

Legal Protection of Public Image Rights Figures against the Use of *Deepfakes* in Commercial Advertising Based on *Artificial Intelligence*

Rohit Nur Alfin* , F.X. Ary Setiawan, Elin Sudiarti, Joanita Jalianery

Universitas Palangka Raya, Indonesia.

Email: rohitnuralfin86@gmail.com*, ary.unpar@gmail.com, elin@law.upr.ac.id,
joanita@law.upr.ac.id

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Abstract

The rapid advancement of artificial intelligence technology has given rise to deepfake, an audio-visual manipulation technique capable of realistically replicating a person's face, voice, and gestures without their consent. This phenomenon has emerged in Indonesia's commercial advertising sector, where public figures such as Najwa Shihab, Raffi Ahmad, and Baim Wong have had their likenesses exploited without authorization. This study aims to analyze the legal protection of public figures' image rights against deepfake use in commercial advertising and to examine the civil compensation mechanisms available under Indonesian law. The research employs a normative legal method with statute and case approaches, analyzing primary and secondary legal materials through systematic and teleological interpretation. The findings reveal a fundamental legal vacuum (*rechtvacuum*) in Indonesian law. The Copyright Law, Electronic Information and Transactions Law, and Personal Data Protection Law provide only partial and fragmented protection, as none explicitly recognizes image rights or the right of publicity as an independent legal right. Civil redress relies primarily on Article 1365 of the Civil Code concerning unlawful acts, covering both material and immaterial damages, yet it faces significant evidentiary challenges related to digital forensics. This study concludes that comprehensive legal reform is urgently needed, encompassing amendments to existing laws and the enactment of a dedicated artificial intelligence regulation that explicitly protects digital identity rights.

INTRODUCTION

The development of artificial intelligence (AI) technology in recent years has had a significant impact on various aspects of life, including the world of digital advertising. One of the phenomena that has emerged as a result of this development is deepfake technology, an AI-based manipulation technique that enables the creation of audio-visual recordings that realistically depict a person's face, gestures, or voice (Santika Erlina Fury, 2024). The use of deepfake technology in commercial advertising has begun to generate new legal problems, particularly when the public image of public figures is used without permission for the promotion of products or services. Such cases have caused public concern because they affect

aspects of a person's reputation, privacy, and economic rights, all of which should be protected by law.

In the context of Indonesian law, image rights as part of personality rights have not yet been comprehensively regulated. Law Number 28 of 2014 concerning Copyright protects expressive works such as portraits or photographic works but does not recognize the right to a person's face or identity in its entirety as an object of legal protection. Meanwhile, Law Number 11 of 2008 concerning Electronic Information and Transactions and its amendments prohibits the distribution of manipulative content or content that violates privacy; however, these provisions remain general and do not explicitly recognize image rights as an independent right. Consequently, the practice of image manipulation through deepfake technology in commercial advertising does not yet have a specific legal basis within the Indonesian legal system.

The use of deepfakes involving the public image of public figures in commercial advertising has become increasingly urgent, especially considering the cases that have occurred in Indonesia. The circulation of online gambling promotion advertisements using AI technology to manipulate the voices and appearances of well-known figures such as Najwa Shihab, Raffi Ahmad, and Atta Halilintar, as well as giveaway scams on social media in which fraudsters used deepfake technology to imitate Baim Wong's face and voice through video calls to deceive victims into transferring money to fraudulent accounts, demonstrate the growing misuse of this technology (Saputra Rizky Irawan, 2024). AI-driven fraud has become increasingly widespread in Indonesia, with deepfake methods creating fake photos, videos, or audio recordings to convince victims to transfer money or disclose personal data. These cases illustrate the real impact of deepfake technology in commercial advertising, which has generated public anxiety because it affects reputation, privacy, and economic rights.

The absence of norms expressly regulating image rights creates a legal vacuum (*rechtvacuum*). When the public image of a figure is used without consent through deepfake technology, there is no positive legal instrument that can directly serve as a basis for protection. In practice, victims are often limited to pursuing civil remedies through Article 1365 of the Civil Code concerning unlawful acts or Article 1372 of the Civil Code concerning compensation for defamation (Azzahra Tul'Jannah Ihsan, 2024). However, these provisions are general in nature and remain inadequate to address the complexities arising from the use of deepfakes, particularly regarding digital evidence, immaterial losses, and the economic value of image rights themselves.

From an evidentiary perspective, the use of *Bewijstheorie* theory is relevant because infringements of image rights through deepfakes involve electronic evidence that may itself be manipulated. The primary challenge lies in proving the involvement of the perpetrator, the authenticity of the data, and the causal relationship between the act of manipulation and the losses suffered by the public figure. This condition demonstrates that existing legal instruments are inadequate in providing effective legal protection for victims of AI-based image abuse (Sudikno Mertokusumo, 2009).

The novelty of this research lies in three aspects. First, this study conducts an integrative analysis of three legal frameworks—the Copyright Law, the Electronic Information and Transactions (ITE) Law, and the Personal Data Protection Law—to identify structural legal gaps in the protection of image rights. Second, this study examines in depth the mechanism of

civil compensation claims based on Article 1365 and Article 1372 of the Civil Code, including the challenges of digital evidence in the context of deepfakes. Third, this study formulates comprehensive legal reform recommendations, including revisions to the ITE Law, such as prohibitions on identity exploitation, watermarking obligations, and notice-and-takedown mechanisms, as well as revisions to the Copyright Law to recognize the right of publicity. This integrative approach and these concrete recommendations have not been comprehensively addressed in previous studies.

This situation highlights the urgent need for a juridical review of the protection of public figures' image rights in the context of the use of deepfake technology for commercial purposes. This study is important to assess the extent to which the applicable legal norms, including those contained in the Copyright Law, the Electronic Information and Transactions Law, and the Civil Code, can provide effective legal protection, while also identifying regulatory gaps that require the establishment of new norms or the formulation of special legislation in the future.

Based on the foregoing, this study formulates two main research problems. First, how are the image rights of public figures legally protected when manipulated through deepfake technology for commercial advertising purposes? Second, how can public figures file civil compensation claims against parties who use their images through deepfakes in commercial advertising without permission.

RESEARCH METHODS

This research employs a normative juridical legal research method that positions law as a normative system within statutory regulations, with the objective of analyzing legal protection for the image rights of public figures against the use of deepfakes in commercial advertising. Normative legal research is conducted through the examination of primary and secondary legal materials in order to identify relevant legal principles, norms, and arguments. The approaches used in this study are the statute approach and the case approach.

The statute approach is carried out by examining laws and regulations related to the legal issues under study. Through this approach, the researcher analyzes the legal norms contained in various regulations and assesses their suitability, relevance, and adequacy in addressing existing legal problems. The second approach applied is the case approach. In this study, the case approach is not used to analyze court decisions with permanent legal force, as there have been no court decisions in Indonesia that specifically address cases of deepfake exploitation in commercial advertising. This condition itself constitutes an important finding, as the legal vacuum does not only exist at the normative level but also within judicial practice (Marzuki, Peter Mahmud, 2017). The case approach in this study is therefore used to analyze factual cases that have occurred within society. These cases serve as material to evaluate whether existing legal instruments are capable of providing effective protection and legal remedies for victims.

The legal materials used in this research consist of primary legal materials (statutory regulations), secondary legal materials (books and scientific journals), and tertiary legal materials. The analysis is conducted qualitatively using systematic and teleological interpretation methods in order to produce comprehensive legal arguments regarding the protection of public figures' image rights in the era of artificial intelligence (Sinta Dewi, 2018).

RESULTS AND DISCUSSION

Legal Protection of Public Image Rights of Figures Manipulated through *Deepfake Technology* in Commercial Advertising

The rapid development of artificial intelligence (AI) has given rise to deepfake technology, which technically operates through machine learning, particularly Generative Adversarial Networks (GANs), to create fake audio-visual recordings that are almost indistinguishable from authentic recordings (Wahyu Chandra Saputra and Anis Mashdurohatun, 2022). In the context of commercial advertising, this technology enables any party to create content that appears to depict a public figure promoting a product without obtaining the consent of the person concerned (Belicia Widhyana Yulia Putri, 2025).

This phenomenon has occurred in Indonesia, including the circulation of online gambling advertising content that exploits the voices and faces of well-known public figures such as Najwa Shihab, Raffi Ahmad, and Atta Halilintar, as well as fraud cases involving the use of deepfake technology to imitate Baim Wong's face and voice in order to deceive potential victims (Saputra Rizky Irawan, 2024).

From a legal perspective, the use of such deepfakes affects at least three protected legal interests simultaneously. First is the interest in identity integrity, namely the right of every person not to be falsely represented to the public. Second is the economic interest, namely the right to obtain financial benefits from the commercial value inherent in one's identity. Third is the interest in reputation and honor, which includes the right not to be associated with products or statements that one has never approved (Belicia Widhyana Yulia Putri, 2025). Collectively, these three interests form the substance of what modern legal doctrine recognizes as image rights.

Image rights constitute one component of personality rights, which are rights inherently attached to every individual as a consequence of their existence as a legal subject (Agus Sardjono, 2010). In civil law, personality rights are understood as absolute subjective rights, meaning that they may be enforced against anyone, and as inherent rights, meaning that they cannot be separated from their holders (Dimas Kresna Prayoga and Ibrahim Fikma Edrisy, 2025).

Conceptually, image rights contain two complementary aspects. First is the moral aspect, which relates to the protection of a person's personal integrity, honor, and dignity, and is non-economic and non-transferable. Second is the economic aspect, which relates to the commercial value of one's identity, particularly for individuals who are widely recognized by the public. This aspect reflects a person's right to control, authorize, or refuse the commercial use of their name, face, voice, or other identity attributes (A. A. Respati, 2024).

Legal developments in Indonesia have indirectly recognized the economic aspect of image rights through the doctrine of the right of publicity. This doctrine was first crystallized in the case of *Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc.* (1953), which affirmed that a person possesses an exclusive right to the publicity value of their photographs (Azzahra Tul'Jannah Ihsan, 2024). However, in Indonesia, similar concepts have not yet received explicit normative recognition. As a result, protection of the commercial value of a person's image must rely on other existing legal instruments, despite their limitations.

Law Number 28 of 2014 concerning Copyright defines copyright as the exclusive right of a creator that arises automatically based on the declarative principle once a work has been

realized in tangible form. Within its scope of protection, the Copyright Law explicitly recognizes photographic works and cinematographic works as protected creations. In addition, portraits receive special protection under Article 12 of the Copyright Law, which provides separate protection for the commercial use of portraits.

However, the protection provided by the Copyright Law regarding portraits remains very limited and is incapable of addressing the problem of deepfakes because it only protects photographic works or recordings as media, rather than protecting a person's identity or image as an independent legal subject. Consequently, the use of public figures' faces in deepfake content is not necessarily regarded as copyright infringement but instead falls within the domain of personality rights, which are not explicitly regulated by the law. This condition demonstrates a normative gap, such that legal protection is more appropriately pursued through mechanisms concerning unlawful acts or personal data protection (Otto Hasibuan, 2008).

Deepfake content itself may potentially qualify as a new creation protected under the Copyright Law as a cinematographic work or sound recording owned by the person who created it. This legal paradox exacerbates the protection gap for public figures because, while their image is exploited without permission, the Copyright Law may simultaneously provide legal protection to the perpetrators who create the deepfake content. Therefore, the Copyright Law cannot serve as the primary legal instrument for protecting public figures' image rights from the threat posed by deepfakes in commercial advertising.

Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 on Electronic Information and Transactions constitutes the most relevant legal instrument for addressing problems in the digital sphere, including the dissemination of deepfake content. The Electronic Information and Transactions Law generally defines electronic information as one or a set of electronic data that possesses meaning or can be understood by individuals capable of comprehending it.

In relation to protection against deepfake content, several provisions of the Electronic Information and Transactions Law are directly relevant. Article 27 paragraph (3) prohibits any person from intentionally and unlawfully distributing and/or transmitting electronic information containing insults and/or defamation. This provision is relevant when deepfake content used in advertisements places a public figure in a situation that degrades their dignity or tarnishes their reputation before the public.

Article 28 paragraph (1) of the Electronic Information and Transactions Law prohibits the dissemination of false and misleading information that results in consumer losses. Deepfake-based commercial advertising that implicitly suggests a public figure endorses a product when, in reality, they do not, may qualify as misleading information within the meaning of this provision. Furthermore, Article 26 of the Electronic Information and Transactions Law regulates the protection of personal data within electronic systems, including the prohibition of the use of personal information without the consent of the person concerned.

Nevertheless, the provisions of the Electronic Information and Transactions Law still demonstrate several fundamental limitations. Through a teleological interpretation approach, it can be understood that the primary objective of the Electronic Information and Transactions Law is to regulate electronic information and transactions in general, rather than specifically to protect personality rights from AI-based manipulation (Andi Mattalatta, 2020). These provisions are reactive and repressive in nature, meaning that they can only be applied after the

violation has occurred and primarily within the framework of criminal law. The Electronic Information and Transactions Law does not recognize image rights as an independent civil right and therefore fails to provide a specific civil remedy mechanism for victims. This normative loophole is particularly crucial because individuals whose images are exploited through deepfakes in commercial advertising cannot directly file civil claims for damages solely under the Electronic Information and Transactions Law.

If a systematic interpretation of the Electronic Information and Transactions Law is conducted in conjunction with Law Number 27 of 2022 concerning Personal Data Protection, the available legal protection becomes somewhat stronger. The Personal Data Protection Law broadly defines personal data as any data relating to an identified or identifiable natural person. The law explicitly categorizes biometric data, including facial and voice recordings, as specific personal data subject to stricter protection. Since deepfake technology operates by processing and manipulating a person's biometric data, the Personal Data Protection Law prohibits the processing of such biometric data without the lawful consent of the data subject.

However, the protection provided by the Personal Data Protection Law remains partial. The law primarily focuses on the processing and security aspects of personal data rather than on the commercial exploitation of such data. Furthermore, the sanction system under the Personal Data Protection Law is predominantly administrative and criminal in nature and does not provide a comprehensive civil litigation mechanism for victims of biometric data misuse in advertising activities.

Based on a review of all applicable positive legal instruments, there exists a real and fundamental legal vacuum (*rechtvacuum*) within the Indonesian legal system concerning the protection of public figures' image rights against exploitation through deepfake technology in commercial advertising. This gap is structural because it affects three normative layers simultaneously: (1) there is no juridical definition of image rights or the right of publicity in Indonesian laws and regulations; (2) there is no explicit norm prohibiting the commercial use of a person's image without consent through AI technology; and (3) there is no specific legal mechanism governing dispute resolution and compensation in the context of digital image exploitation (Soedjono Dirdjosisworo, 2010).

Such a condition is clearly inconsistent with the principle of the rule of law (*rechtsstaat*) as mandated by Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Without specific and comprehensive regulations, public figures—and ultimately all citizens—lack legal certainty regarding the protection of their digital identities, while perpetrators of exploitation remain in a relatively secure position against legal sanctions.

A teleological interpretation approach to the Electronic Information and Transactions Law suggests that the existing provisions may be developed through normative reconstruction in order to address the challenges posed by deepfakes. Based on the theory of *Bewijstheorie*, infringements of image rights through deepfakes involve electronic evidence that may itself be manipulated (Edmon Makarim, 2005). The primary challenge lies in proving the involvement of the perpetrator, the authenticity of the data, and the causal relationship between the act of manipulation and the losses suffered by the public figure.

Using the theory of legal responsibility of electronic system operators, as recognized within the doctrine of Indonesian telematics law, parties operating platforms that distribute deepfake advertisements may be held liable if they fail to exercise due diligence regarding the

disseminated content (W. Burhan, 2025). The provisions of Article 27 and Article 28 of the Electronic Information and Transactions Law may, in fact, be broadly interpreted to include deepfake content that harms the reputation of public figures, particularly if judges apply a teleological interpretation that emphasizes the protection of human rights within the digital sphere.

From a law and economics perspective, an analysis of the current provisions of the Electronic Information and Transactions Law demonstrates that the absence of a specific civil compensation mechanism creates opportunities for abuse by perpetrators of digital image exploitation. Perpetrators may obtain economic benefits from commercial deepfakes without facing proportional legal risks because the available civil law instruments remain weak and bureaucratic (A. A. Respati, 2024). Therefore, the normative reconstruction of the Electronic Information and Transactions Law should ideally include provisions expressly regulating: (a) the obligation to apply watermarks to AI-generated synthetic content; (b) the civil liability of digital platforms for harmful deepfake content; and (c) a more effective and responsive notice-and-takedown mechanism (Edmon Makarim, 2020).

Without the establishment of clear legal regulations, this legal vacuum will continue to be exploited. The normative loopholes contained in Article 27 and Article 28 of the Electronic Information and Transactions Law, which do not explicitly regulate deepfakes, create a situation in which law enforcement authorities must rely on excessively broad interpretations that remain vulnerable to legal disputes in court (Andi Mattalatta, 2020). This condition is further exacerbated by the absence of standardized digital forensic procedures within Indonesian civil procedural law to verify the authenticity of deepfake content as evidence (Wahyu Chandra Saputra and Anis Mashdurohatun, 2022).

Mechanism of Civil Damages for Unauthorized Use of Deepfakes in Commercial Advertising

In the absence of civil law norms specifically regulating image rights, the civil law instrument most applicable for public figures seeking compensation is Article 1365 of the Civil Code, which states: “Every unlawful act that causes harm to another person obliges the person who, by fault, causes such harm to compensate for the loss.” This provision constitutes a general principle of civil law designed to provide protection against violations of rights that have not been explicitly regulated by other statutory provisions.

For a claim based on Article 1365 of the Civil Code to be granted, the plaintiff must cumulatively prove the fulfillment of four elements. First, there must be an unlawful act. Following the decision in *Lindenbaum v. Cohen* by the Dutch Hoge Raad in 1919, which became a foundational jurisprudence, the concept of unlawful acts evolved beyond merely violating statutory law (*wetsovertreding*). Unlawful acts also include violations of the subjective rights of others, actions contrary to the legal obligations of the perpetrator, and actions contrary to propriety, due care, and prudence expected within society. The commercial use of deepfakes without consent satisfies at least two of these criteria, namely violating subjective image rights and contravening standards of propriety applicable within the advertising industry.

Second, there must be fault. The element of fault encompasses both intentional conduct and negligence. In the context of the use of deepfakes in commercial advertising, parties producing and distributing such advertisements can generally be presumed to act intentionally,

considering that the creation of deepfake content is not accidental but instead requires a deliberate and carefully planned technical process.

Third, there must be damages. Claims may include material damages (quantifiable economic losses) as well as immaterial damages (non-economic losses such as reputational harm, psychological suffering, and loss of public trust). The determination of immaterial damages is largely left to judicial discretion, which creates difficulties in establishing the amount of compensation because the benchmark depends significantly on the subjectivity of the presiding judge. Nevertheless, Indonesian courts have recognized the possibility of awarding compensation for both forms of damages in cases involving image-related disputes.

Fourth, there must be a causal relationship between the unlawful act and the resulting damages. In civil law, establishing causation is essential in determining liability for unlawful acts. Accordingly, the plaintiff must demonstrate that the damages suffered constitute a direct consequence of the dissemination of the deepfake content by the defendant.

One of the greatest obstacles in civil lawsuits involving deepfakes lies in the evidentiary aspect. Under Indonesian civil procedural law, the burden of proof (*bewijslast*) rests upon the plaintiff (Sudikno Mertokusumo, 2010). The principle of *actori incumbit probatio* requires the plaintiff to actively prove all elements of the claim, including demonstrating that the disputed content constitutes a deepfake, identifying the perpetrator, and establishing a causal relationship between the dissemination of the content and the damages suffered.

With respect to evidence, Article 5 of the Electronic Information and Transactions Law affirms that electronic information and/or electronic documents constitute valid legal evidence before the court. However, the fundamental characteristic of deepfake content, which is technically designed to resemble authentic content, creates a unique evidentiary dilemma. Verification of the authenticity of digital content requires highly specialized forensic expertise, including analysis of digital metadata, detection of inconsistencies in facial pixel movement, video compression analysis, and examination of distinctive Generative Adversarial Networks (GAN) artifact patterns. Expert testimony from digital forensic specialists is therefore crucial and often decisive in determining the outcome of the proceedings (Edmon Makarim, 2020).

In Indonesian civil law, compensation for unlawful acts is principally intended to restore the victim's position to the condition existing prior to the occurrence of the violation (*restitutio in integrum*). This principle is reflected in Article 1365 of the Civil Code, which obliges every person committing an unlawful act to compensate for losses arising from such conduct. In contemporary legal developments, particularly in the digital context, the protection of individual rights, including image rights, has also been reinforced through the Electronic Information and Transactions Law and the Personal Data Protection Law. Article 35 of the Electronic Information and Transactions Law prohibits any person from unlawfully manipulating, creating, altering, deleting, or destroying electronic information with the intention of making such information appear authentic, which in practice may include the misuse of a person's image within digital media.

Furthermore, the Personal Data Protection Law, through Article 12, grants data subjects the right to control the use of their personal data, including facial images and biometric representations, while Article 46 paragraph (1) expressly provides data subjects with the right to file lawsuits and obtain compensation for personal data violations. Within the Copyright Law, although copyright fundamentally protects creative works, Article 96 paragraph (1) grants

creators or rights holders the right to obtain compensation for violations of economic rights, while Article 99 paragraph (1) authorizes the filing of compensation claims before the courts. These provisions indicate that Indonesian law recognizes the existence of economic value attached to creative works or expressions, which may analogously extend to the commercial value of a person's image when used without consent.

Based on this legal framework, the compensation that may be claimed by victims generally falls into two principal categories, namely material damages and immaterial damages. This distinction is important in order to establish clear limitations regarding the types of losses that may be claimed, both economic losses that can be concretely calculated and non-economic losses that, although intangible, are genuinely experienced by the victim.

Material compensation refers to economic losses that can be concretely assessed in monetary terms, such that its fulfillment is intended to compensate for actual losses and lost profits resulting from unlawful acts (Siti Nurhayati, 2019). In Indonesian civil law, material compensation is fundamentally associated with economically measurable losses and is pursued based on Article 1365 of the Civil Code concerning unlawful acts.

However, in the context of violations of image rights that possess economic value and are frequently utilized in commercial activities, these provisions must be interpreted more broadly by considering developments in modern legal doctrine. Article 99 paragraph (3) of the Copyright Law provides that compensation may take the form of the surrender of all or part of the profits obtained from the infringement. This provision demonstrates that material damages are not solely viewed from the perspective of losses suffered by the victim, but also from the profits unlawfully obtained by the perpetrator through unauthorized use of an individual's image. Furthermore, within the digital context, the Electronic Information and Transactions Law, particularly Article 35 and Article 40A, strengthens protection against the unlawful use of electronic information, including digital images.

In practice, material damages arising from violations of image rights encompass all actual and potential economic losses suffered by victims as a consequence of unauthorized image use. Such losses include income that should have been earned, such as endorsement fees or advertising contract values that public figures could reasonably have obtained had the use of their image been conducted lawfully. This demonstrates that the public image of a figure possesses economic value capable of commercial exploitation, such that unauthorized use results in the loss of opportunities to obtain profits categorized as expected gains. In addition, material damages may include expenses incurred to restore reputation, such as the cost of public relations consultants, public clarification efforts, and other communication measures intended to restore public trust, all of which arise directly from unlawful conduct. Material losses may also manifest in the depreciation of the commercial value of a public figure's image as an economic asset, reflected in reduced endorsement rates, diminished collaboration opportunities, and decreased trust among business actors (Apriani, 2021). This condition not only demonstrates the existence of actual losses suffered by victims but also indicates the profits gained by perpetrators through unauthorized image exploitation, thereby making Article 99 paragraph (3) of the Copyright Law concerning the surrender of profits from infringement particularly relevant.

In addition to encompassing the surrender of profits derived from infringement, compensation in the context of image rights violations also includes immaterial damages. This

is consistent with Article 1372 of the Civil Code, which grants individuals the right to seek compensation when they suffer insult or defamation that harms their honor and reputation. This provision illustrates that Indonesian civil law not only protects economic interests but also recognizes harm to individual dignity and honor.

In contrast to material damages, immaterial damages are non-economic in nature and cannot be measured with certainty in numerical terms, although they may significantly affect the psychological and social condition of the victim. In the context of the misuse of deepfake technology, immaterial damages may include embarrassment, humiliation, and the loss of personal dignity, particularly when a victim's face is manipulated into inappropriate, vulgar, or degrading content. Furthermore, victims may experience emotional and psychological distress, including anxiety, depression, and feelings of insecurity due to the dissemination of false content in public spaces or social media. Additional impacts may also arise in the disruption of social relationships within family, professional, and broader community contexts as a result of altered public perceptions toward the victim.

Although immaterial damages are not easily proven, modern legal developments have recognized both their existence and the importance of providing reparation for the suffering experienced by victims. In practice, courts may determine compensation for immaterial damages by considering the degree of psychological and social impact caused. Accordingly, in cases involving violations of image rights, where intentional unauthorized use of images is established, perpetrators may still be held liable for immaterial damages arising therefrom. This is consistent with Article 1372 of the Civil Code, which provides a legal basis for victims to claim compensation for insults or defamation harming their honor and reputation. Consequently, victims of deepfake abuse possess the right to seek restoration of their good name and damaged reputation (Pramukhtiko Suryokencono and Ricky Fakhrusy Isyraq, 2024).

From the perspective of legal protection theory, Philipus M. Hadjon explains that legal protection for individuals consists of two forms: preventive legal protection and repressive legal protection (Philipus M. Hadjon, 1987). Preventive legal protection aims to prevent violations through clear regulations and adequate supervisory mechanisms. In the context of deepfakes, preventive protection may be implemented through obligations to apply watermarks to AI-generated content and requirements to obtain written consent from identity holders prior to the production of commercial content. Conversely, repressive legal protection seeks to provide remedies after violations have occurred, particularly through civil litigation mechanisms under Article 1365 of the Civil Code as previously discussed.

From the perspective of law and economics, this approach utilizes economic analysis to assess the effectiveness of legal rules, particularly in relation to efficiency, costs, and benefits. This perspective views law as an instrument that should direct individual behavior toward producing optimal social benefits while minimizing harm. In the context of compensation for image rights violations, civil liability functions not only as compensation for victims but also as a preventive mechanism designed to deter perpetrators from obtaining economic benefits through unauthorized identity exploitation (Abdul Halim Barkatullah, 2010). If existing civil sanctions fail to create a sufficient deterrent effect, perpetrators of exploitation will continue to possess incentives to utilize deepfakes without permission because the economic benefits obtained substantially outweigh the existing legal risks.

This research recommends legal transformation through revisions to the Electronic Information and Transactions Law and the Copyright Law in order to address the gaps and inadequacies of existing legal norms. These revisions are intended not merely as normative updates but also as efforts to establish safeguards capable of functioning preventively, responsively, and practically within society.

Within the framework of amendments to the Electronic Information and Transactions Law, provisions are required that explicitly prohibit the use of a person's identity within AI-generated content for commercial purposes without valid consent. Such regulation is essential because the prohibition has thus far not been clearly formulated, causing law enforcement to rely upon broad general norms that allow differing interpretations. With explicit prohibitory norms, the distinction between legitimate technological use and conduct violating individual rights becomes clearer, thereby enhancing legal certainty.

In addition to these prohibitions, revisions must also incorporate obligations concerning watermarking. Watermarking refers to a technique of embedding information into digital media with the purpose of indicating the identity or authenticity of content, whether visibly or invisibly within digital data structures (Hendrik Nuryanto, 2021). In the context of artificial intelligence technology, watermarking functions as an indicator that content has been generated or modified through AI systems. Such watermarks may appear in visible forms or as hidden digital codes undetectable to ordinary human perception but identifiable through technical analysis using specific devices or methods. Consequently, watermarking possesses a technical character because it is directly attached to the content itself.

The implementation of watermarking obligations aims to provide clear identification of AI-generated content, facilitate tracking processes, and support evidentiary procedures in legal disputes. In practice, these obligations should not only be imposed upon content creators but must also involve electronic system operators responsible for ensuring that distributed content contains appropriate watermarks. Within this context, electronic system operators include parties that provide, manage, and operate digital systems used to process, store, and disseminate electronic information to the public. Such operators encompass digital platforms including social media services, video-sharing sites, streaming platforms, marketplaces, and websites or applications enabling users to upload and distribute content. Examples include Instagram, YouTube, TikTok, and Facebook, which function as intermediaries for digital content dissemination. These entities occupy strategic positions because they not only provide spaces for dissemination but also possess technical capabilities to supervise, detect, and label AI-generated content. Therefore, in relation to watermarking obligations, electronic system operators must also bear responsibility for ensuring that content circulating within their systems contains clear indicators, either through automatic verification systems or through internal platform policies. In addition, providers of artificial intelligence technology must likewise bear responsibility for integrating automatic watermarking features into system designs.

Furthermore, revisions to the Electronic Information and Transactions Law should also regulate notice-and-takedown mechanisms. Notice-and-takedown refers to a legal procedure enabling victims to report rights-infringing content to digital platforms, after which the platform is required to remove or disable access to the content within a specified period following initial verification. This concept derives from cyber law practices developed internationally and is substantively reflected in Indonesian regulations concerning the

obligations of electronic system operators to respond to reports of unlawful content (Moch. Dani Pratama Huzaini, 2020). This mechanism is intended as a rapid and effective form of legal protection, considering the rapid dissemination characteristics of digital content and the potential for escalating harm if such content is not promptly addressed.

In order for this protection mechanism to operate effectively, victims must be provided with accessible and efficient reporting channels, either through reporting features available on digital platforms or through relevant government institutions such as the Ministry of Communication and Information Technology as the supervisory authority over the digital sphere. Accordingly, although the term notice-and-takedown is not explicitly recognized within Indonesian positive law, both its concept and mechanism have been indirectly adopted through the practice of unlawful content removal conducted by electronic system operators. Thus, notice-and-takedown mechanisms function not only as instruments of law enforcement but also as preventive mechanisms against the widespread negative consequences of technological abuse.

In addition to revisions to the Electronic Information and Transactions Law, strengthening the Copyright Law is also necessary, particularly concerning the economic dimension of personal identity. In this regard, the concept of the right of publicity should be expressly incorporated into Indonesian legal regulation. The right of publicity refers to an individual's right to control and derive economic benefits from the use of their personal identity, including their name, face, and voice (Belicia Widhyana Yulia Putri, 2025). This concept differs from copyright, which protects works as products of creative expression, because the right of publicity specifically concerns the economic value attached to individual identity.

The incorporation of this concept is essential because, in practice, technological abuses such as deepfakes are more closely related to the exploitation of personal identity than to infringements of copyrighted works. Without explicit regulation concerning identity rights, legal protection remains inadequate. Through recognition of the right of publicity, individuals would possess a clear legal basis to control the use of their identities and to seek remedies against unauthorized use. Moreover, the implementation of this concept provides broader protection not only from an economic perspective but also in safeguarding reputation, personality, and human dignity while preventing identity misuse in commercial contexts within the digital era.

Accordingly, revisions to both laws aim to establish a more comprehensive legal protection system consistent with technological developments. Regulations encompassing prohibitions against identity exploitation, transparency obligations through watermarking, and rapid protection mechanisms through notice-and-takedown procedures are expected to provide legal certainty while simultaneously ensuring effective protection of public image rights. This approach further affirms that law functions not merely as an instrument of enforcement but also as a mechanism capable of anticipating and regulating the impacts of future technological developments.

CONCLUSION

Based on the results of the analysis of the two formulated research problems, several conclusions may be drawn.

First, the legal protection of public figures' image rights against manipulation through deepfake technology in commercial advertising has not yet received adequate recognition within Indonesia's positive legal system. The Copyright Law only protects mediums of expression such as photographs and cinematographic works, rather than protecting a person's identity as an independent legal subject, and may even paradoxically provide legal protection to perpetrators for the deepfake content they create. The Electronic Information and Transactions Law is reactive and repressive in nature and does not recognize image rights as an independent civil right. Meanwhile, the Personal Data Protection Law, although covering biometric data, focuses primarily on data processing aspects and does not provide a specific mechanism for protection against the commercial exploitation of such data. This condition results in a structural legal vacuum affecting three normative layers simultaneously: the absence of a juridical definition of image rights, the absence of explicit norms prohibiting the commercial use of a person's image through AI technology without consent, and the absence of a specific dispute resolution mechanism for cases involving digital image exploitation.

Second, the mechanism for claiming civil compensation currently available to public figures primarily relies on Article 1365 of the Civil Code concerning unlawful acts, which requires the cumulative proof of four elements: the existence of an unlawful act, fault, damages, and a causal relationship. The damages that may be claimed include material damages, such as the loss of endorsement contract value, reputational restoration costs, and the depreciation of the commercial value of one's image, as well as immaterial damages in the form of psychological distress, loss of honor, and reputational harm pursuant to Article 1372 of the Civil Code. Nevertheless, this mechanism faces significant obstacles, particularly in relation to digital evidence, which requires specialized forensic expertise, the subjectivity of judges in determining the amount of immaterial damages, and the absence of standardized procedural law governing the verification of deepfake content as evidence.

Based on these findings, it can be concluded that legal protection of image rights in the context of deepfake exploitation remains inadequately regulated under Indonesian positive law. Therefore, this study recommends legal transformation through revisions to the Electronic Information and Transactions Law and the Copyright Law. The revision of the Electronic Information and Transactions Law should explicitly regulate the prohibition of non-consensual identity exploitation, establish watermarking obligations for AI-generated content, and implement effective notice-and-takedown mechanisms in order to provide prompt protection for victims. Meanwhile, revisions to the Copyright Law should accommodate the concept of the right of publicity as an independent legal right aimed at protecting the economic value inherent in personal identity. Through these reforms, the legal system is expected to become clearer, more effective, and more responsive to technological developments. In addition, further research through comparative studies of artificial intelligence regulations in various jurisdictions is necessary in order to formulate a regulatory model that aligns with the legal system and societal values prevailing in Indonesia.

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