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# **THE PERSONA PARADOX: ARE PERSONALITY RIGHTS FOR EVERYONE, OR JUST THE RICH AND FAMOUS?**

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## **ABSTRACT**

In an age where social media and digital platforms dominate everyday interactions, the boundaries between personal identity and public image are increasingly blurred. For celebrities and public figures, elements such as their name, likeness, and voice are not only central to their identity but also function as valuable assets. The unauthorised commercial exploitation of these attributes has sparked significant legal debates in India, bringing the concept of personality rights into sharper focus. This paper traces the judicial evolution of personality rights through prominent cases involving Amitabh Bachchan, Aishwarya Rai Bachchan, Abhishek Bachchan, Karan Johar, and Arijit Singh. It examines how courts have addressed the delicate balance between the right to publicity and the right to privacy, while also acknowledging the difficulties faced by ordinary individuals in safeguarding their persona. By engaging with emerging challenges such as AI-driven deepfakes, the study highlights the judiciary's evolving role in protecting identity in the digital era.

*Keywords:* Personality Rights, Right to Publicity, Right to Privacy, Judiciary, Deepfakes

## **WHAT ARE PERSONALITY RIGHTS, AND HOW ARE THEY DISTINCT FROM CELEBRITY RIGHTS?**

Personality rights basically refer to an individual's rights over others using their identity for commercial purposes. They include their name, likeness, voice characteristics, signature, and any other distinctive attributes associated with an individual. It allows an individual to prevent others from using such traits for advertising, endorsing, or any other commercial enterprise without their approval.

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Although "personality rights" and "celebrity rights" are exchangeable terms to a great extent, they bear a subtle difference. The term celebrity rights encompasses a vast scope of legal protections to famous individuals, including defamation protection and invasion of privacy. Personality rights, on the other hand, pertain to a distinct set of such protections regarding only the commercial exploitation of one's persona. Personality rights largely entail the "right of publicity," addressing one's right to regulate the commercial value of one's persona, as well as "right to privacy," which grants protection from undesired public exposure.

## COMPREHENDING THE JURIDICAL UNDERPINNINGS

Personality rights are an intricate legal principle that accords individuals protection for various aspects of their personality from being utilized and profited from by third parties without their consent. These rights present a dual kind, including the Right to Privacy as well as the Right to Publicity.

- **Right to Privacy:** It is a dignitary right codified into the Constitution of India, mostly into Article 21, to ensure the right to life and liberty. It involves a person's right to a sense of personal freedom and freedom from undesired public exposure. It is primarily a right to protect people from unwanted public disclosure about their personal lives.
- **Right to Publicity:** On the contrary, it is a commercial right that recognizes the economic and proprietary value of a person's identity. It forbids third parties from exploiting a person's image, voice, or other unique features for commercial interests without express permission. An example of exercising such a right came into light in recent times with the *Anil Kapoor case*, where his personality has been stopped from being utilized for "unauthorized commercial gains."

This dual attribute creates a strategic advantage for a plaintiff, who can claim dignitary harm (injury to privacy) as well as economic loss (infringement of publicity) at the same time, as seen with recent legal motions by actors Abhishek Bachchan, Aishwarya Rai Bachchan, and director Karan Johar. Both their economic interests as well as their right to dignity were protected by the Delhi High Court with an injunction to stop an unauthorized AI-generated image from being used. For

non-famous people, the most common legal basis for a claim would typically be framed within the dignitary aspect of privacy because proving commercial value is often difficult.

## **THE EVOLUTION OF JURISPRUDENCE: CASE-BY-CASE ANALYSIS**

Personality rights legal framework has not been enacted, but has been carefully developed through court dictum

### **ARTICLE 21: FUNDAMENTAL TO THE CONSTITUTION**

The fundamental premise behind personality rights in India is largely framed with reference to the Constitution. Such a legal principle has been formulated out of the right to liberty and life as enshrined within Article 21.

The significant case of *R. Rajagopal v. State of Tamil Nadu (1994)* is regarded as a fundamental cornerstone, as the Supreme Court acknowledged the right to privacy as an essential element of Article 21. The court clearly articulated that an individual's life narrative could not be disseminated without their permission, unless it was included within the public domain. This principle was further solidified by the Supreme Court's unanimous verdict in *Justice K.S. Puttaswamy v. Union of India (2017)*. This decision marked a pivotal moment, as it established the right to privacy as a fundamental right in its own right under Article 21. The broad applicability of this ruling implicitly broadened the foundational premise of personality rights to encompass all citizens, transitioning the inquiry from whether the right exists to how it can be effectively implemented for the average individual.

### **EVOLVING DEVELOPMENT OF RIGHT TO PUBLICITY**

The evolution of a right to dignity into a recognized commercial right started in the common law regime. An especially remarkable local decision came from the Delhi High Court's ruling in *ICC Development (International) Ltd. v. Arvee Enterprises (2003)*. Such a case has been repeatedly regarded as a decisive watershed moment because it explicitly recognized the right of publicity as a legal

right to be enforced, thus reinforcing its status as a kind of intellectual property. It was ruled by the court that such a right "inheres only in an individual."

Thereafter came the case of *D.M. Entertainment Pvt. Ltd. v. Baby Gift House and Ors. (2010)*, where an injunction was passed by the Delhi High Court supporting singer Daler Mehndi against the wrongful merchandising of dolls having a resemblance to him both visually and vocally. It was a pioneering case to establish that personality rights are more than a name or a likeness but cover a person's entire persona, along with associated attributes.

## **THE CELEBRITY-CENTRED PARADIGM: THE IMPERATIVE OF COMMERCIAL WORTH**

Although the fundamental right to privacy is recognised universally, the practical enforcement of the right to publicity has evolved into a domain primarily centred around celebrities. For a plaintiff to succeed in such a claim, they must fulfil a two-part criterion: public recognizability and economic benefit. The inherent fame of a celebrity automatically meets both requirements. In a landmark decision, the Delhi High Court issued a comprehensive order safeguarding the personality rights of the iconic actor Amitabh Bachchan. The court prohibited society as a whole from infringing upon his persona by utilizing his name, voice, or any other characteristic for commercial purposes without his explicit permission. This case represented a pivotal moment as it acknowledged the substantial economic value associated with a celebrity's identity and the necessity of safeguarding it against unauthorised exploitation. The court in *Titan Industries v. Ramkumar Jewellers (2012)* further solidified this principle, determining that the unauthorized use of images depicting Amitabh and Jaya Bachchan constituted a breach of their publicity rights. The ruling affirmed that a celebrity's persona possesses an inherent, pre-existing monetary value warranting protection, emphasizing that the right to regulate the commercial use of a human identity "vests with the famous personality."

The *Jackie Shroff case* also broadened personality rights to novel colloquialisms and behavior, emblematically represented by the term "Bhidu," which was denied to be commercialized.

Conversely, an individual who is not a public figure does not possess this public recognizability and commercial significance, rendering a claim regarding a breach of publicity rights largely impractical. This situation does not constitute a legal constraint on the right itself; rather, it represents a procedural obstacle stemming from the substantial burden of proof required. The same notoriety that renders a celebrity susceptible to exploitation simultaneously supplies the necessary evidence for a favorable legal action.

## **COMMON MAN'S RIGHTS: BREAKING THROUGH THE "CELEBRITY" BARRIER**

Notwithstanding the paparazzi-driven trend, examination of jurisprudence is an affirmation that personality rights never were a celebrity monopoly. The initial proposition supporting their universality is that the right to privacy as a fundamental right under Article 21 is guaranteed to citizens in general.

In *Gautam Gambhir v. D.A.P. & Co. (2017)*, a Delhi High Court denied an injunction against a lounge owner whose name happened to be Gautam Gambhir. It saw that the defendant was neither "passing off" nor fraudulently making use of the celebrity's reputation. In such a situation, it would seem that courts would be tending to draw a distinction between the rightful use of one's own identity and illicit commercial benefit, even where public personalities are involved.

Because of the difficulty in proving commercial gain to establish a claim, a non-specialist's first solution to identity exploitation may not be a publicity right claim but defamation, misappropriation, or invasion of right to privacy. These causes of action focus on dignitary or reputational harm which is not required to establish a pre-existing commercial value to their identity.

## **NAVIGATING THE FUTURE LANDSCAPE: ARTIFICIAL INTELLIGENCE AND DEEPFAKES**

The legal landscape is also being reshaped because generative AI is advancing so quickly. AI-based impersonation tools like deepfakes and false voice recordings represent a significant and ubiquitous threat. Such technologies are now no longer available only to large corporations but

can be utilized to commit financial fraud, political coercion, or defamation of character against anyone.

The *Arijit Singh* case also upheld the personality rights of the singer against the illegal usage of his voice with the help of AI, as a celebrity's voice is an integral part of his personality. The petitions brought to court by *Abhishek Bachchan*, *Aishwarya Rai Bachchan*, and *Karan Johar* highlight present-day concerns regarding personality rights because their lawsuits related to the improper use of their names, faces, and even AI-created deepfakes for purposes of creating false information, image manipulation, and online store sales. Interim injunctions have been granted by the judiciary in these cases with a focus on reaffirming its commitment to protect people from online impersonation as well as commercial exploitation.

These instances signify a crucial turning point in legal theory, illustrating the judiciary's assertive approach and its recognition that the menace of digital impersonation constitutes a widespread issue capable of affecting any individual, irrespective of their notoriety.

## CONCLUSION

The development of personality rights in India forms a fascinating tale of judicial evolution. It is a remarkable history of how the judiciary has continually defined, expanded, and protected an individual's identity from improper commercial exploitation, ranging from illegal concerts to deepfakes. It becomes apparent that even though personality rights have been accepted as universal rights, their effective enforcement almost exclusively exists in a de facto celebrity-centric realm because of the heavy burden of proof necessary. However, with the advent of artificial intelligence and digital threats that affect one and all equally, it becomes imperative to broaden these rights to cover an individual person as a pragmatic necessity. Inasmuch as the judiciary has developed a sturdy foundational framework, codification of a complete statute is now necessary to inject clarity and uniformity into a right that has increasingly grown critical. Such a statute would not only increase legal certainty but also serve as a more effective deterrent to improper exploitation of personal identities for commercial interests. As we navigate the complex terrain of a digital sphere, it is necessary that laws keep pace to protect the very fundamental core of our identity, our personality.

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