INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]

VOLUME 6 AND ISSUE 3 OF 2026

APIS – 3920 - 0001 *(and)* ISSN - 2583-2344

Published by

Institute of Legal Education

https://iledu.in

# LEGAL FRAMEWORK GOVERNING DEEPFAKE & PERSONALITY RIGHTS IN INDIA : A CRITICAL ANALYSIS

**AUTHOR -** SONU SHAJI, STUDENT AT SCHOOL OF LAW, CHRIST (DEEMED TO BE UNIVERSITY)

**BEST CITATION** – SONU SHAJI, LEGAL FRAMEWORK GOVERNING DEEPFAKE & PERSONALITY RIGHTS IN INDIA : A CRITICAL ANALYSIS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 6 (3) OF 2026, PG. 131-137, APIS – 3920 – 0001 & ISSN - 2583-2344.

**ABSTRACT**

The emergence of deepfake technology has introduced serious legal challenges in protecting individual privacy, reputation, and identity in the digital age. Deepfakes—realistic yet fabricated audio-visual content—pose threats to established personality rights and procedural fairness, particularly under Article 21 of the Indian Constitution. Through landmark cases like *Kunal Kamra vs Union of India* (2024), *Anita Kadian vs State of Haryana* (2024), and *Mahua Moitra vs Zee Media Corporation Ltd.* (2021), Indian courts have shown adaptability by extending existing legal principles to counter the malicious use of synthetic media and protect digital dignity.

This study, using a doctrinal and analytical methodology, evaluates India's current legal mechanisms including constitutional protections, tort law, and the Information Technology Act, 2000. It highlights the urgent need for reforms to strengthen digital evidence verification, enhance forensic capabilities, and regulate the misuse of deepfakes. While the present legal framework shows resilience, proactive legislative and institutional measures are necessary to ensure justice, preserve fair trial standards, and safeguard personal rights in an era dominated by artificial intelligence and synthetic content.

**KEYWORDS:** Deepfakes, Personality Rights, Privacy, Indian Legal Framework, Information Technology Act 2000, Constitutional Law India, Digital Evidence, Right to Fair Trial, Cyberlaw, Judicial Interpretation

## INTRODUCTION

In essence, law has always been closely associated with the development of society and technology. When one thinks of the context of India, it is seen that the law relating to individual rights has always been based on a broad concept of dignity, privacy, and autonomy that has been a part of customs and religious law and later a part of statutory law. Just like Dharma in Hindu law and Hukum in Islamic law provided a code of conduct for people before the formal development of law, in the modern world of artificial intelligence and digital technologies, a new challenge is being faced by society. 'Deepfake' is not a term unfamiliar to a layman anymore. It is an artificial intelligence-driven content that manipulates audio-visual content in a way that is almost indistinguishable from reality, to a point where it is almost impossible to differentiate between truth and fabrication. While to a layman, it may seem like an entertaining tool for social media, in essence, it is a serious threat to individual rights, particularly to one's own personality.[417]

If we ask an ordinary man on the street, "what are personality rights?" The answers would normally confuse them with 'privacy' and 'reputation.' The common man's perception of 'personality rights' is that they are rights which protect against defamation of a man's name and reputation. But is that really what 'personality rights' mean? The answer is a definite 'no.' The real meaning of 'personality

[417] M.P. Jain, *Indian Constitutional Law* 107–10 (8th ed. 2018)

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 6 AND ISSUE 3 OF 2026
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

rights' is much broader than that. 'Personality rights' mean the right of a man to protect himself against unauthorized use of his name, image, likeness, and voice for commercial, social, and dignified purposes. In short, it is a recognition of a man's identity as an extension of his liberty. In India, 'personality rights' are protected under constitutional law, under Article 21 of the Constitution, under legislation in the Information Technology Act of 2000, and in court decisions in landmark cases.[418]

This concept of rights, just as the concept of law, has undergone significant changes over the centuries. Be it from ancient laws to colonial laws, and from moral obligations to court pronouncements, rights have always been in a state of change according to the changing circumstances of society. Eminent legal experts have attempted to clarify this concept. According to William Blackstone, "the law in its most general and comprehensive sense signifies a rule of action prescribed by a superior being, commanding what is right and prohibiting what is wrong." Salmond stated, "rights are interests recognized and protected by a rule of justice."[419]If we extend this concept of rights to modern society, it is only logical to conclude that it is the state's responsibility to recognize and protect one's identity from deepfake abuse.

However, deepfakes also raise to prominence another aspect—morality. What is morality in its most basic and simple definition? It is a social construct that attempts to define right and wrong in human activity. When a person's image is altered without his or her consent to produce obscene and misleading content, it is immediately recognized as being morally wrong, even though the person is not aware of the law that criminalizes this act. At this point, there is a fundamental conflict in jurisprudence that raises the question of whether law should follow morality or morality should give way to law. The answer is in their mutual convergence.[420]

In India, it is observed that this issue has not remained unaddressed under the legal sphere. Although there is no specific law which mentions the word "deepfake," it can be stated that the laws which are already in place are more than enough to deal with this menace. The provisions related to identity fraud, obscenity, and defamation under the Bharatiya Nyaya Sanhita, 2023; provisions related to the misuse of digital content under the Information Technology Act; and the recognition of privacy as a fundamental right under ***K.S. Puttaswamy v. Union of India***,[421] along with the recognition of publicity rights under ***ICC Development v. Arvee Enterprises*** [422], have already laid the foundation for the protection of personality rights.

Thus, just as Dharma and Hukum acted as guiding principles for justice in ancient times, today the principles of dignity, privacy, and autonomy form the moral and legal backbone of protection against deepfakes. The challenge is not the absence of law, but its interpretation and enforcement in the digital era. Personality rights, when understood as an extension of human dignity, provide the necessary shield against technological misuse. Law and morality, once again, must converge to ensure that innovation does not trample upon individual identity.

**RESEARCH PROBLEM**

The crux of the research issue is to assess whether the existing legal regime in India, in the form of constitutional and legal rights and judicial precedents, is sufficient to safeguard an individual against the misapplication of deepfakes or whether there is a need to introduce a law in this area. Although personality rights are recognized under law and there is a constitutional provision that protects an individual's right to privacy, there is a lack of

[418] Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India)
[419] John W. Salmond, *Jurisprudence* 221 (P.J. Fitzgerald ed., 12th ed. 1966)
[420] H.L.A. Hart, *Law, Liberty and Morality* 4–7 (Stanford Univ. Press 1963)
[421] (2017) 10 SCC 1, AIR 2017 SC 4161
[422] ICC Dev. (Int'l) Ltd. v. Arvee Enters., 2003 SCC OnLine Del 29.

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 6 AND ISSUE 3 OF 2026
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

a direct law in this area, and this is a point of convergence and divergence[423].

**CLAIM**

While India's legal framework, grounded in constitutional protection, statutory regulation, and its forward-thinking judiciary, provides a flexible framework for safeguarding personality rights against potential deepfake abuse, it remains inadequate in the face of the technological, evidentiary, and democratic imperatives of deepfake threat. Specific legislative and institutional reforms are necessary for individual dignity and democratic and evidentiary integrity in the face of deepfakes.[424]

**Legal Framework India :**

**CONSTITUTIONAL AND STATUTORY PROVISIONS**

The right to privacy, dignity, and reputation has been recognized and protected as an integral part of the right to life and liberty under Article 21 of the Constitution of India. The Supreme Court, in the case of ***Justice K.S. Puttaswamy (Retd.) v. Union of India***[425], has recognized the right to privacy as not only being protected under the statutes, both at the federal and state levels, and the common law, but also as a constitutionally protected fundamental right, which flows directly from the inherent dignity and autonomy of the individual. The Supreme Court has recognized the right to privacy as having various dimensions, which include informational privacy, bodily integrity, and the protection of personal identity. The recognition of the individual's legitimate expectation over the control of information related to their personality has effectively laid the foundations for the protection of personality related interests in the digital age.

Personality rights[426] Personality rights, or rights of publicity, shield a person's identity from commercial exploitation by others without their consent. These rights enable individuals to regulate the commercial use of their name, image, likeness, voice and other distinctive personal attributes as held in the case of ***ICC Development (International) Ltd v. Arvee Enterprises (2003)***[427] , extending constitutional guarantees to the digital and virtual arena where deepfake technology operates.

The rapid development of artificial intelligence driven synthetic media, commonly referred to as deepfakes, presents a significant challenge to existing legal regimes governing identity, reputation, and digital authenticity. Although Indian law does not yet contain legislation explicitly regulating deepfakes, a combination of constitutional protections, statutory provisions, and judicial interpretation provides a framework through which harms arising from such technologies may be addressed. This framework derives primarily from the Information Technology Act, 2000, the Bharatiya Nyaya Sanhita, 2023, and the Copyright Act, 1957, supplemented by constitutional jurisprudence recognizing privacy, dignity, and reputation as integral components of personal liberty under Article 21 of the Constitution of India.[428]

The Information Technology Act, 2000 constitutes the principal statutory regime regulating digital conduct and cyber offences in India. **Section 66E**[429] criminalizes the violation of privacy through the capture, publication, or transmission of images of a private area without consent. In the context of deepfakes, the dissemination of manipulated visual content that falsely depicts an individual in compromising circumstances may fall within the ambit of this provision. **Section 66D**[430]

[423] Robert Chesney & Danielle Keats Citron, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 **Calif. L. Rev.** 1753, 1758–60 (2019).
[424] Anil Kapoor v. Simply Life India, 2023 SCC OnLine Del 6914 (Delhi High Court)
[425](2017) 10 SCC 1, AIR 2017 SC 4161
[426] Mirshekari A, Foundations of Legal Protection of Reputation, *Comparative Law Review*, 11 (1) (2020) 339, doi: 10.22059/jcl.2020.290488.633904.
[427] ICC Development (International) Ltd. v. Arvee Enterprises, 2003 SCC OnLine Del 29.
[428] R. Rajagopal v. State of Tamil Nadu, (1994) 6 S.C.C. 632 (India)
[429] Information Technology Act, 2000, § 66E (India).
[430] Information Technology Act, 2000, § 66D (India).

INDIAN JOURNAL OF LEGAL REVIEW [IJLR – IF SCORE – 7.58]
VOLUME 6 AND ISSUE 3 OF 2026
APIS – 3920 - 0001 *(and)* ISSN - 2583-2344
Published by
Institute of Legal Education
https://iledu.in

addresses cheating by personation using computer resources and is particularly relevant where synthetic media is employed to impersonate identifiable individuals in order to deceive third parties. Such impersonation may manifest in fraudulent financial schemes, fabricated endorsements, or politically motivated misinformation. **Section 66F**[431], which deals with cyberterrorism, may also assume relevance where synthetic media is deployed as part of coordinated disinformation campaigns capable of threatening public order or national security.

Equally significant is the intermediary liability framework established under **Section 79**[432] of the Information Technology Act. This provision grants conditional safe harbour protection to digital intermediaries, provided they exercise due diligence and remove unlawful content upon receiving notice. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 operationalize this obligation by requiring intermediaries to establish grievance redressal mechanisms and respond expeditiously to complaints relating to unlawful digital content. In cases involving deepfakes, these rules impose a duty on platforms to remove manipulated or misleading media once notified, thereby creating a procedural safeguard against the continued circulation of harmful synthetic content.

In addition to the Information Technology Act, the **Bharatiya Nyaya Sanhita, 2023** provides several criminal law provisions that indirectly address the misuse of deepfake technology. **Section 316** criminalizes cheating and may apply where synthetic media is used to induce individuals into financial or commercial transactions through deception. Section 319, which penalizes cheating by personation, is particularly applicable where deepfakes are used to impersonate public figures, celebrities, or other identifiable individuals. The creation of manipulated electronic media with intent to deceive may also fall within Section 336, which addresses the forgery of electronic records. Where such fabricated media is subsequently circulated or relied upon as authentic, Section 338, which criminalizes the use of forged electronic records as genuine, becomes applicable.

Remedies are also available if deepfake content results in reputational damage or moral injury, as the Bharatiya Nyaya Sanhita outlines. Defamation, which falls under **Section 356**, can be invoked if synthetic media content has been used to damage an individual's reputation. Constitutional jurisprudence in India has long recognized a reputation as an integral part of personal liberty under Article 21, which has been upheld in the landmark case *R. Rajagopal v. State of Tamil Nadu*[433]. Thus, the circulation of synthetic media content with the intent to malign an individual's reputation would fall under the ambit of Section 356. Section 292 deals with the circulation of obscene content, which becomes relevant in the context of sexually explicit deepfakes.

Moreover, the non-consensual creation and distribution of manipulated intimate images can also engage provisions related to voyeurism and sexual offenses with reference to the Information Technology Act. Furthermore, if synthetic media is employed as a means of coercion and harassment, provisions related to criminal intimidation under **Section 351**[434] and extortion under **Section 327** [435]can be applicable.

Another significant statutory protection against the misuse of deepfakes is provided through the provisions of the Copyright Act, 1957. Though the act was not enacted with the intention of protecting artificial intelligence-generated content, the provisions relating to the rights of performers and moral rights are relevant to protecting deepfakes from misuse. **Section 38**[436] and **Section 38A** of the act provides for the

[431] Information Technology Act, 2000, § 66F (India).
[432] Information Technology Act, 2000, § 79 (India).
[433] R. Rajagopal v. State of Tamil Nadu, (1994) 6 S.C.C. 632 (India)
[434] Bharatiya Nyaya Sanhita, 2023, § 351
[435] Bharatiya Nyaya Sanhita, 2023, § 327
[436]

rights of performers over their live and recorded performances. The misappropriation of an actor's image or voice extracted from his previous performance through deepfake technology and using it for public viewing amounts to the unauthorized fixation and communication of the performance to the public, thereby violating the performer's right. **Section 57** also protects the moral rights of authors, which allow authors to object to the distortion, mutilation, or modification of their work that is prejudicial to their honor and reputation. In the case of synthetic content, the misappropriation of a performer's work for the purpose of misrepresenting his/her image or for using his/her image for objectionable content amounts to infringement of his/her moral rights.

Copyright infringement may also arise under Section 51 where copyrighted material such as films, photographs, or audio recordings is used without authorization to generate manipulated media. For example, the extraction of visual or audio elements from an existing work and their subsequent modification through artificial intelligence may constitute unauthorized reproduction and communication to the public. The Copyright Act provides both civil and criminal remedies in such cases. **Sections 55 and 63** permit affected individuals to seek injunctions, damages, and criminal prosecution against those responsible for the creation or dissemination of infringing material.

Judicial interpretation has played a critical role in extending existing legal principles to address emerging technological harms. Courts in India have consistently emphasized the protection of dignity, privacy, and identity within the digital sphere. In ***Kunal Kamra v. Union of India (2024),***[437] The judiciary expressed concern regarding unchecked governmental authority in regulating online speech while simultaneously reaffirming the importance of constitutional safeguards in the digital environment. Similarly, ***Mahua Moitra v. Zee Media Corporation Ltd. (2021)***[438] demonstrates the judiciary's willingness to recognize reputational harm arising from manipulated digital content as a legitimate basis for legal intervention. In ***Anita Kadian v. State of Haryana (2024)***[439]The court underscored the importance of reliable forensic analysis in the authentication of electronic evidence, reflecting the growing significance of digital verification in cases involving synthetic media.

The rapid development of artificial intelligence technologies, particularly synthetic media or deepfakes, has emerged as a major regulatory concern across jurisdictions. Comparative legal developments demonstrate an increasing global effort to address the risks posed by manipulated digital content. The European Union, through the proposed Artificial Intelligence Act, has introduced transparency obligations requiring disclosure when content is generated or altered using artificial intelligence. In the United States, several states have enacted laws targeting the use of deepfakes in political campaigns and non-consensual pornography, recognizing their potential to distort democratic processes and harm individual dignity. China has adopted a more centralized regulatory framework by mandating strict oversight and labeling requirements for synthetic media technologies. These international approaches highlight a growing consensus that explicit regulation of deepfake technologies is necessary, underscoring the urgency for India to develop a similar legal response.

In the context of India, the protection of identity, dignity, and reputation is well grounded in constitutional principles under Article 21 of the Constitution of India, which provides for the right to life and personal liberty and includes within its ambit privacy and individual autonomy. There are also existing provisions in law that offer considerable remedies against the misuse of synthetic media. For instance, the Information

[437] Kunal Kamra v. Union of India, 2024 SCC OnLine Bom 1796

[438] Mahua Moitra v. Zee Media Corp. Ltd., 2021 SCC OnLine Del 4613.
[439] Anita Kadian v. State of Haryana, 2024 SCC OnLine P&H 1789.

Technology Act of 2000 [440] provides for regulations against illegal digital conduct, including infringement of privacy and transmission of obscene electronic materials. Further, the Bharatiya Nyaya Sanhita of 2023 [441]provides for criminal liability for offenses such as defamation, intimidation, and extortion that may arise in the context of malicious use of synthetic media. Also, under the Copyright Act of 1957[442]. There is protection for the rights of performers and the moral rights of authors, and thus remedies for infringement of a person's image, voice, and work in synthetic media.

Although these provisions were not originally formulated in relation to artificial intelligence technologies, their interpretative flexibility ensures that they are capable of addressing the consequences of misuses of deepfake technologies. The Indian judicial system has a history of showing a capacity to adapt existing legal norms to changing technological circumstances, particularly in relation to concerns of privacy, reputation, and identity. The lack of legislation in relation to deepfakes should therefore not be seen in terms of a regulatory gap but rather in terms of the flexibility of the existing legal framework, which offers a number of avenues for redress under cyber law, criminal law, and intellectual property law.[443]

Therefore, it may be submitted that the Indian legal framework may be viewed as sufficiently well-equipped to deal with the challenges of deepfake technologies when its provisions are construed with a purposive and technologically sensitive approach. While there may be scope to strengthen its enforcement mechanisms, forensic capabilities, and digital knowledge base to make it even more effective, it may be submitted that at its core level, the essential legal infrastructure that is required to protect individuals' dignity, reputation, and identity from deepfake technologies is already available within the existing constitutional and legal framework.

REFERENCES

STATUTES

1. Constitution of India art. 21.
2. Information Technology Act, 2000.
3. Bharatiya Nyaya Sanhita, 2023.
4. Copyright Act, 1957.
5. Digital Personal Data Protection Act, 2023.

CASE LAWS

1. Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India).
2. R. Rajagopal v. State of Tamil Nadu, (1994) 6 S.C.C. 632 (India).
3. Subramanian Swamy v. Union of India, (2016) 7 S.C.C. 221 (India).
4. Shreya Singhal v. Union of India, (2015) 5 S.C.C. 1 (India).
5. ICC Dev. (Int'l) Ltd. v. Arvee Enters., 2003 SCC OnLine Del 29.
6. Anil Kapoor v. Simply Life India, 2023 SCC OnLine Del 6914.
7. Mahua Moitra v. Zee Media Corp. Ltd., 2021 SCC OnLine Del 4613.
8. Kunal Kamra v. Union of India, 2024 SCC OnLine Bom 1796.
9. Anita Kadian v. State of Haryana, 2024 SCC OnLine P&H 1789.
10. Amar Nath Sehgal v. Union of India, 2005 (30) P.T.C. 253 (Del.).

BOOKS & JOURNAL ARTICLES

1. R. Kumar and P. Singh, "Deepfakes and the Law: Challenges and Responses," Journal of Information Technology Law, vol. 12, pp. 32–56 (2021).
2. M. Sharma, "Personality Rights in the Digital Age: Legal Remedies Against

[440] Information Technology Act, 2000, §§ 66E, 67
[441] Bharatiya Nyaya Sanhita, 2023, §§ 356, 351, 327
[442] Copyright Act, 1957, §§ 38, 38A , 57
[443] World Intellectual Property Organization, *WIPO Technology Trends: Artificial Intelligence* 45–48 (2019)

Synthetic Media," Indian Journal of Law and Technology, vol. 18, pp. 23–47 (2022).

3. A. Gupta, "Regulating AI and Synthetic Media in India: A Legislative Necessity," Legal Studies Review, vol. 41, pp. 112–135 (2023).
4. John W. Salmond, *Jurisprudence* (P.J. Fitzgerald ed., 12th ed. 1966).
5. H.L.A. Hart, *The Concept of Law* (3d ed. 2012).
6. Lon L. Fuller, *The Morality of Law* (rev. ed. 1969).
7. M.P. Jain, *Indian Constitutional Law* (8th ed. 2018).

ONLINE SOURCES FOR DEEPFAKE EXAMPLES

1. Buzzfeed, "Obama Deepfake," available at https://www.buzzfeed.com, last seen on 03/09/2025.
2. AP News, "Jim Acosta doctored video," available at https://apnews.com, last seen on 03/09/2025.
3. Fortune, "Jennifer Lawrence–Steve Buscemi deepfake," available at https://fortune.com, last seen on 03/09/2025.
4. Campaign Live, "David Beckham anti-malaria PSA," available at https://www.campaignlive.com, last seen on 03/09/2025.

REPORTS

1. World Intellectual Property Organization, WIPO Technology Trends: Artificial Intelligence (2019).
2. European Commission, Proposal for a Regulation Laying Down Harmonised Rules on Artificial Intelligence (Artificial Intelligence Act) (2021).