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DIGITAL AFTERLIFE IN INDIA: A SOCIO-LEGAL STUDY OF POST-MORTEM DIGITAL IDENTITY, PRIVACY AND DIGITAL INHERITANCE

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Abstract

In today's digital age, people leave behind a large amount of digital information after their death. Social media accounts, photographs, emails, digital documents, online banking accounts, cryptocurrencies, cloud storage and other digital assets may continue to exist even after a person dies. This creates a new legal and social issue known as the digital afterlife.

Indian laws provide rules relating to property, privacy, succession and electronic records, but there is no single comprehensive law that clearly explains what should happen to a person's complete digital identity and digital assets after death. Questions may arise regarding who can access a deceased person's social media account, who can control digital photographs and videos, whether digital assets can be inherited, and how the privacy of the deceased should be protected.

This article examines the concept of digital afterlife from a socio-legal perspective. It studies the relationship between technology, society and law and identifies gaps in the existing Indian legal framework. The article also discusses the need for clear rules regarding digital inheritance, post-mortem privacy, access to digital accounts and protection of the digital identity of deceased persons. Finally, it suggests the need for a comprehensive legal framework for managing digital assets and digital identity after death.

Keywords: Digital Afterlife, Digital Identity, Digital Inheritance, Privacy, Digital Assets, Cyber Law, India

1. Introduction

Technology has become an important part of everyday life. People use social media, email, online banking, digital payment applications, cloud storage and other online services. As a result, a person does not leave only physical property after death. A person may also leave behind a large amount of digital information and digital property.

For example, a deceased person may have a Facebook or Instagram account, personal photographs stored online, emails, digital documents, online financial accounts, cryptocurrency or other digital assets. What happens to these things after death is an important legal question.

This situation is commonly described as digital afterlife. It refers to the continued existence and management of a person's digital identity, information, accounts and digital assets after death.

The issue is not only a legal issue. It also has a social and emotional side. Family members may want access to photographs, messages and memories of a deceased person. At the same time, the deceased person may have expected certain information to remain private.

Therefore, a balance is required between the rights of family members, the privacy of the deceased person, the interests of digital service providers and the requirements of law.

2. Meaning of Digital Afterlife

Digital afterlife means the existence and management of a person's digital identity, digital information and digital assets after that person's death.

In simple words, when a person dies, their online life may continue.

It may include:

- Social media accounts
- Emails and messages
- Digital photographs and videos
- Cloud storage
- Online documents

- Digital financial accounts
- Cryptocurrency and other virtual assets
- Websites and blogs
- Digital intellectual property
- Online subscriptions
- Personal data stored by technology companies

The main question is: Who has the legal right to control these digital assets and information after the death of the owner?

3. Digital Identity After Death

Digital identity is the online representation of a person. It may include a person's name, photographs, social media profile, posts, messages and other personal information.

After death, this digital identity may continue to exist. Some platforms may allow an account to be memorialised, while others may provide procedures for account deletion or access by authorised persons.

However, Indian law does not presently provide one comprehensive legal framework dealing specifically with post-mortem digital identity.

This creates several questions:

1. Who controls a deceased person's digital identity?
2. Can family members access the deceased person's account?
3. Can the family request deletion of the account?
4. Who owns photographs and digital content after death?
5. How should the privacy of the deceased be protected?

4. Digital Inheritance

Traditional inheritance generally deals with physical and legally recognised property. The digital world has created new forms of property and information.

Digital inheritance may include:

- Digital money and financial assets
- Cryptocurrency
- Online business accounts
- Copyright and other intellectual property
- Digital photographs and videos
- Websites and blogs
- Valuable digital files

A major difficulty is that not every digital account or digital item can be treated as ordinary property.

For example, a person may have the right to use an online account under the terms of a service provider, but that does not automatically mean that the account can be transferred to their legal heirs.

Therefore, there is a need to clearly distinguish between digital property, digital information and contractual rights relating to digital accounts.

5. Privacy After Death

Privacy is another important issue.

A person's digital account may contain highly personal information, including private conversations, photographs, financial information and personal documents.

After death, family members may want access to this information. However, giving unlimited access may violate the person's wishes or expose information relating to other living persons.

Therefore, a legal framework should answer an important question:

How can the privacy of a deceased person be balanced with the legitimate interests of family members and legal heirs?

6. Socio-Legal Issues

The digital afterlife is a socio-legal issue because it involves both social behaviour and legal rules.

Important socio-legal issues include:

6.1 Family Rights

Families may need access to digital photographs, documents and financial information after a person's death.

6.2 Individual Privacy

The deceased person may have wanted certain information to remain private.

6.3 Digital Property

Some digital assets may have economic value and may need to be transferred to legal heirs.

6.4 Role of Technology Companies

Social media and technology companies have their own policies regarding deceased users' accounts.

6.5 Lack of Awareness

Many people do not make any plan for their digital assets before death.

6.6 Digital Divide

Not every person has the same level of digital knowledge. Rural and less digitally educated families may face greater difficulties in accessing and managing digital assets.

7. Existing Indian Legal Framework

Several Indian laws may become relevant to digital afterlife issues, including laws relating to information technology, privacy, succession, contracts, intellectual property and evidence.

However, these laws generally deal with specific areas rather than providing one complete framework for digital inheritance and post-mortem digital identity.

The Information Technology Act, 2000, the Digital Personal Data Protection Act, 2023, succession laws, the Indian Contract Act, 1872, and intellectual property laws may have relevance depending upon the nature of the digital asset or information.

The important issue is that these laws do not together provide a simple and comprehensive procedure for families to manage all digital assets and accounts after a person's death.

8. Need for a Comprehensive Legal Framework

India needs clearer rules for dealing with digital assets and digital identity after death.

A future legal framework could provide:

1. A clear definition of digital assets.
2. Rules for digital inheritance.
3. A procedure for authorised access to digital accounts.
4. Protection of post-mortem privacy.
5. Rights of legal heirs.
6. Rules for cryptocurrency and other valuable digital assets.
7. Protection against misuse of the deceased person's digital identity.
8. A system for digital wills or digital asset instructions.
9. Clear responsibilities for digital service providers.
10. A simple procedure for families to resolve disputes.

9. Suggestions

The following measures may help in addressing the problem:

First, people should be encouraged to prepare a digital asset plan or digital will.

Second, digital service providers should have clear and simple procedures for dealing with deceased users' accounts.

Third, the law should clearly distinguish between digital property and personal digital information.

Fourth, legal heirs should receive access only where there is a legitimate legal reason.

Fifth, strong safeguards should be provided to protect private information.

Sixth, awareness programmes should be conducted to educate people about digital inheritance.

Seventh, courts and legal authorities should develop clear principles for resolving disputes relating to digital assets.

10. Conclusion

Digital technology has changed the meaning of property, identity and privacy. A person's digital presence does not necessarily end with death. Social media accounts, photographs, emails, digital assets and personal information may continue to exist for many years.

India has laws dealing with different aspects of technology, privacy, property and succession, but there is a need for a more comprehensive approach to the digital afterlife.

The issue should not be considered only from a technological or legal perspective. It also affects families, emotions, privacy, inheritance and social relationships. Therefore, a socio-legal approach is necessary.

