



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS



Megha Middha

Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

NAVIGATING THE INTERSECTION OF CELEBRITY PERSONA RIGHTS AND INTELLECTUAL PROPERTY IN THE DIGITAL AGE

AUTHORED BY - HIMANSHU RANJAN¹

ABSTRACT

In the rapidly evolving landscape of the digital age, the intersection of celebrity persona rights and intellectual property has become a complex and dynamic legal arena. Celebrities have long leveraged their personas for commercial and non-commercial endeavours, but the digital era has ushered in unprecedented challenges and opportunities. This paper delves into the multifaceted aspects of protecting and managing celebrity persona rights within the context of intellectual property in the digital realm. In this analysis, we explore how celebrities face a myriad of issues in the digital age, including unauthorised use of their likeness, deep fake technologies, and the viral spread of their images and content. The researcher investigates the legal frameworks and precedents in various jurisdictions, emphasizing the importance of balancing public interests with the protection of 'celebrities' identities. Additionally, we examine international conventions recognising these rights and the role of copyright, trademark, and other IP mechanisms in safeguarding celebrity personas. By critically examining the intersection of celebrity personas rights and intellectual property in the digital age, this paper aims to offer insights for legal practitioners, policymakers, and scholars seeking to navigate the complex and devolving terrain of celebrity protection.

Keywords: Celebrity persona rights, Intellectual property, Digital age, Unauthorized use, Copyright, trademark.

I. INTRODUCTION

In the age of rapid technological advancements, the confluence of celebrity persona rights and intellectual property has transformed into an intricate and dynamic legal domain. Celebrities have traditionally harnessed their personal identities for both commercial and non-commercial

¹ 3rd Year B.A. LL. B student at CHRIST (Deemed to be University) Delhi NCR
Email: himanshu.ranjan@law.christuniversity.in Mobile No:6207885127

purposes, but the digital age has introduced a new array of unprecedented challenges and opportunities. In this digital age it has become very easy for anyone to copy and use content without the permission of its creator or even without giving due credits to their author. The persona of a celebrity includes their voice, their image and all other distinct attributes of his personality which has made him earn a good name throughout his career and which he has developed by burning the midnight oil. This digital age brings before them a host of novel challenges, chief among the unauthorized use utilisation of their likeness and the virulent dissemination of their images and content across the vast expanse of the internet. This analysis delves into the legal framework and precedents governing these issues in various jurisdictions, with a particular emphasis on the delicate equilibrium that must be struck between the public interests and the imperative to protect the very essence of ‘celebrities’ identities. Furthermore, a real analysis of the problem with an interaction with the stakeholders of this topic and analysing why protection of persona rights is the real need of time giving the policymakers and lawyers a real time need analysis of legislation on this particular matter. The analysis delves into the legal framework and precedents governing these issues in various jurisdictions, with a particular emphasis on the delicate equilibrium that must be struck between the public interests and the imperative to protect the very essence of ‘celebrities’ identities. In examining this intersection, it is crucial to consider the legal foundations, such as the Copyright Act, Trademark laws, and international agreements like the Rome Convention or TRIPS, that play a pivotal role in shaping the protection of celebrity rights.

II. Introduction to Celebrity Persona and Intellectual Property in Digital Age

A recent order of the Delhi HC in [Amitabh Bachchan v. Rajat Nagi & Ors²](#), has turned the spotlight again on the right to personality, which could be broadly understood as a right of a celebrity to control how his or her name, likeness, or identity is used by third parties. The idea that an unauthorized third party should not be allowed to misappropriate the persona of a famous individual for commercial gains is intuitive. Irrespective of legal knowledge, it is likely that one would conclude that such misappropriation is unfair, and should be prevented by law. It is this intuition and idea of unfairness which has led well-meaning judges to protect personality rights. Unfortunately, however, in following intuition, courts have failed to adequately forward the legal

² Amitabh Bachchan v. Rajat Nagi & Ors **CS (COMM) 819 of 2022**

basis for the decisions. Resultantly, Indian law on personality rights continues to be vague and unstructured, standing on the flimsy pillars of unreasoned orders and judgments.

A judicial decision must be supported by reasons in order to deliver the essence of the judgement. The obligation to render reasoned decisions act as a restraint on arbitrary exercise of [judicial power](#)³, which is implicit in Article 14⁴ of the [Constitution](#), and is also [consistent with principles of natural justice](#). Furthermore, it is the *ratio decidendi* of judicial decisions of courts of record which act as precedent for future [judgments](#)⁵.

However, despite the Supreme Court having stressed on the importance of furnishing reasons in the judgment, courts often fall foul of the requirement. In the interim stage, courts, understandably, do not want to pass detailed orders, given the nascent stage of proceedings. Thus, for instance, interim orders in straightforward cases of trademark infringement have almost become standardized. However, the fundamental requirement of indicating the legal basis for an order, even if stated briefly, cannot, and should not, be sacrificed at the altar of judicial expediency, especially in areas of the law which are not sufficiently developed.

III. Jurisprudence of Personality Rights in India and Abroad

In [Amitabh Bachchan v. Rajat Nagi & Ors](#)⁶, the defendants were sued for, unauthorizedly using Mr. Bachchan's name and likeness to promote their good, and were restrained by an *ex parte ad interim* injunction on the very first hearing. The order, however, was cursory. It simply relied on [Titan Industries](#) to state that personality rights could be protected, but did not indicate any statutory or common law basis for the protection. But even the decision in [Titan Industries](#) simply declared that a famous personality could control where and how their identity is used— again failing to provide a basis in statutory or common law. While some jurisdictions, such as Spain⁷, provide statutory protection for personality/publicity rights, Indian statutes do not expressly recognize or protect personality rights. In the absence of legislative intervention, courts must base their recognition of personality rights either on common law or constitutional principles. In failing to do so, courts leave many questions unanswered. For instance, can personality rights be

³ [1557.pdf \(sci.gov.in\)](#)

⁴ Supra note 2 at 2

⁵ *Zacchini v. Scripps-Howard Broadcasting Co.*, [433 U.S. 562](#) (1977)

⁶ [210430 \(tn.gov.in\)](#)

⁷ [1557.pdf \(sci.gov.in\)](#)

considered an extension of the right to privacy? In this context, it will be pertinent to look at the legal position in the US, which relies on common law to enforce personality rights (though some states have statutory recognition). The US Supreme Court in [Zacchini v. Scripps-Howard](#), distinguished the right of publicity from the right to privacy, by recognizing the need to monetarily compensate Zacchini for the unauthorized broadcast of his performance by the defendant under publicity rights, and by differentiating it from personal harm and mental anguish which the plaintiff suffers in usual privacy infringement cases. This judgement indicates that personality rights are not a derivation of privacy rights, because of an inherent ‘commercial’ angle involved in the former. Therefore, an extension of the right to privacy to regulate commercial exploitation of one’s celebrity status may not be appropriate. Furthermore, the public has a right to free speech and expression, and whether, and when, publicity rights can override free speech interests is another question that deserves attention. In this context, creative/editorial speech and commercial speech may be treated differently. US courts in [Havilland v. FX Networks](#) and [Guglielmi v. Spelling-Goldberg Prods.](#), have indicated that free speech in case of editorial works, or creative and expressive works in general, will take precedence over publicity rights. This general rule, however, might not apply in cases of commercial speech. Also, in the US, simply using the name or image of a celebrity for brand advertisement or promotion will not always attract liability, so long as the brand is not [falsely misleading](#) the public that the said celebrity is endorsing the concerned brand. Thus, the right to publicity in the US does not protect privacy, but prevents unfair appropriation of an individual’s celebrity for commercial gains, indicating a close association with false advertisement law.

Indian courts, on the other hand, have relied on an interplay of legal concepts to analyze the position on personality rights. In [Gautam Gambhir v. D.A.P & Co. & Anr.](#), the question was of unauthorized usage of the name ‘Gautam Gambhir’ by the defendants in their restaurant. However, the court refused to rule in the plaintiff’s favour owing to, firstly, failure to prove actual consumer confusion, secondly, failure to prove harm to reputation, and thirdly, no commercial misappropriation of plaintiff’s name by the defendant. This decision clearly depicts the ambiguous status of personality rights under Indian law. While the court in *Titan Industries* held that evidence of falsity, confusion or deception are not required to be put on record, the court in *Gautam Gambhir* stressed on the necessity of evidence to prove confusion and disrepute, thus, taking the exact opposite stance. This is possibly because the issue of personality rights in *Gautam Gambhir* was analyzed under the lens of trademark law. However, the requirement to

prove disrepute has limited scope under trademark law (usually limited to dilution), and is more associated with defamation as a tort or a crime u/s. 499 of the Indian Penal Code, thus, suggesting a conflation of different legal bases. In [Shivaji Rao Gaikwad v. Varsha Productions](#), the Madras High Court stressed on the fact that defendant's unauthorized usage of Rajnikant's name was leading consumers to draw incorrect association with the plaintiff. This, again, like *Gautam Gambhir*, seems a blend of passing off (confusion), defamation (reference to the plaintiff) and privacy (non-consensual usage), but the court concludes without explicitly indicating the law under which the decision was arrived at. Recently, in [DM Entertainment Pvt. Ltd. v. Baby Gift House](#), the Delhi High Court while ruling in favour of the plaintiff relied upon the intermix of the concepts of well-known trademarks and trademark dilution, false endorsement and passing-off, and privacy, as it held: "*The right of publicity can, in a jurisprudential sense, be located with the individual's right and autonomy to permit or not permit the commercial exploitation of his likeness or some attributes of his personality....An individual claiming false endorsement must prove that the use of the identity likely misled consumers into believing the concerned personality endorsed the product at issue....it amounts to a clear dilution of uniqueness of such personality and gives rise to a false belief that, plaintiff has either licensed or the Defendants have some connection with them...to use its exclusive right to market images of the artist.*" Quite interestingly, the court in this case brings in the concept of trademark dilution to assess personality rights infringement. However, this raises the question as to whether a person's name, voice, likeness can be covered within the purview of trademark law. Another issue left untouched by existing Indian case law is the threshold to be met to be able to exercise personality rights, i.e., how famous must one be to be able to prevent third parties from using their likeness for commercial gains? In the age of advertisements by social media influencers and ever-expanding number of ways of gaining celebrity, it is important that personality rights be well delineated. The existing judgements in India leave the basis and scope for protection of personality rights in ambiguity, fail to provide rationale necessary for appellate review, and provides little guidance to lower courts and future benches of the High Court who may be called to adjudicate similar issues, stunting the development of sound jurisprudence.

IV. Individual as Trademark: The Scope of Protection of Image Rights as Trademarks

The principal function of a trademark is one critical to the identification of its origin. A trademark tells a consumer that the quality and attributes of a product bearing the mark are under the control of the same person. For this reason, the consumer can infer that a product bearing the trademark will have the quality and attributes he has come to be associated with the product. Thus a trademark communicates information to the consumer and allows a producer to build up and exploit the reputation of his products. The law of trademark infringement prohibits deceptive use of the claimant's registered trademark. As far as images are concerned, trademarks have important functions which go beyond the communication of information to consumers. A trademark can acquire an 'image' through advertising. The image embodies attitudes or feelings or values that the producer has managed to get associated with the trademark. If a trademark has such an image, consumers may be influenced to purchase the product by their attraction to the image or their desires to associate themselves with it. This image based function can be described as the advertising or merchandising function." On the other hand, the protection of trademark for the purpose of identification of origin has a different justification from protecting the trademark for this merchandising function. The unauthorised use of the image cannot in itself be deceptive because its purpose is not to convey information. In practice modern trademark law protects the merchandising function along with the origin function, i.e., it supports trademark owners in developing and exploiting the image of their trademarks. The function of image of the trademark does not take into account deceptiveness which is the essence of trademark law and that is the reason for not conferring protection to it in various jurisdictions. But recent developments have shown that the law of registered trademarks gives increasing support to the protection. The attempt to recognise image rights has been successful in many jurisdictions which are discussed in the following parts. Thus right to publicity is nothing but merchandising rights of celebrities in their image. The argument for right of publicity based on law of trademarks and goodwill is firmly gaining ground with the growth of merchandising and endorsements by celebrities." After having analysed the concept of image rights and examining its connection with intellectual property laws, it is now important for us to foreground the purpose, status and scope of image rights in India and also other jurisdictions.

V. IMAGE RIGHTS IN INDIA

The jurisprudence of publicity and image rights is in its nascent stages in India. As compared to the global scenario, India has been lagging behind in recognising the right of publicity and image.

There is neither a considerable body of case law, nor any comprehensive statute governing image or publicity rights of celebrities. It is only the Emblems and Names (Prevention of Improper Use) Act, 1950, which to a limited extent, protects unauthorised use of few dignitaries' names by prohibiting the use of the names given in its schedule." Thus the Indian legal system is underequipped in dealing with the modern phenomenon of celebrity endorsements and merchandising. With exorbitant sums riding on celebrities, the advertisers and market forces often find ways and means to abuse celebrity images. The only authoritative case on publicity rights comes from the Delhi High Court, in *ICC Development (International) Ltd. v. Arvee Enterprises*⁸. The court held that the right to publicity has evolved from the right to privacy and can inhere only in an individual or in any indicia of the individual's personality like his name, personality trait, signature, voice etc." An individual may acquire a right to publicity by virtue of his association with an event, sport, movie etc. However, the right does not inhere in the event in question, that made the individual famous, nor in any corporation that has brought about the organisation of the event. Any effort to take away right of publicity from the individual, to the organiser/ non-human entity would violate Article 19 and 21 of the Constitution of India" This case shows that development of publicity rights in India flows from rights of human dignity and liberty as enshrined in Articles 19 and 21 of the Constitution. It is rather a tussle between an individual's right to privacy and the interest of the larger public to know. The development of this right as a commercial property is quite restricted if analysed in the intellectual property regime.

VI. Protection under Right to Privacy

The right to privacy protects individuals against unlawful government invasion. The Indian Constitution does not grant in express or specific terms, any right to privacy as such. It is not enumerated as a fundamental right in the Constitution. However such a right has been carved out by the Supreme Court in the corpus of Article 21. In *R Rajagopal v. State of TamilNadu*⁹ Supreme Court asserted the significance of right to privacy as a constitutional right implicit in the right to life and liberty guaranteed to the citizens by Article 21." A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters. None can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would

⁸ 2005 (30) PTC 253 (Del) [hereinafter ICC Development].

⁹ 1994 SCC 632

be violating right to privacy of the person concerned and would be liable in an action for damages¹⁰.

Although right to publicity comes under the extended view of Article 21 but this right is not absolute; reasonable restrictions can be placed thereon in public interest under Article 19(5). Freedom of press is embedded under Article 19 of the Constitution also the expression of 'freedom of speech and expression' used in Article 19(1)(a) has been held to include the right to acquire information and disseminate the same¹¹. The Supreme Court has given a broad dimension to Article 19(1)(a) by laying down the proposition that the freedom to receive and to communicate information and ideas without interference is an important aspect of freedom of speech and expression¹². This has been consistently challenged by the celebrities on the ground that media has misused their freedom under the guise of giving news in 'public interest'." There have been alternative arguments that celebrities have dedicated their lives to the public and no longer command the protection of law of privacy. But this waiver is not absolute and the celebrity has a right to maintain the privacy of his non-professional and other parts of professional life. It is clear that a right to privacy is a treasured possession of every individual; it should be respected and should not be exploited by the media on the pretext of public interest. The statutory provisions in India pertaining to protection of image rights are prevalent in the intellectual property regime but they are inadequate. The next part evidences the treatment of image and publicity rights in other jurisdictions, drawing inspiration from the forward thinking contained in foreign laws.

VII. AN APPOSITE LEGAL REGIME FOR INDIA

Publicity Right have travelled a long way from the era of being an offshoot of privacy right to an independent standalone right. The significance and the impact of the commercial aspect of the celebrity's personality can be gauged by the ever increasing instances of their personality traits. As the value of the celebrity increases, so do instances of misuse of her persona. Therefore, they

¹⁰ Id. at 634 (Any publication concerning the aforesaid aspects becomes unobjectionable if such publication is based upon public records including court records. This is for the reason that once a matter becomes a matter of public record, right to privacy no longer subsists and it becomes a legitimate subject for comment by the press and media.).

¹¹ M.P. JAIN, INDIAN CONSTITUTIONAL LAW 988 (5th ed. 2008).

¹² In *State of Uttar Pradesh v. Raj Narain.*, AIR 1975 SC 865, 884, the apex court held that Art 19(1)(a) not only guarantees freedom of speech and expression, it also ensures and comprehends the right of citizens to know, the right to receive information regarding matters of public concern. Similar ratio was drawn in cases like *Secretary, Minister of Information and Broadcasting, Govt. of India v. Cricket Association of Bengal*, AIR 1995 SC 1236 and *Association of Democratic Reforms v. Union of India*, AIR 2001 Del 126.

have time and again expressed their desire for protecting various aspects of their personality. This no doubt, leads to commodification of celebrities and challenging the very ethos of our Constitution which enshrines the principle of human dignity in Articles 19 and 21. But the contemporary trend of generating economic value through celebrities definitely deserves special attention and can in no way be diluted by these provisions. The evasive attitude to confer property rights on one's personae was observed by the Delhi High Court in ICC Development," the only pertinent case law which discusses publicity rights. The need of the hour is to recognise the property rights of celebrities in their persona in addition to human dignity rights which are in any case available to all individuals and are the bulwark of our Constitution. The limited protection to a celebrity's image is provided under the provisions of trademark and copyright law. Section 14 of the Trade Marks Act 1999 prohibits use of personal names where an application is made for the registration of the trademark, which falsely suggests a connection with a living person, or a person whose death took place within 20 years prior to the date of application of the registration of the trademark. Therefore, the legal heirs of the celebrities can also prevent the misuse of their names. The intent of recognising the transferability and licensing of the particular right can be interpreted from the statute. Thus the property right in one's name is granted to celebrities in the trademark law. But the lacuna of not outlining the rules on assigning and licensing such a right needs to be addressed. The Copyright Act poses a challenge in case of recognition of publicity rights. The voice of celebrities which is often misused by advertisers cannot be copyrighted as it does not come within the ambit of literary, dramatic or musical work. There is a separate category of performers' rights which grants economic rights to performers." But these rights also subsist in a particular performance and not in a general image of the artiste or a celebrity. Therefore, the copyright act also is inadequate to confer image rights on celebrities. The inadequacies in the current framework of intellectual property laws are quite alarming, seeing the blatant misuse of various aspects of the celebrity persona. It should be noted that performers are only conferred with economic rights and there is no provision to accord moral rights. The incorporation of assigning property rights can solve a part of the problem. However, the dynamics of public vis-a-vis private interest needs to be worked out. The celebrities offer themselves to public domain and their activities evoke everyone's interest. Therefore, conferring on them special rights so as to put them at a higher pedestal might be a dangerous proposition. It also might cause hindrance to creativity by curbing the art of imitating artistes who are performers in their own right. These concerns surely need to be addressed before any statutory framework is enabled to protect their rights. The freedom of speech and expression and freedom of the press granted through our

Constitutional principles to every individual should in no way be undermined while conferring any special status to celebrities. Most of the countries like U.S. as studied in the previous sections have given utmost importance to free speech and always held the exception in high regard despite of having a self-standing publicity right. Also in case of Germany, the healthy and sophisticated mix of human rights and publicity rights can be an example for the Indian regime to follow. These legislations have always tried to balance the principles of free speech with the image rights and the same should also be attempted by the Indian regime.

VIII. CONCLUSION

Publicity right is a unique one. The dual dimension of recognising human dignity and property approach can solve the dilemma of where to place the publicity right. As the human dignity approach is already recognised by the judiciary, the pure commercial aspect, like transferability, licensing and succession can be competently addressed within the property approach. The balance between public interest in general, i.e., the ideals of free speech and freedom of press and the private interest of the celebrity is important. None of these rights can be undermined. Any statutory provision to protect celebrities should strive to attain this balance.

