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“PERSONALITY RIGHTS IN THE AGE OF DEEPPAKES: EVALUATING THE ADEQUACY OF INDIAN LAW IN PROTECTING CELEBRITIES FROM AI-GENERATED MISAPPROPRIATION”

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ABSTRACT

The development of Artificial Intelligence (AI) has allowed individuals to produce highly believable “deepfakes,” and there is concern among the public regarding the unauthorized use of a celebrity’s identity. Misusing a celebrity’s identity without permission may lead to damage to their reputation; commercial exploitation of their image/name; and loss of control over how they are portrayed in media. This paper will examine whether India’s current legal system is sufficient in protecting celebrities from AI generated “deepfakes” via the application of Constitutional Principles; Privacy Law; Passing Off; Copyright; Trademark Law; and Judicial Decisions. The paper will also explore issues related to Consent; Liability; Content Removal; and Freedom of Expression. The paper concludes that while Indian Courts have been increasingly accepting of Personality Rights, the existing body of law remains fragmented and does not provide specific protections against AI Generated Misuse.

Therefore, the paper emphasizes the need for Clearer Legal Standards and Effective Remedies that allow for Balancing Individual Rights with Technological Innovation and Creative Freedom.

1. INTRODUCTION

Celebrities have a set of characteristics a face, voice, or distinctive mannerism which has a great deal of commercial potential. To protect these sets of characteristics from being exploited without authorization, there exists what are called *personality rights*. The development of generative AI technologies has dramatically altered the threat posed to these rights. Now, deepfake technology can create realistic videos, audio recordings, and photographs of people doing or saying things that they never actually did; and all of this can be accomplished at very low costs and in a short amount of time.

There is no independent law in India regarding personality rights. Rather, they have evolved from constitutional privacy jurisprudence, the common law tort of passing off, and various sections of the Copyright Act, 1957 and Trade Marks Act, 1999¹ - a system designed for a time when the only way to misappropriate someone's likeness was by physically imitating them.

2. Research Objectives and Questions

2.1 Objectives

To analyse how the law on "personality" has developed in India through case law.

To determine if the current remedies are sufficient to deal with AI generated deepfakes.

To analyse India's regulatory framework introduced in 2025 and to suggest improvements.

2.2 Research Questions

What are the legal bases of personality rights in India, and how did case law develop them?

What is the sufficiency of passing off, privacy, copyright and trademark law to protect individuals from deepfakes?

Will the 2025 IT Rules amendment significantly address current issues regarding protection of personality rights?

3. Research Methodology

This study's doctrine is based upon the Constitution of India², the Copyright Act, 1957, the Trade Marks Act, 1999, the Information Technology Act, 2000 (as amended in 2025)³, and the Digital Personal Data Protection Act, 2023.

¹ The Copyright Act, 1957, ss. 38, 38A (performers' moral rights); The Trade Marks Act, 1999, s. 2(1)(m) (definition of "mark" as including a name).

² The Constitution of India, 1950, art. 21.

³ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as amended by the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2025 (notified 22 October 2025).

Both the Delhi High Court and the Bombay High Court have issued judicial decisions which support this finding. Additionally, secondary commentary will be provided along with a brief comparative analysis of the U.S. and E.U. positions on this issue.

4. Literature Review

The academic literature has emphasized for many years that in India there is no statutory right of publicity; rather it is dealt with under the common law of passing off and privacy.⁴

However, there are few clear doctrinal distinctions between them. Literature published since the 2022–2024 spate of celebrity lawsuits against AI impersonators have treated the concept of “personality” as being a growing independent body of law based upon the constitutional right to privacy.⁵ Literature concerning the 2025 IT Rules amendment has welcomed the labeling and takedown provisions contained within it.⁶

However, it has also raised concerns regarding whether or not those provisions can be enforced. This research paper will bring together these two areas.

5. Personality Rights: Meaning and Scope

Personality Rights protect an individual’s right to control how their identifying attributes (name, image, voice, likeness and mannerisms) are used commercially. There are two aspects of this right; one is privacy, which is about being able to prevent others from intruding on your private space. The other aspect is publicity, which is about protecting the commercial value of your identity.

In India, personality rights have been developed based on Article 21 of the Indian Constitution, the tort of passing-off, moral rights of performers as per the provisions of the Copyright Act⁷ and name protection as per the Trade Marks Act⁸ — thus creating a combined system of personality rights rather than a single codified right.

⁴ See, e.g., SpicyIP, ‘Right of Publicity in India – An Unfinished Story’ (2016); SSRana & Co., ‘Protection of Personality and Image Rights in India’.

⁵ Naik Naik & Co., ‘Delhi HC’s Protection To Anil Kapoor; A Landmark Order On Personality Rights’ (2023); Khurana & Khurana, ‘Personality Rights At The Intersection Of Indian IP Law’ (Mondaq).

⁶ SSRana & Co., ‘2025 IT Rules Amendment: Regulating Synthetically Generated Information in India’s AI and Privacy Landscape’; Vision IAS, ‘IT (Amendment) Rules, 2025’, Current Affairs Note (2025).

⁷ The Copyright Act, 1957, ss. 38, 38A.

⁸ The Trade Marks Act, 1999, s. 2(1)(m).

6. Constitutional and Privacy Foundations

The Indian Supreme Court recognized privacy as a fundamental entitlement protected by Article 21 of the Constitution in 1994, in *R. Rajagopal v. State of Tamil Nadu*.⁹ The Court ruled that an individual has the right to control how their personal information is published. That decision was further strengthened by *Justice K.S. Puttaswamy (Retd.) v. Union of India* in 2017, when the Court declared that privacy is a fundamental right.¹⁰ It also stated that an individual has the right to determine what is done with their own personal information. Since then, courts have used those principles to rule in favour of celebrities who are being manipulated through AI without their consent.

Courts ruled in favour of Anil Kapoor, who alleged that AI tools were being used to create a fake version of himself for advertising and other commercial purposes.¹¹ The court determined that the behaviour in question violated the individual's dignity and autonomy under Article 21, in addition to constituting passing off.

7. Passing Off, Copyright, and Trademark Protection

The Tort of Passing Off, which requires demonstration of goodwill, misrepresentation and damages, remains the primary form of protection; it was employed by Titan Industries Ltd. in its suit against Ramkumar Jewellers (2012) for the unauthorized use of celebrity endorsement images.¹²

While Copyright may protect an image or recording, the copyright belongs to the person who took the image or made the recording, not the person depicted in the image or recorded.

Therefore, Copyright provides no protection from the use of completely synthesized AI content. Trademark Law, pursuant to The Trade Marks Act, 1999, provides protection to an individual only if he/she has registered his/her own name/image as a trademark¹³ — a very limited and infrequently used option.

8. Judicial Recognition of Personality Rights

Indian courts, and particularly the Delhi High Court, have been increasingly extending the scope of protections available to individuals who are victims of AI-based misuse:

⁹ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

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

¹¹ *Anil Kapoor v. Simply Life India & Ors.*, CS(COMM) 652/2023 (Delhi High Court, order dated 20 September 2023).

¹² *Titan Industries Ltd. v. Ramkumar Jewellers*, CS(OS) No. 2662/2011 (Delhi High Court, 2012).

¹³ The Trade Marks Act, 1999, s. 2(1)(m).

ICC Development (International) Ltd. v. Arvee Enterprises (2003) — it was ruled that publicity rights are available only to natural persons and not to any organizations.¹⁴

Titan Industries Ltd. v. Ramkumar Jewellers (2012) — found that the unauthorized endorsement was an instance of passing off.¹⁵

Amitabh Bachchan v. Rajat Nagi & Ors. (2022) — the actor obtained an ex parte, in rem injunction against the fraudulent use of his identity in connection with a lottery scheme.¹⁶ An omnibus injunction restraining the use of AI, deepfakes, and face-morphing tools was issued in favour of Anil Kapoor against Simply Life India in 2023, with the Court grounding the decision in the tort of passing off and the right to privacy and dignity under Article 21.¹⁷

Jackie Shroff v. The Peppy Store & Ors. (2024) - offered the same protection to Mr. Shroff, who filed a lawsuit to prevent AI tools from using his persona commercially.¹⁸ In *Arijit Singh v. Codible Ventures LLP*, decided in 2024, the Bombay High Court made a ruling that prohibited the use of AI voice-cloning of Mr. Singh's voice; the court relied on the reasoning articulated in the *Anil Kapoor* case.¹⁹ Courts have treated AI impersonation as a variation on pre-existing torts as opposed to a new legal theory.

9. Unique Challenges of Deepfakes

Deepfakes undermine traditional legal principles in four ways: deepfake creators are frequently anonymous or based overseas; deepfakes can spread at a much faster rate than courts can react; the available remedies for copyright violations are limited due to the fact that deepfakes may not be a copy of an existing work; and finally, numerous types of harm (e.g., harassment, fraud, non-consensual content) are not based upon commercial misrepresentation or consumer confusion. There are also three significant deficiencies within India's current legal system.

Firstly, there is currently no legal definition of "right of publicity," thus allowing judges to define both the boundaries and length of the right.

Secondly, the majority of the existing remedies are reactive and necessitate expensive litigation.

Thirdly, although the 2025 amendment to the Information Technology (IT) Rules will improve platform transparency and takedown procedures, it does not provide any additional substantive

¹⁴ *ICC Development (International) Ltd. v. Arvee Enterprises*, 2003 (26) PTC 245 (Del).

¹⁵ CS(OS) No. 2662/2011 (Delhi High Court, 2012).

¹⁶ CS(COMM) 819/2022 (Delhi High Court, order dated 25 November 2022).

¹⁷ *Anil Kapoor v. Simply Life India & Ors.*, CS(COMM) 652/2023 (Delhi High Court, 20 September 2023).

¹⁸ CS(COMM) 389/2024 (Delhi High Court, 2024).

¹⁹ Commercial IP Suit (L) No. 17863 of 2024 (Bombay High Court, 2024).

rights to those who appear in deepfake content.²⁰

10. The 2025 IT Rules Amendment

On October 22, 2025, the new amendment to the IT Rules was notified.²¹ The deepfake provisions came into effect as of February 20, 2026. The new law defines “synthetically generated information” and requires significant social media intermediaries (generally understood to be platforms with a large average monthly user base) to label every piece of content that meets this definition. The label must cover at least 10% of either the visual area or the audio duration of the content.

Additionally, these platforms are required to verify user declarations regarding synthetically generated content and respond to takedown requests related to such content within three hours. Failure to comply with any of these requirements may result in loss of the safe-harbour immunity from liability provided by Section 79 of the Information Technology Act, 2000.²²

While the new requirement for labelling content is a positive step towards increasing transparency, it is a complement to existing personality rights protections, not a replacement.

11. Comparative Perspective

In several U.S. states, a statutory right of publicity exists (in some cases this right is also heritable) which protects an individual’s name, likeness and voice, and in a number of recent state amendments this protection has been extended expressly to AI-generated digital replicas.²³ The European Union has taken a different approach to regulating artificial intelligence. Instead of creating a statutory right of publicity like many U.S. states have done, the EU AI Act requires that deployers disclose when content has been artificially generated or manipulated, including deepfakes.²⁴ This type of regulation is conceptually similar to India’s labelling requirements for AI-generated content introduced by the 2025 IT Rules amendment. India’s approach to regulating AI-generated content is unique in that it is based upon a developing right-of-publicity doctrine built through case law, combined with a transparency requirement similar to the one found in the EU AI Act.

²⁰ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2025 (notified 22 October 2025).

²¹ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2025, Gazette Notification, 22 October 2025.

²² The Information Technology Act, 2000, s. 79.

²³ See, generally, the right-of-publicity statutes of California, New York, and Tennessee (the latter amended by the ELVIS Act, 2024).

²⁴ Regulation (EU) 2024/1689 (Artificial Intelligence Act), art. 50(4).

However, there has not yet been any legislation passed to combine these two concepts into a single, codified law.

12. Recommendations

Incorporate into law a codified regime of personality rights, specifying what elements are protectable, who is entitled to protection, and for how long.

Develop an AI-specific “cause of action” for unapproved use of someone’s synthetic likeness without consent, that does not necessitate proof of consumer confusion.

Extend the IT Rules requirements to apply to every type of intermediary (including those that are not “significant”) and provide an efficient, low-cost means for filing complaints.

Require AI tool developers to include provenance features (such as watermarking) in their products so that users can more easily identify the source of content created with those tools.

13. Conclusion

Indian courts have demonstrated considerable flexibility in using both the “passing off” doctrine (which protects against unfair competition) and the “right to privacy” doctrine to respond quickly to AI-generated deepfakes. The transparency framework introduced by the Indian Government is, in effect, an extension of this judicial trend into the regulatory sphere. Both sets of actions judicial and executive appear to have been taken in a largely improvised manner to address the deepfake issue. The judicial response, being a product of case-by-case judicial discretion, remains somewhat unpredictable in its application and is primarily accessible to well-resourced celebrities.

The IT Rules amendments, meanwhile, provide transparency obligations for platforms, but do not themselves create a legally enforceable right for the individual whose identity has been misappropriated.

Legislative action to formalise AI-specific liability and to strengthen obligations on intermediaries that host or promote deepfakes will be necessary if Indian law is to respond adequately to the growing prevalence of deepfake technology.

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