

**REDEFINING CO-CREATION IN THE DIGITAL ERA: PAPARAZZI PHOTOGRAPHY  
AS A COLLABORATIVE ART**

TEESHA ARORA\* & MANAV PAMNANI\*\*

*“The celebrity-making machine – photographers, paparazzi, press and stuff like that can be ruthless.”*

Catherine Keener

**ABSTRACT**

*In the increasingly globalized twenty-first century with widespread digitalization becoming the norm across the world, paparazzi photography and its corresponding implications is a significant area that must be explored. The dynamic interplay between celebrity privacy and paparazzi practices has sparked critical discussions around legal, ethical, and financial considerations in the media and entertainment sectors. This article explores the intricate balance between safeguarding individual privacy and upholding press freedom, emphasizing the need for comprehensive legal protections for public figures. It delves into the ethical dilemmas posed by paparazzi techniques, such as the use of advanced technology to intrude upon personal moments and the ensuing toxic culture that monetizes vulnerability and invades private spaces. With a comparative analysis of international frameworks, like the European Union’s [“EU”] privacy rights, the paper proposes legislative reforms in India, aligning copyright and privacy laws to create a consent-based model that limits excessive interference. The conceptualization of a co-authorship framework forms a key proposal, detailing guidelines for shared authorship between celebrities and photographers to foster equitable financial arrangements and ethical content creation. The paper further investigates the financial incentives driving media practices, examining traditional revenue models and advocating for innovative solutions, such as non-profit journalism, community-supported initiatives, and partnerships with academic institutions. Technology’s transformative influence on media, from social platforms to AI-driven photography, raises new concerns, underscoring the need for legal systems to evolve and balance press freedoms with individual rights. Ultimately, the article argues for a regulatory paradigm that respects personal autonomy, promotes ethical journalism, and adapts to technological advancements, paving the way for a more responsible and collaborative media environment. The geographical scope of the paper is largely limited to India, with references to other jurisdictions such as the EU and the United States of America [“U.S.A”] to present a comprehensive analysis. Lastly, the structure of the paper can be divided into two parts: The first one is introductory and comprises the introduction, and the literature review, and the second one is expository and analytical, detailing substantive aspects that build on the introductory elements, thus forming the crux of this article.*

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\* Teesha Arora is a fourth-year B.B.A., LL.B. (Hons.) student at the Symbiosis Law School, Pune. Being a corporate law enthusiast, she is currently heading the Corporate Law Cell of her college.

\*\* Manav Pamnani is a third-year B.A., LL.B. (Hons.) student at the NALSAR University of Law, Hyderabad. He is the author of two books and a professional level candidate of the company secretary examinations.

## I. INTRODUCTION

A divisive feature of the media environment for a long time has been paparazzi photography, which frequently records celebrities' private moments without their permission. There have been instances where celebrities have sued paparazzi for violating their privacy rights.<sup>1</sup> The paparazzi sell these images to the media houses for economic benefits, but there have been instances where celebrities post photographs taken by paparazzi photographers.<sup>2</sup> The spread of technology in the digital age has changed the paparazzi photography industry and introduced issues pertaining to image ownership, authorship, and collaboration. New visual technologies and media convergence have made paparazzi agencies significant players in the entertainment sector. It is because these organizations are able to produce and disseminate exclusive stories that the globalization of paparazzi content has more and more implications for emerging information-based entertainment genres.<sup>3</sup> Recently, there has been an emphasis on more typical, ordinary experiences, providing a more approachable view of celebrities. This change is indicative of larger shifts in the way people consume celebrity culture, especially in the age of digitalization where social media and quick material rule the scene. This further leads to complicated ethical issues surrounding paparazzi photography, such as consent, privacy, and exploitation, especially in light of the growing usage of cutting-edge technology, which will be subsequently analyzed in the paper.<sup>4</sup>

The evolving field of paparazzi photography poses important issues in law and ethics as far as authorship and ownership of celebrity photographs are concerned. In the past, paparazzi had exclusive copyright of the pictures they took. However, the increased participation of celebrities in public images is raising questions on whether or not they could be considered as co-authors of the photographs taken. This paper seeks to understand the question of whether paparazzi and celebrities ought to be considered as joint authors of the images, especially with the advent of digital technologies that allow photographs to be produced and altered collaboratively. It further investigates whether any legal systems in place adequately address co-authorship and explores the outcomes of the artistic integrity of the paparazzi's work under a specified legal system of shared

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<sup>1</sup> Khushboo Parek et al., *Caught in the Flash: Navigating the Paparazzi's Lens & The Right to Privacy in India*, MONDAQ (Sept. 6, 2024), <https://www.mondaq.com/india/privacy-protection/1514278/caught-in-the-flash-navigating-the-paparazzi-lens-the-right-to-privacy-in-india#:~:text=For%20instance%2C%20Bollywood%20actress%20Alia,court%20recognizing%20the%20privacy%20breach.>

<sup>2</sup> Emma Perot, *The Conflict between the Copyright of Paparazzi and the Right of Publicity of Celebrities*, 30 TEX. INTELL. PROP. L.J. 135 (2022).

<sup>3</sup> Kim McNamara, *The Paparazzi Industry and New Media: The Evolving Production and Consumption of Celebrity News and Gossip Websites*, INT'L J. CULTURAL STUD. 1 (2011).

<sup>4</sup> Gurinder Kaur, *Paparazzi Trend in Photography: Shaping Celebrity Culture and Media in the Digital Age*, 9 INT'L J. RES. CULTURE SOC'Y (2025)

ownership. The discussion goes further to consider economic consequences; whether or not paparazzi ought to share the profits from the sale of the pictures with the persons featured in the photographs. The goal of this paper thus is to gather reflection on how authorship, artistic value and financial interests mix in this era of digital media.

Therefore, the idea of changing co-authorship for paparazzi photographs has been examined in this research, which also looks at how digital technologies disrupt conventional ideas of authorship and influence collaborative practices.

## II. LITERATURE REVIEW

This paper has had access to a plethora of diverse resources including detailed journal articles, research papers, books and other forms of academic literature, which has fostered the presentation of a comprehensive analysis. Although it relies on several existing sources, there are a few parameters that set this paper aside from the existing literature. The area of paparazzi photography is itself underdeveloped with very few articles discussing the same. Even the articles that deal with the issue of copyright within the broader ambit of paparazzi photography fail to examine the broader picture of ethical and financial implications and majorly focus on its legalities, thus adopting a restricted thematic lens. The novel idea of co-authorship as an effective solution does not feature within these papers, except for an occasional mention of the same. This paper effectively amalgamates these considerations and discusses them comprehensively, thus filling an important void in the existing literature. It not only presents an enriched analysis but also evolves a model which enlists certain important guidelines or suggestions that can be followed while dealing with copyright issues in paparazzi photography cases, particularly about co-authorship. Four important articles have been identified below which discuss the subject matter explored in this paper. Although increasingly credible and noteworthy, they fall short in terms of analytical expression and the comprehensiveness of the subject matter, thus creating a void that this paper aims to fill, as mentioned above. These articles include:

1. Kelley Bregenzer, *Modifying Co-Authorship for the Digital Age: Paparazzi Photographs as Joint Works*.<sup>5</sup> This study analyses a modified interpretation of joint works under the 1976 U.S.A Copyright Act that would allow a photographer to keep all the ownership and transfer rights of their work while allowing celebrities to post the photographs taken on social media. This modified interpretation

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<sup>5</sup> Kelley Bregenzer, *Modifying Co-Authorship for the Digital Age: Paparazzi Photographs as Joint Works*, 13 DREXEL L. REV. 449 (2021).

of co-authorship is based on the right to publicity's incidental use doctrine; the research gap elaborates the scenarios in different countries, particularly the U.S.A. and the parameters required accordingly.

2. Dylan B. Reich, *"Gigi, over Here!": Celebrity Use of Copyrighted Paparazzi Photographs*.<sup>6</sup> This study analyses the interests of celebrities under the current doctrine, including authorship and joint authorship, the theory of implied license, fair use, and the right to privacy. It also analyses how the current doctrine should be construed to provide sufficient protection and rights to celebrities using images of themselves. The gap is a narrow scope in which a celebrity should be allowed to use images depicting their likeness for non-commercial purposes.

3. Joshua Azriel, *Paparazzi Lawsuits against Celebrities: Ongoing Litigation*.<sup>7</sup> This study examines the types of litigations and discusses the explicit authority a photographer possesses to avoid the use of their name as the author of the work of visual art if the work is altered, mutilated, or otherwise modified. A twenty-first-century alteration could include putting an electronic copy of the original on a social media platform. This study looks at copyright law concerning the legal rights of paparazzi to have their creative works protected, particularly while using social media channels for communication. Although paparazzi work may not always be respected by celebrities or the public, there exists a complex relationship between paparazzi and celebrities, marked by both mutual dependence and tension.

4. Himanshu Kalwani, *The Price of Fame: Celebrity Privacy Rights*.<sup>8</sup> To comprehend the paparazzi's limits, this study analyses celebrities' rights to privacy. As publicity rights gained more acceptance, "privacy rights" as a safeguard against invasions of personal space done solely for financial gain also developed. It was encouraging to see that the celebrities initially received compensation in damages under the publicity rules. However, at the same time, the owner's (photographer's) rights were not explicitly considered and analyzed.

### III. CRITICAL ANALYSIS

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<sup>6</sup> Dylan B. Reich, *"Gigi, Over Here!": Celebrity Use of Copyrighted Paparazzi Photographs*, 39 CARDOZO ARTS & ENT. L.J. 793 (2021).

<sup>7</sup> Joshua Azriel, *Paparazzi Lawsuits Against Celebrities: Ongoing Litigation*, 37 ENT. & SPORTS LAW. 13 (2021).

<sup>8</sup> Himanshu Kalwani, *The Price of Fame: Celebrity Privacy Rights*, 3 INDIAN J. INTEGRATED RSCH. L. 501 (2023).

Everyone wants to be credited for their creations in this modern digital era. Patently, the creator of the photo is the photographer himself, but the photograph's subject matter is the celebrity, who should ideally own that photo jointly. Under Section 52 of the Copyright Act of 1957,<sup>9</sup> a celebrity cannot claim fair use regarding the copyrighted photograph, even though the said provision says, "private and personal use." This is because the photograph is for commercial use and goes beyond the scope of just public communication. Private communication is when it is made to a limited audience, but the social media post of a celebrity goes beyond that and is considered public interest.<sup>10</sup> The owner of the copyrighted photograph (generally the media outlet or employer of the photographer in paparazzi photography cases) has the right to make public communication of the photograph.<sup>11</sup> As per law, the author of the copyright (the photographer in paparazzi photography cases) is distinct from the owner of the photograph.<sup>12</sup> Under Section 2(d)(iv) of the Copyright Act, 1957,<sup>13</sup> the person taking a photograph is the author, and copyright for the same is provided under Section 17.<sup>14</sup> The photograph is considered an artistic work under Section 2(c)(i).<sup>15</sup> The Information Technology Act of 2000 includes provisions for privacy protection, making unauthorized access and sharing of personal information illegal.<sup>16</sup> This has been added to privacy legislation and is now subject to tort law penalties, including the recovery of damages.<sup>17</sup>

The news personality Rajat Sharma was granted an injunction against Zee Television in 2019 by the Delhi High Court for publishing, posting, or erecting hoardings of him without his consent. Zee Television attempted to discredit the news television personality in front of viewers and persuade them to stop watching his show by using his name untruthfully in their advertisement.<sup>18</sup> The Court while reaching its decision relied upon well-established precedents, including Titan Industries v. Ramkumar Jewelers wherein Titan claimed that Ramkumar Jewelers used exact replicas of Titan's advertisements with the Bachchans to erect hoardings.<sup>19</sup> Titan asserted that deceiving the public into thinking Ramkumar Jewelers is connected to TANISHQ violates their

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<sup>9</sup> The Copyright Act, No. 14 of 1957, Acts of Parliament, § 52 (Ind.).

<sup>10</sup> Howard L Berkman, *The Right of Publicity – Protection for Public Figures and Celebrities*, 42 BROOK. L. REV. 527 (1976).

<sup>11</sup> Vikrant Rana & Pranit Biswas, *Could Virat Kohli have been bowled over by copyright misuse?*, BAR AND BENCH (Jul. 7, 2022, 10:55 AM), <https://www.barandbench.com/law-firms/view-point/virat-kohli-bowled-over-by-copyright-misuse>.

<sup>12</sup> Vivek Verma & Ankit Rastogi, *'Authorship' and 'Ownership' of Copyright in a Photograph in India*, INDIAN CASE LAW (July 30, 2020), <https://indiancaselaw.in/authorship-and-ownership-of-copyright-in-a-photograph-in-india/>.

<sup>13</sup> The Copyright Act, No. 14 of 1957, Acts of Parliament, § 2(d)(iv) (Ind.).

<sup>14</sup> The Copyright Act, No. 14 of 1957, Acts of Parliament, § 17 (Ind.).

<sup>15</sup> The Copyright Act, No. 14 of 1957, Acts of Parliament, § 21(i) (Ind.).

<sup>16</sup> The Information Technology Act, No. 21 of 2000, Acts of Parliament (Ind.).

<sup>17</sup> Leon Trakman et al., *Tort and Data Protection: Are there any lessons to be learnt?*, 5 EDPR REV. 1, 1-20 (2019).

<sup>18</sup> Aditi Verma Thakur & Pooja Nair, *Zee Violates Personality Rights of Editor-in-Chief of IndiaTV*, INDUSLAW (Feb. 2019), <https://induslaw.com/app/webroot/publications/pdf/alerts-2019/Infolex-Zee-Violates-Personality-Rights-of-Rajat-Sharma.pdf>.

<sup>19</sup> Titan Industries v. Ramkumar Jewellers, (2012) 50 PTC 486 (Del).

copyright and amounts to passing off. They therefore sued for a permanent injunction to prevent copyright violations, passing off, personality rights infringement, damages, etc. The Court ruled that when a well-known person's identity is utilized in an advertisement without their consent, the issue is not that their identity should not be commercialized, but rather that they should have the authority to decide when, when, and how their identity is used. It further relied upon *Shivaji Rao Gaekwad v. Varsha Productions*,<sup>20</sup> which also discussed tenets of defamation and the unauthorized use of pictures. The Indian Court acknowledged the tort component of the right to privacy in the *Raja Gopal v. State of Tamil Nadu* case,<sup>21</sup> which led to the payment of damages for unauthorized invasions of private spaces.<sup>22</sup>

In the global scenario, the fair use doctrine has a broader applicability, as compared to India. A plethora of factors are considered, including the purpose, nature, amount, substantiality, effect of the use upon the potential market and commercial purpose for which the copyrighted work is used.<sup>23</sup> In the case of *Xclusive-Lee, Inc. v. Gigi Hadid*,<sup>24</sup> involving a celebrity winning the copyright battle against the paparazzi,<sup>25</sup> it was argued that the photograph was posted for private use, the photograph clicked by paparazzi is factual and not creative work, it was cropped, and only some part of it was posted. Additionally, it was contended that the photograph had already been posted, and no economic loss was caused to the photographer. The court pronounced the judgment in favor of Gigi Hadid, as the copyright for that photograph was not registered. However, the same was a little out of the purview of automatic protection, especially because the copyright was already in the registration process. The decision did not distinguish between personality rights and photograph copyright.

Furthermore, France has a proper civil code that recognizes the right to privacy.<sup>26</sup> This recognizes the rights of the celebrity even if they are standing in public and their photos are clicked. Article 8 of the European Convention on Human Rights [“**ECHR**”] grants the right to public figures to

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<sup>20</sup> *Shivaji Rao Gaekwad v. Varsha Productions*, (2015) 62 PTC 351 (Madras).

<sup>21</sup> *Raja Gopal v. State of Tamil Nadu*, (1995) A.I.R. 1995 S.C. 264.

<sup>22</sup> Mudita Gairola, *Protection of Celebrity Rights/ Personality Rights in India*, MONDAQ (Apr. 30, 2019), <https://www.mondaq.com/india/privacy-protection/801764/protection-of-celebrity-rights-personality-rights-in-india>.

<sup>23</sup> *Measuring Fair Use: The Four Factors*, STANFORD LIBRARIES – STANFORD UNIVERSITY, <https://fairuse.stanford.edu/overview/fair-use/four-factors/>.

<sup>24</sup> *Xclusive-Lee, Inc. v. Hadid*, (2019) 19-CV-520 PKC CLP E.D.N.Y.

<sup>25</sup> Ashley Cullins, *Gigi Hadid Beats Instagram Post Copyright Lawsuit*, THE HOLLYWOOD REPORTER (Jul. 18, 2019, 12:17 PM), <https://www.hollywoodreporter.com/thr-esq/gigi-hadid-beats-instagram-post-copyright-lawsuit-1225393>.

<sup>26</sup> Code civil [C. civ.] [Civil Code] art. 9 (Fr.).

keep their life private.<sup>27</sup> In the case of *Von Hannover v. Germany*,<sup>28</sup> the photograph of Princess Caroline was posted when she was in the setting for non-official purposes. The court held that the celebrities even made known to the public have a legitimate expectation that their private life would be protected. Thus, the photograph's object, the celebrity, is protected in the EU and can result in the co-authorship of the photograph when posted for commercial purposes.<sup>29</sup>

The dilemma is solved from the author's point of view through the analysis of whether the setting of the photograph is public or private and whether permission was taken for the photograph or not,<sup>30</sup> as in some cases, the celebrity might shy away and say no to clicking pictures; this will indeed protect their personality rights. Personality rights, which include the right to privacy and publicity, allow celebrities to control the commercial and personal use of their image, particularly in contexts wherein they have not consented to public exposure.<sup>31</sup> Courts in various jurisdictions, such as India and the EU, as noted above, have recognized that even public figures have a reasonable expectation of privacy in non-official settings. Invasive paparazzi practices that disregard consent can lead to legal consequences, as seen in cases where celebrities have sought injunctions against unauthorized photography and publication.

When the question of monetary value being shared comes into the picture, it should be considered that the picture has a high monetary value in the current events happening in the lives of celebrities.<sup>32</sup> An example of this is the wedding pictures of Katrina Kaif and Vicky Kaushal which were sold at an extremely high price to an international magazine, similar to the pictures of other celebrity weddings including that of Priyanka Chopra and Nick Jonas.<sup>33</sup> If celebrity photographers collaborated with their well-known subjects or, at the very least, did so in legal harmony, perhaps they might find themselves in a better position.<sup>34</sup> As in the current scenario, these legislations have

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<sup>27</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, art. 8, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>28</sup> *Von Hannover v. Germany*, (2004) ECHR 59320/00.

<sup>29</sup> Barbara McDonald, *Privacy, Princesses, and Paparazzi*, 50 N. Y. L. SCH. L. REV. 205 (2005).

<sup>30</sup> L Lee Byrd, *Privacy Rights of Entertainers and Other Celebrities: A Need for Change*, 5 ENT & SPORTS LJ 95 (1988).

<sup>31</sup> Veena Chandra & Kriti Sood, *Personality Rights: Protection under IP Laws*, LAKSHMIKUMARAN & SRIDHARAN ATTORNEYS (Feb. 15, 2024), <https://www.lakshmisri.com/insights/articles/personality-rights-protection-under-ip-laws/>.

<sup>32</sup> Lucy Rana & Pranit Biswas, *Copyright Regarding Paparazzi Photos: Where does the liability lie?*, SS RANA & CO. ADVOCATES (Feb. 21, 2022), <https://ssrana.in/articles/copyright-paparazzi-photos-where-does-the-liability-lie/>.

<sup>33</sup> Taru Bhatia, *Katrina Kaif-Vicky Kaushal to Sell Wedding Photos Rights to International Magazine for a Whopping Price?*, INDIA.COM (Dec. 3, 2021, 12:27 PM), <https://www.india.com/entertainment/bollywood-news-katrina-kaif-vicky-kaushal-to-sell-wedding-photos-rights-to-international-magazine-for-a-whopping-price-5121661/>.

<sup>34</sup> *Childress v. Taylor*, 945 F.2d 500, 507 (2d Cir. 1991).

not been laid down, especially in India. In that case, the above pointers can be taken as a useful matrix to determine the same.

### **A. Digital Platforms and Co-Creation**

The rise in digital platforms has transformed the arena of paparazzi photography and celebrity culture. Under the Indian Copyright Act, as mentioned above, the photographer is the sole author of the picture. However, nuances arise when the subject matter involves celebrities, especially as they use social media to post pictures, thereby engaging copyrighted material in the public domain. Under the Information Technology Act, celebrities may seek protection in digital spaces to safeguard their likeness, and this protection can extend to the unauthorized use of their images without their explicit consent. This relates to the right to privacy enshrined under Article 21 of the Indian Constitution, which emphasizes the protection of these celebrities across digital realms.<sup>35</sup>

The interaction between digital platforms and paparazzi photography highlights the need for legal provisions to adapt to modern trends. Celebrities who started using social media as their regular mode of self-portrayal have become architects of images, and therefore, the control of power traditionally held by paparazzi is gradually dwindling.<sup>36</sup> This change calls for a broader approach towards authorship of pictures; celebrities should be identified as co-authors of the images in they are the objects, significantly when they contribute contexts, captions, or narratives. Besides, the digital age also brings issues of transparency. The possibility of the non-consensual use of images uploaded by celebrities creates a framework for re-evaluating the margins of fair use. For example, if a celebrity uploads an image captured by a paparazzi photographer, does that constitute an implied license for redistribution or commercialization? The vagueness leads to the necessity of more exact rules that can defend copyrights while the people living in public life can manage their representatives in public.

Finally, digital platforms also replace the traditional modes of interaction between people and photographers, thereby giving way to the emergence of entirely new forms of creative expression. Like stories, these arrangements are conducive to the adoption of ethical paradigms in the paparazzi business because both parties are in good bargaining positions and, further, can ensure that the privacy and dignity of celebrities are upheld. Nevertheless, this additionally entails a legal

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<sup>35</sup> INDIA CONST. art. 21.

<sup>36</sup> Aryan Bhat & Yashendra, *Whose Photo is it Really?: Dichotomy of rights and copyrightability of paparazzi photographs*, THE RMNLU LAW REVIEW BLOG (Sept. 20, 2021), <https://rmlnlulawreview.com/2021/09/20/copyrightability-of-paparazzi-photographs/>.



infrastructure that is sensitive to and practically promotes such agreements, overturning an old pattern of exploitation to foster beneficial interactions for both sides.

The whole concept of paparazzi photography revolves around this question – “If the photograph’s author is the photographer, what about the rights of the subject matter, especially when it’s a living being?” The answer to this question lies in the simple observation that while photographers are recognized as the authors of their images, celebrities’ personality rights must also be considered. As the nature of celebrity pictures is changing with the advent of the digital age, the concept of paparazzi photography as a cooperative, creative approach is also gaining currency. This section looks at both the legal and practical implications of these changes, which will be elaborated upon further in the next section. Specifically, it will deal with how a nuanced understanding of paparazzi photography can affect copyright law and ethical standards in the industry. In various countries, such as India, copyright law embraces the moral rights of authors.<sup>37</sup> This is contained within Section 57 of the Indian Copyright Act.<sup>38</sup> The rights mentioned herein consist of the right to be identified as the author and the right to be protected from distorted uses of the work.<sup>39</sup> Understanding the collaborative potential between celebrities and paparazzi could encourage a broader application of moral rights, aligning with an international practice that respects the rights and responsibilities of both parties regarding the images and their use.<sup>40</sup> Creating contracts between the two will indicate the cooperative characteristic of the condominium. Such arrangements provide a legitimate framework that not only establishes the rights and obligations of both parties but also helps in resolving disputes over authorship, profit-sharing, and permitted usages. By defining the scope of commercial use, revenue-sharing models, and ethical obligations, contracts prevent unauthorized exploitation and ensure that photographers retain creative recognition while celebrities maintain control over the commercial use of their likeness.<sup>41</sup> This aligns with principles seen in endorsement agreements, influencer-brand partnerships, and licensing arrangements in intellectual property law, where consent and compensation are key considerations.<sup>42</sup> Although the

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<sup>37</sup> Sana Singh, *Moral Rights under Copyright Law*, SINGHANIA & PARTNERS (Feb. 17, 2021), <https://singhanian.in/blog/moral-rights-under-copyright-law>.

<sup>38</sup> The Copyright Act, No. 14 of 1957, Acts of Parliament, § 57 (Ind.).

<sup>39</sup> *Moral Rights of Owner in Copyright Law of India – A Paradigm Shift*, SS RANA & CO. ADVOCATES (Aug. 27, 2019), <https://ssrana.in/articles/moral-rights-of-owner-in-copyright-law-of-india-a-paradigm-shift/>.

<sup>40</sup> *Amar Nath Sehgal v Union of India*, (2005) 30 PTC 253 (DEL).

<sup>41</sup> Sterling Miller, *Contracts and IP Ownership*, THOMSON REUTERS (May. 5, 2022), <https://legal.thomsonreuters.com/en/insights/articles/contracts-and-intellectual-property-ownership>.

<sup>42</sup> *Agreements with influencers and social media marketing agencies*, HOGAN LOVELLS, <https://digital-client-solutions.hoganlovells.com/influencer/tool/influencers-tool-contracting-agreements-with-influencers-and-social-media-marketing-agencies>.

above-mentioned ethical guidelines, as explained in cases such as *Raj Rewal v. Union of India*,<sup>43</sup> *Pee Pee Publishers & Distributors v. Dr. Neena Khanna*,<sup>44</sup> and *Sartaj Singh Pannu v. Gurbani Media Private Limited*,<sup>45</sup> are not legally obligatory, they can potentially prescribe the moral rules applicable to such situations to which the photojournalists' collaboration with celebrities should adhere. The guidelines include, amongst others, responsible conduct from both the photographers and the celebrities, which can be used to enhance teamwork.

Understanding paparazzi photography as a form of collaborative art goes against the general perspective of viewing photographers as sole creators. This could lead to an equitable distribution of rights and revenues to benefit both the artist and the subject. The growing awareness among celebrities to collaborate with photographers could elevate industry standards, encouraging more ethical practices in capturing and sharing images.<sup>46</sup>

Yet, this overall shift also poses considerable challenges. Co-authorship can complicate matters from a legal standpoint, especially concerning copyright registration and licensing agreements.<sup>47</sup> In spontaneous paparazzi scenarios, questions about what qualifies as true collaboration may arise. To mitigate potential conflicts, precise legal language and clear, unambiguous definitions are essential for navigating these challenging situations. Additionally, while collaboration is an issue that might raise ethical standards, a balance must be maintained between the rights of the individual and the alternative of journalistic freedoms. This balance is crucial, as overly restricting paparazzi activities could reduce the press' ability to report on public figures, thereby limiting the diversity and interest of public discourse. Therefore, with the shifting paradigms of celebrity and media in the digital age, it is of severe legal and practical import for paparazzi photographs to be recast as an exquisite form of collaborative art, wherein both the photographer and the paparazzi work together to shape the final output, sharing artistic and intellectual contributions.<sup>48</sup> Examples of collaborative art, except paparazzi photography include artistic portraits, co-created digital media projects, and so on. The art collaboration between Andy Warhol and Jean-Michael Basquiat, and Pablo Picasso and Gjon Mili are the epitome of this phenomenon.<sup>49</sup> Therefore, this extends

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<sup>43</sup> *Raj Rewal v. Union of India*, (2019) A.I.R. Online Del. 911.

<sup>44</sup> *Pee Pee Publishers & Distributors v Dr. Neena Khanna*, (2010) S.C.C. OnLine Del 2433.

<sup>45</sup> *Sartaj Singh Pannu v Gurbani Media Private Limited*, (2015) S.C.C. OnLine Del 9627.

<sup>46</sup> SANNA NISSINEN, *HUMANITARIAN PHOTOGRAPHY: A HISTORY*, Chapter 12 – Dilemmas of Ethical Practice in the Production of Contemporary Humanitarian Photography (eds. Heide Fehrenbach & Davide Rodogno, Cambridge University Press) (2015).

<sup>47</sup> M. Hosseini et. al., *Group authorship, an excellent opportunity laced with ethical, legal and technical challenges*, TAYLOR AND FRANCIS (2024), <https://www.tandfonline.com/doi/epdf/10.1080/08989621.2024.2322557?needAccess=true>.

<sup>48</sup> Anne Jerslev & Mette Mortensen, *Taking the Extra out of the Extraordinary: Paparazzi photography as an online celebrity news genre*, 17 INT. J. OF CULT. STUD 619 (2014).

<sup>49</sup> Nadja Bozovic, *Famous Art Collaborations*, AGI FINE ART BLOG, <https://agifineart.com/advice/famous-art-collaborations/>.

beyond current copyright frameworks, moving towards provisions that acknowledge the collaborative nature of modern image-making and respect the rights and contributions of all parties involved, ultimately benefiting both artists and subjects.

Having comprehensively explored the intricacies of copyright protection in instances of paparazzi photography, this section aims to elucidate the legal and practical implications of extending copyright ownership to celebrities. These implications are manifold and comprise both positive and negative aspects. However, they have been analyzed under two broad sub-headings to facilitate the presentation of an enhanced and systematic structural framework.

### *1. Copyright and Authorship Issues*

Granting co-authorship rights to celebrities in paparazzi photography would represent a substantial shift in copyright law, with complex implications for intellectual property, privacy, and the commercial media landscape. One of the major legal implications pertains to the realm of copyright and authorship issues. As mentioned previously, under Section 2(d)(iv) of the Copyright Act, 1957, the photographer is the sole author of the photographic work and retains all rights unless explicitly transferred, with exceptions for derivative works or substantial transformations of the image. A natural implication of extending this right to celebrities includes significantly revamping the current copyright law regime to define specific parameters for co-authorship, such as the context, purpose, and intended use of the photograph.<sup>50</sup> This would consequently introduce complexities in determining authorship at the point of capture due to the inherent legislative inability to provide for a rigid norm that equally applies to all situations. Therefore, a set of standardized guidelines can be prescribed with subjective application and implementation depending on the circumstances of a particular case. An example of such an amendment includes the expansion of the definition of an “author” which has to be accorded a broad connotation to encompass celebrities within its purview, subject to the prescribed conditions being met.<sup>51</sup>

Since the issue being discussed is also largely a personality issue, the extension of co-authorship would not only improve the existing legal regime in India but would also align India’s legal framework with personality rights protections in other countries such as the U.S.A and Europe, particularly under the ECHR (article 8), which acknowledge celebrities’ right to privacy and control

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<sup>50</sup> Lucy Rana & Pranita Biswas, *supra* note 32.

<sup>51</sup> The Copyright Act, No. 14 of 1957, Acts of Parliament, § 2(d) (Ind.).

over their public personas.<sup>52</sup> This would help realize the true potential of India's media and entertainment industry from an international perspective through cross-border collaboration and greater participation of international celebrities, artists and public figures who would view India as a jurisdiction that respects global privacy standards, thus increasing its appeal and fostering the development of trust and confidence, alongside the acquisition of increased revenue. Furthermore, this amendment would necessitate corresponding changes pertaining to revenue-sharing models, permissions for public or commercial use, and the necessity of royalty frameworks for image sales. A structured revenue-sharing model would ensure that both the photographer and the celebrity receive fair compensation when paparazzi images are monetized, such as through media publications, advertisements, or merchandise.<sup>53</sup> Additionally, explicit permissions would be required before an image could be commercially exploited, preventing unauthorized usage and ensuring compliance with personality rights. Introducing a royalty framework, similar to licensing agreements in intellectual property law would further allow celebrities to earn a percentage from the continued commercial use of their likeness in photographs, balancing the rights of photographers with the autonomy of public figures over their own image.<sup>54</sup> Additionally, granting co-authorship to celebrities would transform the paparazzi industry by potentially dis-incentivizing unconsented photograph captures or incentivizing cooperative, pre-arranged photograph shoots where celebrities consent to appearances, thereby enhancing ethical practices, which will be discussed in the succeeding paragraphs, alongside elucidating the requisite commercial aspects.

Positively, co-authorship would empower celebrities to manage and benefit from the commercial capital of their image, curtailing unauthorized or harassing activity by photographers and instead developing a more considerate industry standard. It might also democratize profits coming from celebrity photographs, fostering equitable revenue distribution, which is crucial, especially at a time when individual personas have become valuable digital assets in an increasingly interconnected globalized digital world. However, just like every coin has two sides, granting co-authorship also experiences certain downsides.

First, it would potentially serve as an instrument to curtail press freedom by restricting the rights of journalists and photographers to photograph public events in which celebrities are involved,

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<sup>52</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, art. 8, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>53</sup> *Royalties and Revenue Sharing in Licensing Agreements: Legal Frameworks*, MICHAEL EDWARDS, <https://michaelledwards.uk/royalties-and-revenue-sharing-in-licensing-agreements-legal-frameworks/>.

<sup>54</sup> *Id.*

thus raising potential First Amendment disputes in jurisdictions such as the United States,<sup>55</sup> and Article 19 concerns in a country like India.<sup>56</sup> Article 19 of the Constitution of India grants every citizen the fundamental right to freedom of speech and expression. Its ambit has been extended to press and media houses more than seven decades ago itself in *Romesh Thappar v. State of Madras*<sup>57</sup> and the *Indian Express Newspapers v. Union of India* decision.<sup>58</sup> In the *Romesh Thappar* decision, the SC struck down a government-imposed ban on a political journal, affirming that freedom of speech and expression under Article 19(1)(a) includes the right to circulate information. Similarly, the *Indian Express Newspapers* case held that economic burdens, such as excessive taxation on newspapers, could not be used to suppress press freedom, reinforcing the press's crucial role in democracy. Although this right is subject to "reasonable restrictions," explicitly defining the contours of this phrase in cases of paparazzi photography is difficult and subject to wavering judicial interpretation.

Additionally, protracted legal disputes over the scope of public interest, particularly regarding the reporting of the acts of public figures are bound to arise. This would, in turn, overload copyright litigation systems because courts would be faced with disputes over consent, context, and the question revolving around whether an image qualifies for joint authorship - a heavy burden in the paparazzi context where impromptu captures are the current norm and the principled way forward. Furthermore, co-authorship rights will limit access to paparazzi images for media use because celebrities can exercise their rights to prevent the use of unflattering or intrusive images. The paparazzi industry would also need to renegotiate licensing fees and copyright royalties, as explained in the previous section, thereby limiting the high-stakes competition in the tabloid industry and increasing content costs for publishers. Currently, tabloids and media houses acquire paparazzi images at competitive rates due to the absence of revenue-sharing obligations with the photographed celebrities.<sup>59</sup> If co-authorship or stronger publicity rights were introduced, photographers would be required to negotiate licensing agreements with celebrities, leading to higher costs per image. This would create a shift from the existing model, where paparazzi agencies profit solely from selling exclusive shots, to one where a percentage of the revenue is shared with public figures.<sup>60</sup> Consequently, media houses would face

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<sup>55</sup>*Invasions of Privacy*, LEGAL INFORMATION INSTITUTE – CORNELL LAW SCHOOL, <https://www.law.cornell.edu/constitution-conan/amendment-1/invasions-of-privacy#:~:text=First%20Amendment%3A,for%20a%20redress%20of%20grievances.>

<sup>56</sup> INDIA CONST. art. 19.

<sup>57</sup> *Romesh Thappar v. State of Madras*, (1950) A.I.R. 1950 S.C. 124.

<sup>58</sup> *Indian Express Newspapers v. Union of India*, (1985) 2 S.C.R. 287.

<sup>59</sup> Anne Jerslev & Mette Mortensen, *supra* note 48.

<sup>60</sup> *Id.*

increased operational costs, potentially leading to fewer spontaneous and candid images being published. Additionally, high licensing fees could push tabloids toward sourcing controlled and pre-approved images from celebrity-endorsed sources, such as social media or Public Relation agencies.<sup>61</sup> This would gradually alter the dynamics of the paparazzi-driven media industry. As a result, the paparazzi industry would have fewer “candid” shots but instead controlled and negotiated images, which could weaken the spontaneous appeal that usually draws the public. Such a comprehensive change will redefine the lines of both privacy and authorship by ushering in a new horizon of celebrity image rights which will also challenge journalistic liberties, copyright enforcement, as well as content accessibility at a digitally driven media stage.

## 2. *Privacy Concerns and Legal Protection*

The recognition of privacy concerns in paparazzi photography through heightened legal protections for celebrities and public figures will create new boundaries in media and entertainment law, particularly by formalizing the right of personal privacy in public spaces. It will therefore serve as a significant shift, especially in jurisdictions where the rights of photographers to capture public images are well-established. Such amendments may involve the introduction of legislative provisions that extend the right of celebrities to limit or control unauthorized photographs taken in certain contexts, including private moments or in locations where they have a reasonable expectation of privacy, even if in a public setting. Such reforms in India’s intellectual property regime could be modelled on frameworks such as the European Union’s robust privacy rights, especially Article 8 of the ECHR, referenced previously, which recognizes the right to respect for private life, irrespective of public status.<sup>62</sup> This would allow the Indian legal system to expand tort protections against intrusive photography beyond traditional defamation or harassment laws, providing celebrities with a legal remedy for unauthorized image captures or dissemination that breaches privacy expectations. This would not only bolster India’s privacy regime by aligning copyright legislations with the fundamental right to life enshrined under Article 21 of the Constitution of India (The K.S. Puttuswamy v. Union of India decision explicitly read the right to privacy into the right to life under Article 21 of the Constitution),<sup>63</sup> but also enhance India’s reputation in the international arena as a country that effectively balances copyright authorship with privacy protection. Effecting this change would also uphold the dignity of public figures who would have reasonable assurance of living a dignified life without excessive public

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<sup>61</sup> Alexander Schouten et. al., *Celebrity vs. Influencer endorsements in advertising: the role of identification, credibility, and Product-Endorser fit*, 39 INT. J. OF ADVERT. 1, 1-24 (2019).

<sup>62</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, art. 8, Nov. 4, 1950, 213 U.N.T.S. 221.

<sup>63</sup> K.S. Puttuswamy v. Union of India, (2018) A.I.R. OnLine 2018 S.C. 237.

interference, thus further protecting their fundamental right to life which encompasses the right to dignity, as held in the *Maneka Gandhi v. Union of India* decision.<sup>64</sup>

Establishing these legal protections would also promote ethical media practices, creating deterrents against intrusive paparazzi behavior and encouraging photographers to obtain consent before capturing or distributing images, especially in sensitive and privacy-intensive contexts. Enhanced privacy rights would allow celebrities to protect their private lives from commercial exploitation, thereby enabling them to redress wrongs done through damages or injunctions to photographers who violated their rights. This would lead to a more respectable media that respects the dignity and personal boundaries of an individual as much as the public fame of the celebrity. On the other hand, stricter privacy protections would be a challenge to freedom of the press, as seen above, because journalists and media outlets would find it difficult to capture or report on public figures' activities, especially those deemed to be of public interest. This may lead to intense legal battles over just where to draw the line between the public's need to know and a star's right to privacy with courts potentially being overwhelmed with an increase in privacy claims.<sup>65</sup> From a commercial point of view, media houses may lose spontaneous, newsworthy content due to the potential legal risks of publishing unauthorized images, thereby decreasing the value of paparazzi-driven media coverage and possibly shifting content toward more curated, controlled depictions of celebrities.<sup>66</sup>

Growing rights in public spaces may give birth to more restrictive regulations surrounding the taking of photos on public property, restricting access not only to paparazzi but also to journalistic and citizen reporting. Evolution, then, would redefine notions of privacy and media liberties but requires a delicate equilibrium that preserves ethical standards for journalism and personal autonomy. The parameters discussed in this paragraph, including ethical and financial considerations, have been explored in much more detail.

## **B. Ethical Considerations of Paparazzi Practice**

The ethical considerations surrounding paparazzi practices reflect a deeper conflict between freedom of the press and individual privacy, upholding several nuanced concerns that both challenge media norms and the expectations of society. Some people consider the paparazzi to be

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<sup>64</sup> *Maneka Gandhi v. Union of India*, (1978) A.I.R. 1978 S.C. 597.

<sup>65</sup> *Times Face-off: Should an individual's right to privacy prevail over press freedom?*, TIMES OF INDIA (Aug. 13, 2021, 08:10 AM), <https://timesofindia.indiatimes.com/india/times-face-off-should-an-individuals-right-to-privacy-prevail-over-press-freedom/articleshow/85291186.cms>.

<sup>66</sup> Andrej Miklosik et. al., *Privacy Protection versus Advertising Revenues: The Case of Content Publishers*, 54 CONN. ISTANBUL UNIV. J. OF COMM. SCIENCES 117 (2018).

the champions of free expression and public interest but still maintain questionable views of how they gather content.<sup>67</sup> Often paparazzi use techniques that violate the personal privacy of the person being photographed. These techniques range across a wide horizon of advanced tools and include sophisticated gadgets such as telephoto lenses, drones, and concealed microphones to capture pictures even during personal, unguarded and vulnerable moments.<sup>68</sup> These acts infringe and interfere with the personal spaces of the public figures being snapped but their implications extend beyond merely an immediate consequence. The increased utilization of photographic tools to capture personal moments promotes a toxic culture with no respect for individual privacy, alongside vulnerability being monetized as a currency. The financial incentives driving the paparazzi industry frequently expose celebrities and their families, particularly children, to constant scrutiny, creating an atmosphere in which personal boundaries blur in the name of public entitlement.<sup>69</sup> A new ethical consideration is the mental health effect on those who are perpetually covered, leading to increased stress, anxiety, and even withdrawal from public life. This mental toll on celebrities due to paparazzi culture arises from constant surveillance, loss of privacy, and public scrutiny, which can lead to stress, anxiety, and self-image issues. The relentless pursuit by photographers, sensationalized media coverage, and invasive reporting create a pressure-filled environment, forcing celebrities to manage unrealistic expectations and often retreat from public life to protect their mental well-being.<sup>70</sup> An extremely contemporary example of this is the attack on Saif Ali Khan in his apartment in Mumbai. Each and every detail was covered and reported by the media, including the whereabouts of his minor children, the vehicle used for rushing him to the hospital, the exact injuries he suffered, visuals of his house, and so on.<sup>71</sup> This is unsafe especially in the aftermath of an attack and is bound to affect the actor's mental health due to invasive reporting and a clear invasion of privacy. On a more philosophical level, there may be societal implications by unobtrusively developing voyeurism and eroding empathy due to the viewer's tendency to become gradually desensitized by considering the coverage of personal lives as public entertainment. Lilie Chouliaraki, in her book *'The Spectatorship of Suffering,'* examines how representations of suffering can lead to viewer desensitization. She argues that repetitive exposure

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<sup>67</sup> STEPHEN WHITTLE & GLENDA COOPER, *PRIVACY, PROBITY AND PUBLIC INTEREST* (Reuters Institute for the Study of Journalism, Oxford University Press, 2009).

<sup>68</sup> Alan Phelps, *Camera Technology that Helps Paparazzi get Good Photos*, LAUREN HARRISON (Oct. 17, 2024), <https://laurenharrison.org/tech/camera-technology-that-helps-paparazzi-get-good-photos/>.

<sup>69</sup> Seong Choul Hong, *Kids Sell: Celebrity Kids' Right to Privacy*, 5 DEPT. OF JOURN. & COMM., KYONGGI UNIV. (2016).

<sup>70</sup> Britney Elyse, *Paparazzi Culture's Impact on Celebrity Mental Health*, CARRARA TREATMENT WELLNESS & SPA (Jan. 16, 2025), <https://carraratreatment.com/paparazzi-cultures-impact-on-celebrity-mental-health/>.

<sup>71</sup> *Timeline on Saif Ali Khan's attack: From how the attacker stabbed him to why Taimur accompanied him to the hospital – Here's all you need to know!*, TIMES OF INDIA (Feb. 11, 2025, 09:11 AM), <https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/timeline-on-saif-ali-khans-attack-from-how-the-attacker-stabbed-him-to-why-taimur-accompanied-him-to-the-hospital-heres-all-you-need-to-know/articleshow/118110413.cms>.



to mediated suffering can create a sense of detachment among audiences, reducing their empathetic responses. This detachment is exacerbated when personal media tragedies are commodified as entertainment, leading to a voyeuristic consumption of others' pain.<sup>72</sup>

Furthermore, an example of this tendency is the fiasco concerning the Princess of Wales Kate's video update on her cancer treatment, exemplifying the modern demand for authenticity and personal disclosure from leaders and celebrities. This "tyranny of intimacy" imposes undue burdens on public figures and blurs the line between public and private spheres, potentially leading to viewer desensitization and diminished empathy.<sup>73</sup>

The Legislature should ethically re-evaluate paparazzi practice by amending Indian copyright and privacy laws and aligning provisions to meet the objectives of creating safe places where celebrities as well as their family would be accorded privacy. The extent of these zones has to be given a broad interpretation such that they not only relate to areas around their residences and working places but specific public locations, such as parks and schools.<sup>74</sup> Additionally, another approach that has to be implemented is the reinforcement and corresponding strengthening of consent requirements that would, for example, mandate getting permission before taking photographs and publishing them, especially those involving children and covering intimate, personal spaces of celebrities.<sup>75</sup> Furthermore, ethical requirements may nudge news organizations to tell their stories in greater depth, in a way that does not rely on sensationalism to capture attention, but rather responsible, context-enriched storytelling that educates rather than intrudes. The harsh reality that persists in Indian journalism is the determination of viewership based on the Television Rating Point ["TRP"] of a particular channel or media house.<sup>76</sup> Alongside financial considerations, this propels media houses to cover exclusive content, even if it infringes the privacy of the individuals being covered. This incentive mechanism exists because of the choice of content that the Indian audience prefers which more often than not includes interference in the private spaces of public figures. Therefore, a non-negotiable ethical standard about this industry that has to be implemented includes forming associations with advocacy groups to spread the much-required awareness to the public of the widespread damage caused by invasive journalism and enabling

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<sup>72</sup> LILIE CHOULLARAKI, *THE SPECTATORSHIP OF SUFFERING* (Sage Publications, 2006).

<sup>73</sup> James Marriott, *Kate's Video and the Tyranny of Intimacy*, THE TIMES (Sept. 12, 2024), <https://www.thetimes.com/comment/columnists/article/kates-video-and-the-tyranny-of-intimacy-wkzsd9599>.

<sup>74</sup> Sakshi Mehta et. al., *Protection of Celebrity Rights under IPR Regime in India*, 29 JIPR 540, 540-550 (2024).

<sup>75</sup> *Sonu Nigam v Amrik Singh*, (2014) S.C.C. OnLine Bom 5133.

<sup>76</sup> *What is TRP and how it is calculated*, INDIA TODAY (Oct. 9, 2020), <https://www.indiatoday.in/information/story/what-is-trp-and-how-it-is-calculated-check-here-1729909-2020-10-09>.

consumers to question and resist such content.<sup>77</sup> Moreover, steps towards self-regulation for media outlets may include not printing certain types of images or having more stringent editorial standards.<sup>78</sup> It is only if these measures are implemented by inculcating a culture of respect, consent and responsibility that the industry can adhere to modern ethical standards, fostering a healthy, positive relationship between public figures and their audience.

### C. Financial Considerations of The Media Houses

As mentioned above, there is a direct relationship between revenue generation and the TRP of media houses - the higher the TRP, the greater the viewership and the more the revenue.<sup>79</sup> If this simple equation is followed, covering content that appeals to the general public is extremely profitable to these organizations. The glamour and fascination that the audience derives from keeping themselves updated with the latest trends in the entertainment industry comparatively exceeds other intellectual domains. It is due to this character trait of the audience that media houses increasingly emphasize coverage of even the private lives of public figures. Since there are no other means to gain inroads into the life of celebrities, the viewership of the general public reaches the pinnacle and correspondingly increases the revenue of media houses.<sup>80</sup>

However, the revenue generation is not as simple in reality and there are multiple intricacies associated with content and reporting. The financial concerns of media houses are becoming more complicated as they try to deal with the pressure of sustaining revenue while ensuring ethical and unbiased reporting in an era where competition is on the rise and traditional sources of revenue are dwindling.<sup>81</sup> Traditionally, media houses have heavily relied on print subscriptions, advertising revenue, and single-copy sales. However, digital transformation and the fast rise of social media have dramatically altered the landscape.<sup>82</sup> With print profits dwindling, many media organizations made a shift to online advertisement revenue and paywalls, but that also brings along a whole host of ethical implications: relying on advertisement revenue means making content sensational or polarized to drive very high engagement metrics, appealing to algorithms rather than the integrity

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<sup>77</sup> Haseeb Ahmed Shabbir et. al., *Exploring Perceptions of Advertising Ethics: An Informant-Derived Approach*, 159 JOURN. OF BUSS. ETHICS 727, 727-744 (2019).

<sup>78</sup> Meera Mathew, *Media Self-Regulation in India: A Critical Analysis*, ILI LAW REV. (2016).

<sup>79</sup> India Today, *supra* note 76.

<sup>80</sup> Zeenat Riaz, *The Role of Media in Promotion of Glamour*, CENTRE FOR MED. AND COMM. STUDIES, UNIV. OF GUJ. (2021).

<sup>81</sup> Committee of Experts on increasing resilience of Media, *Good practices for sustainable news media financing*, COUNCIL OF EUROPE (Oct. 26, 2023), <https://www.unav.edu/documents/10174/11264174/informe-sostenibilidad-medios.pdf>.

<sup>82</sup> Centre for Media Transition, *The Impact of Digital Platforms on News and Journalistic Content*, UTS, [https://www.accc.gov.au/system/files/ACCC+commissioned+report+-+The+impact+of+digital+platforms+on+news+and+journalistic+content,+Centre+for+Media+Transition+\(2\).pdf](https://www.accc.gov.au/system/files/ACCC+commissioned+report+-+The+impact+of+digital+platforms+on+news+and+journalistic+content,+Centre+for+Media+Transition+(2).pdf).

of journalism.<sup>83</sup> This risks bringing about reduced depth, accuracy, and objectivity of coverage since editors might be pressured to print stories that maximize clicks over responsible informing and education of the public.

An innovative response to this growing menace will be the adoption of diversified, multi-layered revenue models that combine the best of traditional methods with new solutions, grounded in the principle of editorial independence. The non-profit journalism models provide a sturdy framework with philanthropy and grants from foundations focused on public interest journalism being the primary sources of revenue. It allows media houses to invest in broad, impactful investigations without necessarily being forced to make them profitable.<sup>84</sup> Additionally, integrating subscription models, like those implemented by The New York Times and The Guardian, has signaled that audiences will pay for quality journalism when they understand how the subscription revenue will be used.<sup>85</sup> This “subscriber-powered” model also forces reader trust through a direct relationship of public accountability and service tied to publication financial sustainability.

Community-supported journalism would represent another avenue that would comprise obtaining money through crowdfunding. This would support the individual investigative or local journalism project, hence empowering the communities to raise funds and address issues closest to their heart.<sup>86</sup> Finally, micro-transactions based on blockchain technologies can be undertaken where individuals will contribute small sums of money toward specific articles and, most importantly, be able to decentralize revenues to account for differences in readers’ preferences and budgets.<sup>87</sup> This can be supplemented by licensing content to other platforms and aggregators, enabling smaller publications to tap a wider audience with increased financial support without compromising editorial standards.<sup>88</sup>

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<sup>83</sup> Manudeep Bhuller, *How the Internet Changed the Market for Print Media – Working Paper 30939*, NATIONAL BUREAU OF ECONOMIC RESEARCH (Feb. 2023), [https://www.nber.org/system/files/working\\_papers/w30939/w30939.pdf](https://www.nber.org/system/files/working_papers/w30939/w30939.pdf).

<sup>84</sup> Nikki Usher & Sanghoon Kim-Leffingwell, *How Loud Does the Watchdog Bark? A Reconsideration of Losing Local Journalism, News Nonprofits, and Political Corruption*, 29 IJPP 960, 960-82 (2024).

<sup>85</sup> Nic Newman, *Journalism, media, and technology trends and predictions 2022*, REUTERS INSTITUTE FOR THE STUDY OF JOURNALISM & UNIVERSITY OF OXFORD (Jan. 10, 2022), <https://reutersinstitute.politics.ox.ac.uk/sites/default/files/2022-01/Newman%20-%20Trends%20and%20Predictions%202022%20FINAL.pdf>.

<sup>86</sup> Nikki Usher & Sanghoon Kim-Leffingwell, *supra* note 84.

<sup>87</sup> S.A. Jayalath et. al., *A Microtransaction model based on blockchain technology to improve service levels in public transport sector in Sri Lanka*, International Research Conference on Smart Computing and Systems Engineering, IEEE 82, 82-89 (2020).

<sup>88</sup> Jeena Moon, *What is Content Licensing?: The Ultimate Guide*, THE NEW YORK TIMES, <https://nytlicensing.com/latest/our-brand/what-is-content-licensing/>.

Another innovative option is the exploration of partnerships with academic institutions for co-produced investigative research that combines journalistic reach with scholarly rigour. This diverse portfolio of revenue streams allows media houses to break out of their dependence on the revenues from advertisements and public-appealing content coverage, thereby creating an environment that nurtures qualitative, in-depth journalism.<sup>89</sup> When these elements are combined, media organizations are steered towards a solution that would make them both fiscally sound and revitalized in their pursuit of the ethical responsibilities of the democratic press, an equation critically needed in this profit-oriented landscape.

However, it is not easy to implement these utopian solutions in the Indian contextual landscape, especially in the entertainment industry, wherein the sole purpose of content coverage is to serve as a respite from the monotonous intellectual work-life of an average Indian adult and not to further educate and inform the audience about important contemporary topics.<sup>90</sup> Therefore, the only method to solve the problem of invasive journalism is by granting co-authorship rights to celebrities, which would introduce a revenue-sharing model wherein public persona and media houses collaborate to restrict the extent of their coverage to the public life of celebrities without any undesirable excessive interference. This would bring about a consent-based mechanism wherein consent would be required for indulging in content coverage, thus upholding individual privacy while maintaining the profession of media houses by merely limiting it to the public sphere and not restricting it completely. The model developed below will further elaborate on this balanced framework.

#### **IV. CONCEPTUALISATION OF A COMPREHENSIVE CO-AUTHORSHIP MODEL**

This section conceptualizes a detailed and coherent co-authorship model, discussing the implementation guidelines, alongside exploring the circumstances necessitating co-authorship. The purpose of this model is to analyze the practicalities of the theoretical framework developed above. To establish this model, comprehensive guidelines must be put in place. First, a clear definition of contributions is essential; both parties should articulate their roles, with photographers capturing the visual narrative and celebrities potentially influencing the portrayal through their engagement and input. Second, a contractual agreement should be formalized before any photographic collaboration, detailing the scope of work, rights granted, and financial arrangements, including

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<sup>89</sup> Jens Barland, *Innovation of New Revenue Streams in Digital Media: Journalism as Customer Relationship*, 34 NORDICOM REV. 99 (2013).

<sup>90</sup> Aindrila Mitra, *Watch Television to relieve Tension*, THE TIMES OF INDIA (Apr. 18, 2003, 07:00 AM), <https://timesofindia.indiatimes.com/calcutta-times/watch-television-to-relieve-tension/articleshow/43729220.cms>.

revenue-sharing models that ensure both parties are compensated fairly for their contributions. Third, rights and usage clauses within the contract should explicitly define how the photographs can be used, covering aspects such as commercial exploitation and social media sharing while also stipulating credit attribution in promotional materials. Fourth, since ethical considerations are paramount, photographers should respect the privacy rights of celebrities, avoiding intrusive practices, especially in personal contexts, while celebrities should acknowledge the photographers' professional rights to document their public personas. Additionally, establishing transparency in intent is crucial, requiring both parties to communicate openly about their objectives regarding the photographs' usage and potential marketing strategies. Fifth, a robust conflict resolution mechanism should be included in the agreement to address any disputes over authorship, rights, or revenue sharing, including mediation or arbitration procedures, which have gained immense prominence in the increasingly globalized twenty-first century. Lastly, the acknowledgement of collaborative efforts is important for projects that involve significant creative input from both sides, ensuring that both the celebrity and the photographer receive appropriate recognition in promotions and credits, thus fostering a spirit of collaboration.

The list of the circumstances necessitating co-authorship can vary widely but often centers around specific projects and marketing strategies. In cases of collaborative projects, such as film or album releases, co-authorship becomes vital when the photographs are intended to align with the creative vision of the project, ensuring that both the visual representation and the artist's narrative are in harmony. Brand endorsements and marketing campaigns further underscore the need for co-authorship; when a celebrity's image is integral to a brand's identity, recognizing both the celebrity and photographer as co-authors fosters a partnership that respects their contributions and enhances promotional authenticity. Additionally, in artistic collaborations, where both parties contribute creatively to the photographic output, co-authorship ensures mutual recognition of artistic influence. Finally, the implications of legal protections surrounding publicity rights are significant because co-authorship agreements can serve as a safeguard against unauthorized use of a celebrity's image, providing legal clarity on the consent required for various applications. Publicity rights, which protect individuals from the commercial exploitation of their likeness without consent, are well established in jurisdictions such as the United States under the Right of Publicity doctrine<sup>91</sup> and in Europe through Article 8 of the ECHR,<sup>92</sup> which safeguards an individual's right

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<sup>91</sup> Robert C. Post & Jennifer E. Rothman, *The First Amendment and the Right(s) of Publicity*, 130 YALE LAW JOURNAL. 1-275 (2020).

<sup>92</sup> Convention for the Protection of Human Rights and Fundamental Freedoms, art. 8, Nov. 4, 1950, 213 U.N.T.S. 221.

to privacy and personal autonomy. In India, while there is no explicit statutory recognition of publicity rights, courts have acknowledged them in cases such as *ICC Development (International) Ltd. v. Arvee Enterprises*<sup>93</sup> and *Titan Industries v. Ramkumar Jewellers*,<sup>94</sup> where the unauthorized commercial use of a celebrity's image was restricted. This thus necessitates the introduction of co-authorship as it allows celebrities to retain control over their image while ensuring that photographers' creative contributions are acknowledged. By outlining these circumstances, the model reinforces the necessity of co-authorship, promoting a balanced and ethical framework within the paparazzi photography landscape that benefits both the celebrity and the photographer.

A key inspiration for this model comes from joint authorship principles in copyright law, particularly the U.S. Copyright Act, 1976, which considers collaborative contributions when determining authorship.<sup>95</sup> Additionally, the European Union's General Data Protection Regulation [“**GDPR**”] under Chapter II, provides a strong precedent for consent-based frameworks, requiring explicit permission before processing or using personal data, which can be extended to visual likenesses.<sup>96</sup>

Furthermore, ethical standards guiding responsible journalism and photography, such as those outlined by the National Press Photographers Association [“**NPPA**”] Code of Ethics, emphasize the need for transparency, fairness, and respect for individuals' rights.<sup>97</sup> These international standards, along with judicial precedents and statutory provisions, provide a strong foundation for a legally and ethically sound co-authorship framework. Incorporating such principles within paparazzi photography would ensure that both parties, celebrities and photographers, have clearly defined rights and responsibilities, facilitating a more equitable and regulated approach to image ownership in the digital era.

## V. TECHNOLOGY AS A DEVELOPING INFLUENCER

Today, communication, culture, and commerce, among other spheres, are being influenced and transformed by advanced technology, especially considering the quick pace at which society is changing. This section will emphasize the effects of technology on culture and social interaction as an agent of change within the media context, with a significant focus on the idea of ‘celebrity.’

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<sup>93</sup> *ICC Development (International) Ltd. v. Arvee Enterprises*, (2003) 26 PTC 245 (Del).

<sup>94</sup> *Titan Industries v. Ramkumar Jewellers*, *supra* note 19.

<sup>95</sup> The United States Copyright Act of 1976, 17 U.S.C., Pub. L. No. 94-553, 90 Stat. 2541.

<sup>96</sup> General Data Protection Regulation, European Union, 2016/679, Chapter II.

<sup>97</sup> *NPPA Code of Ethics*, THE NATIONAL PRESS PHOTOGRAPHERS ASSOCIATION, <https://nppa.org/resources/ethics>.

All individuals and brands have become audiences, and there is no turning back. Instagram, TikTok, and Twitter, among others, allow not only content consumption but also content creation. As a result of this trend, the media has become accessible to everyone, enabling anyone, especially celebrities, to tell their stories without the need for gatekeepers in the entertainment industry.<sup>98</sup> Stars can communicate with their fans while controlling the set of images and messages in the communication space, thus increasing the degree of involvement and loyalty. Furthermore, they can limit their exposure to the adverse effects of negative publicity or reputation attacks.<sup>99</sup> Through personalizing the content they post, celebrities can interact directly with their fans, increasing engagement and loyalty. They can manage their public relations and decrease the adverse effects of scandalous tabloids.<sup>100</sup>

Social media influencers represent another phenomenon that has blurred the distinction between celebrities and mere active social media users. Individuals with many followers can act in such a way that they become commodities in the marketing mix.<sup>101</sup> However, despite all the advantages that modern technology offers, some of its aspects present problems concerning public information and individual privacy. While the public is free to take and share images of themselves and other individuals as they wish, seeking consent and commercializing their relationships with them is necessary. The previous discussion regarding ethical considerations, privacy rights, and legal frameworks clearly justifies the same because seeking consent is crucial to respecting privacy rights of celebrities, while commercializing the relationship by granting co-authorship rights and evolving revenue-generation models is important to uphold fair compensation and ethical parameters.

Photography has entirely changed with the invention of modern cameras, drones, and artificial intelligence. High-quality images are now possible to shoot from positions that were once hard or impossible to reach, and the credit for this development is attributable to the work of the paparazzi and other photographers who have radically changed the way such images of even lesser-known celebrities are produced and distributed.<sup>102</sup> The advantages that accompany the account of

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<sup>98</sup> Gillian Brooks et. al., *Influencer Celebrityfication: How Social Media Influencers Acquire Celebrity Capital*, 50 JOURN. OF ADVERT. 528 (2021).

<sup>99</sup> Meizhi Pan et. al., *Influencer Marketing Effectiveness: A meta-analytic view*, 53 JOURN. OF THE ACAD. OF MARK. SCIENCE 52, 52-78 (2025).

<sup>100</sup> *Id.*

<sup>101</sup> Gaëlle Ouvrein, *The web of influencers. A marketing-audience classification of (potential) social media influencers*, 37 JOURN. OF MARKETING MANAG. 1313 (2021).

<sup>102</sup> Jamie E. Nordhaus, *Celebrities' Rights to Privacy: How Far Should the Paparazzi be Allowed to go?*, 18 REV. LITIG. 285 (1999).

everyday activities can be detrimental to some individuals but showcase the vast possibilities offered in creative arts regarding celebrity-related issues. Call it the vicious circle or the critical concern, the principle of ethics in these technologies embraces or impinges upon the presentation of public figures. The rise of AI in photography has brought forth ethical dilemmas, highlighting the urgent need for regulations to protect individuals' images. AI-driven tools, such as deep fake technology and automated image enhancement, allow for the creation, modification, and distribution of images without the subject's consent. This raises concerns about unauthorized image manipulation, misrepresentation, and the potential for reputational harm.<sup>103</sup> In the context of paparazzi photography, AI can be used to alter or generate hyper-realistic images of celebrities, blurring the line between authenticity and fabrication.<sup>104</sup> Without clear legal frameworks, individuals may have little recourse against the misuse of their likeness, thus necessitating the establishment of regulations that govern AI-generated content, ensure accountability, and protect personality rights.<sup>105</sup>

In our digital age, current legal and regulatory frameworks often fall short of safeguarding public image. Additional issues, such as copyright, privacy, and laws, struggle to keep pace with the evolving state of creative industries, especially given the ubiquity of new media in content production. The challenge in developing laws that address individuals' rights to control their images and narratives while balancing freedom of expression and the press lies in finding the right equilibrium. In this regard, considering both perspectives will be crucial in the future. Technology is an emerging force that alters how content is produced, shared, and consumed. However, it is necessary to point out that its involvement in the culture of celebrities and media dynamics has brought key questions of analyzing privacy, ethics, and law into the core discussions. As society attempts to strike a balance between this dichotomy, maintaining social order and ensuring a fair playing field that respects individual rights will be vital, with technological advancements being balanced against the protection of those rights.

## VI. CONCLUSION AND WAY FORWARD

In conclusion, copyright law, privacy rights, and the celebrity-image relationship represent a growing concern in the current and upcoming digital age. There is a pressing need for the

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<sup>103</sup> Patrick Pan, "Deepfakes" and the End of the Photographic Age, 21 J. APORIA. UNIV. OF ST. ANDREWS 52 (2021).

<sup>104</sup> *Id.*

<sup>105</sup> Sabeeh Akhter & Tehreem Shamsi, *The Legal Odyssey of AI-Generated Works: Who truly owns creativity?*, MANUPATRA (Oct. 29, 2024), <https://articles.manupatra.com/article-details/The-Legal-Odyssey-of-AI-Generated-Works-Who-truly-owns-creativity>.



introduction of a clear legislative formulation to regulate and govern this landscape. In the rising digital age, several issues can potentially arise regarding the type of picture clicked, edited and A.I. generated photographs, among others.<sup>106</sup> The epitome of this is the recent instances of deepfakes being on the rise with celebrity images being morphed or edited.<sup>107</sup> A possible solution to these problems lies in granting co-authorship of paparazzi images, as has been explained in this article, through answering the several research questions formulated at the beginning. This should be governed by the model that has been conceptualized above which justifies not a blanket grant of co-authorship but a detailed examination of specific facts and circumstances. The ownership of copyright is not the primary issue, although extremely important. Instead, the angle pertaining to the outline of personality rights should be dealt with in detail. A holistic approach should be adopted to create a mutually beneficial scenario. References to both Indian and global contexts can be used to drive change, as the fundamental issue remains the same: celebrities are the subjects of the images, and while they are using these images, there is an ongoing conflict under current legislation regarding who holds ownership rights. The above analysis offers an approach to address this situation through the evolution of the model and the examination of several factors, but ultimately, a legislative change is necessary and non-negotiable.

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<sup>106</sup> Melissa Eckhause, *Fighting Image Piracy or Copyright Trolling? An Empirical Study of Photography Copyright Infringement Lawsuits*, 86 ALB. L. REV. 111 (2022).

<sup>107</sup> Shubho Sengupta, *Digital Gadfly. The rise and rise of deepfakes in India*, THE HINDU (May 12, 2024, 02:44 PM), <https://www.thehindubusinessline.com/catalyst/the-rise-and-rise-of-deepfakes-in-india/article68161008.ece>.