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PERSONALITY RIGHTS AND CELEBRITY RIGHTS IN ADVERTISING AND BRANDING

Ishita Mittal[1]

I. ABSTRACT

Springing up as hot-burning legal trend in India, publicity or personality rights of celebrities are contributing to the development of Indian entertainment law, thereby arsing the requirement for legal scholars and academics to study the implications of these peculiar rights. The two-fold Personality rights mainly comprise: Right to privacy and Publicity rights. Publicity rights traced back to common law jurisdictions and arose in response to the presence and influence of the motion pictures industry. Primarily derived from the right of privacy, publicity rights in India have arisen as a sui generis regime due to the astonishing rate of unauthorized usage of the various aspects of the celebrity persona, including those of celebrated actors such as Amitabh Bachchan and Rajnikanth, whose appearance or likeness have been unduly exploited for commercial gains by advertisers and brands alike. Unfortunately, the current Indian intellectual property regime seems insufficiently equipped to deal with this issue and its consequences. Judicial decisions in this area have been sporadic, leading towards the need to develop more lucid statutory language for enforcing this right and possibly, a distinct regime of publicity rights. This paper seeks to examine the growth of personality rights of celebrities as an emerging specialized right in India. The paper is divided into three parts. Part I of the paper discusses the origin and evolution of personality rights through international cases and judicial decisions. Part II discusses and analysis Indian cases and judicial decisions that have enforced personality rights. Part III discusses other statutory provisions dealing with personality rights such as copyright, trademark and related legislations in India. This paper concludes with possible suggestions as a way forward through a comparative analysis of the experience in different jurisdictions, with the hope of finding a suitable solution to India's unique legal, social and cultural scenario.

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II. KEYWORDS

Personality rights, Publicity rights, right to privacy, celebrities, advertising.

III. INTRODUCTION

"The celebrity is a person who is known for his well-knownness… He is neither good nor bad, great nor petty. He is the human pseudo-event." —Daniel Boorstin[2]

Celebrities build their names, reputations, and popularity through sustained effort, earning recognition and market goodwill that enable them to monetize their identities. Endorsements are one key avenue for such earnings, allowing use of their voice, face, name, or fame. Yet, these rights are often violated through unauthorized commercial use, misappropriation of names or images, and invasions of privacy. The intangible value associated with celebrities is leveraged across various domains: businesses use it for economic gain, while the entertainment industry exploits it for gossip and amusement. Their associations with brands, products, and social causes allow advertisers to capitalize on their public image and professional standing. To safeguard individuals from unauthorized exploitation of this value, a distinct legal protection known as personality rights has emerged.[3]

A. Research Objectives

The main objectives behind writing this paper are as follows:

1. to examine the growth of personality rights of celebrities as an emerging specialized right in India and worldwide.
2. To study various implications attached to infringement of Personality rights.

B. Research Questions

In furtherance of the above objectives, this study seeks to address the following research questions:

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[2] DanieLJ Boorstin, The Image: A Guide to Pseudo-Events in America (1st edn, Vintage 1961).
[3] Sharma P & Tripathi D, Celebrity agony: Establishing publicity rights under the existing IPR framework, ILI Law Review, 4 (1) (2019) 41.

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1. How have personality and publicity rights evolved as distinct legal rights in India and other jurisdictions?
2. What are the legal and commercial implications arising from the unauthorized use or infringement of celebrity personality rights?
3. Whether the existing Indian legal framework, including constitutional provisions, intellectual property laws, and judicial precedents, provides adequate protection to celebrity personality and publicity rights?

C. Research Methodology

This Research Paper is based on a qualitative method of study, incorporating secondary sources to conduct a thorough analysis.

1. **Data Collection:** All information in this study is gathered from secondary sources. Secondary sources are carefully selected to ensure reliability and relevance. These include a variety of material such as: Books, Journal Articles, Internet Archives, Legal Documents, Case Laws.
2. **Ethical Considerations:** Ethical considerations are addressed by ensuring that all sources are cited properly and that the analysis is conducted with integrity and respect for subject matter.

By utilizing a qualitative method and relying on secondary sources, this research provides a nuanced and comprehensive understanding of Personality and Celebrity Rights in Advertising and Branding and their implications globally.

IV. DEFINING THE TERM 'CELEBRITY'

In today's media-saturated world filled with films, YouTube content, movies, and reality television it has become increasingly challenging to clearly define who qualifies as a celebrity, as the label is now widely applied across society.

According to Boorstin, a celebrity is someone known simply for being well-known, without necessarily having achieved anything of substance.

The term "celebrity" carries broad social recognition often seen as a mark of achievement—its legal definition remains informal. A celebrity's identity encompasses a range of distinctive attributes, including name, nickname, stage name,

image, likeness, photograph, mannerisms, gait, habits, style, reputation, and even identifiable personal belongings, all of which merit protection.

In the case of Martin Luther King Jr. Centre for Social Change v. American Heritage Products Inc.,[4] the concept of "celebrity" was interpreted expansively, extending beyond film actors, musicians, and athletes to include other public figures.

However, Indian intellectual property laws, including the Copyright Act of 1957, do not explicitly define celebrities or outline specific rights for them. This absence leaves celebrities to navigate existing legal frameworks to safeguard their interests.[5]

Under Section 2(qq) of the Copyright Act, the term "performer" includes actors, singers, musicians, dancers, acrobats, lecturers, and others who deliver a performance, granting them certain economic and moral rights. Yet, this definition may be too narrow to fully encompass the broader scope of celebrity status, as not all celebrities are performers in the legal sense.

V. DEFINING 'PERSONALITY RIGHTS' OR 'PUBLICITY RIGHTS'

The right of publicity protects an individual's interest in their image, voice, or likeness, granting them control over how these personal attributes are used commercially. It allows a celebrity, for instance, to prevent unauthorized use of their likeness and to benefit financially from its commercial exploitation. While similar to privacy rights, the right of publicity is distinct in that it centers on economic value rather than personal dignity or seclusion. Specifically, if someone holds a claim to the publicity value of their photograph, they also hold the authority to grant exclusive rights to publish it.[6]

In a 2005 ruling, Brook LJ described the right of publicity as "an exclusive right of a celebrity to the profits derived from the commercial use of their fame and popularity."[7]This definition highlights its financial nature, setting it apart from moral

[4]Martin Luther King Jr, centre for Social Change v American Heritage Products Inc, 694 F.2d 674 (11th Cir 1983).
[5] Pareek A & Majumdar A, Protection of celebrity rights – The problems and solutions, Journal of Intellectual Property Rights, 11 (6) (2006) 415.
[6]Haelan Laboratories Inc v. Topps Chewing Gum Inc, 202 F 2d 866, 868 (2d Cir 1953).
[7]Douglas v. Hello! Ltd., 2006 QB 125: (2005) 3 WLR 881: 2005 EWCA Civ 595.

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or privacy-based claims. Sedley LJ further noted in the same case that reputational harm does not equate to economic loss, underscoring that these right addresses intangible, primarily financial interests. As such, it functions as a form of intellectual property designed to secure monetary returns rather than merely safeguard personal integrity.

A widely referenced formulation appears in § 46 of the Restatement (Third) of Unfair Competition (Am. Law Inst. 1995),[8] under 'Appropriation of the Commercial Value of a Person's Identity: The Right of Publicity,' which provides that liability may arise where a person appropriates the commercial value of another's identity by using, without consent, that person's name, likeness, or other distinctive indicia for commercial purposes.

VI. ORIGIN AND HISTORY OF 'PERSONALITY RIGHTS'

The concept of publicity or personality rights originated within the entertainment industry, driven by the recognition of the commercial worth tied to a celebrity's image, voice, likeness, and appearance. As digital media continues to expand, the significance of these rights has grown, becoming central to numerous agreements and negotiations in the sector. Philosophers like Kant and Hegel were among the first to acknowledge the importance of individual personhood, laying early groundwork for such rights.

Historically, the foundation for such rights can be traced back to Pavesich v. New England Life Insurance Company[9], where the Supreme Court of Georgia recognized a legal claim for privacy violation fifteen years after Warren and Brandeis' influential essay. The case involved the unauthorized use of a person's photograph in advertising. The court ruled in favour of the plaintiff without requiring proof of financial harm, affirming that personal liberty includes protection from unwanted public exposure. This established the principle that everyone has a natural right to control the commercial use of their identity.

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[8] Restatement (Third) of Unfair Competition § 46 (Am. Law Inst. 1995).
[9]22 Ga. 190, 50 S.E. 68 (1905).

The first legal case to formally acknowledge the right of publicity was Haelan Laboratories Inc v. Topps Chewing Gum Inc.[10] In this decision, the court established the foundation of modern publicity rights by affirming that a baseball player had a property interest in the commercial use of his photograph on trading cards. The ruling emphasized that this right exists independently of privacy rights, recognizing that individuals hold a distinct claim over the commercial value of their image. The court concluded that the plaintiff could assert a valid claim against the defendant for using the player's photograph during the period covered by the plaintiff's exclusive agreement, especially given the defendant's awareness of the contractual terms.

The economic rationale behind granting protection to celebrities aims to prevent their image and fame from being excessively exploited and is often seen as a way to encourage the pursuit of public recognition. From a moral standpoint, it is argued that since the celebrity is the source of their own identity and public persona, they should be the sole beneficiary of any advantages that arise from it. Both perspectives are grounded in the principle of preventing unjust enrichment ensuring that others do not profit unfairly from someone else's reputation. One of the most prevalent forms of such exploitation is celebrity endorsement in advertising, which often serves as a key differentiator among products of similar quality and price. Alongside appealing packaging and established brand names, a celebrity's image significantly enhances a product's market appeal, effectively assigning commercial value to fame itself. It is precisely this concern over unauthorized use essentially "free riding" on a celebrity's popularity that justifies the recognition and enforcement of publicity rights.

In essence, publicity rights sometimes conflated with privacy rights protect a celebrity's interest in their public identity. These rights allow individuals to control how their image or likeness is used commercially and to benefit financially from such use. However, they differ from traditional privacy rights in that they focus on the economic value of one's public persona.

[10]202 F 2d 866, 868 (2d Cir 1953).

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As Lord Justice Brooke noted in a 2005 ruling, the right to publicity grants a celebrity exclusive control over the financial gains derived from their fame for commercial purposes. This highlights its economic nature, distinguishing it from moral or privacy-based claims. In the same case, Lord Justice Sedley pointed out that reputational harm does not necessarily equate to economic loss, underscoring that publicity rights address intangible, primarily financial injuries. Thus, this right is recognized as an intellectual property interest aimed at securing monetary returns rather than personal protection. One of the most widely referenced formulations of the right of publicity appears in § 46 of the Restatement (Third) of Unfair Competition (Am. Law Inst. 1995),[11] which recognizes liability for the unauthorized commercial use of another person's name, likeness, or other identifying characteristics, thereby appropriating the commercial value of that individual's identity.

VII. STUDY OF 'PERSONALITY RIGHTS' IN DIFFERENT JURISDICTIONS

The right has also been formally recognized in various legal jurisdictions. Nevertheless, the scope of publicity rights continues to evolve in response to the expanding range of methods through which individuals might profit from someone else's fame.

A. Personality Rights in U.S.A.

While the U.S. Constitution does not explicitly recognize a right to privacy, courts have interpreted such a right into its framework, with several rulings becoming landmark judgments.[12]

One of the most cited is Justice Brandeis's dissent in Olmstead v. United States,[13] where he emphasized that the Constitution safeguards conditions conducive to happiness, including the right to be let alone—an essential and highly valued right. He described it as the most comprehensive of all rights, rooted in the protection of

[11] Restatement (Third) of Unfair Competition § 46 (Am. Law Inst. 1995).
[12] Griswold v. Connecticut, 381 US 479 (1965), 484; Lawrence v. Texas, 539 US 558 (2003).
[13] 277 US 438 (1928).

personal dignity, emotions, and intellect, reflecting the intent behind the Fourth and Fifth Amendments.

Notably, Justice Brandeis, along with Justice Warren, had earlier raised concerns about intrusive media practices in a Harvard Law Review article,[14] highlighting how news gathering could violate personal privacy.

The evolution of publicity rights in the U.S. is closely tied to the legal concept of privacy. In 1903, the New York Legislature introduced a statutory privacy right following a case in which a woman objected to her image being used on flour packaging. Although the court dismissed her claim, the case highlighted the need for legal safeguards, eventually leading to provisions imposing both civil and criminal penalties for privacy violations. Over time, common law privacy protections were found insufficient for addressing the commercial interests of public figures, prompting calls for a distinct right focused on protecting financial and potentially intellectual property interests tied to fame. Interestingly, New York's early attempt to frame this right within a human rights context bears resemblance to Germany's approach. Today, California offers the strongest publicity protections in the country, shaped by its large entertainment industry. Its statutory framework is tailored to meet the needs of celebrities and professionals. Additional legal tools, such as the Lanham (Trademark) Act of 1946, support claims involving misrepresentation or passing off, which remain central to celebrity protection. A substantial body of case law has further shaped the current understanding and application of publicity rights in the United States.

B. Personality Rights In the UK

English law has traditionally been reluctant to recognize a standalone right of publicity, prioritizing freedom of expression instead. However, gradual legal developments have emerged, influenced in part by the UK's adherence to international agreements like the European Convention on Human Rights (ECHR). Courts have ruled that photographing individuals without consent may breach

[14]Samuel D Warren and Louis D Brandeis, 'The Right to Privacy' [1890] 4 Hard L Rev 193, 195.

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Article 8 of the ECHR,[15] regardless of the intended use. High profile rulings include those concerning unauthorized photos of the Douglas-Jones wedding and the case involving Naomi Campbell, who received compensation under the Data Protection Act after a newspaper published details about her drug treatment alongside her image.

C. Personality Rights in Germany

The legal landscape in Germany, particularly under trademark, copyright, unfair competition law, and the constitutional protection of personality rights, shares certain similarities with the United Kingdom while providing broader statutory and constitutional safeguards for individual identity and image rights.[16] Both countries have developed legal remedies for specific harms, such as the tort of passing off, which prevents one party from presenting their goods as those of another. A successful passing off claim requires proof of goodwill, misrepresentation leading to consumer confusion, and resulting damage. In the Jif Lemon case, the House of Lords outlined these essential elements. While the UK and Germany share this foundation, German law provides additional protections through statutory measures. Provisions in the German Civil Code, the 1907 Copyright in Works of Art and Photography Act, and the German Constitution collectively offer stronger legal backing for individuals seeking to protect their name, image, and personal identity from unauthorized commercial use.

D. Personality Rights in France

Although France is known for its stringent privacy laws later adopted as a model by the UK and other European nations its former president, Nicolas Sarkozy, was described as "un président publicitaire"[17] by legal commentator Jean Hauser. This observation drew criticism globally, with outlets such as The Guardian noting that the president's openness regarding his personal life, including his relationship with Carla

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[15]European Convention on Human Rights, art 8.
[16]Nimmer M B, 'The Right of Publicity' (1954) 19 Law and Contemporary Problems 203; McCarthy J T, *The Rights of Publicity and Privacy* (2nd edn, Thomson Reuters) §§ 6:1–6:18.
[17]J Hauser, 'Electronic Journal of Comparative Law' [2008] EJCL 283.

Bruni, challenged traditional French privacy norms.[18] Ironically, Sarkozy and both his wives have separately claimed media violations of their privacy. While the French Constitution does not directly mention the right to privacy, the Déclaration des droits de l'homme et du citoyen (1789), part of constitutional law, affirms individual liberty as long as it does not harm others. Additionally, France is a party to the European Convention on Human Rights, which protects private and family life, home, and correspondence.[19] The first explicit privacy legislation was enacted on July 17, 1990, introducing a provision in the Civil Code affirming everyone's right to privacy. Courts may order necessary measures to prevent or stop interference, including interim relief in urgent cases. The Penal Code also imposes strict penalties for unauthorized publication of images or recordings.

VIII. INTERNATIONAL CONVENTIONS AND PERSONALITY RIGHTS OF CELEBRITIES

Internationally, the growing influence of celebrities across cultural and geographic boundaries has elevated their significance in global markets, impacting industries beyond entertainment. Despite this, there is no uniform international standard for protecting celebrity rights. Most jurisdictions are still developing their approaches, and tensions often arise between publicity rights and the right to privacy.

While international agreements such as the WPPT, TRIPS Agreement, and Berne Convention establish frameworks for intellectual property protection including rights related to performances they primarily focus on creators and owners of intellectual works. These treaties have indirectly shaped national laws on copyright and related rights, influencing how publicity rights evolve. However, since performers represent only one category within the wider spectrum of celebrities, relying solely on performer rights offers incomplete protection for celebrity identities on the global stage.[20]

[18]M Berlins, 'Publicity-mad Sarkozy leads fight for privacy' [2008] The Guardian.
[19]Article 8, Convention for the Protection of Human Rights and Fundamental Freedoms 1953.
[20] Pandey S, Celebrity rights protection under Intellectual Property Rights Regime: A critical analysis, International Journal of Creative Research Thoughts, 6 (2018)1602.

As the global entertainment industry expands, the influence and visibility of celebrities increasingly cross traditional social and cultural borders. Their widespread appeal has also driven growth in related sectors, elevating the significance of celebrity recognition on the international stage. However, there is no uniform legal standard or universally accepted framework for protecting celebrity rights worldwide. Publicity rights legislation remains underdeveloped in many jurisdictions, and efforts to protect public image often intersect with privacy concerns.

Defining who qualifies as a celebrity and determining the scope of rights they should hold continue to pose legal challenges. Within international agreements, publicity rights are generally inferred from protections granted to performers. It is important to note, however, that while actors may be celebrities, not all celebrities are performers. International instruments such as the WPPT, TRIPS Agreement, and Berne Convention have established frameworks for intellectual property rights, focusing on safeguarding creative works and their creators.

A. Berne Convention

The push to internationally "harmonize the protection of cultural intellectual property" has long made moral rights a central motivation behind the creation of the Berne Convention.[21] The convention is fundamentally driven by the goal of safeguarding authors' rights in their literary and artistic works as effectively as possible, thereby including protections for moral rights. This aligns in some ways with aspects of personal autonomy found in publicity rights. However, applying the Berne Convention of 1886 to protect celebrity attributes faces a key limitation: such attributes like a face or other physical features are not considered original authored works under copyright law.

Another challenge arises with publicity rights in relation to employment status. Copyright protection for a name extends only to the textual representation of that name, not to the persona it represents. For publicity rights to be upheld under

[21] Berne Convention for the protection of literary and artistic works, Article 6bis, revised at Paris, 24 July 1971, 25 U.S.T. 1341; 1161 U.N.T.S. 3.

international copyright frameworks, they must be demonstrated as an extension of a work that qualifies for copyright protection.[22]

B. Rome Convention

This was the first international agreement to formally recognize the rights of performers, producers of sound recordings, and broadcasting organizations. Yet, unlike films, actors were not granted secondary use rights under Article 19.33, and any right to secondary exploitation depends on receiving equitable remuneration. The Rome Convention introduced the concept of "neighbouring rights," covering performers, phonogram producers, and broadcasters. However, participation was restricted to countries that were already members of the Berne Convention and part of the United Nations. Notably, the convention does not include provisions for moral rights, meaning it offers no protection for the moral rights of public figures or celebrities.[23]

C. TRIPS Agreement

The Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement is a binding accord among all World Trade Organization (WTO) member states. Under Article 14(1), it requires that performers be given the ability to prevent unauthorized acts such as the recording of their performances, reproduction of those recordings, and live transmission of their acts. Article 14(5) allows member countries to extend this protection period from 20 to 50 years. Within the TRIPS framework, publicity rights are reinforced through trademark law, offering strong safeguards against misuse even in connection with unrelated goods or services. Since celebrity-associated marks are often exploited in consumer markets outside the entertainment sector, TRIPS provides a practical and efficient legal tool for celebrities to defend their trademarks. Unlike earlier IP treaties, TRIPS includes a robust enforcement system,

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[22] Berne Convention for the protection of literary and artistic works, Article 6bis, revised at Paris, 24 July 1971, 25 U.S.T. 1341; 1161 U.N.T.S. 3.
[23] Rome Convention, 26 October 1961, 496 U.N.T.S 43.

with non-compliant members subject to dispute resolution and potential sanctions through the WTO.[24]

D. WIPO Performances and Phonograms Treaty (WPPT), 1996

The WPPT marked a major advancement in protecting the interests of performers and phonogram producers, particularly in response to digital challenges where legal protections had previously been lacking. The treaty focuses on the recording, distribution, and public dissemination of performances via digital platforms. However, its scope is limited to audio-based works, leaving visual performances largely unaddressed. Performers are granted both economic rights—such as reproduction, distribution, and rental rights—and moral rights. The treaty aims to create a comprehensive and consistent international standard for protecting performers and phonogram producers, acknowledging the transformative impact of evolving information and communication technologies. It emphasizes the need for updated global rules that balance the rights of creators with technological progress. Importantly, the WPPT explicitly recognizes moral rights and provides legal mechanisms to uphold them.[25]

While these treaties do not directly address celebrity rights, they have significantly influenced national laws on copyright, related rights, and, by extension, the development of publicity rights.

IX. DEVELOPMENT OF PERSONALITY RIGHTS IN INDIA

A significant ruling widely regarded as a key reference on publicity rights in India is Titan Industries v. Ramkumar Jewellers[26], a case frequently cited in subsequent Indian legal decisions. In this instance, the defendant displayed billboards featuring renowned actors Amitabh Bachchan and Jaya Bachchan, implying they endorsed the defendant's jewellery. The plaintiff, who held exclusive rights through a contractual agreement, claimed a violation of publicity rights. The court structured its analysis

[24] TRIPS: Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, U.N.T.S. 299, 33 I.L.M. 1197 (1994).
[25] WIPO Performances and Phonograms Treaty, 20 December 1996, 2186, U.N.T.S. 203; 36 I.L.M. 76 (1997).
[26] 2012 SCC Online Del 2382.

around five main aspects. First, it examined whether the plaintiff had the standing to sue, concluding that the exclusivity granted under the contract provided sufficient basis for legal action. Second, it affirmed that publicity rights belong inherently to celebrities. Third, it outlined two core components of such rights: 'validity' and 'identifiability'.

While identifiability aligned with the precedent set in D.M. Entertainment Pvt. Ltd. v. Baby Gift House & Ors.,[27] requiring the individual to be clearly recognizable, the court emphasized that unauthorized commercial exploitation of a celebrity's persona may amount to a violation of publicity rights where the individual can be readily identified from the impugned representation, 'validity' referred to the plaintiff holding an enforceable interest in the celebrity's persona thus supporting both the transfer of rights and the plaintiff's legal standing. The fourth and fifth points addressed how identifiability could be demonstrated in practice.

To prove infringement, the plaintiff must demonstrate:

1. ownership of a legally enforceable right in a persona;
2. identifiability of the individual from the unauthorized use where strong visual or contextual resemblance may suffice without additional proof (known as unaided identification); and
3. evidence, direct or indirect, that the defendant intended to benefit commercially from the plaintiff's identity.[28]

In 2009, Mont Blanc, the German luxury pen manufacturer, released two special edition pens"Mahatma Gandhi Limited Edition 241" and "Mahatma Gandhi Limited Edition 3000" to mark the 140th anniversary of Mahatma Gandhi's birth. The pens featured Gandhi's image engraved on their nibs. However, a managing trustee of the Centre for Consumer Education in Kerala filed a writ petition arguing that using Gandhi's image on commercial products was inappropriate, unlawful, and violated Section 3 of the Emblems and Names (Prevention of Improper Use) Act, 1950. This

[27]D.M. Entertainment Pvt. Ltd. v. Baby Gift House & Ors., CS(OS) No. 893/2002, decided on 29 April 2010 (Delhi High Court).
[28] Jain M P, Indian Constitutional Law, (Lexis Nexis 2008) 988.

law prohibits the use of names or emblems listed in its Schedule—including those linked to trade, business, or profession—without prior approval from the Central Government. Specifically, Schedule 9A explicitly bans the use of "the name and pictorial representation of Mahatma Gandhi" for commercial purposes. In response, Mont Blanc verbally agreed not to sell any pens bearing Gandhi's image while awaiting a decision on its permission request. The Central Government ultimately denied the application. Following Mont Blanc's decision to withdraw the pens and related advertisements from circulation, the Supreme Court chose to close the case.

More recently, Lalit Bhasin, a well-known Indian corporate lawyer, personally challenged a trademark application before the Ecuador Trademark Registry seeking to register "Arroz Gandhi" (Gandhi Rice) as a trademark under international Class for aged, medium, and long-grain rice, regardless of origin. He cited the same 1950 Indian law, which forbids the commercial use of names like "Mahatma Gandhi," as listed in the Act's Schedule. Point 9-A specifically bars the use of Gandhi's name or image. The Ecuadorian authority, in its order dated June 6, 2013, upheld Bhasin's opposition and rejected the trademark registration. It recognized that Bhasin, like any Indian citizen, had a legitimate interest and moral right to protect national symbols and cultural icons.

The Registry emphasized that Mahatma Gandhi, as the Father of the Nation, is one of India's most respected national figures and also a spiritual icon. It further noted that the "Arroz Gandhi" logo included a drawing of Gandhi with all its visual elements. When assessed for similarities rather than differences, this was found to infringe on the copyright of the original Gandhi illustration. The ruling also acknowledged broader principles: the protection of a national figure's personality and publicity rights beyond national borders, and the prohibition against profiting from such a person's name or likeness. This outcome underscored the global relevance of safeguarding national heritage and identity.[29]

[29] Nafis Z, Personality rights - Need for a clear legislation, Mondaq https://www.mondaq.com/india/intellectual-property/ 345080/personality-rights--need-for-a-clear-legislation (accessed on 28 March 2026).

In Gautam Gambhir v. D.A.P & Co.,[30] cricketer Gautam Gambhir sought an injunction restraining the defendants from operating restaurants under the name “Gautam Gambhir.” Although the plaintiff's celebrity status was undisputed, the Delhi High Court dismissed the suit, noting that the defendant restaurateur genuinely bore the same name and that there was no evidence suggesting that consumers would believe the restaurants were owned, sponsored, or endorsed by the cricketer.

The Court emphasized that personality rights cannot be enforced merely because a celebrity shares a name with another individual. The case therefore illustrates the limits of personality rights and highlights the importance of establishing misrepresentation, false endorsement, or a likelihood of consumer confusion before relief can be granted.

X. RATIFICATION TO DIFFERENT INTERNATIONAL CONVENTIONS

In India, the legal framework relevant to celebrity and performer rights has been influenced by several international copyright instruments. India is a party to the Berne Convention and the Universal Copyright Convention, both of which seek to protect literary and artistic works. Although India is not a contracting party to the Rome Convention, 1961, it has incorporated comparable protections for performers, broadcasting organisations, and related rights through the Copyright Act, 1957, particularly under Sections 38, 38A and 38B. These provisions provide performers with statutory economic and moral rights within the domestic legal framework.

Through the International Copyright Order of 1958, the Indian government ensures that works first published in member countries of these conventions receive treatment equivalent to those first published domestically.

Additionally, India is signatory to the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT)—often referred to as the “Internet

[30](2017) SCC Online Del 12167 (India).

Treaties" designed to modernize and expand upon the protections established under the Berne and Rome Conventions.

In Sonu Nigam v Amrik Singh[31], both parties were set to attend the Mirchi Awards 2013, and their images were featured on official event posters with their approval. However, Mika Singh used unauthorized hoardings and promotional materials that prominently displayed his own image alongside smaller photos of other artists, including Sonu Nigam, without obtaining their consent. These materials created a false impression that Mika Singh had achieved joint success with those artists. Sonu Nigam subsequently filed a lawsuit against Mika Singh for defamation and for violating his personality rights.

The Bombay High Court imposed a significant penalty on Mika Singh, stating clearly that no individual should profit commercially from a celebrity's image without their permission. The court further noted that substantial fines could discourage others from exploiting celebrities' rights for personal gain.

In Sourav Ganguly v Tata Tea Ltd,[32] Sourav Ganguly, shortly after scoring notable centuries at Lord's, discovered that Tata Tea Ltd., where he was employed as a manager, was marketing its 1-kilogram tea packs by including postcards that allowed customers to send him congratulations. The company leveraged Ganguly's widespread popularity in India to boost sales. The court recognized that his fame and public image constituted a form of intellectual property and ruled in his favour. Nevertheless, Indian law currently lacks comprehensive provisions to fully protect celebrities' publicity and merchandising rights, indicating that legal safeguards in this area remain underdeveloped.

The existing framework of intellectual property rights can serve as a temporary safeguard against privacy violations, especially in the absence of specific legislation governing celebrity and publicity rights. A growing practice involves registering names and sound recordings as trademarks to prevent unauthorized use or replication. Prominent figures such as Kajol, Amitabh Bachchan, and Sanjeev Kapoor

[31]Civil Suit No. 372 of 2013, decided on 26-4-2014 (Bom).
[32]8 Calcutta High Court C.S. No. 361 of 1997.

have increasingly turned to trademark protection to combat the unapproved commercial use of their names, voices, or works. Under Section 2(1)(zb) of the Indian Trademarks Act, 1999, these names have developed secondary meaning over time, are associated with public goodwill, and can effectively distinguish one individual's goods or services from another's.[33]

Thus, the scope of the right to publicity was further clarified in ICC Development (International) Ltd. v. Arvee Enterprises[34], where the Delhi High Court held that this right applies only to living individuals and not to non-living entities such as events, sports, or organizations even if those entities contributed to a person's fame. Such entities are already protected under copyright, trademark, antidilution, and unfair competition laws, making it unnecessary to extend publicity rights to them. Moreover, since the right stems from personal privacy, it can only belong to individuals or be tied to personal attributes like name, voice, signature, or distinctive traits. While a person may gain publicity rights through association with a particular event or sport, the event or organizing body itself cannot claim such rights.

XI. PERSONALITY RIGHTS AND THE INDIAN CONSTITUTION

The recognition of publicity rights in India is rooted in the fundamental rights to dignity and liberty guaranteed under Articles 19 and 21 of the Constitution.

While there is no specific statutory framework for publicity rights in India, courts have acknowledged the principle in practice. Privacy and publicity rights are gradually gaining recognition. Although constitutional protections apply mainly against state action, courts have accepted that privacy violations by private entities may be addressed through tort law. A person's identity extends beyond commercial value—it encompasses personal dignity and individuality, which should not be exploited without consent, regardless of whether the person is a public figure or not. The convergence of privacy and publicity rights has led to the emergence of a broader right to protect one's identity.

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[33] Amritesh Mishra, 'Living off fame: protecting a celebrity's name in India' (World Intellectual Property Review) accessed on 29 March, 2026.
[34]2003 SCC On Line Del 2: (2003) 26 PTC 245.

In Phoolan Devi v Shekhar Kapoor & others,[35] Phoolan Devi obtained a temporary injunction halting the release of the film Bandit Queen, which was based on her life, arguing that it distorted facts and damaged her reputation. Having renounced her past criminal activities and rebuilt her life, she objected to the film's portrayal. The court emphasized that such matters require careful examination, particularly regarding the effect on an individual's private life before any biographical film is released. It held that using someone's life story without consent could infringe their right to privacy under Article 21 of the Constitution, reinforcing that a celebrity's name and image may be protected as part of fundamental rights.

In the case of Sampat Pal v. Sahara One Media and Entertainment Ltd. & Ors[36], the plaintiff, a social activist leading a group called the "Gulabi Gang," filed a suit in the Delhi High Court seeking a permanent injunction and damages. She claimed that the film Gulaab Gang was based on her life and portrayed her and her organization in a defamatory manner, using imagery such as swords and sickles to misrepresent their work. Arguing that this depiction damaged her reputation and that of her group, she requested the court to block the film's release. The Single Bench of the Delhi High Court initially restrained the broadcasting, distribution, and promotion of the film whether censored or uncensored until the next hearing. However, following an appeal by the producers, the Division Bench allowed the film's release on the condition that a disclaimer be included stating that the movie had no connection to Sampat Pal, her life, or her organization.

In India, the legal framework surrounding publicity or personality rights is still developing. Although there is no specific legislation that formally establishes a standalone right to publicity, courts particularly the Delhi High Court and the Bombay High Court have actively acknowledged and enforced this right through judicial interpretation.

The constitutional foundation of personality and publicity rights in India is rooted in the broader right to privacy under Article 21 of the Constitution. An important early

[35] 57 (1995) DLT 154, 1995 (32) DRJ 142.
[36] CS (OS) 638/2014.

recognition of this principle appeared in R. Rajagopal v. State of Tamil Nadu,[37] where the Supreme Court held that individuals possess a right to safeguard their privacy and to prevent the unauthorized commercial or public exploitation of their name, image, or life story. The Court observed that no person may publish aspects of another's private life without consent, except where such matters form part of the public record. This jurisprudence was significantly strengthened in Justice K.S. Puttaswamy (Retd.) v. Union of India (2017),[38] wherein a nine-judge bench of the Supreme Court unanimously recognized the right to privacy as a constitutionally protected fundamental right intrinsic to life and personal liberty under Article 21. The Court affirmed that privacy encompasses individual autonomy, dignity, identity, and control over personal information.

Although the judgment did not directly address publicity rights, its recognition of informational self-determination and personal autonomy has provided a strong constitutional basis for the protection of personality rights and the commercial value attached to an individual's identity. Consequently, subsequent judicial decisions concerning celebrity rights, image rights, and unauthorized commercial exploitation have increasingly drawn support from the constitutional principles articulated in Puttaswamy. Courts have therefore come to view personality rights as an extension of the constitutional protection afforded to individual dignity, privacy, and identity.

Additional protection may be drawn from Section 14 of the Trademarks Act, 1999, which restricts the use of personal names in trademarks. Beyond constitutional and statutory provisions, common law remedies such as passing off, and torts like defamation, libel, and disparagement, also offer some safeguards.

A significant expansion occurred two decades later in Anil Kapoor v. Simply Life India & Ors.,[39] where the Delhi High Court extended protection not only to the actor’s face and voice but also to his distinctive mannerisms, speech patterns, and popular

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[37](1994) 6 SCC 632: AIR 1995 SC 264.
[38] (2017) 10 SCC 1.
[39]2023 SCC On Line Del 6914.

catchphrase "jhakaas." This marked a shift—personality rights now encompass the overall commercial identity of an individual, rather than isolated attributes.

The rapid advancement of artificial intelligence, deepfake technologies, voice cloning, and digital content generation has significantly expanded the scope of personality-rights litigation in India. While earlier cases primarily concerned unauthorized commercial endorsements and misuse of celebrity images, recent judicial decisions have addressed the growing challenge posed by synthetic media capable of replicating an individual's likeness, voice, mannerisms, and identity without consent. In Jaikishan Kakubhai Saraf alias Jackie Shroff v. The Peppy Store,[40] the Delhi High Court granted protection against the unauthorized commercial exploitation of the actor's name, image, voice, likeness, and distinctive personal attributes across digital and online platforms. The Court recognised that personality rights extend beyond traditional advertising contexts and apply equally to modern forms of online misappropriation.

Similarly, in Arijit Singh v. Codible Ventures LLP,[41] the Bombay High Court restrained the unauthorized use of the singer's name, voice, photograph, image, and other personality attributes through artificial intelligence tools and digital content generation platforms. The decision is particularly significant because it acknowledged that AI-generated reproductions of a celebrity's persona may cause commercial harm and dilute the economic value attached to the individual's identity. Subsequent judicial orders involving public personalities such as Salman Khan, Akshay Kumar, and Shilpa Shetty have further reinforced the principle that personality rights encompass protection against unauthorized digital replication, deceptive endorsements, voice cloning, and AI-generated content. These cases collectively demonstrate a judicial willingness to extend traditional personality-rights principles to emerging technologies.

The evolving jurisprudence indicates that Indian courts increasingly view personality rights as encompassing not only physical likeness and reputation but also digital

[40] Jaikishan Kakubhai Saraf alias Jackie Shroff v. The Peppy Store & Ors., Delhi High Court, 2024.
[41] Arijit Singh v. Codible Ventures LLP & Ors., Bombay High Court, 2024.

identity, biometric attributes, voice signatures, and other elements capable of technological reproduction. Consequently, recent decisions have become particularly relevant in shaping legal responses to AI-generated synthetic media and have highlighted the need for clearer statutory safeguards in this area.

In a much more recent case of Shivaji Rao Gaikwad v. Varsha Productions,[42]the plaintiff, Rajinikanth filed a suit against the producers of the movie with the name 'Main Hoon Rajinikanth' for imitating his name, image, personality and style of delivering dialogues. The three main contentions made by the plaintiff were that, firstly, being a cultural figure in the world and a leading actor in the Indian film industry, unauthorised use of his name and personality would affect his reputation and publicity rights; secondly, the plaintiff was not willing to commission any movie which is based on his personal life as he is against such gross commercialisation of his name and reputation; and thirdly, the producers not only used his name and image without his permission but also contained obscene and immoral scenes which violated his personality rights and also amounted to infringement of his privacy rights. Further, the actor also added saying that mere unauthorised use of his name and image would create a confusion in the society which would be commercially beneficial to the producers of the movie because of the goodwill attached to his name. The Court recognising the personality rights, passed an injunction order against the defendants from releasing the movie.

Therefore, the review of Indian judicial rulings reveals that although India lacks a dedicated statutory framework governing personality and celebrity rights, courts have progressively expanded protection through constitutional interpretation and common-law principles. Recent decisions involving AI-generated content, deepfakes, voice cloning, and digital identity replication demonstrate that personality rights are rapidly evolving beyond traditional endorsement disputes. These developments highlight the increasing need for a coherent legal framework capable of addressing both conventional infringements and emerging technological threats to individual identity, judicial interpretation has progressively developed this area of law. The

[42]2015 SCC On Line Mad 158: (2015) 2 CTC 113.

constitutional foundation now rests not only on the privacy principles recognised in R. Rajagopal but also on the broader articulation of privacy, dignity, autonomy, and identity rights in Justice K.S. Puttaswamy (Retd.) v. Union of India.[43] Together, these decisions provide the constitutional basis upon which contemporary personality-rights jurisprudence in India continues to evolve.

XII. STATUTORY PROTECTION OF CELEBRITY RIGHTS IN INDIA

1. **Protection Under Advertising Regulations:** In India, advertising practices are guided by the Code of Self-Regulation in Advertising, introduced in 1985 by the Advertising Standards Council of India (ASCI). ASCI operates as a voluntary, non-governmental self-regulatory organization originally registered under Section 25 of the Companies Act, 1956 (now Section 8 of the Companies Act, 2013). The Code stipulates that advertisements must not reference any individual, company, or institution in a manner that unfairly benefits the advertised product or harms the reputation of the referenced party. Advertisers and advertising agencies must, upon request, furnish written consent from any person or entity referred to in an advertisement. Although the ASCI Code is self-regulatory in nature and does not independently possess statutory force, it is widely recognised within the advertising industry and has been relied upon in regulatory and judicial contexts.[44]
2. **Copyright Act, 1957:** The Copyright Act, 1957 provides limited statutory protection relevant to personality and publicity rights through the regime of performers' rights. Following the Copyright (Amendment) Act, 2012, Section 38 confers a performer's special right in relation to his or her performance and provides protection for a period of fifty years from the year following the performance. Section 38A grants performers exclusive economic rights, including the right to make sound or visual recordings of the performance, reproduce such recordings, issue copies to the public, communicate the performance to the public, and commercially exploit the recorded performance.

[43] (2017) 10 SCC 1.
[44] Jain M P, Indian Constitutional Law, (Lexis Nexis 2008) 988.

Any unauthorized exercise of these rights without the performer's consent constitutes infringement of the performer's rights under the Act. Further, Section 38B recognizes the moral rights of performers, including the right to claim authorship of the performance and the right to restrain or claim damages in respect of any distortion, mutilation, or other modification of the performance that would be prejudicial to the performer's reputation. However, Section 39 continues to prescribe certain exceptions, including fair dealing, reporting of current events, teaching, research, and other permitted uses analogous to the exceptions available under Section 52 of the Act.[45]

Therefore, in India, the legal framework surrounding publicity or personality rights is still developing. Although there is no specific legislation that formally establishes a standalone right to publicity, courts particularly the Delhi High Court and the Bombay High Court have actively acknowledged and enforced this right through judicial interpretation.

XIII. SUGGESTIONS AND RECOMMENDATIONS

Creating a separate, dedicated law solely for personality rights appears unnecessary and ineffective, especially considering how rapidly technology advances. Laws enacted today may quickly become outdated, leaving lawmakers constantly trailing behind innovation. What is needed instead is a more adaptable framework one that emphasizes flexible compliance and can keep pace with evolving technologies.

It is therefore proposed that India implement a three-part approach.

First, constitutional clarity should be established by amending existing laws or introducing a targeted legal framework to formally recognize personality rights as an independent right under Article 21, covering both privacy and publicity aspects.

Second, the DPDP Act or IT Rules should be updated to require clear, mandatory consent before using an individual’s biometric, voice, visual likeness, or other

[45] Budhiraja G, *Publicity Rights of Celebrities: An Analysis under the Intellectual Property Regime*, NALSAR Student Law Review, 7 (2011) 85; Copyright Act, 1957, ss. 38, 38A and 38B (as amended by the Copyright (Amendment) Act, 2012).

personality attributes to generate synthetic media. Such reform would also provide statutory support to the principles emerging from recent judicial decisions involving AI-generated deepfakes, voice cloning, and unauthorized digital reproductions of celebrity identities, with strong civil and criminal penalties for violations.

Third, a specialized Personality Rights Appellate Cell should be set up within the current grievance redressal system, empowered to issue takedown orders and grant timely interim relief, designed to resolve disputes in months rather than years, while remaining answerable to the appellate tribunal outlined in India's emerging digital governance model.

This combined strategy builds upon existing data protection and digital governance frameworks, avoids unnecessary legislative duplication, and introduces targeted safeguards capable of addressing the distinct risks posed by AI-generated synthetic media and personality-rights infringements—ensuring the system remains both legally sound and responsive to the distinct challenges posed by AI-related violations.

XIV. CONCLUSION

Personality rights have emerged as an important legal mechanism for protecting the commercial, reputational, and personal interests of celebrities in an increasingly digital and media-driven environment. This study examined the evolution of personality and publicity rights across different jurisdictions, analysed the development of Indian jurisprudence through judicial precedents, and evaluated the extent to which existing intellectual property and constitutional frameworks safeguard celebrity interests. The analysis demonstrates that, despite significant judicial recognition, India still lacks a comprehensive statutory framework governing personality right.

Consequently, protection remains fragmented across constitutional principles, intellectual property laws, and common law remedies. As technological advancements, digital media, and artificial intelligence continue to expand the possibilities of unauthorized exploitation of identity, there is a growing need for a coherent and adaptive legal framework that balances individual rights, commercial

interests, and freedom of expression while ensuring effective protection of celebrity personality rights in India.

XV. REFERENCES

A. Books

1. Boorstin DJ, The Image: A Guide to Pseudo-Events in America (1st edn, Vintage Books 1961).
2. Jain MP, Indian Constitutional Law (LexisNexis 2008).
3. McCarthy JT, The Rights of Publicity and Privacy (2nd edn, Thomson Reuters).

B. Journal Articles

1. Budhiraja G, 'Publicity Rights of Celebrities: An Analysis under the Intellectual Property Regime' (2011) 7 NALSAR Student Law Review 85.
2. Hauser J, 'The French Right of Privacy' (2008) Electronic Journal of Comparative Law.
3. Mishra A, 'Living off Fame: Protecting a Celebrity's Name in India' World Intellectual Property Review.
4. Nimmer MB, 'The Right of Publicity' (1954) 19 Law and Contemporary Problems 203.
5. Pandey S, 'Celebrity Rights Protection under Intellectual Property Rights Regime: A Critical Analysis' (2018) 6 International Journal of Creative Research Thoughts 1602.
6. Pareek A and Majumdar A, 'Protection of Celebrity Rights: The Problems and Solutions' (2006) 11(6) Journal of Intellectual Property Rights 415.
7. Sharma P and Tripathi D, 'Celebrity Agony: Establishing Publicity Rights under the Existing IPR Framework' (2019) 4(1) ILI Law Review 41.
8. Warren SD and Brandeis LD, 'The Right to Privacy' (1890) 4 Harvard Law Review 193.

C. Cases

1. International Cases

- Douglas v Hello! Ltd [2005] EWCA Civ 595; [2006] QB 125.
- Griswold v Connecticut, 381 US 479 (1965).
- Haelan Laboratories Inc v Topps Chewing Gum Inc, 202 F 2d 866 (2d Cir 1953).
- Lawrence v Texas, 539 US 558 (2003).
- Martin Luther King Jr Centre for Social Change v American Heritage Products Inc, 694 F 2d 674 (11th Cir 1983).
- Olmstead v United States, 277 US 438 (1928).
- Pavesich v New England Life Insurance Co, 50 SE 68 (Ga 1905).
- Zacchini v Scripps-Howard Broadcasting Co, 433 US 562 (1977).

2. Indian Cases

- Anil Kapoor v Simply Life India & Ors, 2023 SCC OnLine Del 6914.
- D.M. Entertainment Pvt Ltd v Baby Gift House & Ors, CS(OS) No 893/2002 (Del HC, 29 April 2010).
- Gautam Gambhir v D.A.P. & Co, 2017 SCC OnLine Del 12167.
- ICC Development (International) Ltd v Arvee Enterprises, 2003 SCC OnLine Del 2.
- Jaikishan Kakubhai Saraf alias Jackie Shroff v The Peppy Store & Ors (Del HC 2024).
- Justice K.S. Puttaswamy (Retd.) v Union of India, (2017) 10 SCC 1.
- Phoolan Devi v Shekhar Kapoor & Ors, 57 (1995) DLT 154.
- R. Rajagopal v State of Tamil Nadu, (1994) 6 SCC 632.
- Sampat Pal v Sahara One Media & Entertainment Ltd & Ors, CS(OS) 638/2014.

- Shivaji Rao Gaikwad v Varsha Productions, 2015 SCC OnLine Mad 158.
- Sonu Nigam v Amrik Singh, Civil Suit No 372 of 2013 (Bom HC, 26 April 2014).
- Sourav Ganguly v Tata Tea Ltd, CS No 361 of 1997 (Cal HC).
- Titan Industries Ltd v Ramkumar Jewellers, 2012 SCC OnLine Del 2382.
- Arijit Singh v Codible Ventures LLP & Ors (Bom HC 2024).

D. Legislation

1. Copyright Act, 1957.
2. Copyright (Amendment) Act, 2012.
3. Digital Personal Data Protection Act, 2023.
4. Digital Personal Data Protection Rules, 2025.
5. Emblems and Names (Prevention of Improper Use) Act, 1950.
6. Information Technology Act, 2000.
7. Trade Marks Act, 1999.
8. Companies Act, 2013.

E. International Conventions and Treaties

1. Berne Convention for the Protection of Literary and Artistic Works, 1886 (Paris Revision, 1971).
2. Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), 1950.
3. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), 1994.
4. Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations, 1961.
5. WIPO Copyright Treaty (WCT), 1996.
6. WIPO Performances and Phonograms Treaty (WPPT), 1996.

F. Restatements

1. Restatement (Third) of Unfair Competition § 46 (American Law Institute 1995).

G. Web Sources

1. Berlins M, 'Publicity-mad Sarkozy Leads Fight for Privacy' The Guardian.
2. Mishra A, 'Living off Fame: Protecting a Celebrity's Name in India' World Intellectual Property Review.
3. Nafis Z, 'Personality Rights – Need for a Clear Legislation' Mondaq.