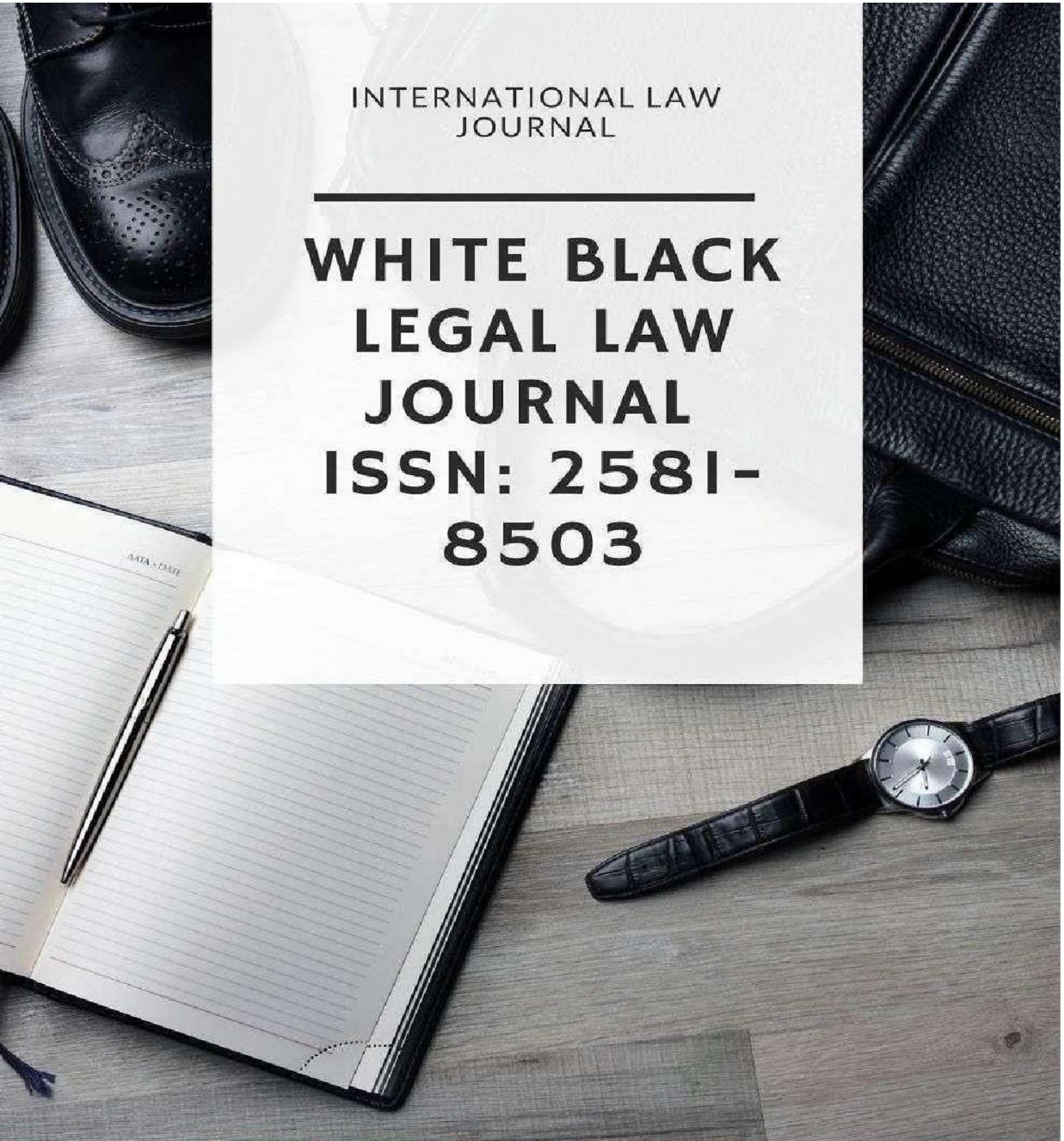




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THREAT OF DEEP FAKE IN UNDERMINING WOMEN'S EMPOWERMENT IN DIGITAL SPACE

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ABSTRACT

The field of artificial intelligence (AI) has emerged as a vital aspect of humanity, with deepfakes being one of the prominent applications of AI. Deepfakes are images or videos which describe a person as having done or said something that they did not. These manipulations are often used in relation to politics and the pornography industry, when women faces are superimposed to other bodies, forming audiovisual illusions. With the spread of deepfake technologies, there is a greater threat of online attack and abuse of women on the Internet. In the post-truth era, the skill of discerning reality and falsehood permits people with evil intentions to shape the opinion of the masses and ruin social status.

This paper explores the harm women have suffered as a result of technology and deepfakes, concluding that deepfakes are a novel way to perpetuate gender-based violence and harm the autonomy of women both online and offline. This study explores deepfake as sexual abuse and analyzes the existing legal mechanism. It contains information on issues of data protection and offers policy changes as a way to prevent, redress and control. The research highlights the importance of having a solid regulatory framework in place by the Indian government to fight the ever-increasing threat of deepfake technology and have legal safeguards to counter abuse.

Keywords- Artificial intelligence, Deepfake, Pornography, Digital Media, Sexual abuse

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INTRODUCTION

The development of Information Communication Technology (ICT) and artificial intelligence (AI) has transformed the processes of communication and social relations, as well as personality representational and propaganda of all types of digital media. Nonetheless, they have also produced trends that have resulted in the emergence of deep fakes that are man-made fake works by applying the deep learning technique to generate synthetic media with manipulated pictures and sounds. These counterfeits are a real menace to the personalities, especially women and have attracted the attention of academics, policy makers, and legal experts. Online bullying in the form of deep fakes (especially against women) and having an aim to deprive them of speaking or otherwise belittle them is especially worrying.

Deep fakes are an effective weapon of disinformation, manipulation, and exploitation, especially of females. They are often used in pornography and other content, with 96% of the internet's deep fake videos being sexual. This becomes a great risk to privacy and personal value. The women incur a cost in reputation, such as social impairments and denial of opportunities in the online workplaces. This is online harassment that exacerbates already existing social injustices especially to women who find it hard to be heard in online as well as social platforms. The deep fakes are not regulated in law as there is fear of the negative impact of AI-modified information and image. Though efforts have been undertaken to curtail the creation and usage of deep fakes, scanty laws and statutes in the world offer sufficient solutions to counter dangers posed by AI-created information and photos. The lack of proactive law keeping up with new technologies and inequalities for victims contribute to the inadequacies in these areas. The question presented in the current paper is how the current set of legal frameworks could be utilized or amended to apply to the highlighted issue of deep fakes, especially their attempt to resort to the employment as a means of gender-based violence and harassment.³

Deep fakes are a major problem of the online world, especially among women. Since ancient times, digital platforms have been perceived as a platform on which women can be heard and demonstrating demands of gender equality. The recent application of deep

³ Wagner, Travis L., and Ashley Blewer. "“The word real is no longer real”: Deepfakes, gender, and the challenges of ai-altered video." *Open Information Science* 3, no. 1 (2019): 32-46.

fakes as a weapon on women however, shows the weakness of such accomplishments. Deep fake technology can remove women, act as a disincentive to be involved in internet communities, and reinforce negative gender behaviors. The most vulnerable people are leaders, activists and anyone who uses social media and internet since the images of deep fakes will make it difficult to trust women leaders, journalists and other activists. The mental post-traumatic consequences of such attacks and the possible irreversible harm of reputation compel women to stop occupying the public space and utilizing their rights to digital media. This brings up concerns of freedom of speech, technological change, and security of the marginalized people in the online environment. This paper sets out to learn and comprehend the effects of deep fakes on women, especially regarding reputation and online agency, develop legal regulations to safeguard women against such dangers and improve the discourse on how to make the cyber realm a safer, more humane place, where women belong.⁴

CREATION OF DEEP FAKES

In one of the surveys conducted by an antivirus company McAfee, approximately 77 percent of the Indian internet users confirmed that they had encountered fake information labeled as deep fakes over the past year. Furthermore, 38% of the respondents said that they had been victims of deepfake scams during the same period. The survey also reported they were also exposed to content on deep fake politics content which proved to be fake with about a quarter of the respondents affirming that they had listened to content online. There have been increased incidences of deepfake fraudulent activities and the facades have become more than a simple user to a business, political, movie, and sports representative.⁵

These deepfakes are mainly developed by utilizing large numbers of neural networks collectively called deep learning generative adversarial networks or GANs. GANs comprise two neural networks, which collaborate with one another: the discriminator and the generator e.g. These networks are trained on vast datasets that in most cases consist of images, videos, or a set of recorded sounds of real people/occurrences. To be more specific, the generator generates an artificial data sample that is, to the best ability, (closest

⁴ Rini, Regina, and Leah Cohen. "Deepfakes, deep harms." *J. Ethics & Soc. Phil.* 22 (2022): 143.

⁵ ETtech. (2024, April 25). "75% Indians have viewed some deepfake content in last 12 months, says McAfee survey." *The Economic Times*. <https://economictimes.indiatimes.com/tech/technology/75-indians-have-viewed-some-deepfake-content-in-last-12-months-says-mcafee-survey/articleshow/109599811.cms?from=mdr>.

to) the data of the training set, and the discriminator on the other hand checks the distance to the training set of the artificially generated sample. The communication of these two networks is the foundation of how GANs work: the generator attempts to give data that will both convince the discriminator and conversely the discriminator attempts to learn in order to do a better job of distinguishing between genuine and synthetic data.⁶

Training is not a linear process, but a cyclic process that takes a cycle of training, evaluation, re-training or additional training. The generator does produce an artificial sample of content in some form such as an image or video and is then assessed by the discriminator. When the discriminator recognizes the material as counterfeit, it notifies the generator of what to do in order to ensure that it comes out as the real one. In several steps, both the generator and the discriminator are improved: the former has a higher skill set in producing the most realistic-looking fake content and the latter has a higher skill set in distinguishing real content and fake content. The particular purpose behind this process is that the generator should provide synthetic data which is not identifiable by the human beings or computer software as compared to the actual data. The two networks can become synergies in creating ultra-realistic deepfakes that can be hard to differentiate at the time, and it is possible that an average person could not do it by observing it directly.

They are referred to as deepfakes and could involve videos although they could also be overtaken by pictures, and could be utilized in numerous ways. The first technique is the so-called face swap, that is, the face of one individual is overprinted on another person in a video. It is possible, with using this technique, to replace the face of a given person with the face of another one and make truly realistic yet completely fake videos. The other process is known as attribute editing whereby certain features or characteristics of the subject in the video are changed. These could be done by changing hairstyle or color or even body dressing thus producing a new replica of the original person. These changes may be small or big, depending on what the one who has remade the deepfake does.

The face re-enactment and entirely synthetic material is among the technologies of deep fake that have been utilized in sinister purposes like blackmail, slander and the sale of fake news. Face re-enactment is a technique used in video where facial movements or

⁶ Laffier, Jennifer, and Aalyia Rehman. "Deepfakes and Harm to Women." *Journal of Digital Life and Learning* 3, no. 1 (2023): 1-21.

expressions of an individual are transferred onto the face of another individual by the virtue of which fake emotions can be generated. This manipulation can be harmful because it can be applied to generate fake or unfavorable information concerning the subject, individual or company in question. Fully synthetic content means that it creates all man-made material, simulating real people and locations but not being real. This ability has gigantic possibilities in creating believable yet false stories or occurrences. With the evolution of GANs and deepfake technology, they provide legally and ethically informative tasks, yet it defines risks like loss of privacy and bad reputation. Lawmakers should deal with the issue of containing the use of deepfakes and the necessity to provide individuals with the opportunity to use AI in creativity and education.⁷

IMPACT OF ARTIFICIAL INTELLIGENCE ON GENDER EQUALITY: OPPORTUNITIES AND CHALLENGES IN THE DIGITAL ERA

Deepfakes, as artificial media that steal an individual in one picture or video and substitute him/her with an alternative face in a novel setting, has become a rising danger that has wasting the personality and the overall condition of females in the internet, provoking a profound legal and societal inquiries. There are many cases where deepfake technology has been applied, for entertainment purposes to illicit ends that apply this technology. The global problem is that deepfakes are more woman-oriented and apply their pictures without their authorization, primarily in erotic or even slanderous contexts. This amounts to a great breach of gender equality, privacy of the artifacts as well as human rights in the digital society.⁸

The political and legal actions on combating deep fakes are obscure and inconsistent. Although laws against image-based abuse have in fact been enacted in some countries such as the US and UK, they are usually ineffective since tech advancements take place very fast. The US proposed the deepfakes Accountability Act to address the propagation of the deepfake technology. Nevertheless, in most developing states, the critical role of legal human rights is not emphasized, and policies are still ineffective. This has worsened the

⁷ Kocsis, Eric. "Deepfakes, Shallowfakes, and the Need for a Private Right of Action." *Dickinson L. Rev.* 126 (2021): 621.

⁸ Patón-Romero, J. David, Ricardo Vinuesa, Letizia Jaccheri, and Maria Teresa Baldassarre. "State of Gender Equality in and by Artificial Intelligence." *IADIS* 17, no. 2 (2022): 31-48.

situation of women especially those in the weaker constituencies who may lack cultural freedom over their rights.⁹ The deepfakes being used on females aimed at undermining their choices and personalities is demeaning, intrusive and discriminating in the areas of dignity, privacy and equality according to the human rights law. The human rights law emphasizes disabling discrimination and encouraging equality of opportunity in all aspects of life, including the cyber sphere, through such tools as the UDHR and CEDAW. The use of deepfake technology with specific reference to defamation or intimidation of women is one of these breaches of rights, and the cooperation between countries should improve.¹⁰

DEEPFAKES IN INDIA

I recently read about a case, which reported about a young man called Eemani Naveen, who is a 23-year-old B-Tech graduate student of Guntur in Andhra Pradesh, who was arrested by the Delhi Police on the claims that he was misusing artificial intelligence to publish deepfake content in which he appeared with an actress known as Rashmika Mandanna. The accused adopted the AI technology to learn and reconstruct Zara Patel's face to that of Mandanna and produced a fierce deepfake video in November 2023 which went viral on social networks. An FCRA complaint was initiated by the Delhi Commission for Women (DCW) in this case where an FIR was filed against the parties under section 465 of section 469 of the Indian Penal Code IPC, and section 66C and section 66E of the Information Technology Act, 2000. Taken together, these provisions deal with offences that are related to forgery, slander, libel, and identity theft.¹¹

The AIs have since produced many more advancements, with one of the most recent inventions being the deepfakes; the other being artificial general intelligence (AGI). Deep fakes are videos or pictures made using artificial intelligence, which strives to substitute faces and voices to develop content that seems entirely untrue. Such technologies increasingly have been utilized in disinformation and misrepresentation, particularly on social media.¹²

⁹ Patón-Romero, Jose David, Ricardo Vinuesa, Maria Letizia Jaccheri, and Maria Teresa Baldassarre. "Artificial Intelligence and Gender Equality: A Systematic Mapping Study." IADIS Press, 2022.

¹⁰ Chapman, Emily. "Unveiling the Threat-AI and Deepfakes' Impact on Women." (2024).

¹¹ Press Trust of India & Business Standard. (2024, January 21). "Rashmika Mandanna thanks Delhi Police after deepfake video creator arrested." [www.business-standard.com](https://www.business-standard.com/india-news/rashmika-mandanna-thanks-delhi-police-after-deepfake-video-creator-arrested-124012100166_1.html). https://www.business-standard.com/india-news/rashmika-mandanna-thanks-delhi-police-after-deepfake-video-creator-arrested-124012100166_1.html.

¹² Khan, Zubair Ahmed, and Asma Rizvi. "Deepfakes: a challenge for women security and privacy." *CMR Univ. J. Contemp. Legal Aff.* 5 (2023): 203.

Technologically and enforcially challenging are deepfakes produced by organized crime, with the help of facial mapping and voice cloning. Their statutory immunity in terms of the principles of intermediary liability makes them hard to trace by the police. The cyber law expert, Pavan Duggal, is of the opinion that the legislation and enforcement mechanisms to deal with such issues are suboptimal. New restrictions have been initiated by the Indian government to counter distribution of deepfakes and this needs a multi-stakeholder response.¹³ Researchers such as Anushka Jain (Digital Futures Lab) propose that the solutions should be developed by the technology companies, government bodies and civil societies. Google has pledged to assist Indian government in its fight against deep fakes, demanding openness, comprehensive evaluation of threats, and immediate institute of action against artificial news based on AI. Given the increasing potential of deepfakes, even with existing laws, more needs to be done.¹⁴

SOCIAL LIFE OF DEEP FAKE PORNOGRAPHY

The initial deepfake attack was on pornography. 96% of deepfakes are pornographic, with over 135 million views on pornographic websites, according to sensity.ai. Deepfake pornography only attacks women but in some cases, men are easy target of Deep fake pornography. Pornographic deep fakes can intimidate and ruin an image and a life of people. It degrades women to sex objects and suffers them emotionally, financially and even unemployed.¹⁵

The so-called deepfakes are basically tampered or artificial photographs and videos and are a simulation of the facial expressions, voice, and mannerism of a particular person. These are built upon AI schemes called the General Adversarial Networks or GANs, that are machines with machine language and deep learning. It is not a new development, image manipulation of this type has assumed various forms in the past. But what distinguishes deepfakes is the access to data sets and well-trained algorithms, supply-and-demand spots on deepfakes, commodification of deepfake tools and services, etc. This technological device enhances the rate, quantity and the ability to produce and distribute doctored images and

¹³ Kaushal, Tejaswini. "Women, Deepfake Pornography, And The Imperative Of Legal Education In The Age Of AI." *Available at SSRN 4597863* (2023).

¹⁴ Choudhary, Samiya. "Unmasking the Truth: The Rise of Deepfakes and Its Implication on Society." *Jus Corpus LJ 4* (2023): 110.

¹⁵ Sen, Rishiraj, and Shweta Jha. "Women Under Hindutva: Misogynist Memes, Mock-Auction and Doxing, Deepfake-Pornification and Rape Threats in Digital Space." *Journal of Asian and African Studies* (2024): 00219096241257686.

videos on the internet. The fact that deepfakes are everywhere in media cultures demands a judgment regarding the relatively diminishing harm that they can inflict.¹⁶

At the macro level, deepfake pornography is unleashed on women, as one of its victims, thereby fueling their sexual objectification and degradation in society. Most of the videos on the deepfake pornography websites feature Indian women and predominantly within the entertainment industry. Moreover, such non-consensual deepfake pornography has been commonly used to harass and abuse politicians and journalists to silence and lend their voices no credibility. On a micro-level, those whom such deepfakes have been targeted with must endure emotional, psychological, and financial damages. Not only are these people intimidated and bullied through sextortion and the issue of so-called revenge porn, but their reputation is damaged as well, which impacts their chances at work.¹⁷

POSITION OF INDIA IN TACKLING CRIMES RELATED TO DEEPFAKES

The directorate of artificial intelligence (AI) breakthroughs in the form of deepfakes has some grave consequences to privacy, reputation, and trust in people. In India, a quick development of deepfakes has not only caused concerns about misinformation but also the legal issues regarding the regulation and prevention of its misuse. The legal system of India is currently in development but offers numerous opportunities via information technology (IT) laws, intellectual property rights (IPR) laws and the recently passed Bhartiya Nyaya Sanhita, 2023. Nevertheless, the emergence of deepfakes requires the enactment of broader rules and judicial proceedings that can successfully mitigate damages as a result of this type of AI-generated content.

1. Information Technology Laws and Deepfakes

The Information Technology Act, 2000 (IT Act) of India offers the most important law to govern cybercrimes, and the matters of deepfakes are not an exception. The provisions in the IT Act, even though not directly written on deepfakes, can be employed to shed some

¹⁶ “Measuring the prevalence of online violence against women.” (n.d.). Jigsaw Infographic. <https://onlineviolencewomen.eiu.com/>.

¹⁷ Mitigo. (n.d.). A deep dive into deepfakes. The Law Society. <https://www.lawsociety.org.uk/topics/ai-and-lawtech/partner-content/a-deep-dive-into-deepfakes>.

light on the offenses that involve deepfakes.¹⁸

The IT Act that addresses cheating via personation with computer resources in Section 66D can apply to the use of deepfakes in defrauding someone by impersonating them. The clause gives an opportunity to prosecute the users of deepfake technology to create a fake identity that harmed the person impersonated.

Also, Section 67 of the IT Act is a criminal offence against the publication or transmission of obscene content in an electronic form. It can be applied to the deepfake pornography, a highly popular problem, especially toward women. Courts have noted that Section 67 has potential to address the issue of non-consent deep fake content which is the infringement of both dignity and privacy.

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 also govern social media intermediaries, which are obliged to remove illicit material after receiving complaints, such as content about deepfakes. These rules obligate the removal of harmful contents in advance, and the intermediaries must assist the police to help trace the source of the harmful content. Nevertheless, it is difficult to enforce as deepfakes are rather intricate, and the authors are not known.

2. Intellectual Property Rights and Deepfakes¹⁹

The deepfakes are also a great issue in the field of Intellectual Property Rights (IPR), especially in the context of using an individual likeness, image, or voice in an unauthorized manner. According to the Indian copyright law, personal identity, voice and appearance can be treated as intellectual property should it be commercially used. False News that uses an image, likeness or voice of the individual without his or her consent is subject to challenge in violation of both the moral rights and commercial rights under IPR laws.

The Copyright Act of 1957 secures the works of authorship such as recordings, films and artistic creations. When the deepfakes are done to produce fake videos, which imitate the work of a person without their permission, an aggrieved individual is allowed to recover his or her copyright. Additionally, the Copyright Act in Section 57 provides authors with the moral right to their work and this right entails the right to maintain integrity and reputation of the work. An example of a deepfake that can lead to a legal challenge under

¹⁸ Sarkar, Diya, and Sudipta De Sarkar. "Combating Deep-fakes in India—An Analysis of the Evolving Legal Paradigm and Its Challenges." (2024).

¹⁹ Nema, Purvi. "Understanding copyright issues entailing deepfakes in India." *International Journal of Law and Information Technology* 29, no. 3 (2021): 241-254.

this provision is one that tarnishes the image of a person by implicating them in obscenity or defamation.

Irrespective of such arrangements, the present IPR regulations fail to specifically deal with the special issues of deepfake technology when it comes to scenarios in which no commercial commodity is in play. Thus, legislative changes should enlarge the areas covered by the IPR protection to misuse of likeness and voice, when it comes to deep fakes.

3. Bhartiya Nyaya Sanhita, 2023²⁰

The replacement of the Indian Penal Code (IPC) with the Bhartiya Nyaya Sanhita, 2023, is a milestone toward updating the criminal code in India, seeking to modernize it. It includes a number of provisions, which can be applicable in addressing the abuse of deepfake technology. Section 153B of Bhartiya Nyaya Sanhita concerns criminal conspiracy and mischief that can be made regarding the creation and dissemination of deepfakes aimed at deceiving or defrauding. Moreover, in Section 292, there is a law that criminalizes the distribution of obscene content, which is especially applicable to deepfake pornography. Distribution of explicit deepfake videos of a person without their permission may be criminated according to this section.

Moreover, the Bhartiya Nyaya Sanhita contains the provisions concerning cybercrime, which might be applied in situations with deepfake technology. But, similarly to the IT Act, the new legal framework based on the Bhartiya Nyaya Sanhita does not explicitly address deepfakes.

This is an indication of a wider scope of the required changes in the legislation that is dedicated to AI-generated content and its abuse.

4. Judicial Approach and Case Law on Deepfakes

Although the Indian courts are yet to issue a detailed verdict on deepfakes, there have been multiple instances of cybercrime/defamation and privacy, which provide significant clues as to how the judiciary might treat cases involving deepfakes.

Article 21 The Supreme Court of India in case of K.S. Puttaswamy v. Union of India acknowledged the right to privacy as an essential right under article 21 of the Constitution.

²⁰ Sarkar, Diya, and Sudipta De Sarkar. "Combating Deep-fakes in India—An Analysis of the Evolving Legal Paradigm and Its Challenges." (2024).

This was a historic case as it determined that personal space of the individual, his identity and image were safeguarded against unauthorized encroachment. With the concept of deepfakes, this case offers a legal basis of a constitutional distinction enabling people to claim against using their image or voice without permission.

The case another case, Sabu Mathew George v. Union of India and others, concerning the misuse of online platforms to provide illegal content put insights into the role of the intermediary. The court instructed that intermediaries such as social media platforms should remove legal content and this case can be applied to deepfakes by the IT Rules of 2021. The implications of these rulings include the fact that Indian courts might insist that intermediaries promptly have deepfake material taken down on their notice.

A high-profile instance of deepfake abuse was observed in the case of State of Tamil Nadu v. Srikanth Murugan, in which the accused was using deepfake to make sexually suggestive videos of prominent female personalities. The defendant was found guilty of violation of Section 67A of the IT Act that criminalizes distribution of sexually overall content involving AI-generated content. The case in point shows that deepfakes are acknowledged as harmful by the judiciary and that there are legal provisions that can be used to discipline the violators of these rules.

CONCLUSION

The current status of India with regards to combating deepfake crimes is still evolving with current laws like the IT Act, IPR laws and the Bhartiya Nyaya Sanhita offering partial protection. Though, the fast development of deepfake technology needs more legal provisions that are more precise and tailored. Although the judicial system has made strides towards combating some of the offenses that are connected to deepfakes, a legal system that is specifically geared to crimes associated with AI is essential to the India context to deal with the threat of deepfakes.

Although the existing system of laws, such as the IT Act, laws on the IP and the Bhartiya Nyaya Sanhita can help mitigate the risks related to the abuse of deepfake technology, it is evident that the existing set of laws is inadequate when dealing with the dynamic character of the menace. Lack of dedicated provisions, which address the nature of AI-generated content, presents the possibility of legal uncertainty, especially when situations where deepfakes are utilized to influence political discourse, defame someone, or produce non-consent pornography are concerned.

When it comes to AI and deepfakes, India needs to ponder the advent of a universal law that addresses the problems of identity theft, breach of privacy, and the development and distribution of fake information. Also, the government, technology firms, and civil society should cooperate in order to create tools and a framework that will help detect and prevent deepfakes.

