

AI and Personality Rights in India

Adv Akash Philip

I. Introduction

The rapid advancement of Artificial Intelligence (AI) has transformed the ways in which identity, image, voice, and reputation are created, reproduced, and commercialised. In India, personality rights have largely evolved through judicial interpretation rather than comprehensive legislation. The emergence of AI technologies such as deepfakes, voice cloning, digital avatars, generative models, and synthetic media has intensified concerns regarding the protection of personal identity and dignity. These developments compel a reassessment of the adequacy of constitutional protections, intellectual property doctrines, and common law remedies in safeguarding personality rights.

Personality rights broadly encompass the right to control and protect one's name, image, likeness, voice, reputation, and other attributes of identity. They include both non-commercial aspects, grounded in privacy and dignity, and commercial aspects, often described as publicity rights. The intersection of AI with these rights presents novel challenges, particularly where digital tools replicate or manipulate persona without consent.

II. Constitutional Foundation of Personality Rights in India

A. Article 21: Right to Life, Privacy, and Dignity

The constitutional basis of personality rights in India is primarily derived from Article 21 of the Constitution, which guarantees the right to life and personal liberty. The Supreme Court has interpreted this provision expansively to include the right to privacy, dignity, autonomy, and reputation.¹

In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, the Supreme Court unequivocally recognised the right to privacy as a fundamental right intrinsic to life and liberty.² The Court observed that privacy includes informational control and protection of personal identity. In the context of AI, unauthorised replication of facial features, voice patterns, or behavioural traits directly implicates informational privacy and decisional autonomy.

AI systems capable of creating hyper-realistic deepfake videos or synthetic voice outputs intrude upon an individual's control over personal identity. Such intrusions may violate constitutional protections, particularly when they undermine dignity or result in reputational harm.

B. Article 19(1)(a): Freedom of Speech and Expression

Article 19(1)(a) guarantees freedom of speech and expression.³ This includes artistic expression, satire, technological innovation, and dissemination of information. However, this freedom is subject to reasonable restrictions under Article 19(2), including defamation and protection of the rights of others.

AI-generated content often raises tension between freedom of expression and personality rights. For instance, a creator may argue that a deepfake parody constitutes protected speech. Conversely, the affected individual may contend that such content harms reputation or misappropriates identity for commercial gain. Indian jurisprudence recognises that free speech cannot extend to defamatory or misleading representations.⁴ The balance between expression and dignity becomes particularly delicate when AI-generated content is realistic enough to deceive audiences.

III. Judicial Recognition of Publicity and Commercial Personality Rights

Indian courts have firmly acknowledged the commercial dimension of personality rights, often described as publicity rights, particularly in cases involving unauthorised commercial exploitation of identity. The judicial recognition of this right has become increasingly significant in the era of Artificial Intelligence (AI), where technology enables effortless

replication, manipulation, and monetisation of persona. The growing use of digital avatars, voice cloning, and synthetic imagery has intensified concerns regarding misappropriation of identity for commercial purposes.

The Delhi High Court's decision in *ICC Development (International) Ltd. v. Arvee Enterprises* marked an important milestone in Indian jurisprudence. In this case, the Court examined whether the identity associated with an event or celebrity could be commercially exploited without authorisation. The Court recognised that the right of publicity vests in an individual and protects their persona from unauthorised commercial appropriation. It clarified that such a right cannot be claimed by third parties who merely associate themselves with an event. The judgment underscored that personality rights are intrinsically connected to the individual whose identity is being used and that commercial gain derived from such identity requires lawful consent.

Similarly, in *DM Entertainment Pvt. Ltd. v. Baby Gift House*, the Delhi High Court protected the persona of the well-known singer Daler Mehndi against unauthorised commercial exploitation. The defendant had used the singer's likeness and attributes on merchandise without permission. The Court held that a celebrity's persona possesses economic value and constitutes a proprietary interest. It restrained the defendants from misappropriating the celebrity's identity for profit. This decision reinforced the notion that personality rights encompass both dignitary and commercial elements, and that unauthorised use for merchandising or advertising purposes is actionable.

These judicial pronouncements demonstrate that Indian law recognises the proprietary aspect of personality rights, even in the absence of a dedicated statute. Courts have relied on doctrines such as passing off, unfair competition, and trademark principles to protect celebrity identity. Passing off, in particular, has been a useful remedy where misrepresentation leads the public to believe that a celebrity endorses a product. The courts have treated identity as a valuable commercial asset, comparable to goodwill in business.

However, the emergence of AI significantly magnifies the risks associated with commercial misappropriation. Unlike traditional methods of imitation, AI technologies can create highly realistic digital reproductions without requiring physical participation of the individual concerned. A digital avatar of a celebrity can be generated using machine learning models trained on publicly available images and videos. Such avatars can appear in advertisements, social media campaigns, or virtual environments, endorsing products without the knowledge or consent of the individual.

Voice cloning represents another dimension of this challenge. AI systems can replicate distinctive vocal patterns with remarkable accuracy. A cloned voice can be used in promotional audio, advertisements, or digital assistants, falsely suggesting endorsement. While traditional impersonation required human imitation, AI enables scalable and automated replication. This technological shift complicates enforcement because misuse can occur rapidly and across multiple platforms.

Generative AI also permits the creation of synthetic images featuring recognisable faces. By combining facial data from various sources, AI tools can produce realistic depictions of celebrities interacting with products or services. Even when labelled as fictional or artistic, such representations may create commercial association in the minds of consumers. The risk of consumer deception, coupled with reputational harm, places additional strain on existing legal doctrines.

The absence of explicit statutory regulation leaves victims dependent on fragmented legal remedies. Trademark law may provide protection if a name, signature, or logo is registered. Copyright law may protect specific works or performances, but not the broader persona of an individual. Defamation law addresses false statements harming reputation, yet it may not adequately cover purely commercial misappropriation without reputational damage. Privacy law under Article 21 safeguards dignity, but its application to commercial exploitation requires judicial interpretation.

The Information Technology Act, 2000, and intermediary guidelines provide mechanisms for removal of harmful content. However, these frameworks primarily address unlawful or obscene content rather than nuanced personality misappropriation. AI-generated endorsements that appear legitimate may not immediately fall within clearly defined categories of illegality, thereby delaying remedial action.

Moreover, AI blurs the distinction between expressive freedom and commercial exploitation. Advertisers may argue

that digital recreations constitute creative expression protected under Article 19(1)(a) of the Constitution. Yet courts must balance this freedom against the individual's proprietary interest in identity. Where the primary purpose is commercial gain rather than artistic commentary, personality rights should prevail. The proportionality doctrine offers a structured approach to balancing these competing interests.

The economic implications are substantial. Celebrities derive significant income from endorsements, merchandising, and licensing agreements. AI-generated replicas may undermine this revenue stream by enabling unauthorised commercial associations. The law must therefore recognise that identity has market value deserving of robust protection. Without adequate safeguards, technological misuse may dilute brand value and erode consumer trust.

Legislative reform could address these challenges comprehensively. A dedicated personality rights statute could define the scope of publicity rights, clarify the requirement of consent, and establish statutory damages for unauthorised AI-generated exploitation. It could also impose obligations on AI developers and advertisers to ensure transparency and obtain verifiable consent before deploying digital replicas.

In conclusion, Indian courts have laid a strong foundation for recognising the commercial dimension of personality rights through decisions such as *ICC Development* and *DM Entertainment*. Yet AI technologies have exponentially increased the potential for misappropriation. Digital avatars, voice cloning, and generative imagery create new forms of commercial exploitation that existing doctrines address only partially. To preserve both economic interests and human dignity, Indian law must evolve to confront the realities of AI-driven personality replication

Similarly, in *DM Entertainment Pvt. Ltd. v. Baby Gift House*, the Delhi High Court restrained unauthorised commercial use of singer Daler Mehndi's persona.⁶ The judgment affirmed that a celebrity's identity carries economic value and is entitled to legal protection against misappropriation.

AI significantly magnifies the commercial exploitation of personality. Digital avatars can endorse products without physical participation of the individual. Voice cloning may be used in advertisements. Generative AI can create synthetic images featuring recognisable faces. The absence of explicit statutory regulation leaves victims dependent on doctrines such as passing off, trademark infringement, copyright, and privacy claims.

IV. AI Technologies and Emerging Legal Challenges

A. Deepfakes and Digital Impersonation

Deepfake technology enables the creation of realistic videos in which individuals appear to say or do things they never did. Such technology threatens reputation, mental integrity, and public trust. Defamation law may offer remedies where false imputations harm reputation. However, the speed and anonymity of online dissemination complicate enforcement.

The Information Technology Act, 2000, along with intermediary guidelines, provides mechanisms for content removal. Yet proactive detection of AI-generated impersonation remains technologically and legally complex.

B. Voice Cloning and Identity Replication

Voice constitutes a distinctive aspect of persona. AI systems capable of replicating vocal patterns challenge traditional legal categories. While performers' rights under the Copyright Act, 1957, provide limited protection against distortion of performances, they do not comprehensively address independent voice cloning detached from copyrighted works.

The proprietary element of publicity rights may offer recourse where cloned voices are used commercially. Nevertheless, clearer statutory recognition is required to address this emerging phenomenon.

C. Data Scraping and Consent

Generative AI models are often trained on publicly available images and videos. Although such data may be accessible, its transformation into synthetic outputs raises questions regarding consent. Scholarship emphasises that individuals rarely consent to all future uses of their personal data.⁷

The Digital Personal Data Protection Act, 2023, introduces consent-based processing standards. However, personality rights extend beyond mere data protection. They protect broader aspects of identity, dignity, and commercial value. Thus, while data protection law addresses informational misuse, personality law must address misappropriation of persona.

V. Post-Mortem Personality Rights and AI

AI has enabled digital recreation of deceased celebrities for films and advertisements. Indian law does not comprehensively codify post-mortem personality rights. Comparative scholarship recognises that certain personality interests may survive death to protect legitimate interests of heirs and family members.⁸

The ethical and legal implications of recreating deceased individuals through AI require urgent attention. Without clear consent frameworks, such practices risk undermining dignity and legacy.

Legislative clarification regarding duration and scope of posthumous rights would provide certainty.

VI. Comparative Perspectives and Doctrinal Evolution

Comparative legal scholarship recognises personality rights as independent legal interests distinct from intellectual property.⁹ In several civil law jurisdictions, personality rights are codified and treated as fundamental private rights. Indian jurisprudence, though rooted in common law, has progressively incorporated similar principles through constitutional interpretation.

The convergence of privacy and publicity in Indian law reflects a hybrid model. Personality rights function both as personal rights safeguarding dignity and as economic rights protecting commercial value. AI blurs these boundaries by enabling simultaneous reputational and commercial exploitation.

VII. Balancing Innovation and Protection

Technological innovation must not be stifled, yet it cannot come at the expense of individual dignity. Courts must adopt proportionality analysis when balancing AI-generated expression with personality protection. Comparative jurisprudence emphasises careful reconciliation between privacy and freedom of expression.¹⁰

India may consider legislative reform to explicitly recognise personality rights and address AI-generated reproductions. Such legislation could:

1. Define scope and duration of publicity rights.
2. Provide explicit remedies against digital impersonation.
3. Mandate transparency and consent standards for AI training datasets.
4. Introduce statutory damages for unauthorised commercial exploitation.

Regulatory oversight, combined with technological safeguards such as watermarking of synthetic media, may further mitigate harm.

VIII. Conclusion

AI and personality rights intersect at the core of constitutional morality and technological transformation. The constitutional guarantee of dignity under Article 21 and freedom under Article 19 provides a strong normative foundation. Judicial recognition of publicity rights further strengthens protection against commercial misuse.

However, AI's capacity to replicate, manipulate, and monetise identity demands clearer statutory articulation and regulatory intervention. Protecting personality in the digital age is not solely about economic control; it is fundamentally about preserving human dignity and autonomy.

India's evolving jurisprudence demonstrates adaptability. Yet the unprecedented challenges posed by AI necessitate a coherent legal framework integrating constitutional principles, intellectual property doctrines, and data protection norms. Only through such harmonisation can the law effectively safeguard personality rights in the age of artificial intelligence.

Footnotes

1. INDIA CONST. art. 21.
2. *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.
3. INDIA CONST. art. 19(1)(a).
4. *Subramanian Swamy v. Union of India*, (2016) 7 SCC 221.
5. *ICC Development (International) Ltd. v. Arvee Enterprises*, 2003 (26) PTC 245 (Del).
6. *DM Entertainment Pvt. Ltd. v. Baby Gift House*, 2010 (42) PTC 520 (Del).
7. Heather MacNeil, *Without Consent: The Ethics of Disclosing Personal Information in Public Archives* (1992).
8. M. Čtvrtník, *Personality Rights, Privacy, and Post-mortem Privacy Protection in Archives*, in *Archives and Records* (2023).
9. J. Neethling, *Personality Rights: A Comparative Overview*, (2005).
10. European Court of Human Rights, *Guide to the Case-Law of the European Court of Human Rights: Data Protection* (2021).