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A Landmark Law in 2013, It Needs a Spine in 2025

Context

- A rare instance of accountability in Chandigarh, where a college professor was dismissed after an Internal Complaints Committee (ICC) probe under the **POSH Act, 2013**,
- This incident has highlighted both the potential and the limitations of India's institutional mechanisms against sexual harassment.
- While the verdict has been celebrated as **justice served**, it simultaneously exposes systemic challenges that prevent consistent and empathetic implementation of the law, particularly within educational spaces marked by **sharp power imbalances**.

The Limits of Consent and the Missing Idea of Informed Consent

- One of the fundamental gaps in the POSH framework lies in its **narrow understanding of consent**.
- The Act acknowledges consent but ignores **informed consent**, a concept especially crucial in academic and workplace hierarchies.
- A relationship that appears consensual on the surface may be shaped by emotional manipulation, authority, or **information asymmetry**.
- When these imbalances become visible later, earlier consent becomes void and results not only in harassment but in **deep emotional betrayal**.
- The current legal framework remains oriented toward **visible, explicit acts**, failing to recognise psychological or manipulative behaviour.
- Many well-educated perpetrators deliberately operate in **grey zones**, avoiding behaviours that leave clear evidence while exploiting trust and emotional vulnerability.
- The absence of recognition for **emotional harassment** and coercive, deceptive conduct leaves survivors without adequate legal protection.

Procedural and Linguistic Limitations: Barriers to Justice

- **The Three-Month Limitation Period**
 - Several procedural elements of the Act inadvertently hinder survivors. The **three-month limitation period** for filing complaints is particularly restrictive.

- Survivors who experience coercion or prolonged manipulation often take far longer to recognise the violence or gather the courage to report it.
- In universities, where students may remain under the same institutional umbrella for years, crucial evidence or realisation may emerge well beyond this timeline.
- Justice should not come with an expiry date, yet the existing rule reinforces perpetrators' belief that time is on their side.

• Linguistic Limitations

- Language also shapes how seriously misconduct is perceived.
- The Act refers to the accused as a **respondent**, softening the gravity of actions that would constitute criminal offences outside institutional settings.
- Such diluted terminology normalises the violation and diminishes the **psychological trauma** experienced by survivors.

• The Burden of Proof

- The **burden of proof** further tilts the scales against complainants. Sexual harassment usually unfolds as a **pattern of behaviour** rather than as a single, documentable event.
- Yet ICCs often dismiss complaints due to lack of direct evidence, without considering corroborative testimony, anonymous feedback, or **circumstantial indicators**.
- While committees are carefully structured to protect the respondent's rights, similar institutional trust is rarely extended toward recognising a survivor's lived experience.

Inter-Institutional Misconduct: A Silent Blind Spot

- Modern academia thrives on collaboration, conferences, visiting faculty programmes, and inter-campus research. Misconduct, therefore, often spans institutional boundaries.
- The POSH Act, however, provides no mechanism for **inter-institutional complaints**, leaving repeat offenders free to move across campuses without accountability.
- For survivors, filing a complaint is already an **emotionally exhausting battle**. What follows is frequently marked by delays, bureaucratic hesitation, and the threat of counteraction.
- The clause allowing punishment for **malicious complaints**, intended as a safeguard, often intimidates genuine victims, deterring them from seeking justice.

Digital Harassment and the Challenge of Evidence

- With communication increasingly shifting to digital platforms, harassment now occurs through vanishing messages, encrypted chats, or temporary images.
- Expecting ICC members, often without specialised technical training, to interpret such evidence is unrealistic.
- The Act has not adapted to the complexities of digital communication, offering **no clear protocols** for handling such material.
- To remain relevant, the law must integrate updated definitions of digital harassment, mandate **training for ICC members**, and establish procedures for managing electronic evidence so that technology does not

become a **shield for offenders**.

The Way Forward: Toward a Stronger and More Responsive POSH Framework

- The Chandigarh case demonstrates what a committed ICC and a determined group of complainants can achieve, but such outcomes are far from the norm.
- The promise of the POSH Act can be fulfilled only through structural reforms that include **recognising emotional coercion**, expanding the definition of consent, extending **timelines for reporting**, strengthening **digital evidence protocols**, and improving **investigative methods**.

Conclusion

- Informal whisper networks among women reflect not empowerment but **institutional failure**.
- A decade after its enactment, the POSH Act must evolve to match the realities of modern workplaces and academic environments.
- Justice should not depend on the survivor's endurance or the discretion of committees; it must be **built into the framework of the law**
- Until then, the protection offered by the POSH Act risks remaining **symbolic rather than substantive**.

A Landmark Law in 2013, It Needs a Spine in 2025 FAQs

Q1. What major conceptual gap exists in the POSH Act's understanding of consent?

Ans. The POSH Act lacks the concept of informed consent, ignoring situations where consent is influenced by manipulation, power imbalance, or emotional coercion.

Q2. Why is the three-month limitation period considered problematic for survivors?

Ans. The three-month limitation period is problematic because many survivors need more time to recognise the abuse, process their experience, and gather the courage to file a complaint.

Q3. How does the terminology of respondent weaken the seriousness of offences?

Ans. Calling the accused a respondent softens the perceived gravity of the misconduct and makes sexual harassment appear less serious than it is.

Q4. What key challenge arises when dealing with digital forms of harassment?

Ans. Digital harassment is difficult to address because ICC members often lack technical training to interpret disappearing messages, encrypted chats, or temporary images.

Q5. Why are inter-institutional complaints difficult to pursue under the current POSH Act?

Ans. Inter-institutional complaints are difficult to pursue because the POSH Act provides no mechanism for connecting or investigating misconduct that spans across multiple institutions.

Source: **The Hindu**

Decoding Personality Rights in the Age of AI

Context

- Actors Abhishek Bachchan and Aishwarya Rai Bachchan have sued Google and YouTube in the Delhi High Court, accusing them of hosting AI-generated videos that depict them in fabricated — sometimes explicit — scenarios.
- They argue that such deepfakes violate their personality rights, damage their reputation, and threaten financial interests.
- The case also seeks safeguards to prevent these fake videos from being used to train future AI models.
- The issue underscores how **generative AI** blurs the line between real and fake, challenging existing legal protections over one's identity — name, image, likeness, and voice.
- Personality rights, rooted in privacy, dignity, and commercial autonomy, were not designed for the scale and speed of AI manipulation.
- Deepfakes now fuel misinformation, extortion, and loss of public trust, revealing a growing need for stronger legal and ethical safeguards to prevent the misuse and commodification of human identity.
- This article highlights how the rise of generative AI and deepfakes is challenging traditional personality rights in India and across the world.

The Evolving Legal Landscape of Personality Rights in the Age of AI

• India's Hybrid and Reactive Approach

- India follows a hybrid model rooted in dignity (**Article 21**) and property-like control.
- Personality rights are not codified but recognised through landmark judgments:
 - **Amitabh Bachchan v. Rajat Nagi (2022)**: Affirmed personality rights.
 - **Anil Kapoor v. Simply Life (2023)**: Banned AI misuse of Mr. Kapoor's likeness and "Jhakaas".
 - **Arijit Singh v. Codible Ventures (2024)**: Protected his voice from AI replication.
- While the IT Act and 2024 Intermediary Guidelines tackle impersonation and deepfakes, challenges remain due to anonymity, global data sharing, and limited enforcement capacity.

• United States: Property-Based 'Right of Publicity'

- The U.S. treats personality rights as commercial property that can be licensed or transferred.
- Key developments:
 - **Haelan Labs v. Topps (1953)**: Separated publicity rights from privacy rights.
 - **ELVIS Act, Tennessee (2024)**: Prohibits unauthorised AI cloning of voices and likenesses.
- **Litigation against Character.AI** highlights risks of AI chatbots inducing self-harm or impersonating therapists; courts have rejected First Amendment immunity claims.

• European Union: Dignity and Consent Framework

- The EU's GDPR mandates explicit consent for processing personal and biometric data.

- The EU AI Act (2024) classifies deepfakes as high-risk, requiring transparency, labelling, and disclosure to prevent manipulation and deception.

- **China: Stricter Consumer-Focused Enforcement**

- Chinese courts emphasise preventing deception:
 - A 2024 Beijing ruling held synthetic voices must not mislead consumers.
 - Another case awarded damages to a voice actor whose AI-replicated voice was sold without consent — affirming voice as personality property.

- **A Fragmented Global Framework**

- AI's borderless nature outpaces national laws, creating a fragmented regulatory mosaic.
- Scholars argue for expanded “**extended personality rights**” covering style, persona, and creative patterns to protect individuals from exploitative AI training and misuse.

The Human-AI Nexus: Ethical and Legal Concerns

- UNESCO's Recommendation on the Ethics of AI (2021) provides a rights-based framework emphasising dignity, autonomy, and protection from exploitation.
- Scholars argue that personality rights must evolve to address AI-generated impersonation and manipulation.

- **Gaps in India's Legal Architecture**

- Experts highlight India's fragmented AI laws and call for:
 - statutory definitions of AI,
 - explicit classification of deepfakes as high-risk,
 - clearer regulation of behavioural data processing.
- They also raise concerns about AI recreations of deceased artists, noting that Indian courts do not recognise personality rights as inheritable.

- **Debates on AI Personhood**

- Critics, however, warn that granting AI legal personhood could dilute human rights protections and complicate liability frameworks.
- The tension lies between leveraging AI for innovation and preventing erosion of human autonomy and dignity.

- **Need for Robust Indian Legislation**

- The rise of deepfakes exposes structural gaps. India must:
 - codify personality rights,
 - mandate AI watermarking and model transparency,
 - strengthen platform liability,
 - enable cross-border regulatory cooperation.
- The government's 2024 deepfake advisory is a first step, but inadequate on its own.

- **Call for Global Harmonisation**

- Adopting and aligning with UNESCO principles can help India prevent ethical deterioration, ensure accountability, and safeguard human identity in the age of generative AI.

Decoding Personality Rights in the Age of AI FAQs

Q1. Why are personality rights becoming more important in the age of AI?

Ans. AI-generated deepfakes can replicate faces, voices, and mannerisms, causing reputational harm, misinformation, and economic loss. This makes protecting one's identity more urgent than ever.

Q2. How does India currently protect personality rights?

Ans. India follows a hybrid dignity-property model through constitutional privacy rights and court judgments, but lacks a codified law, making enforcement reactive and limited.

Q3. What global approaches exist to regulate AI misuse of identity?

Ans. The U.S. uses property-based publicity rights, the EU relies on consent and data protection, and China enforces strict consumer protection against deceptive synthetic media.

Q4. Why is India's current framework insufficient to regulate deepfakes?

Ans. Weak enforcement, anonymity online, cross-border data flows, and lack of statutory definitions of AI limit India's ability to act against impersonation and identity misuse.

Q5. What reforms are needed to protect personality rights against AI misuse?

Ans. India must codify personality rights, mandate AI watermarking, increase platform liability, classify deepfakes as high-risk, and collaborate internationally for effective regulation.

Source: TH

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