



E-ISSN:  
2721-13988

PROCEEDINGS OF THE INTERNATIONAL CONFERENCE OF GRADUATE  
SCHOOL ON SUSTAINABILITY (ICGSS)

10<sup>th</sup> International Conference on Sustainability (ICoS10)

University of Merdeka Malang, November 15, 2025

<https://jurnal.unmer.ac.id/index.php/icgss>

# Legal Protection of Face and Voice as Copyrightable Objects in the Era of Deepfake Technology: A Comparative Analysis between Denmark and Indonesia from the Perspective of *Ius Constituendum*

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## Abstract.

The use of Artificial Intelligence (AI) to create hyper-realistic manipulations of images, videos, or audio recordings, and to alter visual and auditory content to produce synthetic media, has given rise to a new form of digital identity imitation that threatens privacy, personal dignity, and the integrity of public information. In response, Denmark has taken an innovative legal approach by proposing amendments to its copyright law that explicitly recognize an individual's face and voice as protected elements under copyright. This article analyzes the legal mechanisms introduced by the Danish government regarding the copyright protection of facial and vocal identity and compares them with Indonesia's Law Number 28 of 2014 on Copyright. The research employs a normative juridical method, emphasizing both a conceptual and a comparative approach to gain a broader perspective on the matter. The comparison of Indonesia's and Denmark's copyright laws reveals a significant legal gap. This disparity highlights the urgent need for Indonesia to follow Denmark's example by revising its Copyright Law on the basis of the *ius constituendum* principle as a foundation for legal reform. Considering the challenges of the global digital era, Indonesia's legal framework must evolve to provide comprehensive protection for digital identity.

**Keywords:** Artificial Intelligence, Copyright, Deepfake, Denmark, *Ius Constituendum*.

## 1. Introduction

The development of Artificial Intelligence (AI) in recent years has advanced rapidly, driven by progress in computing technology, the abundance of data in the form of text, images, and videos on the internet, and various platforms that support AI system training for continuous innovation. Alongside improvements in algorithm design, AI has evolved beyond being merely an analytical tool into a system capable of autonomously generating new content. One of the most notable innovations emerging from this progress is deepfake technology (Abbas & Taeihagh, 2024).

According to Cloud Computing Indonesia, the term deepfake combines "deep learning" and "fake," referring to the use of Artificial Intelligence (AI) to create hyper-realistic synthetic images, videos, or audio recordings, or to manipulate visual and audio content in ways that make individuals appear to say or do things they never actually did (Puspita, 2024). This technology first appeared around 2017 and has since evolved rapidly, becoming increasingly sophisticated in replicating facial features and voices in videos. Due to its realism, it is often difficult for the general public to distinguish between authentic and fabricated content (Khusna & Pangestuti, 2019). The extraordinary capability of deepfakes to convincingly manipulate audiovisual media raises serious concerns about their implications for public trust, media



E-ISSN:  
2721-13988

manipulation, and privacy (Boediman, 2023). From an AI ethics perspective, the manipulation of AI for such purposes constitutes a deliberate misuse of information technology, regardless of explicit malicious intent (Kim & Im, 2024).

In response to this issue, in June 2025, Denmark took an innovative legal step by proposing an amendment to its Copyright Act that explicitly recognizes an individual's face and voice as protected under copyright law. This legislative innovation aims to prevent the unauthorized use of personal characteristics such as facial features and voice in AI-generated deepfake content. By acknowledging facial and vocal features as copyright-protected subjects, Denmark seeks to establish clearer ownership rights over digital identity and provide individuals with stronger legal recourse against misuse. Danish Minister of Culture Jakob Engel-Schmidt emphasized before parliament that this amendment conveys a strong message: every person has the right to their own body, facial features, and voice, against generative AI that imitates them in images, videos, or sounds. This proposal received support from 9 of 10 members of the Danish Parliament and is scheduled for discussion in late 2025, with implementation expected in early 2026 (Bryant, 2025).

In contrast, Indonesia's legal framework, specifically Law No. 28 of 2014 on Copyright, regulates the rights and obligations related to intellectual creations in the fields of science, art, and literature. The law defines copyright as an exclusive right granted to creators or copyright holders to publish, reproduce, or authorize others to use their works. It encompasses various creative outputs, including books, music, paintings, films, software, and architecture (Prasetyo, 2022).

According to Philip M. Hadjon's theory of legal protection, the concept encompasses legal measures and mechanisms designed to safeguard the rights of individuals and society at large, ensuring justice, security, and equality before the law (Bediona et al., 2023).

Within legal theory, two foundational principles exist: *ius constitutum* (the current positive law) and *ius constituendum* (the ideal law to be established in the future) (Saputra, 2024). In the context of AI misuse—particularly through deepfake technology—*ius constitutum* in many countries, including Indonesia and even within Europe, fails to provide adequate legal protection against unauthorized use of human facial and vocal likenesses. Denmark's proposed amendment, which seeks to grant copyright protection over personal facial and vocal attributes, embodies the principle of *ius constituendum*. This initiative represents a progressive legal response to digital-era challenges by expanding the scope of intellectual property protection to encompass aspects of personal identity previously unregulated. By recognizing facial and vocal likenesses as protected subjects akin to original creative works, the Danish proposal introduces a new paradigm in copyright law that is more adaptive to the risks posed by AI-driven manipulation, including deepfakes.

Therefore, this article aims to analyze the legal protection mechanisms for individuals' facial and vocal attributes as copyrightable objects in relation to the use of Artificial Intelligence (AI) deepfake technology under Denmark's proposed Copyright Act amendment, and to examine the comparative regulatory framework for facial and vocal protection within Indonesia's Copyright Law.



## 2. Method

This study employs a normative juridical research method using a conceptual approach to analyze the fundamental ideas surrounding the protection of an individual's face and voice as objects of copyright within the context of deepfake technology development. In addition, the research is grounded in the principle of *ius constituendum* and applies a comparative approach to provide normative recommendations for reforming Indonesia's copyright law, with reference to Denmark's proposed amendments to its Copyright Act as a comparative model.

## 3. Result and Discussion

### 3.1 Protection Mechanisms for the Face and Voice of Individuals as Copyright Objects in Responding to the Use of Artificial Intelligence (AI) Deepfake Technology According to the Proposed Amendments to the Danish Copyright Act

Denmark has taken a pioneering step to strengthen its Copyright Act by proposing amendments to protect its citizens from AI-generated deepfakes that replicate their facial likeness, voices, or physical attributes without their consent. If enacted, this amendment would mark the first legal innovation in Europe to recognize personal physical identity characteristics as a form of intellectual property in the age of AI-driven deepfake technology (Willige, 2025).

The background of this legislative initiative dates back to June 3, 2024, when the Danish Parliament agreed on guidelines governing the use of AI in political activities, particularly the use of images and audio in deepfake technologies by parliamentary parties. As one of the latest developments in AI, capable of manipulating hyper-realistic videos, audio, and images through algorithmic processing, deepfakes, amplified by the speed and reach of social media, can rapidly spread to millions of people, facilitating widespread deception on a global scale (Mustak et al., 2023).

Subsequently, on June 26, 2025, the Danish Minister of Culture, Jakob Engel-Schmidt, introduced the Draft Proposal for an Act to Amend the Danish Copyright Act (*UDKAST Forslag til Lov om ændring af lov om ophavsret*), which imposes strict limitations on the misuse of AI-generated deepfake content. The proposed law is scheduled to take effect on March 31, 2026, pending parliamentary approval (Prada, 2025).

The Draft Proposal for the Amendment of the Danish Copyright Act introduces legal protection against the unauthorized digital imitation of an individual's facial features, body, or voice, regardless of their public status. This draft represents an innovative shift from traditional copyright regulations, which typically protect original creative works of intellectual property toward explicitly recognizing facial, vocal, and bodily features as elements of personal identity that fall within the domain of intellectual property protection (Habbine, 2025).

Key provisions in the proposed Amendments to the Danish Copyright Act are:

#### a) Legal Protection of Personal Physical Characteristics: Face and Voice for Artists and Performers

Section 8 (Article 65a) introduces new legal protection for artists and performers, specifically addressing the risk of digital reproduction of their performances through artificial intelligence. The first paragraph of this article stipulates that digitally generated realistic imitations of an artist's or performer's work may not be made publicly available without the prior consent or authorization of the artist or performer. This provision



prohibits the public distribution of realistic digital imitations of an artist's performance, such as acting, singing, or expressive facial or bodily gestures, without explicit consent from the artist or performer.

Furthermore, the draft law introduces a Post-Mortem Right, ensuring that the protection of digitally realistic imitations continues for 50 years after the death of the artist or performer, thereby granting heirs the authority to control the digital use of the artist's image and performances posthumously. The provision also allows the withdrawal of previously granted consent, ensuring that artists and their heirs retain full control over the use of their likenesses. Moreover, the burden of proof lies with the party distributing the digital content, who must demonstrate that valid consent was obtained. This reversal of the usual burden of proof is a significant innovation, strengthening individuals' legal position against the potentially exploitative use of AI-generated deepfakes.

**b) Legal Protection of Personal Physical Characteristics: Face and Voice for All Individuals**

Section 10 (Article 73a) expands legal protection to all individuals, covering personal physical characteristics such as gestures, voices, and facial features from deepfake imitation. This article prohibits the publication of any realistic digital imitation of an individual's personal or physical characteristics without that individual's explicit consent. Such protection is crucial given the increasing accessibility of deepfake technologies that can manipulate gestures, facial features, and voices for deceptive or defamatory purposes.

However, the draft law includes exceptions for digital imitations created as caricature, parody, satire, social commentary, or pastiche (a form of artistic work visual, literary, musical, or architectural) that imitates the style or character of another work as homage or critique provided that the imitation does not constitute misleading disinformation, defamation, hoaxes, or serious harm to the rights or interests of the person depicted. These exceptions are designed to safeguard freedom of expression as protected under Article 10 of the European Convention on Human Rights. This article also grants a Post-Mortem Right of 50 years to all individuals over their personal identity after death (Lambertus, 2025).

**c) Extension of Legal Protection for Personal Physical Characteristics: Face and Voice to Foreign Nationals**

Section 19 (Article 86a) extends the protection against the imitation of personal characteristics under Article 73a beyond Danish citizens to include foreign nationals. This provision ensures that copyright protection maintains extraterritorial applicability whenever deepfake content is distributed through platforms or media under Danish jurisdiction. In an era when digital content transcends national borders, this provision guarantees that any individual, regardless of nationality, can seek legal recourse under Danish law if their personal characteristics are digitally imitated, manipulated, or exploited within Denmark's digital sphere. This progressive step reinforces the broader notion that digital identity is a universal human concern, not merely a domestic legal issue.

The broader implications of the proposed amendments to Denmark's Copyright Act also extend to the implementation of the European Union's Digital Services Act (DSA), which mandates that digital platforms take prompt action against illegal content. Under the DSA, platforms that fail to remove unlawful material after receiving notification may face financial penalties. Although sharing illegal deepfake content will not result in criminal



E-ISSN:  
2721-13988

sanctions, such as fines or imprisonment, offenders may still be subject to civil liability and compensation claims under Denmark's general legal framework. It is important to note, however, that the scope of protection provided by the proposed bill remains territorially limited to Denmark, meaning that illegal content could still be accessible from outside the country, even if it is blocked for users accessing platforms within Danish jurisdiction (Kromann, 2025).

As of the summer of 2025, the legislative process for the proposed amendment remains in the consultation stage. During this phase, legal scholars, industry stakeholders, academic institutions, and members of the public are invited to provide input on the draft text. This stage ensures transparency and public oversight, allowing diverse perspectives to be considered, particularly in light of emerging technologies such as AI-generated deepfakes and digital identity impersonation. Following the consultation period, the bill is expected to be formally submitted to the Danish Parliament in October 2025, with its implementation scheduled for March 31, 2026, pending parliamentary approval.

In conclusion, Articles 65a, 73a, and 86a represent a landmark innovation in Danish copyright law, marking a shift from the traditional protection of creative works toward a modern legal framework that recognizes the intrinsic value and vulnerability of personal identity in the digital age. By granting legal recognition and ownership rights over an individual's face and voice, Denmark not only safeguards individuals from technological exploitation but also reinforces the principle of human dignity in an era increasingly shaped by artificial intelligence and digital manipulation. This legislative innovation may serve as a model for other nations seeking to harmonize intellectual property law with the emerging threats to digital identity posed by AI-generated deepfakes.

### **3.2 Regulatory Protection of Individual Faces and Voices in the Context of Deepfake Technology under Indonesia's Copyright Law and Its Comparison with Denmark's Regulation**

Indonesia enforces Law Number 28 of 2014 on Copyright, which governs the rights and obligations related to intellectual creations in the fields of science, art, and literature. The law defines copyright as an exclusive right granted to the creator or copyright holder to publish or reproduce their work, or to authorize others to do so. This legislation covers a wide range of creative works, including books, music, paintings, films, software, architectural designs, and more.

According to Article 1 paragraphs (1), (2), and (3) of the Law No. 28 of 2014 concerning Copyright, the definition of copyright is as follows: "(1) Copyright is the exclusive right of a creator that arises automatically based on the declarative principle once a work is realized in tangible form, without prejudice to limitations stipulated by legislation; (2) A creator is an individual or a group of individuals who, independently or jointly, produce an original and personal work; (3) A work is any intellectual creation in the fields of science, art, and literature, produced through inspiration, thought, imagination, dexterity, skill, or expertise that is expressed in a tangible form."

The Indonesian Copyright Law recognizes three categories of exclusive rights: Moral Rights, Economic Rights, and Related Rights (Puspasari, 2022). The law stipulates that protected works must be original and expressed in tangible form. Ideas or concepts that have



not been embodied in a physical or digital medium are not protected under copyright law. To qualify for protection, a work must be original, novel, and distinct from existing works. Copyright arises automatically once an idea has been materialized into a tangible expression (Tim, 2022).

According to Article 12 paragraph (1), the forms of works protected under the Copyright Law include: (a) books, computer programs, brochures, and other written works; (b) lectures, speeches, addresses, and similar creations; (c) teaching aids created for educational or scientific purposes; (d) songs or music, with or without lyrics; (e) dramas, musical plays, dances, choreography, wayang (shadow plays), and pantomimes; (f) visual artworks such as paintings, drawings, sculptures, calligraphy, carvings, collages, and applied arts; (g) architecture; (h) maps; (i) batik art; (j) photography; (k) cinematography; and (l) translations, interpretations, adaptations, anthologies, databases, and other derivative works.

Based on the description of Exclusive Rights, the range of protected creative works, and the duration of legal protection for such creations, it can be concluded that personal physical characteristics such as facial features and voice are not included as objects of copyright protection. Under current copyright law, gestures, facial expressions, and voice are not considered creative works within the scope of artistic or scientific creations. The face and voice are considered integral elements of an individual's personal identity. Therefore, digital imitation, manipulation, or falsification of a person's face and voice through Artificial Intelligence (AI) Deepfake technology cannot be prosecuted under copyright law, as an individual's face and voice do not constitute creative works that may give rise to copyright infringement.

This situation raises serious concerns, particularly in the context of media and journalism, given the potential of deepfake technology to disseminate misleading or deceptive information in a highly convincing manner (Putra et al., 2024). The absence of explicit provisions in copyright law protecting image or voice rights, and the lack of a mechanism granting individuals exclusive rights over their facial and vocal likeness, have created a significant legal vacuum.

Although the legal protection of face and voice may fall under broader legal doctrines such as the right to privacy and personal data protection, as regulated in the Law on Electronic Information and Transactions (ITE) and further elaborated in Government Regulation No. 71 of 2019 on the Implementation of Electronic Systems and Transactions (PP PSTE), these provisions remain largely informal and insufficiently comprehensive. They have yet to adequately address the emerging challenges posed by rapid technological advancements (Ahmad et al., 2025). Particularly in providing protection against and preventing the misuse of Artificial Intelligence (AI) Deepfake technology, especially when used for political disinformation, hate speech, non-consensual pornography, defamation, hoaxes, or other forms of character assassination that may harm or demean an individual's dignity.

In this context, the principle of *ius constituendum*, which refers to the law as it ought to be, provides a normative foundation for addressing the existing legal deficiencies. Under this principle, legal analysis shifts from the existing state of the law (*ius constitutum*) to the ideal form of the law that should evolve to respond to society's needs, both now and in the future (Pranata & Layang, 2023). Therefore, it is essential to develop new legal norms that fill this gap and protect biometric data and personal identity in the era of digital identity imitation enabled by Artificial Intelligence (AI) Deepfake technology.



AI-based Deepfake technology is at the forefront of online video disinformation, and if left unregulated, it could have profound implications for journalism, civic competence, and the overall quality of democracy. Empirical studies have provided evidence of the deceptive power of deepfakes, demonstrating that visual images are far more persuasive than textual information and that citizens possess relatively weak defenses against such visual deception. Consequently, the potential for malicious actors to mass-produce and rapidly disseminate deepfakes poses one of the most serious challenges to the authenticity of political information online (Vaccari & Chadwick, 2020).

A responsive application of the *ius constituendum* principle is evident in the proposed amendments to Denmark's Copyright Act, which represent an innovative legal shift. The Danish draft bill moves beyond the traditional copyright framework, typically limited to protecting original intellectual and creative works, by explicitly recognizing facial features, voice, and bodily characteristics as elements of personal identity that fall within the domain of intellectual property protection.

Using Denmark's legislative initiative as a comparative benchmark, Indonesia could develop and adopt a similar legal standard. This may include recognizing biometric identifiers, such as facial and vocal likenesses, as protectable elements under copyright law, or alternatively, establishing a specialized legal framework for digital identity protection by revising the Personal Data Protection Law and the Electronic Information and Transactions Law (ITE Law).

Such a development would not only serve as a responsive measure against technological misuse but also demonstrate a proactive commitment to human dignity and privacy protection. Therefore, guided by the principle of *ius constituendum*, reforming Indonesia's copyright regime constitutes an essential step toward ensuring legal certainty and safeguarding personal identity in the digital era.

#### 4. Conclusion

The comparison between Indonesia's Copyright Law and Denmark's reveals a significant legal gap. Denmark has demonstrated a swift and forward-thinking response by proposing innovative amendments to its Copyright Act, specifically aimed at protecting its citizens from the growing threats posed by Artificial Intelligence (AI) Deepfake technology. This legislative change reflects a heightened awareness of the risks associated with digital identity imitation, defamation, and the unauthorized use of biometric data such as facial and vocal likenesses. Denmark's approach exemplifies a proactive legal system that adapts to technological advancements while upholding human dignity and protecting personal identity.

In contrast, Indonesia has yet to respond adequately to the rapid evolution of AI and deepfake technology. Despite their increasing sophistication and potential to cause harm through digital falsification, identity manipulation, and reputational damage, Indonesia's current legal instruments do not sufficiently address these emerging issues. The Indonesian Copyright Law does not recognize facial or vocal likenesses as objects eligible for copyright protection or any other form of legal safeguarding.

This legal gap underscores the urgent need for Indonesia to emulate Denmark's initiative by revising its Copyright Law on the basis of the principle of *ius constituendum* as a foundation for legal reform. Given the challenges of the global digital landscape, Indonesia's copyright



E-ISSN:  
2721-13988

framework must evolve to encompass comprehensive protection of digital identity. This can be achieved through several key measures: 1) Amending the Copyright Law to recognize personal characteristics such as facial and vocal likenesses as protected copyright objects or, at minimum, as unique identifiers that ensure individual rights; 2) Revising the Personal Data Protection Law to explicitly include the misuse of facial and vocal data by AI Deepfake technology; and, 3) Updating the Electronic Information and Transactions Law (ITE Law) to incorporate provisions addressing digital imitation, digital manipulation, and identity-based cybercrimes generated through AI technologies.

Such legal reforms are essential not only to bridge Indonesia's regulatory gap with more responsive jurisdictions such as Denmark but also to safeguard the rights, privacy, and reputational integrity of Indonesian citizens in an increasingly AI-driven world.

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E-ISSN:  
2721-13988

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10<sup>th</sup> International Conference on Sustainability (ICoS10)

University of Merdeka Malang, November 15, 2025

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