

“DEEPFAKE AND INTELLECTUAL PROPERTY RIGHTS:-AND IT’S EMERGENCE LEGAL CHALLENGES”

by

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ABSTRACT

The developing nature of deepfake technology requires versatile response in the implementation of law uses in technological measures and cross-boarder cooperation to uphold the rights of the particular in the era of internet. These technologies have not only revolutionized the generation it also created a possible threat to the privacy and security of the people. AI uses term LLM(Large Language Models) for the purpose to generate almost exact replicas of the original video and vocal, which is fun in the private provinces, when it is pernicious I become even more dangerous when used in common or public spheres. The term deepfake is not defined in the Indian statutes or by the courts. This technology involves two components that is a “generator” that creates fake (images or videos) “discriminator” that evaluates the authenticity of these Creations. Courts uses the meaning that is “Any type of AI-generated audio, video, image content that influence or convincingly replicates the likeness, voice or performance of real person”. Deepfake technology is a form of synthetic media created using artificial intelligence (AI) it created for the purpose of significant legal, ethical, social concern and its emergence. In India, where digital media and social platforms are widely used, deepfake technology has raised serious concerns, about a non-consensual pornography content, where a person’s face is superimposed onto sexually explicit material without their knowledge or consent, it is problematic for women.

Keywords: Deepfake, LLM (Large Language Models), generator, discriminator, artificial intelligence.

I. INTRODUCTION

Deepfake is not defined in the Indian statutes and by the courts. Courts use the common meaning of the word; it is any type of AI-generated audio, images or voice content that convincingly replicates the likeness or performance of a real person. Deepfakes, which were developed primarily for the entertainment industries, have now become a tool for deception and violation. Deepfake technology focusing on how current legal frameworks struggle to keep pace with technological advancements. The implications for privacy rights, the challenges of obtaining and recognizing consent in manipulated content and the complex nature of Copyright protection in the age of synthetic media. Deepfake technology is rooted in Artificial Intelligence and machine learning and its uses in the neural networks to process vast amounts of data and creating realistic digital replicas of individuals. In the new era of booming technology, but whether Artificial Intelligence has the capability of being used as a two-face tool and blur the line between “what is real and what is fake?” The digital age has brought about the invention of machine learning and Artificial Intelligence after that the most importantly the creation and rise of Deepfake Technologies where AI software is being used to manipulate media, wherein one cannot differentiate between the truth of the real world and the fabricated truth of the manipulator.

II. DEEPAKE:MEANING,NATURE AND TECHNOLOGICAL FOUNDATIONS

The word deepfake is made up of two words that is DEEP means that, it is the one taken up from the Artificial Intelligences deep learning technology, FAKE means that, it is used to denote unreal produce.

The world intellectual property organization, it defines deepfake “a technique based on artificial intelligence that synthesizes multimedia content. This includes the superimposition of human features on another person’s body to generate realistic human experience. The rapid growth of artificial intelligence has brought many creative opportunities, and it has also opened door for the biggest modern threats to identity, deepfake.

Personality rights are not directly mentioned in any Indian statutes, but they have evolved through judicial interpretation. Personality rights are not directly mentioned in any Indian statute, but they have evolved through judicial interpretation. They are connected with the RIGHT TO PRIVACY¹. The right to publicity, which allows a person to control the commercial use of their image and

¹ Article 21, of the Indian Constitution 195

name. For celebrities and public figures personality rights protect not only their personal identity but also their commercial value. When some uses a famous person's image to sell product or promote content without consent, then it violate privacy and their economic interest.

III. CLASSIFICATION AND FORMS OF DEEPPFAKE MEDIA

(A), Face swapping : Means that where the face of the person from the original video is replaced by the face of some other person.

(B), Lip Syncing: Means that here the lip area from the original video is synced with fake audio.

(C), Puppet Technique: That is the aim of the person is to animated like facial expressions, hand movements, sitting posture ,by who is facing the camera and acting in certain manner, the manner in which Puppet is expected to behave.

IV. DEEPPFAKE AND THE EVOLVING LEGAL LANDSCAPE IN INDIA AND WORLD

The world intellectual property organization(WIPO), which publish the Draft issues paper on intellectual property policy and Artificial Intelligence on December 2019 .

The WIPO ,states that deepfake may cause more several problems such as violation of human rights, right to privacy, personal data protection right etc.

WIPO also mentions that if deepfake are subject to copyright, it should belong to the inventor of deepfake.

A comparative analysis of deepfake regulations in the EUROPEAN UNION(EU), USA, India, Japan, China, Australia, Singapore . Highlights the strengths and gaps in global responses.

- EU General Data Protection Right

Article4² ,it uses a personal likenesses without consent may be considered unlawful data processing.

Article5,If deepfake content is irrelevant, inaccurate or falsity, they should be erased or rectified without delay.

Article 5(1), personal data shall be accurate and where necessary kept up to date, every reasonable step must be taken to ensure that personal data that are inaccurate having regard to the purposes for which they are processed are erased or rectified without delay.

² General Data Protection Right (GDPR30)

Article 17, The data is subject to have the right to obtain from the controller to ensure the personal data concerning him or her without undue delay and the data controller shall have the obligation to ensure personal data without undue.

- United States: Deepfake Laws and Policy Initiatives

The USA, has been one of the first countries to introduce specific deepfake laws, specially in state level.

The Deepfake Report of 2019 mandates the Department of Homeland Security to study and report on deepfake threats. The Deepfake Accountability Act 2019, purpose is to make a watermarking requirements for AI-generated content to prevent misuse.

Example:- California's AB 730 criminalizes deepfake political misinformation within 60 days of an election and ³prohibits deepfake pornography

- In Japan

The Unfair Competition Prevention Act and defamation laws are used to tackle deepfake misuse, but no specific deepfake legislation.

- In China

Introduce a deepfake-specific regulation under the ⁴ content to be clearly labelled and prohibits deepfake fraud.

Deepfake, Privacy And Defamation: Emerging Legal Concerns

Deepfake in India, there is no specific regulation directly addressing deep fakes. However, to combat the misuse of deepfake technology, technology existing laws offer various causes of action that may apply or be extended for applicability,

- Right to privacy :

The fundamental right to privacy, is derived from ARTICLE 21⁵, encompasses information privacy,

In the case

- JUSTICE K.S PUTTASWAMY V.UNION OF INDIA 2010

³ Texas Penal Code Section 16.02

⁴ Cybersecurity Law (2022)31, AI-GENERATED

⁵ The Constitution of India 1950

In this case held that individuals have the right to control the dissemination of personal material, including digital privacy.

- Information Technology Act 2000

SECTION 66E⁶ imposes penalties for privacy violations. They may face imprisonment for three years, fine two lakh or with both.

Deepfake that are defamatory could fall under the purview of SECTIONS⁷, which deal with sending offensive messages through communication service and publishing or transmitting obscene material in electronic form, respectively.

- Defamation

An individual can face defamation liability under both civil and criminal law,

In civil defamation; damages are awarded if defamation is proven in a legal action

In criminal defamation; encompasses visible representation causing or likely to cause harm to a person's reputation.

SECTION 500⁸ says that, it may face imprisonment for two years, fine or both.

V. LEGAL GAPS AND ENFORCEMENT CHALLENGES IN REGULATING DEEPFAKE

The primary challenges is categories the nature of the wrong committed by deepfake. Deepfake involve impersonating an individual.

There is some intellectual property laws, which were largely devised in an era before the emergence of advanced AI technologies. These laws are predicated on principles that do not neatly apply to AI generated content. Deepfake blur the lines between reality and fiction in ways that traditional IP laws are ill-equipped to handle.

The rapid development and dissemination of AI technology exacerbate these legal challenges. This disparity between legal frameworks and Technological capabilities means that victims Of deepfake might find it difficult to seek recourse under existing laws, necessities a re-evaluation

⁶ Information Technology Act 2000

⁷ Information Technology Act 2000

⁸ Indian Penal Code 1860

and potential reform of IP and privacy laws to effectively address the challenges posed by deepfake.

Existing laws on passing off require the demonstration of goodwill ,reputation, misrepresentation and resultant damage.

Deepfake itself might not directly promote goods or services but still causes reputation damage. Damage in the context of deepfake can extend beyond financial loss to include psychological and social harm, aspects that traditional IP laws may not adequately address.

VI. DEEPAKTECHNOLOGY:ETHICS,ACCOUNTABILITYAND INDIAN LAW

Deepfake can be safe if they are used for the amusement purposes. The same technology may be misuse for the disseminate false information, disparage prominent figures ,rig elections, perpetrate fraud or harass people.

In digital age technology evolves faster than the law. Deepfake technology is one of the most dangerous achievement that has happened in recent years. This can be very harmful for mankind at large.

Currently, India does not have a law specifically targeting deepfake. And the ⁹and cybercrime regulations offer protection. Deepfake raise question about consent, privacy and personal autonomy. Using someone likeness without their permission, especially for adult content, is a grave violation of personal dignity.

Deepfake can be created and shared anonymously across borders making it difficult for Indian authorities to track offenders. Legal reforms must therefore include cooperation with social media companies, technology platforms and international partners. Cyber forensics should also take efforts to detect them but this detection must also be in limits.

If the laws are too strict or impose total bans, they could slow down creativity and Technological growth.

VII. JUDICIAL PERSPECTIVES ON DEEPAKE AND COPYRIGHT PROTECTION

- Shreya Singhal v. Union of India

⁹ Information Technology Act 2000,Indian Penal code 1860

In this case held that the struck down of section 66A¹⁰ of the Information Technology Act in an effort to protect free speech but also insisted on restrictions which must be narrowly tailored.

The criminalisation of abuse in the case of deepfake would thus not contravention Article 19(1)(a)¹¹, but rather protect the latter by promoting truth and dignity for the individual.

- Ankur Warikoo and Anr v. John Doe and Ors

In this case held that the Delhi High Court granted interim relief to Ankur warikoo. On a well-known personal finance educator and influencer. AI -generated deepfake videos using his unauthorised image, voice and likeness circulated on social media platforms. Persuading unsuspecting viewers to join WhatsApp group for fraudulent stock market advice.

John Doe, who created and distributed the false content. A John Doe order allows courts to issue injunction against unknown parties. Which is particularly powerful against digital crimes and intellectual property violation. When perpetrators cannot be immediately identified. Plaintiffs and authorities may Act on circumstantial evidence and digital footprints.

This is the first case in India to deal so directly with the misuse of deepfake technology in financial scams.

- Sunil Shetty v. John Doe Ashok Kumar

In this case the plaintiff, Sunil Shetty, a prominent Indian film actor, superstar and public figure, filed a commercial suit seeking protection of his personality rights.

Right to privacy and Right to live with dignity guaranteed under ARTICLE 21, CONSTITUTION OF INDIA 1950. The protection of his moral Rights under Copyright Act 1951. It was also asserted that his started rights are being infringed and violated and violated by unauthorized use and commercial exploitation and misrepresentation on different social media platforms and over the internet by various parties.

As per the court, the unauthorised creation and uploading of deepfake images not only is an infringement of personality rights but also to the right to live with dignity .

- Arijit Singh v. Codible Ventures LLP

¹⁰ Punishment for sending offensive through communication service, etc.

¹¹ Right to freedom of speech and expression.

In this case held that the AI voice cloning generates a new performance never actually given by the artist. Placing it outside SECTION 38A.¹²

VIII. PUBLIC AWARENESS AND DIGITAL LITERACY PROGRAMS

In the present day there is challenges of fake content ,fake life style, for that government are very important for play their role in the regulation I public awareness.

Many individuals fail to distinguish between fake and real content, leading to misinformation, political interference and online harassment.

In this government are the primary role to play awareness programs for the invest in digital literacy programs, workshops ,and educate citizens about deepfake threats and detection methods.

The Deepfake Detection Challenge (DFDC) by Facebook, Microsoft and academic institutions serves as an example of how public-private partnerships can advance digital literacy.

Indian National Cyber Crime Reporting Portal (cybercrime.gov.in).

IX. CONCLUSION

Deepfake represent a new frontier where ethics, technology and law intersect. India faces the dual task of protecting citizens from potential harm while encouraging innovation in AI technologies. The challenge is urgent as deepfake become easier to produce and more difficult to detect. A deepfake is any synthetic image ,video or audio in which a person's likeness or voice is generated by a machine learning model rather than recorded from reality. Deepfake attract more attention because the technology behind them is novel and the upper bound of what they can do a qualitatively different. Deepfake are a major Challenge for copyright and personality rights. The law should focus on protecting people whose images or likenesses are misused. There are still some grey areas which our current law system is silent on .A balanced approach combining copyright, IT and personality rights is needed to protect identity while allowing technological innovation.

¹² Indian Copyright Act 1957

REFERENCES

1. DEEPFAKE TECHNOLOGY: LEGAL CHALLENGES AND REGULATORY RESPONSES AUTHOR June 2026 Indian Journal of Legal Review 6(9):774-787 Authors: Santosh Kumar Tiwari Gautam Buddha University
<https://www.researchgate.net>
2. Gupta, S. (2025). Deepfake and intellectual property rights: Ownership, authorship, and legal ambiguities. ILE Intellectual Property and Corporate Law Review, 4(1), 46–56.
<https://ipclr.iledu.in>
3. Shekhar, R. (2024, May 14). Deepfake and intellectual property: Understanding legal challenges and protections in the artificial intelligence era.
<https://www.legal500.com>
4. Roy, S., & Tank, M. K. (2025, November 1). Decoding and demystifying deepfake technology under copyright law. Alliance Centre for Intellectual Property Rights, Alliance University.
<https://www.alliance.edu.in>
5. Singh, S. (2025, June 10). Deepfake and copyright law: An emerging challenge in the digital age. Intellectual Property Rights Services Online (IIPRD).
<https://iiprd.wordpress.com>
6. Ladha, A. (2026, April 8). Deepfake and personality rights: The IP law gap in India. Khurana & Khurana.
<https://www.khuranaandkhurana.com>
7. Singh, M., & Patel, K. (2025, July 21). Combating AI deepfake: The face of fraud has no IP rights. Law. Asia.
<https://law.asia>
8. Pahuja Law Academy. (n.d.). Regulating deepfake technology: Ethical and legal challenges under Indian law.
<https://www.pahujalawacademy.com>
9. Karthik, K. G. (2025, October 23). Personality rights infringement via deepfake and digital misuse. Intellepedia.
<https://www.bananaip.com>

10. Mangaraj, P., & Venugopal, M. (2024). The evolution of deepfake laws: Adapting copyright and data privacy regulations to emerging threats. *International Journal of Scientific Development and Research*, 9(3), 645–652.
<https://ijsdr.org>
11. Sathiyapriya, R. K. (2025). Deepfakes and the right to privacy: Socio-legal challenges in India. *Journal of Emerging Technologies and Innovative Research*, 12(5).
<https://www.jetir.org>



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