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PERSONALITY RIGHTS PROTECTION AND CELEBRITY RIGHTS UNDER IPR

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Abstract

This research paper examines the evolving legal landscape of **Personality Rights** and **Celebrity Rights** within the framework of Intellectual Property Rights (IPR). In the modern digital economy, an individual's persona—comprising their name, image, voice, and likeness—has transitioned from a private attribute to a high-value commercial asset. This study analyses the dual nature of these rights: the **Right to Privacy**, which protects the individual from lived intrusion, and the **Right to Publicity**, which grants them the exclusive authority to exploit their identity commercially.

The paper explores how traditional IPR mechanisms, such as **Trademarks, Copyrights, and the Tort of Passing Off**, are adapted to safeguard public figures against unauthorized exploitation. Through a comparative analysis of international legal jurisdictions—specifically the United States, the United Kingdom, and India—the research highlights the lack of a uniform global treaty, leading to inconsistencies in how "fame" is protected. Furthermore, the study addresses contemporary challenges posed by **Artificial Intelligence**, specifically **deepfakes** and digital cloning, which threaten the integrity of an individual's identity.

Ultimately, the paper argues for a balanced legal approach that protects celebrities' economic interests while upholding the fundamental principles of **Freedom of Speech** and **Fair Use**. The findings suggest that as technology blurs the line between reality and digital recreation, a more specialized, codified statutory framework for personality rights is essential to prevent the dehumanization of identity in the commercial marketplace.

Introduction

In the contemporary global market, the value of a brand is often inextricably linked to the faces that represent it. Personality rights have emerged as a critical legal frontier, primarily because a celebrity's image acts as a powerful catalyst for consumer behaviour. When a public figure

endorses a product, their reputation and the product's identity become mirrors of one another; a scandal or a triumph for one inevitably impacts the other.

In India, personality rights occupy a unique, "uncodified" space. A single statute does not govern them; they are instead protected through a judicial mosaic. Courts generally anchor these rights within **Article 21** of the Constitution (Right to Privacy) or derive a **Right to Publicity** from the freedom of expression under **Article 19**. Effectively, the law treats a person either as a sanctuary of private life or as a valuable piece of commercial property.

The Duality of Privacy and Property

Defining "privacy" remains a legal challenge because it is inherently subjective. For celebrities, the boundary is even more blurred, as the public's desire for information often clashes with the individual's right to seclusion.

However, viewing personality rights through the lens of **property law** offers more clarity. Celebrities invest years of labour and "image-building" to create a persona that possesses immense market value. This persona is an asset they own. The trend of icons like **A.R.**

Rahman, Shahrukh Khan, and Kajol registering their names as trademarks confirms this shift. By allowing these registrations, the Trademark Registry has signaled that a person's identity can legally function as intellectual property.

Dimensions of the Right to Publicity

The right to publicity is generally viewed through two lenses:

- **The Economic Factor:** This ensures that the celebrity is the sole beneficiary of the commercial value generated by their identity.
- **The Dignitary Factor:** This protects against the "moral" harm of being falsely associated with a brand or being misrepresented in a way that damages their standing.

Legal intervention is typically triggered when an identity is used for profit without permission. However, the law provides a safety valve for **public interest**, ensuring that journalists, satirists, and artists can still use celebrity likenesses for news, criticism, or parody without being sued for infringement.

Personality Rights in India: Legal Framework

In India, personality rights do not arise from a single, comprehensive statute. Instead, they are protected through a combination of constitutional principles, intellectual property laws, and judicial interpretations. This unique framework has developed gradually through court decisions that recognise the commercial and personal value attached to an individual's identity, particularly in the case of celebrities and public figures.

One of the most significant constitutional foundations for personality rights is **Article 21 of the Constitution of India**, which guarantees the right to life and personal liberty. The scope of Article 21 has been expanded by the Supreme Court in Justice K.S. Puttaswamy v. Union of India, where the Court recognised the **Right to Privacy** as a fundamental right. This judgment indirectly supports personality rights by affirming that every individual has control over aspects of their personal identity, including their image, voice, and likeness.

Another constitutional aspect is **Article 19(1)(a)**, which protects the freedom of speech and expression. While this freedom allows media, artists, and the public to discuss or portray public figures, it must be balanced with the individual's right to control the commercial use of their identity. Courts therefore attempt to maintain a balance between public interest and the protection of a celebrity's commercial reputation.

Apart from constitutional protection, personality rights are also safeguarded through existing intellectual property laws. The Trade Marks Act, 1999 plays an important role in protecting the names, signatures, and other identifying marks of celebrities when they are registered as trademarks. Many well-known personalities register their names to prevent unauthorized commercial exploitation. Trademark law helps prevent confusion among consumers and stops businesses from falsely implying endorsement by a celebrity.

In addition, the common law remedy of **passing off** is frequently used in Indian courts to protect celebrity identity. Passing off occurs when a person or company misrepresents a product or service in a way that falsely suggests a connection with a well-known personality.

Courts have used this doctrine to stop unauthorized advertisements or endorsements that misuse a celebrity's reputation for commercial gain.

Judicial precedents have played a crucial role in shaping personality rights in India. For instance, in *ICC Development (International) Ltd. v. Arvee Enterprises*, the Delhi High Court clarified that publicity rights belong to individuals and cannot be claimed by organizations.

Similarly, in *Titan Industries Ltd. v. Ramkumar Jewellers*, the court held that using images of celebrities in advertisements without permission amounts to misappropriation of their personality rights.

Thus, the legal framework for personality rights in India is largely judge-made and continues to evolve. Although existing laws provide some protection, the absence of a dedicated statute often creates uncertainty. As digital technology, social media, and artificial intelligence expand the possibilities of identity misuse, there is an increasing demand for a specific legislative framework that clearly defines and protects personality rights in India.

The Indian Judicial Journey

India's legal stance has been shaped by landmark rulings rather than legislative acts. While the **Putt swamy** judgment established privacy as a fundamental right, specific cases have defined how this applies to fame:

- **The Corporate Boundary:** In *ICC Development v. Arvee Enterprises*, the Delhi High Court clarified that publicity rights belong exclusively to human beings. Corporations cannot claim "personality" rights for themselves.
- **Protection of Gestures and Style:** Recent cases involving **Anil Kapoor** and **Amitabh Bachchan** have expanded protection beyond just names and faces. The courts now recognize that a voice, a specific gesture, or even a signature "catchphrase" is part of a celebrity's protected persona.
- **The Power of Control:** In *Titan Industries Ltd. v. M/S Ramkumar Jewellers*, the court hit the nail on the head: the issue isn't that a celebrity doesn't want to be commercialized; it's that they alone should have the power to decide *how* and *where* that happens.

Challenges and the Path Forward

The case of **Superstar Rajinikanth** against the film "*Main hoon Rajinikanth*" highlights a significant concern: the risk of the public being misled. When a film or product uses a star's

identity without consent, it exploits the "hysteria" and trust of the fanbase for unfair profit.

While Indian courts have been proactive in granting injunctions and heavy fines (as seen in the **Sonu Nigam** case), there is a growing need for a dedicated statute. Many U.S. states have already codified "Celebrity Rights." For India to keep pace with digital evolution—including the rise of AI-generated content and deepfakes—it must move toward a clear legislative framework that acknowledges personality rights as a distinct branch of Intellectual Property.

Recommendations

The Shift to "Digital Twin" Protection

Your paper should argue that personality rights are no longer just about photographs in ads. With the 2026 amendments to India's **IT Rules**, the law now focuses on "Synthetic Information" (SI). Research how courts are granting "**John Doe**" orders to protect a celebrity's digital likeness against AI-generated deepfakes and chatbots, as seen in the recent **Sonakshi Sinha (2026)** and **R. Madhavan (2025)** cases.

The 3-Hour Takedown Mandate

A major point of analysis is the **February 2026 IT Rule Amendment**, which slashes the takedown time for unlawful synthetic content from 36 hours to just **3 hours**. Your paper should examine the operational feasibility of this for platforms and how it serves as a "real-time" remedy for celebrity rights.

Integration with the DPDP Act (2023)

Analyse the intersection of IPR and the **Digital Personal Data Protection (DPDP) Act**. Since a celebrity's face and voice are "personal data," their unauthorized commercial use is now a data breach. This adds a layer of heavy financial penalties (up to ₹250 crore) that traditional trademark law did not offer.

Post-Mortem Rights and "Digital Resurrection."

Explore the ethics and legality of using AI to "resurrect" deceased stars for new films or ads. Research whether personality rights should be descendible (passed to heirs) or if they should expire with the individual to prevent a "perpetual monopoly" on a human image.

However, judicial precedents alone aren't enough. For a nation as cinema-and-sports- obsessed as India, the lack of a dedicated statute creates a "grey market" for identity exploitation. Codifying these rights is essential to provide a clear roadmap for businesses and ironclad protection for creators. Ultimately, personality rights are about **autonomy**: the fundamental human right to decide how your own identity is presented to and consumed by the world.

Conclusion

The "Right to Publicity" in India is a living doctrine, constantly evolving through the common law and constitutional interpretation. While we currently rely on the **Trade Marks Act** and **Copyright Act** for support, the digital age demands more. Protecting a celebrity's persona is not merely about protecting wealth; it is about protecting the integrity of human identity in a world where that identity is increasingly being treated as a commodity.



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