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DIGITAL DEATH AND SUCCESSION: REFORMING INDIAN SUCCESSION LAW FOR THE DIGITAL AGE

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ABSTRACT

Death no longer terminates a person's presence in the world; it merely relocates it. Bank balances, cryptocurrency wallets, monetised YouTube channels, cloud-stored photographs, domain names and social media profiles all survive the biological event that the law calls "death," yet Indian succession law has almost nothing to say about them. The Indian Succession Act, 1925 and the Hindu Succession Act, 1956 were drafted for a world of land, jewellery and government bonds, and continue to be applied, largely by extension and analogy, to assets that exist only as strings of data on servers owned by private, often foreign, corporations. This paper examines the legislative vacuum surrounding "digital death" in India, traces the halting judicial attempts to fill that vacuum, situates the problem within the constitutional guarantees of privacy under Article 21 and property under Article 300-A, and undertakes a comparative study of the fiduciary-access model in the United States, the universal-succession model in Germany, and the nomination-based model recently introduced by the Digital Personal Data Protection Act, 2023. It concludes that nomination alone cannot substitute for succession, and it proposes the architecture of a dedicated Digital Estates and Succession Act for India.

I. INTRODUCTION

The law of succession is, at bottom, a law about continuity — about what happens to a person's economic and expressive life once that person can no longer speak for it. For most of legal history, the objects of succession were tangible: land, livestock, coin, jewellery, and later, shares and

government securities. The Indian Succession Act, 1925[1] and the Hindu Succession Act, 1956[2] were built on precisely this assumption. Both statutes speak of "property" in broad, ostensibly inclusive terms, but the machinery surrounding that word — probate, letters of administration, intestate succession tables, valuation for succession certificates — was engineered for assets that could be located, seized, appraised and physically handed over.

That assumption no longer holds. India has, by one recent count, over one billion internet users, more than fifteen million KYC-verified holders of virtual digital assets, and a creator economy that sustains millions of livelihoods through monetised digital platforms. A person's digital footprint today routinely includes cryptocurrency and non-fungible tokens, monetised social media and YouTube accounts, domain name portfolios, cloud-stored photographs and manuscripts, subscription-based digital libraries, and email accounts that function as the de facto index of a modern life. When such a person dies, two parallel legal events occur. The first is well understood: the law of succession determines who inherits the deceased's property. The second is left almost entirely unaddressed: what becomes of the deceased's digital life, which may hold both significant economic value and irreplaceable sentimental value, but which is locked behind passwords, encryption and the terms of service of private platforms that owe no duty to Indian heirs.

This paper argues that India's succession framework suffers from a structural, not merely technical, gap when it comes to digital assets. Part II conceptualises digital assets and digital death and distinguishes economically significant digital property from purely personal data. Part III examines the existing statutory framework — the Indian Succession Act, the Hindu Succession Act, the Information Technology Act, 2000, and the newly operational Digital Personal Data Protection Act, 2023 — and demonstrates why each, individually and collectively, fails to provide a coherent succession regime. Part IV surveys recent judicial attempts to fill this vacuum. Part V draws comparative lessons from the United States, Germany and the European Union. Part VI situates the problem within the constitutional guarantees of privacy and property. Part VII proposes the essential architecture of statutory reform, and Part VIII concludes.

II. CONCEPTUALISING DIGITAL ASSETS AND DIGITAL DEATH

[1]The Indian Succession Act, 1925, No. 39 of 1925, India Code.
[2]The Hindu Succession Act, 1956, No. 30 of 1956, India Code.

"Digital death" is not a term of art in Indian law, but it usefully captures a phenomenon that the law must eventually name: the moment at which a living user's digital estate becomes an inert, ownerless-seeming mass of data, access to which is controlled not by inheritance law but by the private contractual architecture of the platform that hosts it. Digital assets fall broadly into two overlapping categories. The first is economically significant digital property with a clear market value — cryptocurrency and other virtual digital assets, non-fungible tokens, domain names, monetised content and advertising revenue streams, digital storefronts, and intellectual property stored or created in digital form. The second is data with predominantly informational, relational or sentimental value — email correspondence, private messages, photographs, cloud backups, and social media activity, much of which also constitutes "personal data" for the purposes of data protection law.

This distinction matters because the two categories raise different legal questions. Economically valuable digital assets sit comfortably, at least in principle, within the traditional conception of "movable property" and ought to devolve upon heirs in the same way as a bank deposit or a parcel of jewellery. Personal or relational data, by contrast, implicates the deceased's own privacy interests, the privacy of third parties who corresponded with the deceased, and the platform's contractual and regulatory obligations — concerns that ordinary succession law was never designed to balance. A coherent digital succession framework must therefore do two things simultaneously: recognise economically significant digital assets as transmissible property, and construct a separate, privacy-sensitive framework for accessing and managing data of primarily personal character. Conflating the two, as much of the current discourse tends to do, produces either an over-cautious regime that denies heirs their economic entitlements or an over-permissive one that treats a lifetime of private correspondence as ordinary inheritable chattel.

III. THE EXISTING INDIAN LEGAL FRAMEWORK AND ITS GAPS

A. The Indian Succession Act, 1925 and the Hindu Succession Act, 1956

The Indian Succession Act, 1925, which governs testamentary and intestate succession for Christians, Parsis, Jews and residuary categories of persons, and the Hindu Succession Act, 1956, which governs Hindus, Buddhists, Jains and Sikhs, together form the backbone of India's inheritance law. Neither statute defines "digital assets," and neither contains a single provision

contemplating passwords, cloud accounts, cryptographic keys or online accounts. Their definitions of property are wide enough, as a matter of pure text, to encompass intangible movable property; courts have long accepted that intangible interests such as shares, intellectual property and contractual rights are inheritable.

The practical difficulty is not conceptual but operational. Even if a cryptocurrency wallet or a monetised YouTube channel is, in principle, "property" capable of being bequeathed or inherited, the Act provides no mechanism by which an executor or administrator can compel a private platform — frequently headquartered outside India and governed by foreign law and foreign terms of service — to grant access. A probate court can direct that a house be handed over to an heir because the house is within the court's territorial reach; it has far weaker tools to compel Apple, Google or a decentralised cryptocurrency exchange to do the same. The result is that heirs are frequently forced to litigate merely to establish a starting point that a physical asset would never require: that the digital asset is "property" at all.

B. The Information Technology Act, 2000

The Information Technology Act, 2000[3] compounds rather than resolves this difficulty. The Act criminalises unauthorised access to computer systems and data, and its provisions on hacking and data theft make no exception for a legal heir seeking to access a deceased relative's account. An heir who obtains a deceased parent's password from a notebook and logs into the parent's email account to retrieve family photographs may, on a literal reading, commit an offence under the Act, notwithstanding that the same heir would face no legal obstacle in opening a locked almirah containing physical photographs. The Act was drafted to regulate electronic commerce, cybersecurity and digital signatures; it was never intended to, and does not, confer any succession rights on heirs or evidentiary standing on executors.

C. The Digital Personal Data Protection Act, 2023

The most recent, and most frequently misunderstood, intervention is Section 14 of the Digital Personal Data Protection Act, 2023[4], which came into force alongside the Digital Personal Data

[3]The Information Technology Act, 2000, No. 21 of 2000, India Code.
[4]The Digital Personal Data Protection Act, 2023, No. 22 of 2023, India Code, § 14.

Protection Rules, 2025 on 14 November 2025.[5] Section 14 permits a "Data Principal" to nominate an individual who may exercise the Data Principal's rights under the Act — including the rights to access, correct and erase personal data — in the event of the Data Principal's death or incapacity, with Rule 13 prescribing the manner of such nomination.

It is tempting, and increasingly common in popular commentary, to describe Section 14 as a "digital will" provision. That description overstates what the section actually does. The DPDP Act is a data-protection statute, not a property statute: its object is to regulate how Data Fiduciaries process personal data, not to determine who owns, or inherits, the economic value locked inside a digital account. Section 14 nomination is best understood, consistently with the Supreme Court's characterisation of nominee rights in other contexts, as conferring authority to act as a custodian or steward of the deceased's data for the limited purposes recognised by the Act — principally, exercising rights of access, correction and erasure — rather than as vesting ownership of the underlying digital asset in the nominee.

This is precisely the distinction the Supreme Court drew, in an entirely different context, in Sarbati Devi v. Usha Devi[6], where it held that a nominee under insurance law does not thereby become the owner of the insurance proceeds, which continue to devolve according to the ordinary law of succession. If the same principle is applied to a Section 14 nominee, then even a data principal who has diligently nominated a family member under the DPDP Act has not thereby resolved who inherits, say, the balance in a cryptocurrency wallet linked to that account; the nominee merely gains procedural standing to interact with the platform, while the underlying entitlement remains governed — or, more accurately, remains ungoverned — by the Indian Succession Act or the Hindu Succession Act. Nomination and succession, in other words, answer two different questions, and India currently possesses only a partial answer to the first and no institutional answer to the second.

D. Movable Property by Extension: The General Clauses Act and the Bharatiya Nyaya Sanhita

In the absence of a dedicated definition, litigants and courts have increasingly reached for the residual, general definition of "movable property" in Section 3(36) of the General Clauses Act,

[5]Digital Personal Data Protection Rules, 2025, r. 13, G.S.R. 846(E) (Nov. 14, 2025).
[6]Sarbati Devi v. Usha Devi, (1984) 1 S.C.C. 424 (India) (holding that a nominee does not inherit property but holds it in trust for the legal heirs).

1897[7], read alongside the definition of property offences in the Bharatiya Nyaya Sanhita, 2023[8], to argue that digital data is inclusively defined as property capable of being possessed, transferred and therefore inherited. This interpretive strategy is doctrinally serviceable — it has, as discussed in Part IV, persuaded at least one court — but it is a workaround, not a framework. It leaves basic questions unanswered: how is a digital asset to be valued for the purposes of a succession certificate; what happens when the deceased's account is held on a server outside India and governed by a foreign law that does not recognise the Indian court's order; and how are competing claims of heirs, platform terms of service, and the deceased's own privacy interests to be reconciled. A definition borrowed from a nineteenth-century interpretation statute cannot, by itself, answer twenty-first century questions of valuation, cross-border enforcement and privacy.

IV. JUDICIAL RESPONSES: COURTS FILLING A LEGISLATIVE VOID

In the absence of legislative guidance, Indian courts have begun, cautiously and inconsistently, to craft answers of their own. Two decisions illustrate both the promise and the limits of judicial improvisation. In In re Estate of Shaishav Dineshbhai Shah[9], the deceased died intestate in Gandhinagar, leaving behind an iPhone and an associated Apple iCloud account containing years of family photographs, videos and voice notes. His widow and daughter, his only Class-I heirs, sought Letters of Administration under Section 278 of the Indian Succession Act specifically to gain authority over the iCloud account. The court held that the existing definition of “property” under the General Clauses Act and the Bharatiya Nyaya Sanhita was broad enough to encompass digital data as movable property, and accordingly permitted the Indian Succession Act to be applied to cloud storage, appointing the daughter administrator of her father's digital estate.

The decision is significant for extending settled succession machinery to a genuinely new class of asset, but it also illustrates the conceptual conflation identified in Part II. The iCloud account in that case contained overwhelmingly personal and sentimental material — photographs, videos, voice notes — rather than assets with independent market value. The court's order effectively equated a right to administer an estate with a right to access the deceased's most intimate personal

[7]The General Clauses Act, 1897, No. 10 of 1897, India Code, § 3(36).
[8]The Bharatiya Nyaya Sanhita, 2023, No. 45 of 2023, India Code.
[9]In re Estate of Shaishav Dineshbhai Shah, Letters of Administration Petition (Gandhinagar Civil Court, 2025) (permitting digital inheritance of an iCloud account under the Indian Succession Act, 1925).

data, without separately addressing whether the deceased would have wished such material to be accessible to his heirs, or whether third parties who appeared in those photographs and voice notes retained any privacy interest of their own. Commentators have rightly observed that the ruling could open the door to further applications seeking decryption of cryptocurrency wallets or access to social media and email accounts, without a settled doctrinal basis for distinguishing sentimental from strictly economic digital assets.

The second decision, Rhutikumari v. Zanmai Labs Pvt. Ltd.[10], arose from the Madras High Court and, for the first time in India, classified cryptocurrency as property capable of being held in trust. While the case did not arise directly in a succession context, its holding is doctrinally significant for succession law: if cryptocurrency is property capable of being held in trust, it is difficult to resist the conclusion that it is also property capable of being bequeathed by will or devolving on intestacy. Read together, the Gandhinagar and Madras decisions show Indian courts moving, asset by asset and case by case, toward recognising digital property as inheritable — but doing so through the slow, expensive and unpredictable route of individual litigation rather than through a coherent statutory scheme accessible to every family.

A further, related development concerns the formal validity of wills themselves. Recent High Court rulings recognising the validity of electronically signed wills, building on the earlier procedural acceptance of electronic wills in cases such as Jennifer Roderigues v. Rex Roderigues[11], suggest that Indian courts are also willing to modernise the execution formalities of Section 63 of the Indian Succession Act to accommodate digital signatures, even as the underlying question of what digital assets can be bequeathed through such wills remains unresolved. The persistent judicial insistence, dating back to Clarence Pais v. Union of India[12], on testamentary autonomy as a core value of the Act lends support to the view that a testator's freedom to dispose of digital assets by will should be expressly, rather than merely inferentially, recognised.

[10]Rhutikumari v. Zanmai Labs Pvt. Ltd., (Madras H.C. 2025) (recognising cryptocurrency as property capable of being held in trust).
[11]Jennifer Roderigues v. Rex Roderigues, (2015) (India) (on the procedural recognition of an electronically executed will in probate proceedings). A verified neutral or reporter citation for this decision could not be independently confirmed at the time of writing; the citation should be cross-checked against an official law report or database before formal submission.
[12]Clarence Pais v. Union of India, (2001) 4 S.C.C. 325 (India).

V. COMPARATIVE PERSPECTIVES

A. The United States: Fiduciary Access by Consent

The most influential comparative model is the Revised Uniform Fiduciary Access to Digital Assets Act[13] (RUFADAA), adopted in some form by nearly every American state. RUFADAA creates a layered consent hierarchy: a user's instructions given through an online tool provided by the platform take precedence, followed by instructions in a will, trust or power of attorney, and only in their absence do the platform's own terms of service govern. RUFADAA further distinguishes between the "content" of electronic communications, such as the text of an email, for which the platform may demand a heightened showing of the user's prior consent, and a "catalogue" of communications, such as metadata, for which fiduciary access is more readily granted. This layered, consent-driven structure is attractive precisely because it resolves the privacy-versus-access tension identified in Part II at the level of statutory design, rather than leaving it to case-by-case judicial balancing.

B. Germany: Universal Succession

Germany has taken a markedly different, and more heir-favourable, approach. In its landmark 2018 decision, the Bundesgerichtshof[14] held that a deceased minor's Facebook account, including its private message content, passed to her parents as heirs under the German principle of universal succession, under which an heir steps into the complete legal position of the deceased, including contractual relationships with digital platforms, exactly as they would inherit a diary or a bundle of letters. The German court expressly rejected the platform's argument that its own privacy-protective terms of service, or the correspondence privacy of the deceased's contacts, could override the heirs' statutory right of universal succession. The German model thus treats digital accounts as functionally identical to any other contractual asset in the estate, subordinating platform terms of service and third-party privacy concerns to the heir's succession right — a position considerably more heir-favourable than either the American consent hierarchy or the emerging Indian case law.

[13]Revised Uniform Fiduciary Access to Digital Assets Act, Unif. Law Comm'n (2015, amended 2016).
[14]Bundesgerichtshof [BGH] [Federal Court of Justice] July 12, 2018, III ZR 183/17 (Ger.) (the "Facebook Inheritance Case").

C. The European Union and the United Kingdom

The General Data Protection Regulation[15] notably does not itself address post-mortem data rights, leaving the matter to member states; France and Italy have separately legislated to grant heirs a statutory right to request instructions or data from service providers, while Germany relies on the judicially developed universal succession doctrine described above. In the United Kingdom, tax authorities treat cryptocurrency and other digital content as part of a decedent's estate for inheritance tax purposes, and courts have increasingly recognised crypto-assets as property depending on the degree of possession and control the deceased exercised over them — a pragmatic, asset-by-asset approach broadly similar to the trajectory of recent Indian case law, but arrived at with greater doctrinal consistency.

Three lessons emerge from this comparative survey. First, every mature jurisdiction examined has concluded that economically significant digital assets are inheritable property; the debate in each is not whether but how access should be operationalised. Second, jurisdictions differ sharply on how to reconcile heirs' access with the privacy of the deceased and of third parties — the American model privileges prior consent, the German model privileges universal succession, and the Franco-Italian model creates a distinct statutory right to information. Third, none of these frameworks was created by judicial improvisation alone; each rests on dedicated legislation or, in Germany's case, a doctrinally settled application of an existing civil-law principle. India, by contrast, currently possesses neither a consent hierarchy of the American type nor a universal-succession doctrine of the German type, and is instead relying on individual judges to reason, afresh in each case, from a nineteenth-century definition of movable property.

VI. CONSTITUTIONAL DIMENSIONS: PRIVACY AND PROPERTY AFTER DEATH

Any Indian reform proposal must contend with the constitutional architecture within which it will operate. In Justice K.S. Puttaswamy (Retd.) v. Union of India[16], the Supreme Court held that the right to privacy is an intrinsic part of the right to life and personal liberty guaranteed under Article 21 of the Constitution. In his separate opinion, Sapre, J. observed, in terms frequently invoked in the post-mortem privacy debate, that privacy is born with a human being and is extinguished with

[15]Regulation 2016/679, of the European Parliament and of the Council of 27 April 2016 (General Data Protection Regulation), 2016 O.J. (L 119) 1.
[16]Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1 (India).

that human being[17] — a formulation that, taken literally, would suggest that the deceased retains no continuing privacy interest capable of constraining an heir's access to digital data. Yet Indian law elsewhere recognises interests that survive death in more limited forms: an action for defamation of the deceased may in certain circumstances be maintained by relatives to protect the deceased's reputation, and copyright in an author's work subsists, and can be enforced by the author's legal representatives, for sixty years after the author's death. Post-mortem privacy, in other words, need not be an all-or-nothing proposition; Indian law already accepts that some interests of a deceased person deserve protection even after legal personality itself has ceased.

On the property side, Article 300-A of the Constitution[18] guarantees that no person shall be deprived of their property save by authority of law. If digital assets are, as courts are increasingly holding, "property" for the purposes of the Indian Succession Act, then an heir's inability to access that property — not because of any law, but because of a private platform's unilateral terms of service — sits uneasily with the constitutional guarantee that deprivation of property must occur "by authority of law" and not by private contractual fiat. This is, admittedly, a novel application of Article 300-A, since the "deprivation" in question is effected by a private party rather than the State; but it strengthens the normative case for legislative intervention that positively authorises, rather than merely fails to prohibit, an heir's access to digital property forming part of an estate.

The constitutional analysis therefore points toward a middle path: a statutory scheme that treats economically significant digital assets as ordinary inheritable property, subject to Article 300-A protections, while carving out a narrower, privacy-conscious procedure — informed by the residual post-mortem privacy interest recognised implicitly elsewhere in Indian law — for accessing purely personal or relational data such as private messages and correspondence.

VII. TOWARDS A DIGITAL ESTATES AND SUCCESSION ACT: A REFORM ROADMAP

The preceding analysis suggests that incremental, asset-by-asset judicial extension of the Indian Succession Act, though useful as a stopgap, cannot substitute for a dedicated statutory framework.

[17]K.S. Puttaswamy, supra note 6, ¶ (opinion of Sapre, J.) ("Privacy is born with human beings and extinguishes with human beings.").
[18]The Constitution of India, art. 300-A.

A Digital Estates and Succession Act, whether enacted as a freestanding statute or as a substantial amendment to the Indian Succession Act, 1925, should contain at minimum the following elements.

First, an express, inclusive statutory definition of "digital assets" that names cryptocurrency and virtual digital assets, non-fungible tokens, domain names, monetised social media and content-creator accounts, cloud-stored files, and digital intellectual property as property capable of being bequeathed by will and of devolving on intestacy, removing the current dependence on analogical reasoning from the General Clauses Act.

Second, a statutory office of "digital executor", empowered by a grant of probate or letters of administration to compel Indian-registered platforms, and to seek reciprocal enforcement against foreign platforms operating in India under the long-arm provisions of the Digital Personal Data Protection Act[19], to grant time-bound, itemised access to a deceased user's account, on terms analogous to the American RUFADAA model, so that platforms are given clear statutory cover to comply without fear of violating their own privacy commitments or the Information Technology Act.

Third, default intestacy rules for digital assets mirroring the existing Class-I and Class-II heir structures under the Hindu Succession Act and the equivalent provisions of the Indian Succession Act, so that families are not compelled to litigate a Letters of Administration petition, as occurred in the Gandhinagar iCloud case, merely to establish a starting entitlement that Parliament could specify in advance.

Fourth, a bright-line distinction between economic and personal digital assets, adapting the American "content versus catalogue" distinction: an heir's statutory entitlement to economically valuable digital property should be near-absolute, subject only to the debts of the estate, while access to purely personal correspondence and communications should require either the deceased's prior testamentary instruction, a Section 14 DPDP Act nomination, or a court order that weighs the residual post-mortem privacy interest against the heirs' evidentiary or sentimental need for access.

[19]Cyril Amarchand Mangaldas, FAQs – The Digital Personal Data Protection Act, 2023, at 14 (2025).

Fifth, harmonisation between Section 14 of the DPDP Act and the law of succession[20], clarifying by amendment or by rule that a Section 14 nomination operates as a data-protection custodianship distinct from, and not a substitute for, testamentary or intestate succession to the economic value of the underlying digital asset — codifying, in effect, the Sarbati Devi principle for the digital context, so that families are not misled into believing that nominating a family member under the DPDP Act has settled who inherits the value of a linked cryptocurrency wallet or monetised account.

Sixth, statutory valuation guidelines for volatile digital assets such as cryptocurrency and NFTs, addressing the date and method of valuation for the purposes of succession certificates and estate duty computation, an issue on which the Indian Succession Act is presently silent even for conventional securities of fluctuating value.

Seventh, constraints on discriminatory or unilaterally restrictive terms of service, requiring platforms offering services in India to provide a functioning, India-accessible legacy-contact or account-succession mechanism, akin to the online tools contemplated under RUFADAA, on pain of regulatory consequence under the Information Technology Act framework.

It bears emphasis that recent developments such as the Uttarakhand Uniform Civil Code, 2024 — hailed as India's most contemporary succession reform — remain entirely silent on digital assets, confirming that even the newest wave of Indian succession legislation has not yet absorbed the lessons of the case law and comparative practice surveyed in this paper. The reform proposed here is therefore not a marginal addition to an otherwise complete framework but a necessary corrective to a structural blind spot that runs through the whole of contemporary Indian succession reform.

VIII. CONCLUSION

Indian succession law was built for a world in which everything a person owned could, in principle, be touched. That world no longer exists. A growing share of what Indians own, create and cherish now exists as data, controlled at the pleasure of private platforms whose terms of service were never written with the Indian law of inheritance in mind. Courts in Gandhinagar and Chennai have

begun, admirably but haltingly, to stretch a century-old statute to cover this new reality, and Parliament has, through Section 14 of the Digital Personal Data Protection Act, taken a first, partial step by creating a nomination mechanism for posthumous data rights. But nomination is not succession, and judicial improvisation is not legislation. What India needs, and what comparative experience in the United States, Germany and the European Union shows is achievable, is a dedicated statutory framework that names digital assets as property, empowers a digital executor to access them, defaults sensibly when a person dies intestate, and draws a principled line between the economic and the intimate. Until Parliament acts, every Indian family that loses a member will continue to face the same quiet, compounding tragedy: a house that can be inherited in an afternoon, and a photograph album, locked inside a dead man's phone, that cannot.