
A RIGHT FOR ALL, A REMEDY FOR THE FAMOUS: NAVIGATING THE JUDICIAL DIVERGENCE AND LEGISLATIVE VACUUM IN INDIAN PERSONALITY RIGHTS LAW

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ABSTRACT

Personality rights in India, though grounded in the right to privacy under Article 21 of the Constitution, lack a clear and comprehensive statutory framework. As a result, courts have become the primary drivers in shaping the contours of these rights, particularly through disputes involving celebrities and commercial exploitation of identity. Recent decisions of the Delhi and Bombay High Courts have highlighted an unresolved doctrinal tension: whether personality rights are exclusive to celebrities or inherent in every individual. This ambiguity becomes even more critical in the digital era, where artificial intelligence and deepfake technologies enable effortless replication and unauthorized commercial use of personal identity traits, such as voice, image, or mannerisms. Existing statutory mechanisms—principally the Trade Marks Act, Copyright Act, Information Technology Act, and the Bharatiya Nyaya Sanhita—offer only fragmented protection and fail to address the proprietary and dignitary interests at stake. This paper examines the judicial evolution of personality rights in India, analyses the conflicting judicial interpretations on their scope, and argues for the necessity of a unified legislative framework that clearly delineates permissible limits, enforcement mechanisms, and safeguards against digital and AI-driven misuse of identity.

INTRODUCTION

Personality rights in India derive their foundation from the right to privacy guaranteed under Article 21 of the Constitution. Although various statutes such as the Trademark Act, the Copyright Act, the Information Technology Act, and the Bhartiya Nyaya Sanhita touch upon specific aspects of these rights, none of them provide a unified or comprehensive framework for addressing its violations and relief. This legislative gap forces aggrieved party to seek justice directly from the High Courts or Supreme Court. As a result, the law of personality rights in India has been shaped primarily through judicial precedent.

The recent orders of Bombay and Delhi high court regarding the interim injunction against the personality right violation of the celebrities leaves us to certain unaddressed questions. Firstly, whether personality rights are celebrity exclusive right or whether it can be claimed by common individual not holding celebrity status? Secondly whether the existing legal frame work is sufficient to provide adequate relief against the AI powered personality rights violation.

What are personality rights

Personality rights are the broader concept that includes the right to privacy and the right of publicity. Personality rights empower individuals to control the use of their personal identity, such as their name, image, and likeness. Personality Rights can be located in the individual's autonomy to permit or deny the exploitation of the likeness of other attributes of their personality¹. The right of publicity has evolved from the right of privacy and can inhere only in an individual or in any indicia of an individual's personality like his name, personality trait, signature, voice, etc. It grants a person an exclusive right to control the commercial use of his personality rights without permission.² These rights are only available to natural person and legal person are not entitled to claim it. The plausible reason for the exclusion of legal entities is that the copyright law, trade mark law and unfair competition law provide full protection against all forms of appropriation of property to such legal entities. Also, it would be against the basic concept of persona" which means "a person; an individual human being".

¹ Aishwarya Rai Bachchan v. Aishwaryaworld.Com & Ors 2025 LiveLaw (Del) 1089

² ICC Development (International) Ltd. v. Arvee Enterprises, 2003 SCC OnLine Del 2

Most of the courts abroad have refused to grant publicity rights of human beings to the non-living entities.³

A Right for All, or a Remedy for the Famous

Personality rights are an inherent right belonging to every individual, with no distinction made between celebrities and non-celebrities in their ability to claim them. A celebrity is a famous or a well-known person who ‘many’ people talk about or know about⁴⁵⁶. In case of well-known individual, the personality rights and publicity rights are easier to identify and enforce in contrast to a lesser-known individual.

The Madras High Court in **Shivaji Rao Gaikwad v. Varsha Productions**⁵, 2015 SCC OnLine Mad 158 observed that the personality right vests on those persons, who have attained the status of celebrity. A celebrity must be identifiable from defendant's unauthorized use. Infringement of right of publicity require no proof of falsity, confusion, or deception, especially when the celebrity is identifiable. However, as per the Bombay HC in **Karan Johar v. India Pride Advisory Private Limited and Others**⁶ it's well-settled position in law that persons have a right to property on their personality rights to exploit the same commercially. Various courts in India have time and again upheld the right to publicity and personality right of persons. The celebrities are entitled to protection of the facts of their personality such as inter alia their name against unauthorised commercial exploitation by third parties. In the case of a celebrity or a well-known individual the personality rights and publicity rights are easier to identify and consequently clearer to enforce.

Indian courts present a nuanced view on personality rights, with a notable divergence between High Courts. The Madras HC, takes a restrictive view, stating these rights vest only upon people having celebrity status. In contrast, the Bombay HC in offers a broader perspective, affirming that every person holds this right, it's just easier and clearer for celebrities to enforce. However, the court has left the question unaddressed as to how the personality rights of an ordinary individual without celebrity status would

³ Ibid

⁴ *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382

⁵ SCC OnLine Mad 158

⁶ SCC OnLine Bom 546

be protected. The current precedents thus leave us with an unresolved question requiring Supreme Court or legislature to ensure a just and consistent application of the law for every individual.

Scope of personality rights and permissible exceptions

Personality Rights of individuals include one's image, name, likeness or other attributes of the individuals' personality⁷. The Delhi High court in **Anil Kapoor v. simply life India & Ors.**⁸ has significantly expanded the scope of personality rights. The judgment extended protection beyond established attributes like name, voice, and likeness to include distinctive behavioral characteristics such as an individual's unique manner of speaking, dialogue delivery, and gestures. The court acknowledged that personality rights are subject to protected free speech, news, satire and genuine criticism. However, when the same crosses a line, and results in tarnishment, blackening or jeopardises the individual's personality, or attributes associated with the said individual, it would be illegal⁹.

Besides protected free speech and other exception, non-commercial use of personality right is relevant factor to decide whether infringement is caused or not. The right to control commercial use of human identity is considered to be right to publicity.¹⁰ The recent Delhi High court order in **Hrithik Roshan V. Ashok Kumar & Ors**¹¹, however, declined to grant ex-parte relief against Instagram pages, fan clubs and videos used for dance tutorials, of the Bollywood actor, seeking protection of his personality rights against its unauthorised use. As per court, they are rather for fun and recreation and are neither defamatory nor used for commercial purpose.

The Courts have to needs to be cautious each case because mere non-commercial use cannot solely be used as test to decide the violation. The rights can be violated even where misuse of the persona is done for subjective fun or indirect economic benefits. It

⁷ Supra note1

⁸ *Anil Kapoor v. Simply Life India*, 2023 SCC OnLine Del 6914

⁹ Ibid

¹⁰ *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382

¹¹ Nupur Thapliyal, *Delhi High Court Protects Actor Hrithik Roshan's Personality Rights, Refuses to Take Down Fanpages for Now*, LiveLaw (Oct. 15, 2025, 11:31 AM IST), <https://www.livelaw.in/high-court/delhi-highcourt/delhi-high-court-directs-take-down-of-links-infringing-hrithik-roshans-personality-rights-refuses-to-takedown-actors-fanpages-306974>

is pertinent to note that the inexplicable broadening of personality rights stemming from the absence of a clear legal framework, poses a significant challenge to the right to free speech under Article 19. This would ultimately require the supreme court or legislature to intervene and establish definitive guidelines that delineate the scope of these rights, permissible exception and possible remedies in case of infringement.

The Insufficiency of Existing Legal Frameworks:

Personality rights in India are primarily protected under Article 21 of the Constitution.

Additionally, courts have creatively applied laws related to copyright, trademarks, Bhartiya Nyaya Sanhita and Information technology laws to protect specific aspects of an individual's persona.

Trademarks Act, 1999: This act allows public figures to register their name or image, and Section 29 provides recourse against its infringement. However, protection is narrow because trademark laws are basically meant to protect a "sign" for specific goods/services, whereas a personality right protects the entire persona across all contexts. Furthermore, protection is conditional on registration, which requires "distinctiveness," a barrier for many aspects of identity

Copyright Act, 1957: While performers' rights (Sections 38, 38A, 38B) offer some protection to performers, however copyright Act purpose is to protect *original creative works*, not personal identity. Attributes like a name, voice, or likeness are not "works" under copyright law, leaving a vast gap in protection.

The Bhartiya Nyaya Sanhita (BNS): The provisions of BNS are inadequate for protecting personality rights because it primarily addresses criminal offenses like defamation, cheating, and forgery. These provisions focus on reputational harm or criminal fraud, not on the **unauthorized commercial exploitation** of an individual's identity.

Information Technology Act ,2000: The Act provides crucial protections against specific online harms like identity theft, fraud, and privacy violations (Sections 66C, 66D, 66E). The Act's core limitation is its focus on criminal and deceptive conduct. However, personality rights are primarily a proprietary right *concerned with* the

unauthorized commercial *use* of one's identity, even when no crime, deception, or invasion of privacy has occurred. The technological tools that are now freely available make it possible for any illegal and unauthorised user to use, produce or imitate any celebrity's persona, by using any tools including Artificial Intelligence.¹² This AI-powered technology allows for the creation of deepfake videos, enabling fraud and defamation.

While India's existing legal frame work offers fragmented protection against the personality rights violation, it is not enough to fully address the unique challenges of AI-generated media. The rise of AI and deepfakes now demands comprehensive legislation in our existing statutes to completely safeguard an individual's persona from unauthorized commercial exploitation and digital forgery.

Conclusion

The trajectory of personality rights in India reveals a judiciary attempting to bridge a significant legislative void. While courts have recognised the intrinsic connection between identity, autonomy, and dignity under Article 21, the absence of a dedicated statutory framework has resulted in inconsistent and case-specific protection. The divergent approaches taken by the Madras and Bombay High Courts reflect this uncertainty—one tying enforceability to celebrity status, and the other acknowledging personality rights as inherent to every individual. This lack of uniformity becomes even more pressing in the age of artificial intelligence, where a person's likeness, voice, and behavioural attributes can be replicated and commercialised without consent, often in ways that cause harm beyond economic loss.

Existing statutes—whether the Trade Marks Act, Copyright Act, Information Technology Act or the Bharatiya Nyaya Sanhita—provide only fragmented remedies and were not designed to address the proprietary and dignitary interests underlying personality rights. The rapid rise of deepfakes, impersonation, and digital cloning underscores the urgency of establishing a coherent framework that both protects the individual and respects legitimate free speech interests such as commentary, satire, and

¹² Supra note 8

artistic expression.

Thus, the way forward must involve either a clear pronouncement by the Supreme Court or a comprehensive legislative intervention that defines the scope of personality rights, lays down reasonable exceptions, and provides structured remedies. Such clarity is essential not only to safeguard individual identity in an increasingly digital society, but also to maintain the balance between personal dignity and the constitutional guarantee of free expression. Without this, personality rights will continue to develop reactively, leaving individuals—famous or otherwise—vulnerable to misuse in a technologically evolving landscape.