



AI-GENERATED DEEPFAKES AND PERSONALITY RIGHTS IN INDIA: EMERGING LEGAL CHALLENGES AND THE NEED FOR A REGULATORY FRAMEWORK

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ABSTRACT

The rapid development of Artificial Intelligence (AI) and generative AI has transformed the manner in which images, voices, videos and other forms of digital content can be created and manipulated. One important consequence is the emergence of deepfakes and AI-generated digital replicas of individuals. A person's face, voice, name, mannerisms and other identifiable characteristics can now be reproduced with increasing accuracy, sometimes without the person's knowledge or consent. This development creates difficult legal questions concerning privacy, dignity, personality rights, publicity rights, copyright, freedom of speech and intermediary responsibility. Indian law does not presently contain one comprehensive statute exclusively governing personality rights or AI-generated digital replicas. Instead, protection is derived from constitutional rights, intellectual property legislation, the law of passing off, privacy jurisprudence, information technology law and emerging data-protection legislation. The Supreme Court's recognition of privacy as a constitutionally protected right in Justice K.S. Puttaswamy (Retd.) v. Union of India provides an important constitutional foundation. The Delhi High Court's decision in Anil Kapoor v. Simply Life India and the Bombay High Court's proceedings concerning singer Arijit Singh demonstrate how Indian courts are applying existing personality-rights principles to AI-enabled misuse. This article examines the legal status of AI-generated deepfakes and digital replicas in India, analyses existing judicial and statutory protections, identifies legal gaps and proposes elements of a balanced regulatory framework that protects individuals without unnecessarily restricting legitimate creativity, satire, journalism, research and technological innovation.

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INTRODUCTION

Artificial Intelligence has changed the relationship between technology and individual identity. Earlier, copying a person's appearance or voice required substantial technical resources. Today, publicly available AI tools can generate realistic images, imitate voices, modify videos and create synthetic content using relatively small amounts of input data.

A deepfake may be understood broadly as synthetic or manipulated digital content that makes a person appear to say or do something that they did not actually say or do. The legal problem becomes more complex when the technology is used to reproduce a person's name, face, voice, likeness, mannerisms or other characteristics without authorisation.

The issue is not limited to celebrities. A person's photograph, voice recording or video may be used to create fraudulent advertisements, impersonation, misleading political or commercial communications, defamatory material or sexually explicit content. At the same time, not every AI-generated imitation should automatically be considered unlawful. Satire, parody, artistic expression, commentary, criticism, education and research may involve legitimate use of a person's identity.

The central legal question is therefore not simply whether AI can imitate a person. The more important question is under what circumstances should such imitation attract legal liability? Indian law approaches this problem through multiple legal principles rather than through a single comprehensive personality-rights statute. The Information Technology Act, 2000 provides the principal statutory framework for various forms of electronic activity and cyber offences, while India's data-protection framework addresses processing of digital personal data.

MEANING OF PERSONALITY RIGHTS

Personality rights generally refer to legal interests associated with an individual's identity and personal attributes. These may include a person's name, image, voice, likeness, signature, distinctive characteristics or other elements through which the individual is identifiable.

Personality rights are closely connected with two concepts: the right of privacy and the right of publicity. The right of privacy protects an individual's interest in personal autonomy, dignity

and control over aspects of personal life. The right of publicity, in contrast, is generally concerned with the commercial exploitation of a person's identity.

For example, if a company uses a celebrity's photograph in an advertisement without permission, the issue may involve commercial exploitation of the celebrity's identity. Similarly, if an AI system creates a synthetic advertisement using the celebrity's cloned voice, the same underlying concern may arise even though the original voice recording has not simply been copied.

Indian courts have developed personality-rights protection through judicial decisions. However, personality rights are not presently contained in one comprehensive Indian statute defining their precise scope, duration, exceptions and remedies. This creates uncertainty in cases involving emerging technologies such as generative AI.

CONSTITUTIONAL FOUNDATION: ARTICLE 21 AND THE RIGHT TO PRIVACY

A significant constitutional foundation for protecting digital identity is Article 21 of the Constitution of India. In Justice K.S. Puttaswamy (Retd.) v. Union of India, a nine-judge Bench of the Supreme Court recognised privacy as a constitutionally protected right. The Court connected privacy with dignity, liberty and individual autonomy.

The judgment is particularly significant for the digital age because privacy is not limited to physical spaces. Modern privacy concerns also involve information, data and control over personal identity. The Supreme Court has subsequently emphasised that informational privacy is an important component of privacy. In the context of data collection, the Court has stressed the importance of lawful authority and safeguards.

This constitutional approach becomes relevant to deepfakes because AI-generated representations can interfere with an individual's autonomy and dignity. For example, a person may have a reasonable interest in preventing their face or voice from being digitally manipulated to communicate something they never intended to communicate. However, privacy is not an unlimited right. A legal framework must also consider freedom of speech and expression under Article 19(1)(a), legitimate artistic expression, journalism, satire and public-interest communication. Therefore, the legal problem requires a balance between identity protection and freedom of expression.

AI DEEPPAKES AND THE PROBLEM OF CONSENT

Consent is one of the central issues in AI-generated digital replicas. Suppose an actor provides a company with a voice recording for a particular advertisement. The company subsequently uses that recording to train an AI system that generates new statements in the actor's voice. The question is whether consent for the original recording automatically amounts to consent for AI-generated reproduction. The answer should not automatically be yes. The Digital Personal Data Protection Act, 2023 adopts a consent-based framework for processing digital personal data, subject to the grounds recognised by the legislation. The Act describes consent as requiring characteristics such as being free, specific, informed, unconditional and unambiguous.

This principle has broader significance for AI governance. Consent should ideally identify:

- what data is being used;
- why the data is being used;
- whether it will be used to train an AI system;
- whether synthetic outputs will be generated;
- whether commercial exploitation is permitted; and
- whether the individual can withdraw consent where legally applicable.

A general permission to use a photograph should not necessarily be treated as unlimited permission to create an AI-generated digital replica.

ANIL KAPOOR V. SIMPLY LIFE INDIA: PERSONALITY RIGHTS AND AI

The Delhi High Court's decision in *Anil Kapoor v. Simply Life India & Ors.* illustrates the application of personality-rights principles to AI-related misuse. The case concerned unauthorised use of Anil Kapoor's name, image, voice, persona and other attributes. The proceedings also involved technology capable of creating manipulated and AI-generated content. The Delhi High Court granted protection against unauthorised exploitation of his personality, including misuse through technological tools.

The significance of the case lies in the court's recognition that technological developments can increase the potential for misuse of a person's identity. AI can make imitation easier, faster and more scalable. The case demonstrates an important legal principle: the technological method of infringement should not necessarily determine whether the underlying personality interest

receives protection. If a person's identity is commercially exploited without permission, the fact that AI rather than conventional editing software was used does not by itself remove the legal concern. At the same time, courts must distinguish unlawful commercial exploitation from legitimate speech. A parody, film, documentary or critical article may use a person's identity for purposes different from commercial impersonation.

ARIJIT SINGH V. CODIBLE VENTURES LLP: VOICE CLONING AND AI

The Bombay High Court proceedings involving singer Arijit Singh provide another important example. The case concerned alleged unauthorised use of the singer's name, voice, image, likeness and other personality attributes. The proceedings specifically referred to AI-generated voice models, voice-conversion tools, deepfakes and other technologies capable of reproducing aspects of his identity.

The case is significant because voice itself can function as an important element of identity. Traditional personality-rights disputes often focused on photographs, names or visual likenesses. AI expands the problem because an individual's identity can be represented through:

- voice;
- facial characteristics;
- speech patterns;
- mannerisms;
- gestures;
- writing style;
- digital avatars;
- synthetic performances; and
- combinations of these characteristics.

The case therefore demonstrates why future legal rules cannot focus exclusively on photographs and names.

EXISTING STATUTORY FRAMEWORK IN INDIA

India currently addresses different aspects of digital misuse through several legal instruments.

Information Technology Act 2000: The Information Technology Act, 2000 provides the foundational statutory framework governing electronic records, electronic transactions and

several forms of cyber conduct. The Act is important in cases involving digital impersonation, unauthorised access, identity-related misuse and other cyber activities, depending upon the facts of the particular case.

However, the IT Act was enacted in 2000, long before modern generative AI systems became widespread. Consequently, it was not designed specifically to regulate generative AI, synthetic media or AI-generated digital replicas.

Digital Personal Data Protection Act 2023: The Digital Personal Data Protection Act, 2023 provides a statutory framework concerning the processing of digital personal data. The Ministry of Electronics and Information Technology describes the legislation as recognising both individual rights concerning personal data and the need for lawful processing. The Act introduces concepts such as the Data Principal, the individual to whom personal data relates, and the Data Fiduciary, which determines the purpose and means of processing personal data. The framework is relevant to AI because training and operating AI systems may involve processing personal data. However, personality rights and data protection are not identical concepts.

A person may have an interest in their voice or likeness even where a particular legal question does not fit neatly within personal-data processing. Thus, data protection cannot by itself replace a comprehensive personality-rights framework.

COPYRIGHT AND AI-GENERATED IDENTITY

Copyright law may also become relevant where AI systems reproduce protected performances, photographs, recordings or other copyrighted material. For example, suppose an AI system is trained or operated using a singer's existing recordings. Several different legal questions may arise:

- Who owns copyright in the original recording?
- Was the recording lawfully used?
- Does the AI output reproduce a substantial protected expression?
- Is the output merely similar to a person's voice?
- Are performers' rights implicated?
- Is the use commercial?
- Was permission obtained?

These questions demonstrate why personality rights and copyright should not be treated as identical. Copyright generally protects qualifying works and related interests, whereas personality rights focus on the connection between an individual and their identity. A person's voice may raise personality concerns even when the legal status of a newly generated recording under copyright law is uncertain.

DEEPPAKES, DEFAMATION AND REPUTATION

AI-generated content can also create problems under defamation law. Consider a situation where an AI-generated video makes it appear that a person has committed a crime. Even though the person never made the statement or performed the act, viewers may believe that the video is authentic.

The legal issue may involve:

- falsity;
- publication;
- identification of the individual;
- injury to reputation;
- intention or applicable fault standards;
- available defences; and
- intermediary responsibility.

Deepfakes therefore create a distinctive evidentiary problem. Courts may have to determine whether digital content is genuine, manipulated or synthetically generated. This makes technological authenticity and digital-forensics evidence increasingly important in legal proceedings.

FREEDOM OF SPEECH AND LEGITIMATE USES OF AI

A personality-rights framework must not be designed in a way that prohibits every use of a person's identity. There are legitimate uses of synthetic media. For example:

Satire: An AI-generated parody may use a public figure's characteristics to comment on public affairs.

Journalism: News organisations may use digital reconstruction or illustrative content, provided that the material is not presented deceptively.

Education: Teachers and researchers may use synthetic examples to explain technological or legal issues.

Art: Artists may incorporate digital representations of public figures as part of creative expression.

Historical Reconstruction: AI may sometimes be used to reconstruct historical figures or events.

Therefore, a legal rule based only on the presence of a person's face or voice would be excessively broad. The legal test should instead consider factors such as consent, purpose, deception, commercial exploitation, harm, public interest and the manner in which the synthetic content is presented.

LIABILITY OF AI PLATFORMS AND INTERMEDIARIES

Another major question concerns the responsibility of AI platforms. Suppose an individual uploads a photograph of a celebrity to an AI platform and generates an unauthorised deepfake. Several actors may potentially be involved:

- the person creating the deepfake;
- the person distributing it;
- the AI platform providing the tool;
- the website hosting the content;
- social-media platforms distributing it; and
- advertisers or businesses commercially benefiting from it.

The law therefore faces the problem of allocating responsibility across a technological chain. A platform that merely provides a general-purpose AI tool is not necessarily equivalent to a person who intentionally creates and distributes unlawful material. At the same time, platforms may have responsibilities concerning notices, complaints, unlawful content and reasonable safeguards under applicable law. The challenge is to avoid both extremes: complete platform immunity and unlimited platform liability.

THE PROBLEM OF POSTHUMOUS DIGITAL PERSONALITY

An emerging question concerns the digital replicas of deceased persons. Generative AI can create a deceased actor's voice, image or conversational avatar. This creates difficult questions because the individual is no longer alive to provide consent.

Potential interests may include:

- the deceased person's previously established personality interests;
- contractual rights;
- copyright and performers' rights;
- family interests;
- estate interests;
- commercial goodwill; and
- protection against misleading representation.

Indian law does not yet provide a comprehensive statutory framework specifically governing posthumous AI replicas. A regulatory framework may therefore need to distinguish between legitimate historical or artistic representation and commercial exploitation or deceptive impersonation.

NEED FOR A SPECIFIC REGULATORY FRAMEWORK

India's existing legal framework provides several tools for addressing AI-related misuse, but technological development creates situations that do not fit neatly within traditional legal categories.

A future framework could contain the following elements.

Definition of Synthetic Identity: The law could define AI-generated digital replicas to include synthetic representations of a person's voice, face, image, likeness or other identifiable characteristics.

Consent Standards: Commercial creation of highly realistic digital replicas could ordinarily require informed and specific consent.

Disclosure and Labelling: AI-generated or substantially manipulated media could, where appropriate, carry a clear disclosure that it is synthetic or manipulated.

Rapid Removal Mechanisms: Victims of harmful deepfakes should have accessible mechanisms for reporting and seeking timely removal.

Protection of Legitimate Expression: Exceptions should protect journalism, parody, satire, criticism, research, education, art and other legitimate expression subject to applicable law.

Special Protection Against Fraud: Where synthetic media is used for financial fraud, identity theft, impersonation or other unlawful conduct, stronger remedies may be appropriate.

Accountability and Traceability: Platforms could maintain appropriate records and technical mechanisms that assist investigation while respecting privacy and due process.

Remedies: Victims may require a combination of injunctions, removal, correction, damages and other appropriate remedies depending upon the nature of the violation.

CHALLENGES IN ENFORCEMENT

Even with a new law, enforcement would remain difficult. First, AI-generated content can be produced anonymously. Second, content can rapidly move between jurisdictions. Third, the same content may be uploaded to multiple platforms. Fourth, technological detection systems are not always perfect. Fifth, excessive regulation may affect legitimate speech and innovation. Sixth, determining the authenticity of digital evidence can itself become technically complicated.

Therefore, legal reform must be accompanied by technological capacity, digital-forensics expertise, judicial training and public awareness. The Supreme Court itself has recognised the importance of privacy in the digital environment and the need for safeguards when personal information is collected or processed.

CONCLUSION

Artificial Intelligence has changed the meaning of digital identity. A person's identity is no longer represented only by a photograph or written name. Modern AI can reproduce voices, faces, mannerisms and other characteristics in highly realistic forms.

Indian constitutional jurisprudence, particularly the recognition of privacy under Article 21, provides an important foundation for protecting individual autonomy and dignity. Judicial decisions such as *Anil Kapoor v. Simply Life India* and the proceedings involving Arijit Singh demonstrate that Indian courts are already confronting AI-enabled personality-rights disputes.

At the statutory level, the Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, copyright law and other legal principles provide different forms of protection. However, these laws were not all designed specifically for the present generation of generative AI and synthetic media.

The appropriate legal response should therefore not be a blanket prohibition on AI-generated content. Instead, the law should distinguish between lawful creativity and harmful identity exploitation.

The central principles should be consent, transparency, accountability, proportionality and effective remedies. Commercial exploitation of a person's identity without authorisation, deceptive impersonation, fraud and harmful synthetic content require effective legal responses. At the same time, satire, journalism, criticism, artistic expression, research and legitimate technological experimentation must retain appropriate protection.

Ultimately, the challenge is to develop a legal framework in which technological innovation and individual rights can coexist. AI should not eliminate the legal significance of identity; rather, the law must evolve so that technological power remains subject to principles of dignity, autonomy, privacy, accountability and justice.

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