



## Personality Rights

**For Prelims:** Personality Rights, [Rights to Privacy](#), [Article 21](#), [Artificial Intelligence \(AI\)](#).

**For Mains:** Awareness in the fields of IT, Space, Computers, robotics, **nano-technology**, bio-technology, and issues relating to [intellectual property rights](#).

[Source: IE](#)

### Why in News?

The recent dispute between Hollywood Actress and **OpenAI** highlights the importance of **personality rights** in the context of **Artificial Intelligence (AI)** models.

- The actress accused **OpenAI**, the [artificial intelligence](#) company behind [ChatGPT](#), of using her voice despite having previously declined licensing requests from the company's CEO.
- Earlier, the New York Times (NYT) took legal action against OpenAI and Microsoft, alleging the **unauthorised use of its copyrighted content to train AI models**, including [ChatGPT](#).

### What are Personality Rights?

- **About:**
  - **Personality rights** refer to an individual's **right to protect their personality**, which is a part of the broader right to privacy or property.
  - These rights encompass **various aspects of a celebrity's public persona**, including its name, voice, signature, images, distinctive features, mannerisms, poses etc.
- **Types:**
  - **Right to Privacy:**
    - This protects an individual's control over their **personal information and affairs**.
    - It prevents **unauthorised disclosure of personal details or intrusion** into one's private life
    - It is affirmed by the [Supreme Court](#) judgement on the **Puttaswamy v Union Of India, 2017 Case**.
  - **Right of Publicity:**
    - This grants individuals control over the **commercial use of their name, image, likeness, or other recognisable characteristics**.
    - They can **choose whether and how these aspects of their identity are used** for product endorsements or advertising.
- **Importance:**
  - These rights are **important to celebrities** as their names, photographs or even voices can easily be **misused in various advertisements** by different companies to boost their sales.

### What is the Status of Personality Rights in India?

- While personality rights are **not explicitly mentioned** in Indian statutes, they are protected through principles related to **privacy** and **property rights**.
- **Key Legal Provisions include:**
  - **Article 21 of the Indian Constitution:**
    - While there is no specific statute solely for personality rights, the [right to privacy](#) enshrined in **Article 21** of the Constitution offers the closest legal protection in India.
  - **Copyright Act, 1957:**
    - The [Copyright Act of 1957](#), while not directly addressing personality rights, offers some tangential protection through concepts like "**passing off**" and "**deception**" in [Intellectual Property Rights \(IPR\)](#) cases.
    - "Passing off" occurs when someone misrepresents their goods or services as belonging to someone else.
    - This can be **relevant to personality rights if:**
      - Someone **uses a celebrity's name or image to endorse a product without their permission**, creating the impression that the celebrity is associated with the product.
      - Someone creates a **character or image that is so similar to a well-known personality that it deceives the public** into thinking it's the real person.
    - **Deception** is when someone uses a **person's name or likeness in a way that is deceptive or misleading**, it might be possible to argue copyright infringement, especially if the use harms the reputation of the person.
  - **Indian Trademarks Act, 1999:**
    - Section 14 restricts the use of individual names and representations.
  - **Court Judgments:**
    - Courts have recognized the right of publicity, allowing celebrities to protect their name, likeness, and persona from unauthorised use.
    - In ***Krishna Kishore Singh vs Sarla A Saraogi Case, 2021***, the **Supreme Court of India** held that the right to publicity is distinct from the right to privacy.
      - The court emphasised that **public figures have a similar right of publicity**. It affirmed that publicity rights are inheritable and devisable.
    - In its ***Arun Jaitley vs. Network Solutions Private Limited, 2011***, the Delhi High Court observed that an **individual's popularity or fame is equally significant on the internet as in real life**.
      - The court also stated that **a name, besides being a personal identifier, can acquire its own distinctive significance**.
  - **Examples:**
    - In May 2024, the Delhi **High Court** upheld **Jackie Shroff's personality and publicity rights**, restraining various e-commerce stores, AI chatbots, and others from using the actor's name, image, voice, and likeness without his consent.
    - Similarly, in **September 2023**, actor **Anil Kapoor also received legal protection for his image rights**.
      - The Delhi High Court placed restrictions on 16 entities, prohibiting them from using his name, image, or likeness for commercial purposes.
    - In the **2010 case of *D.M. Entertainment Pvt. Ltd. vs. Baby Gift House***, Daler Mehndi's company emerged victorious in the Delhi High Court. The case **involved shops selling dolls that mimicked Mehndi's appearance** and sang his songs.
      - The court upheld **Mehndi's right to control his public image commercially**.

## What is the Status of AI Regulation in India?

- **No Specific Regulation for AI in India:**
  - Currently, India **does not** have a specific regulation for **artificial intelligence (AI)**.
  - But various **advisories, guidelines, and IT rules** from time to time have **provided legal supervision for the advancement of AI**, [Generative AI](#), and [large language models \(LLM\)](#) in India.
- **NITI Aayog's Leadership:**

- In 2018, [NITI Aayog](#) released the "[National Strategy for Artificial Intelligence #AIForAll](#)" outlining responsible development and deployment of AI in healthcare, agriculture, education, and smart infrastructure.
- **Data Protection & Global Collaboration:**
  - The recently enacted [Digital Personal Data Protection Act \(2023\)](#) empowers the government to address privacy concerns arising from AI use.
  - Additionally, India's membership in the [Global Partnership on Artificial Intelligence \(GPAI\)](#) fosters collaboration on **responsible AI** development, data governance, and ethical considerations.

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# INTELLECTUAL PROPERTY RIGHTS (IPRs)

*IP refers to intangible assets owned/legally protected by an individual/company from outside use or implementation without consent.*



## NEED FOR IPR

- ↳ Encourages Innovation
- ↳ Economic growth
- ↳ Safeguard rights of creators
- ↳ Enhances ease of doing business



## RELATED CONVENTIONS/TREATIES (INDIA SIGNATORY TO ALL)

- ↳ **WIPO Administered (first recognised IPR under):**
  - ↳ Paris Convention for the Protection of Industrial Property 1883 (**Patents, Industrial Designs**)
  - ↳ Berne Convention for the Protection of Literary and Artistic Works 1886 (**Copyrights**)
- ↳ **WTO - TRIPS Agreement:**
  - ↳ Ensures adequate standard of protection
  - ↳ Argues for incentives for technology transfer to developing countries
- ↳ **Budapest Treaty 1977:**
  - ↳ International recognition of the deposit of micro-organisms for the purposes of patent procedure
- ↳ **Marrakesh VIP Treaty 2016:**
  - ↳ Facilitate access to published works by visually impaired persons and persons with print disabilities
- ↳ IPR also outlined in **Article 27** (Universal Declaration of Human Rights)



## INDIA AND IPRS - INITIATIVES

- ↳ **National IPR Policy 2016:**
  - ↳ **Motto:** "Creative India; Innovative India"
  - ↳ Compliant with TRIPS Agreement
  - ↳ Brings all IPRs to single platform
  - ↳ Nodal Dept - Department of Industrial Policy & Promotion (Ministry of Commerce)
- ↳ National (IP) Awareness Mission (**NIPAM**)
- ↳ Kalam Program for Intellectual Property Literacy and Awareness Campaign (**KAPILA**)

**World Intellectual Property Day: 26th April**

Intellectual Property	Protection	Law in India	Duration
Copyright	Expression of Ideas	Copyright Act 1957	Variable
Patent	Inventions- New Processes, Machines, etc.	Indian Patent Act 1970	20 years Generally
Trademarks	Sign to distinguish business goods or services	Trade Marks Act 1999	Can last Indefinitely
Trade Secrets	Confidential Business Information	Protected without Registration	Unlimited time
Geographical Indication (GI)	Sign used on specific geographical origin and possess qualities due to site of origin	Geographical Indications of Goods (R & P) Act, 1999	10 years (Renewable)
Industrial Design	Ornamental or aesthetic aspect of an article	Design Act, 2000	10 years



**Drishti IAS**

### Drishti Mains Question:

Discuss the legal framework for personality rights in India. Analyse the challenges in reconciling them

with the right to freedom of speech.

## UPSC Civil Services Examination Previous Year Question (PYQ)

**Q.1 'Right to Privacy' is protected under which Article of the Constitution of India? (2021)**

- (a) Article 15
- (b) Article 19
- (c) Article 21
- (d) Article 29

**Ans: (c)**

**Q.2 Right to Privacy is protected as an intrinsic part of Right to Life and Personal Liberty. Which of the following in the Constitution of India correctly and appropriately imply the above statement? (2018)**

- (a) Article 14 and the provisions under the 42nd Amendment to the Constitution.
- (b) Article 17 and the Directive Principles of State Policy in Part IV.
- (c) Article 21 and the freedoms guaranteed in Part III.
- (d) Article 24 and the provisions under the 44th Amendment to the Constitution.

**Ans: c**

**Q1. With the present state of development, Artificial Intelligence can effectively do which of the following? (2020)**

1. Bring down electricity consumption in industrial units
2. Create meaningful short stories and songs
3. Disease diagnosis
4. Text-to-Speech Conversion
5. Wireless transmission of electrical energy

**Select the correct answer using the code given below:**

- (a) 1, 2, 3 and 5 only
- (b) 1, 3 and 4 only
- (c) 2, 4 and 5 only
- (d) 1, 2, 3, 4 and 5

**Ans: (b)**

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### **Mains**

**Q.** In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. **(2014)**

