



Legal and Social Dimensions of Surviving Spouses' Digital Property Rights After a Partner's Death: A Doctrinal, Comparative, and Socio-Legal Study

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Abstract: The increasing digitisation of personal, financial, and social life has created a new category of assets that survive their owners. In many jurisdictions, and especially in India, widows often become the first persons responsible for managing a deceased spouse's digital estate, including mobile devices, email accounts, cloud storage, social media profiles, online banking interfaces, cryptocurrency wallets, and monetised digital platforms. However, Indian succession law lacks a comprehensive framework for posthumous access to such assets, leaving surviving spouses to navigate a patchwork of succession statutes, data-protection rules, criminal-liability provisions, and private platform contracts. This article introduces the concept of digital widowhood and examines the legal, technological, and socio-cultural barriers surviving spouses face in accessing and administering a deceased partner's digital assets. It reviews the existing global and Indian scholarship on digital succession and post-mortem privacy, identifies a specific gap at the intersection of gendered widowhood and digital inheritance that has not previously been named or analysed, and sets out the doctrinal, socio-legal, comparative, and empirical methodology used to test three doctrinal hypotheses and four linked empirical hypotheses regarding the adequacy of the current legal position. The doctrinal analysis examines the Indian Succession Act, 1925; the Hindu Succession Act, 1956; the Information Technology Act, 2000; and the Digital Personal Data Protection Act, 2023, as well as platform terms of service and emerging judicial developments on informational privacy and personality rights. The comparative analysis draws on statutory and judicial models from the United States, the European Union, Germany, and France to identify adaptable principles of fiduciary access, classification, and consent. The paper argues that the current Indian framework produces economic insecurity, privacy conflicts, and procedural uncertainty for surviving spouses, and that this burden falls disproportionately on them. Disproportionately affects widows because of documented patterns of unequal digital and financial participation within Indian marriages. It proposes a gender

-sensitive, classification-based model of digital estate administration that distinguishes economic, relational, and personal digital assets, together with a specified survey-based empirical research design capable of testing the model's underlying socio-legal claims among widows across multiple personal-law regimes. The analysis and proposed framework are intended to be of comparative interest beyond a single jurisdiction, wherever succession law has yet to catch up with the realities of a digitised estate.

Keywords: Digital Widowhood, Digital Assets, Posthumous Privacy, Indian Succession Law, Digital Estate, Legacy Access, Literature Review, Socio-Legal Research.

Nomenclature:

DPDP Act: Digital Personal Data Protection Act, 2023

GDPR: General Data Protection Regulation

IT Act: Information Technology Act, 2000

RUFADAA: Revised Uniform Fiduciary Access to Digital Assets Act

ANOVA: Analysis of Variance

SPSS: Statistical Package for the Social Sciences

I. INTRODUCTION

The transformation from a largely physical economy to a digitally dominated society has radically changed the concept of ownership, individual identity, and social relations. In today's India, the demise of an individual can mean not only leaving behind physical immovable properties, bank accounts, investments, and personal assets but also the creation of a large virtual property that includes email accounts, social media accounts, photos and documents stored on the cloud, digital bank accounts, cryptocurrency wallets, monetized online profiles, and private electronic correspondence. However, unlike tangible property, digital property is regulated not only by succession laws, data protection principles, and contractual terms of service, but also by technology such as password protection, encryption, and two-factor authentication [1].

The problem becomes more acute in widowhood. The spouse could have a legal claim to the assets of her dead husband, but will have a difficult time accessing the digital platform that houses such assets. A widow may know assets exist but lack the passwords to access them. She may also have an interest in family photographs stored in the cloud but cannot access them. She might need emails and digital documentation to help manage the estate, even while privacy issues remain with the emails and messages left behind by the deceased. This paper calls this a unique sociological problem: digital widowhood.

Digital widowhood is not a new legal classification. On the contrary, it refers to the challenges that the survivor of one's spouse faces legally, technologically,

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economically and emotionally in accessing, preserving or administering the digital afterlife of their deceased spouse. Digital widowhood highlights a central issue never envisioned in succession law: inheriting something while lacking the technological capacity to access it. In the real world, ownership implies having the capacity to use or manage the object. However, in the digital sphere, ownership, access, and control can be separate [2].

The heterogeneity of the digital estate itself increases this difficulty. A cryptocurrency wallet, an online investment account, a monetised digital estate, and a family photo in the cloud cannot be governed by the same legal principle. Some types of the digital estate are clearly economically valuable and should, in principle, belong to the inheritance. Other digital estates are emotionally or family-related. Personal emails, diaries, and electronic correspondence are often highly private and contain not just information about the decedent, but about other living persons [3]. It would thus seem appropriate for proper legal regulation to differentiate among various types of digital estates, rather than treating the whole digital estate as inheritable property.

In light of this, the current research analyses whether Indian law provides sufficient safeguards for surviving spouses' rights to the digital assets left behind by their deceased partners. The study examines the interplay between succession laws, privacy, data protection, electronic documentation, platform contracts, and access to technology. The legal issue at hand goes beyond identifying heirs; it involves what is inheritable, how to access these assets, and where access must be limited to safeguard the deceased's privacy and dignity.

The remainder of the paper proceeds as follows. Section 2 reviews the existing literature on digital assets, post-mortem privacy, and Indian digital-succession scholarship. Section 3 identifies the research gap this paper addresses. Section 4 sets out the research methodology — doctrinal, socio-legal, comparative, and empirical — and Section 5 states the hypotheses tested, both doctrinal and empirical. Sections 6 to 13 develop the substantive socio-legal analysis, and Sections 14 to 16 present the findings, suggestions, and conclusion, followed by a bibliography.

II. LITERATURE REVIEW

A. Global Scholarship on Digital Assets and Succession

Foundational scholarship on digital succession emerged primarily in the United States. Banta [17] examined how private contracts between users and service providers, rather than succession law, determine the fate of digital assets at death, arguing that terms-of-service clauses denying inheritability should be treated as void as a matter of public policy because they transfer decision-making power from individual account holders to corporations. Banta [2] extended this analysis by conceptualising the resulting imbalance as “digital feudalism,” in which platforms function as gatekeepers of property interests that would otherwise vest in heirs. Banta [19] further connected digital succession to constitutional and privacy concerns, arguing that death does not automatically extinguish the informational interests embedded in a person's digital footprint. This trilogy of scholarship established the

analytical distinction, later adopted in this paper, between ownership of a digital asset, access to the platform that houses it, and control over its ultimate disposition.

B. Post-Mortem Privacy Scholarship

A parallel and complementary strand of literature has developed the theory of post-mortem privacy. Harbinja [18] built on earlier post-mortem privacy scholarship to argue, at both theoretical and doctrinal levels, that testamentary freedom and data-protection principles can be extended to protect a deceased person's informational autonomy after death, and evaluated early legislative responses such as the American Uniform Law Commission's fiduciary-access reforms. Harbinja [1] subsequently produced the most comprehensive treatment of the field to date, proposing the concept of “postmortal privacy” and examining digital assets across three case studies — social networks, online games and virtual worlds, and email — while situating the discussion within property law, contract law, succession and probate law, data protection law, and criminal law. Buitelaar [3] approached the same problem from the standpoint of informational self-determination, arguing that a deceased person's digital records frequently implicate the ongoing privacy interests of third parties (correspondents, family members, and others named or discussed in private communications), and that posthumous access decisions therefore cannot be reduced to a simple question of inheritance rights.

C. Comparative and Platform-Governance Literature

Comparative legal literature demonstrates that jurisdictions have adopted markedly different models. The Revised Uniform Fiduciary Access to Digital Assets Act, promulgated by the Uniform Law Commission in the United States and since adopted in some form in the great majority of American states, creates a tiered system in which fiduciaries may be granted differing levels of access depending on the category of digital asset and the deceased's prior instructions [4], [5]. In the European Union, the General Data Protection Regulation strengthens living users' control over personal data but leaves post-mortem data governance largely to member states [6], [7]. Germany has taken a property-centred approach: the Bundesgerichtshof held in its 2018 Facebook inheritance decision that a deceased user's account passes to heirs through universal succession under the German Civil Code, and that platform terms of service inconsistent with this rule are unenforceable [8]. France, by contrast, has adopted a consent-centred model: Article 63 of the Digital Republic Act, 2016 allows individuals to issue binding posthumous instructions regarding the retention, deletion, or transfer of their personal data and to appoint a person to enforce those instructions [9]. Kulkarni [7] synthesises these approaches and proposes that India adopt a dedicated Fiduciary Access to Digital Assets Act modelled substantially on RUFADAA, supplemented by a French-style right to issue posthumous digital instructions.





D. Indian Legal Scholarship on Digital Inheritance

Indian legal scholarship on this question is comparatively recent and limited. Kaushal [5] surveys the statutory vacuum in Indian law, demonstrating that neither the Indian Succession Act, 1925 [10] nor the Hindu Succession Act, 1956 [11] recognises digital assets as inheritable property, that Sections 43 and 66 of the Information Technology Act, 2000 [12] expose heirs to potential criminal liability for accessing a deceased person's account without authorisation, and that Section 14 of the Digital Personal Data Protection Act, 2023 [13], while permitting a data principal to nominate a person to act on her behalf after death, does not define the nominee's powers in relation to legal heirs under succession law. Kaushal [5] also reviews Indian case law bearing indirectly on the question, including the Supreme Court's recognition of informational privacy as a fundamental right in Justice K.S. Puttaswamy (Retd.) v. Union of India [14], the requirement of authenticated electronic evidence under Section 65B of the Indian Evidence Act as applied in Anvar P.V. v. P.K. Basheer [15], and the Delhi High Court's holding in Krishna Kishore Singh v. Sarla A. Saraogi [16] that personality and publicity rights do not survive death — a holding that, by extension, casts doubt on whether a deceased person's digital identity rights are inheritable at all. Kulkarni [7] reaches similar conclusions through an independent doctrinal and comparative analysis, also cataloguing the practical burdens placed on Indian heirs: the need to produce succession or legal-heir certificates, the risk of platform-level identity theft targeting the deceased's accounts, and the uncertain status of revenue-generating digital assets under existing terms-of-service agreements.

E. Socio-Legal Literature on Widowhood

A distinct and older body of socio-legal literature addresses the structural vulnerability of widows generally, independent of digital assets, examining how widows are disadvantaged by the interaction of formal law, customary practice, and administrative procedure, and arguing that legal reform aimed at widows must account for practical, non-doctrinal barriers — documentation requirements, unfamiliarity with financial and administrative systems, and dependence on the deceased spouse for record-keeping — that formal entitlements alone do not resolve. This literature has not, to date, been extended to the digital domain; the present paper draws on its methodological insight — that formal legal entitlement and practical access are analytically distinct — and applies it to the specific problem of digital estates.

III. RESEARCH GAP

The literature reviewed above reveals three distinct bodies of scholarship that have developed largely in isolation. First, the global and comparative literature on digital succession [1], [2], [3], [17], [18], [19] is doctrinally rich. However, it is grounded almost entirely in American, British, and European legal systems. It does not engage with Indian personal-law pluralism, the Indian constitutional privacy jurisprudence following Puttaswamy, or the criminal-liability exposure created by Sections 43 and 66 of the Information Technology Act, 2000. Second, the emerging Indian legal scholarship on digital inheritance [5], [7] accurately diagnoses the statutory

vacuum and proposes comparative solutions, but treats heirs as an undifferentiated category; it does not examine whether the burden of the vacuum falls disproportionately on any particular class of heir, nor does it engage with the pre-existing socio-legal literature on the structural vulnerability of widows. Third, the wider socio-legal literature on widows' economic and administrative marginalisation has not been extended to the digital domain at all, despite widow-headed households in India increasingly depending on digital financial and communication infrastructure.

No study identified in this review examines the specific intersection of these three literatures: the gendered, practical experience of a surviving spouse — typically, in the Indian context, a widow — attempting to exercise a doctrinally uncertain legal entitlement to a deceased spouse's classified digital estate, against a background of unequal digital literacy and financial-decision-making participation within Indian marriages. This paper contributes by naming and analysing this intersection as “digital widowhood” and proposing a gender-sensitive, classification-based framework responsive to it, along with an empirical research design to test the framework's underlying socio-legal claims. This study addresses this gap.

IV. RESEARCH METHODOLOGY

A. Doctrinal, Socio-Legal, and Comparative Design

This study adopts a combination of doctrinal, socio-legal, and comparative methods, consistent with the approach used in the existing Indian digital-inheritance literature [5], [7].

The doctrinal component involves a textual and structural analysis of the primary legal sources governing succession, data protection, and electronic records in India, namely the Indian Succession Act, 1925, the Hindu Succession Act, 1956, the Information Technology Act, 2000, and the Digital Personal Data Protection Act, 2023, read together with the constitutional privacy jurisprudence in Justice K.S. Puttaswamy (Retd.) v. Union of India [14] and the evidentiary and personality-rights case law in Anvar P.V. v. P.K. Basheer [15] and Krishna Kishore Singh v. Sarla A. Saraogi [16].

The socio-legal component situates this doctrinal analysis within the lived experience of widowhood in India, drawing on existing literature on widows' economic marginalisation, administrative burden, and unequal participation in household financial decision-making, to test whether the identified statutory gaps translate into a gendered practical burden.

The comparative component analyses selected international models — the Revised Uniform Fiduciary Access to Digital Assets Act in the United States [4], the General Data Protection Regulation and the Bundesgerichtshof's 2018 Facebook inheritance decision in the European Union and Germany, respectively, and the French Digital Republic Act, 2016 — not for direct transplantation, but to extract adaptable principles of fiduciary access, classification, and consent that could inform an Indian framework, consistent with the

comparative methodology used in Kaushal [5] and Kulkarni [7].

The doctrinal, socio-legal, and comparative components above are analytical rather than empirical: standing alone, they do not draw on primary survey or interview data from widows, and their conclusions regarding lived experience are accordingly drawn from secondary socio-legal literature rather than original fieldwork. Section 4.2 sets out an empirical design intended to close this gap.

B. Empirical Design

To test directly the socio-legal claims underlying Hypothesis H2 (and, indirectly, the comparative claim in H3), this study also specifies a survey-based empirical component. A cross-sectional, descriptive-inferential survey design is adopted, supplemented by a small number of open-ended items to permit brief qualitative illustration of the quantitative findings (an explanatory, survey-led mixed-methods design), proportionate to a doctrinally led legal study.

Population and sampling. The target population is widows in India, aged 25 and above, whose deceased spouse held one or more digital assets (banking or payment apps, email, cloud storage, social media, cryptocurrency, or a monetised digital platform), and who were personally involved, or attempted to become involved, in administering that estate within the preceding five years. Given the absence of a sampling frame for this population, a purposive sampling method is adopted, supplemented by snowball referral through legal-aid clinics, widows' welfare associations, and family-court intermediaries across at least two states, to capture variation across personal-law regimes. This is a non-probability sample, which limits statistical generalisability but is adequate for hypothesis testing within the sample obtained.

Sample size. A minimum of 150–200 completed responses is targeted, derived from an a priori power calculation ($\alpha = .05$, power = .80, medium effect size, Cohen's $d \approx 0.5$, requiring approximately 64 respondents per group for a two-group comparison), with the higher end of the range allowing for the multi-group and multi-predictor comparisons required by He2 and He4 below, and for anticipated non-response.

Instrument. A structured questionnaire is administered with five sections: (A) demographics and personal-law regime; (B) pre-death digital and financial involvement; (C) post-death access experience, using 5-point Likert items; (D) perceived adequacy of current legal mechanisms compared with a described tiered, classification-based framework; and (E) open-ended questions permitting brief qualitative elaboration. The instrument is piloted on 20–30 respondents before full deployment; internal consistency of each multi-item scale is assessed using Cronbach's alpha (target ≥ 0.70), and a panel of law and social-work academics confirms content validity.

Variables and statistical tools. Descriptive statistics (means, standard deviations, frequencies) and normality checks (Shapiro-Wilk, supplemented by Q-Q plots) are reported first to select between parametric and non-parametric alternatives for each hypothesis test. H1 (the association between prior digital/financial involvement and time taken to access digital assets) is tested using an

independent-samples t-test (or Mann-Whitney U if the distribution departs from normality) and a Spearman correlation. H2 (the association between digital literacy and perceived procedural burden) is tested using a one-way ANOVA (or Kruskal-Wallis test), with post-hoc pairwise comparisons, and a chi-square test of independence for a categorical burden-severity measure. H3 (the comparison between perceived adequacy of current mechanisms and of a hypothetical tiered framework, rated by the same respondents) is tested using a paired-samples t-test (or Wilcoxon signed-rank test). H4 (the joint predictive effect of age, education, urban/rural residence, and prior involvement on perceived difficulty) is tested using multiple linear regression (or ordinal logistic regression if the outcome is treated as ordinal categories). Analysis is conducted in SPSS, Jamovi, or R.

Ethical considerations. Given the bereavement context of the population, the study obtains institutional ethics clearance before fieldwork; uses informed consent that states the right to skip any question or withdraw at any point; anonymises all responses at collection; and offers a referral list of counselling and legal-aid resources to all respondents, regardless of participation.

Limitations of the empirical component. The non-probability sampling method limits statistical generalisability to the wider population of Indian widows; self-report measures of digital literacy and perceived burden are subject to recall and social-desirability bias; the cross-sectional design supports association rather than causal inference between prior digital involvement and post-death access difficulty; and the tiered framework evaluated under He3 is necessarily a simplified vignette, so respondents' ratings of it are indicative of relative preference rather than a test of an enacted law. As with the doctrinal, socio-legal, and comparative components, fieldwork under this design and its results are reported separately, once conducted, and are not incorporated into the doctrinal findings in Section 14 below.

V. HYPOTHESES

Based on the literature review and the research gap identified above, this study tests the following three doctrinal hypotheses:

H1: The existing Indian succession framework — comprising the Indian Succession Act, 1925 and the Hindu Succession Act, 1956 — does not provide surviving spouses with an adequate legal mechanism to access, administer, or classify the digital assets of a deceased spouse.

H2: The absence of a classification-based statutory regime for digital assets in India imposes a disproportionate procedural, economic, and emotional burden specifically on widows, given documented patterns of unequal digital and financial participation within Indian marriages.

H3: A tiered, classification-based, gender-sensitive framework of the kind adopted, in different forms, in the United States (RUFADAA) and France (the Digital Republic Act) would more effectively reconcile heirs' access rights with post-mortem privacy interests in the Indian context than either an undifferentiated property-based model (as in Germany) or continued





reliance on platform terms of service.

The following empirical hypotheses (He1–He4) supplement H1–H3 and are tested through the survey design specified in Section 4.2. Each is linked to the doctrinal hypothesis whose underlying socio-legal claim it operationalises into a directly testable proposition:

H1 (linked to H2): There is a statistically significant association between a widow's pre-death involvement in household digital and financial administration and the time taken to obtain access to the deceased spouse's digital assets.

H2 (linked to H1): Widows with lower self-reported digital literacy report a significantly higher perceived procedural burden in accessing digital assets than widows with higher

digital literacy.

H3 (linked to H1 and H3): Respondents rate the adequacy of the existing legal mechanisms (the succession/legal-heir certificate procedure, the DPDP Act, 2023 nominee mechanism, and platform-specific legacy tools) significantly lower than the adequacy they attribute to a hypothetical tiered, classification-based statutory framework described to them in the questionnaire.

He4 (linked to H2): Age, educational attainment, urban/rural residence, and pre-death digital involvement significantly predict the level of difficulty a widow reports in accessing a deceased spouse's digital estate.

Table 1: Hypothesis Testing Framework — Doctrinal Hypotheses (h1–h3) and Linked Empirical Hypotheses (he1–he4), Synchronised with the Methodology in Section 4 and the Findings in Section 14

Hypothesis	Type	Focus	Method / Test
H1	Doctrinal	Adequacy of the Indian Succession Act, 1925 and Hindu Succession Act, 1956 for digital assets	Textual/structural doctrinal analysis (Sections 8–10)
H2	Doctrinal	Disproportionate burden on widows given unequal digital/financial participation	Socio-legal literature synthesis (Section 11)
H3	Doctrinal/comparative	Comparative viability of a tiered, classification-based framework	Comparative analysis of US, German and French models (Section 12)
He1	Empirical	Prior involvement → time to access digital assets	Independent-samples t-test / Mann-Whitney U; Spearman correlation
He2	Empirical	Digital literacy → perceived procedural burden	One-way ANOVA / Kruskal-Wallis; chi-square test of independence
He3	Empirical	Adequacy of current mechanisms vs. hypothetical tiered framework	Paired-samples t-test / Wilcoxon signed-rank test
He4	Empirical	Age, education, residence, involvement → perceived difficulty	Multiple linear regression

VI. CONCEPTUALISING DIGITAL WIDOWHOOD

The concept of digital widowhood underpins this work's analysis. In traditional contexts, widowhood has mainly concerned inheritance, economic concerns, residency, maintenance, and social position after a husband's death. Digitalisation adds another dimension to this phenomenon. The deceased spouse may have controlled some aspects of family finances and administration through digital means. This could mean that apart from facing the legal implications of death, the bereaved wife will need to deal with passwords and locked-down accounts.

For this study, “digital widowhood” refers to a surviving spouse needing to access or manage the deceased spouse's digital assets and information while being constrained legally, technologically, and in terms of privacy. This term is particularly helpful because it puts the human experience of inheritance at the centre of the discussion. Digital inheritance is not just a technological problem related to online accounts; it can also involve economic well-being, family management, emotional closure, and even access to justice [19].

Digital widowhood has three main aspects: economic, legal, and emotional. The economic aspect concerns access to digital financial assets, investments, cryptocurrency, online businesses, monetised digital platforms, etc. The legal aspect concerns succession, ownership, privacy, data protection, and contracts established by digital platform providers. The emotional aspect involves accessing photographs, videos, messages, voice recordings, and other digital memories left by the deceased person [1]. These aspects tend to overlap; for instance, a cloud account can include financial documents, family photographs, and personal correspondence.

The term highlights the issue of digital dependency that

may occur in the context of marriage. Nowadays, all aspects of banking, insurance, taxes, investments, correspondence, and other matters are done digitally. If one spouse bears most of the responsibilities in this sphere, the spouse's death may make it impossible for the survivor to operate such accounts due to a lack of knowledge. Digital widowhood thus reveals how digital disparity in the household remains a problem even after the demise of the individual who was responsible for digital activities, a dynamic consistent with the broader socio-legal literature on widows' dependence on the deceased spouse for administrative and financial record-keeping.

The gender aspect of the matter requires special attention. Each widow may experience digital dependency differently, and the paper does not imply that all women lack financial or digital literacy skills. However, unequal access to technology, exclusion from financial decision-making, limited password awareness, and difficulty managing family digital accounts remain issues that must be discussed within the framework of digital widowhood.

VII. DIGITAL ASSETS AND THEIR CLASSIFICATION

Any substantial legal analysis of digital succession needs an understanding of what a digital asset is. The term “digital asset” refers to many types of interests that differ widely in economic value, personal importance, legal nature, and transferability. If all digital content is treated as equally important, it would be quite difficult to determine the rights of heirs and the possible posthumous use of such content [7].

From an analytical perspective, digital assets can

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be categorised as economic, expressive, relational, and professional. Economic digital assets include cryptocurrency, digital wallets, online banking accounts, monetised social media accounts, domain names, and digitally managed business interests. These assets have financial value and thus provide the strongest reason for access through succession. Expressive digital assets include photos, videos, blogs, artwork, and personal writings. They may not have financial value, but they do have emotional, cultural, or intellectual value. Relational digital assets include emails, private messages, and social media communication; accessing them can violate other people's privacy [3]. Professional digital assets may include business accounts, databases and intellectual property.

This classification identifies a critical difference between ownership, access, and control, a distinction developed most fully in the American literature on digital feudalism [2].

Ownership refers to the right to the asset in question; access relates to the ability to enter or access information from the relevant digital platform; and control relates to the ability to change, transfer, delete, or manage the account or asset. The three rights may not necessarily rest with the same individual. A widow may have succession rights to a financial asset, but not the password needed to access it. Similarly, possessing a dead person's cell phone does not mean that there is an absolute right to examine its entire contents.

This categorisation of digital assets is crucial to creating a well-rounded succession scheme. Transferring economic assets might require a different process than private communications, which require stronger security measures. Family photos may demand restricted access based on ownership and family interests. This kind of classification would prevent extremes, such as inheriting all digital information and making none accessible after death.

Table II: Classification of Digital Assets by Ownership, Access and Control (Section 7)

Category	Illustrative Examples	Primary Concern	Suggested Access Approach
Economic	Cryptocurrency, online banking, monetised social media, domain names, business interests	Financial value; strongest claim to inheritability	Transferable to legal heirs, subject to identity verification
Expressive	Photos, videos, blogs, personal artwork/writing	Emotional, cultural and family significance rather than financial value	Accessible on proof of family/succession interest
Relational	Emails, private messages, social media correspondence	Implicates the ongoing privacy of third parties, not only the deceased	Restricted; disclosed only with consent, court order, or narrow estate-administration necessity
Professional	Business accounts, databases, intellectual property	Continuity of livelihood, IP, and business obligations	Transferable, integrated with existing IP and business-succession law

VIII. INDIAN LEGAL FRAMEWORK

India's current succession legal system predates digital technologies. The Indian Succession Act, 1925, and personal succession laws include provisions on property rights and their distribution. However, these laws provide no complete regime for digital estates [5]. This issue becomes significant when the deceased's interest exists only in digital form and/or when access to traditional property depends on digital means.

The Hindu Succession Act, 1956 becomes particularly relevant where both the deceased and the surviving spouse come under Hindu succession law. A woman's rights as an heir are particularly relevant when determining her rights in the deceased person's estate. However, having succession rights does not necessarily mean the widow has access to the digital account, can decrypt the data, or can compel the online service provider to disclose the account information [7].

The Information Technology Act, 2000 provides an important statutory framework for electronic records, electronic transactions, and other digital activities. However, this Act is not intended as a comprehensive legislation for the posthumous administration of digital estates. Sections 43 and 66 of the Information Technology Act, 2000, in fact, penalise unauthorised access to computer systems and electronic accounts, and in the absence of a statutory exception for heirs or executors, a widow accessing a deceased spouse's account for legitimate estate-administration purposes may face potential civil or criminal exposure [5]. Likewise, the Digital Personal Data Protection Act, 2023 brings a modern data protection framework, and Section 14 of that Act allows a data principal to nominate an individual to exercise rights on her behalf in the event of death or incapacity; however, the Act does not clearly define the nominee's powers in relation to legal heirs

under succession law, and applies only to personal data rather than to the wider category of digital assets, including cryptocurrency or intellectual property [5].

The constitutional dimension is equally important. The Supreme Court's declaration of the right to privacy under Article 21 as an element of the fundamental rights in Justice K.S. Puttaswamy (Retd.) v. Union of India [14] has brought a new perception of informational privacy in India; the Court in that case also indicated that privacy interests do not straightforwardly survive the death of the individual, which implies that heirs cannot simply inherit a deceased person's privacy rights [5]. However, a deceased person's digital estate may include information about living people who are entitled to their own right to privacy, and their interests must therefore be legally recognised [3]. This means posthumous digital administration cannot be considered simply a case where the deceased's interests conflict with those of the heir alone. The evidentiary dimension of this problem was addressed in Anvar P.V. v. P.K. Basheer [15], where the Supreme Court held that electronic evidence is admissible only when it satisfies the certification requirements of Section 65B of the Indian Evidence Act, 1872, confirming that heirs seeking to rely on a deceased spouse's digital records for estate-administration purposes require lawful means of obtaining authenticated electronic material. Separately, in Krishna Kishore Singh v. Sarla A. Saraogi [16], the Delhi High Court held that personality and publicity rights do not transfer after death, further underscoring the absence, in Indian law, of any settled doctrine of inheritable digital identity.

This system thus appears fragmented. Different legal regimes can cover different aspects.





of the digital estate, yet no system adequately addresses digital inheritance. The real issue is not just the lack of regulations governing digital property; it is the lack of an integrated system that addresses succession, access, privacy, and technology together.

IX. PLATFORM GOVERNANCE AND CONTRACTUAL BARRIERS

Digital succession is unique because access to the property depends on access to a private technological platform. Whereas in traditional succession the legal relation between the deceased's property and the heir is decided by law, in the digital world one more player enters the game—the platform that stores and authenticates or provides access to the relevant information.

Terms and conditions accepted during the user's lifetime regulate the future of his account. Platforms can provide different options such as the ability to memorialise, delete, nominate a legacy contact person, or disclose some information. However, these options vary widely, and most treat the account as a limited, non-transferable licence rather than as property capable of passing to heirs [5]. Thus, even if the law gives the right to the heir, it can turn out to be a contractual obstacle — the very dynamic that Banta [17] terms the displacement of succession law by private contract.

Passwords, encryption, and even two-factor authentication provide yet another means by which legal entitlement differs from technological access. The widow may prove her legal right of inheritance, but she cannot access the device or the account because she lacks the access credentials. Here arises an issue of particular legal significance: is there any way for the legal right of inheritance to be exercised in the face of technological restrictions?

The discrepancy between platform agreements and succession law also raises the question of how far personal agreements can affect estate administration. Even if the person agreed to a platform's terms during his lifetime, the consequences of that agreement after his death can affect people who did not sign it. This is especially true when the widow has a legal claim to the deceased's estate. Comparative practice suggests two contrasting solutions to this problem: the German approach, under which the Bundesgerichtshof held platform terms inconsistent with universal succession to be unenforceable [8], and the French approach, under which platforms must give effect to a user's own posthumous instructions and any conflicting term of service is void [9].

Such platforms would need a more transparent legal framework. There should be standardised procedures for reporting deaths, identifying heirs, securing accounts, providing heirs access, and allowing challenges to a denial of access. Platform governance should not replace succession law but operate within it.

X. PRIVACY AFTER DEATH

Posthumous privacy is one of the most challenging elements of digital succession. Succession does not allow unlimited access to all types of a deceased person's digital content. Digital communications often involve personal information that may have been kept secret during the person's lifetime.

Posthumous privacy can be defined as an attempt to secure personal information or communication concerning the deceased against unjustified dissemination or exploitation after his or her death [18]—the legal standing of posthumous privacy calls for particular attention. Although the legal protection available to the dead person differs from the privacy guarantees of constitutional law for living people, the deceased person's digital property may include personal data belonging to or related to third parties. Buitelaar [3] frames this precisely as a problem of informational self-determination: the private letters of a dead person may contain personal information about their friends or colleagues, whose own ongoing privacy interest survives the death of the account-holder even though the account-holder's own privacy interest may not.

This distinction highlights an important difference between the right to inherit and the right to know. The widow may inherit an account and not automatically have the right to read everything privately written on the deceased's device. Also, access to family pictures may be warranted because the material is family in nature, whereas access to a private diary may be much more restricted [1].

Consent therefore becomes an important tool. Ideally, a person should decide how his or her digital property should be handled posthumously. Digital wills, legacy instructions, and chosen representatives — the model given statutory force in France under Article 63 of the Digital Republic Act, 2016 — may give people the opportunity to distinguish what data can be transmitted to heirs and what should be kept confidential. If there are no special instructions, a legislative solution based on classification may be needed, with judicial discretion in controversial cases.

XI. SOCIO-LEGAL REALITIES OF WIDOWS

The issue of digital widowhood cannot be comprehensively addressed legally without examining the social context of the succession process. Widowhood itself may already be challenging economically, emotionally and administratively. The digital aspect can make things even more difficult when access to finances and other personal resources depends on systems largely operated by the deceased spouse.

Often, one spouse manages investments, insurance, taxation, banking apps, electronic payments, and document storage. When the spouse who manages all of these things dies, the other spouse may know these resources exist but lack the knowledge, passwords, or other access points to access them. This mirrors, in the digital sphere, the broader pattern identified in the socio-legal literature on widows' administrative dependence on a deceased spouse's record-keeping.

This can be especially difficult when access depends on mobile verification, registered phone numbers, email recovery accounts, biometric verification, or two-factor verification. Consequently, a widow must prove her right to inheritance while also verifying her identity with several different institutions and platforms. In this case, the process can become extremely lengthy and burdensome, even for a relatively simple matter, and



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the requirement of a succession or legal-heir certificate before most Indian institutions will act adds another layer of procedural burden [7].

Digital assets also have an emotional side. Digital photos, video clips, voice memos, messages, and social media posts can preserve the deceased partner's memory. For a widow, access to these materials matters not because of their material value, but because of their emotional and family meaning in her marriage. This means that treating digital assets purely as property is inadequate.

Consequently, the socio-legal analysis shows that digital widowhood goes beyond technology. It means the interaction of gender, financial stability, digital literacy, inheritance, emotional wellbeing and access to justice. Future legal regulation should account for these aspects without stereotyping the condition of all widows.

XII. COMPARATIVE PERSPECTIVES

The lack of an effective Indian model makes comparative analysis highly relevant. Certain jurisdictions have already started creating methods for the administration of digital assets after the death of individuals. The United States has been progressive in its approach, introducing the concept of fiduciary access through the Revised Uniform Fiduciary Access to Digital Assets Act, which distinguishes between categories of digital assets and grants fiduciaries tiered access depending on the deceased's prior instructions and the type of asset involved [4], [5].

In addition, Germany treats digital accounts through the lens of universal succession and contractual relationships. In its 2018 decision, the Bundesgerichtshof held that a deceased

user's Facebook contract passes to heirs by universal succession under the German Civil Code, and that terms-of-service or jurisdiction clauses inconsistent with succession law are unenforceable [8]. This shows the feasibility of treating digital accounts under existing succession-law concepts. However, critics note that a pure property-based approach may under-protect the privacy of third-party correspondents [3].

The European system, through the General Data Protection Regulation, focuses on data protection and privacy. However, the Regulation itself leaves post-mortem data governance largely to individual member states [6]. France has filled this space through Article 63 of its Digital Republic Act, 2016, which allows individuals to issue binding instructions on the retention, deletion, or transfer of personal data after death and to appoint a person to enforce these instructions, with any conflicting platform term rendered void [9].

The comparative analysis shows that digital succession involves a balancing act between heirs' rights and personal data protection. It is not possible to apply any foreign system to India wholesale, because Indian succession laws, social setup, digital literacy, and family systems are distinct. What the comparative study aims to achieve is not to pick up one ideal model but to find principles that could be adapted to India: fiduciary access, prior digital directives, digital-asset categorisation, protection of private communications, and defined responsibilities for technology platforms — an approach consistent with the synthesis proposed in the recent Indian literature [5], [7].

Table III: Comparative Models of Digital Succession (Section 12)

Jurisdiction	Governing Model	Key Mechanism	Adaptable Principle for India
United States	Fiduciary access [4]	Tiered fiduciary access calibrated to digital-asset category and the deceased's prior instructions	Statutory classification of assets with tiered access rights
Germany	Universal succession [8]	Account passes to heirs by operation of succession law; conflicting platform terms unenforceable.	Judicial subordination of platform terms to succession law
European Union	Data-protection framework [6]	Strong living-user data rights; post-mortem governance left to member states	Baseline data-protection floor, supplemented nationally
France	Consent-based posthumous instructions [9]	Binding advance instructions on retention/deletion/transfer of data; appointed enforcer	Statutory recognition of digital wills/legacy directives

XIII. TOWARDS A GENDER-SENSITIVE FRAMEWORK FOR DIGITAL SUCCESSION IN INDIA

From the above discussion, India clearly needs a more elaborate framework for digital estates. This does not mean all digital assets should be inheritable. Rather, it should segregate different types of digital interests and classify them into tiers of access.

First, economic digital assets like cryptocurrencies and investments made in the internet space must be made inheritable to some extent. Second, family-oriented digital data like photographs, videos, and shared documents may be accessible depending on the legitimacy of surviving spouses' or family members' claims. Third, personal communication, diaries, and similar information should have enhanced privacy protection unless the deceased person gave consent or there was a lawful reason to access it [1], [3].

Statutory acceptance of digital wills would be another extremely helpful reform, on the French model [9]. People

must be allowed to appoint, during their lifetime, the individuals to whom their digital legacy will pass, what categories of digital property can be bequeathed, which accounts should be maintained, and what information needs to be kept confidential. The concept of digital nominees or legacy representatives — already introduced in embryonic form by Section 14 of the Digital Personal Data Protection Act, 2023 — is intended to ease the administrative tasks of surviving spouses, though its powers require clearer definition [5].

Technological platforms should develop clear rules for administering their services when users die. The rules must include procedures for reporting death, identifying heirs, preserving data, granting authorised access, and appealing against illegal denial of access. Platforms must not create a complete blockage between succession rights and digital property.

The suggested system should accept the principle of “priority without absoluteness.” The surviving



spouse with a proven succession interest must be granted priority access to information about her legitimate rights; however, this privilege must not grant absolute access to the deceased's private communications or those of other individuals. Ultimately, India's digital succession model must be grounded in four principles: Inheritance, Proportional Access, Privacy, and Technological Accountability. These principles would help formulate a legal system capable of dealing with the issues of digital widowhood without compromising the rights of heirs and the dead alike.

XIV. FINDINGS

The doctrinal, socio-legal, and comparative analysis undertaken in this paper yields the following findings, structured against the three doctrinal hypotheses set out in Section 5. This paper does not address the empirical hypotheses H1–H4 specified in Section 4.2, as they require fieldwork that has not yet been conducted; the results will be reported separately once that fieldwork is complete.

On H1 — adequacy of the existing succession framework — the analysis confirms the hypothesis. Neither the Indian Succession Act, 1925 nor the Hindu Succession Act, 1956 defines or recognises digital assets as inheritable property [5], [7]. Sections 43 and 66 of the Information Technology Act, 2000 create a realistic risk of civil or criminal exposure for a widow who accesses a deceased spouse's account without explicit statutory authorisation, and Section 14 of the Digital Personal Data Protection Act, 2023 leaves the relationship between a data-protection nominee and a succession-law heir undefined. Platform terms of service, treating accounts as non-transferable licences rather than property, operate as a de facto substitute for succession law in the absence of statutory intervention [17]. The constitutional privacy jurisprudence in *Puttaswamy* [14], while affirming that the deceased's own privacy interest does not straightforwardly survive death, does not resolve — and in fact sharpens — the question of third-party privacy embedded in a deceased spouse's digital correspondence [3].

On H2 — the gendered and disproportionate character of the burden — the analysis supports the hypothesis, though

with the caveat, consistent with the wider socio-legal literature on widowhood, that the degree of burden varies with each widow's individual digital literacy and prior involvement in household financial administration. Where one spouse has historically managed digital banking, insurance, investment, and correspondence, the surviving spouse — overwhelmingly, in the socio-cultural pattern documented in the existing literature on Indian widowhood, the widow — faces a compounded burden: she must simultaneously establish her legal entitlement (often requiring a succession or legal-heir certificate), verify her identity across multiple platforms with authentication tied to the deceased's credentials, and do so while managing the emotional demands of bereavement. This is a distinct and previously unexamined extension of the pre-existing socio-legal finding that widows face disproportionate administrative and documentary burdens after a spouse's death. The empirical design in Section 4.2 (He1, He2, He4) is intended to test the magnitude of this burden directly once fieldwork is conducted.

On H3 — the comparative viability of a tiered, gender-sensitive framework — the analysis finds that no single comparative model transplants cleanly, but that each offers a usable component. The American RUFADAA model offers a workable fiduciary-tiering structure calibrated to asset category [4]. The French model offers a workable consent-based mechanism for posthumous instructions that could be integrated with testamentary practice under the Indian Succession Act, 1925 [9]. The German universal-succession model demonstrates that courts can subordinate platform terms of service to succession law, a principle Indian courts could adopt by analogy even absent new legislation [8]. None of the three models, however, was designed with a classification-sensitive, privacy-differentiated structure specifically responsive to the gendered burden identified under H2; this is the specific respect in which an Indian framework must go further than existing comparative models. H3 in Section 4.2 provides a way to empirically test whether respondents perceive such a framework as more adequate than existing mechanisms.

Table IV: Synchronisation of Hypotheses, Methodology and Findings (Sections 4, 5 and 14). Doctrinal Hypotheses (H1–H3) are resolved in This Paper; Empirical Hypotheses (He1–He4) await the fieldwork specified in Section 4.2 and will be Reported Once Conducted

Hypothesis	Doctrinal/Empirical Status	Direction of Finding	Key Basis
H1	Doctrinal — tested in this paper	Supported: existing succession statutes do not recognise digital assets as inheritable property	Indian Succession Act 1925; Hindu Succession Act 1956; IT Act ss.43,66; DPDP Act s.14
H2	Doctrinal — tested in this paper (socio-legal synthesis)	Supported, with variation by individual digital literacy and prior involvement	Socio-legal literature on widows' administrative dependence (Section 11)
H3	Doctrinal/comparative — tested in this paper	Supported: no single foreign model transplants cleanly, but each contributes a usable component	Comparative analysis of US, German, French models (Section 12; Table 3)
He1	Empirical — design specified, fieldwork pending	Not yet determined	To be tested via t-test/Mann-Whitney U and Spearman correlation (Section 4.2)
He2	Empirical — design specified, fieldwork pending	Not yet determined	To be tested via ANOVA/Kruskal-Wallis and chi-square (Section 4.2)
He3	Empirical — design specified, fieldwork pending	Not yet determined	To be tested via paired t-test/Wilcoxon signed-rank test (Section 4.2)
He4	Empirical — design specified, fieldwork pending	Not yet determined	To be tested via multiple linear regression (Section 4.2)

XV. SUGGESTIONS

Building on the findings above, this paper offers the following suggestions, addressed principally to Indian

legislators, the judiciary, and digital-service platforms.

First, Parliament should consider enacting a dedicated digital-assets succession

statute — structured along the lines of a Fiduciary Access to Digital Assets framework — that defines digital assets, classifies them (economic, expressive, relational, professional), and specifies tiered fiduciary-access rights for each category, rather than attempting to graft digital assets onto the existing property-centric definitions in the Indian Succession Act, 1925 and the Hindu Succession Act, 1956 [7].

Second, Section 14 of the Digital Personal Data Protection Act, 2023 should be amended, or clarified by subordinate rules, to specify how a data-protection nominee's authority interacts with a succession-law heir's entitlement, so that the two regimes operate together rather than in parallel and potential conflict [5].

Third, Sections 43 and 66 of the Information Technology Act, 2000 should include a defined safe-harbour exception permitting access by a court-recognised legal heir or executor acting under a succession certificate, removing the present risk of criminal exposure for lawful estate administration.

Fourth, digital-service platforms operating in India should be required, whether by statute or by regulatory direction, to adopt standardised procedures for death reporting, heir verification, data preservation, and appeal against denial of access, comparable to the tools already offered voluntarily by some global platforms, and consistent with the compliance obligations proposed in the recent Indian literature [5].

Fifth, Indian law should recognise binding posthumous digital instructions — a form of digital will or legacy directive — executed either as part of a testamentary instrument under the Indian Succession Act, 1925 or through a platform-based tool, on the French model, so that individuals can specify in advance which categories of digital assets are to pass to their spouse and which are to remain confidential [9].

Sixth, and specifically to address the gendered dimension confirmed under H2, the procedural burden on widows should be reduced through a simplified, time-bound, single-window mechanism for obtaining a succession or legal-heir certificate limited to digital-asset access, together with targeted digital-literacy and legal-aid support for widows navigating multi-platform authentication requirements, informed by the wider socio-legal literature on widows' administrative marginalisation.

Seventh, pending legislative reform, courts should be prepared to apply a proportionality-based approach — drawing on the analytical structure used in Puttaswamy [14] — when adjudicating disputes over posthumous digital access, weighing the surviving spouse's succession interest against the residual privacy interests of the deceased and of third parties named in private communications.

Finally, this paper has moved beyond identifying the need for primary empirical work by specifying, in Section 4.2, a concrete research design — sampling strategy, instrument, variables, and statistical tests — capable of testing the magnitude of the gendered burden identified under H2 directly, through He1, He2, and He4, and the comparative preference claim under H3, through He3. The next stage of this research agenda is to secure ethics clearance and conduct that fieldwork, so that the doctrinal findings in Section 14 can be corroborated, qualified, or revised by primary empirical evidence rather than by doctrinal inference and secondary socio-legal literature alone.

XVI. CONCLUSION

The advent of digital estates has revealed a fundamental flaw in succession law. The law used to deal with what should happen to property after one's death. However, in the digital era, an entirely new issue has emerged: who has the right to access the digital environment in which that property, information, and memory are stored?

“Digital widowhood” serves as a precise term for this problem. A spouse may have a legitimate right to inherit from the deceased person but find themselves confronted by passwords, encryption, user agreements, authentication procedures, and privacy concerns. As a result, one might have a right to inheritance. However, there is no way to exercise it—a conclusion this paper's literature review, doctrinal analysis, and testing of hypotheses H1 and H2 together confirm in the Indian context.

It is obviously wrong to provide unrestricted access to any information stored in the digital environment. Digital estates comprise a variety of interests, and personal communications raise privacy issues for both the dead and the living [3]. It also means that decisions about the future of an estate cannot be left to platforms' user agreements alone [17]. At the same time, as the findings under H3 demonstrate, comparative experience in the United States, Germany, and France shows that classification-sensitive statutory intervention is both feasible and adaptable to the Indian context.

There is therefore a need for a systematic and classificatory approach to digital succession in India. Economic digital assets should be transferable to legal heirs; family digital assets should be retrievable subject to reasonable controls; and personal communications should be better protected. A regime of digital wills, legacy tools, fiduciary access, and explicit platform obligations, as proposed in Section 15, may go a long way toward addressing the uncertainty inherent in digital inheritance and reducing the gendered burden this paper has identified.

The wider implications of digital widowhood go far beyond surviving spouses. They reveal how technology may highlight differences between pre-existing legal notions and social reality. The future of succession law cannot be confined to identifying heirs alone. It also raises questions about what heirs inherit, how they access it, and when privacy must be respected. In the digital era, inheritance should not remain a right permanently locked away by a password.

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DECLARATION STATEMENT

The references cited, especially [10], [11], [12], [15], and [17], are older than ten years and are explicitly noted as such. [10], [11], and [12] are the primary Indian statutes under



doctrinal analysis in this paper (the Indian Succession Act, 1925, the Hindu Succession Act, 1956, and the Information Technology Act, 2000) and cannot be substituted with more recent sources because the study's central finding is precisely that these instruments have not been updated to address digital assets. [15] Moreover, [17] is a foundational judicial and doctrinal authority—the leading Indian precedent on the admissibility of electronic evidence and the first systematic account of digital-asset succession—on which the more recent scholarship cited elsewhere in this paper, including [5] and [7], directly builds.

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