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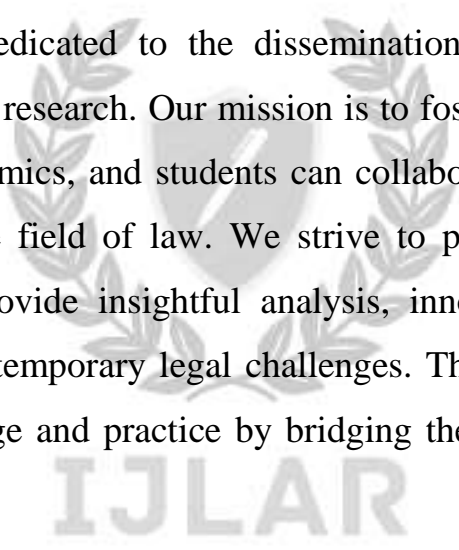
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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

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FREEDOM OF PERSONALITY RIGHTS AND FREE SPEECH: A CRITICAL ANALYSIS

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ABSTRACT

Personality rights—covering name, image, voice, reputation, and personal data—are increasingly asserted through Article 21 of the Constitution as interests linked to dignity and privacy, while free speech is protected under Article 19(1)(a) and limited only through Article 19(2). The research analyses how statutory frameworks shape this balance in practice, particularly the Information Technology Act, 2000 (Sections 66E, 69, 69A, 72 and 79), the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the Digital Personal Data Protection Act, 2023, and reputational liability under the Bharatiya Nyaya Sanhita, 2023 (Section 356). This study critically examines the evolving conflict between personality rights and freedom of speech in India, focusing on how the law balances individual control over identity with democratic expression. It argues that fragmented remedies and platform-driven enforcement risk chilling legitimate criticism, journalism, satire, and political speech, while under-protecting individuals from misappropriation and identity-based harms. The study proposes a coherent, rights-consistent balancing approach grounded in legality, proportionality, and procedural safeguards for both online and offline contexts.

Keywords: Personality Rights; Freedom of Speech; Article 19(1)(a); Article 21; Intermediary Regulation; Data Protection

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1 INTRODUCTION

Freedom of personality rights and free speech in India sits at the intersection of constitutional liberty and personal autonomy. Personality rights broadly protect an individual's control over identity-related attributes such as name, image, voice, reputation, and personal data, while free speech protects democratic participation and public discourse. In Indian law, these interests are primarily anchored in the Constitution through Article 21 (life and personal liberty, understood to include dignity and privacy interests) and Article 19(1)(a) (freedom of speech and expression), with the State's limiting power structured through Article 19(2). The conflict becomes acute when expression uses or affects a person's identity—especially in media, advertising, satire, political speech, and digital circulation—raising the question of what forms of speech must yield to personal control and what forms of personal control must yield to public expression.²

Modern Indian regulation also shapes this contest through statutory regimes that address privacy-like harms, data processing, and intermediary responsibility. The Information Technology Act, 2000 specifically criminalises certain privacy violations such as capturing/transmitting private images without consent (Section 66E) and provides a framework for blocking online content (Section 69A) and intermediary safe-harbour subject to due diligence (Section 79). Alongside it, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 create compliance duties for intermediaries that can affect both identity-protection and the circulation of speech online. More recently, the Digital Personal Data Protection Act, 2023 introduces a consent-centred governance model for processing “personal data” and strengthens identity-linked control in the digital economy, which inevitably interacts with speech, journalism, and artistic expression in the platform age.³

This study therefore examines how Indian law can protect identity without chilling legitimate criticism, creativity, reportage, and public-interest speech, and how it can protect speech without permitting exploitation, manipulation, or reputational injury that undermines dignity. It also recognises that “personality” is not only about privacy; it can involve reputation and attribution interests as well—illustrated by criminal defamation under the Bharatiya Nyaya Sanhita, 2023

² Praveen Palkhade, “Solomon & Co.” *Solomon & Co.*, 2026 available at: <https://solomonco.in/what-are-personality-rights-under-indian-jurisprudence/> (last visited April 28, 2026).

³ Mayashree Acharya, “IT Act 2000: Objectives, Features, Amendments, Sections, Offences and Penalties” *ClearTax*, 12 April 2024.

(Section 356) and by authorial moral rights such as attribution and integrity under the Copyright Act, 1957 (Section 57), both of which affect how speech may represent, describe, or use another person's identity and work.

1.1 Meaning and Scope of Personality Rights

Personality rights in India operate as a cluster of protectable interests that allow individuals to prevent unauthorised use or harmful misuse of identity-linked attributes—such as name, likeness, voice, reputation, and personal data—especially where such use undermines dignity, autonomy, or informational self-control. Constitutionally, the strongest anchor is Article 21, which supports claims framed around privacy, dignity, and personal liberty. Statutorily, the Digital Personal Data Protection Act, 2023 strengthens identity protection in the data ecosystem by regulating the processing of “personal data” and emphasising lawful processing/consent structures, while the Information Technology Act, 2000 addresses specific privacy harms such as violation of privacy through capturing/transmitting private images (Section 66E). In creative and reputational domains, Section 57 of the Copyright Act, 1957 protects special authorial rights of attribution and integrity, which can be implicated when expression distorts identity or misattributes authorship in ways that affect a person's public persona.⁴

1.2 Nature and Content of Free Speech in India

Free speech in India is constitutionally guaranteed under Article 19(1)(a), but it is not absolute; the permissible grounds and structure of limitation are defined by Article 19(2). In practice, speech disputes involving personality frequently travel through restrictions and liabilities linked to reputation, public order, decency, and other Article 19(2) grounds. The statutory environment also shapes speech architecture online: the Information Technology Act, 2000 enables blocking of content through Section 69A (with procedural safeguards) and frames intermediary safe harbour through Section 79, thereby influencing whether platforms host, remove, or restrict identity-affecting expression. Complementing this, the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 impose due diligence and

⁴ “Personality rights: The law must not overprotect fame,” *Supreme Court Observer*, 2025 available at: <https://www.scobserver.in/journal/personality-rights-the-law-must-not-overprotect-fame/> (last visited April 28, 2026).

grievance mechanisms on intermediaries, which can indirectly regulate how quickly contested identity-related content is acted upon. Criminal liability for reputational harm remains relevant through the Bharatiya Nyaya Sanhita, 2023 (Section 356 on defamation), which may further shape the boundaries of permissible speech affecting personality.⁵

1.3 Relationship Between Individual Identity and Expression

The relationship between identity and expression is structurally constitutional: Article 19(1)(a) enables robust discourse, but Article 21 protects the individual's dignity, privacy, and personal liberty against identity-based intrusions and harms. This tension intensifies when expression involves impersonation, unauthorised commercialisation of persona, deepfake-like manipulation, doxxing, or reputational injury—because the “speech act” simultaneously becomes an “identity act.” In the digital domain, this relationship is mediated by overlapping legal controls: the Digital Personal Data Protection Act, 2023 strengthens control over personal data (which often functions as a proxy for identity), while the Information Technology Act, 2000 addresses certain privacy violations (including Section 66E) and channels state/platform control over online content through provisions such as Section 69A and the intermediary framework under Section 79. The Intermediary Rules, 2021 then operationalise takedown/grievance and compliance duties that can either protect identity from harm or, if over-applied, chill legitimate criticism, investigative reporting, satire, and artistic speech—making the balancing exercise central to a critical analysis of personality rights and free expression in India.⁶

1.4 Objectives of the Study

1. To examine the legal meaning and enforceable scope of personality rights in India.
2. To analyse the constitutional design of free speech under Article 19(1)(a) and its limits under Article 19(2).
3. To identify how statutory frameworks (IT Act, 2000; DPDP Act, 2023; Intermediary Rules,

⁵ “Reaffirming Free Speech in a Constitutional Democracy.,” *Drishti IAS* available at: <https://www.drishtias.com/daily-updates/daily-news-editorials/reaffirming-free-speech-in-a-constitutional-democracy> (last visited April 28, 2026).

⁶ IJLLR Journal, “Recalibrating The Contours Of Dignity: A Constitutional Tightrope On When Article 19 Must Yield To Article 21” *IJLLR Journal*, 2025 available at: <https://www.ijllr.com/post/recalibrating-the-contours-of-dignity-a-constitutional-tightrope-on-when-article-19-must-yield-to-a> (last visited April 28, 2026).

2021; BNS, 2023; Copyright Act, 1957) shape the speech–personality conflict.

4. To evaluate recurring conflict zones in media and digital spaces where identity and expression collide.

1.5 Research Questions

1. What interests constitute “personality rights” in Indian law, and what is their enforceable scope?
2. How do Articles 19(1)(a), 19(2), and 21 interact when speech impacts identity, dignity, privacy, or reputation?
3. How do the IT Act, 2000 (including Sections 66E, 69A, and 79) and the Intermediary Rules, 2021 influence platform handling of identity-based speech harms?
4. How does the DPDP Act, 2023 reshape control over identity through regulation of personal data, and what tensions arise for public-interest expression?

1.6 Research Methodology

This study adopts a doctrinal methodology based on analysis of primary legal materials, focusing on the Constitution of India (Articles 19(1)(a), 19(2), and 21) and key statutes governing identity and expression: the Information Technology Act, 2000 (including Sections 66E, 69A, and 79), the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, the Digital Personal Data Protection Act, 2023, the Bharatiya Nyaya Sanhita, 2023 (Section 356), and the Copyright Act, 1957 (Section 57). The method uses close reading of statutory text, legislative structure, and normative principles to develop a reasoned framework for balancing personality rights with free speech across media and digital contexts.

1.7 Research Gap

Existing Indian scholarship often discusses personality rights either as privacy/dignity under Article 21 or as celebrity publicity claims in IP law, but rarely integrates them into a single constitutional balancing framework with Article 19(1)(a) and Article 19(2). Many studies focus on traditional media or celebrity endorsement disputes, leaving gaps on platform-driven identity harms such as viral misappropriation, impersonation, deepfakes, and algorithmic amplification. The interaction between the IT Act, 2000 (Sections 66E, 69, 69A, 72, 79), the Intermediary Rules,

2021, and the DPDP Act, 2023 is still under-analysed as a unified speech–identity governance system.

2 HISTORICAL GROWTH OF PERSONALITY RIGHTS AND SPEECH PROTECTION IN INDIA

2.1 Development of Personality Interests in Indian Legal Thought

In Indian legal thought, personality interests emerged through overlapping ideas of dignity, reputation, and personal autonomy, now commonly located within Article 21 and supplemented by targeted statutory protections. Historically, reputation was treated as a protectable interest through criminal defamation (now codified under the Bharatiya Nyaya Sanhita, 2023, Section 356), while privacy-like harms gained clearer statutory form in the Information Technology Act, 2000 through provisions such as Section 66E (violation of privacy) and Section 72 (breach of confidentiality and privacy). In contemporary India, informational identity has moved further into a rights-and-duties framework through the Digital Personal Data Protection Act, 2023, which regulates the processing of “personal data” and thereby strengthens legal control over identity-linked information.⁷

2.2 Evolution of Speech Protection under Constitutional Jurisprudence

Speech protection after Independence is best understood through the constitutional text: Article 19(1)(a) guarantees freedom of speech and expression, while Article 19(2) sets out the State’s authority to impose “reasonable restrictions” on specified grounds. Over time, speech regulation also developed institutionally through sectoral controls—such as content governance for cinema via the Cinematograph Act, 1952 (Section 5B) and for cable broadcasting via the Cable Television Networks (Regulation) Act, 1995 (Programme Code under Section 5 and Advertisement Code under Section 6). These statutory controls illustrate that Indian speech protection has never been a purely negative liberty; it is continually shaped by medium-specific regulatory frameworks that indirectly influence how personality and reputation are portrayed.⁸

⁷ Aditya Aryan, “Article 21 and the Constitutional Idea of Dignity” *CLATatalogue*, 2026 available at: <https://www.lawctopus.com/clatalogue/clat-pg/article-21-and-the-constitutional-idea-of-dignity/> (last visited April 28, 2026).

⁸ Raghav Kohli, “Expressive Conduct and Article 19(1)(a) of the Indian Constitution: A Purposivist Approach,” 16 *Asian Journal of Comparative Law* 259–84.

2.3 Expansion of Privacy, Dignity and Reputation in Modern India

Modern Indian law expands privacy and dignity protection through a layered approach: constitutional anchoring under Article 21, offence-based protection under the Information Technology Act, 2000 (Section 66E and Section 72), and governance-based control under the Digital Personal Data Protection Act, 2023 for the processing of personal data. Reputation remains legally salient through criminal defamation under the Bharatiya Nyaya Sanhita, 2023 (Section 356), which continues to structure how expression about persons can trigger liability. Together, these developments show that personality rights in India are not confined to one statute; they operate as a composite of constitutional dignity, reputational safeguards, and data-based identity control.

2.4 Emerging Tensions Between Identity Control and Public Expression

The core tension today lies in the fact that identity control increasingly operates through data, platforms, and rapid circulation, while public expression depends on broad communicative freedom. Digital governance statutes intensify this contest: the IT Act, 2000 enables interception/monitoring (Section 69), blocking orders (Section 69A), and intermediary safe harbour subject to due diligence (Section 79), while the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 impose compliance and grievance obligations that can accelerate removals of identity-impairing content. Simultaneously, the DPDP Act, 2023 strengthens consent-based controls over personal data, which can generate friction with investigative reporting, public interest commentary, and cultural production where personal data and public identity often overlap.

3 CONSTITUTIONAL FRAMEWORK GOVERNING PERSONALITY RIGHTS AND FREE SPEECH

3.1 Protection of Life, Liberty, Dignity and Reputation

Personality rights in India often draw their constitutional strength from Article 21 because dignity and personal liberty are harmed when identity is misused, distorted, or exposed without consent. Statutory reinforcement appears in the IT Act, 2000 through Section 66E (privacy violation) and Section 72 (breach of confidentiality and privacy), and in the DPDP Act, 2023 through a rights-

and-obligations regime for processing personal data. Reputation, a key component of personality, is additionally protected through criminal defamation under the Bharatiya Nyaya Sanhita, 2023 (Section 356), which directly regulates speech that allegedly injures a person's standing.⁹

3.2 Constitutional Guarantee of Freedom of Speech and Expression

The guarantee under Article 19(1)(a) is wide enough to include political critique, journalism, artistic expression, and public-interest communication across media and digital platforms. Yet in practice, speech is shaped by medium-specific statutes, such as the Cinematograph Act, 1952 (Section 5B) and the Cable Television Networks (Regulation) Act, 1995 (Sections 5 and 6), which embed content standards and thus operationalise limits in specific domains. In the online sphere, the IT Act, 2000 (especially Section 79) and the Intermediary Rules, 2021 configure how platforms host or remove content, effectively determining the real-world availability of speech even before formal adjudication occurs.

3.3 Reasonable Restrictions and Constitutional Limitations

Article 19(2) sets out the permissible grounds for restricting speech, making "reasonableness" and enumerated justifications central to legality. This constitutional limitation is echoed in sectoral statutes: the Cinematograph Act, 1952 (Section 5B) embeds restrictions linked to public order, decency/morality, defamation and incitement-like concerns, and the IT Act, 2000 empowers State action against online speech through mechanisms such as blocking (Section 69A) and interception/monitoring powers (Section 69) on specified grounds. Therefore, restrictions impacting personality-based claims must still be traceable to lawful grounds and administered through procedures that minimise arbitrary chilling effects.¹⁰

3.4 Judicial Balancing of Conflicting Fundamental Interests

Balancing personality rights and free speech in India is structurally guided by the Constitution's

⁹ Amit k.Panigrahi, "Personality Rights: Celebrity Rights Or Case For Identity Theft?" *Live Law*, 12 March 2026.

¹⁰ ritika singh, "Chapter – 2 FREEDOM OF SPEECH AND EXPRESSION UNDER INDIAN CONSTITUTION WITH SPECIAL REFERENCE TO ELECTRONIC MEDIA FREEDOM OF SPEECH AND EXPRESSION," 2018 available at:

https://www.academia.edu/36739550/Chapter_2_FREEDOM_OF_SPEECH_AND_EXPRESSION_UNDER_INDIAN_CONSTITUTION_WITH_SPECIAL_REFERENCE_TO_ELECTRONIC_MEDIA_FREEDOM_OF_SPEECH_AND_EXPRESSION (last visited April 28, 2026).

dual commitments: individual dignity under Article 21 and democratic discourse under Article 19(1)(a), constrained by Article 19(2). In the digital context, balancing also occurs through statutory procedures and platform governance, particularly the IT Act, 2000 (Section 79 safe harbour conditioned by due diligence) and the Intermediary Rules, 2021 that create notice-and-grievance pathways affecting takedown outcomes. Additionally, the DPDP Act, 2023 introduces consent-based controls over personal data that can influence whether identity-linked information can be processed or republished, requiring careful reconciliation with legitimate speech functions.

4 PERSONALITY RIGHTS IN MEDIA, COMMUNICATION AND PUBLIC DISCOURSE

4.1 Use of Name, Image, Voice and Identity in Public Spaces

The use of name, likeness, or identity in public communication can raise personality concerns when it becomes exploitative, deceptive, or dignity-injuring, especially where consent is absent. In commercial settings, the Trade Marks Act, 1999 becomes relevant where names or identity-signifiers function as marks (Section 29 on infringement), and the Consumer Protection Act, 2019 can address identity-related deception in advertising through powers against misleading advertisements (Section 21) and the statutory definition of misleading advertisement (Section 2(28)). Where identity use occurs digitally, the IT Act, 2000 (Section 66E and Section 72) and the DPDP Act, 2023 provide additional legal routes by treating certain identity-linked information as privacy-sensitive and data-regulated.¹¹

4.2 Media Representation and Protection of Personal Autonomy

Media representation implicates personal autonomy because portrayals can shape public identity, reputation, and dignity, engaging Article 21 interests while remaining under the umbrella of Article 19(1)(a). Broadcast media regulation under the Cable Television Networks (Regulation) Act, 1995 (Section 5 Programme Code and Section 6 Advertisement Code) and film certification under the Cinematograph Act, 1952 (Section 5B) demonstrate that Indian law already expects content to meet normative boundaries, including avoidance of defamation-like injury. In digital

¹¹ “Personality Rights as Commercial Interests: An Indian Trademark Law Perspective,” *International Journal of Law Management & Humanities* available at: <https://ijlmh.com/paper/personality-rights-as-commercial-interests-an-indian-trademark-law-perspective/> (last visited April 28, 2026).

environments, the Intermediary Rules, 2021 create grievance and due diligence duties that operationally determine how quickly identity-harming portrayals are removed or retained.

4.3 Commercial Exploitation of Identity and Consent

Commercial exploitation of identity raises sharper consent questions because a person's name, likeness, voice, or persona can be used as a market signal, creating risks of misappropriation and deception. The DPDP Act, 2023 strengthens a consent-oriented model for processing personal data, relevant when advertising ecosystems use identity-linked data for targeting or endorsement-like impressions. The Consumer Protection Act, 2019 empowers action against false or misleading advertisements through Section 21, which can apply where identity is used to mislead consumers about endorsement or association. Where identity is embedded into a registered sign used in trade, the Trade Marks Act, 1999 (Section 29) provides a statutory route to restrain unauthorised use that harms the mark's exclusivity and associated goodwill.

4.4 Public Interest, Satire, Criticism and Expressive Freedom

Public interest expression, satire, and criticism are protected by Article 19(1)(a), but they may incidentally affect personality interests such as reputation and dignity, requiring principled limits rather than blanket suppression. Copyright law illustrates a statutory "speech space" through exceptions: Section 52(1)(a) of the Copyright Act, 1957 protects fair dealing for criticism or review and for reporting of current events and current affairs, which supports commentary and news functions without automatic infringement liability. At the same time, reputational protections under the Bharatiya Nyaya Sanhita, 2023 (Section 356 defamation) can chill speech if applied without strong standards of necessity and proportionality aligned with Article 19(2).¹²

5 DIGITAL AGE CHALLENGES TO PERSONALITY RIGHTS AND FREE SPEECH

5.1 Social Media and the Expansion of Identity-Based Harms

Social media amplifies harms such as impersonation, doxxing-like exposure, non-consensual

¹² Aaina Sethi & Divanshi Gupta, "Expression or Exploitation: Parody, Satire, and the Law of Trademarks and Personality Rights" *candcip*, 2025 available at: <https://www.candcip.com/single-post/expression-or-exploitation-parody-satire-and-the-law-of-trademarks-and-personality-rights> (last visited April 28, 2026).

sharing of images, and rapid reputational damage, making personality protection practically urgent. The IT Act, 2000 addresses certain privacy harms through Section 66E and Section 72, while the intermediary framework under Section 79 links platform immunity to due diligence. The Intermediary Rules, 2021 create complaint-handling and compliance obligations that affect how quickly identity-based content is responded to, and the DPDP Act, 2023 strengthens control over personal data that may be uploaded, reposted, or algorithmically circulated without meaningful consent.

5.2 Online Defamation, Misappropriation and Image Manipulation

Online defamation and misappropriation are intensified by virality and persistence, while image manipulation—especially synthetic or altered media—creates a new layer of identity distortion that is difficult to remedy after dissemination. Reputation-related liability is structured through the Bharatiya Nyaya Sanhita, 2023 (Section 356), while privacy-related identity harms can arise under the IT Act, 2000 (Section 66E and Section 72). Platform-level responses operate through Section 79 of the IT Act and the Intermediary Rules, 2021, which can enable faster takedowns but also risk overbroad removals that chill legitimate commentary protected by Article 19(1)(a).

5.3 Data Circulation, Digital Surveillance and Informational Privacy

Informational privacy is challenged by mass data circulation and surveillance capacities that can expose identity attributes without direct publication, affecting dignity under Article 21 and speech through chilling effects. Communications interception powers exist historically under the Indian Telegraph Act, 1885 (Section 5, including the emergency/public safety structure in Section 5(2)) and digitally under the IT Act, 2000 (Section 69 interception/monitoring and Section 69B traffic data monitoring). The DPDP Act, 2023 adds a governance layer by regulating how personal data may be processed, thereby addressing identity risks not only from speech but from data ecosystems that influence profiling, targeting, and reputational inference.¹³

5.4 Platform Regulation and the Limits of Online Expression

Platform regulation in India is driven by the IT Act, 2000 and the Intermediary Rules, 2021, which

¹³ Rupinder Kaur, “Surveillance and Privacy: A Ramification of Article 21.,” 6 *International Journal of Reviews and Research in Social Sciences* 284–90 (2018).

together set the operational rules for content hosting, takedown, and grievance redress. The State's blocking power under Section 69A and interception power under Section 69 can restrict online expression, while intermediary safe harbour under Section 79 is conditioned on compliance, shaping private enforcement through platform policies. Since personality harms often demand urgent remedies, these mechanisms may appear attractive, but they must remain compatible with Article 19(1)(a) and Article 19(2) by ensuring lawful grounds, procedural discipline, and proportionality in speech-limiting actions.

6 CONFLICTS AND CONTEMPORARY ISSUES IN INDIAN LAW

6.1 Personality Rights and Artistic Freedom

Artistic freedom relies on Article 19(1)(a) and often uses real-world identity as material for storytelling, parody, and commentary, but this can trigger personality concerns when portrayal crosses into dignity or reputational harm protected under Article 21. Statutory speech boundaries appear in cinema regulation through the Cinematograph Act, 1952 (Section 5B), and reputational limits arise through BNS, 2023 (Section 356). At the same time, copyright exceptions under the Copyright Act, 1957 (Section 52(1)(a) for criticism/review and reporting of current events) support creative and critical uses, indicating that Indian law already contains structured “breathing space” that should inform personality–speech balancing.¹⁴

6.2 Personality Rights and Journalistic Expression

Journalism is central to democratic accountability under Article 19(1)(a), yet it frequently handles identity-linked information—names, images, allegations, private facts—creating risk under Article 21 and reputational liability under BNS Section 356. Copyright law supports reporting functions through Section 52(1)(a)(iii) of the Copyright Act, 1957 (fair dealing for reporting current events and current affairs), but digital reporting is also mediated by the IT Act, 2000 and Intermediary Rules, 2021, which can lead to rapid takedown pressures. The DPDP Act, 2023 adds a further compliance landscape around personal data processing, meaning journalistic practices increasingly intersect with data governance even when the speech function is in public interest.

¹⁴ Editor, “Supreme Court Emphasizes Filtering Frivolity in Artistic Expression Cases” *SCC Times*, 2025 available at: <https://www.sconline.com/blog/post/2025/05/02/supreme-court-artistic-expression-frivolity-filtered/> (last visited April 28, 2026).

6.3 Personality Rights and Political Speech

Political speech is the highest-value category within Article 19(1)(a) because it enables democratic participation, yet it often involves sharp criticism of individuals, including public figures, raising personality-based claims rooted in dignity and reputation under Article 21 and BNS Section 356. Digital political speech is further shaped by platform governance: Section 69A of the IT Act, 2000 enables blocking, and Section 79 with the Intermediary Rules, 2021 shapes platform incentives to remove contested content quickly. The constitutional legitimacy of such constraints must remain tethered to Article 19(2) and must avoid converting political disagreement into routine suppression through overbroad compliance actions.

6.4 Gaps and Inconsistencies in the Existing Legal Framework

A major problem is fragmentation: identity harms are addressed through criminal provisions (BNS Section 356; IT Act Section 66E and Section 72), platform governance (IT Act Section 79 and Intermediary Rules, 2021), state powers (IT Act Section 69 and Section 69A), and data governance (DPDP Act, 2023), but without a single coherent statutory articulation of “personality rights” and clear balancing standards. This produces inconsistent remedies, forum shopping, and over-reliance on fast takedowns rather than principled adjudication aligned with Article 19(1)(a), Article 19(2), and Article 21. A coherent framework would require harmonising these regimes so that identity protection is real but does not become a mechanism for prior restraint or indirect censorship.

6.5 Case Laws

*R. Rajagopal & Ors. v. State of Tamil Nadu & Ors*¹⁵, located privacy-linked personality control within Article 21 while protecting publication interests under Article 19(1)(a), subject to Article 19(2) limits such as defamation.

*Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors*¹⁶ affirmed privacy as part of Article 21, strengthening personality autonomy and requiring any speech/data intrusion to satisfy constitutional discipline and legality.

*Subramanian Swamy v. Union of India*¹⁷, upheld criminal defamation within the “defamation”

¹⁵ R. Rajagopal & Ors. v. State of Tamil Nadu & Ors., (1994) 6 SCC 632; AIR 1995 SC 264

¹⁶ Justice K.S. Puttaswamy (Retd.) & Anr. v. Union of India & Ors., (2017) 10 SCC 1; AIR 2017 SC 4161

¹⁷ Subramanian Swamy v. Union of India, (2016) 7 SCC 221

ground under Article 19(2), treating reputation as integral to dignity under Article 21, thereby directly shaping speech about persons.

*Shreya Singhal v. Union of India*¹⁸ struck down Section 66A of the Information Technology Act, 2000 for violating Article 19(1)(a), and clarified the working of Sections 69A and 79 for online speech control.

*S. Khushboo v. Kanniammal & Anr*¹⁹ reinforced that restrictions on expression must fit Article 19(2), cautioning against using criminal process to suppress unpopular speech impacting personal and social identity.

*ICC Development (International) Ltd. v. Arvee Enterprises & Anr*²⁰ recognised commercial personality/publicity-type interests against unauthorised exploitation, typically grounded in dignity/autonomy reasoning traced to Article 21 and restrained by Article 19(1)(a).

*Titan Industries Ltd. v. Ramkumar Jewellers*²¹ protected celebrity persona from unauthorised commercial use in advertising, linking identity control to autonomy while leaving space for protected expression under Article 19(1)(a).

*D.M. Entertainment Pvt. Ltd. v. Baby Gift House & Ors.*²² restrained unauthorised commercial merchandising of persona (publicity/false endorsement), aligning identity control with Article 21 dignity-based personality interests.

7 CONCLUSION AND RECOMMENDATIONS

This study closes by consolidating how Indian constitutional structure and statutory governance interact in personality–speech conflicts, and by proposing reforms that reduce arbitrariness, protect dignity, and preserve democratic expression. Because the Constitution already provides the balancing architecture (Articles 19(1)(a), 19(2), and 21), future legal development should focus on clearer standards and better procedural safeguards within statutes and platform rules, particularly in the IT Act/Intermediary framework and the DPDP regime. The aim is to prevent identity misuse while protecting the social value of criticism, satire, journalism, and political communication.

¹⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1; AIR 2015 SC 1523

¹⁹ *S. Khushboo v. Kanniammal & Anr.*, (2010) 5 SCC 600; AIR 2010 SC 3196

²⁰ *ICC Development (International) Ltd. v. Arvee Enterprises & Anr.*, 2003 (26) PTC 245

²¹ *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 (50) PTC 486

²² *D.M. Entertainment Pvt. Ltd. v. Baby Gift House & Ors.*, CS(OS) 893/2002

7.1 Conclusion

Freedom of personality rights and free speech in India must be treated as a structured constitutional relationship rather than a winner-takes-all contest: Article 21 protects dignity and identity-linked interests, Article 19(1)(a) protects expression essential to democracy, and Article 19(2) limits when and how speech may be restricted. Statutes such as the IT Act, 2000 (Sections 66E, 69, 69A, 72, 79) and the Intermediary Rules, 2021 determine how quickly identity harms are addressed online, while the DPDP Act, 2023 expands identity control through personal data governance. However, without unified standards, remedies risk becoming inconsistent or overbroad, creating chilling effects that undermine the constitutional promise of free speech.

7.2 Recommendations

India should adopt clearer balancing standards rooted in Articles 19(1)(a), 19(2), and 21, and implement them consistently across civil, criminal, and platform pathways; statutory reforms should ensure that rapid online remedies under the IT Act, 2000 and the Intermediary Rules, 2021 do not become de facto prior restraints by requiring strong notice, reasoned decisions, and proportionality before removing speech, especially for public-interest content; data protection compliance under the DPDP Act, 2023 should be interpreted and operationalised in a manner that recognises legitimate speech functions while still limiting non-consensual identity exploitation; reputational disputes under BNS, 2023 Section 356 should be handled with safeguards to reduce criminal chilling of speech and to encourage narrower, evidence-led resolution; and sectoral media controls under the Cinematograph Act, 1952 (Section 5B) and Cable Television Networks (Regulation) Act, 1995 (Sections 5 and 6) should be aligned with constitutional reasonableness so that personality protection does not suppress lawful criticism, satire, and reporting supported by the Copyright Act, 1957 (Section 52(1)(a)).

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