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DEEFAKE AND PERSONALITY RIGHTS IN INDIA: NEED FOR A SEPARATE LEGAL FRAMEWORK

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I. ABSTRACT

The digital revolution and the rapid proliferation of Artificial Intelligence (AI) technologies have fundamentally transformed the landscape of personal identity and its protection under law. Among the most alarming manifestations of this transformation is the emergence of deepfakes hyper-realistic, AI-generated audio-visual simulations that replicate an individual's voice, likeness, and mannerisms without consent. India, like most jurisdictions, lacks a dedicated statutory framework for protecting personality rights against such technologically sophisticated violations. The existing legal architecture comprising the Copyright Act, 1957, the Trade Marks Act, 1999, the Information Technology Act, 2000, and tortious principles of passing off provides only fragmented, reactive protection, leaving significant legislative gaps that adversely affect celebrities, public figures, and ordinary citizens alike. Indian courts have, through a series of landmark judgments spanning three decades, fashioned a judicially crafted doctrine of personality rights grounded in the fundamental right to privacy and dignity under Article 21 of the Constitution. From the Auto Shankar case (1994) to the recent wave of injunctions in 2025 involving celebrities such as Abhishek Bachchan, Ravi Shankar, Asha Bhosle, and Sunil Shetty, the judiciary has demonstrated remarkable adaptability. However, judicial innovation alone cannot substitute for comprehensive legislative action, particularly in an era where deepfake content spreads virally across global platforms within hours. This paper undertakes a doctrinal and comparative analysis of the existing legal framework for personality rights in India, examines

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the specific threats posed by deepfake technology, critiques the inadequacy of current statutory provisions, and proposes a dedicated Personality Rights Protection Act. It further draws upon comparative models from the United States, the European Union, and emerging international consensus under the World Intellectual Property Organization (WIPO) to recommend a comprehensive, technology-responsive legislative regime for India.

II. KEYWORDS

Deepfakes, Personality Rights, Artificial Intelligence, Right of Publicity, Legislative Framework.

III. INTRODUCTION

The twenty-first century has irrevocably transformed human identity into a commercial commodity. Names, voices, images, and distinctive mannerisms of individuals particularly celebrities and public figures have acquired immense economic value, traded in global endorsement markets worth billions of dollars. This commodification, nevertheless, has a dark underside: the same technological infrastructure that enables personality monetisation also facilitates its unauthorized exploitation.

Deepfakes synthetic media generated by deep learning algorithms, particularly Generative Adversarial Networks (GANs) represent the most potent contemporary threat to personality rights. By seamlessly superimposing an individual's face or voice onto fabricated scenarios, deepfakes enable defamation, sexual exploitation, financial fraud, and commercial misappropriation at an unprecedented scale. India's statutory intellectual property framework conspicuously lacks a dedicated provision for personality rights. The Copyright Act, 1957, grants "performer's rights" under Section 38 and moral rights under Section 57, but these provisions address creative performances, not the broader protection of an individual's commercial persona.

The Trade Marks Act, 1999, permits registration of names and signatures as marks but does not comprehensively address identity misuse. The Information Technology Act, 2000, penalises certain online offences but provides no specific remedy for deepfake-

mediated personality violations. This legislative vacuum has compelled Indian courts to fashion personality rights doctrine through constitutional interpretation and common law principles an approach that, while commendable, is inherently piecemeal and reactive.

A. Research Problem

The research problem, therefore, is twofold: first, to assess whether the existing legal framework adequately addresses the threat of deepfakes to personality rights in India; and second, to determine whether a separate, dedicated legislative framework is necessary for comprehensive and effective protection. This research paper argues that the answer to the first question is unambiguously negative, and the answer to the second is resoundingly affirmative.

B. Research Objectives

This research paper aims to fulfil the existing statutory and judicial framework for the protection of personality rights in India. Also to analyse the specific legal challenges posed by deepfake technology to the protection of personality rights. The paper will undertake a comparative study of personality rights frameworks in the United States, European Union, and under WIPO instruments, and to identify the legislative gaps in India's existing legal regime for protecting individuals against deepfake-mediated personality violations.

C. Research Questions

The research paper focuses on the following research questions:

1. Does India's existing legal framework comprising intellectual property statutes, constitutional provisions, and common law principles provide adequate protection for personality rights against deepfake misuse?
2. How have Indian courts evolved the doctrine of personality rights in response to emerging technological threats, and what are the limitations of this judicially crafted framework?

3. What lessons can India draw from comparative jurisdictions such as the United States (right of publicity doctrine), the European Union (right of personality), and WIPO frameworks?
4. What are the essential elements that a dedicated Personality Rights Protection Act in India must contain in order to address the specific threat of deepfakes?

D. Research Hypotheses

The research paper proposes the hypotheses that the India's existing statutory framework for intellectual property protection is inadequate to comprehensively address the violation of personality rights through deepfake technology, leaving significant legislative gaps that cannot be filled through judicial interpretation alone. Also, a dedicated Personality Rights Protection Act, drawing upon comparative international models and incorporating technology-responsive provisions, would provide more effective and certain protection for individual persona against deepfake misuse in India.

E. Research Methodology

This research paper employs a doctrinal research methodology, involving systematic analysis of primary and secondary legal sources. The research also employs a comparative methodology, examining the development of personality rights and right of publicity law in the United States, the United Kingdom, and the European Union, in order to draw fundamentals for Indian legislative reform. Where relevant, empirical data on deepfake incidents and their legal consequences have been incorporated to substantiate the case for legislative intervention.

F. Literature Review

Scholarly discourse on personality rights in India has grown substantially over the past two decades. Ahmad and Swain, in their seminal work "Celebrity Rights Protection

under IP Laws,”⁴ published in the *Journal of Intellectual Property Rights* (2011), provided the first systematic examination of the relationship between celebrity rights and the Indian intellectual property regime, identifying the inadequacy of the Copyright Act for comprehensive personality protection. Their work established that while performer’s rights under Section 38 of the Copyright Act provide limited protection, the broader concept of commercial persona requires an independent legal framework.

Mullick and Narnaulia, in “Protecting Celebrity Rights Through Intellectual Property Conceptions” (*NUJS Law Review*, 2008),⁵ argued that the common law action of passing off, while useful, is inherently limited to situations involving misrepresentation and consumer confusion and cannot address the full spectrum of personality rights violations. This limitation becomes acutely apparent in deepfake scenarios, where no commercial relationship or consumer confusion need be demonstrated.

Madhu Gadodia’s presentation to the WIPO Conference on Personality Rights and AI (2024)⁶ comprehensively mapped the elements of personality rights in India name, image, likeness, voice, and signature, including their digital variables such as AI deepfakes against the existing statutory and case-law framework. Gadodia emphasized that while Indian courts have evolved robust doctrine, the absence of comprehensive legislation leaves protection dependent on ad hoc judicial intervention.

Ashna Narang’s article “Exploring the Intersection of AI and IPR in the Context of the Emerging Phenomenon of Deepfakes,”⁷ published in the *Journal of Intellectual Property Rights* (2025), examined the specific threat of deepfakes to personality rights and right of

⁴Tabrez Ahmad and Satya Ranjan Swain, “Celebrity Rights Protection under IP Laws” 16 *Journal of Intellectual Property Rights* 7 (2011).

⁵Souvanik Mullick and Swati Narnaulia, “Protecting Celebrity Rights Through Intellectual Property Conceptions” 1(4) *NUJS Law Review* 615 (2008).

⁶Madhu Gadodia, “Personality Rights: AI and the Way Forward”, Presentation at WIPO Conversation on Intellectual Property and Frontier Technologies (Second Session), Geneva (2024), available at: <https://www.wipo.int/edocs/mdocs/en/wipo.pdf> (last visited on June 5, 2026).

⁷Ashna Narang, “Exploring the Intersection of AI and IPR in the Context of the Emerging Phenomenon of Deepfakes” 30(1) *Journal of Intellectual Property Rights* 59 (2025).

publicity within the IPR framework, concluding that existing Indian IP laws are structurally ill-equipped to address AI-generated identity violations.

Ajay Bhargava and Phalguni Nigam, in “The Judicially Crafted Shield: India’s Evolving Law of Personality Rights”⁸ (SCC Times, 2025), provided a comprehensive survey of recent judicial developments, noting that the John Doe/Ashok Kumar order mechanism has emerged as the most critical judicial tool for combating unspecified online infringement, enabling courts to issue ex parte interim injunctions against unidentified infringers. Their analysis of the 2025 wave of celebrity deepfake cases including Abhishek Bachchan, Karan Johar, Ravi Shankar, Asha Bhosle, and Sunil Shetty demonstrates both the vitality of judicial protection and its inherent limitations as a substitute for legislative action.

The JIPR article “The Right to Be Me: Legal Framework for Protecting Personality Rights in India”⁹ (2025-2026) noted that the Indian personality rights framework is spread across constitutional provisions, statutory laws, and landmark cases, and that technological advancements and international practices challenge this diffuse system. The paper underscored the need for a unified framework that directly addresses digital threats. Together, these scholarly contributions establish a broad consensus that India’s personality rights protection is judicially innovative but legislatively deficient, and that deepfake technology represents a qualitative escalation of the threat that demands a statutory response.

IV. RESEARCH AND ANALYSIS

A. The Concept of Personality Rights and Its Place in the IP Ecosystem

⁸The Judicially Crafted Shield: India's Evolving Law of Personality Rights, available at: <https://www.sconline.com/blog/post/2025/12/05/india-personality-rights-evolving-law-celebrity-protection/> (last visited on June 6, 2026).

⁹Karun Sanjaya, "The Right to Be Me: Legal Framework for Protecting Personality Rights in India" 31(1) *Journal of Intellectual Property Rights* 121 (2026), available at: <https://doi.org/10.56042/jipr.v31i1.17381> (last visited on June 6, 2026).

Personality rights, also referred to as “publicity rights” or “image rights,” confer upon an individual the exclusive right to control the commercial exploitation of their persona comprising name, likeness, voice, image, signature, gestures, catchphrases, and other distinguishing characteristics.¹⁰ Unlike traditional intellectual property rights, which protect creative expression (copyright), novel inventions (patents), or source identifiers (trademarks), personality rights protect the commercial value of human identity itself. This distinction is foundational: a photograph of a celebrity attracts copyright protection in favour of the photographer, but personality rights vest in the celebrity to control unauthorized commercial use of that photograph, regardless of copyright ownership.¹¹

The right has both a dignity dimension, protecting individuals from degrading or defamatory misuse of their persona, and an economic dimension, enabling them to capitalize on the commercial value of their identity. In the age of AI and deepfakes, both dimensions are simultaneously threatened.¹² A deepfake that portrays a celebrity endorsing a fraudulent product violates not only their economic interests but also their dignity and autonomy. Personality rights do not fit neatly into any single category of the existing IP framework. They are not purely private rights (like copyright) nor purely public rights (like competition law protections).¹³

They occupy an autonomous space at the intersection of privacy law, tort law, and IP law, requiring a dedicated normative framework.¹⁴ As WIPO’s examination of performer protection mechanisms under the Rome Convention (1961), TRIPS (1994), and the WIPO Performances and Phonograms Treaty (1996) demonstrates, even international

¹⁰Ajay Bhargava and Phalguni Nigam, “The Judicially Crafted Shield: India’s Evolving Law of Personality Rights” *SCC Times* (Dec. 5, 2025).

¹¹The Copyright Act, 1957 (Act 14 of 1957); The Trade Marks Act, 1999 (Act 47 of 1999); The Information Technology Act, 2000 (Act 21 of 2000).

¹²S.K. Verma and Raman Mittal (eds.), *Intellectual Property Rights: A Global Vision* 38–42 (ILL, Delhi, 2004).

¹³Ashna Narang, “Exploring the Intersection of AI and IPR in the Context of the Emerging Phenomenon of Deepfakes” 30(1) *Journal of Intellectual Property Rights* 59 (2025).

¹⁴William Lloyd Prosser, “Privacy” 48 *California Law Review* 383 (1960).

instruments have recognized personality protection only through the narrower lens of performer rights, leaving broader personality interests unaddressed.¹⁵

B. The Legislative Vacuum in India: Existing Statutory Framework and Its Inadequacies

1. Copyright Act, 1957

The Copyright Act, 1957, contains three provisions with potential relevance to personality protection. Section 2(qq) defines “performer” to include actors, singers, musicians, dancers, acrobats, jugglers, conjurers, snake charmers, persons delivering lectures, and others who make a performance.¹⁶ Section 38 grants performers exclusive rights to communicate, record, reproduce, and distribute their performances. Section 57 confers moral rights upon authors and performers, including the right to claim authorship and to object to distortion or mutilation prejudicial to honour or reputation. Nevertheless, these provisions are structurally inadequate for personality rights protection for several reasons.¹⁷

First, the definition of “performer” is not coextensive with “celebrity” a person may be a celebrity without being a performer (e.g., a sportsperson or a spiritual leader), and protection under Section 38 extends only to recorded performances, not to the broader persona.

Second, Section 57 moral rights attach to specific creative works, not to identity per se.

Third, copyright protection is fundamentally oriented towards creative expression, not towards the commercial value of human identity.¹⁸

¹⁵WIPO Performances and Phonograms Treaty, 1996.

¹⁶The Copyright Act, 1957 (Act 14 of 1957), ss. 2(qq), 38, 57.

¹⁷*Id.*, s. 57

¹⁸*Id.*, s. 38

The mismatch between copyright's subject matter (expression) and personality rights' subject matter (identity) means that the Copyright Act can never be a sufficient foundation for comprehensive personality protection.

2. Trade Marks Act, 1999

Section 2(m) of the Trade Marks Act, 1999, includes "names" within the definition of a "mark," and Section 14 specifically addresses the use of the name or representation of a living or recently deceased person in a trade mark.¹⁹ Section 35 permits individuals to use their own names in a bona fide manner. Registration of a name, catchphrase, or signature as a trade mark provides some protection, but this remedy requires proactive registration, is prospective in nature, and does not cover the full range of personality attributes.²⁰ Voice, mannerism, gesture, and digital likeness cannot easily be registered as marks, leaving these crucial attributes unprotected.²¹

3. Information Technology Act, 2000

The Information Technology Act, 2000, penalises the misuse of online identities and morphing under various provisions. Section 66C addresses identity theft and Section 66D penalises cheating by personation using communication devices.²² Section 67 penalises publication of obscene material in electronic form. Though, these provisions are primarily criminal in nature and do not provide the civil remedies injunctions, damages, and restitution of profits that victims of deepfake-mediated personality violations most urgently require.²³ Additionally, the IT Act contains no specific provision addressing AI-generated synthetic media or deepfakes, resulting in a lacuna in enforcement.

¹⁹The Trade Marks Act, 1999 (Act 47 of 1999), ss. 2(m), 14, 35.

²⁰Id., s. 35

²¹The Information Technology Act, 2000 (Act 21 of 2000), ss. 66C, 66D, 67.

²²Id., s. 66C, 66D

²³Id., s. 67

4. Digital Personal Data Protection Act, 2023

The Digital Personal Data Protection Act, 2023 introduces a consent-based framework governing the processing of digital personal data and imposes obligations upon data fiduciaries regarding lawful processing, purpose limitation, and data security. The Act offers indirect protection against deepfake misuse because facial images, voice recordings, and other personal identifiers commonly used to generate deepfakes constitute personal data whose processing ordinarily requires lawful consent. However, the Act primarily regulates data processing rather than the creation or commercial exploitation of synthetic media. It neither recognises personality rights as an independent legal interest nor establishes civil remedies specifically addressing AI-generated deepfakes, thereby providing only partial protection against identity-based harms.²⁴

5. Common Law: Passing Off and Tortious Principles

The common law action of passing off, recognized in India under Section 27(2) of the Trade Marks Act, 1999,²⁵ and developed through judicial decisions, protects a person's goodwill from false endorsements. Nevertheless, passing off requires proof of misrepresentation causing consumer confusion and damage to goodwill. Deepfakes, by their very nature as technologically sophisticated simulations, can create false impressions without involving any commercial transaction or causing traceable consumer confusion, thereby exposing the limitations of the traditional passing off framework.

C. Evolution of Personality Rights Jurisprudence in India

Indian courts have constructed a sophisticated doctrine of personality rights over three decades, in the absence of dedicated statutory provisions. The foundational case is *R. Rajagopal v. State of Tamil Nadu (Auto Shankar case, 1994)*,²⁶ in which the Supreme

²⁴ The Digital Personal Data Protection Act, 2023 (Act 22 of 2023), ss. 4, 6, 8, 12-14.

²⁵ The Trade Marks Act, 1999 (Act 47 of 1999), s. 27(2).

²⁶ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

Court recognized that individuals possess the right to control commercial use of their identity as part of the fundamental right to privacy under Article 21 of the Constitution. This judgment established the constitutional pedigree of personality rights and their independence from purely statutory IP frameworks. In *ICC Development (International) Ltd. v. Arvee Enterprises* (2003),²⁷ the Delhi High Court articulated the right of publicity as deriving from the right to privacy, inhering exclusively in individuals rather than corporations or events.

The Court held that commercial monopolisation of a person's characteristics without consent constitutes an infringement of personality rights. *Titan Industries Ltd. v. Ramkumar Jewellers* (2012)²⁸ further clarified that the right of publicity is the right to control commercial use of human identity, and infringement requires no proof of consumer confusion mere identifiability suffices. The Madras High Court in *Shivaji Rao Gaikwad v. Varsha Productions* (2015)²⁹ extended protection to distinctive mannerisms, dialogues, and public persona characteristics, holding that once a person becomes a celebrity, any unlawful use of their persona regardless of consumer confusion constitutes an infringement.

A watershed development came in *Anil Kapoor v. Simply Life India* (2023),³⁰ where the Delhi High Court broadened personality rights protection to encompass voice, gestures, and catchphrases, recognising that fame itself exposes individuals to misuse violating their right to livelihood, dignity, and privacy.

The jurisprudence of 2025 represents the cutting edge of judicial personality rights protection in India. The Delhi High Court, in *Abhishek Bachchan v. Bollywood Tee Shop* (2025),³¹ granted extensive injunctions against fake AI videos. In the *Ravi Shankar v. John*

²⁷*ICC Development (International) Ltd. v. Arvee Enterprises*, 2003 SCC OnLine Del 2, para 14

²⁸*Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382.

²⁹*Shivaji Rao Gaikwad v. Varsha Productions*, 2015 SCC OnLine Mad 158.

³⁰*Anil Kapoor v. Simply Life India*, 2023 SCC OnLine Del 6914.

³¹*Abhishek Bacchan v. Bollywood Tee Shop*, 2025 SCC OnLine Del 5944.

Doe(s)/Ashok Kumar(s) (2025)³² and Akkineni Nagarjuna³³ cases, courts secured protection from deepfakes and misleading endorsements. The Bombay High Court extended protection to Asha Bhosle against AI-driven replication of her distinctive voice, and to Sunil Shetty against AI-generated content, explicitly recognising his personality rights under Article 21 and moral rights under the Copyright Act.³⁴ The mechanism of the John Doe/Ashok Kumar order an ex parte interim injunction against unidentified infringers has emerged as the most critical judicial tool for combating AI-driven personality violations.

By dispensing with the requirement of a named defendant, this mechanism enables rapid, pre-emptive relief against the fast-moving violations that characterise deepfake misuse. Nevertheless, it remains a judicially improvised tool, not grounded in any statutory framework, and its scope and limitations are determined on a case-by-case basis, creating uncertainty for both rights-holders and platforms.

D. Deepfakes: The Specific Threat to Personality Rights

Deepfakes are synthetic media created using deep learning techniques, particularly Generative Adversarial Networks (GANs), which train two neural networks a generator and a discriminator in competition to produce increasingly realistic forgeries.³⁵ Modern deepfake technology can generate high-fidelity video, audio, and image content depicting individuals performing actions, making statements, or adopting positions they never did, with a degree of realism that makes detection difficult even for experts. The threats posed by deepfakes to personality rights are multidimensional.³⁶

³²Ravi Shankar v. John Doe(s)/ Ashok Kumar(s), 2025 SCC OnLine Del 6332.

³³ Akkineni Nagarjuna v. Bfxxx.org, 2025 SCC OnLine Del 6331

³⁴Suniel V. Shetty v. John Doe S. Ashok Kumar, I.A. No. 32198 of 2025 (Bom.)

³⁵Ashna Narang, "Exploring the Intersection of AI and IPR in the Context of the Emerging Phenomenon of Deepfakes" 30(1) Journal of Intellectual Property Rights 59, 60-62 (2025)

³⁶Ajay Bhargava and Phalguni Nigam, "The Judicially Crafted Shield: India's Evolving Law of Personality Rights" SCC Times (Dec. 5, 2025)

First, there is unauthorized commercial use: deepfakes can portray celebrities falsely endorsing products, causing economic harm by depriving them of endorsement revenue and reputational harm by associating them with brands or products they have not endorsed.

Second, there is sexual exploitation: non-consensual intimate deepfakes placing a person's face on sexually explicit content constitute a profound violation of dignity and bodily autonomy, particularly targeting women.

Third, there is defamation and reputational harm: deepfakes can create false impressions of criminal conduct, political statements, or embarrassing behaviour, causing severe reputational damage.

Fourth, there is voice cloning: AI voice synthesizers can replicate a person's distinctive vocal characteristics to create fake audio endorsements, fraudulent phone calls, or unauthorized musical performances, threatening both livelihood and reputation.³⁷

The threat is not confined to celebrities. Ordinary individuals can become victims of deepfake-mediated sexual exploitation, harassment, or fraud.³⁸ While the Bharatiya Nyaya Sanhita, 2023 criminalises certain related offences, it does not contain a specific provision addressing deepfake-enabled sexual exploitation, thereby highlighting the continuing legislative gap. The case of AI voice cloning of musicians, recognized by the Bombay High Court in 2024, illustrates how voice cloning can lead to loss of livelihood for voice actors and musicians alike.³⁹ The Tennessee Ensuring Likeness, Voice, and Image Security (ELVIS) Act, 2024 specifically designed to protect musicians from

³⁷Arijit Singh v. Codible Ventures LLP, 2024 SCC Online Bom 2445 (Bom.), order dated July 26, 2024.

³⁸The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), ss. 75, 77; The Information Technology Act, 2000 (Act 21 of 2000), ss. 67, 67A.

³⁹The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, rule 3(1)(b)

unauthorized AI soundalikes represents an instructive international precedent for India's legislative response.⁴⁰

A critical technological challenge is that deepfake creation and dissemination operate faster than legal processes. Content created and uploaded on a Monday can have millions of views by Wednesday, causing irreversible reputational damage before any legal remedy is obtained. This temporal asymmetry between harm and legal response is a defining characteristic of deepfake violations, and any effective legislative framework must address it through expedited remedial mechanisms.

V. COMPARATIVE LEGAL FRAMEWORK

1. United States: Right of Publicity as Independent IP Doctrine

The United States recognizes the right of publicity as an independent intellectual property doctrine, originating in *Haelan Laboratories Inc. v. Topps Chewing Gum Inc.* (1953),⁴¹ where the Second Circuit Court of Appeals distinguished between the right of privacy and the commercial right to control identity exploitation. American publicity rights encompass protection of name, likeness, voice, distinctive characteristics, and following *White v. Samsung Electronics America Inc.* (1992)⁴² digital persona. Protection extends post-mortem in many states: California provides 70 years of posthumous protection, and Tennessee provides 10 years, with the possibility of revival through continued use.

The Lanham Act's false endorsement provision (15 U.S.C. § 1125) provides a federal statutory layer, while state statutes provide varying levels of protection. The ELVIS Act, 2024, represents the most recent and technology-specific development, creating a specific cause of action for unauthorized replication of voice and likeness by AI systems.⁴³ The

⁴⁰Tennessee Ensuring Likeness, Voice, and Image Security (ELVIS) Act, 2024

⁴¹*Haelan Laboratories Inc. v. Topps Chewing Gum Inc.*, 202 F.2d 866

⁴²*White v. Samsung Electronics America Inc.*, 971 F.2d 1395 (9th Cir. 1992)

⁴³Lanham Act, 15 U.S.C. § 1125(a)

American model is instructive for India in two respects: first, its recognition of publicity rights as assignable and descendible property rights; and second, its technology-specific statutory responses to AI and voice cloning threats.

2. European Union: Right of Personality and Data Protection

Continental European law protects personality through the “right of personality” (*persönlichkeitsrecht*), which encompasses both the private dignity dimension and the commercial dimension of identity. The focus of European personality rights is, however, primarily on personal dignity rather than commercial exploitation. The General Data Protection Regulation (GDPR, 2016) provides additional protection by treating biometric data including facial recognition data and voice patterns used in deepfake creation as sensitive personal data requiring explicit consent for processing. The GDPR’s “right to be forgotten” (Article 17) enables individuals to demand removal of unlawfully processed personal data, including deepfake content.⁴⁴

The European approach is instructive for India, in its recognition that deepfakes constitute a data protection violation as well as a personality rights violation, suggesting that India’s legislative framework must operate across both the IP and data protection domains.

3. WIPO and International Frameworks

At the international level, WIPO has examined personality protection through performer protection mechanisms under the Rome Convention (1961), the TRIPS Agreement (1994), and the WIPO Performances and Phonograms Treaty (WPPT, 1996). These instruments extend moral rights and economic rights to performers, but their coverage is limited to recorded performances and does not comprehensively address broader personality rights or AI-generated replications. The emerging WIPO discourse on AI and IP has

⁴⁴Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation, GDPR) (2016)

increasingly recognized that personality protection against AI-generated misuse requires a framework beyond existing copyright-adjacent performer rights.⁴⁵

VI. IDENTIFICATION OF LEGISLATIVE GAPS

The foregoing analysis reveals the following specific legislative gaps in India's existing framework:

- 1. Absence of a Statutory Definition of Personality Rights:** There is no statutory provision in India that defines "personality rights" or "right of publicity," their scope, the attributes they protect, or their duration. This absence creates fundamental uncertainty about the rights available to individuals and the remedies for their violation.⁴⁶
- 2. No Specific Provision for Deepfakes and AI-Generated Content:** No Indian statute specifically addresses deepfake creation, dissemination, or commercialization as a distinct wrong. Although the Digital Personal Data Protection Act, 2023 regulates the processing of personal data and establishes obligations for data fiduciaries, neither the Act nor the Digital Personal Data Protection Rules, 2025 impose deepfake-specific obligations relating to AI-generated synthetic media, identity replication, or mandatory detection and removal mechanisms. Consequently, the IT Act remains too general and primarily criminal in nature, while the DPDP framework addresses only the data-processing dimension of the problem.⁴⁷

⁴⁵Aarna Law, "Importance of Personality Rights as a Form of Intellectual Property" (2026), available at: <<https://www.aarnalaw.com/insights/importance-of-personality-rights-as-a-form-of-intellectual-property>> (last visited on June 10, 2026).

⁴⁶"The Right to Be Me: Legal Framework for Protecting Personality Rights in India" *Journal of Intellectual Property Rights (NISCPR)* (2025-2026)

⁴⁷The Copyright Act, 1957 (Act 14 of 1957); The Trade Marks Act, 1999 (Act 47 of 1999); The Information Technology Act, 2000 (Act 21 of 2000); The Digital Personal Data Protection Act, 2023 (Act 22 of 2023), ss. 4, 6, 8, 12-14; The Digital Personal Data Protection Rules, 2025.

3. **Inadequate Intermediary Accountability:** No statute imposes specific obligations on online platforms social media companies, video-sharing platforms, e-commerce sites to proactively detect and expeditiously remove deepfake content. The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, impose general due diligence obligations, but these are not tailored to deepfake removal.⁴⁸
4. **No Notice and Takedown Mechanism:** Unlike the Digital Millennium Copyright Act (DMCA) in the United States, India has no statutory notice-and-takedown procedure for personality rights violations, leaving individuals without a rapid administrative remedy for viral deepfake content.⁴⁹
5. **Absence of Post-Mortem Protection:** Indian law provides no clear post-mortem protection for personality rights, unlike the United States. This gap enables commercialization of deceased individuals' identities without consent of heirs.⁵⁰
6. **Cross-Border Enforcement Deficit:** Deepfakes are frequently created in foreign jurisdictions. India's legal framework provides no specific mechanism for cross-border enforcement of personality rights against foreign actors.⁵¹

VII. SUGGESTIONS AND RECOMMENDATIONS

Based on the foregoing analysis, the following recommendations are proposed for a comprehensive legislative framework for the protection of personality rights against deepfake misuse in India:

1. **Enactment of a Dedicated Personality Rights Protection Act:** India requires a standalone Personality Rights Protection Act that comprehensively codifies the

⁴⁸The Information Technology Act, 2000 (Act 21 of 2000), ss. 66C, 66D, 67

⁴⁹Digital Millennium Copyright Act (DMCA), 1998, 17 U.S.C. § 512

⁵⁰California Civil Code, § 3344.1

⁵¹Ajay Bhargava and Phalguni Nigam, "The Judicially Crafted Shield: India's Evolving Law of Personality Rights" SCC Times (Dec. 5, 2025)

rights developed by courts over three decades. Such legislation should not be incorporated within the Copyright Act or the IT Act, but should constitute an independent statute, acknowledging that personality rights protect human identity a subject matter distinct from creative expression (copyright), source identifiers (trademarks), or electronic communication (IT Act). A dedicated statute would provide clarity, coherence, and the symbolic recognition that personality rights constitute an independent fundamental entitlement. The proposed legislation should also be expressly harmonised with the Digital Personal Data Protection Act, 2023 so that unlawful processing of personal data and unauthorised commercial exploitation of personality attributes operate as complementary, rather than overlapping or inconsistent, regulatory regimes.

2. **Comprehensive Statutory Definition of Protected Elements:** The Act should enumerate the protected elements of personality, including name, likeness, image, voice, signature, gestures, catchphrases, and distinctive mannerisms, and explicitly extend protection to their digital variables including AI-generated simulations, deepfakes, digital avatars, and voice clones. The definition should be technology-neutral and sufficiently broad to accommodate future technological developments, while providing sufficient specificity to guide courts and platforms in its application.
3. **Specific Prohibition and Regulation of Deepfakes:** The Act should contain a specific provision prohibiting the creation, dissemination, and commercial use of deepfake content depicting a person without their prior written consent. It should distinguish between non-consensual deepfakes created for sexual exploitation (which should be criminalized), commercial deepfakes used for advertising or endorsement (which should require licensing), and non-commercial deepfakes created for satire, parody, or commentary (which should be protected as fair use, subject to clear labelling requirements). The Act should require mandatory labelling of all AI-generated synthetic media depicting real individuals.

- 4. Expedited Remedial Mechanism and Notice-and-Takedown:** Given the viral and time-sensitive nature of deepfake harm, the Act should establish a statutory notice-and-takedown mechanism modelled on the DMCA but adapted to personality rights. Online platforms should be required to remove deepfake content within 24 to 48 hours of a valid takedown notice from the rights-holder, failing which they should lose safe harbour protection and become directly liable for the harm caused. The Act should provide for emergency injunctive relief on an ex parte basis within 24 hours in cases of imminent and irreparable harm, codifying and strengthening the existing John Doe order practice.
- 5. Post-Mortem Protection:** The Act should provide for post-mortem personality rights protection for a period of 25 years after death for all individuals, extendable to 50 years for celebrities with demonstrable commercial value. Descendible rights should be recognized, enabling heirs and estate managers to enforce personality rights and enter into commercial licensing agreements. This is consistent with the approach adopted in several US states and would prevent the unauthorized commercial exploitation of deceased individuals' identities through AI-generated content.
- 6. Platform Accountability and Proactive Obligations:** The Act should impose proactive obligations on large online platforms to implement technical measures for detecting and flagging deepfake content depicting Indian residents. These obligations should be coordinated with the compliance duties imposed upon data fiduciaries under the Digital Personal Data Protection Act, 2023 and the Digital Personal Data Protection Rules, 2025, thereby ensuring consistency between personality-rights enforcement and data-protection governance, particularly in high-risk categories such as sexual content and commercial endorsements. Platforms should be required to maintain records of removed deepfake content and to cooperate with law enforcement agencies investigating personality rights

violations. Failure to comply with proactive obligations should attract civil liability and regulatory penalties.

7. Comprehensive Remedies: The Act should provide a comprehensive remedial framework including:

- permanent and interim injunctions;
- compensatory damages calibrated to the commercial value of the appropriated persona;
- statutory damages for wilful infringement, providing deterrence without requiring proof of actual damage;
- restitution of profits from unauthorized exploitation; and
- punitive damages in cases of egregious violations, particularly sexual deepfakes.

Criminal liability should be retained for the most serious violations, particularly non-consensual sexual deepfakes and deepfakes used for financial fraud.

8. Fair Use and Balancing Public Interest: The Act must carefully preserve space for legitimate uses of an individual's persona in the public interest. Specifically, news reporting, historical documentation, academic research, criticism, commentary, satire, and parody should be recognized as fair use defences, subject to the conditions that the use does not falsely attribute statements or conduct to the individual, does not cause disproportionate commercial harm, and is clearly identified as commentary or satire where appropriate. The balance should err on the side of protection where use is primarily commercial.

9. International Cooperation and Cross-Border Enforcement: The Act should empower Indian courts to assume jurisdiction over personality rights violations affecting Indian residents, regardless of where the deepfake was created, and to

issue orders against foreign platforms accessible in India. India should proactively engage in bilateral and multilateral IP cooperation agreements specifically addressing personality rights and AI-generated misuse and should advocate for a WIPO instrument on personality rights protection in the digital age.

VIII. CONCLUSION

India stands at a critical juncture in the evolution of personality rights law. For three decades, the judiciary has admirably filled the legislative vacuum through creative constitutional interpretation, developing a robust doctrine of personality rights anchored in Article 21's guarantee of privacy and dignity. The John Doe/Ashok Kumar order mechanism, the expansion of protection to voice, gesture, and digital likeness, and the recognition that AI-generated replications constitute personality rights violations these are significant judicial achievements. Yet they are, ultimately, insufficient. The deepfake crisis demands a legislative response. Judicial decisions are inherently reactive, addressing violations after they have occurred and caused harm. In the digital age, deepfake content spreads within hours, causing irreversible reputational and economic damage before any court can intervene. What is required is a proactive, technology-responsive statutory framework that imposes obligations on platforms to prevent harm before it occurs, provides rapid and certain remedies when it does, and deters violators through robust civil and criminal liability.

The proposed Personality Rights Protection Act would be a landmark contribution to India's intellectual property jurisprudence one that recognizes the commercial and dignitary value of human identity, provides the comprehensive protection that courts have sought to fashion through ad hoc decisions, and positions India as a leader in the global effort to govern AI's impact on human rights. The legislature has for too long been a spectator while courts perform judicial gymnastics to protect fundamental rights. The time for legislative action is now.

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