

Image Rights and Privacy: An Insight into the Workings of Fashion Law

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A. INTRODUCTION

Imagine a model walking down a runway wearing a designer gown while being photographed by dozens of constantly flashing cameras. Her image is quickly plastered on billboards, magazines, and social media sites to advertise the newest fashion trends. What transpires, if her image is used without her permission or payment? Image rights and privacy are becoming crucial in the quick-changing world of fashion to safeguard the interests and reputations of models, designers, and brands.

The vibrant fashion industry in India is no exception. The legal ramifications of image use and privacy violations have grown more complicated and significant as the industry expands and social media maintains its dominance. From contracts and licensing agreements to unauthorized use and false endorsement, models in India face a range of challenges when it comes to their image rights and privacy.

This essay will delve into the interesting realm of Indian fashion law and examine how image rights and model privacy are governed by the law. We'll talk about models' rights to manage how their picture is used, their protection against unauthorised usage, and the legal options available for violations of these rights.

B. IMAGE RIGHTS

The legal protections known as image rights provide individuals control over how their likeness is utilised for commercial gain in images such as photographs, motion films, and other visual representations. Image rights are vital in the fashion sector since models routinely feature in newspaper spreads, runway presentations, and fashion commercials. These images have the power to establish brands and designers into identifiable, iconic icons, considerably increasing their prospects of commercial success.

Models have the right to control when, when, how, and how much their image is used. To exercise this right, they usually negotiate contracts and licencing

arrangements with brands and designers. These agreements may specify how and how long the images may be used, as well as the compensation due to the model. With the use of such agreements, it is possible to guarantee that models are fairly compensated for their work and that the use of their images is in keeping with their reputation and brand.

There are limitations to image rights, particularly in terms of editorial usage and fair use exceptions. Editorial use refers to the use of images in newspapers, periodicals, and other media for news, analysis, or criticism. In some situations, the *First Amendment of the Indian Constitution* may authorise the use of the image without the model's consent. Similar limitations on fair use might apply to the use of images, such as when utilising them for study or training.

Despite these exclusions, models in the Indian fashion industry still have substantial legal protections for their image rights. By being aware of these rights and limitations, models can better negotiate the commercial environment of the industry and protect their interests.

The significance of image rights abuses in the Indian fashion business was highlighted in a case brought by **Sonakshi Sinha**, who sought compensation for the unauthorised use of her picture through both criminal and civil legal channels.

By negotiating clear terms and conditions for the use of their images, models can maintain greater control over their likeness and ensure that they are properly compensated for their contributions to the fashion industry.

C. **PRIVACY RIGHTS:**

A person's legal rights over their personal information, including their name and likeness, are referred to as "privacy rights" in this context. Models frequently receive a great deal of media coverage, making the need for privacy rights in the fashion industry absolutely essential. Models have the right to determine how their information is used, and part of that control includes safeguarding themselves against improper exploitation of their images.

Images may not be used in deep fakes, revenge porn, or other digitally altered works without the model's consent. Models also have the right to defend themselves from false endorsements, which occur when their likeness is exploited to advertise goods or services without their permission. Models may pursue criminal and civil legal action if their privacy rights are violated.

Nevertheless, there are limitations on the right to privacy, particularly with regard to the exclusions for public interest and newsworthiness. It is said to be in the public interest when the right of the general public to know supersedes a person's right to privacy. For instance, if a model is a witness in a well-known court case, news reports on the case may use the model's photo. Under specific circumstances, such as when covering famous people or noteworthy events, the use of photos may also be subject to exceptions for newsworthiness.

Despite these exceptions, models in the Indian fashion industry continue to enjoy a wide range of constitutional protections for their privacy rights. By being aware of these rights and limitations, they can more effectively navigate the market and protect their personal information from unauthorised use.

In the case of **Milind Soman's** photograph of himself strolling barefoot on the beach, there was a disagreement between his right to artistic expression and his right to privacy. By sharing the image, some people argued Soman had breached his own privacy and was setting a dangerous precedent for the usage of personal information. Some people interpreted the picture as a jubilant celebration of nature and a carefree demonstration of freedom.

This case brings to light the ongoing tension between the fashion industry's demand for artistic expression and the need to protect the privacy and personal information of models. In addition to having the same freedom of speech as producers and artists, models also have the right to control how their images are used.

The solution to the issue at hand ultimately lies in finding a way to respect both the freedom of artistic expression and the right to privacy. In order to establish guidelines and best practises that can protect models' privacy while also fostering artistic freedom, models, artists, and business leaders must work together.

D. LEGAL RECOURSE

- Right to publicity: Under common law, a person has the right to restrict how their name, likeness, or other distinctive qualities are utilised for commercial gain. The tort of privacy preserves this basic right, which is protected by Article 21 of the Indian Constitution. Section 43 of the Copyright Act, 1957 also protects a person's ability to limit the commercial use of their image.
- Contractual agreements: Influencers and models can protect their image rights by signing contracts with fashion labels and agencies. These agreements can specify how their images can be used and provide for penalties for unauthorized use.
- Criminal Law Provisions: Under Sections like 415 (Cheating) and Section 54C under the Indian Penal Code makes it unlawful to observe, record, or photograph another person's private conduct without that person's permission.
- The Rules for Sensitive Personal Data or Information and Information Technology (Reasonable Security Practises and Procedures), 2011: For managing sensitive personal data or information, such as biometric data, passwords, financial information, health information, and more, these regulations specify the reasonable security practises and procedures.

- The Consumer Protection Act, 2019 offers safeguards for consumers against deceptive advertising, unfair business practices, and product liability. Additionally, it enables customers to lodge complaints against businesses that transgress their rights.
- The Information Technology Act of 2000 has Section 66E, which makes it illegal to take, publish, or transmit images of a person's private areas without that person's permission. This includes capturing or disseminating pictures of someone's naked body or body parts covered in clothing.

The right to decide how your personal data and image are used is part of the broader concept of privacy. A person's right to privacy may be violated if their image is used without their permission, depending on the situation. However, each jurisdiction may have different requirements for bringing a right-to-privacy claim.

There may be other rules that apply to the particular circumstances of the unauthorised use of someone's image in addition to these legal principles. There might be rules that apply to defamation, for instance, if the use of the photograph is slanderous.

E. CONCLUSION

Models are essential to the fashion industry and it's crucial to understand that they are actual people with their own rights that must be respected. As shown by the legislation and court cases discussed in this article, it is vital for India's legal system to protect models' privacy and image rights inside the fashion business. To make sure that these rules are followed and that models are treated fairly and with dignity, we must band together. True diversity, inclusivity, and sustainability in the fashion business will continue to be elusive until we are able to do this.

In the Indian fashion industry, preserving image rights and privacy is crucial. Models have the right to regulate how their photographs are used, protect themselves from unethical behaviour, and take legal action when rights are violated. Even with a legislative structure in place to protect these rights, it is nonetheless difficult to preserve them in reality. Recent case studies show that models have been successful in seeking infringement-related legal redress, highlighting the necessity of legal awareness and action. It is crucial for models, industry participants, and lawmakers to work together to protect models' privacy and image rights in the Indian fashion industry.
