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# PERSONALITY RIGHTS: AN EMERGING INTELLECTUAL PROPERTY RIGHT OR A SHIELD AGAINST DEEPFAKES?

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## I. ABSTRACT

*Personality rights now sit at a very fragile intersection of privacy, dignity, and commercial value in digital India. Rapid growth of generative AI and deepfake tools makes identity itself a manipulable asset which travels across borders in seconds. Celebrities, influencers, and ordinary users all face the risk that their face, voice, or mannerisms may be cloned for endorsement, humour, or even fraud without consent. Indian constitutional jurisprudence has recognised privacy and autonomy, yet statutory protection for personality remains fragmented across intellectual property and tort law. Recent Delhi High Court actions by film stars and digital creators show how personality rights are being tested against AI tools, deepfake filters, and viral content practices. This research examines whether personality rights in India are actually evolving into a distinct intellectual property right, or whether they still function mainly as a dignitary shield. It analyses how copyright, trademark, and passing off doctrines are stretched to respond to AI generated misappropriation of persona. It further evaluates whether such incremental judicial innovations are sufficient to deal with deepfakes, synthetic media, and cross border online harms. Comparative insights from EU and US frameworks highlight alternative approaches to publicity and image rights and raise important questions for Indian reform. The paper argues that Indian law must carefully frame personality rights to protect individuals against AI driven exploitation without chilling creativity, satire, and technological progress.*

## II. KEYWORDS

Digital Personal Data Protection Act, Personality rights, Publicity rights, Deepfakes, Intellectual property, India

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### III. INTRODUCTION

#### A. Background and context

Personality today functions like a data rich asset, created by expression but monetised through platforms and algorithms in ways users hardly control.<sup>4</sup> Artificial intelligence systems can now clone faces, voices, and behavioural patterns at scale, so misuse of persona no longer remains rare or accidental. India witnesses parallel growth of celebrity driven advertising, influencer culture, and targeted digital marketing which relies heavily on recognisable personality markers.

At the same time, courts and scholars struggle to decide whether such markers should be treated mainly as dignity interests or as economic rights similar to intellectual property. This tension between human identity and commodification frames the core background of the personality rights debate in the era of deepfakes and generative AI.<sup>5</sup> Growing sophistication of deepfake tools also blurs traditional evidentiary boundaries between true and false, which affects trust in media and institutions.<sup>6</sup>

Once synthetic videos and audio become indistinguishable from authentic ones, every denial by a victim starts sounding cleverly drafted rather than truthful. Policymakers therefore confront not only privacy and IP concerns, but also questions around democratic discourse, elections, and online gendered violence. Scholars of copyright and performer's rights note that existing criminal provisions in Indian copyright legislation do not fully capture deepfake misuse of performances. The need for an integrated approach to privacy, personality, and IP becomes sharper as AI reshapes media and entertainment industries every year.<sup>7</sup>

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<sup>4</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>5</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>6</sup> Aranya Nath and Gautami Chakravarty, 'Navigating the Frontier: Balancing Personality Rights, Privacy, and Intellectual Property in the Age of Deepfake Technology' (2024) 5 E Journal of Academic Innovation and Research in Intellectual Property Assets 1.

<sup>7</sup> *Ibid.*

## B. Problem statement

Indian law presently protects identity interests through scattered doctrines under Article 21, tort law, copyright, trademarks, and passing off, without one coherent statute.<sup>8</sup> Judicial creativity has filled some gaps, but it has also produced uncertainty about the nature of personality rights, their inheritable character, and their limits against free speech. Simultaneously, deepfakes and other AI tools create new categories of harm, including synthetic non-consensual pornography and AI driven political propaganda.

The central problem is whether personality rights in India are evolving into a clear intellectual property right with proprietary contours, or whether they remain mainly a remedial shield against deepfakes and privacy invasion.<sup>9</sup>

## C. Research questions

The researcher has formulated the following research questions:

1. Whether Indian constitutional and statutory frameworks presently recognise personality rights as a distinct protectable interest in law.
2. Whether recent Delhi High Court jurisprudence tends to conceptualise personality rights in proprietary, IP like terms or as privacy-based dignitary interests.
3. How deepfake and generative AI technologies practically challenge existing copyright, trademark, and passing off tools for protecting persona in India.
4. Whether comparative models in the EU and US offer workable guidance for designing an Indian personality rights regime suited to AI driven harms.

## D. Research hypothesis

The researcher has formulated the following research hypotheses:

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<sup>8</sup> Anmol Arora, 'Constitutional Protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research 1.

<sup>9</sup> Anmol Arora, 'Constitutional Protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research 1.

1. Indian courts increasingly treat personality rights as quasi proprietary interests even when they ground their reasoning in Article 21 privacy.
2. Deepfake and AI cases accelerate judicial willingness to grant strong injunctions that resemble IP style control over commercial uses of persona.
3. Existing IP statutes alone cannot adequately address non-commercial and cross border harms created by deepfakes using Indian personalities.
4. A carefully drafted sui generis or hybrid framework for personality rights could better balance innovation, expression, and protection against AI misuse.

### **E. Research objectives**

The researcher has formulated the following research objectives:

1. To map the conceptual evolution of personality rights in Indian constitutional and judicial discourse from privacy to commercial exploitation.
2. To examine how Indian courts, especially the Delhi High Court, have recently used IP doctrines to protect name, image, likeness, and voice.
3. To analyse the interaction between personality rights and deepfakes, and to evaluate the sufficiency of current legal responses in India.
4. To draw comparative and policy lessons from uploaded scholarship for possible legislative or doctrinal reform in Indian law.

### **F. Scope and limitations**

The study focuses on the Indian legal position while drawing limited insights from EU and US debates as reflected in the provided comparative literature.<sup>10</sup> Emphasis is placed on civil and constitutional dimensions of personality rights, though some overlap with criminal and data protection norms is unavoidable. Empirical assessment of enforcement challenges, such as takedown efficacy or platform compliance rates, remains outside the scope due to data constraints. The paper relies only on cases, statutes, and academic works supplied or otherwise verifiable, and

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<sup>10</sup> Mehra and Kumar (n 1).

therefore does not claim to exhaust the full global discourse on personality rights and deepfakes.<sup>11</sup>

### **G. Research methodology**

The research primarily uses a doctrinal and analytical methodology, reading cases, statutes, and secondary literature in a structured manner.<sup>12</sup> A comparative method is used cautiously to understand how different constitutional cultures handle AI driven attacks on identity and persona. Case law analysis pays special attention to the reasoning in recent Delhi High Court decisions concerning celebrities and influencers. Doctrinal findings are combined with a normative evaluation of whether personality rights should be framed primarily as intellectual property or as a privacy-based shield.<sup>13</sup>

## **IV. CONCEPT AND EVOLUTION OF PERSONALITY RIGHTS**

### **A. Defining personality rights**

Personality rights generally describe legal control over the commercial and reputational use of one's identity indicators such as name, image, voice, and likeness.<sup>14</sup> Scholars explain that such rights often overlap with the right of publicity but also include privacy rooted claims against intrusive or humiliating portrayals. In the digital context, the scope of personality expands to social media handles, avatars, and even distinctive styles of performance or speech. The economic dimension arises because audience association with a particular persona directly influences brand value, endorsements, and merchandising revenues.<sup>15</sup> Therefore, misuse of persona can simultaneously injure dignity, autonomy, and commercial interests of the individual whose identity becomes exploited.

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<sup>11</sup> *Ibid.*

<sup>12</sup> Arora (n 3).

<sup>13</sup> *Ibid.*

<sup>14</sup> Agnes Augustian, 'Intellectual Property and Protection of Personality Rights in the Digital Context' (2023) 2 NLUA Journal of Intellectual Property Rights 78.

<sup>15</sup> Agnes Augustian, 'Intellectual Property and Protection of Personality Rights in the Digital Context' (2023) 2 NLUA Journal of Intellectual Property Rights 78.

## B. Historical development in comparative perspective

Comparative scholarship shows that civil law jurisdictions, such as Germany, conceptualised personality rights early as a unified right protecting image and honour.<sup>16</sup> Common law countries instead developed fragmented protections through privacy torts, defamation, and later a separate publicity or appropriation right. Academic analysis notes that jurisdictions such as the United States treat the right of publicity more explicitly as a transferable property interest. By contrast, Indian and UK approaches historically relied more on general tort and IP doctrines rather than a standalone image right. Recent Indian writing highlights that this gap becomes more serious when digital markets increasingly monetise personal identity as an intangible asset.<sup>17</sup>

## C. Constitutional foundations in India

The Indian Supreme Court in *Justice K. S. Puttaswamy (Retd.) v Union of India* located privacy within Article 21, emphasising dignity, autonomy, and informational control.<sup>18</sup> Although the judgment did not speak directly of deepfakes or AI, it established a normative basis for protecting control over personal data and identity attributes. Plurality opinions also recognised that privacy contains decisional and informational facets, which later courts extended to personality interests in image and reputation.<sup>19</sup> Earlier, in *R. Rajagopal v State of Tamil Nadu*, the Court recognised the right of individuals to control publication of their life story without consent, except in limited circumstances.<sup>20</sup> This decision effectively linked freedom of the press with an individual's right to be let alone, planting seeds for later recognition of publicity and personality rights. Scholars read the *Auto Shankar* case as early support for the claim that one must have some control over the depiction of personality in the public domain.<sup>21</sup>

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<sup>16</sup> Agnes Augustian, 'Protection of Personality Rights in India: Issues and Challenges' (2023) 1 IPR Journal of Maharashtra National Law University Nagpur 44.

<sup>17</sup> *Ibid.*

<sup>18</sup> *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1.

<sup>19</sup> *Ibid.*

<sup>20</sup> *R Rajagopal v State of Tamil Nadu* (1994) 6 SCC 632.

<sup>21</sup> *R Rajagopal v State of Tamil Nadu* (1994) 6 SCC 632.

#### D. Early Indian judicial recognition

The Delhi High Court in *ICC Development (International) Ltd v Arvee Enterprises and Anr* treated publicity rights as inhering only in human individuals.<sup>22</sup> The Court stated that the right of publicity evolved from the right to privacy and related to indicia such as name, traits, signature, and voice. It refused to extend such rights to events like the Cricket World Cup, holding that organisers cannot claim personality rights in non-human entities.<sup>23</sup>

In *D.M. Entertainment (P) Ltd v Baby Gift House*, the court protected singer Daler Mehndi's persona against unauthorised merchandise using his name and image.<sup>24</sup> The suit combined trademark and passing off doctrines but clearly recognised the underlying personality interest of a celebrity being commercially exploited. The decision signalled that Indian courts could deploy existing IP tools to guard against misappropriation of celebrity persona for unauthorised goods and toys.<sup>25</sup>

*Titan Industries Ltd v Ramkumar Jewellers* involved the use of advertisement hoardings featuring Amitabh and Jaya Bachchan without consent of the brand owner or celebrities.<sup>26</sup> The Delhi High Court granted an injunction, explaining that the grievance was not against commercialisation itself but against loss of control over when and how identity is used. The Court articulated the right of publicity as the right to control the commercial use of human identity, thereby cementing the foundation for later personality rights claims.<sup>27</sup>

#### E. Fragmented Indian Statutory Framework: Gaps and Limitations

The Trademarks Act, 1999 has become the principal legal framework for the protection of personality rights in India, although it was not specifically intended for this function.<sup>28</sup> Section 14 of the Act forbids unauthorised utilisation of marks that are identical or deceptively similar to registered trademarks, whilst Section 29 offers

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<sup>22</sup> *ICC Development (International) Ltd v Arvee Enterprises and Anr* 2003 (26) PTC 245 (Del).

<sup>23</sup> *Ibid.*

<sup>24</sup> *D.M. Entertainment (P) Ltd v Baby Gift House*, CS (OS) No 893 of 2002 (Del HC, 29 April 2010).

<sup>25</sup> *Ibid.*

<sup>26</sup> *Titan Industries Ltd v Ramkumar Jewellers*, CS (OS) No 2662 of 2011 (Del HC, 26 April 2012).

<sup>27</sup> *Ibid.*

<sup>28</sup> The Trademarks Act, 1999, § 14, 29



protection against trademark infringement. Judicial bodies have enforced these regulations in instances of unauthorised use of celebrity names and images, regarding personal names and likenesses as protectable trademarks under specific conditions.<sup>29</sup>

However, the application of trademark law to personality rights entails considerable constraints. The necessity for application in trade or commerce precludes numerous types of personality appropriation, whereas the distinctiveness criterion may be insufficient to encompass all instances of identity exploitation.<sup>30</sup>

The Copyright Act of 1957 offers restricted protection for personality rights via its stipulations for artistic works and performers' rights.<sup>31</sup> Section 57 of the Act confers performers specific rights about their performances, including the authority to prohibit unauthorised recording and distribution. This clause has been implemented in instances of unauthorised utilisation of musical performances and dramatic presentations, albeit its applicability is confined to particular types of creative expression.<sup>32</sup>

Recent revisions to the Copyright Act have enhanced performers' rights; yet, substantial deficiencies persist in addressing comprehensive personality appropriation.<sup>33</sup> While the Act highlights creative expression and authorship, it insufficiently confronts the economic exploitation of identity fundamental to personality rights breaches.

The Information Technology Act, 2000,<sup>34</sup> together with its following changes, has established provisions pertinent to the protection of digital identity, although it does not explicitly address personality rights. The provisions of the Act have been applied

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<sup>29</sup> Harsha Pathak & Devesh Bhardwaj, *Personality Rights in India: Legislation – A Need of the Hour?* 1 CUSB J.L. & Gov. 227–243 (2025).

<sup>30</sup> Shamnad Basheer, *India's Tryst with TRIPS: The Patents (Amendment) Act 2005*, 1 INDIAN J. L. & TECH. 15, 18–20 (2005).

<sup>31</sup> The Copyright Act, 1957, § 57.

<sup>32</sup> Harsha Pathak & Devesh Bhardwaj, *Personality Rights in India: Legislation – A Need of the Hour?* 1 CUSB J.L. & Gov. 227–243 (2025).

<sup>33</sup> The Copyright (Amendment) Act, 2012.

<sup>34</sup> The Information Technology Act, 2000, § 66E.

in instances of unauthorised utilisation of personality attributes on digital platforms, albeit with inconsistent outcomes.<sup>35</sup>

Article 21 of the Indian Constitution, as interpreted in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017)<sup>36</sup>, firmly establishes privacy as a core component of life and liberty, extending protection to an individual's image, voice, and likeness. This constitutional recognition anchors personality rights in dignity and autonomy, allowing individuals to control how their identity is used. However, its reliance on judicial interpretation rather than statutory clarity limits its effectiveness in addressing emerging digital harms such as deepfakes and AI-driven impersonation.

The *Digital Personal Data Protection Act, 2023* complements this framework by requiring informed consent before processing personal or biometric data, reflecting a rights-based approach to managing identity in digital spaces.<sup>37</sup> Yet, while it regulates personal data use, it does not explicitly protect against non-data harms like reputational or commercial exploitation of persona. Scholars note that the absence of an integrated statute leaves India's protection of personality rights fragmented—constitutionally grounded but technologically inadequate.<sup>38</sup>

#### **F. Modern Delhi High Court jurisprudence**

A recent wave of suits by film actors and public figures has sharpened the contours of personality rights in the AI and platform economy era. In *Anil Kapoor v Simply Life India & Ors*, CS(COMM) 652/2023, the court granted wide injunctive relief against the use of his name, image, voice, and even gestures in memes, GIFs, or AI filters without permission.<sup>39</sup> The order strongly indicated that unauthorised digital replicas and AI transformations of persona can amount to infringement of publicity and privacy rights.

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<sup>35</sup> The Information Technology Act, 2000, § 79.

<sup>36</sup> *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1.

<sup>37</sup> The Digital Personal Data Protection Act, 2023

<sup>38</sup> Juhi Chandel, Manisha Kundu, International Journal for Research Trends and Innovation [ISSN: 2456-3315], Volume 10, Issue 11 November 2025

<sup>39</sup> *Anil Kapoor v Simply Life India & Ors*, CS(COMM) 652/2023 (Del HC, 20 September 2023).

In *Abhishek Bachchan v The Bollywood Tee Shop & Ors*, CS(COMM) 960/2025, the dispute concerned T shirts bearing his image and references to film roles sold without consent.<sup>40</sup> The Delhi High Court recognised prima facie personality rights and emphasised the need to prevent unfair commercial gain from celebrity goodwill through online marketplaces. The case also illustrated how platforms become key intermediaries in policing personality rights violations in e commerce ecosystems.<sup>41</sup>

In *Raj Shamani & Anr v John Doe/Ashok Kumar & Ors*, CS(COMM) 1233/2025, an influencer sought protection against misuse of his persona and content by anonymous actors.<sup>42</sup> The Court granted dynamic blocking and John Doe style relief, reflecting concern with fast moving digital harms and replicable misappropriation. This litigation expands the personality rights discourse beyond film stars to a new category of digital creators whose identity is built entirely on online presence.<sup>43</sup>

*Jaya Bachchan v Bollywood Bubble Television & Ors*, CS(COMM) 1194/2025, further demonstrates judicial willingness to intervene where family reputation and unauthorised monetisation intersect.<sup>44</sup> The Court considered the use of celebrity family content in monetised media formats without consent and aligned relief with wider personality and privacy concerns. Together, these Delhi High Court cases show an emerging pattern of robust, sometimes quasi proprietary, protection of persona in online spaces.<sup>45</sup>

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<sup>40</sup> *Abhishek Bachchan v The Bollywood Tee Shop & Ors*, CS(COMM) 960/2025 (Del HC, 10 September 2025).

<sup>41</sup> *Ibid.*

<sup>42</sup> *Raj Shamani & Anr v John Doe/Ashok Kumar & Ors*, CS(COMM) 1233/2025 (Del HC, 17 November 2025).

<sup>43</sup> *Ibid.*

<sup>44</sup> *Jaya Bachchan v Bollywood Bubble Television & Ors*, CS(COMM) 1194/2025 (Del HC, 10 November 2025).

<sup>45</sup> *Ibid.*

## V. PERSONALITY RIGHTS AS A SHIELD AGAINST DEEPFAKES IN INDIA

### A. Personality rights as a cause of action in deepfake cases

Indian litigants now increasingly frame deepfake harms as personality rights violations grounded in privacy, dignity, and commercial misappropriation.<sup>46</sup> Plaintiffs rely on composite pleading, where they invoke Article 21, tort of passing off, and IP doctrines together to attack synthetic use of persona.<sup>47</sup> Courts treat unauthorised AI generated images, voices, or catchphrases as interference with control over identity, even when no physical intrusion occurs.<sup>48</sup> This trajectory makes personality rights a central cause of action in deepfake disputes, connecting moral injury with economic exploitation in one narrative.<sup>49</sup>

### B. Case law insights from recent Delhi High Court decisions

In *Anil Kapoor v Simply Life India & Ors*, the Delhi High Court restrained sale of merchandise, AI filters, and digital content using his iconic look and gestures without consent.<sup>50</sup> The Court recognised that memes, GIFs, and AI transformations could dilute persona and unfairly ride on goodwill and therefore warranted broad injunctive relief.<sup>51</sup>

*Ajay alias Vishal Veeru Devgan v The Artists Planet & Ors* illustrates the next step, where the court examined NFTs, AI training, and use of film stills to monetise persona in new media.<sup>52</sup> The order reflects worry that technological intermediaries may lock

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<sup>46</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI-Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>47</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>48</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI-Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>49</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>50</sup> *Anil Kapoor v Simply Life India & Ors*, CS(COMM) 652/2023 (Del HC, 20 September 2023).

<sup>51</sup> *Ibid.*

<sup>52</sup> *Ajay alias Vishal Veeru Devgan v The Artists Planet & Ors*, CS(COMM) 1269/2025 (Del HC, 27 November 2025).

celebrity images into tokenised ecosystems, while the individual struggles to retain control over identity.<sup>53</sup>

A cluster of suits by Abhishek Bachchan, Raj Shamani, Jaya Bachchan, and Jackie Shroff shows how celebrities and creators deploy personality rights against online impersonation, commentary formats, and unauthorised merchandising.<sup>54</sup> Courts in these matters emphasise that persona has distinctive commercial value, and that defendants cannot hide behind anonymity, fan culture, or e commerce convenience.<sup>55</sup>

### C. Remedies typically granted

Remedies in these deepfake adjacent suits usually start with sweeping interim injunctions against further use of name, image, likeness, voice, or characteristic expressions.<sup>56</sup> Courts sometimes direct removal of offending content, recall of goods, and imposition of disclosure duties on defendants regarding revenue earned from misappropriation.<sup>57</sup> Dynamic and rolling injunctions appear where content spreads across unknown actors, allowing plaintiffs to seek blocking of new links, URLs, and accounts identified later.<sup>58</sup> Orders in Raj Shamani and Jackie Shroff matters also encourage use of technological tools and detailed takedown protocols to reduce the whack a mole problem on platforms.<sup>59</sup>

### D. Platform and intermediary obligations

Academic work on deepfakes in India highlights growing expectations that intermediaries must respond quickly to notices about synthetic or impersonating

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<sup>53</sup> *Ibid.*

<sup>54</sup> Abhishek Bachchan v The Bollywood Tee Shop & Ors, CS(COMM) 960/2025 (Del HC, 10 September 2025); Raj Shamani & Anr v John Doe/Ashok Kumar & Ors, CS(COMM) 1233/2025 (Del HC, 17 November 2025); Jaya Bachchan v Bollywood Bubble Television & Ors, CS(COMM) 1194/2025 (Del HC, 10 November 2025); Jackie Shroff v The Peppy Stores & Ors, CS(COMM) 389/2024 (Del HC).

<sup>55</sup> *Ibid.*

<sup>56</sup> Anil Kapoor v Simply Life India & Ors, CS(COMM) 652/2023 (Del HC, 20 September 2023).

<sup>57</sup> *Ibid.*

<sup>58</sup> Ajay alias Vishal Veeru Devgan v The Artists Planet & Ors, CS(COMM) 1269/2025 (Del HC, 27 November 2025).

<sup>59</sup> Abhishek Bachchan v The Bollywood Tee Shop & Ors, CS(COMM) 960/2025 (Del HC, 10 September 2025); Raj Shamani & Anr v John Doe/Ashok Kumar & Ors, CS(COMM) 1233/2025 (Del HC, 17 November 2025); Jaya Bachchan v Bollywood Bubble Television & Ors, CS(COMM) 1194/2025 (Del HC, 10 November 2025); Jackie Shroff v The Peppy Stores & Ors, CS(COMM) 389/2024 (Del HC).

content.<sup>60</sup> The suggested approach combines personality rights claims with due diligence duties under information technology regulations, so platforms cannot remain neutral conduits in the face of clear harm.<sup>61</sup> Commentary on *Jackie Shroff v The Peppy Stores & Ors* notes that the Delhi High Court extended the injunctive net to e-commerce sites, AI chatbots, and social media accounts simultaneously.<sup>62</sup> This indicates a judicial view that intermediaries should use their technical capacity to prevent repeated misuse of persona once the violation has been clearly pointed out.<sup>63</sup>

### **E. Limitations of current personality rights-based approach**

Doctrinal analysis shows that personality rights in India still rest on judge made privacy and publicity principles without a dedicated statute defining contours.<sup>64</sup> This makes courts flexible, but it also creates uncertainty about defences, limitation periods, post mortem protection, and treatment of transformative or critical uses.<sup>65</sup> Scholars further argue that a litigation model privileging urgent commercial suits by famous plaintiffs leaves a structural gap for ordinary users harmed by deepfake abuse.<sup>66</sup> Many victims lack resources or visibility to bring Article 21 or commercial suits, so the personality rights shield currently operates unevenly across the social spectrum.<sup>67</sup>

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<sup>60</sup> Aranya Nath and Gautami Chakravarty, 'Navigating the Frontier: Balancing Personality Rights, Privacy, and Intellectual Property in the Age of Deepfake Technology' (2024) V(1) E-JAIRIPA 1.

<sup>61</sup> *Ibid.*

<sup>62</sup> Srishti Singhania and others, 'Understanding Indian Laws Protecting Personality Rights' BW Legal World <https://bwlegalworld.com> accessed 23 December 2025.

<sup>63</sup> *Ibid.*

<sup>64</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>65</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>66</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI-Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>67</sup> *Ibid.*

## VI. NORMATIVE AND DOCTRINAL CHALLENGES

### A. Coverage of non-celebrity and marginalised victims

The borderless nature of personality harms affects not only celebrities but also workers, students, and marginalised communities whose images get weaponised online.<sup>68</sup> Commentators stress that deepfake pornography and caste or gender based targeting rarely involve endorsement value, yet inflict severe and lasting dignity harms.<sup>69</sup> Deepfake misuse often exploits power imbalances, where victims fear social backlash or legal costs, while perpetrators hide behind pseudonyms and foreign servers.<sup>70</sup> If personality rights remain framed mainly around commercial value, many such victims stay invisible in doctrine and receive weaker judicial attention.<sup>71</sup>

### B. Consent, data processing, and AI training

Technical literature and legal analysis show that deepfake generators often train on large datasets scraped from films, interviews, and social media profiles without consent.<sup>72</sup> Such training may not copy any single frame identically, yet it extracts biometric patterns, expressions, and voice signatures that belong intimately to human identity.<sup>73</sup> Comparative scholarship notes that India has enacted the Digital Personal Data Protection Act 2023, but full implementation and sectoral rules are still evolving.<sup>74</sup> The paper emphasises that AI developers and platforms will need explicit legal grounds, purpose limitations, and safeguards when they process personal data for generative models.<sup>75</sup>

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<sup>68</sup> Animesh Shukla, 'Violations That Need No Passport: Borderless Nature Of Personality Rights Harm' LiveLaw (23 December 2025).

<sup>69</sup> *Ibid.*

<sup>70</sup> Aranya Nath and Gautami Chakravarty, 'Navigating the Frontier: Balancing Personality Rights, Privacy, and Intellectual Property in the Age of Deepfake Technology' (2024) V(1) E-JAIRIPA 1.

<sup>71</sup> *Ibid.*

<sup>72</sup> Kalpana Tyagi, 'Deep fakes, Copyright & Personality Rights: An inter-disciplinary perspective' in proceedings of the 9th Law and Economics Conference, Lucerne.

<sup>73</sup> *Ibid.*

<sup>74</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>75</sup> *Ibid.*

### C. Conflicts with freedom of speech and artistic expression

Constitutional comparisons show that personality rights must coexist with freedom of speech, satire, and artistic reuse, especially concerning public figures and political debate.<sup>76</sup> United States right of publicity jurisprudence provides cautionary examples where over broad control threatens parody, biographical films, and critical commentary.<sup>77</sup> Indian scholarship on digital personality rights warns against framing every unauthorised reference to celebrity as wrongful, since audiences rely on shared cultural symbols.<sup>78</sup> The author argues that exceptions for news reporting, parody, and transformative art should accompany any strong personality regime, otherwise law may chill legitimate creativity.<sup>79</sup>

### D. Risk of over propertisation of identity

Interdisciplinary work on AI, chatbots, and vocaloids argues that if persona becomes fully propertised, platforms and studios might actually acquire stronger control than individuals.<sup>80</sup> The paper suggests that licensing contracts and terms of service can silently transfer broad rights over digital replicas, undermining autonomy that personality law sought to protect.<sup>81</sup>

### E. Borderless harm and jurisdictional questions

LiveLaw analysis observes that personality violations now travel without passport, as deepfake and impersonation content shifts rapidly across platforms and jurisdictions.<sup>82</sup> The victim often confronts a mosaic of servers, corporate entities, and resharing accounts, which makes territorial injunctions feel blunt and sometimes symbolic.<sup>83</sup> Comparative constitutional research points out that Indian courts must

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<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

<sup>78</sup> Agnes Augustian, 'Intellectual Property and Protection of Personality Rights in the Digital Context' NLUA Journal of Intellectual Property Rights, vol 2, issue 1.

<sup>79</sup> *Ibid.*

<sup>80</sup> Tamiko Rochelle Franklin, 'Intellectual Property, Personality Rights and Artificial Intelligence: Chatbots, Robots and Vocaloids' SSRN Working Paper <https://papers.ssrn.com> accessed 23 December 2025.

<sup>81</sup> *Ibid.*

<sup>82</sup> Animesh Shukla, 'Violations That Need No Passport: Borderless Nature Of Personality Rights Harm' LiveLaw (23 December 2025).

<sup>83</sup> *Ibid.*



grapple with cross border service, recognition of foreign orders, and conflicts with foreign free speech standards.<sup>84</sup> The author notes that without cooperative frameworks and private international law tools, even strong domestic personality rights may offer only patchy real world relief.<sup>85</sup>

## VII. THE WAY FORWARD: TOWARDS A COHERENT INDIAN FRAMEWORK

### A. Need for legislative recognition of personality rights

Empirical and doctrinal review in Indian literature repeatedly calls for clearer statutory recognition of personality rights as a distinct yet balanced legal interest.<sup>86</sup> Codification could clarify beneficiaries, duration, transmissibility, defences, and remedies, while still allowing courts to rely on constitutional privacy where necessary.<sup>87</sup>

### B. Possible legal design choices

Comparative analysis sets out several models, including a stand-alone publicity statute, a civil code style image right, or a hybrid regime anchored in privacy and IP.<sup>88</sup> The study suggests that Indian lawmakers might adopt a mixed approach, where economic exploitation falls under IP like rules, and dignitary harms link to Article 21.<sup>89</sup>

### C. Embedding deepfake specific safeguards

Scholars focusing on deepfakes propose explicit rules on non-consensual intimate imagery, deceptive political deepfakes, and labelling or watermarking obligations for

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<sup>84</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>85</sup> *Ibid.*

<sup>86</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI-Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>87</sup> *Ibid.*

<sup>88</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>89</sup> *Ibid.*

synthetic media.<sup>90</sup> They also advocate stronger performer's rights, notice and takedown standards, and penalties for tools marketed primarily for impersonation or harassment.<sup>91</sup>

#### **D. Coordination with existing legal regimes**

Any personality statute must coordinate with copyright, trademark, data protection, and information technology laws, to avoid contradictory duties and overlapping liability.<sup>92</sup> The deepfake chapter on EU law shows how copyright and related rights handle some misuse but need supplementation by data protection and personality frameworks.<sup>93</sup>

#### **E. Soft law, co regulation, and technological measures**

Interdisciplinary writing on AI highlights the role of platform policies, industry codes, and algorithmic detection tools in managing personality harms at scale.<sup>94</sup> The author argues that regulators should encourage co regulation, where firms deploy watermarking, authenticity indicators, and audit trails while users retain enforceable legal rights.<sup>95</sup>

#### **F. Proposed model for India**

Based on combined scholarship, one plausible model recognises personality rights statutorily, grounds them in dignity, yet treats commercial exploitation as a licensable asset.<sup>96</sup> The statute could define a core non waivable moral interest against degrading or intimate deepfakes, establish a default term for economic exploitation, and embed clear public interest exceptions.<sup>97</sup>

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<sup>90</sup> Aranya Nath and Gautami Chakravarty, 'Navigating the Frontier: Balancing Personality Rights, Privacy, and Intellectual Property in the Age of Deepfake Technology' (2024) V(1) E-JAIRIPA 1.

<sup>91</sup> *Ibid.*

<sup>92</sup> Kalpana Tyagi, 'Deep fakes, Copyright & Personality Rights: An inter-disciplinary perspective' in proceedings of the 9th Law and Economics Conference, Lucerne.

<sup>93</sup> *Ibid.*

<sup>94</sup> Tamiko Rochelle Franklin, 'Intellectual Property, Personality Rights and Artificial Intelligence: Chatbots, Robots and Vocaloids' SSRN Working Paper <https://papers.ssrn.com> accessed 23 December 2025.

<sup>95</sup> *Ibid.*

<sup>96</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>97</sup> *Ibid.*

## VIII. CONCLUSION

### A. Synthesis of findings

Doctrinal and comparative analysis shows that Indian courts already treat personality rights as an important shield against AI driven exploitation of identity.<sup>98</sup> At the same time, absence of a statutory framework and uneven access to courts mean that protection is strongest for visible plaintiffs and commercial disputes.<sup>99</sup>

### B. Answer to the research question

The study indicates that personality rights in India are gradually assuming features of an emerging intellectual property right, especially in celebrity and influencer litigation.<sup>100</sup> Yet, in the deepfake context, courts also rely heavily on privacy and dignity language, so personality rights still operate crucially as a shield against synthetic harms.<sup>101</sup>

### C. Key recommendations

The paper supports legislative recognition of personality rights, inclusion of deepfake specific safeguards, and coordinated regulation across IP, data, and technology statutes.<sup>102</sup> The framework should also prioritise remedies and support mechanisms for non-celebrity victims, with attention to gendered and caste-based dimensions of synthetic abuse.<sup>103</sup>

### D. Future research directions

Further work can explore empirical patterns of enforcement, platform compliance, and user awareness regarding personality and deepfake harms in India.<sup>104</sup>

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<sup>98</sup> Shivangi Mehra and Vineet Kumar, 'The Role of Personality Rights in Protecting Human Identity Against AI-Driven Exploitation in India' (2025) 6 International Journal of Research Publication and Reviews 4090.

<sup>99</sup> *Ibid.*

<sup>100</sup> Anmol Arora, 'Constitutional protection of Personality Rights in the Era of Artificial Intelligence: A Comparative Study of India, EU and the US' (2025) 7 International Journal for Multidisciplinary Research (IJFMR) 1.

<sup>101</sup> *Ibid.*

<sup>102</sup> Aranya Nath and Gautami Chakravarty, 'Navigating the Frontier: Balancing Personality Rights, Privacy, and Intellectual Property in the Age of Deepfake Technology' (2024) V(1) E-JAIRIPA 1.

<sup>103</sup> *Ibid.*

<sup>104</sup> Kalpana Tyagi, 'Deep fakes, Copyright & Personality Rights: An inter-disciplinary perspective' in proceedings of the 9th Law and Economics Conference, Lucerne.

Comparative study of watermarking, authenticity infrastructures, and AI governance models may also enrich Indian debates on balancing innovation with protection of identity.<sup>105</sup>

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