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**PROTECTING PERSONALITY RIGHTS THROUGH INTELLECTUAL PROPERTY REGIME- CHALLENGES IN THE DIGITAL AGE**

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ABSTRACT

Personality rights are the rights of an individual to control and safeguard their identity, including their name, image, voice, signature, and other distinguishing characteristics from unauthorized commercial or exploitative purposes. These rights, although not everywhere codified within a common statutory scheme, have been established through judicial interpretation and doctrines of law derived from privacy, intellectual property, and tort law.

The main justification for personality rights is to avoid the abuse of one's identity for commercial purposes without permission, as well as the protection of the dignity and autonomy of the person. Personality rights in most jurisdictions are divided into two general categories: personal rights, which protect an individual's privacy and dignity, and economic rights, which protect the commercial worth of one's identity.

This article explores the legal issues in protecting personality rights in India in the digital era. We also view international intellectual property right regimes as well as Indian legislation and promote reinforcing the protection to stem the plague of deepfakes and abuse of personality rights.

INTRODUCTION

We are in the age of the Internet and with over 5 billion internet users on this earth, it becomes a requirement to seek legal remedies for invasions of personal rights which can be facilitated

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by AI and deepfakes.³ The internet is now a part of our lives influencing our social lives, economic lives, and access to information, it has also given us a new challenge of safeguarding our basic rights and invasions of privacy. The recent deepfakes of Rashmika Mandana and other Bollywood stars have brought the issue of protection of personality rights. The age of the digital world has altered how individuals view, utilise, and sometimes manipulate their personal identities as well as celebrity statuses.⁴

The digital age has changed the way people perceive, use, and sometimes exploit their personal identities and celebrity statuses.⁵ While technological advancements have enabled individuals to reach a larger audience and capitalise on their persona than ever before, they have also created significant legal and ethical issues. Personality rights, comprising an individual's right over the commercial exploitation of their name, image, likeness, and other identifying features, are becoming more vulnerable to challenges in the intricacies of the digital age.⁶ Social media websites, artificial intelligence (AI), deepfakes, and unauthorised digital copying of personal features have elevated concerns over unauthorised commercial use and reputational damage incurred by both public personalities and private individuals.⁷

As opposed to conventional media, where the extent of personality rights might be better regulated, the internet's decentralised and global nature makes enforcement more difficult. Infringements upon a person's image have extended far beyond their merchandise and advertising. They now include spurious social media profiles, AI impersonation, digital avatars, and unauthorized manipulations of personal identity. Personality rights developed as a part of law to protect personality rights, which in turn are primarily based on privacy laws, intellectual property (IP) regimes, and common law doctrines, are struggling to deal with the challenges of the day. Thus, jurisdictions worldwide are being confronted with the task of developing new legislative and judicial meanings to protect personal identity in the digital age.

³ Number of internet and social media users worldwide as of February, 2025; Statista, available at <https://www.statista.com/statistics/617136/digital-population-worldwide/>, accessed March 8, 2025

⁴ BBC News, Rashmika Mandanna calls for action against 'scary' deepfake video, available at <https://www.bbc.com/news/world-asia-india-67305557>, accessed March 8, 2025

⁵ Pawan Kumar and Simar, The need to regulate personality trademarks in India, Bar and Bench, available at, <https://www.barandbench.com/columns/personality-trademark-in-india-the-new-unchained-wolf-and-need-to-regulate>, accessed March 8, 2025

⁶ U.S. GAO, 'Artificial Intelligence's Use and Rapid Growth Highlight Its Possibilities and Perils,' November 10, 2022, <https://www.gao.gov/blog/artificial-intelligences-use-and-rapid-growth-highlight-its-possibilities-and-perils>, accessed March 8, 2025

⁷ Darrell M. West, 'How artificial intelligence is transforming the world,' Brookings, April 24, 2018, <https://www.brookings.edu/articles/how-artificial-intelligence-is-transforming-the-world/>, accessed March 8, 2025

The right to publicity, which was first established to stop unapproved commercial use of a person's identity, has been put to the test in novel and extraordinary ways. While personality rights can occasionally be protected by traditional intellectual property laws like copyright and trademark protection, these laws frequently fall short in situations involving deepfakes, AI-generated likenesses, or virtual influencers who closely resemble real people without using their name or image. Enforcement is further complicated by the fact that digital platforms, which are the main enablers of these offences, frequently avoid punishment under intermediary liability protections.

This article has discussed some of the most important issues surrounding personality rights in the digital world, focusing on enhancements like deepfake technology, data mining, and Social Media misuse. The article will also focus on how these issues will affect prominent public figures, and normal people who may be victims of identity theft. Additionally, the article has highlighted emerging legal responses to these matters in various countries, like India, the USA, and EU, where governments and courts are making attempts to enhance the legal framework for protection.

With rapid advancements in the field of technologies, there arises a need to reflect on the existing legal safeguards and check if people still have control over their identities and reputations online. The following analysis will provide the foundation on which one can understand why existing personality rights protection is lacking and how legal reforms can be more effective in an increasingly digital and AI-interconnected world.

IMPACT OF DIGITAL TECHNOLOGIES ON PERSONALITY RIGHTS

The digital revolution has tremendously changed perceptions, exchange, and commodification of personal identity. Digital technologies have enabled individuals to own and commercialise their public persona, but have also created record levels of risks associated with misappropriation, distortion, and exploitation of identity.⁸ The face of technology has changed dramatically with the introduction of artificial intelligence (AI), the invention of blockchain technology in all its forms including non-fungible tokens (NFTs), and the emergence of social media platforms, and this change has brought new obstacles in terms of enforcing personality

⁸ Amal Naitali, Mohammed Ridouani, Fatima Salahdine, and Naima Kaabouch, 'Deepfake Attacks: Generation, Detection, Datasets, Challenges, and Research Directions,' *Computers* 12, no. 10 (2023): 216, <https://doi.org/10.3390/computers12100216>, accessed March 13, 2025

rights both legally and practically. Previously, crimes of a similar nature were carried out in a simplistic way; in this case, people misappropriated other individuals' name or likeness without their permission via ads or promotions, while today, the use of technology allows making complicated digital manipulations that make it difficult to figure out what is real and what is fabricated.

A major worry in the digital era is the advancement of deepfake technology, which makes it possible for artificial intelligence-produced images, audio, and video to imitate someone without them knowing about it. This presents serious ethical and legal issues since one can use deepfakes to create false endorsements, pretend to be someone else, or produce false content that damages their reputation. A study from 2019 shows that 96% of deepfake material on the internet involved people portrayed in videos without their approval.⁹ Moreover, deepfakes are not limited to celebrities or public figures; even private individuals are at risk of digital identity theft, raising complex questions about the scope and enforcement of personality rights in this evolving landscape.¹⁰

Besides AI, also new technologies like NFTs and the metaverse have raised new questions about the ownership and financialization of individual identities. With the tokenisation of both virtual characters and celebrity look-alikes on blockchain platforms, a market has emerged in which one can sell or buy the images of real people while not necessarily asking for the explicit permission of these people.¹¹ In one high-profile case, Quentin Tarantino encountered legal issues when he sought to auction NFTs based upon his *Pulp Fiction* screenplay, testing the boundaries of the convergence of NFTs, intellectual property rights, and personal identity.¹² In the same way, the metaverse, a virtual immersive environment, has created virtual characters that mimic real individuals, and it raises issues regarding how personality rights can work in virtual communities where conventional legal instruments struggle to catch up. Social media has also amplified the commercial and cultural exploitation of personality rights, normally under the guise of humour or entertainment.¹³

⁹ Henry Ajder et al., *The State of Deepfakes: Landscape, Threats, and Impact*, Deeptrace 14 (2019).

¹⁰ Danielle Keats Citron & Robert Chesney, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 Cal. L. Rev. 1753, 1762 (2019).

¹¹ Primavera De Filippi, *Blockchain and the Law: The Rule of Code 183* (Harvard University Press, Cambridge, 2018).

¹² Kevin Roose, *Tarantino's Pulp Fiction NFTs Spark Legal Battle With Miramax*, N.Y. Times (Nov. 17, 2021).

¹³ Andres Guadamuz, *The Metaverse and Legal Challenges to Identity Rights*, 25 Harv. J.L. & Tech. 98, 105 (2022).

Meme culture, as a case in point, often entails unauthorised use of real individuals' likenesses, potentially amounting to damage to reputation or personal distress.¹⁴ While there have been judicial recognitions of commercial exploitation of memes as a breach of personality rights, enforcement is difficult because of the viral and decentralised nature of online content dissemination.¹⁵ Moreover, impostor profiles, influencer deceit, and unjustified brand sponsorship have made the legal situation more complex, as people often fail to exert control over their online identity within an economy led by platforms.¹⁶

Deepfakes and AI-generated likeness

Deepfake technology, powered by artificial intelligence (AI), dangerously threatens personality rights as it can allow for the exploitation of an individual's image in a realistic format without permission. Deepfakes involve machine learning algorithms to produce or distort images, videos, and audio recordings to make them identical to actual media. Although deepfakes were initially created for artistic and entertainment reasons, they are extensively used today, and there is an extremely serious issue of unauthorized identity theft, misinformation, and reputational damage. Perhaps the most significant legal concern regarding deepfakes is that they can be used to make false endorsements or misleading presentations of someone.¹⁷

Celebrities and public figures are most vulnerable since their digitally recreated faces and voices can be used in advertisements, political campaign advertisements, and even adult content, much of which they have no idea exists or for which they never gave consent.¹⁸ Deepfakes no longer only target public figures; private citizens are also vulnerable to attack, especially with the invention of non-consensual deepfake pornography, cyberbullying, and identity theft. Legally, deepfakes are a challenge to existing personality rights architectures because traditional defamation, privacy, and intellectual property laws are shown to fall short in addressing content produced by AI. Even though some jurisdictions such as the United States, the European Union, and India have begun to debate measures against deepfake

¹⁴ Anupam Chander, *The Free Speech Meme*, 63 *Stan. L. Rev.* 591, 609 (2011).

¹⁵ Lyriisa Barnett Lidsky, *Picturing Defamation: The Moral and Legal Status of Using Images in Defamatory Speech*, 41 *Colum. J.L. & Arts* 1, 21 (2017).

¹⁶ Mark Bartholomew, *Adcreep: The Case Against Modern Marketing* 127 (Stanford University Press, Palo Alto, 2017).

¹⁷ Henry Ajder et al., *The State of Deepfakes: Landscape, Threats, and Impact*, *Deeptrace* 14 (2019).

¹⁸ Danielle Keats Citron & Robert Chesney, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 *Cal. L. Rev.* 1753, 1762 (2019).

exploitation, enforcement is an issue with the rapid evolution of AI and global circulation of digital material.¹⁹

There is growing need for stronger legal instruments to protect individuals against identity theft and reputation harm from deepfakes.

NFTs and the metaverse (avatars)

The rise of non-fungible tokens (NFTs) and the limited metaverse has transformed the digital identity paradigm, affecting the issue of privacy as well as misuse. NFTs, or exclusive digital content contained within blockchain-based networks, allow users to purchase, sell, and exchange copies of real-life personas, pictures, and sounds.²⁰ Celebrities are able to commercialize their image, but the same has also resulted in identity misappropriation, where one's face or voice is tokenized without his or her permission. This is particularly concerning when NFTs are utilized for commercial ends, like unauthorized selling of AI-created avatars that mimic celebrities. The metaverse, a virtual environment for immersion where avatars represent users, creates the same issues.

They utilize these virtual environments to build digital personas that perfectly mimic actual individuals, often causing identity theft, impersonation, and use for commercial purposes.²¹ The one legal issue of major concern is whether or not personality rights extend to virtual avatars since most current legal systems do not provide for the virtual duplication of an individual's identity.²² In addition, controversy has arisen regarding the ownership of digital depictions of public figures or celebrities because companies and individuals want to capitalize on famous likenesses within virtual spaces.²³ The legal responses to NFTs and the metaverse remain patchy, with some legislating to extend Intellectual Property and personality rights legislation to digital avatars and blockchain-based assets.

Social media misuse and meme culture

¹⁹ Mark Bartholomew, *Adcreep: The Case Against Modern Marketing* 127 (Stanford University Press, Palo Alto, 2017).

²⁰ Primavera De Filippi, *Blockchain and the Law: The Rule of Code* 183 (Harvard University Press, Cambridge, 2018).

²¹ Andres Guadamuz, *The Metaverse and Legal Challenges to Identity Rights*, 25 Harv. J.L. & Tech. 98, 105 (2022).

²² Julia Powles & Ellen Goodman, *A Legal Framework for Virtual Identity Rights*, 32 Yale J.L. & Tech. 1, 12 (2021).

²³ Kate Klonick, *The Law of the Metaverse: Regulating Digital Spaces and Virtual Avatars*, 78 Brook. L. Rev. 231, 242 (2023).

With the development of social media, personality rights have been compromised to a great extent. Users can share content that makes use of other people's identities against their wishes. While it is true that social media allows for more opportunities of people's expression and companies' promotion, it also enables them to misappropriate people's identities without permission to do so.²⁴ The making of fake profiles is one of the most frequent instances of abuse or misuse in which a person who has no authority pretends to be a public personality, a celebrity, or a private person in the name of defrauding others, committing slander, or obtaining money.²⁵ Such activities not only damage reputations but also undermine an individual's control over their digital persona.

Memes and meme culture is one controversial area of concern when talking about social networks that are often misused. It reveals images and videos of the person, which are sometimes completely distorted, and this does not satisfy the individuals whose images have been used. Memes are mainly used for entertainment purposes, but when done without consent, they can cause a serious problem.²⁶ Some memes even generate commercial profits, raising legal questions about whether the individuals depicted should have a right to compensation.²⁷ Courts have struggled to balance free speech with personality rights, as some cases involve fair use defenses under copyright law, while others constitute clear violations of privacy and identity rights.

With the advent of new technologies like social media, the need to protect personal rights is being taken seriously. Nations like India, USA, and the EU have proposed stricter laws for the prevention of deepfakes and impersonation, but enforcement still remains a challenge.²⁸

Legal Conflicts

The need to protect personality rights in the modern world has become a complicated task because of the conflict that exists between personal rights and basic freedoms such as freedom of speech and expression. The problem is complicated by the increase in cross-border distribution of digital content and the globalization of online platforms which leads to the

²⁴ Anupam Chander, The Free Speech Meme, 63 Stan. L. Rev. 591, 609 (2011).

²⁵ Lyrissa Barnett Lidsky, Picturing Defamation: The Moral and Legal Status of Using Images in Defamatory Speech, 41 Colum. J.L. & Arts 1, 21 (2017).

²⁶ David Tan, The Legal Challenges of Meme Culture: Personality Rights vs. Free Speech, 36 Harv. J.L. & Pub. Pol'y 112, 123 (2022).

²⁷ Mark Bartholomew, Adcreep: The Case Against Modern Marketing 127 (Stanford University Press, Palo Alto, 2017).

²⁸ Kate Klonick, Regulating Social Media's Role in Identity Misuse, 78 Brook. L. Rev. 231, 242 (2023).

existence of jurisdictional conflicts among various laws and regulations. Considering the fact that the concept of personality rights gives an individual power over one's name, image, voice, and other elements of identity, one could argue that personality rights are often in conflict with freedom of speech and artistic expression principles.²⁹ Also, along with the increase in AI-generated content, deepfakes, memes, and NFTs, the legal system finds it challenging to find a sweet spot to balance personality rights protection with free expression of thoughts.

One of the most controversial topics in law is the question regarding the ownership of one's image and the right to free speech. In places like the USA, freedom of speech according to the First Amendment usually prevails over the right to personality rights in the cases of satire and parody.³⁰ However, unlike nations like India and the European Union who prefer a more privacy-based policy, which allows people to retain the right to manage their digital identification while allowing reasonable restrictions on speech to restrict any misuse. Nevertheless, the problem of determining the limits of acceptable or legitimate expression continues, given how courts must differentiate between lawful creative expression and illegal exploitation.

The other big conflict appears in the area of transnational enforcement in the digital world. With social media platforms, hosting sites, and online retail services operating in different jurisdictions, controlling violations of personality rights now involves legal as well as technical issues.³¹ One can question what legal regulations should apply when the image of a famous Indian person appears on an American-based NFT platform. Moreover, several online platforms have claimed to enjoy intermediary immunity and refused to take responsibility for user content. Different nations handle the legality of different online platforms in different ways. For instance, the EU has passed strict legislation forbidding online platforms from hosting illegal content while other countries prefer self-regulation making enforcement inconsistent.

Not to mention how the emergence of decentralized technologies, like blockchain, makes enforcing laws even more challenging since NFTs and blockchain-based assets cannot be modified or deleted making it hard for victims of identity theft to get rid of their photos that

²⁹ Michael Madow, *Private Ownership of Public Image: Popular Culture and Publicity Rights*, 81 Cal. L. Rev. 125, 134 (1993).

³⁰ *Zacchini v. Scripps-Howard Broad. Co.*, 433 U.S. 562, 578 (1977).

³¹ Rebecca Tushnet, *Performing Copyright: The Challenge of Digital Rights Management*, 57 Case W. Res. L. Rev. 477, 490 (2007).

had been appeared these are the factors that should be taken into account.³² This raises questions about whether current personality rights laws are prepared to deal with decentralized digital ecosystems.

Given these ongoing conflicts, there is an urgent need for international cooperation to develop harmonized legal standards that protect free speech, privacy, and personality rights in the digital realm. Emerging data protection frameworks, intermediary liability laws, and AI regulations may help to resolve some of these issues, but enforcement remains a challenge.

Personality Rights vs. Freedom of Speech and Expression

One of the most heated legal debates of the digital age is the conflict between personality rights and freedom of speech and expression. While personality rights protect an individual's name, image, likeness, and other identity attributes from unauthorized commercial or exploitative use, free speech guarantees the right to express ideas, opinions, and artistic creations without undue restraint.³³ Courts and lawmakers struggle to strike a balance between these competing interests, as protecting one often limits the exercise of another. This conflict is especially evident in cases involving satire, parody, journalistic reporting, and commercial exploitation of a person's identity.

One of the primary legal tests for determining whether personality rights should take precedence over free speech is whether the use of a person's likeness is transformative. In the United States, courts have frequently ruled in favor of free speech when using an individual's image or likeness to contribute to public discourse, artistic expression, or entertainment.³⁴ In *Comedy III Productions, Inc. v. Gary Saderup, Inc.*, the California Supreme Court established the transformative use test. This test determines if an artist's use of a celebrity's likeness adds enough creative elements to be considered a new expression, rather than a mere replication.³⁵ This test allows parodies, artistic renderings, and documentaries to qualify for free speech protection, even if they include identifiable individuals.

In contrast, courts in India and the European Union have taken a more privacy-focused approach, recognizing that an individual's right to control their image and reputation should be

³² Primavera De Filippi, *Blockchain and the Law: The Rule of Code 183* (Harvard University Press, Cambridge, 2018).

³³ Michael Madow, *Private Ownership of Public Image: Popular Culture and Publicity Rights*, 81 Cal. L. Rev. 125, 134 (1993).

³⁴ *Zacchini v. Scripps-Howard Broad. Co.*, 433 U.S. 562, 578 (1977).

³⁵ *Comedy III Prods., Inc. v. Saderup, Inc.*, 25 Cal. 4th 387, 405 (Cal. 2001).

protected from unwarranted commercial or reputational harm.³⁶ The Indian Supreme Court's decision in *Justice K.S. Puttaswamy v. Union of India* affirmed that the right to privacy is a fundamental right under Article 21 of the Indian Constitution, providing legal foundation for protecting personality rights from excessive intrusion.³⁷ This principle was reinforced in cases such as *Titan Industries Ltd. v. M/s Ramkumar Jewellers*, in which the Delhi High Court ruled that the unauthorized use of a celebrity's name or image for commercial purposes violated their publicity rights.³⁸

Digital content and social media pose a major hurdle when it comes to finding a balance between rights of personality and freedom of speech. With the emergence of meme culture, deepfakes, and AI impersonations, the distinction between parody and identity exploitation has become ever vaguer. Take the example of deepfake videos that can have both legitimate and illegal uses and raise intricate questions about whether making such videos is a form of free speech or a violation of the right to personality.³⁹ Moreover, the advent of NFTs (non-fungible tokens) that convert a person's likeness or voice into a digital asset without approval has raised questions as to whether this can be regarded as free speech, a form of art, or an infringement of publicity rights.

The controversy has further spread to the areas of news reporting and documentary filmmaking where the courts have, in general, provided journalists with stronger protections. In the U.S., the newsworthiness exception permits the use of the name or image of celebrities without prior permission as long as public interest is served.⁴⁰ However, in jurisdictions like the European Union, the right to be forgotten under the General Data Protection Regulation (GDPR) allows individuals to request the removal of digital content that harms their privacy or reputation, even if it was lawfully published.⁴¹

Ultimately, striking a balance between personality rights and free speech requires context-specific legal analysis. Courts must carefully assess whether the use of an individual's identity is transformative, commercially exploitative, or in the public interest. Given the global nature

³⁶ European Convention on Human Rights, Art. 8 & 10.

³⁷ Gautam Bhatia, *Offend, Shock, or Disturb: Free Speech Under the Indian Constitution* 87 (Oxford University Press, New Delhi, 2016).

³⁸ *Titan Industries Ltd. v. M/s Ramkumar Jewellers*, 2012 SCC 2382.

³⁹ Danielle Keats Citron & Robert Chesney, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 Cal. L. Rev. 1753, 1762 (2019).

⁴⁰ *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345 (1974).

⁴¹ Regulation (EU) 2016/679 (General Data Protection Regulation), Art. 17.

of digital content, a harmonized legal approach is needed to ensure that both freedom of speech and personality rights are adequately protected in the digital age.

Issues with enforcement in cross-border digital platforms

The transnational character of online platforms makes the protection of personality rights very difficult in this digital world. In different countries of the world, personality rights exists in different jurisdictions, but since the internet crosses borders, regulating and protecting these rights becomes an issue. The global nature of social media artificially created content, deepfake technologies, and NFT products results in a jurisdictional problem where the law applicable in one state may not work in another. Therefore, individuals trying to protect their image, likeness, and name from unauthorized use come across the dilemma regarding which law should be applied and enforced.⁴²

A key test for judging whether personality rights apply in competition against free-speech concerns whether the use of someone's likeness is transformative. In the United States, courts have often sided with freedom of speech in cases where an individual's image or likeness has served as an auxiliary to some public discussion, artistic creation or entertainment.⁴³ In *Comedy III Productions, Inc. v. Gary Saderup, Inc.*, the California Supreme Court established the transformative use test. This test determines if an artist's use of a celebrity's likeness adds enough creative elements to be considered a new expression, rather than a mere replication.⁴⁴ This test allows parodies, artistic renderings, and documentaries to qualify for free-speech protection, even if they include identifiable individuals.

The courts of both India and Europe trace a path which is patriarchal by adopting a privacy centred policy which aims at eliminating instances when a person's right of exercising control over his image does not get obstructed by any commercial or other hindrance.⁴⁵ The case in question, that of *Justice K.S. Puttaswamy v. Union of India* sets an important precedent for understanding what privacy is and how it can be protected legally due to the fact that the Supreme Court of India ruled in favour of considering right to privacy as an essential part of

⁴² Michael Madow, *Private Ownership of Public Image: Popular Culture and Publicity Rights*, 81 Cal. L. Rev. 125, 134 (1993).

⁴³ *Zacchini v. Scripps-Howard Broad. Co.*, 433 U.S. 562, 578 (1977).

⁴⁴ *Comedy III Prods., Inc. v. Saderup, Inc.*, 25 Cal. 4th 387, 405 (Cal. 2001).

⁴⁵ European Convention on Human Rights, Art. 8 & 10.

the Article 21 of Indian Constitution.⁴⁶ Moreover, this position was confirmed in the case of *Titan Industries Ltd v. M/s Ramkumar Jewellers* where the Delhi High Court established that one cannot use names or images of celebrities without obtaining proper permissions from them as it constitutes a violation of publicity rights.⁴⁷

One of the key problems with digital media and social networks is how to strike a balance between right to personality and freedom of speech. Recent developments in meme culture, deepfakes, and AI likeness have made the differences between parody, artistic expression and misuse of identity vaguer. Take deepfake movies as an example: they serve both for entertainment and for malevolent purposes, which contrasts the law regarding their use and raises questions as to whether they represent a violation of the right to personality or a form of protected speech.⁴⁸ In addition, the arrival of NFTs (non-fungible tokens) that create tokens from people's images or voices even without their knowledge has raised a discussion concerning if this is free speech, artistic work, or a breach of the right to publicity.

The controversy goes as far as news reporting and documentary filmmaking, where the courts normally have offered more protection for journalistic speech. In the US, the newsworthiness exception permits media outlets to use a public figure's name or image without permission of the relevant person if the article is in the interest of the public.⁴⁹ However, in some jurisdictions, such as the European Union, the right to be forgotten under the General Data Protection Regulation (GDPR) enables individuals to request the removal of digital content that violates their privacy or reputation, even if it was legally published.⁵⁰

Finally, achieving a balance between personality and free speech must involve contextual legal analysis. Courts need to analyze on the merits how the identity of a person was being used in a transformative, economically exploitive manner, or if this use was in the interest of public. Because our lives are increasingly dictated using technology, coordination of the legal system should secure enforcement of free speech as well as personality rights.

CONCLUSION

⁴⁶ Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1 (India).

⁴⁷ *Titan Industries Ltd. v. M/s Ramkumar Jewellers*, 2012 SCC 2382.

⁴⁸ Danielle Keats Citron & Robert Chesney, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 Cal. L. Rev. 1753, 1762 (2019).

⁴⁹ *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345 (1974).

⁵⁰ Regulation (EU) 2016/679 (General Data Protection Regulation), Art. 17.

The digital media boom has immensely expanded the definition of personality rights. Today's technology with the appearance of social networks, artificial intelligence, and deepfake technology has led to greater and more complicated use of a person's identity without consent. In the past, the definition of personality rights was mostly limited to conventional media and did not cover much more than unauthorized endorsement of public personalities that could be charged according to defamation or passing off accusations.

Nowadays, the digital tools and technologies that exist deepfake technology, AI images, and avatars in the metaverse have advanced opportunities for abusing identity while rendering control over this abuse problematic. Thus, with deepfake technology, it is possible to alter a person's face and voice completely. There have been cases when a celebrity's face was put over a piece of misleading or inappropriate media without his/her consent, which resulted in harm done to reputation.