



INTELLECTUAL PROPERTY RIGHTS

When Identity Becomes Commodity: Personality Rights In The Digital Age

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Introduction

With great power comes great responsibility.

Nothing as revolutionary as AI has come without significant potential for misuse. In the contemporary era of digital media, streaming platforms, and artificial intelligence, the boundaries of personal identity and privacy are being constantly tested. The concept of *Personality rights*, the right of an individual to control the commercial use of their name, likeness, voice, and other personal attributes has gained immense significance in India. Over the past decade, the Indian judiciary has been increasingly called upon to address cases where the identity of celebrities and public figures is exploited without consent, particularly for commercial gain or digital monetization. High-profile instances involving actors like Amitabh Bachchan and Family including [Abhishek Bachchan](#), [Hrithik Roshan](#), [Karan Johar](#), [Aishwarya Rai Bachchan](#), [Jaya Bachchan](#), and the recent Kamal Haasan illustrate the complex interplay between personal rights, reputation, and the potential for commercial exploitation. Unauthorized endorsements, films, advertisements, or digital representations can often generate significant revenue, making the protection of personality rights not only a matter of privacy but also of economic interest.

The recent release of the film “Haq” and the subsequent litigation [Ms Siddiqua Begum Khan v. Union of India and Ors.](#)¹ by Siddiqua Begum, daughter of the late Shah Bano, highlighted another dimension of personality rights that is the Posthumous personality rights of the public figures and the legal limits of heirs control over representation in media. This case highlights the tension between the commercial exploitation of a personality and the constitutional guarantees of freedom of expression under Article 19(1)(a). Similarly the *Sushant Singh Rajput case*, the *Sir Ratan Tata Trust litigation*, and the *Arun Jaitley case* reveal a nuanced judicial approach, balancing the reputational, moral, and commercial interests of personalities with artistic and journalistic freedoms.

These disputes highlight a growing trend: the digital age and AI- driven era has exponentially amplified the misuse of personal attributed for monetary benefits, ranging from unauthorized deepfake videos, AI-generated avatars, and social media impersonations to commercialized content on streaming platforms. Such practices raises pressing legal and ethical questions, as existing Indian law does not provide clear, codified protection against the commercial exploitation of personality rights.

Table of contents

- [Introduction](#)
- [Personality Rights in India: Foundations and Judicial Evolution](#)
- [The Right to Publicity and Commercial Protection](#)
- [The New era of Personality Rights: John Doe Protection & Pre-emptive Control in the Digital Space](#)
- [Drawing the Line: Personality Rights & Posthumous Personality Rights](#)
- [Digital Vacuum in India: Deepfakes and the Patchwork of Existing Remedies](#)
- [Conclusion](#)

Personality Rights in India: Foundations and Judicial Evolution

Personality rights in India are not defined by any standalone statute. Instead, courts have derived the concept from constitutional principles, tort law and intellectual property law. They have become the product of gradual judicial development, shaped through constitutional interpretation, common law principles and other statutes. Indian courts have constructed this body of law incrementally, responding to disputes where personal identity, dignity, reputation, and commercial value intersect. At its core, the evolution of personality rights in India has been guided by two interrelated legal foundations: the constitutional right to privacy and emerging recognition of the right to control the commercial exploitation of one’s identity. Two central themes characterize these rights:

1. **Right to Privacy:** Rooted in the Constitution’s Article 21 guarantee of the right to life and personal liberty and interpreted expansively in [Justice K.S. Puttaswamy v. Union of India \(2017\)](#)² to include informational privacy, autonomy, and dignity.
2. **Right to Publicity:** A personality’s control over the commercial use of their identity, often treated as a derivative of privacy, tortious misappropriation, and equitable principles protecting against unfair exploitation.

The landmark judgment in [Justice K.S. Puttaswamy v. Union of India \(2017\)](#) decisively affirmed that privacy is a constitutionally protected right intrinsic to human dignity. Although the Court did not explicitly use the term “personality rights”, its articulation of

informational privacy, decisional autonomy, and control over personal data laid the normative groundwork for claims involving misuse of identity, likeness, or persona in both physical and digital spaces.

Much before Puttaswamy judgment, the Supreme Court in [R. Rajagopal v. State of Tamil Nadu \(1994\)](#), the Auto shanker case, held that the right to privacy protects the personal intimacies of life, such as marriage, motherhood, procreation, child-rearing, and family, even in case of a public figure. The court held that unauthorized publication of private information violates Article 21, but clarified that matters in the public domain may be subject to legitimate commentary and publication.

While the decision in these cases were aimed to protect the dignity and intimacy on one, the HC's language stretched privacy to include *control over how one's identity is represented*. It treated the unauthorized depiction and use of one personality rights not only as defamation or any emotional injury but as an invasion to one's privacy and then what began as a dignity-based claims against misrepresentation has through successive judicial decisions, converted into a doctrine that almost treated every unauthorized use or representation as a violation of personal rights.

This judicial evolution of personality rights was furthered in the commercial context in the case of [D.M. Entertainment \(P\) Ltd. v. Baby Gift House \(2010\)](#)³, where the Delhi High Court, restrained the sale of merchandise or dolls bearing the likeness of the singer Daler Mehndi without authorization, recognizing that the identity of a celebrity has an independent commercial value, distinct from the traditional trademark rights, and that unauthorized use amounts to infringement of personality rights identifying that the right of publicity with an individual's autonomy to permit or not permit the commercial exploitation of his likeness is in own hands.

The recognition was further strengthened in [Titan Industries Ltd. V. Ramkumar Jewellers \(2012\)](#)⁴, where the Delhi High Court restrained the unauthorized use of images of Amitabh Bachchan and Jaya Bachchan in jewelry advertisements. The Court emphasized that the celebrities invest their years of life in building their reputation and public image, which acquires immense commercial value. Any unauthorized commercial use of such identity, the Court held, amounts to an unlawful appropriation of that value and misleads consumers by falsely suggesting endorsements or associations.

The Right to Publicity and Commercial Protection

In [Amitabh Bachchan v. Rajat Negi \(2022\)](#), was aggrieved by the fake KBC scam the Delhi High Court granted interim protection and *ad-interim ex-parte injunction* in favor of Amitabh Bachchan & against the unauthorized use of the actor's name, image, and voice, acknowledging the risk of irreparable harm and dilution of goodwill in the digital realm. The Court noted that the nuances of modern misuse, require vigilant judicial oversight to protect personality rights against new forms of exploitation.

Similarly, in another case of [Anil Kapoor v. Simply Life India \(2023\)](#)⁵, the Court extended protection to not just image and name but also catchphrases and associated digital assets, highlighting the broader scope of personality rights necessary in the digital age as his voice, image, likeness, persona, and even the manner of his speaking were being misused across various internet platforms through advanced technologies such as artificial intelligence, deepfakes, and face morphing. The defendants were restrained from using further Kapoor's persona to produce or distribute any merchandise for commercial purpose or any other purpose through AI-based tools.

The digital revolution has identified the misuse of personality traits in ways unprecedented before. Artificial intelligence has enabled the creation of deepfake videos, voice cloning, and digitally synthesized images that can closely mimic real individuals. Social media platforms, without adequate safeguards, become conduits for rapid dissemination of misleading or harmful content. Influencers and content creators routinely use celebrity images or voices in memes, reviews, and commentary without consent, raising complex questions about free speech and unfair exploitation.

In [Jaikishan Kakubhai Saraf alias Jackie Shroff v. The Peppy Store & Ors. \(2024\)](#)⁶ 2 HCC (Del) 253, the Delhi High Court grappled with the unauthorised commercial use of Shroff's likeness on merchandise. The Court protected the Personality Rights of the plaintiff therein by granting an ad-interim ex-parte injunction in his favour, restraining the liable defendants therein from violating the plaintiff's Personality Rights and causing prejudice to the plaintiff's reputation. The Court recognized that memes, parodies, and critical commentary occupy a space that should be safeguarded under the freedom of speech, clarifying that not all use of personality traits constitutes unlawful exploitation.

Further, this Court in [Aishwarya Rai Bachchan v. Aishwaryaworld.com & Ors.](#)⁷, has granted injunction from misusing the name, image, likeness and diluting public persona of the plaintiff therein through the use of technology including Artificial Intelligence,

The New era of Personality Rights: John Doe Protection & Pre-emptive Control in the Digital Space

A significant recent development in the jurisprudence of personality rights emerged from the Madras High Court order in the *Kamal Hassan's [Kamal Hassan's Case](#)*, where the Madras High Court granted a John Doe (Ashok Kumar) injunction to protect the personality rights of the veteran actor-politician against anticipated misuse in the digital domain. The petitioner approached the court apprehending unauthorized exploitation of his name, image, voice, likeness, and mannerism, particularly through AI-generated content, deepfakes videos, misleading advertisements, and unauthorized commercial endorsements circulated across digital platforms. Recognizing the scale and speed at which such misuse can occur online, the court restrained the unknown and unidentified persons from using Kamal Hassan's persona for any commercial or deceptive purposes without consent on January 12, 2026. The order is notable for its preventive orientation rather than a purely remedial one.

While the Kamal Hassan order reinforces judicial willingness to safeguard celebrity persona against commercial exploitation, it also raises important doctrinal questions. The injunctions, broad in scope, potentially restricts a wide range of uses including future unidentified acts, without a detailed enquiry into the consumer confusion, parody, or transformative expression. This echoes the larger trend in Indian courts where consent-based personality protection increasingly overrides traditional tests of misrepresentation or market deception. The decision thus exemplifies the judiciary's growing reliance on dignity and autonomy-based reasoning to justify expansive personality rights, even as statutory clarity remains absent.

Drawing the Line: Personality Rights & Posthumous Personality Rights

This expansive protection accorded to the living personalities in India, particularly in the digital and commercial context, inevitably raises a difficult question recently that: Do personality rights survive death? While the recent judicial trends show increasing willingness to restrain misuse of a living individual's identity, Indian courts have largely resisted extending such protection posthumously. This distinction becomes crucial in understanding where the law draws the boundary between protecting legacy and preserving creative freedom. The Madhya Pradesh High Court's decision in *Ms Siddiqua Begum Khan v. Union of India and Ors.* related to the recent movie "*Haq*", where the petitioner, daughter of the late Shah Bano Begum, challenged the release of a feature film inspired by her mother's life and legal struggle. She argued that the film distorted historical facts, harmed the dignity and reputation of Shah Bano, and violated inherited personality and moral rights. The petitioner asserted that as a legal heir, she possessed the authority to control the depiction of her mother's life and to withhold consent for any commercial exploitation. She claimed a violation of their privacy under Article 21 of the Constitution and sought directions to withhold or revoke the certification of the movie. This claim was framed as a continuation of personality rights flowing through lineage, particularly where the subject is a historically significant individual whose identity carries moral and symbolic value.

The Madhya Pradesh High Court decisively rejected this contention, reaffirming that personality rights, privacy, and reputation are personal in nature to the individual and extinguish upon death. Relying on earlier precedents such as *Deepa Jaya Kumar v. AL Vijay and Ors. (2021)*⁸ and held that the privacy and reputation earned during the lifetime of a person get extinguished on their death, and thus such rights are not heritable. The court stated that there exist no breach of privacy under Article 12 of the Indian Constitution, once the facts enter the public domain, especially through the court judgments and historical records, they become legitimate subjects of commentary, interpretation, and creative expression. The court clarified that Article 21 protections cannot be invoked posthumously in the absence of statutory recognition, and that no enforceable constitutional rights survives for legal heirs merely on the basis of familial relationship.

When viewed alongside contemporary personality rights cases involving living celebrities such as Amitabh Bachchan, Anil Kapoor, Abhishek Bachchan, Kamal Hassan and many other, the Haq judgment marks a clear doctrinal contrast. While courts readily intervene to prevent commercial misuse, false endorsements, and AI-driven impersonation of living individuals, they remain cautious in extending similar protections beyond death.

Digital Vacuum in India: Deepfakes and the Patchwork of Existing Remedies

Despite the serious risks posed by deepfake technologies, India currently lacks dedicated statutory framework to regulate AI-generated impersonation or identity misuse including the personality rights protection. The only focused governmental response has come through advisories issued by the MeitY in 2023 & 2024, primarily directed at intermediaries. These advisories

encourage platforms to inform users about unlawful content, remove misinformation, enable grievance Redressal, and adopt the traceability measures such as metadata tagging for AI-generated content. However, these are administrative guidelines rather than enforceable legal rights, offering limited relief to affected individuals.

In the absence of specific legislation, victims must rely on indirect and fragmented legal provisions, depending on how the deepfakes is used. Copyright law may apply where protected works or performances are reproduced or altered without consent, allowing claims for infringement or moral rights violations. Trademark law offers protection only in limited commercial contexts, particularly where names and likenesses are registered and falsely suggest endorsement and common law principle in tort of Passing off. Similarly, select provisions of the Information Technology Act, 2000 may be invoked where deepfakes involve impersonation, obscenity (Section 67), sexually explicit material (Section 67A), cheating by impersonation (Section 66D), or violates an individual privacy by publishing or transmitting the image of their private parts (Section 66E) or privacy violations, but these sections addresses only narrow categories of harm.

Taken together, these stopgap remedies highlights a significant regulatory vacuum. While courts have increasingly recognized personality rights in the digital context, the absence of a comprehensive legal framework leaves deepfake-related identity misuse largely unregulated. This disconnect underscores the urgent need for a coherent legislative response that directly addresses consent, commercial exploitation, and AI-driven replication of personality in the digital age.

Conclusion

The evolving jurisprudence on personality rights in India reflects a judicial attempt to respond to the realities of a digitized and commercialized identity economy, where personal attributes have acquired both reputational and economic significance. From the foundational recognition of publicity and commercial interests to the expansion of pre-emptive remedies such as John Doe orders, courts have increasingly positioned personality rights ad deserving of robust protection against unauthorized exploitation. The *Haq* decision, read alongside recent injunctions and posthumous protection claims, underscores a cautious balancing of creative freedom with the imperative to prevent misappropriation, false endorsement, and erosion of individual dignity. However, the growing reliance on judicial pronouncements and innovation also exposes the limitations of India's existing statutory framework, particularly in addressing AI- enabled impersonation and deepfake technologies. In the absence of dedicated regulatory regime, personality rights protection remains fragmented and reactive, reinforcing the urgent need for a coherent legal response.

For more details, write to us at: contact@indialaw.in

1. WRIT PETITION No. 42708 of 2025 ??
2. Writ Petition (Civil) No. 494 of 2012 ??
3. MANU/DE/2043/2010 (CS(OS) 893/2002) ??
4. CS(OS) No.2662/2011 ??
5. CS(COMM) 652/2023 and I.A. 18237/2023-18243/2023 ??
6. CS(COMM) 389/2024 ??
7. CS(COMM) 956/2025 ??
8. O.S.A.No.75 of 2020 and C.M.P.Nos.2945, 2946 and 9240 of 2020 ??

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