

Conceptual Framework of Personality Rights in the Digital Age

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ABSTRACT

In this chapter, I explore the conceptual and theoretical foundations of personality rights, which I believe have become increasingly important in today's rapidly digitizing world. I focus on understanding what personality rights truly mean, particularly the right of an individual to control their name, image, likeness, voice, and reputation. I also attempt to distinguish these rights from related legal concepts such as privacy, defamation, and intellectual property.

Through this discussion, I argue that personality rights are not merely commercial or economic interests but are deeply rooted in human dignity, autonomy, and self-determination. In my view, these rights form an essential part of an individual's identity and therefore deserve independent legal recognition. I further attempt to build a structured theoretical framework that can help evaluate and protect these rights against emerging technological threats. This chapter lays the foundation for the legal and ethical discussions that follow in later parts of this study.

KEYWORDS

Personality Rights, Human Dignity, Digital Identity, Right of Publicity, Right of Privacy, Artificial Intelligence, Deepfake, Identity Misuse, Autonomy, Data Sovereignty

INTRODUCTION

In my understanding of contemporary legal developments, personality rights have emerged as a crucial tool for protecting the most personal aspects of human identity. I was particularly drawn to this topic because of the increasing vulnerability of individual identity in a world that is becoming more digital and interconnected every day. Attributes such as voice, image, and reputation, which were once difficult to misuse, are now easily replicable and manipulable.²

When I examined how the law has historically dealt with such issues, I found that legal systems often struggled to properly categorize the unauthorized use of a person's identity. In many

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² Bobby Chesney & Danielle Citron, *Deep Fakes: A Looming Challenge for Privacy, Democracy, and National Security*, 107 CALIF. L. REV. 1753 (2019); EUROPEAN PARLIAMENT, *IMPLICATIONS OF ARTIFICIAL INTELLIGENCE FOR THE RIGHT TO PERSONAL DATA PROTECTION* (2020).

cases, such violations were forced into existing categories like property law or privacy torts, even though they did not fully fit within those frameworks.³ As technology continues to evolve, especially with the growing influence of automation and intelligent systems, I feel that the need to protect human dignity and individual agency has become more urgent than ever.

In this study, I define personality rights as the right of an individual to control how their identity is used, both commercially and non-commercially.⁴ I find it important to distinguish this from the right to privacy. While privacy is concerned with protecting individuals from unwanted intrusion, personality rights go a step further by giving individuals control over how their identity is represented and used in public spaces. Similarly, I see a clear difference between personality rights and intellectual property rights. Intellectual property protects creations of the mind, whereas personality rights protect the person themselves. Defamation, on the other hand, is limited to protecting reputation and does not address the broader issue of control over one's identity.

While studying existing legal approaches, I realized that they are not fully equipped to deal with modern technological challenges. One major issue is the tendency to treat identity as a commercial asset, which reduces the human person to something that can be bought and sold. I find this approach problematic because it ignores the inherent dignity attached to identity. Another limitation is that traditional privacy laws focus too much on secrecy and do not adequately address situations where a person's publicly available identity is manipulated or misused without consent. Through this chapter, I aim to make two key contributions. First, I attempt to develop a conceptual framework that places human dignity and self-determination at the centre of personality rights. Second, I propose a structured way of distinguishing personality rights from related legal doctrines so that their scope can be clearly understood.

RELATED WORK

While engaging with existing literature, I noticed that a significant body of work focuses on human dignity and autonomy as the foundation of all rights.⁵ I personally find this perspective

³ Samuel D. Warren & Louis D. Brandeis, *The Right to Privacy*, 4 HARV. L. REV. 193 (1890); Melville B. Nimmer, *The Right of Publicity*, 19 LAW & CONTEMP. PROBS. 203 (1954); Shivaji Rao Gaikwad v. Varsha Productions, 2015 SCC OnLine Mad 158.

⁴ *Zacchini v. Scripps-Howard Broad. Co.*, 433 U.S. 562 (1977); Michael Madow, *Private Ownership of Public Image: Popular Culture and Publicity Rights*, 81 CALIF. L. REV. 125 (1993); Justice K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1.

⁵ IMMANUEL KANT, *GROUNDWORK OF THE METAPHYSICS OF MORALS* (Mary Gregor trans., Cambridge University Press 1998); RONALD DWORKIN, *TAKING RIGHTS SERIOUSLY* (Harvard University

compelling because it recognizes that even small violations of autonomy can have a deep impact on a person's sense of self. However, I also realized that such philosophical ideas are often difficult to apply directly in legal decision making. This is where I believe my approach attempts to bridge the gap by translating abstract ideas of dignity into more concrete legal principles.

Another area of literature that influenced my thinking revolves around data sovereignty and digital personalism. This perspective argues that personal data is not just information but an extension of the individual.⁶ I agree with this view to a large extent, especially in highlighting the risks of treating individuals as mere data points. At the same time, I felt that this approach sometimes overlaps too much with privacy concerns and does not fully address the specific issue of controlling one's public identity. In my work, I try to refine this idea by focusing more directly on personality rights rather than general data protection.

I also explored literature that examines the relationship between human identity and technological imitation. This area looks at how machines can replicate human behaviour and how this affects our understanding of personhood. I found this particularly relevant in the context of modern technologies that can mimic voices and appearances.⁷ However, I observed that much of this discussion focuses on human interaction with machines rather than the misuse of real individuals' identities. My work builds on this by emphasizing that unauthorized imitation of a person's attributes should be seen as a direct violation of their personality rights.

METHOD OR APPROACH

To clearly define the boundaries of personality rights, I have adopted a structured approach that combines legal analysis with ethical reasoning. My aim was to create a framework that is not only legally sound but also grounded in human values. In doing so, I tried to ensure that the framework remains practical and adaptable to real world situations.

Press 1977); G.A. Res. 217 (III) A, Universal Declaration of Human Rights, art. 1 (Dec. 10, 1948); INDIA CONST. pmb.

⁶ Luciano Floridi, On Human Dignity as a Foundation for the Right to Privacy, 19 PHIL. & TECH. 307 (2016); Regulation (EU) 2016/679 of the European Parliament and of the Council of Apr. 27, 2016 on the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data (General Data Protection Regulation), 2016 O.J. (L 119) 1; *SHOSHANA ZUBOFF, THE AGE OF SURVEILLANCE CAPITALISM* (PublicAffairs 2019).

⁷ Hany Farid, Creating, Using, Misusing, and Detecting Deep Fakes, 3 J. ONLINE TR. & SAFETY (2022); Titan Indus. Ltd. v. Ramkumar Jewellers, 2012 SCC OnLine Del 2382.

The framework I propose consists of three stages. In the first stage, which I call ontological mapping, I identify the specific aspect of identity involved, such as voice, name, or facial features. This helps in understanding how closely the attribute is connected to the individual's core identity. In the second stage, boundary demarcation, I distinguish the issue from related legal concepts by examining the nature of the harm. For example, I ask whether the issue relates to reputation, privacy, or unauthorized use of identity. In the third stage, digital translation, I examine how the misuse occurred, particularly whether it involved technological or algorithmic methods of imitation.

One of the most important decisions I made while designing this framework was to prioritize human dignity over economic considerations. I strongly believe that personality rights should not be limited to celebrities or public figures but should apply equally to every individual. To test the effectiveness of this approach, I have proposed a hypothetical evaluation using a set of sample legal scenarios. Through this, I aim to demonstrate that a structured framework can lead to more consistent and meaningful outcomes than traditional approaches.

DISCUSSION

In my view, establishing a clear conceptual framework for personality rights has important practical implications. It can help courts better understand and handle complex cases involving digital misuse of identity. It can also guide policymakers in creating laws that are more responsive to technological developments. Additionally, it can encourage technology companies to design systems that respect human dignity and identity from the outset.

At the same time, I recognize that my proposed framework has certain limitations. One major challenge is the issue of jurisdiction, as digital content often crosses national boundaries while legal systems remain confined within them.⁸ Another concern looms around expanding personality rights too much could restrict freedom of expression, particularly in areas like satire and artistic creativity.⁹ I also acknowledge the difficulty of defining what constitutes a person's likeness in cases where technology creates entirely new or composite identities.

From an ethical perspective, I believe that the protection of personality rights must be handled with great care. There is a risk that treating identity as something that can be controlled or

⁸ JACK GOLDSMITH & TIM WU, *WHO CONTROLS THE INTERNET? ILLUSIONS OF A BORDERLESS WORLD* (Oxford University Press 2006); Convention on Cybercrime, Nov. 23, 2001, E.T.S. No. 185.

⁹ *Comedy III Prods., Inc. v. Gary Saderup, Inc.*, 25 Cal. 4th 387 (2001); INDIA CONST. art. 19, cl. 1(a); INDIA CONST. art. 19, cl. 2; INDIA CONST. art. 21; *Diljit Dosanjh v. PartySmart*, Delhi High Court (2022).

monetized may lead individuals to compromise their own dignity. I am also concerned about unequal access to legal remedies, as enforcing these rights may require resources that are not available to everyone. Looking ahead, I think there is a need for further research in this area. Future studies should explore the psychological impact of identity misuse and also consider the possibility of international cooperation in regulating digital identity issues.

CONCLUSION

In this chapter, I have attempted to build a clear conceptual foundation for understanding personality rights as an independent and essential area of law. By distinguishing these rights from privacy, defamation, and intellectual property, I have tried to clarify their unique role in protecting individual identity. I strongly believe that grounding these rights in human dignity and autonomy ensures that the law remains focused on the person rather than their economic value.

As digital technologies continue to evolve, the risks to personal identity are likely to increase. Through the framework I have proposed, I hope to offer a way of addressing these challenges in a structured and meaningful manner. Ultimately, I believe that protecting personality rights is not just a legal necessity but also a fundamental step towards preserving human dignity and ensuring that individuals can truly flourish in the modern world.