

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

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CELEBRITY IMAGE AS PROPERTY: A CRITICAL ANALYSIS OF PERSONALITY RIGHTS IN MODERN PROPERTY LAW

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ABSTRACT

In modern society, the rapid commercialisation of celebrity identity has raised significant legal questions regarding the protection and ownership of personality rights. This side of the law has already existed in this society; however, with the new technologies, it has gained the spotlight again. Celebrities are approaching the court to stop websites, e-commerce platforms, and social media from using their names, photos, and Artificial Intelligence (AI) generated content without permission. Personality rights are a broader concept that protects an individual's dignity and privacy. These are the safeguards that an individual uses to protect his or her personality traits under the right to privacy or property, and personality traits include images, videos, voices, etc. As a subset of personality rights, there is also a right called publicity rights, which specifically deals with the violation that is happening for commercial purposes. These rights are traditionally rooted in privacy but have gradually evolved into distinct proprietary interests, especially in the United States. In India, there is no single codified law to protect our personality rights, but it is governed through a combination of constitutional rights, which include Article 21(right to privacy or dignity), the Copyright Act 1957, and the Trademarks Act 1999. This research paper critically examines whether the celebrity image can be classified as property in the legal sense, referring to several judicial decisions, and also explores whether the personality rights of celebrities gradually move towards recognising them as proprietary interests that can or cannot be justified by their treatment as property.

Keywords: Personality rights, Publicity rights, Celebrities, Property, Commercial exploitation.

1. INTRODUCTION

In today's fast-paced economy, with rapidly evolving technology, personality rights have increasingly escalated in the legal world. This is not just a specialised legal issue but touches everyday life. Personality rights are the legal protections that allow individuals to control and profit from the commercial use of their identity, which can include the name, image, voice, likeness, etc. Generally, the personality rights can be divided into two main components: the right to privacy and the right to publicity. The right to privacy generally protects an individual from non-economic damages, while the right to publicity treats an individual's identity as a commercial asset. These rights may frequently overlap in practice, but each serves distinct purposes. In modern days, the question of personality rights has become more heightened since the public has started paying attention to celebrities, and this attention has emerged as a significant driver for commercial value. Earlier, the public figures managed their connection with society through films, television, and print advertising, but now, with the rapid growth of social media platforms, they can be seen almost everywhere. Their presence has now become constantly visible and is no longer filtered. The influence mediated by the celebrities is now mainly seen everywhere, and because of the easy availability of their images, videos, etc., with the new technology, many AI-generated products can be negatively made since generative AI tools are capable of hyper-realistic simulations of a celebrity's face, voice, and even mannerisms, through which the people making this content make money from it. This has raised a serious legal concern, as consent is often missing entirely, even though profits are being made out of it. However, India currently does not have a specific legislation for this, which leads the courts to intervene and address such disputes. This paper seeks to examine the possibility of treating personality rights as property within the framework of Indian laws, to examine how Indian courts have interpreted and recognised image rights of celebrities in the absence of dedicated legislation, and finally to examine the implications of considering personality rights as property on freedom of expression and public interest.

2. Methodology

This research paper adopts a doctrinal methodology relying on case laws, statutes, and secondary legal sources.

3.Scope of research

This research paper is about the personality rights of celebrities and how they can be treated as property. It focuses on personality rights in law, especially on the commercial aspect, as it applies to celebrities. The paper uses relevant laws, principles, and court decisions to understand it more. The constitutional provisions, such as Article 19(1), Article 21 and intellectual property laws, which include the copyrights and trademarks laws, are used to describe the paper. The study traces how courts have recognised these rights over time from cases like ICC Development (International) Ltd. V. Arvee Enterprises in 2003 to the recent relevant case laws, which also include Artificial Intelligence contents. The paper also delves into the challenges where artificial intelligence has taken over the areas of privacy by creating deepfakes, voice cloning, etc., of individuals, especially celebrities, and how these can be protected by the existing relevant laws. The paper then briefly mentions the findings of the study, including the suggestions for what changes can be brought for the betterment of these rights or laws.

4.CONCEPTUAL FRAMEWORK: PERSONALITY RIGHTS AND PROPERTY THEORY

The conceptual framework of this paper is based on the idea of two areas of legal concepts, which are personality rights and property theory.

4.1 Personality Rights.

Personality rights refer to the rights of an individual over their name, image, voice, and likeness. These rights are deeply personal, but they will have an economic value, especially in the case of celebrities. This right has its own classification into two components, which are protection from commercial exploitation and privacy rights. Commercial exploitation is defined as the act of exploiting a certain kind of physical property or intellectual property belonging to someone else to gain financial benefits.¹ Whereas the right to privacy plays a significant role in preventing the exploitation of the identities and personal information of individuals.²

4.2 Property Theory.

Although these two concepts often work in the same manner, they protect distinct interests. In

¹ Nikita Pal and Kavya Rai, 'Balancing Privacy and Publicity: A Legal Analysis of Personality Rights' (2025) *Chanakya National Law University Journal* 6.

² *Ibid* 7.

the legal sense, the property theory not only mentions the tangible assets but also the intangible assets through intellectual property law. In this context, personality rights function as an intangible asset. Since Indian law does not have any codified law expressing personality rights as property, it is guided by other relevant laws, such as the intellectual property law and constitutional law, which makes the framework borrowed and not original. Thus, the conceptual framework of this paper is based on the idea that personality rights, particularly on their commercial part, are similar to property theory.

4.3 Possibility of treating personality rights as property under Indian law.

In India, the issue of whether personality rights can be treated as property is to be looked at by examining the already existing laws and precedents on what courts have held about personality rights. Indian law does not have a codified law on personality rights as property, so it is guided through other important laws, such as intellectual property laws and constitutional laws, which can lead the courts to intervene creatively. The intellectual property laws have two main laws: the Copyright and Trademark laws that protect the rights of celebrities. The Copyright and Trademark laws traditionally protect material assets like physical goods or specific artistic works, but they do extend the laws to celebrity personality rights, and this is because the law treats a celebrity's identity as a commercial, intangible property, which means identity itself becomes an asset. The Trademarks law protects the celebrities' names, signatures, or stylised logos under the Trademark Act, 1999³, and the Copyright laws grant them the right to be credited for their work and to prevent others from distorting or misusing their performances under the Copyright Act, 1957.⁴ These statutes were not made for this purpose, but the courts simply adopted them. In the matter of personality rights, the Constitution of India also plays a vital role. Article 21 of the Constitution of India⁵, which mentions the right to privacy, plays a key role in personality rights. In the case of *K.S Puttaswamy v. Union of India* in 2017⁶, The Supreme Court ruled that the right to privacy is a fundamental right under Article 21 of the Indian Constitution⁷. This precedent changed the legal landscape. This included the right to keep personal information private and the right to make decisions on how their identity can be used for business, which gives control over their identity and personality rights, thus giving the idea to treat personality rights as property. This element of control forms the foundation that

³ Trade Marks Act, No. 47 of 1999, India.

⁴ Copyright Act, No. 14 of 1957, India.

⁵ INDIA CONST. art. 21.

⁶ *K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1

⁷ INDIA CONST. art. 21, supra note 5.

connects privacy and property rights.

5. JUDICIAL RECOGNITION OF CELEBRITY IMAGE RIGHTS IN INDIA

In India, because of the absence of codified law on personality rights as property, it is guided through relevant constitutional laws and intellectual property laws, and courts have been required to fill this gap. The courts have played a significant role in shaping celebrity image rights through various judgments, which reflect an evolving understanding of their rights.

5.1 Judicial Decisions.

The ICC Development (International) Ltd. v. Arvee Enterprises (2003)⁸ gave one of the earliest decisions to formally recognise the right of publicity in India. The Delhi High Court ruled that this right protects an individual's name, likeness, and persona from commercial use. This was a landmark beginning. In Titan Industries Ltd. v. Ramkumar Jewellers (2012)⁹, one of the judgements which was a step in recognising personality rights in India. The Delhi High Court held that a celebrity has the right to use their own image commercially, and it can come under intellectual property rights, but the unauthorised use of a celebrity's image for commercial purposes will be considered an infringement of the right. This further reinforced the property-based approach. The Madras High Court in Shivaji Rao Gaikwad v. Varsha Productions (2015)¹⁰ gave a decision that protected the actor Rajnikanth's name and persona from being used in a film without consent. This stated that using his name and persona without his consent would be an infringement of his personality rights and right of publicity. Here, Consent became the central issue. The case of Krishna Kishore Singh v. Sarla A Saraogi¹¹ addressed a different dimension of personality rights. The case revolved around a deceased person's right to privacy, personality rights, and commercial exploitation. Here, the court ruled that a personality can avail his rights of publicity during their lifetime; however, those rights might not necessarily extend to after the death of the concerned personality. This gave rise to a question whether the personality rights survive the death of the individual. This case is considered vital as it tries to strike a balance between the right to privacy and creative expression in the media. These judgments show how Indian courts have interpreted a body of law that treats the celebrity

⁸ *ICC Development (International) Ltd. v. Arvee Enterprises*, (2003) 26 PTC 245 (Del).

⁹ *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 (50) PTC 486 (Del).

¹⁰ *Shivaji Rao Gaikwad v. Varsha Productions*, 2015 SCC OnLine Mad 158.

¹¹ *Krishna Kishore Singh v. Sarla A. Saraogi*, (2021) 20 SCC 434.

identity as deserving protection through intellectual property principles and constitutional laws. While each case addressed only a certain part of the issue, together they formed a patchwork body of doctrine. But it also mentions how a legal gap is formed on the basis of personality rights and the right to creative expression of the media.

However, these precedents lay the groundwork for the statutory recognition of image rights as a form of intangible property. However, a clear statutory framework is still lacking.

6. IMPLICATIONS OF PROPERTIZATION OF PERSONALITY RIGHTS ON FREEDOM OF EXPRESSION AND PUBLIC INTEREST

In India, personality rights are guided through various intellectual property laws and constitutional laws, but sometimes this could generate consequences that can directly threaten freedom of expression and public interest under Indian Law. These effects are becoming more visible now. Article 19(1)(a) of the Indian Constitution¹² guarantees Freedom of speech and expression. It gives the right to express one's opinions, views, beliefs through speech, writing, etc., and it also includes the right to information and the right to remain silent. However, this right is not absolute. One of the major consequences under this will be that people can be priorly restrained from saying anything. This form of restraint is considered severe as it suppresses speech before it can be expressed. In the cases of *Anil Kapoor v. Life India & Ors.*¹³ and *Ravi Shankar v. John Doe(s) & Ors.*¹⁴, The court restrained individuals from using the celebrity's name, voice, or likeness through any medium, which effectively silences expression before it occurs. These orders extended broadly, which attracted criticism as they were overreaching. While Article 19(2) of the Indian Constitution¹⁵ states that these restrictions can be imposed only through law on specified grounds, a judicially constructed property does not come under this scope. This creates a constitutional mismatch. But even with this issue, Indian law does not have a defence to use, which leaves the creators and critics exposed to legal uncertainty. In the case of *R. Rajagopal v. State of Tamil Nadu (1994)*¹⁶ It was said that celebrities must accept scrutiny for their actions, and it requires deeper development to distinguish between necessary accountability and online harassment. This line is still uncertain, with no clear legal guidance on where the line should be drawn.

¹² INDIA CONST. art. 19(1)(a).

¹³ *Anil Kapoor v. Simply Life India & Ors.*, CS(OS) No. 783/2021 (Del HC, 2021).

¹⁴ *Ravi Shankar v. John Doe(s) & Ors.*, CS(COMM) No. 120/2022 (Del HC, 2022).

¹⁵ INDIA CONST. art. 19(2).

¹⁶ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

7. EMERGING CHALLENGES IN THE AGE OF ARTIFICIAL INTELLIGENCE

The rapid growth of artificial intelligence raises challenges to the existing framework of personality rights in India. This is a rapidly evolving issue, and the legal framework has not kept up. These artificial intelligence technologies are capable of generating hyper-realistic deepfakes, voice clones, and synthetic likenesses of celebrities, which makes the current laws, such as intellectual property laws and copyright laws that guide the personality rights, inadequate. These laws were written for an earlier period with different technologies. When an individual creates a fake video of a celebrity with the help of artificial intelligence technology, the law cannot find any application that protects performers, as there is no real performance. Also, in the case of artificial intelligence, it is difficult to prove that someone is creating this for commercial purposes or to make money out of it. Intent becomes hard to establish. The major challenge is that it is very difficult to track the artificial intelligence content, and it can also be quickly spread across the internet. By the time it is found, the damage will already be done. In the case of *Anil Kapoor v. Life India & Ors.*¹⁷ And *Ravi Shankar v. John Doe(s) & Ors.*¹⁸. The courts intended to restrict this by issuing orders against unknown people. This was considered to be as a creative legal response. However, it is hard to enforce these orders when the content is made and shared by people in other countries, as the reach of law is constrained by territorial boundaries. Artificial intelligence also raises unsolved questions about who is responsible for the content its created, who will take the liability for it, and who permits its usage. Currently, India does not have any legislation specifically governing artificial intelligence-generated content, unlike other countries, which leaves a gap for celebrities with limited legal protection.

8. FINDINGS

This paper puts forward the following findings:

8.1 Absence of Codified Legal Framework:

Since India does not have a law that is just about personality rights as property, and because of this, the protection for personality rights comes from a combination of the Trade Marks Act, 1999, the Copyright Act, 1957, and some parts of the Constitution of India, like Articles 19 and 21. These laws were not specifically written to deal with personality rights as property.

¹⁷ *Anil Kapoor v. Simply Life India & Ors.*, **supra** note 13.

¹⁸ *Ravi Shankar v. John Doe(s) & Ors.*, **supra** note 14.

8.2 Judicial Recognition without the support of statutory law:

Indian courts have progressively recognised that celebrities do have a right to control their image and this idea has grown through various court decisions. In the case of ICC Development (International) Ltd. V. Arvee Enterprises and Anil Kapoor v. Life India & Ors. The courts have held that a celebrity's identity is valuable and should be protected, but the Indian courts still need to decide through what means the idea of celebrities' images must be protected.

8.3 Constitutional challenges:

The use of personality rights as property generates direct conflicts between Article 21 of the Indian Constitution¹⁹, which protects dignity and privacy as it was mentioned in the K.S. Puttaswamy v. Union of India in 2017²⁰ and Article 19(1)(a) of the Indian Constitution²¹, which guarantees the right to free speech and expression. This conflict is still unsolved and remains unclear from the existing court decisions.

8.4 Lack of definite limiting principles:

Indian laws do not have a specific defence for "transformative use," meaning creative reworking of someone's image or identity, and also there is no fixed time limit on these rights after a person's death.

8.5 Challenges posed by Artificial Intelligence:

Unlike the other countries, the current laws in India are not sufficient to deal with the Artificial Intelligence Technology-generated contents, such as deepfakes, voice clones, etc.

9.SUGGESTIONS & RECOMMENDATIONS

9.1 Need for a specialised personality rights regime:

The Indian law requires a codified law for personality rights to be treated as intangible property, where it should specify the parts that are protected of an individual's personality rights. It should also specify the time period and how these rights will work when the individual is alive and when is dead.

¹⁹ INDIA CONST. art. 21, supra note 5.

²⁰ K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1, supra note 6.

²¹ INDIA CONST. art. 19(1)(a), supra note 12.

9.2 Protecting Creative Expression Through Transformative Use Principles:

Any legislative framework about personality rights must incorporate expressive use of defence, which can balance out personality rights with the right to freedom of speech and expression.

9.3 Establishment of a Post-Mortem Term Limit:

The law should specify the time period of personality rights till when these rights will last till an individual is deceased, and this time period should be similar to that mentioned in the copyrights.

9.4 Balancing Rights Through Proportionate Injunctive Remedies:

The courts must ensure to keep up the right to freedom of speech. They should know when to draw the line between the intervention of privacy and freedom of speech and expression.

9.5 Addressing AI-Generated Content Through Legislative Reform:

India must enact specific legislation addressing AI-generated deepfakes, voice clones, and synthetic likenesses of real individuals, and such legislation must be able to track the people who creates these contents and must make sure to help people who are hurt by the content created.

CONCLUSION

The question of considering a celebrity image as property is a real legal issue that is becoming a growing tension in the heart of modern Indian law. This paper shows that the personality rights of an individual are an uneasy spot between privacy, dignity, and commercial value. The absence of a dedicated statute makes it more difficult since then the celebrities and courts have to figure this issue out by referring to other legal tools. The Indian courts have made some significant steps in recognising a celebrity's identity as something that can be owned. In cases like ICC Development v. Arvee Enterprises, where the courts have recognised the right to publicity, to more recent cases like Anil Kapoor v. Life India, the courts have consistently said that a celebrity's name, image, voice and likeness are things that deserve legal protection. Since these decisions are not consistent with the constitution, is still causes a lot of confusion. There is still a question on balancing personality rights and the right to free speech. The courts are trying to restrict individuals from creating negative content about celebrities, but this can stifle legitimate creativity and criticism. There is also a question about the time period of these personality rights, whether what happens to this right after an individual dies. The paper also

discusses about the Artificial Intelligence generated contents of celebrities. Ultimately, with treating personality rights as a form of intangible property, it is also important to use them carefully because otherwise it can lead to using individuals' identity as public products which could hurt creativity and speech. India is at a point where it needs a comprehensive legal tool to support these rights. This law should clearly state what kinds of things can come under protected interest, and what can be the defenses for expressive use. It should also establish the post-mortem time limits and should also directly address the challenges imposed by artificial intelligence. Through all these clear legislations, the Indian law will become more meaningful and balanced in protecting these rights.

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