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Generative Artificial Intelligence and the Commodification of Persona : Indian Law Compared with US and EU Law

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Abstract
Generative artificial intelligence (AI) can now copy a person's face, voice and style within seconds. Deepfakes, cloned voices and chatbots have turned the human persona into a commodity that others can exploit at scale. India has no statute on personality or publicity rights. A person must instead combine copyright, trade mark, information technology and data protection law with the tort of passing off. Using doctrinal, analytical and comparative methods, this paper tests these laws against the AI life cycle and finds three gaps. Copyright protects fixed works and performances, not a voice or a style. Trade mark law and passing off depend on commercial use and confusion, which labelled or non-commercial fakes may avoid. Data protection law excludes publicly available data and exempts research, so faces and recordings can be harvested for training. Since 2022, courts have filled the void with interim injunctions, but these orders vary in scope and reasoning. In October 2026, the Delhi High Court held that "personality rights" is not a single cause of action. The paper compares the Indian position with federal and state law in the United States and with the law of the European Union. It proposes a short persona statute, supported by targeted amendments and clear exceptions for news, satire and parody.

Keywords: Personality Rights, Right of Publicity, Deepfakes, Digital Replicas, Generative AI, Copyright, Trade Marks

1. Introduction

A person's face and voice have long carried commercial value. Celebrities license them for advertisements, and brands pay for the goodwill they bring. Generative AI has changed the scale of the problem. A short recording or a handful of photographs can now produce a convincing clone. Fake endorsements, cloned songs and sexual deepfakes can spread within hours. Such content can damage reputations, mislead consumers and harass the people it depicts.[1]

[1] Robert Chesney and Danielle Keats Citron, "Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security" 107 *California Law Review* 1753 (2019).

Indian law has responded mainly through the courts. Since November 2022, the High Courts have granted a long series of injunctions against the misuse of names, faces and voices.[2] Yet no statute defines the right that these orders protect. In October 2026, the Delhi High Court held that "personality rights" is not a single cause of action but a label for several distinct claims.[3] The law is therefore active but unsettled. This paper asks how far Indian law protects the persona against generative AI. It also asks what India can learn from the United States and the European Union.

2. Research Design

2.1 Statement of the Problem

India has no dedicated law on personality or publicity rights. A person whose face or voice is cloned must combine claims under several laws, including the tort of passing off. None of these laws was designed for generative AI. Courts have filled the gap with ex parte injunctions, often against unknown defendants. These orders give quick relief, but they vary in scope and rest on mixed theories. Some have also restrained legitimate speech. The problem is therefore twofold. A person has no clear statutory right over his or her own likeness. Platforms, artists, satirists and fans, for their part, have no clear rules on what they may lawfully do.

2.2 Research Objectives

1. To examine the theoretical foundations of persona protection and its evolution as an intellectual property asset in India.
2. To examine the doctrinal limits of four statutes against AI-driven misuse of persona, including biometric harvesting for AI training. These are the Copyright Act, 1957, the Trade Marks Act, 1999, the Information Technology Act, 2000 and the Digital Personal Data Protection Act, 2023.
3. To analyse Indian judicial responses to deepfakes, voice clones and synthetic endorsements.
4. To compare these responses with federal and state law in the United States and with the law of the European Union.
5. To propose practicable reforms, including the feasibility of a sui generis law on personality rights.

2.3 Research Hypothesis

The main hypothesis of the study is that Indian law does not adequately protect the persona against exploitation by generative AI. This applies to both its commercial and its biometric attributes. The following sub-hypotheses correspond, in order, to the objectives of the study:

1. Indian law has moved from a privacy-based right to a property-like right in persona, but this shift is judge-made and lacks a statutory basis.
2. Copyright depends on fixed works, trade mark law on trade use and confusion, and data protection law on exemptions that AI developers can use. AI-driven misuse therefore escapes all three.
3. Indian courts have relied on interim injunctions that give quick relief but vary in scope and reasoning, so they cannot provide legal certainty.
4. The United States and the European Union have begun to address digital replicas through specific laws, from which India can draw useful lessons.

[2] *Amitabh Bachchan v. Rajat Nagi*, 2022 SCC OnLine Del 4110; *Aishwarya Rai Bachchan v. Aishwaryaworld.com*, 2025 SCC OnLine Del 5943.

[3] *Kriti Sanon v. BBE Marketing Inc.*, CS(COMM) 1132/2026, para 18 (Delhi High Court, Oct. 29, 2026).

5. A short sui generis statute, supported by targeted amendments, can protect the persona while leaving room for free speech, parody and satire.

2.4 Research Questions

1. What theories justify protecting the persona, and how has Indian law come to treat it as an asset?
2. Where do these four statutes fall short when AI copies or harvests a person's name, voice or likeness?
3. How have Indian courts responded to deepfakes, voice clones and synthetic endorsements?
4. What can India learn from the United States and the European Union?
5. Should India amend its existing laws, enact a separate law on personality rights, or do both?

2.5 Research Methodology

The study is doctrinal, analytical and comparative, and it uses no empirical or survey-based method. Its primary sources are Indian statutes and rules and the decisions of the Supreme Court and the High Courts. It also examines the comparable laws of the United States and the European Union. Federal law is the main point of comparison for the United States, and state statutes serve as illustrations. United Kingdom law is used only as persuasive authority, because Indian passing off has its roots in English common law. Books, articles, official reports and reliable legal news serve as secondary sources. Most Indian orders discussed here are interim orders, and they may change at trial.

2.6 Significance of the Study

The study is timely. The Delhi High Court is now hearing several personality rights suits together to settle the limits of the right.[4] The NO FAKES Act is pending in the United States Congress, and Denmark has tabled a bill on digital imitations of the person. The findings should help courts, legislators, platforms and performers. They may also guide talent agencies and producers in drafting licences for digital replicas.

3. Persona and the Limits of Indian Statutes

3.1 From Privacy to Publicity

Four theories explain why the law protects a persona. On the labour view, people should reap the value of the fame they have built.[5] The personality view treats identity as part of the self, so its misuse harms dignity even where nobody profits.[6] A consumer protection rationale focuses on buyers who are misled by false endorsements.[7] Privacy, finally, protects control over one's own life and image.[8] No single account explains every harm caused by AI. This paper therefore adopts a dual-interest approach. The first interest is commercial and the second is dignitary, and both are limited by the freedom of speech.

Indian law began with privacy. In *R. Rajagopal*, the Supreme Court recognised a right to be let alone, which includes protection against the unauthorised publication of one's life story.[9] *Puttaswamy* later confirmed that privacy is protected under Article 21.[10] The commercial side grew in the Delhi High Court. In *ICC Development*, it was held that the right of publicity vests in individuals, not in events.[11] In *Titan*

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[4] Aakriti Bansal, "Delhi High Court to Define Personality Rights in India", MediaNama, Sept. 29, 2026, available at: https://www.medianama.com/2026/09/223-delhi-hc-define-personality-rights/ (last visited on Nov. 13, 2026).

[5] Melville B. Nimmer, "The Right of Publicity" 19 *Law and Contemporary Problems* 203 (1954).

[6] Margaret Jane Radin, "Property and Personhood" 34 *Stanford Law Review* 957 (1982).

[7] Stacey L. Dogan and Mark A. Lemley, "What the Right of Publicity Can Learn from Trademark Law" 58 *Stanford Law Review* 1161 (2006).

[8] Samuel D. Warren and Louis D. Brandeis, "The Right to Privacy" 4 *Harvard Law Review* 193 (1890).

[9] *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

[10] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1.

[11] *ICC Development (International) Ltd. v. Arvee Enterprises*, 2003 (26) PTC 245 (Del).

Industries, it held that where a celebrity is identifiable, no proof of falsity, confusion or deception is needed.[12] The persona thus became a property-like asset through case law, not through statute.

3.2 The AI Life Cycle

AI misuse of persona runs through five stages. Faces and voices are first collected, often by scraping public websites. A model then learns from them during training. It next generates a clone, a deepfake or a chatbot. The output is distributed on platforms, apps and websites, and it may finally be used in advertisements, merchandise or paid tools. Fig. 1 maps each stage to the main Indian legal touchpoints. Protection is weakest at the start of the cycle and strongest only after the harm has occurred.

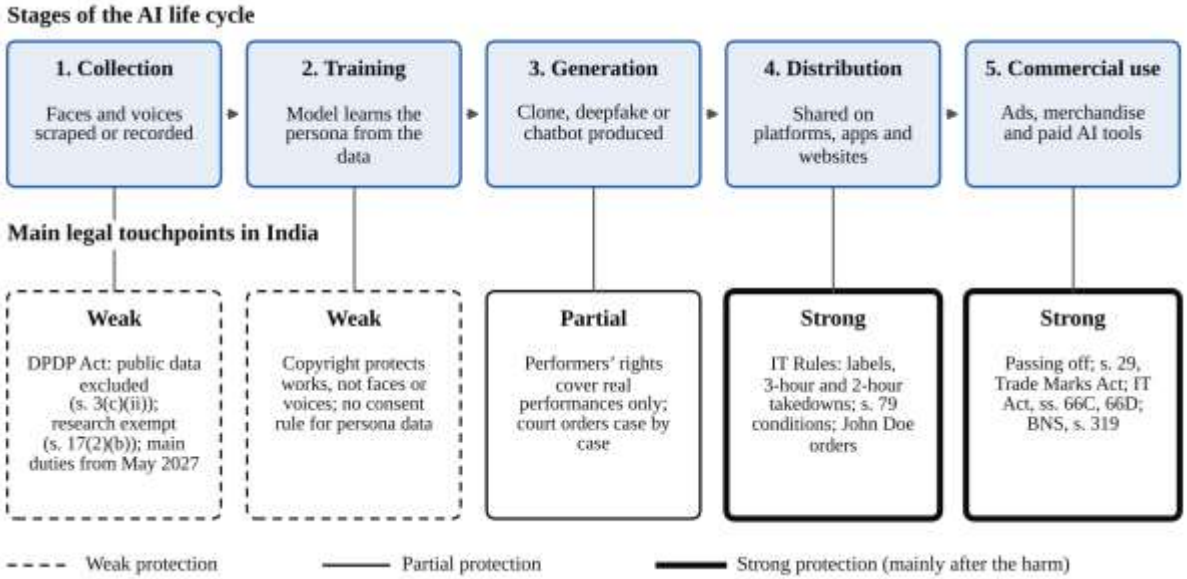


Fig. 1 — The AI persona-cloning life cycle and the main legal touchpoints in India

Note: Simplified. Thicker borders show stronger protection, which arises mainly after the harm. *Source:* Prepared by the authors.

3.3 Copyright and the Fixation Gap

Copyright protects original works and the interests of performers. Section 13 lists the protected classes, and a face or a voice is not among them.[13] Performers hold exclusive rights in their performances, together with a moral right against distortion that harms their reputation.[14] These entitlements attach to a particular act of performing. An AI clone that sings a new song in an artist's voice copies no recorded rendition. It may therefore escape both forms of protection. Training raises a separate question. A committee of the Department for Promotion of Industry and Internal Trade proposed a mandatory blanket licence for training on copyrighted material in December 2025.[15] Faces and voices are not works at all, so the persona lies outside that debate.

[12] *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 (50) PTC 486 (Del).

[13] The Copyright Act, 1957 (Act 14 of 1957), s. 13.

[14] *Id.*, ss. 38, 38A, 38B.

[15] Department for Promotion of Industry and Internal Trade, *Working Paper on Generative AI and Copyright, Part 1: One Nation, One Licence, One Payment: Balancing AI Innovation and Copyright* (Dec. 8, 2025).

3.4 Trade Marks, Passing Off and the Confusion Gap

Trade mark law protects a name or signature only as a badge of origin. The Registrar may require a living person's consent before registering a mark that falsely suggests a connection with that person.[16] Infringement requires use of the mark in the course of trade. Except for marks with a reputation, it also requires a likelihood of confusion.[17] Passing off likewise needs goodwill, misrepresentation and damage. Many deepfakes, however, are shared as memes or parodies, with no product on sale. A clearly labelled fake may also deceive nobody. The labelling duty under the IT Rules may thus make confusion even harder to prove.

3.5 Data Protection and the Biometric Harvesting Gap

The DPDP Act should, in principle, govern the collection of faces and voices. Processing needs consent or a legitimate use, and consent must be free, specific, informed, unconditional and unambiguous.[18] But the Act does not apply to personal data that a person has made publicly available.[19] It also exempts processing for research, archiving or statistical purposes, subject to prescribed standards.[20] Unlike the European Union's General Data Protection Regulation (GDPR), the Act has no special category for biometric data. Most of its duties will apply only from May 2027.[21] Photographs and recordings posted online can therefore be scraped to train commercial models without permission.

3.6 The IT Act and the 2026 Rules

Information technology law adds remedies, but mostly after the harm. Identity theft and cheating by personation through a computer resource are offences.[22] The Bharatiya Nyaya Sanhita, 2023 also punishes cheating by personation.[23] Intermediaries keep their safe harbour only if they observe due diligence.[24] Since 20 February 2026, intermediaries must label synthetically generated information, and significant social media platforms must obtain and verify user declarations.[25] Platforms must act on court or government orders within three hours instead of thirty-six.[26] Complaints about intimate or morphed images must be acted on within two hours instead of twenty-four.[27] These rules deal with labels and

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[16] The Trade Marks Act, 1999 (Act 47 of 1999), s. 14.

[17] *Id.*, s. 29.

[18] The Digital Personal Data Protection Act, 2023 (Act 22 of 2023), ss. 4, 6.

[19] *Id.*, s. 3(c)(ii).

[20] *Id.*, s. 17(2)(b).

[21] The Digital Personal Data Protection Rules, 2025, G.S.R. 846(E) (Nov. 13, 2025), r. 1; "MeitY Notifies Final Digital Personal Data Protection Rules, 2025", S.S. Rana & Co., available at: https://ssrana.in/articles/meity-notifies-final-digital-personal-data-protection-rules-2025/ (last visited on Nov. 13, 2026).

[22] The Information Technology Act, 2000 (Act 21 of 2000), ss. 66C, 66D.

[23] The Bharatiya Nyaya Sanhita, 2023 (Act 45 of 2023), s. 319.

[24] The Information Technology Act, 2000, s. 79.

[25] "Centre Notifies IT Rules Amendment To Regulate AI-Generated Content; Platforms Must Takedown Illegal Content Within 3 Hrs", LiveLaw, Feb. 10, 2026, available at: https://www.livelaw.in/amp/top-stories/centre-notifies-it-rules-amendment-to-regulate-ai-generated-content-522623 (last visited on Nov. 13, 2026).

[26] The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, as amended by the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment Rules, 2026 (notified on Feb. 10, 2026; in force from Feb. 20, 2026), r. 3(1)(d).

[27] The IT Rules, 2021, r. 3(2)(b); "Centre Cuts Sensitive Content Takedown Window To 2 Hours: All You Need To Know", Outlook, Aug. 7, 2026, available at: https://www.outlookindia.com/national/centre-cuts-sensitive-content-takedown-window-to-2-hours-all-you-need-to-know (last visited on Nov. 13, 2026).

takedown. They give no one a right over his or her own face or voice, and they do not reach model training. Table 1 summarises the three gaps.

Table 1 — Gaps in Indian law against AI misuse of persona

Law	Main provisions	What it protects	Gap exposed by AI
Copyright Act, 1957	ss. 13, 38, 38A, 38B	Original works; performers' rights in their performances	A voice, face or style is not a work; a new synthetic performance copies no recorded one (fixation gap)
Trade Marks Act, 1999 and passing off	ss. 14, 29; common law	Marks used in trade; goodwill against misrepresentation	Non-trade, parody and clearly labelled fakes may cause no confusion (confusion gap)
DPDP Act, 2023 and Rules, 2025	ss. 3(c)(ii), 6, 17(2)(b)	Personal data processed with consent or for legitimate uses	Public data excluded; research exempt; main duties only from May 2027 (biometric harvesting gap)
IT Act, 2000 and IT Rules, 2021 (as amended in 2026)	ss. 66C, 66D, 79; rr. 3(1)(d), 3(2)(b)	Against identity theft and personation; labels; fast takedown	Remedies arise only after the harm; no right in one's own likeness; training not covered

Source: Prepared by the authors from the statutes cited in Section 3.

4. Indian Judicial Responses

4.1 The AI-Era Orders

The courts moved first. In *Amitabh Bachchan v. Rajat Nagi*, the Delhi High Court restrained the unauthorised use of the actor's name, image and voice by websites, apps and sellers.[28] In *Anil Kapoor*, it protected the actor's catchphrase "Jhakaas" and his persona against misuse through AI tools.[29] In *Arijit Singh*, the Bombay High Court restrained platforms that cloned a singer's voice, treating it as a key part of personal identity.[30] *Aishwarya Rai Bachchan* then described two facets of the harm. One is commercial exploitation of personality attributes. The other is a breach of privacy that undermines the right to live with dignity.[31]

Recent orders reach newer forms of AI. In *Sonakshi Sinha*, the court restrained chatbot platforms that let users interact with an AI version of the actor.[32] In *Allu Arjun*, its reasoning went further. It called the actor's name, voice, gestures and signature "source identifiers" and treated them as his copyrights.[33]

[28] *Amitabh Bachchan*, *supra* note 2.
[29] *Anil Kapoor v. Simply Life India*, 2023 SCC OnLine Del 6914.
[30] *Arijit Singh v. Codible Ventures LLP*, 2024 SCC OnLine Bom 2445.
[31] *Aishwarya Rai Bachchan*, *supra* note 2.
[32] *Sonakshi Sinha v. Character Technologies Inc.*, 2026 SCC OnLine Del 1177.
[33] *Allu Arjun v. Frankly Retail Pvt. Ltd.*, 2026 LiveLaw (Del) 400, para 35.

Critics argue that this merges trade mark, copyright and personality claims into one undefined right, because copyright protects expression, not identity.[34]

4.2 Breadth and Inconsistency

These orders share three features. Most are ex parte interim injunctions. Many run against unknown "John Doe" defendants and cover all media and formats. They also rest on a mix of passing off, privacy, dignity and intellectual property. The result is inconsistency. In August 2026, one bench refused a blanket order on 6,884 URLs challenged by the actor Janhvi Kapoor. It granted relief only for about 552 of them that were pornographic or sexually vulgar, and deferred the rest. The next day, another bench granted an omnibus restraint in a suit by Khushi Kapoor, with takedowns within thirty-six hours.[35]

4.3 Recalibration in 2026

The Delhi High Court has since begun to draw lines. In September 2026, it decided to hear the suits of Janhvi Kapoor, Vivek Oberoi and Aaradhya Bachchan together to settle the scope of the right.[36] One of the amici curiae, Gautam Bhatia, argued that there is no single personality right in Indian law. In his view, "mere commercialisation on its own" should not justify an injunction without deception or a false association.[37] On 29 October 2026, another bench took a similar approach in *Kriti Sanon*. It held that "personality rights" is not a single cause of action.[38] The label covers distinct claims in publicity, passing off, privacy and defamation. Where their conditions are met, it also includes rights under the Trade Marks Act and the Copyright Act. The mere use of a person's identity is not, by itself, unlawful.[39] A plaintiff must plead each claim defendant-wise and content-wise, and cannot seek one omnibus injunction.[40] The order also left news, criticism, satire, parody, caricature and fan expression untouched.[41]

Table 2 traces these developments. The recent steps are welcome, but they remain interim and judge-made. Final judgments may still take different paths. Only legislation can give the right a stable shape.

Table 2 — Indian judicial responses to AI misuse of persona, 2022–2026

Case	Court and date	AI or digital issue	Outcome and reasoning
Amitabh Bachchan v. Rajat Nagi	Delhi High Court, Nov. 2022	Name, image and voice used by websites, apps and sellers	Omnibus injunction, including against unknown defendants

[34] Noyonika Kar, "Evolving IP or Judicial Overreach? India's Personality Rights Problem", LiveLaw, May 19, 2026, available at: https://www.livelaw.in/articles/evolving-ip-judicial-overreach-personality-rights-problem-534671 (last visited on Nov. 13, 2026).

[35] Aakanksha Kumar, "[Part I] The Road Not Taken (Down): Delhi HC Starts Sorting the Personality Rights 'Salad Platter'", SpicyIP, Sept. 9, 2026, available at: https://spicyip.com/2026/09/part-i-the-road-not-taken-down-delhi-hc-starts-sorting-the-personality-rights-salad-platter.html (last visited on Nov. 13, 2026).

[36] Bansal, *supra* note 4.

[37] Aakriti Bansal, "Profiting from a Celebrity's Image Not Enough for Takedowns: Amicus in Janhvi Kapoor Case", MediaNama, Oct. 7, 2026, available at: https://www.medianama.com/2026/10/223-profit-takedowns-janhvi-kapoor-personality-rights/ (last visited on Nov. 13, 2026).

[38] *Kriti Sanon*, *supra* note 3, para 18.

[39] *Id.*, para 22.

[40] *Id.*, para 23.

[41] *Id.*, para 33.

Case	Court and date	AI or digital issue	Outcome and reasoning
Anil Kapoor v. Simply Life India	Delhi High Court, Sept. 2023	Misuse of persona and the catchphrase "Jhakaas" through AI tools	Injunction protecting the persona and the catchphrase
Arijit Singh v. Codible Ventures	Bombay High Court, July 2024	AI platforms cloning a singer's voice	Voice protected as a key part of personal identity
Aishwarya Rai Bachchan v. Aishwaryaworld.com	Delhi High Court, Sept. 2025	AI, deepfakes and face morphing	Two facets of harm: commercial exploitation and loss of privacy and dignity
Sonakshi Sinha v. Character Technologies	Delhi High Court, Mar. 2026	AI chatbots and obscene AI images	Ex parte injunction against chatbot platforms and sellers
Allu Arjun v. Frankly Retail	Delhi High Court, Apr. 2026	Deepfakes, AI content and merchandise	Attributes called "source identifiers" and the actor's copyrights
Janhvi Kapoor and Khushi Kapoor suits	Delhi High Court, Aug. 2026	Thousands of URLs; AI-generated content	Relief for about 552 of 6,884 URLs in one suit; an omnibus order with 36-hour takedowns in the other
Kriti Sanon v. BBE Marketing	Delhi High Court, Oct. 2026	Deepfakes, voice models and chatbots	Not a single cause of action; mere use not unlawful; claims to be pleaded defendant-wise

Note: All orders are interim. *Source:* Prepared by the authors from the authorities cited in Section 4.

5. Comparative Analysis

5.1 The United States: Federal Law

United States federal law has no general right of publicity. Its main route is the action for false endorsement under the Lanham Act.[42] This applies where the use of a voice or likeness is likely to confuse consumers about sponsorship or approval. In *Midler v. Ford*, a court protected a singer's distinctive voice that an advertiser had imitated.[43] In *Waits v. Frito-Lay*, a similar imitation supported both a state misappropriation claim and a Lanham Act claim.[44]

Copyright offers less. The rights in a sound recording do not extend to an independent recording that merely imitates or simulates it.[45] In *Lehrman v. Lovo*, voice actors sued an AI company that had cloned their voices. The court dismissed the copyright claims over the clones, because copyright protects recordings, not the voice itself. It also dismissed the Lanham Act claims. The actors' causes of action

[42] The Lanham (Trademark) Act, 1946, 15 U.S.C. § 1125(a) (United States).
[43] *Midler v. Ford Motor Co.*, 849 F.2d 460 (9th Cir. 1988).
[44] *Waits v. Frito-Lay, Inc.*, 978 F.2d 1093 (9th Cir. 1992).
[45] The Copyright Act of 1976, 17 U.S.C. § 114(b) (United States).

under New York's publicity and consumer protection laws survived.[46] This is the same fixation gap that the Indian Copyright Act shows.

Congress has now begun to act directly. The TAKE IT DOWN Act of 2025 makes it a crime to publish intimate images without consent, including AI-generated forgeries. Since 19 May 2026, covered platforms must remove such images within forty-eight hours of a valid request.[47] The NO FAKES Act would go further. It would create a federal right against unauthorised digital replicas of a person's voice and likeness, with liability for platforms that host them.[48] The Senate Judiciary Committee advanced the bill in June 2026. On 30 September 2026, however, Senator Ted Cruz blocked its passage by unanimous consent, citing weak exceptions for satire and political commentary.[49] The United States Copyright Office had already recommended such a federal right in 2024.[50]

5.2 The United States: State Statutes

State law is more developed. California protects a person's name, voice, signature, photograph and likeness against unauthorised commercial use.[51] Tennessee's ELVIS Act of 2024 was written for the AI era, and its protection extends to simulations, not only to actual recordings. It also makes a person liable for making available a tool whose primary purpose is to produce an individual's voice or likeness without authorisation.[52] Illinois requires informed written consent before a private entity collects biometric identifiers, such as a voiceprint or a scan of face geometry.[53] These statutes show that legislatures can protect the persona directly, rather than leave courts to stretch older laws.

5.3 The European Union

The European Union regulates in advance. Under the AI Act, providers of generative tools must mark synthetic output in a machine-readable form. Deployers must disclose that a deepfake has been artificially generated or manipulated.[54] These duties apply from 2 August 2026. Providers of systems already on the market, however, have until 2 December 2026 to mark their output. From that date, the Act also prohibits AI systems that generate realistic intimate or sexually explicit images of an identifiable person without

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[46] *Lehrman v. Lovo, Inc.*, No. 24-cv-3770 (JPO) (S.D.N.Y. July 10, 2025); Skadden, Arps, Slate, Meagher & Flom LLP, "New York Court Tackles the Legality of AI Voice Cloning", July 17, 2025, available at: https://www.skadden.com/insights/publications/2025/07/new-york-court-tackles-the-legality-of-ai-voice-cloning (last visited on Nov. 13, 2026).

[47] Tools to Address Known Exploitation by Immobilizing Technological Deepfakes on Websites and Networks Act (TAKE IT DOWN Act), Pub. L. No. 119-12, 139 Stat. 55 (2025) (United States); WilmerHale, "The TAKE IT DOWN Act Goes Live", June 15, 2026, available at: https://www.wilmerhale.com/en/insights/client-alerts/20260615-the-take-it-down-act-goes-live (last visited on Nov. 13, 2026).

[48] Nurture Originals, Foster Art, and Keep Entertainment Safe (NO FAKES) Act, S. 4591, 119th Cong. (2026) (United States; pending); "First Amendment Concerns Delay Radio's AI Deepfake Shield", Radio Ink, Oct. 8, 2026, available at: https://radioink.com/2026/10/08/first-amendment-concerns-delay-radios-ai-deepfake-shield/ (last visited on Nov. 13, 2026).

[49] "US Senate Did Not Pass the NO FAKES Act on AI Clones of Voice and Likeness by Unanimous Consent; Senator Cruz Objected", Beyond Copying, Sept. 30, 2026, available at: https://beyondcopying.com/news/us-no-fakes-act-digital-replicas (last visited on Nov. 13, 2026).

[50] U.S. Copyright Office, *Copyright and Artificial Intelligence, Part 1: Digital Replicas* (July 2024).

[51] Cal. Civ. Code § 3344 (California, United States).

[52] Ensuring Likeness, Voice, and Image Security Act of 2024 (ELVIS Act), Tenn. Code Ann. § 47-25-1101 et seq. (Tennessee, United States).

[53] Biometric Information Privacy Act, 740 Ill. Comp. Stat. 14/15(b) (Illinois, United States).

[54] Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), OJ L, 2024/1689 (12.7.2024), as amended by Regulation (EU) 2026/1744 (Digital Omnibus on AI), art. 50.

consent.[55] The GDPR adds a second layer. It treats biometric data used to identify a person as a special category, which may be processed only on narrow grounds such as explicit consent.[56] Unlike the DPDP Act, it contains no general exclusion for publicly available personal data.

Member States are also moving. On 8 October 2026, Denmark tabled Bill L 49 to amend its Copyright Act. It would bar the public release of realistic digital imitations of a person's appearance, voice or movements without consent. Under the bill, the publisher must prove that consent. Caricature, satire, parody and criticism are exempt, and protection lasts until fifty years after death. The bill is proposed to take effect on 1 January 2027.[57]

5.4 The United Kingdom as Persuasive Authority

English law recognises no general image right and protects the persona through passing off. In *Irvine v. Talksport*, a racing driver recovered damages for a false impression that he had endorsed a radio station.[58] In *Fenty v. Arcadia*, the singer Rihanna succeeded against T-shirts bearing her photograph, because buyers were likely to think that she had approved them.[59] Indian passing off follows the same logic and shares the same limit. Without a false endorsement, there is no claim.

5.5 India Compared

Fig. 2 sets the three systems side by side. India is strong at the end of the life cycle. Its 2026 Rules label synthetic content and require fast takedowns, and its courts readily restrain commercial misuse. It is weak at the start. It has no statutory right in voice or likeness, no liability for cloning tools and no consent rule for harvesting faces and voices. The United States protects the persona mainly through state statutes, while its federal bill remains pending. The European Union relies on transparency, prohibitions and data protection rather than a property interest. Each system therefore offers a lesson. The United States shows how to define the right and its exceptions. The European Union shows how to regulate data and tools before any harm occurs.



Fig. 2 — Protection of the persona against generative AI in the three systems, November 2026

Note: "Partial" means that protection is limited or uncertain. The United States column covers federal law and the state statutes cited in the text. The European Union column covers Union law, not national law,

[55] AI Act, art. 5(1)(ba); "Digital Omnibus on AI: Regulation (EU) 2026/1744 Is Published in the Official Journal", NicFab Blog, July 24, 2026, available at: https://www.nicfab.eu/en/posts/digital-omnibus-ai-official-journal/ (last visited on Nov. 13, 2026).

[56] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), OJ L 119, 4.5.2016, p. 1, arts. 4(14), 9.

[57] Luis Rijo, "Denmark's Deepfake Bill Makes Publishers Prove Consent from January 2027", PPC Land, Oct. 9, 2026, available at: https://ppc.land/denmarks-deepfake-bill-makes-publishers-prove-consent-from-january-2027/ (last visited on Nov. 13, 2026).

[58] *Irvine v. Talksport Ltd.*, [2002] EWHC 367 (Ch).

[59] *Fenty v. Arcadia Group Brands Ltd.*, [2015] EWCA Civ 3.

and includes rules that apply from 2 December 2026. *Source:* Authors' assessment based on the authorities cited in Sections 3 and 5.

6. Towards a Persona Rights Framework for India

Two routes are open. The first is targeted amendment of the existing statutes, and the second is a sui generis law on personality rights. Amendments fit the present structure, but they would leave protection scattered across four Acts. A dedicated law would give a single definition, though it may overlap with existing remedies. This paper proposes a hybrid. A short Persona Rights Act should define the core right, its exceptions and its remedies. Consequential amendments should then close the specific gaps in the other laws. Table 3 sets out the elements.

Five design choices are central. First, the right must cover name, image, likeness, voice and other identifiable attributes, including digital replicas, for every person and not only celebrities. Second, the commercial interest may be licensed, but only through written, specific and time-limited consent. Interests in privacy, dignity and reputation would remain unassignable, as *Kriti Sanon* also recognised.[60] Third, the law needs a closed list of exceptions, namely news, criticism, commentary, satire, parody, caricature, fan expression and incidental use. Fourth, platforms ought to follow a notice-and-takedown procedure with a counter-notice, and courts should prefer URL-specific orders to omnibus injunctions. Fifth, liability must extend to tools whose primary purpose is to clone a specific person, as in Tennessee.

The other statutes then need narrower changes. The Copyright Act should give performers a right against synthetic imitation of their voice or performance, without proof that a recording was copied. Trade mark law could add a statutory action for false endorsement by a digital replica. The DPDP Act should ensure that its public-data exclusion and research exemption do not cover biometric data used for commercial AI training. The IT Rules can largely stay as they are, since they already require labels and fast takedowns.

Table 3 — A proposed framework for persona rights in India

Element	Proposal	Model or basis	Gap addressed
1. Statutory right	Right over name, image, likeness, voice and digital replicas, for every person	NO FAKES Act (pending); ELVIS Act; Danish Bill L 49	No statutory basis
2. Consent and licensing	Written, specific, time-limited licences; dignity interests not assignable	Danish Bill L 49; *Kriti Sanon*	Exploitation without consent
3. Exceptions	News, criticism, commentary, satire, parody, caricature, fan expression and incidental use	Danish Bill L 49; *Kriti Sanon*; NO FAKES Act	Over-broad orders that chill speech

[60] "Personality Rights Not a Standalone Cause of Action, Mere Use of Identity Not Unlawful: Delhi High Court", India Legal, Nov. 5, 2026, available at: https://indialegallive.com/constitutional-law-news/courts-news/personality-rights-not-a-standalone-cause-of-action-mere-use-of-identity-not-unlawful-delhi-high-court/ (last visited on Nov. 13, 2026).

Element	Proposal	Model or basis	Gap addressed
4. Copyright Act	Performers' right against synthetic imitation of voice or performance	U.S. Copyright Office report; Danish Bill L 49	Fixation gap
5. Trade mark law	Statutory action for false endorsement by a digital replica	Lanham Act § 43(a); *Irvine*; *Fenty*	Confusion gap
6. DPDP Act	Public-data and research exemptions not to cover biometric data used in commercial AI training	GDPR, art. 9; Illinois BIPA	Biometric harvesting gap
7. Platforms and tools	Notice-and-takedown with counter-notice; URL-specific orders; liability for cloning tools	TAKE IT DOWN Act; ELVIS Act; IT Rules, 2021	Remedies only after the harm

Source: Authors' proposals, drawing on the authorities cited in Sections 3 to 6.

7. Conclusion and Recommendations

7.1 Conclusion

This paper asked how far Indian law protects the persona against generative AI. It finds that protection is strong only after the harm and only through court orders. Copyright cannot reach a voice or a style, and trade mark law needs trade use and confusion. The DPDP Act leaves public faces and voices open to harvesting. The courts have offered quick relief, but their orders have varied, and the Delhi High Court is now narrowing them. The United States and the European Union have begun to legislate on digital replicas, each in its own way. These findings support the hypothesis of the study. India needs a short statute on persona rights, backed by targeted amendments, that protects both commerce and dignity without silencing speech.

7.2 Recommendations

a. Enact a Persona Rights Act that gives every person a right over name, image, likeness, voice and digital replicas.
b. Separate the licensable commercial interest from the personal interests in privacy and dignity, and require written, specific consent for any digital replica.
c. List statutory exceptions for news, criticism, commentary, satire, parody, caricature and fan expression.
d. Amend the Copyright Act to give performers a right against synthetic imitation of their voice or performance.
e. Amend the DPDP Act so that its public-data exclusion and research exemption do not cover biometric data used to train commercial AI models.
f. Provide a notice-and-takedown procedure with a counter-notice, and liability for tools built to clone a specific person.
g. Until such a law is enacted, courts should grant defendant-wise and URL-specific relief, in line with *Kriti Sanon*.

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