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**PROTECTING FAME, NOT HARM: THE RECOGNITION
GAP IN INDIA'S DEEPFAKE JURISPRUDENCE:
PERSONALITY RIGHTS, SEXUAL DEEPFAKES AND THE
CASE FOR A STATUS-NEUTRAL OFFENCE IN THE
BHARATIYA NYAYA SANHITA, 2023**

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Abstract

Generative artificial intelligence has produced a fast-moving form of gendered digital violence: sexually explicit images of real women fabricated without their knowledge and circulated as though they were real. Facing no statute that names this conduct directly, Indian High Courts have reached for the doctrine of personality rights, granting a growing number of public figures injunctions against using their likeness in synthetic content. This Article refers to the resulting problem as the **recognition gap**. The judicial fix works by protecting the market value of an identity; therefore, almost by design, it protects least where the harm is often worst: the private woman with no public profile, no market reputation, and nothing that this doctrine was built to defend. Read against the constitutional morality reasoning developed under Article 21 of the Constitution of India, this silence points to something more serious than a case-law omission; it points to a gap in the criminal code itself. The Bharatiya Nyaya Sanhita, 2023, was billed as a modernization of India's criminal law, yet it still prosecutes deepfake sexual abuse through provisions written for a camera capturing something real, not an algorithm inventing something that never happened. Drawing on the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, a close reading of the 2023–2026 High Court orders, a comparison with the United Kingdom's status-neutral offences under the Online Safety Act 2023 and the Data (Use and Access) Act 2025, and the Supreme Court's observations of July 29, 2026, made in the *suo motu* proceedings *In re Victims of Digital Arrest Related to Forged Documents*, which called on the Union Government to legislate against

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deepfake-enabled offences among other digital harms, this article proposes a three-part legislative response: a status-neutral offence, a rebuttable presumption of harm, and a fast-track remedy.

Keywords: deepfakes; non-consensual intimate imagery; Bharatiya Nyaya Sanhita, 2023; personality rights; constitutional morality; recognition gap; IT Rules 2026; feminist legal theory.

The Argument in Brief

Problem	Doctrine currently used	Structural limitation	Proposed fix
AI-generated sexual deepfakes of women	Personality rights (passing off, privacy tort, Article 21)	Recognition-contingent: presupposes a commercial or public persona	Status-neutral BNS offence keyed to absence of consent
Slow, resource-heavy relief	Civil suit plus John Doe injunction	Requires senior counsel and sustained litigation capacity	Fast-track remedy mirroring the two-hour NCII takedown logic
Platform inaction	IT Rules 2026 takedown timelines for synthetically generated information	Regulates intermediaries, not the perpetrator	Rebuttable statutory presumption of harm on notice

"Privacy is not a right reserved for those whose names command a market value; it is the essential condition of human dignity for every individual, known or unknown."
— Adapted from Justice K.S. Puttaswamy (Retd.) v. Union of India (2017)

I. Introduction

Within the space of a single week in July 2026, the Delhi High Court restrained AI-cloned voice advertisements and deepfake content depicting the actor and Member of Parliament Ravi Kishan,² and the Bombay High Court directed Meta, Google and a range of other platforms to take down morphed and superimposed content depicting the actor Preity Zinta.³ Two months earlier, the Delhi High Court ordered the removal of AI-generated videos falsely depicting

² Ravindra Shukla @ Ravi Kishan v. Ashok Kumar, order dated July 6, 2026 (Del. H.C.) (interim injunction against AI-cloned voice advertisements and deepfake content).
³ Preity Zinta v. Ashok Kumar (John Doe), order dated July 8, 2026 (Bom. H.C.) (directing Meta, Google and other platforms to take down morphed and superimposed content).

political statements by a sitting Member of Parliament.⁴ All three orders follow a template that Indian courts have used since 2023: an *ex parte* interim injunction barring the "use of the plaintiff's name, likeness, or voice through artificial intelligence, machine learning, or morphing, resting on the tort of passing off, the constitutional right to privacy, and the emerging doctrine of personality rights".⁵

It is effective and fast. It has never been explicitly tested with a claimant who has no recognizable public profile, such as a student, a young professional, or a private citizen whose photo was clipped and used to create sexually explicit synthetic content. This is called the **recognition gap**: a feature, not a bug, of relief built on the commercial-identity doctrine, in which legal protection tracks public visibility rather than the severity of what was done.

This is not an indictment of Indian courts, which have dealt poorly with deepfakes. In contrast, this is more likely to be true. The problem is that the doctrine they have sought is a collection of available trademark and privacy-tort law tools to protect an identity already endowed with public value, and that origin leaves women with no public identity whatsoever and so less well served by the doctrine created to answer to a grievance disproportionately suffered by them.

The argument continues in six additional parts. Part II provides a picture of the scale of the problem and its gendered nature. Part III traces the statutory provisions currently doing the work, to which the 2026 Intermediary Guidelines are layered. Part IV investigates the case law relating to personality rights and its practice in a recognition-dependent framework. Part V develops the argument on constitutional morality and contrasts it with the intimate-image offences of the United Kingdom. The analysis is summarized in Part VI, which outlines a three-part legislative strategy. Part VII concludes.

II. The Scale and Gendered Character of the Problem

Reported High Court orders concerning deepfake and synthetic-media misuse have risen appreciably between 2024 and mid-2026, with the Delhi High Court and, increasingly, the Bombay High Court emerging as the preferred fora, a pattern visible in the run of interim injunctions summarized in Part IV below. Public discussion still tends to trace the entire controversy to a single incident in November 2023, when the face of a well-known actress was morphed onto another woman's body and the resulting video circulated widely, prompting the Ministry of Electronics and Information Technology to issue an advisory reminding social media intermediaries of their due diligence obligations and the conditional nature of safe harbor

⁴ *Shashi Tharoor v. Ashok Kumar (John Doe)*, order dated May 8, 2026 (Del. H.C.).

⁵ See *Anil Kapoor v. Simply Life India*, 2023 SCC OnLine Del 6914 (India).

under § 79 of the Information Technology Act, 2000.⁶ This was the moment deepfakes stopped being a technical curiosity in India and became a regulatory problem.

However, the underlying harm is not new. It is an old and familiar pattern of image-based sexual abuse against women, now running on faster hardware systems.⁷ Generative AI has not changed the injury but the entry cost. Morphing once demanded some skill and a usable source image; contemporary "nudifying" applications convert a single photograph into convincing sexual content in minutes, for very little money. Researchers working on technology-facilitated gender-based violence have identified this as a distinct category of digital sexual violence, with the "splicing of a victim's likeness onto *explicit content as one of the fastest-growing forms of abuse*".⁸ The consequence is a far larger pool of potential victims, including for the first time at real scale the women with no public presence whatsoever. This is precisely the group least able to invoke the personality-rights relief that now defines the judicial response, and the most exposed in practice, since they have no platform, no legal team, and no public standing from which to respond once the content is circulating.

A. Why the Ordinary Victim Is Structurally Different

Three features separate the non-public victim from the celebrity claimant, and none has been properly absorbed into the doctrine of public interest.

The first is the **evidentiary capacity**. A celebrity plaintiff usually has counsel and communications staff who can move quickly and document infringing content across multiple platforms simultaneously, which is what allowed the plaintiff in the Bombay High Court proceedings of July 2026 to place a large volume of documented infringing material before the Court at the interim stage.⁹ An ordinary complainant must do this herself, frequently while the content is still circulating among people she knows.

The second is **containment measures**. A public figure's reputation is generally robust enough to survive a fabricated scandal, and she can respond publicly. A private woman whose

⁶ Ministry of Elec. & Info. Tech., Gov't of India, *Advisory to Intermediaries on Due Diligence Obligations under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021* (Nov. 7, 2023).

⁷ See generally Danielle Keats Citron, *Hate Crimes in Cyberspace* (Harvard Univ. Press 2014); Clare McGlynn, Erika Rackley & Ruth Houghton, *beyond 'Revenge Porn': The Continuum of Image-Based Sexual Abuse*, 25 Feminist Legal Stud. 25 (2017).

⁸ Nicola Henry & Anastasia Powell, *Technology-Facilitated Sexual Violence: A Literature Review of Empirical Research*, 19 Trauma, Violence, & Abuse 195 (2018); Nicola Henry, Asher Flynn & Anastasia Powell, *Image-Based Sexual Abuse: A Study on the Causes and Consequences of Non-Consensual Nude or Sexual Imagery* (Routledge 2020).

⁹ See *Preity Zinta v. Google LLC*, COMIP No. 245 of 2026, IA No. 20703 of 2026 (Bom. High Ct. July 8, 2026) (India) (record of interim proceedings).

fabricated image is already known within her own social, familial or professional circle has no comparable means of undoing it.

The third, and the one that matters most here, is **doctrinal fit**. A celebrity's claim slots neatly into the existing framework as the protection of a recognized commercial identity. A private woman's claim must be forced into the same shape even though, on the doctrine's own terms, she has no such identity to protect.

III. Mapping the Existing Statutory Framework

A. *The Bharatiya Nyaya Sanhita, 2023*

The Bharatiya Nyaya Sanhita, 2023 ("BNS"),¹⁰ which replaced the Indian Penal Code, 1860, contains no provision addressing deepfake sexual content, synthetic imagery or AI-generated media as such. Therefore, prosecutors assemble liability from provisions drafted for conduct in the physical world, and the resulting patchwork does not always match the contours of the harm. The most frequently invoked provisions and the interpretive strain each carry is set out in **Table 1**.

Table 1: BNS Provisions Invoked Against Deepfake Sexual Content¹¹

Provision	Conduct addressed	Interpretive strain when applied to AI-generated content
§ 77, BNS	Voyeurism-"capturing or disseminating the image of a woman engaged in a private act"	Operates on the premise that a real event was recorded, rendering it textually inapplicable to algorithmically generated imagery where no physical recording occurred
§ 78, BNS	Stalking-monitoring or repeated online contact	Addresses the perpetrator's conduct towards the victim, not the fabricated content itself
§ 79, BNS	"word, gesture or act intended to insult the modesty of a woman" (successor to § 509, IPC)	A generalist, modesty-based provision, textually inherited from a pre-digital moral frame
§ 294, BNS	Obscenity-publication or transmission of obscene material	Anchored in public-morality doctrine rather than consent or personal identity

¹⁰ The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023 (India) (in force w.e.f. July 1, 2024) [hereinafter BNS].

¹¹ BNS, §§ 77, 78, 79, 294, 319, 351, 356.

§ 319, BNS	Cheating by personation	Requires deception inducing delivery of property or an act; ill-suited to dignitary harm
§ 351, BNS	Criminal intimidation	Available only where content is used to threaten, not merely to violate
§ 356, BNS	Defamation	Protects reputation, not the autonomy or dignitary interest violated

Each of these provisions rests on the factual premise that AI-generated sexual content cannot supply: that something real was recorded or that a false assertion of fact was made about a real person. A wholly invented image depicts something that has never occurred. It is not a record of a private act. Nor is it a straightforward falsehood of fact, since a viewer who knows the image is synthetic does not believe the depicted event happened. However, the psychological and dignitary injuries inflicted on the woman whose face appears in the image are scarcely distinguishable from those inflicted by a genuine leaked image.

The Information Technology Act, 2000 supplies a partial supplement: § 66E on "capturing and transmitting images of a private area", § 66D on impersonation via digital systems, alongside §§ 67 and 67A, "material containing sexually explicit act or conduct in electronic form".¹² These provisions share the same conceptual difficulties. Section 66E, like § 77 of the BNS, is framed around the concept of capture. Sections 67 and 67A rest on obscenity, an offence against public decency, rather than against the person depicted. The result is a **prosecutorial seam**: absent a named offence, charging decisions require an interpretive stretch, producing inconsistent charges and, potentially, disparate sentences for substantially similar conduct.

B. The 2026 Intermediary Guidelines: A Partial, Platform-Facing Fix

Until 2026, India's principal regulatory response was through delegated legislation rather than the criminal code. The 2026 IT Amendment Rules,¹³ introduced the category of "**synthetically generated information**" ("**SGI**"): "audio, visual, or audio-visual information artificially or algorithmically created, generated, modified, or altered using a computer resource in a manner that appears real, authentic, or true, and that depicts a person or event in a way likely to be perceived as indistinguishable from a natural person or real-world event." Routine or good-faith editing, ordinary document preparation, and accessibility improvements are expressly excluded.

¹² The Information Technology Act, 2000, No. 21 of 2000, §§ 66D, 66E, 67, 67A (India).

¹³ The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026, Gazette of India, Extraordinary, Part II, § 3(i) (Feb. 2026) [hereinafter 2026 IT Amendment Rules].

The timelines are, finally, fast. Content "*prima facie* exposing a person's private area, depicting them in full or partial nudity or in a sexual act, or amounting to impersonation, including artificially morphed images" must be removed within **two hours** of a complaint, reduced from twenty-four hours.¹⁴ Unlawful content notified through a court order or a reasoned government intimation must be removed within **three hours**, reduced from thirty-six.¹⁵ Intermediaries offering generative computer resources "must deploy reasonable and appropriate technical measures, including automated tools, to prevent users from generating unlawful SGI, which expressly includes non-consensual intimate imagery".¹⁶ Significant social media intermediaries must additionally require user declarations as to whether the uploaded content is synthetic, verify those declarations by technical means, and label confirmed SGI.¹⁷

These are significant obligations. They are also obligations on platforms, not perpetrators. They tell an intermediary what to do once notified; they create no offence committed by the person who made the content. Acting quickly on a complaint is not the same as there being a clearly defined offence to complain about. There is further constitutional tension. In *Shreya Singhal v. Union of India*,¹⁸ the Supreme Court read down § 79(3)(b) of the Information Technology Act, 2000, so that an intermediary's "actual knowledge" arises only through a court order or an appropriate government notification, not a private complaint. Rule 3(1)(d) of the amended IT Rules preserves that limit, but Rule 3(3)(a), by requiring proactive technical prevention of unlawful synthetic content, moves the regime appreciably towards constructive knowledge, a shift that sits uncomfortably with the *Shreya Singhal* ceiling and will, in due course, be litigated.

IV. Judicial Improvisation: The Personality-Rights Workaround

Into that legislative vacuum, the Delhi and Bombay High Courts have built, case by case, a body of interim-injunction law that owes nothing to the BNS Act. It draws instead on the Copyright Act, 1957, the Trade Marks Act, 1999, the privacy jurisprudence under Article 21, and the tort of passing off. Relief follows the ordinary interlocutory test, which is a "*prima facie* case, balance of convenience, and irreparable harm not compensable in damages",¹⁹ and

¹⁴ *Id.* r. 3(1)(d), *amending* Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

¹⁵ *Id.*

¹⁶ *Id.* r. 3(3)(a).

¹⁷ *Id.* r. 4(1A).

¹⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1 (India).

¹⁹ *See Wander Ltd. v. Antox India (P) Ltd.*, 1990 Supp. SCC 727 (India); *American Cyanamid Co. v. Ethicon Ltd.* [1975] A.C. 396 (H.L.) (Eng.).

courts have consistently found that AI-generated content depicting a well-known person satisfies it, the injury being both obvious and effectively instantaneous once the content is online.

The origin case is *Anil Kapoor v. Simply Life India*,²⁰ the Delhi High Court restrained the unauthorized use of the actor's name, voice, likeness, and dialogue through "AI, machine learning, morphing or GAN-based tools" for commercial and non-commercial purposes alike. Every subsequent order followed this template.

Table 2: Personality-Rights Orders, 2024–2026

Case	Court / date	Relief granted	Public profile of claimant
<i>Jackie Shroff v. Peppy Store</i> ²¹	Delhi HC, 15 May 2024	Injunction against exploitation of persona through AI content; URL blocking	Film actor
<i>Shashi Tharoor v. Ashok Kumar (John Doe)</i> ²²	Delhi HC, 8 May 2026	Takedown of AI videos falsely depicting political statements	Sitting Member of Parliament
<i>Ravindra Shukla @ Ravi Kishan v. Ashok Kumar (John Doe)</i> ²³	Delhi HC, 6 July 2026	Restraint on AI-cloned voice advertisements and deepfake content	Film actor and Member of Parliament
<i>Preity Zinta v. Ashok Kumar (John Doe)</i> ²⁴	Bombay HC, 8 July 2026	Takedown of documented morphed and superimposed content by Meta, Google and others	Film actor
<i>X v. JIX5A</i> ²⁵	Delhi HC, July 2025	Interim injunction; content described as "appalling, deplorable, defamatory"; plaintiff's identity redacted from the cause title	Social media influencer (limited public profile)

²⁰ *Anil Kapoor v. Simply Life India*, 2023 SCC OnLine Del 6914 (India).

²¹ *Jaikishan Kakubhai Saraf v. Peppy Store*, (2024) 2 HCC (Del) 253, 15-05-2024.

²² *Shashi Tharoor v. Ashok Kumar (John Doe)*, order dated May 8, 2026 (Del. H.C.).

²³ *Ravindra Shukla @ Ravi Kishan v. Ashok Kumar (John Doe)*, order dated July 6, 2026 (Del. H.C.).

²⁴ *Preity Zinta v. Ashok Kumar (John Doe)*, order dated July 8, 2026 (Bom. H.C.).

²⁵ *Kamya Buch v. JIX5A & Ors.*, 2025 SCC OnLine Del 6428.

Table 2 presents two readings. The first is that the doctrine is not confined to celebrities: *X v. JIX5A* shows that a person with a modest online following can obtain the same relief as a film star, through the John Doe or "Ashok Kumar" mechanism, and can do so while keeping her identity out of the record. The second reading is that even there, the plaintiff succeeded by pointing to a recognizable persona and an associated reputational interest capable of being protected by injunction. Under the current framework as it presently stands, the protection available correlates with the public or commercial recognition the victim already enjoys. A first-year law student, a schoolteacher, or a woman with no social media presence has no commercial persona in the sense this jurisprudence demands, even though the harm she suffers from a fabricated sexual image may be worse, precisely because she has no platform from which to contest the story once it begins to circulate.

V. The Constitutional Morality Critique

The feminist legal objection to the personality rights workaround can be stated compactly: it is a **property-frame solution to a dignity-frame injury**. In India, personality rights descend from the right of an individual to control the commercial use of her identity, a right drawn directly from passing off and publicity-rights reasoning, where the underlying legal injury is framed as commercial exploitation.²⁶ While this construct adequately addresses celebrity claims by treating persona as a monetizable asset, it falters when applied to private individuals. For the ordinary woman, it operates only as a strained analogy, because her persona was never for sale. What was taken from her was not of commercial value but rather her bodily and sexual autonomy, exercised without her consent, exactly what the dignity and privacy guarantees located in Article 21 by *Justice K.S. Puttaswamy (Retd.) v. Union of India*²⁷ were meant to protect directly, rather than indirectly, through the side door of commercial value.

This is the work that constitutional morality is designed to do. As developed in *Navtej Singh Johar v. Union of India*²⁸, *Indian Young Lawyers Association v. State of Kerala*,²⁹ the idea is that constitutional guarantees of dignity and autonomy extend to the individual irrespective of whether she resembles the paradigm case around which a doctrine grew. A jurisprudence that moves swiftly and sympathetically to protect the film actor's voice and the politician's likeness

²⁶ See *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382 (India); *ICC Development (International) v. Arvee Enterprises & Anr*, 2003 VIIAD Delhi 405, 2003(26) PTC 245 Del, 2004 (1) RAJ 10; see also J. Thomas McCarthy, *The Rights of Publicity and Privacy* § 1:3 (2d ed. 2022).

²⁷ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

²⁸ *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1 (India).

²⁹ *Indian Young Lawyers Ass'n v. State of Kerala*, (2019) 11 SCC 1 (India).

as quasi-proprietary interests, while requiring the private complainant to construct an analogy to a commercial persona she does not have, reproduces an old pattern in a new setting.

Feminist scholars have criticized Indian criminal law for decades for protecting sexual integrity at one remove, anchoring it in paternalistic notions of modesty, reputation, and family honor rather than vindicating bodily and sexual autonomy directly.³⁰ Section 79 of the BNS is a clear instance of that inherited phrasing surviving codification: it retains the architecture of § 509 of the Indian Penal Code, 1860 by penalising an insult to "*modesty*" rather than a violation of consent or dignitary autonomy, which was a formulation the Justice J.S. Verma Committee had already identified this as unsatisfactory in 2013.³¹

A. A Comparative Note: The United Kingdom's Status-Neutral Model

A brief comparative detour is worthwhile because it shows that a status-neutral design can work without sacrificing enforceability. Section 188 of the Online Safety Act 2023 (UK) inserted § 66B into the Sexual Offences Act 2003 (UK), criminalizing the sharing or threatening to share an intimate photograph or film without consent.³² Section 142 of the Data (Use and Access) Act 2025 (UK) went further, inserting new offences criminalizing the creation, or the request to another to create, a "*purported intimate image*" of an adult without consent, which is defined as expressly framed to capture images that appear to be, but are not, photographs of the person.³³

Liability turns on two things only: the absence of consent and the fact that the image appears to depict an identifiable adult. Nothing turns on fame, reputation, or market value. A schoolteacher and pop star are protected under identical statutory terms.

India's personality rights case law was never designed as a criminal offence. It is a civil, injunctive remedy borrowed from the intellectual property doctrine, and its dependence on public recognition is not a drafting accident but a consequence of its provenance. The comparison does not suggest that Indian judges have used the wrong tool badly. They have used the only tool available because the right is a status-neutral criminal offence that has not

³⁰ See, e.g., Flavia Agnes, *Law and Gender Inequality: The Politics of Women's Rights in India* (Oxford Univ. Press 1999); Pratiksha Baxi, *Public Secrets of Law: Rape Trials in India* (Oxford Univ. Press 2014); Ratna Kapur, *Erotic Justice: Law and the New Politics of Postcolonialism* (Permanent Black 2005); Mrinal Satish, *Discretion, Discrimination and the Rule of Law: Reforming Rape Sentencing in India* (Cambridge Univ. Press 2017).

³¹ Justice J.S. Verma, Justice Leila Seth & Gopal Subramaniam, *Report of the Committee on Amendments to Criminal Law* ch. 3 (Jan. 23, 2013) (on sexual assault).

³² Online Safety Act 2023, c. 50, § 188 (UK), inserting Sexual Offences Act 2003, c. 42, § 66B (UK).

³³ Data (Use and Access) Act 2025, c. 18 (UK), inserting new intimate-image offences into the Sexual Offences Act 2003 (UK). The manuscript records that these provisions were brought into force on 6 February 2026.

yet been built.

The response is not to further stretch personality rights. It is to accept that they were never the right instruments for this harm. What is needed is a **dignity-based offence indifferent to the victim's status**: one built around the "*absence of consent to the creation or dissemination of sexually explicit synthetic imagery of an identifiable person*", whether that person has a public profile, a commercial reputation, or the resources to pursue an interim injunction through a High Court.

Framed this way, the offence would also sidestep a puzzle that complicates the copyright limb of the current approach. Section 2(d)(vi) of the Copyright Act, 1957 attributes authorship of a computer-generated work to "the person who causes the work to be created", a formulation that becomes unstable once the "causing" consists of a few words typed into a generative model.³⁴ A consent-based criminal offence avoids the problem entirely by never needing to ask who owns the image.

VI. Closing the Recognition Gap: A Legislative Template

The clearest signal that judicial improvisation had run its course came on July 29, 2026, when a Supreme Court Bench headed by the Chief Justice of India, hearing the *suo motu* proceedings in **Digital Arrest Related to Forged Documents**, which was a matter initiated by the Court in October 2025 following a letter petition by an elderly couple defrauded of ₹1.5 crore in a "*digital arrest*" scam, called on the Union Government to criminalize deepfake-enabled offences through dedicated legislation, while acknowledging that the Court itself cannot create an offence: even under Article 142 of the Constitution of India, the power to do complete justice does not extend to defining a crime.³⁵ The Solicitor General informed the Bench that a draft bill covering both digital arrests and deepfakes was being prepared. The deepfake observation was therefore made in the setting of a financial-fraud *suo motu*, which is a point this article does not overstate: the Court has not decided a sexual-deepfake case; it has, during a wider inquiry into synthetic-media harm, told Parliament to legislate. Coming in the same month as the Bombay High Court's order in *Preity Zinta* and the Delhi High Court's order in *Ravi Kishan*, this amounts to the judiciary acknowledging that the personality-rights jurisprudence traced in Part IV was always a stopgap, and signalling that the problem belongs to Parliament.

³⁴ The Copyright Act, 1957, No. 14 of 1957, § 2(d)(vi) (India).

³⁵ *In re Victims of Digital Arrest Related to Forged Documents*, *Suo Motu* proceedings, Sup. Ct. of India (initiated Oct. 2025 following a letter petition by an elderly couple defrauded of ₹1.5 crore in a "digital arrest" scam; on July 29, 2026 calling on the Union Government to enact dedicated legislation on deepfake-enabled offences).

The following is a proposal in three parts; each directed at a distinct dimension of the recognition gap.

A. A Status-Neutral BNS Offence

Parliament should insert into the BNS a standalone offence covering "the non-consensual creation or dissemination of sexually explicit synthetic media" depicting an identifiable person that says nothing about the complainant's public status, commercial reputation, or media presence. This would ensure that the ordinary woman and the film actor are protected on identical terms rather than one borrowing the other's doctrine by analogy. The offence should turn on the absence of consent to the depiction itself, not on whether the underlying representation is false (the defamation frame) or offends public morality (the obscenity frame), so that the wrong being punished is the violation of autonomy. Following the United Kingdom's model, the provision should extend to soliciting or commissioning the creation of such content, and **identifiability** rather than actual recognition should be the threshold.

B. A Rebuttable Statutory Presumption of Harm

The two-hour takedown obligation already in the IT rules of 2026 should be accompanied by a statutory presumption, rebuttable by the accused, that if any person is the subject matter of a sexual synthetic content, this is a cause for cognizable harm to the person. The effect of this, without inference or recognition, is that the victim is relieved of any onus of proving their irreparable injury before obtaining relief, extending to private complainants a level of protection currently enjoyed primarily by public figures by the general recognition-dependent reasoning of the High Courts in granting interim injunctions.

C. A Fast-Track Civil Remedy

The judicial system has demonstrated its capacity for rapid intervention in celebrity personality-rights litigation; a similar speed must be structuralized for private litigants. Rather than requiring resource-intensive civil litigation and John Doe applications, Parliament should establish a summary tribunal mechanism. Coupled with platform takedown obligations and the statutory presumption of harm, this would provide private complainants with expedited relief on timelines comparable to those currently obtained by public figures.

VII. Conclusion

The efforts made by the judiciary in India in combating the use of AI generated deepfakes in 2025 and 2026 are commendable. Courts have been moving faster and with compassion for victims that law seldom can. But the doctrine that developed to protect the commercial value of the known identity is never designed to cover the dignitary injury of a woman that has no public identity and the gap in recognition that flows from that is not a coincidence. It is embedded within it. The resulting recognition gap creates a two-tiered system of protection that prioritizes fame over harm, a structural limitation long highlighted by feminist legal critique in Indian criminal law.

The Supreme Court's observations in the "*suo motu* proceedings on digital-arrest fraud" confirm that judicial improvisation cannot permanently substitute for statutory reform. Constitutional morality demands that any upcoming legislation be measured not merely by how efficiently it protects public figures, but by whether it guarantees every individual equal protection through a status-neutral offence, a statutory presumption of harm, and an accessible remedy.

