

The Right of Celebrities Over Their Personality: Legal protection Through Intellectual Property Rights

Prof. (Dr.) Pradip kumar Das¹, Sanjeet Kumar Singh²

¹Professor, Law and Governance, Central University of South Bihar, Gaya

²Research Scholar, Law and Governance, Central University of South Bihar

Abstract

“Every individual should have a right to be able to exercise control over his/her own life and image as portrayed to the world and to control the commercial use of his/her identity.”
.....Justice K.S. Puttaswamy (Retd.) v. Union of India.

In today's media centric society, celebrities are constantly in the spotlight and admired for their talents, lifestyles, and public personas. Their identity includes distinct traits like their image, voice, signature, and style, all of which carry both personal and commercial value. These elements are protected by a set of rights: personality rights, privacy rights, and publicity rights. However, with the rise of digital platforms and evolving media, these rights are often misused, leading to exploitation and unfair gains for others at the cost of the celebrity's dignity and hard work. In India, celebrity rights are still an emerging legal concept, with no dedicated legislation in place. This paper explores how intellectual property laws, especially trademark and copyright laws can be used more effectively to protect these rights. It examines key judicial decisions by the Indian courts and points out the gaps in the current legal framework. To provide a broader perspective, this paper compares the Indian approach with practices in countries such as the United States, the United Kingdom, and various parts of Europe, where celebrity rights are more clearly defined and effectively enforced. By examining these models, the paper proposes ways in which India can strengthen its legal framework, including through statutory recognition of celebrity rights and the implementation of legal reforms. Ultimately, this paper argues that celebrity rights should be recognized as a form of intellectual property. As celebrities' reputations are increasingly tied to their digital presence, it is essential to protect their identities from misuse. This requires clearer legal provisions, stronger enforcement, and alignment with international standards.

Keywords:

Celebrity rights, Copyright law, Right to privacy, Right to publicity, unauthorized use, passing off and Trademarks

1. Introduction

Intellectual property rights (IPR) provide legal ownership of creative and innovative work, akin to owner

¹ Professor at Department of Law and Governance, Central University of South Bihar

² Research scholar at Department of Law and Governance, Central University of South Bihar

ship of physical property. Effective IPR protection is essential for fostering knowledge-based growth and socio-economic progress, ensuring inventors and creators receive due compensation. The first international agreement on industrial property protection, the Paris Convention adopted in 1883, has since been revised to include developing countries. After World War II, the importance of intellectual property in international trade was acknowledged by the GATT of 1947, paving the way for the TRIPS Agreement under the WTO in 1995. TRIPS requires all WTO member countries to adhere to essential provisions of the Paris Convention. The justification for IPR is rooted in theories such as John Locke's Labor Theory which argues that labour deserves proprietary rights, Jeremy Bentham's Utilitarian Theory which emphasizes societal benefit, and Hegel's Personality Theory considers property to be the reflection of an individual's identity. Over time, IPR has expanded to cover modern protections, including celebrity rights, which protect an individual's name, image, voice, and other personal characteristics from unauthorised commercial use. Celebrities capitalize on their public persona, but their rights are frequently infringed, necessitating stronger legal protection. The idea of celebrity rights has its roots in the right to privacy, first introduced by Samuel Warren and Louis Brandeis in their article 'The Right to Privacy' (Warren and Brandeis, 1890). They advocated the view that legal protections had evolved beyond physical harm to encompass personal autonomy, including control over one's image and reputation. This principle gained legal recognition in *Pavesich v. New England Life Insurance Co.* 1905, where the Supreme Court of Georgia ruled that using a person's image without consent violated their right to privacy. The evolution of celebrity rights has varied globally. In the U.S., *Haelan Laboratories v. Topps Chewing Gum, Inc.* 1953, established the right of publicity, affirming a celebrity's commercial interest in their name and likeness beyond privacy concerns. In India, celebrity rights law remains in its early stages. In *ICC Development (International) Ltd. v. Arvee Enterprises*, 2005, the Delhi High Court held that the right to publicity stems from the right to privacy and include individual's name, traits, signature, and expressions. However, with the rise of digital media, privacy rights face ongoing challenges, requiring legal adaptation to emerging technologies and modern information dissemination.

2. Celebrity and Personality: Definitions and Meaning

"A celebrity is someone whom the public has learned to identify with a particular set of attributes, often more symbolic than substantive" (Rojek, 2001). According to the Oxford Learner's Dictionaries, 2025 a celebrity is a famous person or someone in a state of fame. The word originates from the Latin 'celeber', meaning "renowned" or "frequented." Celebrities gain public recognition through media coverage due to their achievements, influence, or personal brand. Their lives are often consumed as entertainment and commercially exploited—either by others or themselves. They emerge from various fields, including entertainment, sports, politics, business, and social media. Oxford Learner's Dictionaries, 2025 defines personality as "various aspects of a person's character that make them distinct and interesting." While every individual has a personality, the legal recognition of personality rights is primarily extended to celebrities. All these aspects of a person deserve protection whether it's their name, signature, pen name, photo, voice, personal traits, habit or anything that is closely linked to them (Hoffman, 1981). In *Martin Luther King Jr. Center for Social Change v. American Heritage Products Inc*, 1983, the court broadly defined the term "celebrity" to include actors, music artists, athletes, and other public figures. Over time, this definition has expanded to encompass anyone with commercial value. According to "direct commercial exploitation of identity" test, individuals with market recognition are entitled to legal protection. However, the term "celebrity" is not clearly defined under Indian law. The copyright

Act, 1957 under section 2 (qq) provides the definition a “performer” as someone with economic and moral rights, but this excludes professionals like painters, authors, and programmers, leaving many without legal protection (Sharma & Tripathi, 2019). The Delhi High Court, in *Titan Industries Ltd v. Ramkumar Jewellers*, 2012, defined a celebrity as “a famous or well-known person” and affirmed their right to control the commercial use of their identity. The public often sees celebrity status as something special that comes with success. Athletes and artists achieve this status because of their talent. Businesspeople and television personalities gain recognition through their intelligence or charm. Politicians become well-known by winning public support and elections. Some people, like princes and princesses, are famous because they are born into royal families or marry into them. Others may become famous by chance if they are involved in events that receive a lot of attention from the media or the public.

3. The Legal Safeguards of Fame: Personality, Privacy and Publicity Rights

Celebrities hold a unique set of rights that protect their identity, reputation, and commercial value. These rights, collectively known as a “bundle of rights,” include the right to publicity, the right to reproduce and distribute works, the right to rent or lend content, as well as personality and privacy rights. However, they are primarily categorized into three main types: personality rights, publicity rights, and privacy rights. These legal protections help prevent others from using a celebrity’s name, image, or personal features without permission, ensuring their fame and identity are not exploited without their consent. In an era where a celebrity’s image has major economic and social significance, understanding these rights is crucial to safeguarding their personal and professional interests.

A. Personality Rights

Sir John Salmond once stated, “Persons are the substances of which rights and duties are the attributes. It is only in this respect that persons possess juridical significance, and this is the exclusive point of view from which personality receives legal recognition” (Fitzgerald, 2002, p. 298). The concept of personality rights originates from early liberal traditions emphasizing personal freedom and individual worth. Hegel’s Metaphysical Theory of Property also supports this idea by arguing that property is closely linked to one’s personal identity and social contribution. Personality rights, which are also sometimes called “rights of publicity,” let people decide how their name, picture, impression, and other unique traits can be used for commercial purposes. In India, where celebrity endorsements heavily influence consumer behaviour, Bollywood actors and social media influencers significantly impact brand value. The digital marketing era has further amplified the commercial value of celebrity endorsements, making legal protection essential to prevent unauthorized exploitation of their identity. The personality rights can further be divided as the right to bodily integrity, the right to physical liberty, rights in family life, some aspects of dignity and reputation etc. However, due to the lack of comprehensive legislation, these rights are frequently violated by media houses and digital platforms, leading to unauthorized use of a celebrity’s identity. In the landmark case of *McFarland v. E & K Corp.* 1991, the court said that a celebrity’s identity, which includes their name, image, and special traits, is the result of their hard work and should be treated as property that the law can protect. This judgment reinforced the idea that personality rights are crucial in protecting a public figure’s personal and commercial identity from exploitation. A significant ruling on personality rights in India was seen in *Mr. Shivaji Rao Gaikwad v. M/s Varsha Productions*, 2015. The plaintiff, widely known as Rajinikanth, is a highly respected Indian actor. The defendant, without authorization, used his name and caricature and even titled their movie

‘Main Hoon Rajinikanth’, making an unmistakable reference to him. The film also contained allegedly immoral content, further complicating the legal dispute. The court reaffirmed that while Indian law does not specifically define celebrity rights, these rights have been acknowledged and upheld through various judicial decisions. It upheld that personality rights belong to individuals who have attained public recognition, ensuring their identity cannot be misused for unauthorized commercial or exploitative purposes.

B. Privacy Rights

Alan Westin has defined privacy as: “The claim of individuals, groups, or institutions to determine for themselves when, how, and to what extent information about them is communicated to others” (Gavison, 1980). The concept of privacy right originates from the 19th century doctrine established by Samuel Warren and Louis Brandeis, who famously defined it as the right “to be let alone.” Over time, courts extended privacy protections to celebrities, leading to the beginning of the publicity rights. However, some courts hesitated, arguing that celebrities voluntarily waive their privacy rights by actively seeking fame and profiting from their public personas. Under this reasoning, the commercial use of a celebrity’s identity was permitted through waivers, allowing licensees to exploit their image without legal consequences. Yet, if celebrities were denied privacy rights altogether, such waivers would hold little to no legal value. Beyond celebrities, media intrusion has expanded to their close family and acquaintances, including partners, children, parents, and friends, further eroding privacy rights. A landmark case, *Barber v. Times Inc.* 1942, exemplifies this issue, where Dorothy Barber successfully sued for a privacy violation after Time Corporation forcibly entered her hospital room and photographed her during childbirth without consent. The court ruled in her favour, awarding damages for the intrusion. More recently, the Supreme Court of India reaffirmed the significance of privacy rights in *Justice K. S. Puttaswamy (Retd.) v. Union of India*, 2017. The ruling emphasized that privacy is not just an economic consideration but a foundation of individual autonomy and personal dignity. By solidifying privacy as a fundamental right, the judgment underscored the need for stronger protections in the modern digital era.

C. Publicity Rights

The right of publicity is an intellectual property right that **prohibits** others from using a person’s name, image, voice, signature, or other personal identifiers for commercial purposes without their consent. Also known as the merchandising right, it grants individuals control over the economic value of their identity. Melville B. Nimmer introduced the concept in 1954, arguing that celebrities required not just privacy protection but also the right to determine how to use their identity for business purposes. William Lloyd Prosser, in 1960, outlined four key types of privacy related torts. These include:

1. Interfering with an individual’s private life or personal matters.
2. Disclosing private and potentially embarrassing information.
3. Presenting someone in a way that creates a false public impression.
4. Using a person’s name or image without their permission for someone else’s benefit.

While the first three focuses on protecting privacy, the fourth forms the basis for the right of publicity (Mullick & Narnaulia, 2008). In the U.S., the right first gained legal recognition in *Haelan Laboratories Inc. v. Topps Chewing Gum, Inc.* 1953, where the court acknowledged a celebrity’s right to grant exclusive commercial use of their image. This was further reinforced in *Zacchini v. Scripps-Howard Broadcasting Co.* 1977, where the U.S. Supreme Court ruled that the right of publicity could, in some cases, outweigh media freedoms under the First and Fourteenth Amendments of the U.S. Constitution. Over time, this right expanded beyond name and likeness to include signatures, voices, and

other identifiable attributes. In India, the Supreme Court recognized publicity rights within the broader privacy framework in *R.R. Rajagopal v. State of Tamil Nadu*, 1995, ruling that unauthorized use of a person's name or image in advertising violates their rights. Similarly, in *I.C.C. Development (International) Ltd. v. Arvee Enterprises*, 2003, the Delhi High Court affirmed that publicity rights arise from privacy rights and apply only to distinct individuals. The court also emphasized that no persona can be monopolized, ensuring that the misappropriation of identity would violate Articles 19 and 21 of the Indian Constitution.

4. Celebrity Rights: Legal, Moral and Economic Justifications

According to Professor J. Thomas McCarthy, the right of publicity is a unique legal right. Although it shares certain characteristics with trademark, copyright, and privacy laws, it is not simply a branch of any of them. Instead, it represents a separate and independent form of protection (Ahmad & Swain, 2011). The right of publicity, though rooted in privacy, trademark, copyright, and property law, has evolved into an independent legal concept. Celebrities' public images hold immense financial value, making their protection crucial for several reasons. First, recognizing publicity rights as property subjects them to taxation like other intellectual assets, creating economic incentives. It ensures that celebrities are fairly compensated for their fame and benefit from their own success. Second, publicity rights are inheritable, allowing a celebrity's heirs to profit from their legacy. Third, these rights can be licensed and assigned for commercial purposes, granting celebrities control over their brand and financial opportunities. Fourth, legal protection prevents unauthorized use of a celebrity's image, voice, or likeness, combating piracy and technological misuse.

The justification for publicity rights is based on two primary arguments: moral and economic.

1. **Moral Justification:** According to John Locke's Labor Theory, individuals deserve the rewards of their efforts. Celebrities invest significant work in building their personas, and unauthorized use of their image devalues that labour. Additionally, forced associations with certain brands can damage their reputation.
2. **Economic Justification:** Publicity rights incentivize individuals to develop valuable personas. Without financial benefits, celebrities might lack motivation to excel in their fields. Additionally, publicity rights prevent consumer deception. If companies could freely use a celebrity's likeness, the public might mistakenly believe the celebrity endorses a product, leading to confusion – this is an issue addressed under the Lanham Act (Lanham Act Sec. 43(a), 1994).

However, some critics, like Professor Madow challenges the belief that celebrities create their image entirely through their own efforts. He argues that it is the public who shapes and gives value to a celebrity's image. In his view, the idea that a star's fame is purely the result of their own work is more of a comforting story promoted by the celebrity industry to satisfy both the audience and itself (Madow, 1993).

5. International Conventions and the Protection of Celebrity Rights

The entertainment industry's global expansion has amplified celebrity influence across cultural and economic boundaries, extending beyond traditional media into various industries. However, the legal protection of celebrity rights remains inconsistent worldwide. Most countries have underdeveloped publicity rights laws, often conflicting with privacy protections, and the very definition of "celebrity" remains ambiguous. While international conventions such as the Berne Convention (1886), Rome

Convention (1961), TRIPS Agreement (1994), and WIPO Performances and Phonograms Treaty (1996) primarily address intellectual property rights, they have indirectly shaped national laws concerning copyright, performer protections, and advertising rights. However, since not all celebrities are performers, the legal landscape remains fragmented, underscoring the need for a more standardized approach to publicity rights (Mehta, Tomar & Kothiyal, 2024).

Key International Conventions are as follows:

A. Berne Convention (1886)

The Berne Convention primarily protects authors' moral rights in literary and artistic works, ensuring strong copyright protections. However, it does not explicitly cover celebrity publicity rights, as attributes like a person's face or name are not considered authored works. Copyright laws protect only the written form of a name, not the identity behind it. For advertising rights to be covered under international copyright law, they must be directly linked to a copyrightable work (WIPO, 1971).

B. Rome Convention (1961)

The Rome Convention was the first international treaty to recognize the rights of artists, record companies, and broadcasters through the concept of "neighbouring rights." However, it did not grant actors secondary use rights for films, except under conditions of equal remuneration. Membership was restricted to UN members already part of the Berne Convention. Unlike the Berne Convention, the Rome Convention does not protect moral rights, leaving celebrities without such safeguards under its framework (WIPO, 1961).

C. TRIPS Agreement (1994)

The TRIPS Agreement, a WTO-administered legal framework, strengthens performers' rights by preventing unauthorized fixation, reproduction, and live broadcasting of performances under Articles 9 to 14. Protection lasts between 20 to 50 years under Article 14(5). Additionally, TRIPS safeguards celebrity publicity rights through trademark law, preventing unauthorized commercial exploitation of celebrity identities, particularly in non-competing industries. Unlike other intellectual property agreements, TRIPS enforces compliance through WTO sanctions, making it a powerful mechanism for protecting intellectual property rights. India, a signatory to TRIPS, has incorporated its provisions into domestic copyright laws (WTO, 1994).

D. WIPO Performances and Phonograms Treaty (WPPT) (1996)

The WPPT was established to enhance protections for performers and phonogram producers in the digital age, addressing gaps left by prior treaties. It grants performers both economic rights (such as reproduction, distribution, and rental) and moral rights, though its protections apply only to aural works, not visual ones. WPPT seeks to standardize legal protections in response to technological advancements. India, a signatory to multiple international copyright treaties, including the Rome Convention (1961) and Berne Convention (1886), extended equal copyright protection to foreign works through the International Copyright Order (1958). While India aligned its laws with the WIPO Internet Treaties via the Copyright Amendment Act of 2012, it formally acceded to WPPT only in 2018. This accession strengthened India's international standing and secured reciprocal rights for Indian copyright holders in WPPT member countries (WIPO, 1996).

6. The Legal Landscape of Celebrity Rights in the US, UK and Germany

A. Celebrity Rights in the US

In the U.S., celebrity rights are protected through a combination of publicity rights, copyright law and

trademark law. Courts have consistently ruled that if an image, voice, or likeness evokes a celebrity's identity, they have grounds for legal action. A landmark case illustrating this is *Bette Midler v. Ford Motor Co.* 1988, where the singer sued Ford for hiring a voice-alike to mimic her distinctive singing voice in a commercial. The court ruled that imitating a widely recognized voice for commercial purposes constituted a violation of her publicity rights. Similarly, the *Martin Luther King Jr. Center for Social Change, Inc. v. American Heritage Products, Inc.* 1983, addressed whether publicity rights extend beyond death. The court ruled that terminating these rights upon a celebrity's death would unfairly diminish the economic value they created during their lifetime, establishing that publicity rights are inheritable and transferable. Beyond publicity rights, copyright law protects tangible expressions of a celebrity's identity, such as photographs, film clips, and artwork. While names cannot be copyrighted, tangible representations like professionally taken photographs fall under copyright protection. Trademark law also plays a role in safeguarding celebrity identities, though courts generally avoid granting trademark protection to copyrightable materials to prevent misuse of the Lanham Act. Federal laws, such as the Federal Trademark Dilution Act (FTDA), prohibit unauthorized trademark use that dilutes a brand's value, even if there is no direct consumer confusion. Sections 43(a) and 43(c) of the Lanham Act further reinforce these protections. A notable case under this framework involved Woody Allen in *Allen v. National Video Inc.* 1985, who successfully sued a company for using a look-alike in an advertisement, arguing that it falsely implied his endorsement. Another critical legal safeguard is the Anti-Cybersquatting Consumer Protection Act of 1999 prohibits people from registering domain names that are the same as, or closely resemble, a celebrity's name with dishonest intentions. This law has helped celebrities like Julia Roberts and Madonna reclaim domain names that had been taken by cybersquatters.

B. Celebrity Rights in the UK

The UK does not recognize publicity rights as a distinct legal concept, making it difficult for celebrities to protect their names, images, and likenesses under existing laws. Instead, they must rely on alternative legal avenues such as copyright law, trademark law, passing off, malicious falsehood, and advertising regulations, though these provide only limited protection.

1. Copyright, Designs and Patents Act 1988 (CDPA)

The Copyright, Designs and Patents Act (CDPA) gives copyright owners the exclusive authority to stop others from copying their work without permission. However, a celebrity can only restrict the use of their image under this law if they themselves hold the copyright to that image. Courts determine infringement based on whether a "substantial portion" of a work is copied, with emphasis on quality rather than quantity. A key limitation of the CDPA is that copyright ownership typically belongs to the photographer or creator of the image, not the subject. For example, if a company were to sell greeting cards featuring Mr. A's image, A could only stop them if he owned the copyright. If the company took the photograph itself or obtained permission from the copyright owner, A would have no legal recourse. Furthermore, artists using copyrighted works as references may not be infringing if their reproduction aligns with creative interpretation.

Trade Marks Act 1994

Trademark law in the UK offers limited protection for celebrity names, as a trademark must be distinctive to qualify for registration. A significant case, *Re: Elvis Presley Trade Marks*, 1997, involved Elvis Presley Enterprises, Inc., which attempted to register "Elvis Presley" as a trademark. A British company using the name "Elvis" opposed the registration. The court ruled against Presley's estate,

stating that “Elvis” was too widely recognized to be distinctive. This case highlights a paradox in UK law: the more famous a celebrity becomes, the harder it is for them to trademark their own name or likeness, as it is seen as part of public culture rather than a protectable brand. Unlike the U.S., where trademark law provides stronger celebrity protections, UK law makes it challenging for public figures to claim exclusive rights to their identity.

2. Common Law Passing Off

The passing off doctrine applies when a celebrity’s image is used misleadingly, leading the public to believe they endorse or are associated with a product. To succeed in a passing off claim, a celebrity must prove:

- Misrepresentation that confuses the public.
- Financial loss due to the misrepresentation.
- Pre-existing commercial exploitation of their image.

A notable case is *Halliwel v. Panini*, 1997, where The Spice Girls sued Panini for selling “Fab Five” stickers, arguing that fans would assume the stickers were official merchandise. However, the court ruled against them, stating there was no evidence that consumers believed Panini’s stickers were authorized by the group. This demonstrates the difficulty of proving passing off in the absence of clear public confusion. A celebrity may sue for malicious falsehood if their image is used misleadingly in a way that harms their reputation or trade. In *Tolley v. J.S. Fry & Sons, Ltd.* 1931, a chocolate company used a caricature of amateur golfer Tolley in an advertisement, implying his endorsement. The court ruled in Tolley’s favour, as this could damage his amateur status. However, the case also reinforced that public figures should expect some loss of privacy due to their profession (Ahmad & Swain, 2011).

3. The Advertising Codes

The UK’s Advertising Codes provide additional, though limited, protection for celebrities. These self-regulated codes, including The British Code of Advertising Practice and the IBA Code of Advertising Standards and Practice, aim to prevent companies from using a celebrity’s image without permission. However, these rules are non-binding and have limitations—for instance, if an advertisement links a celebrity to a product in a way that does not misrepresent their character, it is unlikely to be considered a violation (Mullick & Narnaulia, 2008).

C. Celebrity Rights in Germany

Germany upholds a general right of personality, which protects individuals from the commercial exploitation of their identity. This right is derived from both human rights law and property law, making enforcement complex. It includes two key protections: the right to one’s name under the German Civil Code and the right to one’s image under the Copyright in Works of Art and Photography Act. Individuals can prevent unauthorized use of their names, but public figures or “personalities of history” cannot stop the use of their images if it serves a legitimate public interest. Unlike in some other jurisdictions, personality rights in Germany cannot be sold, waived, or inherited, as they are considered an extension of human dignity under Articles 1 and 2 of the German Constitution. This makes it difficult for celebrities or their heirs to claim financial compensation when their likeness is used without permission. Courts require proof that the personality right has commercial value, is usually paid for, and that the claimant would have allowed its use. Even when damages are awarded, they are often too low to act as a deterrent. In the *Caroline von Monaco v. News Group Newspapers Ltd.* 2001, the court awarded punitive damages, an uncommon practice in German law. In *Marlene Dietrich*, 2000, the ruling marked a significant shift by recognizing an economic personality right. The court ruled that a famous person’s

image and name hold financial value, and their heirs should inherit the right to profit from their use. However, expanding personality rights blurs the line between human rights and commercial interests. The Marlene Dietrich ruling did not address whether these rights could be contractually transferred, reinforcing concerns that human rights should not be treated as property. Thus, while German law acknowledges the commercial aspects of personality, its doctrinal foundation remains uncertain (Vadeyar, 2015).

7. Protection Of Celebrity Rights in India: Analysing the Legal Framework Through Judicial Precedents

Unlike Western countries, India lacks a codified legal framework for celebrity intellectual property rights, but judicial precedents, constitutional protections, and provisions under trademark, copyright, and advertising laws provide limited recognition. The right to privacy under Article 21 of the Indian Constitution plays a crucial role in shaping personality rights, with courts increasingly acknowledging the right of publicity—the ability of individuals to control and commercially exploit their name, image, and likeness. But a conflict between personality rights and media freedom arises as Article 19 of the Indian Constitution allows media to publish matters of public interest, and celebrities argue this is often misused to invade their privacy. In *ICC Development (International) Ltd. v. Arvee Enterprises*, 2003, the Delhi High Court recognized the right of publicity in India, deriving it from the right to privacy. The court held that publicity rights belong solely to individuals and not to events or organizations that contribute to their fame. In *D.M. Entertainment v. Baby Gift House*, 2003, the court held that selling dolls resembling Daler Mehndi without consent violated his right of publicity, amounted to false endorsement, and constituted passing off. Although the plaintiff succeeded on all grounds, only token damages were awarded due to a lack of widespread misuse or substantial harm (Vadeyar, 2015). Later, in *Gautam Gambhir v. D.A.P. & Co.* 2017, the court denied an interim injunction, ruling that the defendant had not misused the cricketer's identity since no false association was implied. This case highlighted that personality rights hinge on verifiability and identity. In *Rajat Sharma v. Ashok Venkatramani*, 2019, the Delhi High Court upheld celebrity rights, ruling in favour of Rajat Sharma against a defamatory advertisement campaign that violated his publicity rights. Courts have also addressed conflicts between privacy and artistic freedom, as seen in *Ram Gopal Verma & Ors. v. Perumalla Amrutha*, 2020, where a filmmaker was allowed to depict real-life events in a fictionalized manner, provided disclaimers were issued. Similarly, in *Amitabh Bachchan v. Rajat Nagi & Ors.* 2022, the court granted an injunction to prevent the use of Amitabh Bachchan's identity without his consent in a fraudulent lottery scam. In *Jaikishan Kakubhai Saraf (Jackie Shroff) v. The Peppy Store & Ors.* 2024, the court reinforced the exclusive right of individuals to control the commercial use of their identity, strengthening the legal framework for personality rights in India. These cases collectively highlight the growing recognition of celebrity rights, balancing individual privacy, commercial interests, and freedom of expression (Sagar & Sharma, 2024).

The Copyright Act, 1957, provides limited protection, as publicity and image rights are not explicitly recognized. Since a celebrity's persona is not classified as literary, dramatic, or musical work, claiming copyright protection is difficult. However, performers' rights under Sections 38 and 38A grant artists exclusive control over recorded performances for 50 years. Moral rights, which protect an author's integrity, were upheld in *Smt. Manu Bhandari v. Kala Vikas Pictures Pvt Ltd.* 1986, where the court ruled against an unauthorized film adaptation of the author's novel. Similarly, in *Amar Nath Sehgal v.*

Union of India, 2002, renowned sculptor Amar Nath Sehgal successfully sued the Indian government for damaging his mural, reaffirming creators' moral rights even after transferring ownership. However, disputes arise when films depict real-life individuals. In *Bala Krishnan v. R Kanagavel Kamaraj*, 2000, the court ruled that historical facts are not copyrightable, and in *Phoolan Devi v. Shekhar Kapoor*, 1995, it held that while individuals can use their names in business, such usage must be bona fide and not misleading. The Copyright Act, 1957 lacks explicit protection for personality rights, leaving celebrity names, voices, and likenesses vulnerable to unauthorized use. It does not cover identity-based infringements like deepfakes and digital impersonation. Section 52 permits the use of copyrighted content for news and criticism, enabling exploitation under public interest claims. Additionally, no provision ensures posthumous protection, allowing the unauthorized use of a deceased celebrity's identity.

The Trade Marks Act, 1999 offers limited protection for celebrity names and identities. Section 2(m) includes "names" within the definition of trademarks, allowing celebrities to prevent unauthorized use, while Section 14 restricts trademark registrations that falsely suggest an association with a living person or a recently deceased individual without consent. The Emblems and Names (Prevention of Improper Use) Act, 1950 prohibits unauthorized commercial use of names listed in its schedule, including religious and historical figures. In *Akshaya Creations v. Muthulakshmi*, 2013, the court ruled that Veerappan's privacy rights expired upon his death but granted limited protection to his legal heirs. Similarly, in *Precious Jewel & Another v. Varun Gems*, 2014, the court allowed personal names in business use only if done in good faith. In *Indian Performing Right Society Ltd v. Eastern Indian Motion Pictures Association*, 1977, the Court recognized composers' copyrights in musical works while affirming that film producers own the artistic compilation. The Act also prohibits registering religious or historical names like Sri Sai Baba, Swami Vivekananda, Sikh Gurus, and Lord Buddha under Sections 16(1) of the 1940 Act, 23(1) of the 1958 Act, and 159(2) of the 1999 Act, preventing commercial misuse of culturally significant identities. The Trade Marks Act, 1999, presents challenges in protecting celebrity identity, as proving distinctiveness for names and signatures is difficult. While it safeguards brand elements, it does not automatically cover personal traits like voice or gestures. Issues like cybersquatting and domain name disputes complicate enforcement, and the lack of clarity on posthumous trademark protection raises concerns about the rights of deceased celebrities.

In advertising, the Advertising Standards Council of India (ASCI) enforces a self-regulatory code prohibiting misleading or unauthorized usage of a person's identity. The Cable Television Networks (Regulation) Act, 1995 mandates compliance with the Ministry of Information & Broadcasting's advertising code, with Section 16 imposing penalties, including imprisonment and fines, for violations.

8. Contemporary Issues in Celebrity Rights: Legal Trends and Challenges

With the rapid advancement of technology and the proliferation of digital media platforms, the unauthorized exploitation of celebrity rights has become increasingly prevalent. From cybersquatting and unauthorized merchandising to the misuse of celebrity likeness in NFTs and AI-generated deepfakes, individuals and businesses often profit from a celebrity's fame without consent. This not only results in financial losses but also dilutes their brand and identity. Below are key contemporary issues related to celebrity rights violations in India.

A. Unauthorized Character Merchandising

Character merchandising involves the commercial use of fictional characters or real-life personalities be-

yond their primary creative work. This includes using a character's name, image, or traits to promote products. Legal protections exist under copyright and trademark laws. Cases like *Arbaaz Khan v. Northstar Entertainment Pvt. Ltd.* 2016, and *Chorion Rights Ltd. v. Ishan Apparel*, 2010, highlight complexities in safeguarding merchandising rights. In the latter, despite the plaintiff's global ownership of "Noddy," the defendant secured trademark registration in India first, emphasizing the need for timely legal protection (Banga, 2021).

B. Posthumous Survival of Celebrity Rights

A key legal debate is whether celebrity rights can be inherited. In *Deepa Jayakumar v. A.L. Vijay & Others*, 2021, Deepa Jayakumar sought an injunction against a film and web series about her late aunt, former Tamil Nadu CM Jayalalithaa. The court ruled she lacked grounds to protect posthumous personality rights. Similarly, in *Krishna Kishore Singh v. Sarla A. Saraogi*, 2021, Sushant Singh Rajput's father sought to protect his son's reputation from unauthorized biopics. Referring to *K.S. Puttaswamy v. Union of India*, 2017, the court held that privacy rights, which give rise to publicity rights, cease upon death, dismissing the plea (Sinha, 2023).

C. Defamation and Privacy Rights

Defamation and privacy rights differ legally. Truth is a defense in defamation cases but not in privacy violations. In *Vadlapadla Naga Vara Prasad v. Chairperson, Central Board of Film Certification*, 2012, the petitioner claimed 'The Dirty Picture' defamed his sister. However, since the film had a disclaimer stating it was fictional, the court ruled it did not violate defamation or privacy laws. This judgment reinforced that publicly available information can be used without consent, but exceeding such usage may constitute privacy infringement.

D. Cybersquatting and Domain Name Issues

Cybersquatting involves the unauthorized registration of domain names similar to celebrity names to exploit their reputation. In *Arun Jaitley v. Network Solutions Private Limited*, 2011, the court ruled in favor of Jaitley, barring third parties from misusing his domain name. Similarly, in *Anil Kapoor v. Simply Life India Pvt. Ltd.* 2023, Kapoor secured an interim injunction against unauthorized use of his image, voice, and signature phrase "Jhakaas," underscoring the need for stronger protections against digital impersonation and domain squatting.

E. Artificial Intelligence and Celebrity Rights

Artificial Intelligence (AI) technologies increasingly exploit celebrity attributes for commercial gain without authorization. In *Arijit Singh v. Codible Ventures LLP & Others*, 2024, the singer sued AI platforms and e-commerce portals for unauthorized use of his name, voice, and likeness. The court issued an interim injunction to prevent further violations, highlighting the growing concerns around AI-driven exploitation.

F. NFTs and Digital Collectibles

Non-fungible tokens (NFTs) pose new challenges in celebrity rights protection. An NFT is a unique digital identifier recorded on a blockchain, certifying ownership and authenticity. In *Digital Collectibles Pte Ltd. v. Galactus Funware Technology Pvt. Ltd.* 2023, the Delhi High Court ruled that publicly available information, such as cricketers' names and statistics, could be used in NFT-enabled fantasy sports platforms without infringing publicity rights. However, unauthorized commercial use of a celebrity's image or likeness in NFTs remains a contentious issue.

G. Digital Content Creators and Influencer Market

Social media influencers, akin to modern-day celebrities, face challenges regarding their rights. In *Dabur*

v. Dhruv Rathee, 2023, Dabur sued YouTuber Dhruv Rathee for misrepresenting its Real fruit juice brand and using unauthorized visuals. The court issued an interim injunction leading to the video's removal. However, in March 2024, Rathee proposed a resolution by altering the visuals, leading to case closure. This case highlights the ongoing conflict between intellectual property rights and digital content creation.

9. Conclusion and Suggestions

The protection of celebrity intellectual property rights, particularly publicity and personality rights, is becoming increasingly essential in India's rapidly evolving digital and commercial landscape. With the rise of digital media, influencer marketing, and celebrity-driven endorsements, unauthorized commercial exploitation has grown significantly. While judicial pronouncements have helped shape the legal discourse, the absence of a dedicated statutory framework creates uncertainty and enforcement challenges. Relying on broad interpretations of existing laws, such as the Copyright Act of 1957, Trade Marks Act of 1999, and privacy laws, is insufficient to address modern complexities like AI-generated deepfakes, NFTs, cybersquatting, and unauthorized merchandising. A well-defined Celebrity Rights Protection Act is essential, with clear provisions that define personality and publicity rights to prevent legal ambiguities, include posthumous protections to safeguard a celebrity's legacy, regulate AI, deepfakes, and digital impersonation to prevent identity misuse, balance celebrity rights with freedom of speech to protect media and artistic expression, strengthen enforcement mechanisms through statutory damages and faster legal remedies. By adopting global best practices, such as the U.S. model for publicity rights and the U.K.'s trademark and passing-off protections, while tailoring them to India's socio-legal landscape, the country can create a fair and legally sound environment. A well-defined statutory framework will not only protect celebrity interests but also enhance India's intellectual property regime, ensuring the nation keeps pace with evolving digital and commercial realities.

Suggestions:

- Codifying Personality Rights in IP Laws: Amending the Trade Marks Act, 1999 to explicitly recognize name, likeness, and identity as trademarks will enhance enforcement against unauthorized use.
- Balancing Publicity Rights with Free Speech: Legal recognition of personality rights must align with Article 19, ensuring protection from misuse while allowing legitimate journalistic and artistic expressions.
- Fair Commercialization & Posthumous Protection: Personality rights should be treated as economic assets with fair compensation for commercial use. Posthumous protections must prevent the exploitation of a deceased celebrity's identity.
- Strengthening Enforcement & Preventive Measures: Celebrities should secure endorsement contracts defining permitted uses of their identity.
- Global Harmonization via TRIPS: Amending the TRIPS Agreement to include personality rights will establish international protection standards and improve enforcement.
- Lessons from the U.S. and U.K.: India should adopt robust publicity rights, character merchandising protection, and digital exploitation regulations like the U.S. and U.K. Strengthening cybersquatting laws, regulating AI-generated deepfakes, and enforcing strict penalties on NFT-related violations will ensure comprehensive protection.

A clear and structured statutory framework will protect celebrity interests, promote fair commercial use, and modernize India's intellectual property laws in line with global advancements.

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