

Personality rights of Celebrities

September 24, 2023 • vajiramandravi.com



What's in today's article?

- **Why in news?**
- **The personality rights**
- **Existing Legal/constitutional provisions to protect Personality rights**
- **Other SC judgements with respect to protecting personality rights**
- **Personality rights on internet**
- **Personal rights vs consumer rights**
- **News Summary: Personality rights of Celebrities**
- **Significance of this order**

Why in news?

- The Delhi High Court passed an interim order protecting the personality rights of Bollywood actor Anil Kapoor.

- The judgement restrained various entities from misusing his image, name, voice or other elements of his persona for monetary gains without his consent.

The personality rights:

- **About**

- The name, voice, signature, images or any other feature easily identified by the public are markers of a celebrity's personality and are **referred loosely as personality rights**.
- These could include a pose, a mannerism or any aspect of their personality.
- Many celebrities even register some aspects as a trademark to use them commercially.
 - For example, Usain Bolt's "bolting" or lightning pose is a registered trademark.
- The idea is that only the owner or creator of these distinct features has the right to derive any commercial benefit from it.

- **Legal/Constitutional basis**

- Personality rights or their protection are not expressly mentioned in a statute in India.
- However, these rights are traced to fall under the **right to privacy and the right to property**.
 - Even as the Delhi High Court and the Madras High Court have passed interim orders, the law is at a nascent stage in India.

- **Types of personality rights**

- Personality rights are divided into two categories:
 - **The right of publicity**, or the right to keep one's image and likeness from being commercially exploited without permission. It is similar (but not identical) to the use of a trademark.
 - **The right to privacy** or the right to **not** having one's personality represented publicly without permission.

Existing Legal/constitutional provisions

- In India, the publicity rights are governed by statutes like **the Trademarks Act 1999 and the Copyright Act 1957**.
- With the 2017 judgment (**Justice K. S. Puttaswamy (Retd.) v. Union of India**), the personality rights were elevated to the position of constitutional rights.
 - The ruling formally recognised the **right to privacy** as a fundamental right derived from the right to life and personal liberty, as provided by **Article 21** of the Indian Constitution.
 - The court ruled that an individual may be permitted to prevent others from using his/her image, name and other aspects of his/her personal life and identity for commercial purposes without his/her consent.

Other SC judgements

- **Shivaji Rao Gaikwad (aka Rajinikanth) v. Varsha Production:** Though there is no definition for the personality right under any statute in India, there is still the recognition of personality right.
- **ICC Development (International) Ltd., Vs. Arvee Enterprises:** The right of publicity has evolved from the right of privacy and any effort to take away this right from the individuals would be violative of **Articles 19 and 21** of the Constitution of India.

Personality rights on internet

- In 2011, the Delhi HC (in Arun Jaitley vs Network Solutions Pvt Ltd) stated that the popularity or fame of individuals will be no different on the internet than in reality.
- Name, due to its peculiar nature/distinctive character, coupled with the gained popularity has become a well-known personal mark under the trademark law.

Personal rights vs consumer rights

- While celebrities are protected from commercial misuse of their name and personality, there have also been instances where the consumers are misled owing to false advertisements or endorsements by such personalities.
- Due to such cases, the Ministry of Consumer Affairs has made a notification – **Guidelines on Prevention of Misleading Advertisements and Endorsements for Misleading Advertisements, 2022**, by imposing a penalty on the endorser.

News Summary: Personality rights of Celebrities

- The Delhi High Court has passed an interim order protecting the personality rights of Anil Kapoor.
- Anil Kapoor sought to restrain the use of his name, the acronym AK, his voice, image, as well as his characters like Lakhan, Mr India, Majnu Bhai, Nayak and the phrase jhakaas with his photo without his consent.
- He is also seeking protection from use of any technology including AI deepfakes, GIFs etc.

Significance of this order

- With rapid changes in technology, there has been rampant misuse of personality attributes such as name, image, likeness, voice etc through tools like artificial intelligence.
- The present order sets a precedent against such misuse in the future.

Q1) What is right to privacy?

The right to privacy is a fundamental human right that refers to an individual's entitlement to keep certain aspects of their life and personal information free from intrusion, surveillance, or interference by others, including the government or other entities.

Q2) What is the Trademarks Act 1999 ?

The Trademarks Act of 1999 is an Indian legislation that governs the registration and protection of trademarks in India. It replaced the previous Trademarks Act of 1940 and brought India's trademark laws in line with international standards, particularly in accordance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), which is a part of the World Trade Organization (WTO).

Source: [Delhi HC protects Anil Kapoor's personality rights: What they are, how have courts ruled](#) | [Live law](#) | [Times of India](#)

Source: <https://vajiramandravi.com/current-affairs/personality-rights-of-celebrities/>

© Vajiram & Ravi. For personal use only.