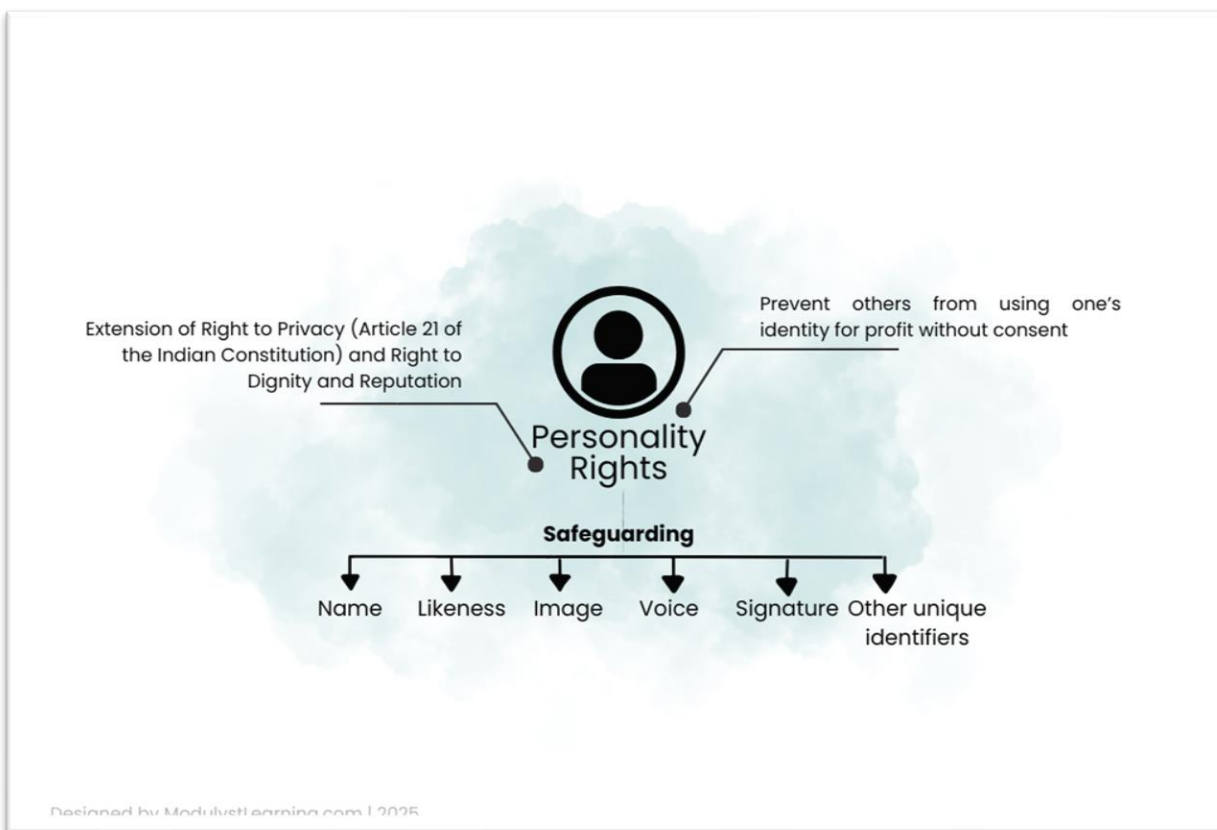


PERSONALITY RIGHTS

1. Personality Rights describe the rights that safeguard the individual's personality attributes from unauthorized commercial and public exploitation. They safeguard a person's name, likeness, image, voice, signature, or other unique identifiers that form part of their persona. In essence, these rights prevent others from using one's identity for profit without consent. They are also known as "Right of Publicity" in common law jurisdictions such as the US, and "Personality Rights" or "Image Rights" in civil law jurisdictions.



2. Nature and Legal Basis –

Personality rights are an extension of the Right to Privacy (Article 21 of the Indian Constitution) and Right to Dignity and Reputation. They have both personal and commercial dimensions:

- Personal aspects incorporate the protection of human dignity, honour, privacy, and emotional well-being.

- The commercial element includes protection from financial interests arising from the use of personal attributes for commercial gain.
3. Personality Rights under Indian Law –

India does not have a particular statute for personality rights, but protection arises through judicial interpretation and related laws –

(a) Constitutional Backing –

- Article 21 – Right to life includes the Right to Privacy and Right to Dignity, extended to personality protection
- Article 19(1)(a) – Freedom of speech includes artistic and commercial expression, which may conflict with personality rights (balancing test required)

(b) Statutory Provisions –

- Copyright Act, 1957, including sections 38, 57, and related provisions that protect performers' rights and moral rights.
- The Trade Marks Act, 1999, particularly Section 14, addresses the prohibition of using a living or deceased person's name without their consent.
- Civil and criminal laws, including sections on defamation, passing off, and misinterpretation, aim to protect reputation and goodwill.

4. Key Indian Case Laws –

- R. Rajagopal v/s State of Tamil Nadu (1994) – Auto Shankar Case
 - The Supreme Court recognized the Right to Privacy as an integral part of Article 21.
 - An individual has the right to influence how their life story is shared publicly.
 - It laid the foundation for personality and publicity rights.
- ICC Development (International) Ltd. Arvee Enterprises (2003)
 - The Delhi High Court determined that a celebrity's persona is a form of their intellectual property.
 - Using the names or images of popular players without permission for marketing violates their rights.

- Titan Industries Ltd v/s M/s Ramkumar Jewellers (2012)
 - Unauthorized use of photographs of Amitabh Bachchan and Jaya Bachchan in advertisements.
 - Recognized the right to publicity as separate from privacy.
 - Shivaji Rao Gaikwad v/s Varsha Productions (2015)
 - The Madras High Court upheld Rajnikanth's right to his name and image, ruling in his favor against unauthorized use in films.
 - Digital Context – Anil Kapoor and Amitabh Bachchan Cases (2023)
 - Both actors filed lawsuits regarding the misuse of their likenesses through AI, including voice, image, and deepfake technologies.
 - The Delhi High Court granted interim injunctions to protect against misuse involving digital and AI-generated content.
5. Personality Rights in the Digital Era –
- Deepfakes and AI-generated voices and images often involve the unauthorized use of celebrity identities, such as fake endorsements.
 - Social Media misuse covers impersonation, memes, and influencer identity theft.
 - NFTs and the Metaverse involve creating virtual representations of real-world personas for profit.

Courts are beginning to acknowledge that AI cloning of faces or voices infringes on digital personality rights.

6. International Perspective –

- United States laws, such as California Civil Code §3344, recognize the "Right of Publicity," which is transferable and descendible.
- The UK incorporates common law principles through "Passing Off," which lacks statutory recognition and relies on protecting goodwill.

- The EU includes GDPR and Civil Codes that emphasize safeguarding image, personal data, privacy, and property rights.
- France and Germany's civil law, such as "Droit à l'image," offers strong protection for image and reputation, emphasizing the moral aspect.

7. Economic Dimension –

- Personality rights have commercial significance in areas like endorsements, merchandising, biopics, and beyond.
- Celebrities frequently license their name or image.
- Violations can lead to damages, injunctions, and, in severe cases, criminal charges.

8. Available Remedies –

- Civil remedies encompass injunctions, damages, and accounts of profits. For example, they can be used to halt an unauthorized ad campaign.
- Criminal Remedies pertain to defamation under the IPC, covering false representations that result in harm.
- Statutory remedies under the Trade Marks Act and Copyright Act include measures such as preventing the use of registered names or images.

9. Personality Rights v/s Freedom of Expression –

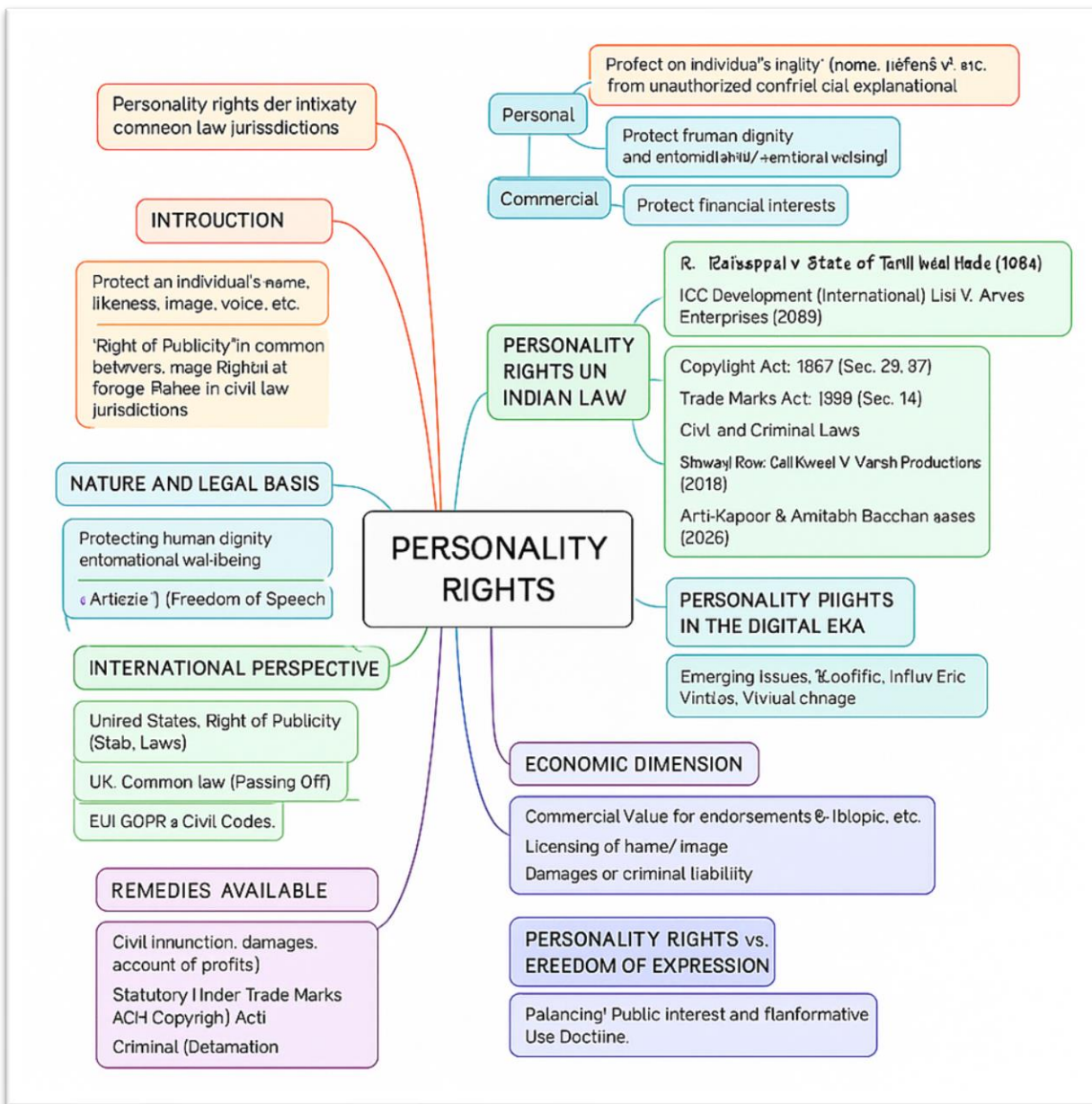
Courts apply the “Public Interest Test” and “Transformative Use Doctrine” to evaluate the key considerations:

- Celebrities have rights that include privacy, dignity, and control.
v/s
- Public interest and artistic expressions, including news reporting, parody, satire, and educational content.

10. In Brief –

Personality Rights protect an individual’s identity and reputation from unauthorized commercial use, forming part of the broader right to privacy and dignity described in Article 21.

In the era of digital and AI, these rights are growing to cover protections against deepfakes, virtual impersonation, and unauthorized use of likeness.



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Author: Darshita Neeraj
 Senior Researcher,
 Mudita Learning and Knowledge Private Limited
 Email: info@muditabooks.com
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