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Reimagining the Intersection of AI and Intellectual Property Rights: Deepfakes in the Indian Legal and Socio-Cultural Context

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Abstract

This paper explores the impact of deep fake technologies on India's evolving digital and legal landscape. The proliferation of generative AI has heightened concerns regarding identity theft, misuse of digital likenesses, and data privacy violations. Analyzing existing Indian statutes, recent High Court rulings, and international practices, the paper emphasizes the critical need for a specialized AI-driven intellectual property rights (IPR) framework. It advocates for comprehensive legal measures to protect personality rights, ensure the right to publicity, and uphold consent-based digital content creation. By examining regulatory gaps and proposing solutions, the study highlights the importance of balancing technological innovation with the protection of individual rights in India's digital economy.

Keywords: AI Regulation, Deepfakes, Digital Persona, Indian IT Act, Constitutional Rights, Data Protection, Copyright

Introduction: AI &Deepfakes in a Digital Bharat

Artificial Intelligence (AI), powered by machine learning and neural networks, has significantly simplified the creation of synthetic media, commonly known as deepfakes. In India, where the government's emphasis on Digital Public Infrastructure (DPI) and a rapidly expanding internet user base of over 800 million people have accelerated digital adoption, the misuse of deepfakes has become a growing concern. These technologies are often exploited for malicious purposes, amplifying misinformation and disinformation across social media platforms.

During elections, manipulated videos of politicians are increasingly circulated to influence public opinion, distort facts, and manipulate voter perceptions. Additionally, synthetic voice technologies are frequently used in fraudulent activities, impersonating individuals to commit financial scams or engage in cybercrimes. The proliferation of such deceptive content poses severe challenges to India's social fabric, undermining trust in authentic information and public discourse.

From a legal perspective, the rise of deep fakes has exposed significant gaps in the existing regulatory framework. While laws related to defamation, cybercrime, and data protection offer partial remedies, they lack specificity in addressing the unique threats posed by AI-generated media. Cases of identity theft, violation of personality rights, and misuse of digital likenesses remain inadequately addressed within the current legal landscape.

This growing challenge calls for a robust legal and policy response. A comprehensive framework that includes AI-specific regulations, stricter enforcement mechanisms, and enhanced digital literacy

initiatives is essential. Additionally, promoting collaborations between tech platforms, regulators, and civil society can aid in the detection and mitigation of deep fakes. Strengthening legal provisions to safeguard individual rights while balancing freedom of expression will be crucial in curbing the misuse of AI-generated media in India's dynamic digital ecosystem..

Categorization of Deepfakes in the Indian Scenario

Drawing from global studies, deepfakes in India can be broadly classified into four categories:

- Political Deepfakes: Manipulated campaign videos targeting politicians during state and national elections, often used to mislead voters and influence public opinion.
- Celebrity Deepfakes: Unauthorized usage of actors' faces or voices in advertisements, entertainment, or explicit content, violating their personality rights and tarnishing their reputation.
- Religious and Social Deepfakes: Digitally altered content designed to incite communal tensions or disrupt social harmony, contributing to misinformation and unrest.
- Humorous and Creative Content: Satirical parodies and comedic videos created using deepfake technology, gaining popularity on platforms like Instagram Reels and YouTube Shorts.

In recent times, Indian celebrities such as Rashmika Mandanna, Amitabh Bachchan, and Alia Bhatt have been victims of deepfake misuse, raising critical concerns about the lack of legal safeguards. These incidents have triggered widespread debates on the existing legal void in India's regulatory landscape. While defamation, copyright infringement, and cybercrime laws offer partial protection, they fall short of addressing the unique challenges posed by synthetic media. The absence of a robust, AI-specific legal framework leaves individuals vulnerable to exploitation and reputational damage. Establishing comprehensive regulations to govern the ethical use of AI-generated content is crucial to mitigate the risks posed by deepfakes in India's rapidly evolving digital ecosystem.

Rights of Persona, Publicity & Consent: An Indian Reframing

In the United States, the **right of publicity** is well-established, granting individuals control over the commercial use of their identity. In contrast, India's legal framework derives similar protections from **Article 21** of the Constitution, which guarantees the **Right to Life and Personal Liberty**. Indian courts have acknowledged this concept through landmark rulings. In ICC Development v. Arvee Enterprises and Anil Kapoor v. Simply Life India, the **Delhi High Court** affirmed an individual's right to safeguard their name, image, and likeness from unauthorized commercial exploitation.

Despite these judicial acknowledgments, India lacks a **comprehensive Personality Rights Code**. Current laws provide fragmented protection, leaving significant legal gaps concerning emerging technologies. Issues such as **digital avatars**, **biometric clones**, and **AI-generated voices** remain inadequately addressed under existing statutes. With the proliferation of **deepfake technologies** and AI-powered media manipulation, the absence of clear legal provisions leaves individuals vulnerable to identity misuse and reputational harm.

Developing a dedicated legal framework for **personality rights** is essential to address these challenges. This would ensure adequate protection against the unauthorized use of an individual's likeness in synthetic content while balancing innovation and free expression. By closing these legal loopholes, India can strengthen its digital rights landscape and provide effective remedies for identity misappropriation in the age of AI.

Copyright & AI-Generated Works: The Legal Vacuum

Section 2(d)(vi) of the **Copyright Act** designates the author of a **computer-generated work** as the person responsible for its creation. However, in **deepfake** cases, ownership and liability remain unclear. Key questions arise, such as:

- Should the **victim** have ownership rights over their likeness?
- Is the **AI developer** accountable for the misuse of the technology?
- Can the **input data** used to generate deepfakes be considered original expression?

Addressing these challenges, recent recommendations from **NITI Aayog** and the **Parliamentary Standing Committee on Commerce (2024)** suggest introducing new **IPR categories** to regulate **AI-generated content**. However, the legal framework for enforcement is still evolving. Establishing clear guidelines for accountability, ownership, and ethical AI use will be essential to mitigate misuse and ensure adequate protection of individual rights in India's rapidly expanding digital landscape.

Comparative Jurisprudence: India vs. Global Norms

Different countries adopt distinct approaches to protecting **personality rights** in the context of **deepfakes**.

- **United States**: Some states have codified the **right of publicity**, offering robust legal protection against the unauthorized commercial use of an individual's likeness.
- **Germany**: **Personality rights** are constitutionally safeguarded under **Article 1 of the Basic Law**, emphasizing human dignity and privacy.
- **India**: The legal framework follows a **hybrid model**, deriving protections from **Articles 19(1)(a)** (freedom of speech) and **21** (right to life and personal liberty). Landmark judgments, particularly after the **Puttaswamy case**, have expanded privacy jurisprudence to cover identity misuse.

Despite judicial recognition, India lacks a **dedicated deepfake-specific statute**. In contrast, **China** and the **European Union** have introduced proactive measures. The **EU's AI Act (2024)** mandates **watermarking** and **provenance tracking** to ensure transparency in AI-generated content. These regulations are designed to combat misinformation and provide clear accountability.

For India to effectively address the growing threat of deepfakes, a comprehensive legal framework is essential. Implementing regulations similar to the EU's approach could strengthen protection against identity misuse while ensuring responsible AI development and use.

Policy Recommendations for India

1. **Dedicated Synthetic Media Legislation**: Introduce a specialized law inspired by South Korea's regulations or China's **"Provisions on Deep Synthesis"** to regulate the misuse of deepfake technology.
2. **Amendments to IT Rules (2021)**: Expand the scope of harmful content to explicitly include **deepfake media**, ensuring stronger legal oversight and accountability.
3. **Consent-Driven AI Model**: Implement mandatory **written consent** requirements for the use of AI-generated likenesses, aligning with proposals from legal experts like **Apar Gupta**.
4. **Public Awareness Initiatives**: Collaborate with platforms like **MyGov**, **MeitY**, and **NCERT** to launch educational campaigns promoting **digital literacy** and awareness about the risks of synthetic media.
5. **AI Audit Trails**: Establish a system of **traceable AI development** using secure, Aadhaar-like **sand-**

box frameworks to protect identities and ensure responsible AI use.

Conclusion

India, standing at the forefront of a technological transformation, faces significant **ethical, legal, and social challenges** arising from the misuse of **deepfake technology**. As reliance on **digital infrastructure** grows and **generative AI capabilities** expand, the risks of identity theft, misinformation, and reputational damage have intensified. The absence of clear legal protections leaves individuals vulnerable to exploitation, making the call for a **tailored, India-centric legal framework** increasingly urgent.

Recognizing the **digital self** as an extension of personal identity, its protection must be elevated to the status of a **constitutional imperative** rather than a mere legal privilege. While courts have acknowledged privacy and personality rights under **Article 21**, the lack of specific regulations to address AI-generated content creates significant enforcement gaps. Drawing from global best practices, India should implement robust safeguards, including **consent-based content regulation**, **AI audit mechanisms**, and **targeted public awareness initiatives**.

A proactive legal response will not only mitigate misuse but also foster responsible AI development. Establishing a clear legal framework will enhance accountability, ensure transparency, and protect individual dignity in the digital age. By treating the protection of digital identity as a fundamental right, India can strengthen its commitment to upholding personal freedoms in the evolving technological landscape.

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