

1. Personality Rights – Polity

Recent court rulings have protected celebrities' personality rights (name, voice, image) from AI-driven misuse, grounding these protections in Article 21. This has highlighted the need for a comprehensive law to balance individual rights with freedom of expression, as the current legal framework is fragmented.

Personality Rights – Personality rights are legal principles that protect an individual's unique identity traits from being commercially exploited without their permission. These rights are considered an intrinsic part of the Right to Life and Personal Liberty under Article 21 of the Constitution.

Scope – These rights cover a person's name, likeness, image, voice, signature, catchphrases, and distinctive style.

Purpose – They ensure that every individual has autonomy over their persona and can prevent others from profiting from it without consent.

There are two primary components of personality rights –

Type of Right	Focus	Key Legal Precedent	Example
Right to Privacy	Protects an individual's personal life from unwarranted public intrusion or disclosure.	Justice K.S. Puttaswamy v. Union of India (2017)	Preventing the creation of a deepfake of an ordinary citizen or publishing their private details without consent.
Right of Publicity	Protects the commercial value of a person's identity and prevents its unauthorized use in advertising, merchandise, or endorsements.	R. Rajagopal v. State of Tamil Nadu (1994)	Amitabh Bachchan registering his name as a trademark to control its use in commercial ventures.

Legal Framework for Personality Rights in India

Protection for personality rights in India is not derived from a single law but is drawn from various constitutional, statutory, and judicial sources.

Constitutional Protection

Article 21 (Right to Life and Personal Liberty) – The Supreme Court has interpreted this article to include the **Right to Privacy** and the **Right of Publicity**, forming the constitutional bedrock for personality rights.

Statutory Provisions –

Copyright Act, 1957 – Sections 38A and 38B grant performers exclusive rights over their performances, preventing unauthorized recording or broadcasting, and moral rights to protect their reputation.

Trade Marks Act, 1999 – Allows individuals, particularly celebrities, to register their names, signatures, or catchphrases as trademarks to protect their commercial value. For example, M.S. Dhoni applied to trademark his moniker "Captain Cool."

Passing Off (under the Trade Marks Act) – This common law remedy protects the goodwill and reputation of an individual, allowing them to sue for damages if someone falsely represents their goods or services as being associated with that individual, even without a registered trademark.

Judicial Development and Key Cases

Indian courts have progressively defined and strengthened personality rights through a series of landmark judgments.

1. **R. Rajagopal v. State of Tamil Nadu (1994)** – The Supreme Court first recognized an individual's control over their identity, grounding it in the right to privacy.
2. **Arun Jaitley vs Network Solutions Pvt Ltd (2011)** – The Delhi High Court ruled that a person's name, once it achieves distinctive recognition, is protected on the internet just as it is in the real world.
3. **Rajinikanth Case (2015)** – The Madras High Court restrained the misuse of the actor's name and image, clarifying that if the celebrity is identifiable, proof of public deception is not required.

4. **Anil Kapoor Case (2023)** – The Delhi High Court protected the actor's name, voice, and catchphrase "Jhakaas" from unauthorized commercial use, while affirming that parody and satire are protected forms of free expression.
5. **Jackie Shroff Case (2024)** – The Delhi High Court restrained AI chatbots and e-commerce sites from misusing the actor's persona (including the term "Bhidu"), emphasizing the need to protect his brand equity.
6. **Arijit Singh Case (2024)** – The Bombay High Court passed an order to stop AI-based voice cloning, affirming that a person's voice and likeness are integral components of their publicity rights.

Personality Rights vs. Freedom of Expression

Courts must carefully balance the protection of personality rights with the fundamental right to freedom of speech and expression guaranteed under Article 19(1)(a).

Permissible Uses – This freedom allows for the use of a person's likeness for legitimate purposes like parody, satire, art, criticism, scholarship, and news reporting.

Judicial Balance – Courts have consistently held that personality rights cannot be used to stifle legitimate free speech. For example, in *DM Entertainment vs. Baby Gift House* (2010), the court recognized singer Daler Mehndi's publicity rights but clarified that caricatures and satire are permissible.

Current Concerns and Challenges

Despite judicial progress, several challenges remain in the protection of personality rights.

Fragmented Protection – Reliance on a patchwork of laws and court precedents leads to inconsistency and a lack of a unified legal framework.

Risk of Overreach – An overly broad interpretation of personality rights could unreasonably restrict creative freedom and free speech.

Gendered Impact – The rise of deepfakes and revenge pornography disproportionately affects women, highlighting the need for protections that extend beyond celebrities to all citizens.

Enforcement Difficulties – While courts can order the blocking of URLs, monitoring and enforcing these orders at scale in the digital age is a significant challenge.

The Need for Legislative Intervention

There is a growing consensus on the need for a dedicated law on personality rights to address modern challenges, especially those posed by AI.

Consolidation – A new law should merge and harmonize protections currently spread across privacy and intellectual property (IP) laws.

Clarity – The legislation must clearly define the scope of personality rights and specify permissible exceptions like parody, art, and journalism.

Effective Remedies – It should establish quick and efficient legal mechanisms to address misuse in the digital era.

Inclusivity – The law must extend protection to all individuals, not just celebrities, to safeguard everyone's dignity and autonomy.

Source – <https://www.thehindu.com/news/national/what-are-personality-rights-and-how-are-courts-shielding-indian-celebrities-explained/article70083371.ece>