

Identity Crisis in an Age of Digital Replication – Critical Analysis of Personality Rights in India

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Abstract

Identity was once anchored in presence. It required a body, a voice, a moment that could be located in time. That assumption no longer holds with the same certainty. Digital systems now allow identity to be replicated, altered, and circulated in ways that detach it from the individual who originally embodied it. This paper examines the evolving contours of personality rights in a landscape where identity is no longer stable, singular, or entirely controllable. The focus remains on the uneasy intersection of privacy, property, and dignity, though these categories begin to blur once technological realities are taken seriously.

The analysis moves across jurisdictions, particularly India, the United States, and Europe, not to produce a neat comparison but to observe how each system responds sometimes decisively, sometimes hesitantly to similar pressures. Judicial decisions are read alongside theoretical approaches, and the gaps between them become difficult to ignore. There are moments where the law appears confident in recognising personality as a protectable interest. Then a new form of digital replication emerges, and that confidence weakens.

A purely proprietary understanding risks reducing identity to a tradable asset, while a strictly privacy-based model struggles to account for economic exploitation. What begins to surface instead is a hybrid structure, though it is rarely acknowledged as such in explicit terms. This paper argues that personality rights must be reconceptualised as a composite right grounded in dignity but responsive to technological and commercial realities. Whether existing legal frameworks can sustain that shift remains uncertain. The question lingers quietly, but persistently.

Keywords: Personality rights, digital identity, deepfakes, privacy, right of publicity, dignity, data exploitation

I. Introduction

There was a time when identity required presence—something physical, observable, anchored in a particular moment. You had to appear somewhere, speak, act, or at least exist within a recognisable setting for identity to take shape in the eyes of others. That condition has begun to loosen, not abruptly, but in a way that is difficult to reverse. A face can now be generated without the person ever standing before a camera. A voice can be produced without breath, without hesitation, without the small irregularities that usually signal authenticity. These reproductions do not remain confined to controlled environments. They circulate, multiply, and detach from their origin. Control, in such a setting, starts to look fragile. The law, as it stands, does not quite know where to place this phenomenon. Personality rights were not designed for a world in which identity could

be detached from the individual and still function as if it were real. Earlier disputes were easier to grasp. A photograph used without consent. A name attached to a product without authorisation. Harm could be pointed to, located, contained. That clarity no longer holds in the same way.

In India, the development of personality rights has largely been judicial rather than statutory, which has allowed flexibility but also produced conceptual uncertainty. The Supreme Court, in *Justice K.S. Puttaswamy (Retd.) v. Union of India*, recognised privacy as a fundamental right grounded in dignity and autonomy, thereby expanding the constitutional basis for protecting aspects of identity beyond mere physical intrusion.¹ Earlier, in *R. Rajagopal v. State of Tamil Nadu*, the Court acknowledged the individual's right to control the publication of personal information, implicitly recognising a dimension of personality that warrants protection.² These decisions do not articulate a complete theory, but they establish a foundation—partial, yet significant. Subsequent judicial developments, particularly in cases involving commercial exploitation, have moved toward recognising personality as having economic value. In *ICC Dev. (Int'l) Ltd. v. Arvee Enterprises*, the Delhi High Court observed that the right of publicity vests in an individual and cannot be appropriated without consent.³ This introduces a proprietary element into the discourse, though it does not fully resolve its relationship with dignity-based claims.

A comparative glance complicates matters further. In the United States, the right of publicity has been shaped through a property-oriented lens, as reflected in *Zacchini v. Scripps-Howard Broadcasting Co.*, where the Supreme Court protected the economic value of performance against unauthorised broadcast.⁴ European jurisprudence, by contrast, has tended to emphasise dignity and personal autonomy, as seen in *Von Hannover v. Germany*, where the European Court of Human Rights underscored the importance of private life even in the context of public figures.⁵ India appears to move between these approaches, without fully settling into either. The digital environment intensifies these tensions by fragmenting identity into components that can be independently accessed and reused. Images, voice patterns, behavioural traces each can exist separately, yet still be perceived as part of the same individual. The law, however, continues to treat personality as something unified and contained. That assumption is becoming increasingly difficult to sustain. When identity can exist in multiple versions at once, some authorised and others not, the idea of control begins to shift. It becomes conditional. Sometimes reactive.

This raises a question that sits slightly beneath the doctrinal surface. If identity can be replicated without limit, does ownership still carry the same meaning? Or are we applying a framework built for scarcity to a condition defined by abundance? The law has not yet offered a settled answer. It responds in fragments, addressing specific harms while leaving the larger structure unresolved.

¹ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

² *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632 (India).

³ *ICC Dev. (Int'l) Ltd. v. Arvee Enters.*, 2003 (26) PTC 245 (Del) (India).

⁴ *DM Ent. Pvt. Ltd. v. Baby Gift House*, 2010 (43) PTC 125 (Del) (India).

⁵ *Von Hannover v. Germany*, 2004-VI Eur. Ct. H.R. 41 (Eur. Ct. H.R.).

II. Conceptual Foundations: Between Property, Privacy, and Something Less Stable

If personality rights appear unsettled in doctrine, it is because they are unsettled in concept. The law prefers categories—clear edges, defined boundaries, stable meanings. Personality resists that kind of containment. It stretches across legal ideas without fully belonging to any one of them. At times it resembles property, something that can be licensed, commercially exploited, even transferred under certain conditions. Then it shifts, almost abruptly, into the language of privacy, insisting on control, seclusion, the right to keep aspects of oneself from unwanted exposure. And just when those two frames seem sufficient, dignity enters less precise, harder to quantify, yet impossible to ignore. The property model has an intuitive appeal. It offers structure. It allows identity—at least certain aspects of it—to be treated as an economic resource, capable of generating value in markets that thrive on recognition and visibility. This is particularly visible in jurisdictions that recognise the right of publicity as a transferable interest, where identity becomes not merely personal but transactional. The reasoning is not entirely misplaced. Labour, effort, and reputation contribute to the creation of a public persona, and it seems reasonable that such a persona should not be freely appropriated by others for gain. The decision in *Zacchini v. Scripps-Howard Broadcasting Co.* reflects this logic, protecting the economic value of performance from unauthorised dissemination.⁶ Yet the clarity of this approach begins to fade when one asks a slightly uncomfortable question does treating identity as property risk reducing the person to a collection of marketable attributes? And if so, what remains outside that frame?

The privacy model moves in a different direction. It centres the individual, not the market. Control becomes the key idea—the ability to decide how one is represented, what is disclosed, what remains withheld. This approach finds strong support in constitutional frameworks that link privacy to autonomy and dignity. In India, the articulation of privacy in *Puttaswamy* carries this weight, positioning it as essential to the development of individual personality.⁷ The emphasis here is not on economic value but on personal integrity. Still, this model has its own limitations. It struggles when identity is used not to intrude but to exploit commercially. A deepfake advertisement, for instance, may not invade seclusion in any traditional sense, yet the harm—economic, reputational, sometimes both is real. Privacy alone does not fully capture that. Dignity complicates the picture further. It does not fit neatly into enforcement mechanisms. It cannot be easily measured or quantified. Yet it underlies both privacy and property in ways that are often left unspoken. European jurisprudence, particularly in cases such as *Von Hannover v. Germany*, reflects a sustained commitment to protecting personal dignity even in the face of competing interests like freedom of expression.⁸ The concern is not merely what is taken from the individual, but how the individual is represented whether that representation distorts, objectifies, or diminishes. This introduces a qualitative dimension that neither property nor privacy fully addresses.

What begins to emerge, then, is not a choice between models but a layering of them. Personality rights operate simultaneously across economic, personal, and moral dimensions, though legal doctrine often isolates these strands for the sake of clarity. That

⁶ *Zacchini v. Scripps-Howard Broad. Co.*, 433 U.S. 562 (1977).

⁷ *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (India).

⁸ *Von Hannover v. Germany*, 2004-VI Eur. Ct. H.R. 41.

isolation becomes difficult to maintain in the digital environment, where identity is fragmented, replicated, and reassembled in ways that cut across these categories. A single act say, the unauthorised use of a person's likeness in a synthetic video—can implicate economic interests, personal autonomy, and dignity all at once. The law, however, tends to respond in parts, addressing one dimension while leaving others underdeveloped. This fragmentation is not merely theoretical. It has practical consequences. Remedies become inconsistent. Enforcement becomes uncertain. Courts oscillate, sometimes emphasising commercial harm, at other times foregrounding privacy, occasionally invoking dignity without fully integrating it into the reasoning. The result is a doctrine that functions, but unevenly. It holds in familiar situations. It strains in new ones. Perhaps the difficulty lies in the expectation of coherence itself. Personality is not a stable object. It shifts depending on context social, technological, economic. The law, in trying to stabilise it, may be imposing a structure that no longer fits. That does not mean abandoning protection. It suggests, instead, that protection must become more flexible, more responsive to the ways in which identity now operates. Not a single model, but an adaptive one. Whether legal systems are willing to move in that direction remains uncertain. There is hesitation. Understandably so. Change, in law, rarely arrives comfortably.

III. Indian Jurisprudence: A Doctrine in Motion

Indian courts did not set out to build a theory of personality rights. They arrived there gradually, almost incidentally, while resolving disputes that did not always present themselves as questions of identity in the abstract. What emerges, when these decisions are read together, is not a fully articulated doctrine but a movement—sometimes cautious, sometimes expansive toward recognising that identity carries legal significance beyond reputation alone. The path, however, is uneven. It bends depending on context. It occasionally contradicts itself. The early articulation in *R. Rajagopal v. State of Tamil Nadu* positioned privacy as a shield against unauthorised publication, particularly where personal life was concerned.⁹ The judgment is often cited for affirming the “right to be let alone,” yet it stops short of constructing personality as an independent legal interest. The emphasis remains defensive. Protection is triggered by intrusion, not by appropriation. This distinction matters. It limits the scope of the right at precisely the point where modern harms begin to expand.

A more assertive turn appears in *ICC Development (International) Ltd. v. Arvee Enterprises*, where the Delhi High Court engaged directly with the idea of publicity rights.¹⁰ The Court recognised that an individual's persona—name, image, reputation—could not be commercially exploited without consent. The reasoning carries a proprietary undertone, suggesting that identity, at least in its public dimension, holds economic value that deserves protection. Yet even here, the articulation is cautious. The Court does not fully embrace a property framework. It acknowledges value, but hesitates to define its boundaries. One is left wondering—how far does this recognition extend? Does it apply equally to non-celebrities? The judgment does not say. Subsequent cases deepen the ambiguity rather than resolve it. In *DM Entertainment Pvt. Ltd. v. Baby Gift House*, the Delhi High Court restrained the unauthorised use of a popular singer's persona in

⁹ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632 (India).

¹⁰ *ICC Dev. (Int'l) Ltd. v. Arvee Enters.*, 2003 (26) PTC 245 (Del. HC).

commercial merchandise, reinforcing the idea that identity can function as a protectable commercial asset.¹¹ The logic appears consistent with publicity rights, yet the doctrinal foundation remains loosely constructed. Is this passing off? Misrepresentation? A distinct personality, right? The reasoning moves between these categories without fully settling into one.

Then comes the constitutional shift. In *Justice K.S. Puttaswamy (Retd.) v. Union of India*, privacy is elevated to a fundamental right, grounded in dignity and autonomy.¹² The judgment is expansive, almost philosophical at moments, recognising that personal identity is integral to individual freedom. This development could have provided a unifying framework for personality rights, anchoring them firmly within constitutional protection. Yet the connection is not always made explicitly in subsequent cases. Courts invoke privacy, but often without integrating it systematically with earlier publicity-based reasoning. The result is a doctrine that expands, but not always coherently. More recent decisions suggest an increasing willingness to engage with digital contexts, though the approach remains reactive. In *Amitabh Bachchan v. Rajat Nagi*, the Delhi High Court granted protection against unauthorised use of the actor's name, image, and voice, acknowledging the multifaceted nature of personality in a media-saturated environment.¹³ The recognition is significant it moves beyond static representations toward a more dynamic understanding of identity. Still, the reasoning leans heavily on commercial harm, leaving open the question of how similar protections would operate where economic loss is less visible but personal harm remains substantial.

What becomes evident across these cases is a pattern of incremental recognition without structural consolidation. Courts identify harm. They respond, often effectively in individual cases. But the underlying framework remains unsettled. Privacy, property, and dignity appear, sometimes together, sometimes in isolation. Their relationship is implied rather than defined. This lack of consolidation becomes more problematic as the nature of harm evolves. Digital replication does not always fit within existing categories. It may not involve direct misrepresentation in the traditional sense. It may not invade privacy in a way that is easily demonstrable. Yet it can distort identity in ways that are deeply consequential. The law, in its current form, addresses these issues in fragments. It protects here, hesitates there. Perhaps that hesitation reflects something deeper. A reluctance to fully acknowledge that identity, once treated as stable, is now fluid capable of existing in multiple, sometimes conflicting forms. If that is the case, then the challenge is not merely doctrinal. It is conceptual. The law must decide whether it continues to adapt incrementally or whether it attempts a more deliberate reconstruction of personality rights as a unified, though flexible, legal interest. That decision has not yet been made. For now, the doctrine remains in motion.

IV. Digital Disruption and the Judicial Response: Personality Rights in the Age of AI

If earlier cases struggled with defining personality, recent cases are struggling with something more immediate—control. Not in theory. In real time. The shift is noticeable. Courts are no longer dealing with static misuse of identity; they are confronting identity

¹¹ DM Ent. Pvt. Ltd. v. Baby Gift House, 2010 (43) PTC 125 (Del. HC).

¹² Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 SCC 1.

¹³ Amitabh Bachchan v. Rajat Nagi, CS (COMM) No. 819/2022 (Del. HC).

that moves, mutates, and replicates across digital environments faster than legal processes can comfortably respond. The Delhi High Court's recent interventions make this tension visible. In cases involving AI-generated deepfakes, courts have begun to recognise that harm is no longer confined to traditional categories such as defamation or passing off. In a 2026 decision protecting the personality rights of actress Sonakshi Sinha, the Court restrained the creation and circulation of AI-generated content that misused her image, voice, and likeness, particularly where such content falsely suggested endorsement or placed her in objectionable contexts.¹⁴ The language used is telling. The Court does not limit itself to commercial misuse alone. It acknowledges distortion, misrepresentation something closer to identity manipulation than simple exploitation.

A similar approach appears in the protection granted to public figures such as Gautam Gambhir, where the Delhi High Court issued restraining orders against the use of artificial intelligence to generate unauthorised content using his persona.¹⁵ The concern here extends beyond economic loss. It touches reputation, credibility, even public trust. Once identity can be replicated convincingly, the risk is not merely private harm. It begins to affect how information itself is received. Then there are cases that move slightly outside the celebrity framework. In early 2026, the Court granted protection to spiritual figure Aniruddhacharya against the misuse of his identity through memes, deepfakes, and digitally altered content.¹⁶ The context is different, but the reasoning follows a similar trajectory. Identity, name, image, voice is treated as something that cannot be freely appropriated, even in informal or non-commercial settings. This expansion is significant. It suggests that personality rights are no longer confined to high-value commercial identities but may extend, at least in principle, to broader categories of individuals.

Earlier developments had already begun pointing in this direction. The Bombay High Court, in addressing deepfake misuse involving actors, recognised that such technologies introduce a new scale of harm—rapid dissemination, difficulty of traceability, and a level of realism that makes false content indistinguishable from authentic representation.¹⁷ What is striking is not just the recognition of harm, but the urgency in response. Courts are increasingly willing to grant interim relief, sometimes through John Doe orders, indicating a shift toward preventive rather than purely reactive protection. Still, something remains unsettled. These decisions respond effectively to immediate harm, but they do not always articulate a consistent doctrinal basis. At times, the reasoning leans on privacy. At others, on commercial exploitation. Occasionally, both appear together, without clear integration. The result is a pattern strong remedies, uncertain foundations.

The technological context complicates this further. Deepfakes are not isolated acts. They are scalable. Replicable. A single piece of manipulated content can be reproduced across platforms within minutes, often beyond the reach of a single jurisdiction. Legal orders, by contrast, remain bounded—territorial, procedural, sometimes slow. This mismatch creates a peculiar situation where recognition of rights expands, but enforcement struggles to keep pace. There is also a subtle shift in what courts are willing to protect. Earlier, personality rights were closely tied to reputation or commercial value. Now, there

¹⁴ Sonakshi Sinha v. John Doe, CS (COMM) No. 265/2026 (Del. HC).

¹⁵ Gautam Gambhir v. Unknown, CS (COMM) No. 248/2026 (Del. HC).

¹⁶ Aniruddhacharya Maharaj v. John Doe, CS (COMM) No. 311/2026 (Del. HC).

¹⁷ Suniel Shetty v. John Doe, Bombay High Court (2025).

is increasing sensitivity toward distortion itself the idea that identity, even when not directly monetised, can be misused in ways that justify legal intervention. This is not a minor development. It signals movement toward a dignity-oriented understanding, though it is not always framed in those terms. Yet, the question persists. Are these developments building toward a coherent doctrine, or are they simply accumulating as responses to technological anxiety? The answer is not obvious. Courts are adapting, certainly. They are recognising new forms of harm. They are expanding protection. But the underlying structure how personality rights should be conceptualised in a world of digital replication—remains only partially articulated. Perhaps that is inevitable. Law tends to follow technology, not anticipate it. Still, the gap between the two is narrowing, and not always comfortably. The more identity becomes replicable, the more urgent the question becomes. Not just how to protect it but what, exactly, is being protected in the first place.

V. Comparative Perspectives: Divergent Paths, Converging Pressures

Legal systems rarely move in sync, yet the pressure they now face feels strangely similar. Identity is becoming unstable across jurisdictions, even where doctrine appears settled. The responses, however, differ in tone, structure, and underlying assumptions—sometimes subtly, sometimes quite starkly.

In the United States, personality rights have long been shaped through the language of property, particularly under the doctrine of the right of publicity. The attraction is obvious. Property offers clarity. It allows identity, name, likeness, voice to be treated as an economic asset, capable of licensing, assignment, and enforcement through familiar mechanisms. Courts have extended this logic over time, protecting not just literal representations but also evocations of identity, where a persona is recognisable even without direct replication.¹⁸ The framework is efficient, especially in commercial contexts. It draws clear lines where value is evident. Yet that same clarity produces blind spots. When identity is manipulated in ways that do not generate immediate economic loss, deepfakes used for satire, political messaging, or even harassment—the property model begins to strain. It asks a question it cannot easily answer: where there is no measurable market harm, what exactly is being protected?

European jurisdictions approach the issue from a different angle, one that resists reducing identity to a tradable commodity. The emphasis rests more firmly on dignity and personal autonomy, often articulated through privacy protections and data rights. The reasoning is less concerned with economic value and more with the conditions under which an individual's identity is used, represented, or exposed. In *Von Hannover v. Germany*, the European Court of Human Rights underscored the importance of protecting private life even for public figures, signalling that visibility does not dissolve personal boundaries.¹⁹ More recent regulatory developments, particularly under the General Data Protection Regulation, extend this concern into the digital sphere by recognising personal data—including images and biometric identifiers—as deserving of structured protection.²⁰ This creates a framework that is, in theory, more adaptable to technological

¹⁸ *White v. Samsung Elecs. Am., Inc.*, 971 F.2d 1395 (9th Cir. 1992).

¹⁹ *Von Hannover v. Germany*, 2004-VI Eur. Ct. H.R. 41 (Eur. Ct. H.R.).

²⁰ Regulation (EU) 2016/679 of the European Parliament and of the Council (General Data Protection Regulation).

change. Yet it is not without tension. Strong privacy protections can come into conflict with freedom of expression, especially in contexts involving journalism, satire, or public discourse. The balance is delicate. It does not always hold.

India, positioned somewhere between these approaches, reflects both flexibility and uncertainty. Courts draw from privacy, invoke elements of property, occasionally gesture toward dignity, but rarely integrate these strands into a single, stable doctrine. This hybridity can be advantageous. It allows adaptation. It permits courts to respond creatively to new forms of harm, particularly those emerging from digital technologies. At the same time, it introduces unpredictability. Without a clearly defined framework, outcomes may depend heavily on the specific facts of each case, or even the interpretive leanings of individual benches. The result is a system that evolves, but not always in a linear or predictable direction.

What becomes more interesting perhaps more consequential is the way these systems begin to converge under technological pressure. Deepfakes, synthetic media, and algorithmic identity construction do not respect jurisdictional boundaries. They operate globally, often anonymously, and at a scale that challenges traditional enforcement mechanisms. In response, even jurisdictions with distinct theoretical foundations begin to show signs of alignment. The United States, for instance, has seen increasing calls to regulate deepfakes not merely as economic harms but as threats to individual autonomy and democratic processes.²¹ European frameworks, while rooted in privacy, are gradually engaging with questions of economic exploitation and consent in digital environments. India, meanwhile, continues to develop its jurisprudence through case-by-case intervention, increasingly attentive to the technological dimensions of identity misuse. Still, convergence does not mean uniformity. The underlying values remain different. The United States tends to prioritise market logic, even when adjusting to new harms. Europe remains anchored in dignity, sometimes at the expense of flexibility. India navigates between these positions, drawing selectively, adapting incrementally. Whether this results in a more resilient framework or a more fragmented one is not yet clear.

There is also a deeper question, one that sits beneath doctrinal differences. Are existing legal categories sufficient to address a condition where identity is no longer fixed, where representation can be generated without origin, where authenticity itself becomes uncertain? Comparative analysis reveals variation in response, but it also exposes a shared limitation. Each system, in its own way, is attempting to regulate a phenomenon that does not fit comfortably within its inherited structures. Perhaps the real convergence lies there. Not in solutions, but in the recognition of a common problem, one that continues to expand, quietly, across jurisdictions that once seemed conceptually distinct.

VI. Toward a Normative Framework: Reimagining Personality Rights

At some point, description stops being enough. The patterns are visible—fragmented doctrine, reactive judgments, expanding harms, but recognition alone does not stabilise anything. The question shifts, almost inevitably, toward reconstruction. Not a complete overhaul (law rarely moves that cleanly), but something more deliberate than incremental adjustment. The difficulty, however, lies in deciding what exactly needs to be

²¹ Danielle Citron & Robert Chesney, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 *Calif. L. Rev.* 1753 (2019).

reconstructed. Is the problem doctrinal, or is it conceptual? The answer, inconveniently, is both. Existing frameworks tend to isolate dimensions of personality that no longer operate independently. Property addresses economic value, but it struggles when harm is expressive rather than commercial. Privacy protects autonomy, but it weakens where information is already public or partially disclosed. Dignity captures something deeper, though it often remains abstract, invoked more than applied. Each model works until it doesn't. And the moment of failure is no longer rare. It is becoming routine. A more coherent approach would require acknowledging that personality rights are not reducible to a single legal category.²² They function as a composite interest, one that simultaneously engages control, value, and representation. This does not mean collapsing everything into an undefined whole. It suggests a layered framework, where different dimensions of identity trigger different forms of protection, but remain conceptually connected. Control would operate as a baseline, ensuring that individuals retain a degree of authority over how their identity is used or replicated. Economic exploitation would justify stronger remedies, particularly where identity is directly monetised. Distortion—harder to define, harder still to measure—would engage dignity, focusing on whether the representation alters the meaning of the individual in a way that is harmful, even if not immediately quantifiable.

The digital context makes this layering necessary. Identity no longer appears as a single, coherent entity. It exists in fragments images, voice patterns, behavioural data each capable of independent use. Legal protection, if it remains tied to a unified notion of personality, risks missing how these fragments operate in practice. A synthetic voice may not reveal private information, yet it may still mislead. A manipulated image may not cause direct financial loss, yet it may distort public perception in ways that are difficult to reverse. The law, in responding to such cases, often selects one framework privacy, property, or reputation and proceeds as if that choice is sufficient. It rarely is. There is also the question of consent, which becomes increasingly unstable in digital environments.²³ Traditional legal thinking assumes that consent, once given, carries forward within predictable limits. That assumption does not hold when identity can be replicated indefinitely. A photograph shared for one purpose can be extracted, altered, and redeployed in contexts never contemplated by the individual. Consent, in such situations, becomes less a fixed permission and more a shifting boundary context-dependent, revocable, perhaps even fragile. Recognising this does not make enforcement easier. It complicates it. Still, ignoring it does not simplify anything.

Any normative framework must also account for competing interests, particularly freedom of expression. Not every use of identity should be restricted. Satire, parody, commentary—these rely, at least in part, on the ability to reference and reinterpret identity. The challenge lies in distinguishing between transformative use and exploitative distortion. The line is not always clear. It cannot be entirely fixed. Yet that does not mean it should not be drawn. Courts already engage in similar balancing exercises in other areas of law. The difficulty here is not unfamiliar. It is the scale and speed of digital replication that make the balancing more urgent. What emerges, then, is not a single solution but a direction. Personality rights must be understood as dynamic, layered, and

²² Mark P. McKenna, *The Right of Publicity and Autonomous Self-Definition*, 67 U. Pitt. L. Rev. 225 (2005).

²³ Neil M. Richards, *The Limits of Tort Privacy*, 9 J. Telecomm. & High Tech. L. 357 (2011).

context-sensitive. They must move beyond rigid categorisation without dissolving into ambiguity. This requires courts to articulate their reasoning more explicitly, to acknowledge when they are protecting economic value, when they are safeguarding autonomy, and when they are responding to distortion of identity itself. It also suggests a need perhaps overdue for legislative intervention that does not replace judicial development but provides a clearer structural foundation.²⁴ Whether such a framework will fully resolve the tensions surrounding personality rights is uncertain. It likely will not. Law rarely achieves that kind of completeness. But it may reduce the fragmentation that currently defines the field. It may allow responses to be more consistent, less dependent on improvisation. And it may, in a limited but meaningful way, align legal protection with the realities of a world where identity is no longer entirely one's own.

VII. Conclusion: Identity Without Edges

It would be tempting to end with clarity. A clean resolution. A statement that personality rights must evolve in a particular direction, followed by a confident assertion that the law is capable of doing so. That kind of ending feels satisfying. It also feels slightly dishonest. The reality is less settled. The law is adapting, yes—but not in a straight line, and not always with a clear sense of where it is heading. What has become evident, however, is that the traditional assumptions underlying personality rights are no longer stable. Identity cannot be treated as fixed, singular, or entirely controllable. It moves. It fragments. It reappears in forms that are not always authorised, not always recognisable at first glance. Legal doctrine, built on earlier understandings, continues to respond using categories that were not designed for this level of fluidity. Privacy, property, dignity—they still matter, but they no longer operate in isolation. They overlap, sometimes uneasily. The judicial responses examined in this paper suggest a growing awareness of this shift. Courts are beginning to recognise harms that do not fit neatly within established frameworks. They are extending protection to forms of identity that go beyond name and image, reaching into voice, digital representation, even simulated presence. There is a willingness to intervene early, to prevent harm rather than merely compensate for it. That shift is significant. It reflects an understanding that once identity is replicated and circulated, the damage may not be fully reversible.²⁵

And yet, something remains unresolved. The doctrine expands, but its structure does not always keep pace. Decisions address immediate problems, but they do not always articulate the principles that would guide future cases. The result is a body of law that grows, but unevenly. It protects in one context, hesitates in another. It recognises harm, but sometimes struggles to explain why. This is where the deeper tension lies. Not in the absence of protection, but in the absence of coherence. A fragmented approach may work in the short term, particularly when courts are able to respond flexibly. Over time, however, that flexibility can become unpredictability. And unpredictability, in law, carries its own risks. The digital environment intensifies this concern. Identity now exists across platforms, jurisdictions, and technological systems that do not align neatly with legal boundaries. A single instance of misuse can spread rapidly, often beyond the reach of any

²⁴ Julie E. Cohen, *Configuring the Networked Self: Law, Code, and the Play of Everyday Practice* (Yale Univ. Press 2012).

²⁵ Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 Harv. L. Rev. 193 (1890).

one court. Remedies, even when granted, may arrive after the fact, addressing harm that has already multiplied. The law, in this sense, is not only interpreting change—it is trying to catch up with it. So the question persists, though it shifts slightly in tone. It is no longer simply about who owns identity. Ownership, as a concept, begins to feel insufficient when identity itself is no longer contained. The question becomes something else—who controls it, who shapes it, who is responsible when it is altered or misused. The answers are not singular. They cannot be. What can be said, with some confidence, is that personality rights will continue to evolve. They will absorb elements of privacy, property, and dignity, whether or not the law formally acknowledges that synthesis. They will be tested by technologies that make replication easier and detection harder. They will be shaped by courts, by legislatures, by the slow accumulation of cases that respond to problems not yet fully understood. That process will not produce a perfect framework. It rarely does. But it may produce something more useful—a structure that is flexible enough to adapt, yet clear enough to guide. Whether that balance can be achieved remains uncertain. For now, identity exists without clear edges. The law is still trying to draw them.