultural expression.

Toward an Indian Framework: Proposals for Reform

The comparative analysis demonstrates that India stands at a crossroads. The Anil Kapoor and Jackie Shroff cases show the judiciary’s willingness to protect personality rights, but they also reveal the dangers of overreach that could chill legitimate creative expression. India must therefore develop a statutory and doctrinal framework that accommodates the grey zone of deepfake creativity while ensuring adequate remedies for exploitation and harm.

A. Codifying Personality Rights with Free Speech Safeguards

At present, Indian law does not provide a clear statutory basis for personality rights, leaving courts to rely on constitutional and common law principles. Codification is necessary to clarify the scope of protection. However, any statute must incorporate safeguards to prevent overbroad monopolization of identity.

The statute could draw inspiration from the U.S. transformative use doctrine, recognizing a carve-out for parody, satire, educational, and journalistic uses. Such provisions would give legal certainty to meme creators, educators, and artists, ensuring that their work is not chilled by fear of litigation. Explicitly embedding Article 19(1)(a) within personality rights law would align statutory protections with constitutional guarantees.

B. Adopting Proportionality and Fair Dealing Standards

Following the European model, Indian courts should employ proportionality to balance privacy and expression. Not every unauthorized use of a celebrity's image warrants prohibition; courts should ask whether the deepfake contributes to public discourse, commentary, or cultural critique.

This standard could be operationalized through an expansion of India's existing fair dealing exceptions under copyright law, which already allow for parody, criticism, and review. By analogy, personality rights could incorporate a "fair use of identity" defense, permitting deepfakes that are transformative, educational, or satirical.

C. Labeling and Transparency Obligations

Drawing lessons from the EU Digital Services Act and China's labeling requirements, India could mandate that deepfake content be clearly labeled as synthetic. Such measures would enhance audience literacy and prevent deception while preserving space for creative use. Importantly, labeling requirements should not impose onerous burdens on individual creators but could focus on platform-level obligations for hosting and distribution.

D. Safe Harbor for Platforms with Accountability

The role of intermediaries is central. Platforms often serve as the primary medium for

dissemination of deepfakes, whether malicious or creative. India's Information Technology Act, 2000, provides conditional safe harbor under Section 79, but its scope has been narrowed by recent amendments and judicial interpretation.

A reformed framework should preserve safe harbor for platforms while requiring them to:

1. Provide accessible mechanisms for takedown of harmful deepfakes;
2. Label synthetic content when technologically feasible; and
3. Protect lawful parody and satire from overzealous removal.

This balanced approach would avoid the pitfalls of over-regulation while ensuring accountability.

E. Remedies Tailored to Harm

Remedies should be proportional to the nature of the deepfake. Exploitative or defamatory deepfakes could warrant injunctions, damages, or criminal penalties, while creative deepfakes should not. India's judiciary must distinguish between uses that harm reputation, privacy, or commercial interests and those that merely lampoon or educate.

For instance, a deepfake used in an advertisement implying endorsement without consent should be actionable, as in *Irvine v. Talksport Ltd.*⁶⁸ Conversely, a satirical meme of a politician or celebrity should fall within the ambit of Article 19(1)(a). Embedding this distinction in statutory law would prevent inconsistent case law and ensure predictability.

Educational and Research Exemptions

Finally, India must explicitly safeguard deepfakes created for pedagogical purposes. Universities, schools, and digital educators increasingly use synthetic media for demonstrations, historical reenactments, or cross-disciplinary learning. Criminalizing such uses would stifle innovation in education and research. A statutory exemption for non-commercial, educational deepfakes would strike the right balance.

Conclusion

The rise of deepfake technology presents a profound challenge for legal systems worldwide. In

India, the Anil Kapoor and Jackie Shroff cases represent two poles of judicial interpretation: one leaning toward restrictive control of celebrity identity, the other cautiously accommodating creative expression. Together, they illustrate the grey zone in which the law must operate—a space where the line between harm and humor, exploitation and expression, is far from clear.

Comparative perspectives highlight potential paths forward. The U.S. emphasizes transformative use and robust free speech; the EU balances privacy and expression through proportionality and labeling; the U.K. focuses on harm-based tort remedies; and China underscores the risks of excessive state control. India must chart its own course, one that draws from liberal democracies while respecting its constitutional commitment to free speech and cultural vibrancy.

The solution lies not in outright prohibition, but in calibrated regulation: codifying personality rights with explicit free speech safeguards, adopting proportionality and fair dealing standards, mandating transparency in synthetic media, preserving platform safe harbor with accountability, tailoring remedies to harm, and safeguarding educational uses. Such a framework would protect individuals from exploitation while preserving the democratic value of satire, parody, and creative experimentation.

Ultimately, the law must recognize that deepfake creativity is not inherently violative. Memes, parodies, and pedagogical uses form part of the rich cultural discourse that sustains a democracy. Suppressing them under the guise of personality rights risks impoverishing public debate and chilling artistic innovation. By acknowledging the grey zone and legislating with nuance, India can ensure that its legal system both protects dignity and nurtures creativity in the digital age.

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