

Personality Rights in India: How Courts Protect Celebrities in the Digital Era

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PERSONALITY RIGHTS IN INDIA



Personality Rights in India Latest News

- The Delhi High Court has recently expanded protection of personality rights for Bollywood stars against unauthorised use of their images, voices, and likeness.
- The court granted relief to Aishwarya Rai Bachchan and Abhishek Bachchan, following complaints of AI-generated misuse.
- Earlier, Amitabh Bachchan, Anil Kapoor, and Jackie Shroff had secured such safeguards.
- This growing series of petitions marks a significant judicial shift in recognising and enforcing personality rights in India's digital era.

Protection of Personality Rights in India

- Personality rights **protect an individual's name, likeness, image, voice, signature, and other unique traits from unauthorised commercial use.**

- Though **not codified under a single statute**, they are safeguarded through judicial precedents and common law doctrines of privacy, defamation, and publicity rights.
- Courts can grant injunctions, damages, or takedown orders to prevent misuse in ads, merchandise, AI-generated content, or digital platforms.

Statutory Safeguards

- Protection is dispersed across intellectual property laws.
- Under the **Copyright Act, 1957**, performers enjoy **exclusive rights (Section 38A)** and **moral rights (Section 38B)** to control reproduction and object to distortion of their work.
- The **Trade Marks Act, 1999** allows celebrities to register names, signatures, or catchphrases as trademarks — a step taken by actors like Shah Rukh Khan, Priyanka Chopra, Ajay Devgn, and Amitabh Bachchan.
- Additionally, the **common law tort of “passing off” (Section 27)** safeguards goodwill from misrepresentation or false endorsement, though it requires proof of reputation before courts grant relief.

Constitutional Backing

- Personality rights are rooted in **Article 21 of the Constitution**, which guarantees autonomy and privacy.
- While celebrities may authorise the use of their identity in films, ads, or campaigns, unauthorised use — such as printing images on merchandise or creating AI deepfakes — strips them of control and compromises dignity and agency.

Court Rulings on Personality Rights in India

- The jurisprudence on personality rights in India began with the **1994 Supreme Court judgment in *R. Rajagopal v. State of Tamil Nadu***.
 - The Court upheld an individual’s right to control their identity, grounding it in the constitutional right to privacy.
- In **2015, the Madras High Court** strengthened the doctrine in a case involving actor **Rajinikanth**.
 - It ruled that infringement occurs even without proof of falsity, confusion, or deception if the celebrity is identifiable, thereby protecting him against unauthorised commercial use of his name, image, and style.
- The **Delhi High Court** has since played a pivotal role in addressing new threats posed by AI.
 - In **2023**, it granted **Anil Kapoor** broad protection over his persona, barring online misuse of his name, likeness, and catchphrase “jhakaas.”
 - HC clarified that free speech allows parody and criticism but not commercial exploitation or tarnishment of reputation.
 - In 2024, the same court protected **Jackie Shroff’s personality rights** against misuse by e-commerce platforms and AI chatbots.
- Later, in 2023, the Bombay High Court upheld **Arijit Singh’s rights** in a landmark ruling against AI voice cloning.
 - The court condemned the unauthorised creation of artificial recordings, warning of the dangers generative AI poses to performers’ dignity and control over their identity.

Balancing Personality Rights and Free Expression

- While courts in India have expanded protection of personality rights, they have also emphasised the need to balance them with **Article 19(1)(a)**.
 - Article 19 guarantees freedom of speech, including criticism, parody, and satire of public figures.
- In **DM Entertainment Pvt. Ltd. v. Baby Gift House** (2010), the Delhi High Court granted relief against unauthorised commercial exploitation of singer Daler Mehndi's likeness.
 - However, it cautioned that parodies, caricatures, and lampooning would not ordinarily violate publicity rights.
- This balance was reaffirmed in **Digital Collectibles PTE Ltd. v. Galactus Funware Technology Pvt. Ltd.** (2023), involving the unauthorised use of sports stars' likenesses.
 - The Court ruled that publicity rights cannot override free expression, especially when material is already in the public domain.
 - It clarified that legitimate uses of celebrity names or images — such as satire, art, scholarship, news, and music — fall under free speech and do not amount to infringement.

Concerns Around Personality Rights in India

- Experts highlight the urgent need for a comprehensive legislative framework to regulate personality rights, as current enforcement relies heavily on fragmented judicial precedents.
- Without a clear regulatory regime, responses remain ad hoc and risk blurring the line between artistic freedom and infringement.
- Clear exceptions must be established to prevent misuse of personality rights as a tool for censorship.
- Experts also stress that personality rights are not exclusive to celebrities.
- Ordinary citizens, particularly women, face disproportionate harm through deepfakes, impersonation, and revenge pornography.
- While courts often direct governments to block such harmful content, the sheer volume of violations makes consistent enforcement extremely difficult.

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