INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed



www.ijlra.com

ISSN: 2582-6433

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, or distributed in any form or by any means, whether electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the Managing Editor of the *International Journal for Legal Research & Analysis (IJLRA)*.

The views, opinions, interpretations, and conclusions expressed in the articles published in this journal are solely those of the respective authors. They do not necessarily reflect the views of the Editorial Board, Editors, Reviewers, Advisors, or the Publisher of IJLRA.

Although every reasonable effort has been made to ensure the accuracy, authenticity, and proper citation of the content published in this journal, neither the Editorial Board nor IJLRA shall be held liable or responsible, in any manner whatsoever, for any loss, damage, or consequence arising from the use, reliance upon, or interpretation of the information contained in this publication.

The content published herein is intended solely for academic and informational purposes and shall not be construed as legal advice or professional opinion.

Copyright © International Journal for Legal Research & Analysis. All rights reserved.

ISSN: 2582-6433

ABOUT US

The *International Journal for Legal Research & Analysis (IJLRA)* (ISSN: 2582-6433) is a peer-reviewed, academic, online journal published on a monthly basis. The journal aims to provide a comprehensive and interactive platform for the publication of original and high-quality legal research.

IJLRA publishes Short Articles, Long Articles, Research Papers, Case Comments, Book Reviews, Essays, and interdisciplinary studies in the field of law and allied disciplines. The journal seeks to promote critical analysis and informed discourse on contemporary legal, social, and policy issues.

The primary objective of IJLRA is to enhance academic engagement and scholarly dialogue among law students, researchers, academicians, legal professionals, and members of the Bar and Bench. The journal endeavours to establish itself as a credible and widely cited academic publication through the publication of original, well-researched, and analytically sound contributions.

IJLRA welcomes submissions from all branches of law, provided the work is original, unpublished, and submitted in accordance with the prescribed submission guidelines. All manuscripts are subject to a rigorous peer-review process to ensure academic quality, originality, and relevance.

Through its publications, the *International Journal for Legal Research & Analysis* aspires to contribute meaningfully to legal scholarship and the development of law as an instrument of justice and social progress.

ISSN: 2582-6433

PUBLICATION ETHICS, COPYRIGHT & AUTHOR RESPONSIBILITY STATEMENT

The *International Journal for Legal Research and Analysis (IJLRA)* is committed to upholding the highest standards of publication ethics and academic integrity. All manuscripts submitted to the journal must be original, unpublished, and free from plagiarism, data fabrication, falsification, or any form of unethical research or publication practice. Authors are solely responsible for the accuracy, originality, legality, and ethical compliance of their work and must ensure that all sources are properly cited and that necessary permissions for any third-party copyrighted material have been duly obtained prior to submission. Copyright in all published articles vests with IJLRA, unless otherwise expressly stated, and authors grant the journal the irrevocable right to publish, reproduce, distribute, and archive their work in print and electronic formats. The views and opinions expressed in the articles are those of the authors alone and do not reflect the views of the Editors, Editorial Board, Reviewers, or Publisher. IJLRA shall not be liable for any loss, damage, claim, or legal consequence arising from the use, reliance upon, or interpretation of the content published. By submitting a manuscript, the author(s) agree to fully indemnify and hold harmless the journal, its Editor-in-Chief, Editors, Editorial Board, Reviewers, Advisors, Publisher, and Management against any claims, liabilities, or legal proceedings arising out of plagiarism, copyright infringement, defamation, breach of confidentiality, or violation of third-party rights. The journal reserves the absolute right to reject, withdraw, retract, or remove any manuscript or published article in case of ethical or legal violations, without incurring any liability.

ISSN: 2582-6433

THE DIGITAL AFTERLIFE: LEGAL PROTECTION OF THE DECEASED IN INDIA'S EVOLVING DIGITAL ERA

AUTHORED BY - GEETHA.H (BA, LLB)

Abstract

Artificial intelligence can now make the dead sing, speak and answer messages. This paper asks who, if anyone, the Indian legal system authorises to say yes. It shows that the law protects the dead in fragments: personality and privacy rights end at death, the constitutional dignity of the dead attaches mainly to bodies, defamation of the dead is narrow, and the data-protection nominee right is optional and not yet in force. In practice, commerce fills the gap through family consent, so the commercially valuable dead are protected by contracts that the law does not clearly support, while the ordinary dead are protected by almost nothing. The paper proposes a custodial, time-limited 'digital dignity' interest, supported by advance directives, default consent rules and clear exceptions for expression and private mourning.

Keywords: posthumous personality rights, digital revival, griefbots, dignity of the dead, data protection, consent.

In January 2024 a Tamil film released a song in which two singers who had died, one in 1997 and the other in 2022, appeared to sing again. Synthetic voice models had been trained on their recordings. The composer said that he asked both families for permission and paid them.[1] The public reaction split. Some saw a tribute and a source of the income for the families. Others asked whether anyone could consent for a person who is no longer there to refuse.[2]

Now picture a quieter version. A widow feeds years of her husband's messages and voice notes into an app, and the app begins to reply in his style. This scene is hypothetical, but the technology it assumes is ordinary. No film studio, no contract and no court is involved, and no one asks whether the husband would have wanted it.

[1] PTI, 'Took permission, sent deserving remuneration: A R Rahman over AI use to recreate late singers' voice' (*Udayavani*, 30 January 2024) <https://udayavani.com/?p=1596508> accessed 31 October 2026.
[2] 'A R Rahman revives late singers' voices: experts weigh in on ethical implications' (*The News Minute*, 2024) <https://www.thenewsminute.com> accessed 31 October 2026.

ISSN: 2582-6433

Six months earlier the Delhi High Court had said something that sits uneasily beside both scenes. Refusing an injunction against a film on the life of a deceased actor, it held that his rights of privacy, publicity and personality did not pass to his father. They died with him.[3] If the law is right that these rights perish, the families in the first scene had nothing to license. If families nonetheless license them, the law and the market are speaking different languages.

This paper argues that India protects its dead in fragments and unequally. The commercially valuable dead are shielded by private contracts whose legal footing is uncertain. The ordinary dead are shielded by almost nothing, although their messages, voices and photographs are as technically easy to reuse. The paper is doctrinal and socio-legal. It analyses statutes and decisions to mid-2026, and it uses illustrative scenarios, not empirical data, to show how the rules operate. Part II classifies digital revival. Part III maps the legal fragments. Part IV examines the paradox of consent without right. Part V turns to the ordinary dead. Part VI considers the constitutional route. Part VII sets out the inequalities. Part VIII proposes a framework, Part IX answers objections, and Part X concludes.

Three Kinds of Digital revival

'Digital revival' covers practices that raise different interests, and the law cannot be designed without separating them.

The distinction is not academic. A rule that suits a studio negotiating a licence would be absurd if applied to a grieving daughter, and a rule that suits her would be too weak for a studio.

The first is *commercial recreation*: synthetic voices or likenesses of a known person used in films, advertisements or music. The interests are economic and dignitary. A viral set of AI-generated songs in the voice of a celebrated playback singer, shared as nostalgia and monetised without any consent from his heirs, shows how easily affection becomes revenue.[4]The second is *private mourning*: tools that let bereaved people converse with a simulation of someone they loved. The main interest here is therapeutic, but the deceased's dignity and the privacy of those who corresponded with them also matter.The third is *data harvesting*: the use of a dead person's public posts, messages or recordings to train general models. The interest is informational, and the harm is diffuse. A fair framework should treat the three differently, permitting some, conditioning others and prohibiting the rest.

[3] *Krishna Kishore Singh v Sarla A Saraogi* 2023 SCC OnLine Del 3997 (Del) (*Krishna Kishore Singh*).
[4] 'Digital ghosts and legal blind spots' (*Deccan Herald*, 2026) <https://deccanherald.com/opinion/digital-ghosts-and-legal-blind-spots-4088375> accessed 31 October 2026.

ISSN: 2582-6433

III. The Law of the Dead: A Map of Fragments

A. Personality and privacy end at death

The Delhi High Court's decision in *Krishna Kishore Singh* is the leading authority. Relying on *R Rajagopal*,[5] the Court held that privacy, publicity and personality rights are personal to the individual, are not heritable and lapse on death. The father could claim damages for harms to himself but could not enforce his son's rights. The Madras High Court had taken the same view in a dispute over a film on a politician's life.[6] Meanwhile, living celebrities have obtained broad injunctions against AI-generated voice and likeness misuse.[7] The paradox is plain: the more completely a person is protected in life, the more completely the protection vanishes at death.

Two features of that decision limit its reach. It concerned a film about a real life, where freedom of expression weighed heavily, and the plaintiff sought to stop the film, not to challenge a synthetic performance. Its statement that the rights die with the person was broad, but the facts did not involve a machine that makes a dead person speak new words. Courts have not yet had to decide whether the reasoning extends that far.

B. The dignity of the dead attaches mainly to bodies

The Supreme Court has held that the dignity and fair treatment guaranteed by article 21 extends to a person's body after death, in *Parmanand Katara*, and that even an unclaimed, homeless dead person is entitled to a decent burial in accordance with his faith, in *Ashray Adhikar Abhiyan*.[8] The National Human Rights Commission has issued an advisory in the same vein.[9] These decisions concern the handling of remains and last rites. They supply a principle, that dignity outlives life, but not a rule about voices, likenesses or data.

C. Defamation of the dead is narrow

The criminal law of defamation recognises that an imputation concerning a dead person can be an offence, but only if it would harm that person's reputation were he alive and is intended to hurt the feelings of his family or near relatives.[10] A flattering and faithful simulation, such as a voice that sings a new song beautifully, defames no one. Yet it may offend the deceased's own

[5] *R Rajagopal v State of Tamil Nadu* (1994) 6 SCC 632 (SC).
[6] *Deepa Jayakumar v A L Vijay* (Mad, 2019).
[7] *Anil Kapoor v Simply Life India* (Del, 2023); *Arjun Kapoor v Artist Booking Company* (Del, April 2026).
[8] Constitution of India 1950, art 21; *Pt Parmanand Katara v Union of India* (1995) 3 SCC 248 (SC); *Ashray Adhikar Abhiyan v Union of India* (2002) 2 SCC 27 (SC).
[9] National Human Rights Commission, *Advisory for Upholding the Dignity and Protecting the Rights of the Dead* (2021).
[10] Bharatiya Nyaya Sanhita 2023, s 356, Explanation 1.

ISSN: 2582-6433

wishes. Defamation protects reputation, not authenticity or consent.

D. Copyright protects performances, not personas

Performers hold exclusive rights and moral rights in their performances, and those rights endure for a fixed period.[11] Authors' special rights may be exercised by legal representatives after death.[12] These provisions help where a recording is copied. They help less where a model imitates a voice to produce a new performance that copies no particular recording. Whether such an output infringes any performer's right is unsettled, and commentators who find protection in these provisions generally concede the gap.[13]

E. Data protection offers an optional nominee

The Digital Personal Data Protection Act 2023 ('DPDP Act') lets a Data Principal nominate a person to exercise her rights if she dies or becomes incapable.[14] The nominee may exercise the rights of access, correction, erasure and grievance redress. The provision is not yet in force; it is scheduled to commence in May 2027.[15] The scheme rests on foresight. A person who never nominates leaves no one with a clear statutory voice, and commentators have noted the unresolved conflict between a nominee and legal heirs.[16] Two exclusions matter here. The Act does not apply to personal data processed by an individual for a personal or domestic purpose, and it does not apply to personal data that the Data Principal herself made publicly available.[17] A widow's private chatbot and the scraping of a dead person's own public posts therefore sit largely outside its reach.

F. Impersonation offences require fraud

The Information Technology Act 2000 punishes identity theft and cheating by personation through a computer resource.[18] These provisions target dishonest or fraudulent use, such as a scam in which a dead person's voice is cloned to deceive relatives. They do not reach a lawful,

[11] Copyright Act 1957, ss 38, 38A, 38B.
[12] *ibid* s 57(2).
[13] 'Voice Clones and Legal Tones: The Intersection of Artificial Intelligence and Posthumous Personality Rights' (*SpicyIP*, September 2024) <https://spicyip.com/2024/09/voice-clones-and-legal-tones-the-intersection-of-artificial-intelligence-and-post-humous-personality-rights.html> accessed 31 October 2026.
[14] Digital Personal Data Protection Act 2023, ss 2(j), 14.
[15] Digital Personal Data Protection Rules 2025, r 14; notification G.S.R. 843(E) (phased commencement) <https://dpdp.myndsolution.com/wiki/act/section-14-right-to-nominate/> accessed 31 October 2026.
[16] 'Digital Succession in India' (*King Stubb & Kasiva*, 2025) <https://ksandk.com/data-protection-and-data-privacy/digital-succession-in-india/> accessed 31 October 2026.
[17] DPDP Act (n 14), s 3(c)(i), (ii)(A).
[18] Information Technology Act 2000, ss 66C–66D.

ISSN: 2582-6433

open and well-meant simulation, however much it might offend the person's wishes.

IV. Consent without Right: The Paradox of Family Permission

The composer's approach in the film song, asking the families and paying them, makes commercial sense. It also raises a doctrinal puzzle. If personality rights end at death, families own no persona to license. Some practitioners nonetheless assume that these rights pass to heirs who may license them as they please.[19] The two positions cannot both be right.

The puzzle has at least three possible resolutions. First, the families' consent may be best understood as a courtesy with no legal effect, offered to manage reputation. Second, the consent may derive from the families' rights over the deceased's recordings, contracts and estate, and not from any personality right. Third, it may reflect a social understanding, as yet unrecognised in law, that the family is the natural custodian of the dead person's memory. The third possibility is the most interesting. It suggests that the law has not caught up with a practice that has already treated custodianship as real.

The practice has a weakness: the law gives no way to decide which relatives count. A deceased person may leave a spouse, children, parents and siblings, possibly with different wishes. Succession law ranks heirs for the purpose of property, not for the purpose of guarding a person's voice or face.[20] Where relatives disagree, the one who signs the licence first, or who is easiest for a producer to find, controls the outcome. A recent proposal would solve the problem by vesting the interest in heirs.[21] That would make the dead person's identity a piece of inheritable property, which has costs of its own, as Part VIII explains.

V. The Ordinary Dead

Almost all debate concerns celebrities, because their persona has a market. The more common situation involves people whose voices and words have no market but have great emotional and informational value.

Consider what an ordinary person leaves behind: thousands of messages, voice notes, photographs and videos. Technology can turn these into a simulation. The law contains no provision that clearly governs this. Personality rights have lapsed. The DPDP Act excludes private domestic processing, although a commercial app that hosts the chatbot would be a data

[19] The News Minute (n 2) (quoting a practitioner's view on heirs' licensing power).
[20] Hindu Succession Act 1956, s 8 and Schedule.
[21] 'Rest in IP: Posthumous Personality Rights in the Age of Deepfakes' (*SpicyIP*, March 2026) <https://spicyip.com/2026/03/rest-in-ip-posthumous-personality-rights-in-the-age-of-deepfakes.html> accessed 31 October 2026.

ISSN: 2582-6433

fiduciary subject to the Act's duties. A nominee, if one was named and once the provision commences, can seek erasure of data but has no express power to veto a simulation built from material that others hold.

A further difficulty has received little attention. A conversation is co-authored. A chat log with the dead contains the words, photographs and secrets of the living correspondents, such as friends, colleagues and former partners. They never agreed that their side of the exchange could train a model that speaks for someone else. Any rule about griefbots must therefore protect not only the dead person's dignity but also the privacy of the living people who appear in the data. Existing commentary has focused on the dead person's interest and on the nominee-heir conflict, and it has noted the risk of scraping private messages when privacy lapses at death.[22] The interests of correspondents add a third party that the debate has largely overlooked.

Mourning also has a social shape. In many communities grief is organised by ritual, with defined periods, observances and an eventual letting go. A simulation has no end date. It may sustain a continuing bond that comforts some people, and it may prolong distress in others. The law does not need to decide which. It should, however, avoid a regime in which the commercial provider alone decides how long a dead person keeps talking.

VI. The Constitutional Route: Dignity, Not Inheritance

The heritability problem arises because courts have framed the interest as privacy or publicity, which are personal and end with the person. *Puttaswamy* recognised privacy as a fundamental right that includes informational privacy and autonomy,[23] but that very personal quality is what makes it lapse at death.

Dignity works differently. In *Katara* the petitioner was an advocate and in *Ashray Adhikar Abhiyan* a voluntary organisation, and neither was an heir. The Court nonetheless treated the dignity of the dead as enforceable.[24] The decisions show that courts already allow third parties to vindicate a dead person's dignity without claiming to inherit anything. That is the doctrinal opening for a custodial interest. A claimant would not say that the dead person's right passed to her. She would say that a continuing interest in not being misrepresented deserves protection, and that she is a suitable person to assert it. The Allahabad High Court has already read 'person'

[22] 'The Algorithmic Ghost: A Jurisprudential Inquiry into Digital Remains' (*Centre for Law and Technology, NLIU*) <https://cjlt.nliu.ac.in/?p=438> accessed 31 October 2026; 'Digitally Existent but Legally Absent: Examining the Digital Afterlife Industry' (*NALSAR Tech Law Forum*) <https://techlawforum.nalsar.ac.in/digitally-existent-but-legally-absent-examining-the-digital-afterlife-industry-under-indias-constitutional-and-data-protection-framework/> accessed 31 October 2026.

[23] *Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1 (SC).

[24] *Katara* (n 8).

ISSN: 2582-6433

in article 21 to include a dead person in a limited sense.[25] The route avoids the awkward conclusion that identity is property, and it keeps the interest tied to the dead person's own values, not the family's commercial preferences.

VII. Three Inequalities

A. Fame

The living famous receive prompt, broad injunctions. The dead famous receive contracts. The ordinary dead receive silence. A person's protection depends on whether a market exists for their persona, which is a poor proxy for the dignity interest at stake. A shopkeeper's voice is not worth licensing, but it is no less hers.

B. Kinship

Because the law does not say who speaks for the dead, social power fills the gap. Within a family, the person with the most authority, the most resources or the best access to the device or the account will usually decide. The estranged partner, the unmarried companion and the friend who knew the deceased best have no clear standing. This pattern risks reproducing existing hierarchies within the family and outside it.

C. Expression

Not every use of a dead person's likeness is harmful. Biography, satire, journalism and criticism are protected by article 19(1)(a), and *Krishna Kishore Singh* itself reflects the Court's reluctance to restrain a film about a real life. A rule that gave families a veto over every depiction would silence history. The line between protected portrayal and unauthorised simulation therefore matters. A film that depicts events differs from a synthetic performance that makes a dead person say words he never said, in a voice that audiences will take for his.

VIII. A Framework of Digital Dignity

The proposal is not to make the dead's persona inheritable property. Doing so would convert dignity into an asset, invite sales to the highest bidder and let heirs profit from the dead in ways the dead may have rejected. The better model is custodial: a limited interest, held for the dead and not for the family's benefit, that restrains the most harmful uses. Seven elements follow.

1. **A custodial interest, not a property right.** A statute should recognise a time-limited interest in the voice, likeness and private communications of a deceased person, exercisable by a custodian whose duty is to act as the deceased would have wished. A

[25] *Ramji Singh v State of Uttar Pradesh* 2009 SCC OnLine All 310 (All).

ISSN: 2582-6433

fixed term, for example twenty-five years, would cover living memory without locking identity up indefinitely.

2. **Advance directives.** Section 14 of the DPDP Act should be extended, or supplemented by rules, so that a person can record instructions about voice, likeness and messages, including a refusal of any simulation. The idea is not new in Indian law: the Supreme Court has accepted advance directives about medical treatment.[26] A directive should prevail over the family.
3. **A default rule for commercial recreation.** In the absence of a directive, no one should commercially create a synthetic performance of an identifiable dead person without a written licence from the custodian, and the output should carry a clear disclosure that it is synthetic.
4. **A ranked order of custodians.** The statute should name a default order, for example nominee, spouse or partner, adult children, then parents and siblings, with a civil court able to resolve disputes by asking what the deceased would likely have wanted.
5. **Private mourning safeguards.** Private griefbots should be permitted where the data comes from the user's own conversations, but providers should be barred from using that data to train general models, from sharing the simulation, and from refusing deletion on request. Correspondents' data should be protected by minimisation.
6. **Expression exceptions.** News, biography, scholarship, satire and criticism should be expressly protected, so that the framework restrains simulation and not discussion.
7. **Platform duties and data.** Platforms hosting synthetic depictions should provide takedown and labelling mechanisms. Researchers and regulators should collect data on how dead people's identities are used, because current policy rests on anecdote.

The framework can be tested against the scenes in the introduction. The film song would need a licence from the custodian and a label, and any directive left by either singer would bind. The widow's chatbot would be lawful for private use, but the provider could not use her husband's messages to train other models or sell the simulation, and the correspondents' data would be minimised. The scraping of a dead person's public posts for a commercial voice product would require a licence, because the output imitates an identifiable person. In each case the answer turns on the purpose, the audience and the presence of consent, and not on whether the subject was famous.

[26] *Common Cause v Union of India* (2018) 5 SCC 1 (SC).

ISSN: 2582-6433

IX. Objections

Three objections deserve an answer. First, the dead cannot be harmed, so the law has no business protecting them. Philosophers have long argued that a person can be wronged after death, because we take wishes about our legacy seriously while alive.[27] In any event, the living have their own interests: families who are pained by a distorted simulation, and a public that can be misled by a synthetic voice.

Second, the framework might chill creativity. The exceptions in element six and the narrow focus on commercial simulation address this. Third, the framework might be too complex for a young field. A staged approach would help: begin with guidelines and advance-directive rules, and legislate once experience accumulates.

X. Conclusion

Digital resurrection exposes a gap that the law had little reason to notice until now. Courts say personality ends at death. The market behaves as if families can license it. Data law offers an optional nominee that has yet to start. Between these positions lie millions of ordinary people whose digital remains can be reanimated by anyone with a device.

The remedy is neither to leave the matter to contract nor to turn the dead into inherited assets. It is to recognise a custodial dignity interest, backed by advance directives, clear defaults and firm protection for speech. A society that already accepts that dignity outlives life should be able to extend that principle to the voice and the words a person leaves behind. This paper's limits should be acknowledged: it relies on reported decisions and secondary commentary, not on interviews with bereaved families or with developers of these tools, and the proposed term and order of custodians are design choices open to debate. Empirical work on how Indian families actually use and feel about these technologies would sharpen them.

[27] Joel Feinberg, *Harm to Others* (OUP 1984); Thomas Nagel, 'Death' in *Mortal Questions* (CUP 1979).