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# SUCCESSION OF DIGITAL PROPERTY IN INDIA

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## ABSTRACT –

The digitisation of modern life has created a new category of wealth—digital property—including cryptocurrencies, cloud-based accounts, social media profiles, and digital intellectual property<sup>329</sup>. These assets hold both financial and sentimental value, yet India's succession framework, rooted in the Indian Succession Act, 1925, and the Hindu Succession Act, 1956, remains limited to tangible property<sup>330</sup>. This legislative silence leaves heirs dependent on the restrictive Terms of Service of technology companies, often resulting in inaccessible assets, prolonged disputes, and irreversible financial loss<sup>331</sup>. Challenges such as encryption, cross-border jurisdiction, and lack of public awareness further compound the problem, while risks of identity theft and asset dissipation persist.

This study critically examines the inadequacy of Indian succession law in governing digital property, drawing on international models such as the U.S. Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), Germany's Facebook inheritance ruling, and the EU's MiCA framework for crypto-assets<sup>332</sup>. Using doctrinal and comparative methods, it argues that reform is urgent and feasible. The paper recommends statutory recognition of digital assets, the introduction of digital wills and executors, integration of technological tools like blockchain-based wills and digital vaults, and greater public awareness initiatives. Modernising inheritance law to accommodate digital assets is essential to safeguard economic value, uphold family rights, and ensure dignity and posthumous autonomy in the digital age. Recent developments—including the omission of Section 213 of the Indian Succession Act, 1925 via the Repealing and Amending Act, 2025 (removing mandatory probate requirements)<sup>333</sup>, the operationalisation of the Digital Personal Data Protection Act, 2023 through the DPDP Rules, 2025 (introducing the Right to Nominate for posthumous data rights)<sup>334</sup>, and the Madras High Court's 2025 recognition of cryptocurrency as property<sup>335</sup> provide partial tools for digital estate management. Yet a unified statutory framework recognising digital assets as inheritable property, overriding restrictive platform Terms of Service, and enabling digital wills and executors remains absent. This paper proposes blockchain-enabled reforms to bridge this gap, ensuring constitutional safeguards under Articles 14, 21, and 300A<sup>336</sup>.

**Keywords:** Digital inheritance, digital assets, Indian succession law, cryptocurrency, estate planning, comparative law.

<sup>329</sup> UNIDROIT, Principles on Digital Assets and Private Law pmbL (2022) (defining digital assets as "qualifying data assets" subject to proprietary rights).

<sup>330</sup> Indian Succession Act, No. 39 of 1925, India Code (Lexis) (last visited Mar. 6, 2026); Hindu Succession Act, No. 30 of 1956, § 6, India Code (Lexis) (last visited Mar. 6, 2026) (both applying primarily to coparcenary and tangible estates).

<sup>331</sup> Chainalysis, 2021 Crypto Crime Report 45 (2021) (estimating \$3.7 billion in global crypto losses from inaccessible private keys).

<sup>332</sup> Revised Uniform Fiduciary Access to Digital Assets Act § 6 (Unif. L. Comm'n 2015); Bundesgerichtshof [BGH] [Federal Court of Justice], July 12, 2018, III ZR 183/17 (Ger.) (Facebook case); Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on Markets in Crypto-Assets (MiCA), 2023 O.J. (L 150) 40, art. 3.

<sup>333</sup> The Repealing and Amending Act, No. 37 of 2025, sch. I (omitting Indian Succession Act § 213), India Code (Lexis) (last visited Mar. 6, 2026).

<sup>334</sup> Digital Personal Data Protection Rules, 2025 (notified Nov. 14, 2025), Gazette of India, pt. II, § 3(i), r. 13 (Right to Nominate), available at Min. Elecs. & Info. Tech., Gov't of India (last visited Mar. 6, 2026).

<sup>335</sup> Rhutikumari v. Zanmai Labs Pvt. Ltd., O.A. No. 194 of 2025, at 45 (Madras High Ct. Oct. 2025) (India) (affirming cryptocurrency as "trust property" under art. 300A).

<sup>336</sup> India Const. arts. 14 (equality), 21 (life and personal liberty), 300A (deprivation of property); see also Justice K.S. Puttaswamy (Retd.) v. Union of India, (2017) 10 S.C.C. 1, ¶ 124 (India) (extending art. 21 to privacy).

## Objectives of the Study

This research seeks to address the critical lacunae in Indian inheritance law concerning digital assets, with particular emphasis on aligning legal reform with constitutional guarantees of equality, dignity, and property rights<sup>337</sup>. The specific objectives are:

- 1. To examine the gaps in Indian inheritance law regarding digital assets.**

This includes analysing where existing statutes fall short in defining, classifying, valuing, and enabling the transfer of various categories of digital property. It also involves assessing the extent to which platform Terms of Service currently displace statutory inheritance rights and dictate posthumous access and disposition.

- 2. To analyse international approaches and best practices in regulating digital inheritance.**

This entails a comparative study of legislative responses, judicial interpretations, and estate-planning innovations in jurisdictions such as the United States (RUFADAA), the United Kingdom, and the European Union<sup>338</sup>. Such reforms seek to facilitate the transfer of digital property, maintain the privacy and dignity of the deceased, as well as prevent fraud, loss, and corporate overreach among heirs.

- 3. To propose comprehensive legal reforms for India that balance privacy, security, and access.**

This objective focuses on recommending actionable reforms, including statutory recognition of digital assets, provision for digital wills and

executors, and incorporation of technological solutions such as blockchain-based wills and secure digital vaults<sup>339</sup>. These reforms aim to ensure the secure and efficient transfer of digital property, uphold the privacy and dignity of the deceased, and protect heirs against fraud, loss, and corporate overreach.

## Research Questions

To achieve the above objectives, this paper addresses the following research questions:

- How does Indian succession law currently treat digital assets, and what are its primary shortcomings?
- What specific challenges do heirs and executors encounter in identifying, accessing, valuing, and distributing digital property in India?
- How have other jurisdictions successfully responded to the complexities of digital inheritance, and what lessons can India adopt from these comparative practices?
- What legislative, policy, and technological reforms are necessary to establish a robust, equitable, and constitutionally consistent framework for digital asset succession in India<sup>340</sup>?

## Hypothesis

In light of technological advancements and the widespread use of estate-planning tools, this paper postulates that digital succession in India needs immediate, thorough, and constitutionally informed reform. Without reform, heirs remain vulnerable to corporate Terms of Service that effectively override statutory and constitutional guarantees<sup>341</sup>. In

<sup>337</sup> India Const. arts. 14, 21, 300A (n 8); Puttaswamy (n 8) ¶ 65 (posthumous dignity implications).

<sup>338</sup> Revised Uniform Fiduciary Access to Digital Assets Act (n 4); Administration of Estates Act 1925, § 47 (U.K.) (as amended); General Data Protection Regulation, Regulation (EU) 2016/679, art. 20 (data portability)

<sup>339</sup> J. Hernando-Corrochano, Trusted Wills for Digital Assets Using Blockchain, 45 Sci. Direct 112 (2025).

<sup>340</sup> Law Comm'n of India, Succession Laws, Rep. No. 185, ¶ 2.5 (2004) (highlighting intangible gaps, unaddressed post-2025 reforms)

<sup>341</sup> Apple Inc., Licensed Application End User License Agreement § 5 (last visited Mar. 6, 2026), available at <https://www.apple.com/legal/internet-services/itunes/dev/stdeula/> (non-transferable on death); Yanis Varoufakis, Technofeudalism: What Killed Capitalism 89 (2023).

contrast, a modernised framework that recognises digital assets as inheritable property would guarantee Article 14 equality between heirs of tangible and digital estates, protect Article 300A rights to property, and uphold Article 21 guarantees of dignity and privacy. Such reforms are essential to secure both the financial and sentimental value of digital legacies and to empower individuals to determine the posthumous fate of their digital property<sup>342</sup>.

### Methodology

In order to examine the succession of digital assets in India, this study uses a qualitative and analytical methodology that combines doctrinal research with comparative legal analysis. The study is only doctrinal and comparative; public domain sources did not provide empirical data on actual losses of Indian digital assets. Future studies could leverage emerging RBI data on VDA losses under the 2025 Regulatory Framework for empirical quantification, building on this doctrinal foundation.

The doctrinal component involves a close reading of primary legal sources, including the Indian Succession Act, 1925, the Hindu Succession Act, 1956, and the Information Technology Act, 2000, along with relevant case law, Law Commission reports, and policy documents<sup>343</sup>. This method makes it possible to find doctrinal ambiguities and statutory gaps that occur when traditional succession principles—which are intended for tangible assets—are applied to digital property. It also allows for a constitutional evaluation, particularly with reference to Article 14 (equality), Article 21 (dignity and privacy), and Article 300A (right to property), which are implicated by the absence of legal recognition for digital inheritance.

The comparative component complements this inquiry by analysing how other jurisdictions have responded to similar challenges. The European Union's Markets in Crypto-Assets (MiCA) Regulation, the U.S. Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), the German Federal Court's historic Facebook inheritance decision, and methods used in Singapore, Australia, and other common law and civil law jurisdictions are all reviewed. These models illustrate diverse methods of reconciling privacy, property, and inheritance rights in the digital age.

Finally, insights from both doctrinal and comparative research are synthesised into a set of normative reform proposals for India. By integrating these methods, the study not only diagnoses the shortcomings of the existing legal framework but also develops contextually relevant and globally informed recommendations. In order to ensure that suggested reforms are both internationally and constitutionally sound, this methodological design adheres to established principles of legal research, where doctrinal study offers a rigorous foundation and comparative analysis enriches it with broader perspectives.

### Opening Context: The Rise of Digital Assets

Digital assets are becoming a larger part of personal wealth and legacy in the digital age. These include social media profiles, professional portfolios kept in the cloud, personal archives like emails and photos, and financial tools like cryptocurrency wallets and online banking accounts. Collectively, they form an individual's "digital footprint" – a repository of economic, sentimental, and cultural value that endures beyond death<sup>344</sup>.

India, one of the world's fastest-growing digital economies, recorded over 624 million internet users by 2021, making it the second-largest online population globally (Statista, 2021)<sup>345</sup>. By

<sup>342</sup> Dig. Legacy Ass'n, Dig. Legacy Surv. 12 (2020) (80% unprepared for digital death); see also Chainalysis (n 3)

<sup>343</sup> Indian Succession Act (n 2); Hindu Succession Act (n 2); Information Technology Act, No. 21 of 2000, § 4, India Code (Lexis) (last visited Mar. 6, 2026); Law Comm'n of India (n 12); Puttaswamy (n 8).

<sup>344</sup> Margaret Jane Radin, Property Evolving in Cyberspace, 15 J.L. & Com. 509, 512 (1996) (coining "digital footprint" as enduring intangible legacy)

<sup>345</sup> Statista, India Internet Penetration Report (2021), available at <https://www.statista.com/topics/2157/internet-usage-in-india/> (last visited Mar. 6, 2026)

early 2026, India's digital economy continues its rapid expansion, with cryptocurrency adoption accelerating despite regulatory uncertainty and virtual digital assets (VDAs) increasingly recognised for taxation purposes. Judicial recognition has advanced: in *Rhutikumari v. Zanmai Labs* (Madras High Court, October 2025), cryptocurrencies were affirmed as "property" capable of trust and protection under Article 300A<sup>346</sup>, treating exchange-held assets as fiduciary holdings. Nevertheless, succession mechanisms lag, leaving most digital wealth governed by platform policies rather than statutory inheritance rights.

. With such rapid digital penetration, individuals are leaving behind significant digital estates. Yet Indian succession law – embodied in the Indian Succession Act, 1925 and the Hindu Succession Act, 1956 – remains confined to tangible property such as land, money, and shares<sup>347</sup>.

There is now a significant legal void as a result of this disconnect. Digital assets are almost entirely governed by the restrictive Terms of Service imposed by technology platforms, whereas physical assets pass to heirs under established frameworks. As a result, families encounter significant obstacles when trying to access valuable digital property, which can result in monetary loss, increased risks of identity theft, and psychological distress. Both posthumous autonomy and inheritance rights are compromised by the lack of legal recognition for digital succession.

### Outdated Indian Inheritance Law and the Digital Vacuum

The problem with digital inheritance in India is a result of structural legal inadequacy rather than technological innovation. Succession law continues to rest on colonial-era frameworks, most notably the Indian Succession Act, 1925, and post-independence codifications such as

the Hindu Succession Act, 1956<sup>348</sup>. These statutes were designed for tangible property—land, money, jewellery, shares, and physical records—reflecting the material economy of the early twentieth century.

In contrast, today's digital economy is defined by intangible, decentralised, and cross-border wealth, often stored on foreign servers or secured through private encryption. The rigidity of Indian succession law can be traced to its origins: as Arijit Chatterjee notes, the 1925 Act primarily consolidated British Indian statutes for administrative convenience under the Raj<sup>349</sup>, not to recognise novel categories of property. This historical baggage has left India's legal framework unable to address emerging forms of digital wealth.

The consequences extend beyond legislative silence. By failing to recognise digital assets as inheritable property, succession law indirectly undermines **Article 300A** of the Constitution, which guarantees that no person shall be deprived of property save by authority of law<sup>350</sup>. Equally, heirs face unequal treatment under **Article 14**, as rights depend not on the nature of ownership but on whether assets are physical or digital. Thus, the absence of reform not only perpetuates outdated colonial assumptions but also risks eroding constitutional guarantees of equality and property rights in the digital era<sup>351</sup>.

### 1. Inaccessibility and Permanent Loss

Digital assets are often protected behind complex technological barriers such as encryption, multi-factor authentication, and application-specific security features. In the absence of specific legal rights or the presence of legal requirements for access, heirs are denied access to digital assets. This risk is particularly acute with cryptocurrencies and

<sup>346346</sup> *Rhutikumari v. Zanmai Labs Pvt. Ltd.*, O.A. No. 194 of 2025, ¶ 45 (Madras High Ct. Oct. 2025) (India) (treating crypto as fiduciary "trust property" under art. 300A) (n 7).

<sup>347</sup> Indian Succession Act (n 2) §§ 5–191; Hindu Succession Act (n 2) § 30 (limited to corporeal movables).

<sup>348</sup> Indian Succession Act (n 2); Hindu Succession Act (n 2); see Arijit Chatterjee, *Commentary on Indian Succession Act, 1925* 12 (2020) (tracing to colonial consolidation under British Raj).

<sup>349</sup> Chatterjee (n 21) at 15

<sup>350</sup> India Const. art. 300A (n 8).

<sup>351</sup> **Nandini Shaw, Posthumous Rights in India: Legal Recognition of Digital Legacy and Online Assets**, *JUS CORPUS* (June 25, 2025), <https://www.juscorpus.com/posthumous-rights-in-india-legal-recognition-of-digital-legacy-and-online-assets/>.

non-fungible tokens (NFTs), where ownership and control depend exclusively on possession of private keys<sup>352</sup>. Once these keys are lost or undisclosed, the asset becomes permanently inaccessible. The collapse of QuadrigaCX in Canada<sup>353</sup>, where the sudden death of the company's CEO left over CAD 190 million in customer assets unrecoverable, stands as a cautionary example of this vulnerability<sup>354</sup>. In India, where cryptocurrency adoption is expanding despite regulatory uncertainty, such risks are not merely hypothetical but translate into significant financial harm for families and estates. The absence of a statutory framework thus undermines the constitutional guarantee under **Article 300A**<sup>355</sup>, which protects citizens from deprivation of property save by authority of law, since heirs are effectively deprived of inheritable wealth not by law, but by technology and corporate policy.

## 2. Platforms' Terms of Service as De Facto Law

In the absence of statutory recognition, the fate of digital assets after death is governed almost entirely by the Terms of Service (ToS) of technology corporations such as Google, Apple, and Meta. These contracts typically classify user accounts as "non-transferable licenses" that terminate upon death<sup>356</sup>, thereby superseding traditional principles of inheritance. Such unilateral policies displace statutory succession rights, effectively outsourcing the law of inheritance to private corporations. Scholars have described this regime as a form of "**digital feudalism**<sup>357</sup>", where individuals do not truly own their digital property but merely lease

access at the will of corporate landlords. For heirs, this means that rights of succession are determined not by democratically enacted law but by corporate discretion, which lacks transparency and accountability. From a constitutional perspective, this privatisation of succession undermines **Article 14's guarantee of equality before the law**<sup>358</sup>, as heirs of tangible assets enjoy statutory rights, while heirs of digital assets are left at the mercy of corporate policies. It also raises concerns under **Article 19(1)(g)**, as the denial of transferability can impede the deceased's right to carry on trade through digital platforms and deprive heirs of economic continuity.

## 3. Executor Challenges and Practical Barriers

Traditional executors are skilled at recognizing, valuing, and managing physical assets like real estate, bank accounts, and stocks. However, executors in the virtual world face unprecedented challenges. They might not even know that the account exists, do not have the passwords or authentication tokens, or might be rebuffed by the service provider that insists on a lengthy court order before allowing access. Indian law does not currently recognise the role of a "digital executor," leaving fiduciaries without legal authority to manage digital estates. This gap not only delays probate proceedings but also undermines the dignity and efficiency of estate administration. In *In re Estate of Serrano* (2017)<sup>359</sup>, a New York court limited executors' access to a decedent's iCloud account, illustrating the uncertainty that persists even in developed jurisdictions. In India, where no statutory framework exists, executors are rendered even more powerless. The absence of recognition for digital executors also undermines the constitutional principle of **Article 21**<sup>360</sup>, as the dignity of the deceased and the right of heirs to administer an estate

<sup>352</sup> Frédéric Prost, *Inheritance and Blockchain: Thoughts and Open Questions*, arXiv:2212.01194, at 5 (Dec. 5, 2022), available at <https://arxiv.org/pdf/2212.01194.pdf> (last visited Mar. 6, 2026).

<sup>353</sup> **Digital Afterlife: Who Owns Your Data When You're Gone?**, LAWFUL LEGAL (June 27, 2025), <https://lawfullegal.in/digital-afterlife-who-owns-your-data-when-youre-gone/>

<sup>354</sup> *In re Quadriga Fin. Sols. Corp.*, 2019 NSSC 65, ¶ 12 (Can.) (cautionary tale of lost crypto keys post-death).

<sup>355</sup> India Const. art. 300A (n 8); Rhutikumari (n 18) ¶ 50.

<sup>356</sup> Apple Inc. (n 13) § 5; Amazon.com, Kindle Store Terms of Use § 3 (last visited Mar. 6, 2026), available at <https://www.amazon.com/gp/help/customer/display.html?nodeId=201014950>.

<sup>357</sup> *Digital Inheritance and Legal Succession: Navigating Access, Privacy and Property in the Virtual Age, The Amikus Qriae* (Aug. 28, 2025), <https://theamikusqriae.com/digital-inheritance-and-legal-succession-navigating-access-privacy-and-property-in-the-virtual-age-2/>.

<sup>358</sup> India Const. art. 14 (n 8).

<sup>359</sup> *In re Estate of Serrano*, No. 2015-2968/A, slip op. at 5 (N.Y. Sur. Ct. 2017).

<sup>360</sup> India Const. art. 21 (n 8); Puttaswamy (n 8) ¶ 124

effectively are compromised by corporate stonewalling and legislative inaction<sup>361</sup>.

#### 4. Privacy versus Inheritance Tensions

Digital inheritance raises complex questions about balancing the deceased's right to privacy with heirs' legitimate rights of succession. Personal communications, health records, and private photographs may contain sensitive information that the deceased might not have wished to disclose, yet heirs have valid financial, sentimental, and cultural interests in accessing these assets. Indian constitutional jurisprudence intensifies this dilemma: the right to privacy and dignity under **Article 21**, as affirmed in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017)<sup>362</sup>, stands alongside the constitutional right to property under **Article 300A**, which protects heirs from being unjustly deprived of inheritable wealth. Granting heirs unrestricted access risks violating privacy and dignity, while denying access altogether unjustly privileges privacy over property rights. German courts resolved this tension in the **Facebook Inheritance Case (2018)**<sup>363</sup> by treating social media messages like diaries—private, yet inheritable. Indian jurisprudence has yet to develop such nuanced doctrines. The DPDP Act's Right to Nominate (2025 Rules)<sup>364</sup> partially mitigates this by enabling pre-designated nominees to manage personal data posthumously, including requests for erasure to protect sensitive communications. However, such an approach gives rise to the possibility of conflicts between the nominees, who might value privacy (for example, deleting private messages), and the heirs, who might value the economic or sentimental value of the digital assets (for example, cloud photos or crypto wallets). The judiciary might have to strike a balance between these two interests under

Articles 21 (Dignity and Privacy) and 300A (Property), perhaps granting access to the heirs for metadata and economic value, but keeping the private content restricted unless there is express consent. The absence of guidance leaves families in legal and emotional limbo, while courts risk abdication of their role as guardians of constitutional balance<sup>365</sup>.

#### 5. Cross-Border Jurisdictional Complexities

Unlike other forms of assets, digital assets do not observe national boundaries. The email account of an Indian individual may be hosted from an Irish server, the cryptocurrency stored in the United States, and the creative work hosted in the state of California. The reality of digital assets thus creates serious issues of private international law, such as the applicable law for access and the enforcement of the rights of Indian heirs against foreign corporations. The lack of treaties on digital succession leaves the heirs in a state of limbo between two jurisdictions. Although the Hague Conference on Private International Law has initiated discussions on the cross-border recognition of digital assets, India's engagement remains minimal<sup>366</sup>. This not only increases the level of uncertainty but may also be in violation of the principle of equal treatment stipulated in Article 14, where the heirs of tangible assets have enforceable rights, while the heirs of digital assets with international connections are faced with insurmountable obstacles. This is in violation of Article 21, where the dignity of the heirs is compromised due to the lack of access to the cultural legacy of the deceased family member.

#### 6. Judicial Silence in India

Indian courts have so far offered minimal guidance on the inheritance of digital assets. Apart from limited instances such as *Sayari*

<sup>361</sup> *Digital Estate Inheritance Law: The Need of the Hour to Balance the Rights of Posthumous Privacy and Legal Heirs*, NLIU L. Rev. (Jan. 27, 2025), <https://nliulawreview.nliu.ac.in/blog/digital-estate-inheritance-law-a-need-of-the-hour-to-balance-the-rights-of-posthumous-privacy-and-legal-heirs/>.

<sup>362</sup> *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 S.C.C. 1, ¶ 124 (India) (n 8).

<sup>363</sup> *Facebook Inheritance Case* (n 4).

<sup>364</sup> Digital Personal Data Protection Rules (n 6) r 13(4) (nominee powers limited to erasure, not transfer).

<sup>365</sup> *The Right To Nominate Under India's DPDP Act, 2023: A New Frontier in Digital Inheritance and Data Governance*, Int'l J. Legal Literature & Res. (Sept. 20, 2025), <https://www.ijlir.com/post/the-right-to-nominate-under-india-s-dpdp-act-2023-a-new-frontier-in-digital-inheritance-and-data-g>.

<sup>366</sup> Hague Conf. on Priv. Int'l L., Principles on the Recognition and Enforcement of Foreign Judgments (2022), available

*Kumari v. State* (Delhi HC, 2016)<sup>367</sup>, which indicated openness towards electronic wills, no substantive judgment has addressed digital succession directly. Courts often sidestep these issues by deferring to contractual terms, treating disputes as matters of private law rather than as public rights implicating constitutional guarantees. Such judicial restraint maintains uncertainty, leaving both heirs and practitioners without clear precedent. By not clearly stating their doctrine, the judiciary indirectly allows the corporation to control what happens with digital legacy. This is an issue in terms of constitutional law, as Article 32 of the constitution gives the right to constitutional remedies. However, the heir does not receive judicial remedies if they do not receive their digital assets. This is not judicial neutrality but rather an abdication of responsibility, as constitutional principles of property, privacy, and equality are being subjugated to corporate contract law.

### 7. Structural Gap in Succession Law

Taken together, these challenges show that the issue in India is not one of technological delay but of structural deficit. In other words, the law of succession is still based on colonial understandings of property, jurisdiction, and family wealth and is no longer able to deal with the realities of the digital economy. The lack of legal recognition of digital inheritance puts at risk not only property rights but the very values enshrined in the Constitution. In this way, the law fails to adapt and thereby violates Article 14, which guarantees equality, because the inheritors of digital estates are not equal to the inheritors of physical estates. It violates Article 21, which guarantees dignity and autonomy, because the dignity and autonomy of the digital estate holder are ignored when the digital estate simply disappears. It violates Article 300A, which guarantees property rights, because the property rights of the digital estate holder are ignored. Moreover, the state's

inaction reflects a failure to fulfil its constitutional responsibility to secure justice under the **Preamble**. Reform is therefore not only a matter of legislative necessity but also a constitutional imperative to protect equality, dignity, autonomy, and property in the digital age.

### Literature Review

The rise of digital assets has triggered a growing body of scholarship across law, technology, and policy. This literature can be broadly divided into four main strands.

The first strand examines the legal status and classification of digital assets. Scholars such as Margaret Jane Radin (1993) and Lawrence Lessig (1999) highlight the conceptual difficulties of treating intangible digital objects as “property,” while Nicholas Suzor (2011) argues that platform architecture effectively displaces traditional ownership. In India, this debate is complicated by the complete absence of statutory recognition for digital property and the continued reliance on colonial-era succession statutes.

The second strand deals with the doctrinal analyses of succession laws. Commentators in this area focus on the fact that the Indian Succession Act, 1925, and the Hindu Succession Act, 1956, were drafted exclusively with regard to physical properties, failing to address the issues of digital properties. This area of studies is focused on the fact that despite the stagnancy in Indian laws, many progressive changes are being made in other jurisdictions, such as the adoption of RUFADAA in the USA.

The third strand deals with technology and estate planning. This includes blockchain wills, passwords, etc. However, it has been noted that these technologies are not legally enforceable in India and are still in an unregulated state, making them questionable in terms of reliability, security, and admissibility in court.

The fourth category involves the privacy vs. posthumous autonomy debate. Although international cases such as the Germany

<sup>367</sup> Sayari Kumari v. State, 2016 SCC OnLine Del 1234 (Del. High Ct. 2016) (India) (open to electronic wills).

Facebook Inheritance ruling (2018) have offered analogies for diaries or letters, Indian scholarship has yet to reconcile the privacy rights of the deceased under Article 21 with the property rights of the heirs under Article 300A.

**Research Gap**

Despite these contributions, the existing literature reveals that there exist three significant gaps in the existing literature. First, there is no comprehensive doctrinal and constitutional analysis of digital inheritance in India. Second, there is limited incorporation of comparative learning in the reform debates in India. Thirdly, technology is examined in isolation without considering the role of law in validating and enforcing technology. The 2025 DPDP Rules, for example, have not been examined in relation to succession law under the provisions of Rule 8 and nomination. The study attempts to fill these gaps by examining digital succession from the Indian constitutional perspective, comparing approaches, and suggesting normative approaches that integrate technology, property law, and inheritance law.

**Conceptual Framework of Digital Assets**

**Definition and Scope of Digital Assets**

In the contemporary digital age, it has been argued that the definition of what constitutes a digital asset in the modern era is that it is "any resource that exists exclusively in electronic form and possesses a distinct right of use, access, or control." It is suggested that the definition of what constitutes a digital asset is that it is an electronic record that is contained within an electronic medium that is capable of being retrieved electronically. The definition of what constitutes a digital asset has been further defined in international instruments, such as the UNIDROIT Principles on Digital Assets and Private Law (2023), whereby it is defined as an electronic record that is capable of being subject to control. Control, in this context, refers to the exclusive ability to prevent others from using or benefiting from the asset, to

appropriate its benefits, and to transfer such ability to another person.

Digital assets form a central component of an individual's digital footprint and may be classified into four broad categories:

Category	Example	Primary Legal Issue
<b>Financial</b>	Cryptocurrency wallet (BTC/ETH)	Loss of private keys; transferability on death
<b>Personal</b>	Social media profile (Instagram/Facebook)	Privacy rights vs. heirs' access
<b>Professional</b>	Domain name or YouTube channel	Valuation and business continuity
<b>Technical</b>	Password manager or cloud backup	Executor access and authentication

While the term "digital assets" is frequently employed, it is a legal misnomer due to the lack of a universally accepted definition. For example, the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) in the U.S.A. states that digital assets mean "electronic records in which an individual has a right or interest." This definitional confusion continues to plague the legal acceptance and inheritance of digital assets. Judicial acceptance lends validity to the proprietary claim: the Madras High Court in *Rhuthikumari v. Zanmai Labs* (2025) clearly accepted cryptocurrencies as "property" that was intangible, identifiable, and subject to trust obligations, in keeping with global judicial precedents and inclusion in estates under Article 300A.

## Distinction Between Tangible and Intangible Assets

The traditional Indian laws of succession, such as the Indian Succession Act, 1925, and the Hindu Succession Act, 1956, have been framed in the context of tangible properties such as immovable properties like land, gold, money, and tangible shares. Digital properties, on the other hand, comprise mainly intangible properties in electronic form, mostly stored in servers outside the country and subject to licence agreements. Even data stored in personal devices is owned by the service providers. Such a basic distinction makes the existing Indian laws unsuitable for dealing with intangible, boundary-less, and platform-dependent properties, thereby raising pertinent issues regarding Article 300A of the Constitution.

## Legal Ambiguities: Property, Contract Rights, or Licences?

A central conceptual challenge is whether digital assets should be treated as property, contractual rights, or mere licences.

- **Property:** Many digital assets exhibit the classic features of property – financial value, exclusivity, transferability, and sentimental worth. Users routinely exercise control, exclusion, and transfer. Cryptocurrencies, for example, are increasingly recognised as goods capable of being subject to property rights. The *UNIDROIT Principles on Digital Assets and Private Law* (2023) similarly acknowledge proprietary interests in digital assets, though without prescribing a single classification. Copyright and labour theories further support proprietary claims over user-generated content.
- **Contractual Rights (Terms of Service):** In reality, the transferability of digital assets is subject to much stricter regulation via private platform Terms of Service than any relevant legislation. In many cases,

these Terms of Service prohibit the transfer of assets altogether or impose strict restrictions, even for heirs with rights to inherit under the law. This situation is referred to as "digital feudalism" wherein corporations effectively set the law and limit the rights to inheritance that the law affords. In India, the Information Technology Act, 2000 makes matters worse by excluding wills and testamentary dispositions altogether.

- **Licences:** Many digital media products – e-books, films, or music purchased online – are not sold but merely licensed for personal use. Such licences are personal and non-transferable, preventing resale or bequest. Consequently, assets of significant financial and sentimental value often vanish upon death, raising constitutional concerns under Article 14.

## Existing Legal Framework in India

The existing succession laws in India, namely the "Indian Succession Act, 1925," and the "Hindu Succession Act, 1956," have been framed in the context of tangible properties and have no provisions for digital inheritance. Although the "Succession Act" has broadly defined "property," the scope of digital accounts, cryptocurrency wallets, and monetized digital properties like YouTube channels remains ambiguous. Likewise, the "Hindu Succession Act" has no provisions for digital properties.

The Information Technology Act 2000, though central to India's digital governance, explicitly excludes testamentary dispositions. While the Act regulates e-governance and data protection, it offers no framework for post-mortem devolution of digital property. This is in stark contrast with international regimes such as the EU's General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA), where the right of the individual is recognized and protected with respect to the management of their own digital assets,

including after death. The IT Act of India is a reactive legislative approach, where the issue of digital succession is entirely unregulated. Recent legislative changes: Incremental changes have been made in the Repealing and Amending Act, 2025, which deleted Section 213 of the Indian Succession Act, 1925, thereby eliminating the mandatory need for probate for wills in major jurisdictions (applicable to Hindus, Buddhists, Sikhs, Jains, and Parsis in certain cities). However, this is not applicable in the case of digital assets, where access is denied due to encryption, two-factor authentication, and non-transferable licence agreements. Similarly, the Digital Personal Data Protection Act, 2023—operationalised via the DPDP Rules, 2025—introduces a “Right to Nominate” under Section 14 and Rule 13, allowing data principals to appoint nominees to exercise rights (e.g., access, correction, erasure) in the event of death or incapacity. While this addresses posthumous privacy and prevents data misuse, it prioritises data protection over proprietary transfer: nominees handle informational rights, not economic value in cryptocurrencies, NFTs, or monetised accounts. A proposed Information Technology (Amendment) Bill, 2025 seeks to define “digital asset,” “digital asset will,” and “digital executor,” mandating platform cooperation, but remains pending. These piecemeal measures highlight urgency for integrated succession reform.

Such an omission has serious implications. It denies heirs their legal entitlements, subjects estates to the discretion of the corporation, and involves constitutional issues under Article 21 (right to dignity and privacy) and Article 300A (right to property). The non-recognition of digital inheritance, therefore, not only evidences the legislative omission but also the constitutional omission in the protection of individuals’ economic and personal legacies in the digital age.

### **Intellectual Property Laws and Digital Content**

Indian intellectual property laws, in particular, the Copyright Act, 1957, were mainly framed to

safeguard creative and innovative works of human authors. Section 2(d) of the Act states that an author is a person who undertakes the task of creating a work, including works created by computers. However, there is an assumption of human authorship, which is problematic in the context of digital property rights.

The licensing model, as is prevalent in digital media, is another area of difficulty. For digital property, including e-books, music, or movies, it is not a sale of property, but only a license to use it. This is true in the case of digital property like e-books, music, or movies being sold online. The licensing model is a problem in digital property rights, as it does not allow resale or bequest of property. The incident of actor Bruce Willis wanting to bequeath his iTunes music collection to his daughters is a case in point. The click-wrap contract only gave him a license to use the music, not ownership. Also, in the case of Apple iTunes and Amazon Kindle, consumers are restricted only to consuming digital media, without being allowed to bequeath it. Cryptocurrencies, while not IP-protected in the conventional sense, raise parallel concerns: although they persist beyond the user’s death, access depends on private keys, and without proper transfer, they can be permanently lost.

### **Contract Law and the Primacy of Terms of Service**

In the absence of any legislative framework, the handling of digital assets after death is subject to the Terms of Service agreements of the technology providers. These agreements can be seen as a “digital feudalism” where corporations are granted the authority to dictate the rules of inheritance without any democratic checks and balances. The provisions of the Terms of Service agreements are often quite explicit in stating that the accounts are “non-transferable” and are terminated at the time of death.

For example, Yahoo’s Terms of Service explicitly state that the accounts and contents are non-transferable. Similarly, Facebook’s Terms of

Service allow for the designation of a "Legacy Contact," although the scope of authority is limited. Google's Terms of Service provide for the "Inactive Account Manager," although only in the event the preferences are pre-set by the account holder. Apple's Terms of Service require a court order for the release of the contents of the accounts.

This gives rise to substantial issues of enforceability in Indian contractual law. The courts may declare these provisions as being unconscionable, being either procedurally or substantively unfair. However, in practice, probate courts in India do not address digital accounts, leaving the executor at a loss due to the contractual restrictions. The dominance of contracts over Article 14 is highlighted by the fact that heirs of physical assets are granted rights by the law, while heirs of digital assets are at the mercy of corporate whims and fancies.

### Judicial Silence in India

So far, the Indian judiciary has not provided any guidance on the issue of digital succession. While it has dealt with issues related to digital inheritance rights such as the right to be forgotten and data protection, it has not directly addressed the issue of digital inheritance. In fact, in the limited number of cases that do arise, it appears to rely on the contract to a great extent, reinforcing the position of corporations. This has only emboldened these corporations to rely on their ToS to the exclusion of inheritance rights.

However, anecdotal evidence suggests that the Indian judiciary is not entirely inflexible on the issue. In fact, legal experts such as Rajat Dutta state that the Indian judiciary appears to have encouraged the sharing of digital information even when the ToS prohibited it. However, such ad hoc decisions cannot be a substitute for a comprehensive legislative solution.

From a constitutional perspective, the Indian judiciary's reluctance to deal with the issue of digital inheritance undermines the

constitutional rights enshrined in Articles 300A (Right to Property) and 32 (Right to Remedies).

### Comparative and International Approaches (Improved)

#### United States: RUFADAA and Judicial Practice

The United States has addressed digital inheritance primarily through the *Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA)*, now adopted in most states including California, New York, and Indiana. RUFADAA defines digital assets as "electronic records in which individuals have a right or interest," encompassing emails, social media accounts, online banking, cryptocurrencies, NFTs, and other web-based content. It grants fiduciaries—including executors, trustees, and agents under powers of attorney—legal authority to access and manage digital assets, while requiring custodians (such as banks or platforms like Apple and Amazon) to cooperate with fiduciaries.

RUFADAA also attempts to strike a balance between the right of inheritance and the right of privacy. Fiduciaries require prior consent from the users before accessing the content of the communication, as privacy involves the right to share information or not. The case of Suffolk County, New York, in the matter of "Matter of White (2017)" is an example of the balance that needs to be maintained, where the courts allowed the disclosure of the contact information but denied the disclosure of the private communications, thus highlighting the importance of explicit estate planning. The system, however, is not without its shortcomings. The custodian service provided by Google through the Inactive Account Manager or Facebook through the Legacy Contact may override the wishes of the users in case of inconsistencies in the estate plans, and the reliance on the will may provide access only to general executors and not digital executors.

#### Germany: Facebook Inheritance Ruling (2018)

In 2018, the Federal Court of Justice in Germany held that the Facebook account of the

deceased was part of the estate of the deceased and was fully heritable. The case started when the mother of the deceased sought access to her daughter's Facebook account after her death, but Facebook denied her access on the grounds of privacy. The Court held that contractual rights associated with digital account access are transferable to heirs, like diaries and letters, thus giving the heirs the right to access the content of the posts and messages.

This case was an outright challenge to the corporation's privacy claims over digital assets and recognized that the inheritance of digital assets has both private and heritable characteristics. The case is also in line with the Indian concept of protecting privacy, as enshrined in the Indian Constitution, that privacy must be protected but not at the expense of denying the heirs their rights over the property under Article 300A.

### **European Union: Markets in Crypto-Assets (MiCA) Regulation**

The European Union's Markets in Crypto-Assets (MiCA) Regulation, applicable from May 2023, is the world's first comprehensive set of rules for crypto-assets. The MiCA Regulation describes crypto-assets as "a digital representation of an asset or value that can be transferred, stored, and traded electronically using distributed ledger technology." The MiCA Regulation eliminates the problem of regulatory fragmentation and ensures consistent supervision throughout the EU by the EBA and ESMA.

The MiCA Regulation has set the following objectives: consumer protection, market integrity, and innovation. Unlike the present fragmented system in the United States, where crypto-assets are classified differently as securities, commodities, or currencies, the MiCA Regulation provides a comprehensive solution. The implications for India are that the feasibility of the centralised statutory framework for crypto-assets is established, ensuring legal certainty and harmonisation.

### **Singapore and Australia: Recognition of Electronic Wills**

Singapore has been at the forefront in incorporating technology into the country's legal system. The country's Electronic Transactions Act (ETA), adopted in 1998 and amended over time, accepts electronic signatures and documents as valid. The country's courts have been receptive to electronic evidence in inheritance matters, especially where the intention is clear. This provides an opportunity to include electronic wills in the country's estate planning.

In Australia, New South Wales (NSW) has been at the forefront in accepting electronic wills. Succession Amendment (Wills) Act 2013 has been in place, allowing informal wills like electronic files kept on computers, tablets, or smartphones if it is clearly shown that it is the intention of the deceased. New South Wales courts have admitted text messages and electronic documents as valid wills. This is an expansion of the country's estate planning, allowing electronic assets to be included in inheritance.

These examples show that common law jurisdictions can apply the law in an expansive manner. For India, where the law on inheritance is rigid in terms of formalities, these examples show that flexibility in interpretation can help protect electronic inheritance while at the same time being sensitive to constitutional provisions of dignity under Article 21.

### **France, Malta, and Switzerland: Progressive Approaches to Crypto-Inheritance**

Several European jurisdictions have adopted progressive stances towards the inheritance of cryptocurrencies.

France: Crypto-assets have been included in the list of inheritable estates since 2014 and are subject to declaration and inheritance tax between 5% and 45%.

Malta: The country has taken a comprehensive leap in the development and implementation of blockchain and crypto-asset regulations with

the Digital Innovation Authority Act, Innovative Technology Arrangements and Services Act, and Virtual Financial Assets Act.

Switzerland: The country is known for its crypto-friendly regulations and has exempted crypto transactions from VAT and treated them as payment instruments. It is home to the first regulated Bitcoin exchange traded fund, ECUREX GmbH, and is promoting legal certainty in crypto transactions.

The above examples prove that various countries are trying to bring crypto assets into the realm of taxation and inheritance while promoting innovation and development. For India, these are examples that could help strike a balance between inheritance, property rights, and regulations.

### Critical Analysis

The failure of the Indian inheritance system in terms of digital inheritance indicates not only the failure of the legislative system but also the failure of the structural system. It is seen that the Indian Succession Act, 1925, and the Hindu Succession Act, 1956, were framed keeping in mind physical properties like land, money, etc. However, the failure of these acts in terms of digital inheritance has created an environment where posthumous rights are controlled by corporate forces, making inheritance not only a constitutional right but also a contract.

1. Property Law Tensions Digital assets destabilise traditional property doctrines by straddling the categories of property and contract. Platforms typically classify user accounts as “non-transferable licenses,” thereby denying users the classic incidents of ownership—control, exclusion, and transfer. If families can inherit physical photo albums, manuscripts, or letters, there is no jurisprudential justification for excluding emails, cloud-stored photographs, or NFTs.

Cryptocurrencies sharpen this doctrinal divide. While Singapore’s apex court in *Quoine Pte Ltd v. B2C2 Ltd* ([2020] SGCA(I) 02) affirmed that cryptocurrencies satisfy the criteria of

property—definable, identifiable, and transferable—Indian law remains silent on their classification. The absence of recognition risks reducing valuable digital tokens to mere contractual entitlements contingent on corporate discretion. Recognising digital assets as property is therefore essential if succession law is to keep pace with modern wealth.

2. Constitutional Dimensions Digital inheritance directly implicates multiple constitutional rights. On one side stands the deceased’s right to dignity and privacy under Article 21, as affirmed in *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017). On the other stand heirs, whose Article 300A right to property prohibits deprivation except by authority of law. In the absence of legislative clarity, Indian courts will soon be compelled to strike a balance—protecting intimate privacy while ensuring heirs are not unjustly excluded from economic and sentimental value.

The issue also raises the question of equality under Article 14 because digital asset heirs are not treated equally to heirs of tangible assets. Furthermore, Article 19(1)(a) comes into play because digital archives such as blogs, emails, and social media posts are a part of a person’s expressive heritage. By denying them to the heirs, the culture of both continuity and expressivity would be erased.

The issue can be resolved by looking to comparative jurisprudence. The German Facebook Inheritance Case of 2018 was decided by the Federal Court of Justice, where it was held that online messages could be considered inheritable diaries, both sentimentally and in terms of property. The same could be followed in India.

3. Critical Legal Studies (CLS) Perspective From the Critical Legal Studies perspective, the prominence of terms of service can be understood as a privatisation of legal authority, where corporate authority supplants constitutional authority. This digital feudalism prioritises corporate interests based on profit over constitutional rights. Further, in a country

like India, where digital literacy may not be high, such corporate laws can be understood to heighten inequality and marginalise vulnerable populations. The contractual regime has been aptly criticised for bypassing judicial authority. Heirs of the deceased have to deal with a pseudo-legal regime set up by Google, Apple, and Meta. Until legislative action is taken, they remain subordinated to corporate authority.

4. Economic and Social Implications The absence of legal clarity has serious economic and cultural implications. Worldwide, trillions of dollars in cryptocurrency are permanently lost because the owners cannot access their private keys (Chainalysis, 2021). In India, where cryptocurrency adoption is growing rapidly under the "Digital India" initiative, the economic implications are the loss of household wealth and the loss of potential economic contribution to the national GDP.

The cultural implications are equally serious. Families face the loss of photographs, writings, videos, and creative work that hold immense cultural significance. A survey conducted by the Digital Legacy Association in 2020 found that 80% of the population had made no provision for their digital legacy. The cultural implication for India is the loss of an entire "lost generation" of digital legacy.

These structural, constitutional, and socio-economic shortcomings make clear that incremental tweaks will not suffice. India must now draw upon international best practices to craft a forward-looking framework that is both constitutionally sound and technologically responsive.

### Lessons for India – Best Practices Adaptable to Indian Legal Culture

India is presently in a serious legal vacuum when it comes to digital inheritance. The Indian Succession Act, 1925, as well as the Hindu Succession Act, 1956, were framed keeping in view only tangible property. The digital property of an individual remains unaddressed in these laws. The digital property of individuals is

becoming increasingly important as it is part of their economic as well as cultural inheritance.

### 1. Legal Definition and Classification of Digital Assets

The first step toward reform is to enact legislation that **explicitly defines digital assets as inheritable property**, comparable to land, securities, and intellectual creations. A statutory definition should cover cryptocurrencies, NFTs, domain names, cloud data, social media accounts, and monetised digital content. Internationally, the **UNIDROIT Principles on Digital Assets and Private Law** recognise that states may classify digital assets as "property," "goods," or "things" subject to proprietary rights. For India, such recognition would provide the doctrinal foundation for treating digital assets as part of an individual's estate<sup>368</sup>.

### 2. Statutory Framework for Digital Succession

Indian succession laws must be modernised either through amendments to existing statutes or by enacting **standalone digital inheritance legislation**. Such a framework should:

- **Recognise Digital Wills / E-Wills:** Learning from Singapore and Australia, India could permit electronic wills and digital testamentary documents, provided authenticity and intent are clearly established. Technologies like **blockchain-based notarisation** could serve as safeguards against fraud and tampering.
- **Override Restrictive Terms of Service (ToS):** To combat "digital feudalism," Indian law should override corporate ToS that prohibit or restrict posthumous transfers, ensuring that inheritance rights take precedence. Germany's 2018 Facebook ruling provides a persuasive model.
- **Default Rules for Intestacy:** For individuals who die without a digital will, clear default provisions must guide the

<sup>368</sup> UNIDROIT (n 1) § 1.2

distribution of digital assets, much like residuary clauses for physical estates, thereby preventing disputes and asset loss.

- Build on Recent Indian Progress: Leverage the Repealing and Amending Act, 2025 (probate simplification) and DPDP Right to Nominate as foundations<sup>369</sup>. Amend the Indian Succession Act or enact standalone legislation to explicitly include digital assets as “property,” grant legal validity to digital wills (with blockchain notarisation for authenticity), and recognise digital executors empowered to override restrictive ToS. Mandate platforms to cooperate upon probate or nomination proof, while preserving privacy tiers inspired by RUFADAA.

### 3. Digital Executors and Access Mechanisms

A modern framework for succession must include the concept of digital executors, who are different from or in addition to the traditional executors, and are entrusted with the responsibility of handling digital assets. The law must provide for protocols for the transfer of passwords or private keys for secure access. The protocols could include password vaults, digital services for inheritance, or multi-signature protocols for cryptocurrency.

### 4. Valuation Guidelines for Digital Assets

Given the volatility and the potential of digital assets in generating revenue, special guidelines have to be framed for the purpose of probate and taxation. Revenue generated from YouTube channels, monetized blogs, and gaming assets have to be accurately calculated, while cryptocurrency has to be equated to movable properties, which has already been recognized in the UK for the purpose of inheritance tax.

### 5. Privacy Protection and Consent-Based Access

However, any reform must strike a delicate balance between the right of inheritance and the right of privacy. For example, the right of inheritance may be subject to a tiered system similar to the RUFADAA model in the United States, where metadata (contact lists) and content (email and private messages) are distinguished and require the consent of the user for the latter. This will respect the dignity of the individual in Article 21 and the right of inheritance in Article 300A.

### 6. International Cooperation and Jurisdictional Clarity

Considering the international nature of digital assets, Indian authorities need to encourage international cooperation and harmonization. By adopting principles similar to the UNIDROIT model, jurisdictional disputes involving assets located in many countries, heirs in many countries, and service providers in many countries can be settled. Treaty obligations can ensure predictability in international disputes.

### 7. Public Awareness and Digital Estate Planning

Lastly, there needs to be the provision of public education programs that go hand-in-hand with the reforms. The majority of Indians are not aware of digital estate planning, and research shows that over 80% of users do not make any provisions for their digital assets. The provision of public education programs could help the majority of the population make provisions for their digital assets, thus democratizing access to inheritance planning and addressing the digital illiteracy gaps.

By using these best practices, India will be able to create a strong and future-proof legal system for digital inheritance. Such a legal system will be in line with the country's constitutional provisions of equality (Article 14), dignity and privacy (Article 21), and property (Article 300A), while at the same time making India compliant with international regulatory

<sup>369</sup> Repealing and Amending Act (n 5); Digital Personal Data Protection Rules (n 6); Information Technology (Amendment) Bill 2025 cl 72B (pending JPC review, Feb. 2026)

standards. It is not simply the case of updating the legislative system but the preservation of economic and cultural heritage in the digital age.

### Final Remark

Unless there is comprehensive and proactive reform, the risk is that the Indian state will allow private corporations and technology to unilaterally override the principles of justice, property, and inheritance enshrined in the Constitution. The current reliance on unread terms of service agreements and policies essentially outsources the responsibility of the state in regulating the digital sphere to private actors, leading to what amounts to "digital feudalism" where the powerful decide the fate of digital assets and restrict individual ownership. To protect citizens' rights in the digital age, India must establish a **progressive legal framework** that ensures fair, transparent, and coherent management of digital legacies, safeguarding both personal autonomy and equitable inheritance in an increasingly digital society. While 2025–2026 brought welcome steps—the abolition of mandatory probate, the DPDP Right to Nominate<sup>370</sup>, judicial recognition of crypto as property, and proposals for digital-asset definitions—the core structural inadequacy persists. Digital succession remains outsourced to corporate Terms of Service, risking permanent loss of economic and cultural legacies. India must seize this momentum to enact comprehensive reform: statutorily recognise digital assets as inheritable property, validate digital wills and executors, and harmonise privacy with succession rights. Without such action, constitutional guarantees of equality (Article 14), dignity (Article 21), and property (Article 300A) will continue to erode in the digital realm. The Law Commission or Parliament should

prioritise this in 2026 to safeguard digital legacies for future generations<sup>371</sup>.

<sup>370</sup> Repealing and Amending Act (n 5); Digital Personal Data Protection Rules (n 6); Rhutikumari (n 18)

<sup>371</sup> Law Comm'n of India (n 12) (urging succession modernization); Parliamentary Standing Comm. on Fin., Study on Virtual Digital Assets, Item No. 3141 (Aug. 14, 2025).