



Navigating the Complexities of Publicity Rights

For Prelims: Publicity Rights, [Deepfake Technology](#), Injunction, Freedom of Speech and Expression.

For Mains: Arguments in Favour and Against Publicity Rights

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Why in News?

Recently, the [Delhi High Court](#) has issued an interim order, preventing 16 entities from misusing a Bollywood actor's persona, including his **name, image, voice, and likeness, for unauthorized commercial gain.**

- This case marks the first instance in India where **publicity rights are being examined** to address concerns related to image distortion and circulation.

What are Publicity Rights?

- **About:**
 - Publicity rights are a legal concept that protects an individual's right to control and profit from the **commercial use of their name, image, likeness, or other aspects of their identity.**
 - These rights are designed to **prevent others from using a person's identity for commercial purposes** without their permission.
 - However, currently there is **no statutory provision in India** prescribing the duration of the right of publicity.
- **Arguments in Favour:**
 - **Protection of Personal Identity:** Publicity rights are essential for protecting an individual's personal identity and ensuring that **they have control over how their name and likeness are used for commercial purposes.**
 - It is significant in the era of AI-generated [deep fakes](#) and **synthetic media.** These technologies can create **highly convincing videos and images that make it appear as though a celebrity endorses or participates** in activities they have not.
 - This protection helps **individuals maintain their dignity and privacy.**
 - **Economic Incentive:** Publicity rights provide a **financial incentive for individuals,** particularly celebrities, to invest in their public persona and fame.
 - This can encourage people to pursue careers in fields like entertainment, sports, and endorsements, benefiting the economy as a whole.
 - **Clarity and Accountability:** Publicity rights create a clear framework for determining **when the unauthorized use of a person's identity constitutes a violation.** This legal clarity is essential for resolving disputes and ensuring accountability.
 - **Protection of Consumers:** Publicity rights can **protect consumers from deceptive practices** by ensuring that they are not misled into believing that a product or service is

endorsed by a celebrity when it is not.

- This helps maintain trust in advertising and endorsements.

▪ **Arguments Against Publicity Rights:**

- **Freedom of Expression:** Publicity rights can sometimes be seen as **limiting [freedom of expression and speech](#)**. They may restrict the use of an individual's image or likeness in various creative, artistic, or critical works, even when there is no intent to mislead or harm.
- **Overcompensation of Celebrities:** Critics argue that many celebrities are already **highly compensated for their work, [endorsements](#), and appearances**.
 - Extending publicity rights can be seen as a form of double-dipping or providing excessive financial benefits to already wealthy individuals.
- **Complexity and Lack of Clarity:** The application of publicity rights can be complex, leading to **legal disputes and uncertainty**.
 - It can be challenging to determine when the use of a person's identity crosses the line into a violation, potentially stifling legitimate uses.
 - Also, in India, **publicity rights are transferable, often to corporations**. Expanding these rights excessively could grant celebrities and corporations undue control over public imagery and cultural products.

Way Forward

- **Clarify and Harmonize Laws:** To strike a balance between **protecting individuals' rights and fostering creativity**, jurisdictions should clarify and harmonize the publicity rights.
 - This can include **defining the scope and duration of these rights**, as well as establishing **clear guidelines for what constitutes infringement**.
- **Tailored Remedies:** Emphasize the need for a **more nuanced approach to remedies**. Courts can carefully consider the specific nature and impact of each use and tailor remedies accordingly.
 - **Instead of blanket [injunctions](#)**, courts can impose **remedies that address the harm caused while allowing legitimate forms of expression to continue**.
- **AI Regulation:** Develop and enforce regulations **specifically targeting AI-generated deep fakes and synthetic media**.
 - This can include **requirements for watermarking or other forms of labeling** to indicate AI-generated content.
 - Such regulations should also be **designed to minimize harm** without unduly restricting artistic and creative expression.