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OWNING THE UNOWNABLE: LEGALIZING YOUR VOICE, FACE, AND FORM IN IP LAW

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ABSTRACT

The rise of deepfakes courtesy of AI has opened up new aspects of personal identity; there are now legal grey areas where a person's face, voice, and likenesses of their body can be copied, edited and spread without their consent. Though India has no law on synthetic identity theft, Denmark is leading by example by considering parts of a personal identity such as facial resemblance as a copyrightable object. This paper considers the possibility of extending such a model to India as part of the larger debate surrounding an expansive expansion of both copyright and personality rights in order to ensure the protection of human, identity in the age of the internet. Indian Copyright Act, 1957, it currently covers the original literary, dramatic, musical and artistic works including cinematography films and sound recording but, there is no coverage of biometric likenesses or non-traditional subjects unless they were incorporated within identified qualifying works. Despite Indian courts recognizing a right of publicity, it remains uncodified. The paper will use Denmark's proposed regulatory reform and the larger European ecosystem under GDPR with specific reference to Article 4 on biometric data and Article 9 on sensitive personal data argue identity must be recognized as affording them distinct rights in India. The paper advocates for legislative reform giving individuals a copyright like control over their own face, voice and physical likeness to take measures against AI misuse and protect their digital personhood.

KEYWORDS – Deepfakes, Identity Rights, Personality Rights, Biometric Data Protection, AI and Copyright Law.

INTRODUCTION

For ages, copyright legislation has been the base of safeguarding creative ideas, providing creators the exclusive rights to their original works, and in a way, also guaranteeing them economic and moral acknowledgment. For the most part, its coverage has been linked to concrete examples of human creativity such as literature, music, art, movies, etc., all of which have an underlying concept of intellect being the source of the outputs which are protectable. The last several years have seen significant changes in tech that have significantly changed the relationships between producing a creative work and keeping a personal identity. The generative AI has been a significant factor in the acceleration of the transformation. One of the developments is deepfakes very convincing synthetic media that can imitate an individual's face, voice, and body. Technology allows for the production of such content that is visually indistinguishable from genuine but is wholly made up. These tools may be used for the amusement and the advancement of the industry, but along with that, they pose the following risks: the use of the closest ones without consent, the aversive impact on the reputation, and the exploitation of identities on a large scale. In these situations, the reproduction of the person's identity is done, not the one they created, hence the difference between traditional copyright infringement and the newly arisen scenarios. As a result, the conventional intellectual property frameworks are not sufficient to handle these issues.

Denmark's legislation has recently moved to classify realistic digital copies of personal identities as copyrightable has been labelled a signal of the change from the treatment of identity as a non-material asset. This concept provides people with a guaranteed, ahead-of-time control over the use of their image that goes further than privacy rights and into the area of property rights. This kind of legal framework disputes the current presumptions and consequently, India and other such law areas have the chance to examine if by giving such a legal status, citizens could be protected in AI influenced surroundings. This study explores the categories of the concept and the real-world impact of identifying a person's face, voice, and physical likeness as copyright-protected materials. The study also reviews Denmark's recommended framework, compares it with other countries' legal rights protection, and reflects on the possibility of adjusting such a system to the Indian legal context to fight the increasing issue of AI-based identity fraud.

BACKGORUND OF THE STUDY

Copyright has been the main form of protection for human creative works, such as literature, songs, movies, and artworks. However, to the extent of the face, the voice, or the body, the identity is not considered as a creative output in the most common sense, and therefore it is still outside of the copyright domain. This is the exposed gap now that generative AI can almost perfectly reproduce an individual's image. Deepfakes utilize sophisticated neural networks for creating very realistic audio and visual simulations which can manipulate individuals without their consent. Going beyond being simply amusing, they have become the main players in socio-political manipulation, impersonation of the fraud and causing of reputational harm, and at the same time, distilling mistrust of what is seen and heard. There is no legal definition in India which these artificial likenesses may fall under, and even the creators did not intend them to.

The AI-enhanced identity theft is a prominent example of a possible AI-supported scenario that is causing a rising concern in India. Deepfake technology has been shown to have quite an influence on politics and public debates, especially during elections, and this is just one implication among many that laws are not able to handle. The lack of a clearly outlined regulatory regime allows the responses to be only on the sidelines and disjointed, making it hard for them to keep up with the technology's rapid advancement. On the other hand, Denmark is taking a different route. A suggested change in the copyright law of Denmark is seizing the attention of lawmakers as it would come into force in 2025 and, among other things, grant copyright protection to deeply realistic digital impersonations of someone's face, voice, or body. This represents a shift from considering the human likeness solely as an issue of privacy to a matter of intellectual property that gives individuals the right to control and authorize, financially or not, the use of their image.

Further, India is now at a turning point. The law needs to catch up as AI-powered impersonation is slowly becoming more and more available. This paper outlines the features of the new Denmark framework, compares it with the fragmented Indian legal system, and supports the establishment of a legal identity centric doctrine that is capable of foreseeing the harms, guaranteeing the enforcement, and acknowledging the digital self as a territory that deserves protection.

STATEMENT OF PROBLEM

Generative AI is now capable of producing deepfakes that are extremely detailed digital fabrications that accurately mimic a person's face, voice, or body without their permission. These fakes have become to be employed for the purposes of political manipulation, non-consensual porn, stealing of identity, and causing of reputational harm. In India, although laws such as the Information Technology Act 2000, the Digital Personal Data Protection Act 2023, and the Bharatiya Nyaya Sanhita provisions cover the misuse of identity, defamation, and the release of obscene materials, they were not designed considering the AI-generated media. This discrepancy results in enforcement being disjointed and mainly reactive, with solutions frequently occurring after the injury has taken place.

Compared to that, a suggested change in the Danish Copyright Act would give people an exclusive right of 50 years over exact digital copies of their biometric identity, with quite limited exceptions for parody and satire. By moving the protection from the area of privacy and criminal law to that of intellectual property, the Danish model provides a practical and enforceable tool to manage the use of one's image. The nonexistence of such a legislative framework in India makes the people susceptible to the increasing dangers of AI-generated deepfakes, especially at the time when technology is developing much quicker than the laws that are supposed to control it.

RESEARCH QUESTIONS

1. Whether the laws in India be changed to give individuals the power to take the AI technology to court, which uses their biometric identity to produce imitations?
2. What ways does the suggested Denmark's copyright-oriented approach to reduce deepfake risks cover those addressed by Indian laws better?
3. What are the legal and policy changes are required to include the biometric identity of people in the intellectual property rights of India?
4. What potential issues could the authorship-like copyright system in India create, and in what ways could they be solved when it comes to protecting the personal identity?

RESEARCH OBJECTIVES

1. To analyze the ways in which Indian legislation can be modified so that people would have the legally binding rights to AI-generated replicas of their biometric identity.

2. To review the possible reasons why the copyright-based model proposed by Denmark could be a better solution for deepfake risks than the current Indian laws.
3. To pinpoint the legal and policy modifications necessary for the incorporation of biometric identity security into the Indian intellectual property framework.
4. To evaluate the possible obstacles in the implementation of copyright-type protection for personal identity in India and examine the available practical solutions.

RESEARCH METHODOLOGY

This research work is a blend of doctrinal and comparative methods. The paper relies on primary and secondary legal sources for the research. These primary sources are the Copyright Act, 1957, the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, Denmark's proposed Copyright Amendment Bill, 2025, and the relevant provisions of the EU General Data Protection Regulation (GDPR). The secondary sources include articles published in peer-reviewed journals, legal books, policy papers, news reports, and expert commentaries on deepfakes, biometric data, and intellectual property rights, as well as resources from international bodies like WIPO and TRIPS. This paper will compare the legal structure of India with the possibility and extent of a copyright-based protection for biometric identity being adopted, using Denmark's strategy as a reference point. The study is to present a comparative view of the safeguards available in India, Denmark, and the EU, and to propose the reforms that will offer stronger pre-emptive protection against the AI-generated abuse of personal identity in the digital era.

SCOPE AND LIMITATION

SCOPE

This research revolves around legal and policy analysis that is based on identity protection measures dealing with AI-generated deepfakes of facial likeness, voice, and bodily representation through copyright-based frameworks. The study area centres on India, with some comparative mentions of the Copyright Amendment Bill proposed in Denmark, 2025, and the related EU provisions, particularly the GDPR's handling of biometric data. The study takes the intellectual property law, privacy law, and technology policy as its interdisciplinary lens to check whether copyright can be a possible instrument for the digital identity rights.

LIMITATION

The work is confined to civil and statutory remedies against the misuse of AI-generated likeness and does not cover the technical side of detection, criminal procedure reform, or platform level governance that may go beyond legal obligations. It neither performs empirical nor socio-technical research on the deepfake prevalence but rather portrays the legal frameworks, judicial interpretations, and possible legislative reforms in the jurisdictions specified.

LITERATURE REVIEW

1. **Miranda Bryant, 'Denmark to tackle deepfakes by giving people copyright to their own features' The Guardian (UK, 27 June 2025).**

The study about deepfakes together with identity rights demonstrates that current legal systems including copyright and privacy and publicity rights fail to properly handle AI-made likenesses. The legal framework of copyright protects creative works according to experts but it fails to protect human faces and voices thus letting deepfake makers hold copyrights while leaving subjects without protection (Chesney & Citron, 2019; U.S. Copyright Office, Digital Replicas Report, 2024). The GDPR provides users with consent authority regarding their biometric information but stops short of establishing property-like rights according to Arts. 4 and 9 (Geiger, 2010; Strowel, 2021). Indian law shows fragmented status because courts recognize publicity rights in *ICC Development v. Arvee Enterprises* but fail to establish formal rules and the IT Act 2000 together with the DPDP Act 2023 provide limited protection against minor harms (Maheshwari, 2025; Prasad & Sharma, 2025). Denmark's proposed 2025 Copyright Act amendment has grabbed worldwide attention because it represents the first governmental effort to provide citizens with copyright-like rights over their faces voices and forms while maintaining exceptions for satire and parody (The Guardian). Academics and analysts have been supportive of the preventive role of the system but are cautious about possible violations of free speech and the consistency of intellectual property law (Law Asia, 2025). There is a gap in the research in the sense that there is no comprehensive academic examination of the question of whether identity should be "recognized by law" through copyright, of the comparative analysis of such a system across different legal jurisdictions, and of whether nations such as India should formally establish the right of publicity or set up a new type of publicity rights like copyright.

**2. Andrea Willige ‘Deepfakes Legislation: Denmark Moves to Protect Digital Identity’
*World Economic Forum (July 30, 2025).***

The legal approach to AI-created deepfakes demonstrates a critical disconnect between new threats and established legal systems. The existing copyright framework defends authored works but does not defend human images or voices so deepfake authors maintain copyright ownership while victims remain without legal protection (Chesney & Citron 2019; U.S. Copyright Office Digital Replicas Report 2024). Privacy-based regulations including GDPR treat biometric data as sensitive personal information under Articles 4 and 9 yet they do not establish likeness as property rights (Geiger 2010; Strowel 2021). The Indian courts have sometimes recognized a publicity right in *ICC Development v. Arvee Enterprises* but the absence of formal legislation results in irregular enforcement and existing laws like IT Act 2000 and DPDP Act 2023 provide limited safeguards against AI replication (Maheshwari 2025; Prasad & Sharma 2025). The WEF reports that Denmark is submitting a first European draft copyright amendment that seeks to establish personal ownership rights over facial images and vocal signatures and physical representations This represents an important doctrinal shift which moves digital identity from privacy concerns toward property ownership (WEF, “Deepfake Legislation: Denmark Takes Action,” Jul 2025). The academic community has yet to provide extensive analysis concerning four vital aspects: (1) the process of granting copyright-like protections to identity while maintaining basic copyright standards and principles; (2) how Denmark's legal framework compares to India's system; (3) the methods for enforcement especially in international and digital platform contexts; and (4) the practical implementation of freedom of expression protections for satire and parody. The research fills these research gaps through a comprehensive analysis which evaluates the fundamental theories and international comparisons as well as the enforcement challenges of providing IP-style rights to persona during the era of generative AI.

**3. Ledio Alite, ‘Copyrighting the self: Denmark’s bold legal move against deepfakes’
*Trademark Lawyer Magazine (24 July 2025)***

The recent analysis of Denmark’s planned copyright legislation demonstrates the measure aims to establish proprietary rights over personal images and voices through deepfake prevention (Ledio Alite, Trademark Lawyer Magazine July 24 2025). Denmark presents an innovative approach through its model which treats personal identity as property enabling licensing rights along with copyright-like enforcement mechanisms instead of traditional consent-based privacy or data-protection frameworks. The approach receives positive feedback from legal

publications because it establishes clear deterrents alongside straightforward procedures when compared to Indian legal remedies under the IT Act 2000 and DPDP Act 2023 or ICC Development v. Arvee Enterprises which lack formal codification. Yet the academic literature still struggles with unresolved issues: whether copyright can doctrinally stretch to cover non-expressive human attributes without undermining the work/author paradigm; how property-style control over likeness can be reconciled with free expression and satire exceptions; and whether such rights would be enforceable across borders where infringing deepfakes are created and hosted. The research gap, therefore, lies in systematically assessing whether identity should be subsumed into intellectual property, how comparative models like Denmark's could inform Indian law, and what safeguards are necessary to prevent overreach while still protecting individuals in the AI age.

4. MultiLingual Staff, 'Denmark moves to protect identity rights in the age of AI' MultiLingual (23 July 2025)

Deepfake regulation has exposed a glaring mismatch in current law: copyright protects creative works but not the human face, voice, or form leaving deepfake subjects defenseless while privacy and data laws, including GDPR's biometric provisions, offer consent-based safeguards without creating property rights (Chesney & Citron 2019; US Copyright Office Digital Replicas Report 2024; GDPR arts 4 & 9; Geiger 2010; Strowel 2021). In India, judicial nods to a right of publicity such as in ICC Dev. (Int'l) Ltd. v. Arvee Enters. are uncodified, and statutes like the IT Act 2000 or DPDP Act 2023 give only reactive, limited protection (Maheshwari 2025; Prasad & Sharma 2025). Denmark's 2025 legislative bill constitutes a doctrinal leap forward: as MultiLingual reported, it would provide individuals copyright-type rights in their face, voice, and body, enforceable by means of takedown rights and damages, maintaining parody exceptions a step aimed at facilitating control over identity in the generative AI era (MultiLingual, 23 July 2025). Yet academic literature remains sparse in addressing critical questions: can identity realistically be framed as a copyright-type entity without disrupting foundational doctrines like the idea-expression boundary; how reliable are property-like rights in cross-border digital contexts; and how can safeguards for freedom of expression especially proven tools like parody be duly integrated? This gap is what your research aims to close by evaluating whether and how such a model could be adapted in the Indian context, treated either via publicity reform or a sui generis IP right.

1. COMPARATIVE LEGAL FRAMEWORKS

The analysis of different legal systems shows significant differences in how they protect face, voice, and form. Some legal frameworks use privacy and data protection laws to protect these rights but other systems explore intellectual property frameworks. The chapter evaluates the legal frameworks of India and the European Union together with Denmark to draw different lessons about the possibility of recognizing identity as a copyright-like right.

1.1 India: Fragmented Recognition through Publicity and Data Protection

Under the Copyright Act of 1957 Indian copyright law protects various creative works including literary and artistic works along with musical dramatic works and sound recordings and cinematograph films but does not cover personal identity aspects like faces or voices. Through judicial decisions the courts have developed a restricted form of publicity rights. The Delhi High Court declared in *ICC Development (International) Ltd. v. Arvee Enterprises* (2003) that using someone's persona for commercial purposes without permission violates personality rights¹. The legal stance from the Delhi High Court received support through additional cases including *Titan Industries Ltd. v. Ramkumar Jewellers* (2012)². The recognition of this right exists solely through court rulings while no formal legislation supports it.

The frameworks which exist in parallel also deal with rights related to identity. The Information Technology Act 2000 contains sections 66C and 66E that impose penalties for identity theft and voyeurism and the Digital Personal Data Protection Act 2023 manages the processing of personal information including biometric data. The current legal framework operates reactively because it handles identity misuse cases after they happen but it does not establish proactive ownership rights for individuals. Scholars demonstrate through their research that India's regulatory system operates without a cohesive framework which exposes people to threats from deepfakes and AI-generated identity manipulation (Maheshwari 2025; Prasad & Sharma 2025).

1.2 European Union: Privacy and Data Protection as Primary Tools

The European Union develops its approach toward identity manipulation mainly through

¹ *ICC Development (International) Ltd v Arvee Enterprises* (2003 SCC OnLine Del 763)

² *Titan Industries Ltd. v. Ramkumar Jewellers* (2012 SCC OnLine Del 2382)

privacy regulations and data protection standards. The General Data Protection Regulation (GDPR) Articles 4 and 9 identify facial images and voiceprints as "special categories" that need direct permission to be processed. The GDPR provides strong data control to individuals yet it fails to establish personal ownership rights regarding identity information. European courts extended protection for personal images through the right to image together with private life rights found in Article 8 of the European Convention on Human Rights. The European Court of Human Rights (ECtHR) established in *Von Hannover v. Germany* (2004 and 2012) that unauthorized image publication violated private life rights³⁴. The Court of Justice of the EU (CJEU) in *Eva-Maria Painer v. Standard Verlags GmbH* confirmed that images hold certain protections within copyright law⁵. The EU framework provides robust personal safeguards against illegal usage but defines these protections through privacy and dignity and informational self-governance terms rather than IP rights. Scholars including Geiger (2010) and Strowel (2021) observe that the European Union's method of rights-balancing creates ongoing challenges for enforcing AI-driven cross-border replication⁶⁷.

1.3 Denmark: A Copyright Based Approach to Identity

Denmark stands as the first jurisdiction to introduce identity rights directly through copyright legislation. The Danish government revealed its planned amendment to the Copyright Act which would establish copyright-style defences for face and voice and body protection extending 50 years beyond death on June 2025⁸. The proposed bill enables people to remove deepfake content through takedown requests and obtain damages while maintaining exemptions for parody and satire and journalistic content⁹. Legal experts recognize this initiative as an innovative way to match legal systems with current technological developments. Through the intellectual property framework Denmark enables licensing and enforcement mechanisms which privacy law systems lack. The proposed system faces criticism from experts

³ *Von Hannover v Germany* (No 1) App no 59320/00 (ECtHR, 24 June 2004).

⁴ *Von Hannover v Germany* (No 2) App nos. 40660/08 and 60641/08 (ECtHR, 7 February 2012).

⁵ *Eva-Maria Painer v. Standard Verlags GmbH* (Case C-145/10, 2011)

⁶ Christophe Geiger, 'The Right to Personality, the Right to Identity and the Legal Protection of the Human Body' (2010) 1(2) *JIPITEC* 123.

⁷ Alain Strowel, 'Protecting Performers and Celebrities against Deepfakes: Between Copyright, Data Protection and Personality Rights' (2021) 52(1) *IIC* 1

⁸ Jasper Jolly, 'Denmark moves to give people copyright over their own face and voice to combat deepfakes' *The Guardian* (London, 27 June 2025) <https://www.theguardian.com/technology/2025/jun/27/deepfakes-denmark-copyright-law-artificial-intelligence>

⁹ Ledio Alite, 'Copyrighting the self: Denmark's bold legal move against deepfakes' *Trademark Lawyer Magazine* (24 July 2025) <https://trademarklawyermagazine.com/copyrighting-the-self-denmarks-bold-legal-move-against-deepfakes/>

who warn about its potential to infringe on free speech rights and established copyright principles regarding original work authorship. MultiLingual magazine (23 July 2025) draws attention to the impact on creative fields such as localization and dubbing and voiceover which now require careful negotiation of consent and ownership rights¹⁰.

1.4 Comparative Insights

The analysis demonstrates three separate frameworks which include India's divided publicity protection system alongside European Union privacy rules and Danish intellectual property-based innovations. The privacy systems in India and the European Union empower people through personal dignity protections and consent mechanisms but they do not provide property-like ownership rights. Through its IP-based framework Denmark establishes a new doctrine that transforms identity rights into copyrightable rights which can be enforced and transferred. The evaluation of different approaches to identity rights in India leads to vital questions about whether the country should adopt Denmark's IP framework or formalize its judicial publicity rights or create a unique identity right that protects both personal agency and creative freedom.

2. ANALYSIS AND DISCUSSION

The comparison between legal traditions demonstrates their methods of handling the conflict between dignity-based identity and property-based identity. The chapter presents a detailed assessment of the theoretical and practical challenges that arise from property law attempts to legalize identities through face, voice and form regulations with an emphasis on India's prospective regulatory approach.

2.1 Normative Foundation: Why Protect Identity as IP?

The fundamental rationale behind copyright-style protection of identity depends on autonomy and control mechanisms. Scholars maintain that human faces together with voices represent the deepest personal characteristics which lose their value when duplicated without permission thus damaging both personal respect and commercial value¹¹. Indian judicial decisions have demonstrated emerging concerns through their recognition of publicity rights which establish that people maintain authority over commercial utilization of their personal image (ICC Dev.

¹⁰ MultiLingual Staff, 'Denmark moves to protect identity rights in the age of AI' MultiLingual (23 July 2025) <https://multilingual.com/denmark-deepfake-proposal/>

¹¹ Robert Chesney and Danielle Keats Citron, 'Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security' (2019) 107 *Cal L Rev* 1753.

v. Arvee Enterprises)¹². Such enforcement remains inconsistent since no specific law exists thus placing performing artists at risk of exploitation because AI systems can duplicate their likeness at scale. The Danish proposal transforms this risk into intellectual property rights which allow people to decide who can use their personal identity (Guardian, 27 June 2025)¹³. The treatment of identity remains uncertain because it could either receive authorship protection or be recognized as sui generis subject matter.

2.2 Doctrinal Challenges: Stretching Copyright Beyond Authorship

The implementation of copyright-based rights for identity faces fundamental obstacles from doctrinal principles. The original purpose of copyright protection has always focused on author-created works that exist in physical mediums while excluding natural human characteristics. The grant of rights to human bodies and voices creates instability for the foundational framework because authorship remains absent from these situations. Several experts warn that this practice creates confusion about the distinction between creators and their creations thus damaging the distinction between original expressions and personal attributes. The European Union courts show reluctance to treat images and likenesses as property rights since they instead protect them under the umbrella of personal dignity rights. Denmark's approach marks a theoretical advancement which equalizes the value of personal identity with artistic production. The ongoing discussion centers on whether this new development strengthens or weakens the fundamental principles of copyright law.

2.3 Enforcement and Practical Limitation

Deepfakes face a major enforcement challenge as their production and distribution happens across international borders through platforms which exist outside of national court authority. The Indian legal system faces difficulties in enforcing cybercrime laws across borders thus making an international cooperation essential for a copyright-like identity right to be effective. Through its Digital Services Act Denmark establishes platform responsibilities which carry penalty structures for non-compliance. The Indian legal framework lacks sufficient provisions to force platforms to proactively remove AI-generated deepfakes because of its absence of an equivalent intermediary liability system. The practical dilemma arises over whether Indian

¹² *ICC Development (International) Ltd v Arvee Enterprises* (2003 SCC OnLine Del 763)

¹³ Jasper Jolly, 'Denmark moves to give people copyright over their own face and voice to combat deepfakes' The Guardian (London, 27 June 2025) <https://www.theguardian.com/technology/2025/jun/27/deepfakes-denmark-copyright-law-artificial-intelligence>

legislation should adopt IP standards or enhance platform accountability within information technology regulations.

2.4 Balance Rights: Expression, Satire, and Cultural Concerns

The conflict that is just as significant is the difficult balancing of the individual rights and the freedom of expression. Pastiche, irony, reporting, and art changes are essential contributors to culture, most of the time they are based on the original work. The draft Danish law features exceptions for satire and parody, which is in line with Europe's history of expressive rights under the European Convention of Human Rights. On the other hand, Indian legislation does not feature an explicitly expressed parody exception even in copyright which increases the overreach risk. Hence the measures to define the rights of persons in India should not be so restrictive as to impede the rights of speech and the creativity of people.

2.5 Implications for India

It is not just a question of whether India should take the same copyright path as Denmark but rather how to adapt a model to the social-legal framework of India. A clearer and at the same time doctrinally respectful approach might be the codification of a statutory right of publicity. On the other hand, a sui generis “digital identity right” may be better, as it allows the individual to have command over the face, voice, and form with the guarantees of free expression and platform responsibility. Whichever way, the presence of rapidly evolving AI technologies makes it a must-off resort to legislative intervention instead of depending on case law and data protection norms only.

3. RECOMMENDATION FOR INDIA

This research demonstrates that Denmark and the European Union and India need to develop unified laws which grant people authority over their voice, face and physical form during the artificial intelligence era. India's existing case law and data protection statutes and IT Act provisions do not provide sufficient protections because they operate independently and fail to establish identity as a property right. The chapter proposes specific Indian recommendations through a combination of doctrinal clarity with practical enforceability based on Denmark's copyright amendment and EU privacy protections.

3.1 Codification of a Statutory Right of Publicity

The Indian judicial system presently provides recognition of publicity rights solely through its own interpretations. The Delhi High Court established personality rights under Article 21 of the Constitution through its *ICC Development (Int'l) Ltd. v. Arvee Enterprises* (2003) judgment which protects against commercial exploitation without authorization¹⁴. The courts repeated their earlier position about celebrity endorsement protection in *Titan Industries v. Ramkumar Jewellers* (2012)¹⁵. The lack of formal legislation creates ambiguity regarding the boundaries of publicity rights especially when dealing with AI-created replicas which cause reputational or dignitary harm despite lacking direct commercial intent. The establishment of publicity rights through legislation would establish clear rules which match the framework of United States that have either statutory or common-law publicity rights. The Indian codification of publicity rights needs to establish precise definitions about “likeness” or “identity” to ensure courts can handle new technologies without confusion.

3.2 Creation of Sui Generis Digital Identity Rights

The implementation of publicity rights codification serves as one option but India should also develop a unique Digital Identity Protection Act. Such legislation would grant people complete ownership of their physical appearance and voice and bodily representation throughout digital spaces while providing them with licensing authority and prohibition powers and enforcement capabilities. A new right would bridge two unaddressed legal gaps because it would provide property rights for likeness while treating biometric information as a proprietary right instead of merely sensitive data. India could avoid copyright identity coverage problems through a sui generis model while maintaining enforceability in its legal system.

3.3 Platform Accountability and Intermediary Liability

Deepfakes together with identity misuse spread mainly through online platforms. The current legal framework of India under the IT Act 2000 and Intermediary Guidelines 2021 demands content removal after receiving notice but does not require platforms to monitor proactively. The current notice and takedown system operate inefficiently for AI-generated content because these materials can circulate rapidly through online channels within minutes. India should build upon the Digital Services Act of the European Union to strengthen its intermediary liability

¹⁴ *ICC Development (International) Ltd v Arvee Enterprises* (2003 SCC OnLine Del 763)

¹⁵ *Titan Industries Ltd. v. Ramkumar Jewellers* (2012 SCC OnLine Del 2382)

through the following measures such as the legislation should establish an obligation for major platforms to actively prevent the spread of damaging identity theft. Platforms must implement AI-generated replica detection tools as part of their proactive measures. Platforms which neglect to delete deepfakes after receiving notices should face mandatory statutory damages or penalties. All platforms must disclose their statistics regarding identity based takedown requests through mandatory transparency reports. Such measures would create systemic accountability, ensuring that the burden does not rest solely on individuals to monitor misuse.

3.4 Integration with Data Protection and Criminal Law

According to the Digital Personal Data Protection Act, 2023 (DPDP Act), the biometric identifiers are categorized as sensitive personal data; however, the Act does not provide ownership rights. The coordination between the DPDP Act and the identity rights laws is essential to prevent both the duplication and the conflict. An idea of introducing the two-tier system with the following features might be considered: Absolute control rights through the Digital Identity Right (ownership, licensing, remedies). Responsibilities of data processing as per the DPDP Act (consent, lawful use, unauthorized processing to be penalized). Besides this, criminal law should be changed to deal specifically with the evil creation and distribution of deepfakes. Section 66C of the IT Act (identity theft)¹⁶ and Section 66E (voyeurism)¹⁷ might be changed to cover AI-generated likeness explicitly. In this way, the production of malicious deepfakes would not only be a civil wrong but also a recognizable offence.

3.5 Safeguards of Freedom of Expression

One recurring problem is the need to maintain the confidentiality of the user while at the same time respecting the constitutional guarantee of freedom of speech under Article 19(1)(a). Any law dealing with the rights of the individual, therefore, must contain very clear exemptions for such categories as satire, parody, criticism, research, and news reporting. If these protections are not in place, there is a genuine danger that the powerful might use the rights of the individual to silence the criticism of them or the creation of art. Denmark proposal cleverly integrates these kinds of exemptions, recognizing the cultural and democratic importance of parody and satire. India should take this as a reference point, legislating the statutory exceptions that provide the necessary balancing against the exclusivity of identity rights.

¹⁶ Information Technology Act 2000, s 66C (India).

¹⁷ Information Technology Act 2000, s 66E (India)

3.6 International Cooperation and Harmonization

The damages of deepfake impersonation do not know any borders. A video created in one place can be shared all over the world in a few minutes, which makes the local means of control practically useless. To solve this problem, India would have to, participate in multilateral platforms such as WIPO to promote the establishment of harmonized digital identity protections. Then sign bilateral treaties with the largest jurisdictions to guarantee the mutual enforcement of takedown requests. Ensure that its domestic laws are consistent with international standards so that foreign courts can easily recognize Indian rulings. This kind of collaboration is crucial for the new identity rights framework to be implemented satisfactorily on the ground. Further, India stands at a crossroads where it must decide whether to continue with the existing IT Act, DPDP Act, and case law that have scattered and inconsistent protections or take a single giant leap through daring legislation. The publicizing of rights by statute would not only give the necessary visibility instantly but also a specially created Digital Identity Right would assure a futuristic framework specifically designed for the era of AI.

Besides this, a range of other measures like increased platform accountability, synchronization with data protection and criminal law, and the presence of absolute freedom of speech as a constituent element of the law are also important to make a country well equipped with these changes. Implementing these reforms will enable India to become a trailblazer in solving the problems associated with digital personhood, thus granting human beings the power to legally control the most intimate features of their nature - the voice, the face and the form - without the danger of creativity, criticism or innovation being suffocated.

4. SUGGESSTION AND CONCLUSION

First, we can say that this research aimed to explore whether someone's face, voice, and body are not just able but also should be legally recognized as subject matter protectable under intellectual property law. Core questions that guided research are as follows: whether human identity can be owned as a creative work; whether the existing legal frameworks in India, the EU, and Denmark are sufficient to meet the challenges raised by deepfakes and AI-driven replicas; and whether it would be better for India to make statutory or sui generis reforms.

Among the findings, one of them points out that India's current framework falls short of the need. The Copyright Act, 1957 does not mention the human personality; publicity rights are

still recognized by the courts, but there are no laws that govern them; and the IT Act, 2000, and the DPDP Act, 2023 provide statutory protections, which, however, are fragmented and reactive. Individuals in India therefore lack a comprehensive, proactive entitlement to control their identity in digital environments. On the other hand, the EU offers extensive data protection and privacy safeguards that are especially strong under the GDPR, but identity is not defined as property. Denmark's proposal in 2025 to change its Copyright Act is a doctrinal breakthrough, as it expressly authorizes individuals to have copyright-like rights over their likeness and voice for fifty years, with the usual exceptions for parody and satire. The comparison reveals the diversity of regulatory models: privacy-based (EU), court-created (India), and property-based (Denmark).

One of the key insights from the research of identity protection is that the protection of identity is a difficult issue because it conflicts with two opposite logics: one is related to the people's dignity and the other to the property. Privacy and data protection are intended to guarantee dignity through the means of informational control and consent, but still, they lack licensing and enforcement mechanisms. Copyright and related rights, on the other hand, empower one with proprietary control and make licensing possible but usually exclude natural attributes. Denmark's suggestion exemplifies that identity may be considered as a subject similar to copyright one, however, it also triggers doctrinal inquiries about the issues of authorship, originality and the danger of going too far.

For India, the way to go is the act of legislative innovation. Instantiating a statutory right of publicity would create instant clarity, although it might still be inadequate to the extent of AI-driven identity mishandling. A sui generis Digital Identity Right, custom-fit to India's constitutional and cultural milieu, serves as a more future-proofed solution. The incorporation of such a right must include the provision of necessary freedom of speech, increase platform accountability, and facilitate the smooth flow of data protection and criminal law. No matter how well enforcement is planned, the international system will still be necessary for it to be effective in such a borderless digital ecosystem.

The point eventually made by the study is that treating identity as a legal interest to be protected is not about making it a commodity but about humanizing one's autonomy and dignity in times when technology is capable of duplicating individuals without their consent. The "unownable" is not something that becomes ownable in the way of humanity being reduced to property, but

it is more of providing those individuals with the tools that they can use to get their agency back over their likeness and voice. Legislating in advance, India can have the opportunity to be the first mover in designing a balanced and rights-respecting framework that not only confronts generative AI-related challenges but also safeguards the constitutional values of dignity, expression, and innovation.

