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DIGITAL AFTERLIFE: LEGAL RIGHTS OVER AI-RECREATED DECEASED PERSONS

By *Amritanshu Upadhyay*

From *Amity Law School, Amity University Lucknow Campus*

By *Kartavya Tenguria*

From *Amity Law School, Amity University Lucknow Campus*

ABSTRACT

The advent of generative artificial intelligence technology has made it possible to create realistic digital recreations of deceased people through the synthesis of the voice, visage and conversational persona of the deceased person through digital information, such as photographs, video, voice and text messages. The development of griefbots, deadbots and other posthumously generated performances has brought to light many essential issues concerning posthumous privacy, personality rights, and the control of digital identity. This paper studies if there is an actionable right available under Indian law to prevent such recreation using AI technology and finds that there is no such actionable right. This is based on the analysis of the case of *Krishna Kishore Singh v. Sarla A. Saraogi*, wherein the Delhi High Court found that privacy, publicity, and personality rights were personal and non-heritable rights that ceased to exist after the death of the individual, and that heirs had only the action for defamation. It additionally examines the Digital Personal Data Protection Act, 2023, contending that despite being a fully functional framework, it

regulates control over one's personal data instead of unauthorised re-creation of a deceased individual's personality. Based on the current literature on griefbots and other technologies related to a digital afterlife, this article asserts that the existing laws in India are insufficient to tackle novel harms stemming from the generative artificial intelligence. It suggests a balanced legislative regime consisting of a qualified posthumous publicity right, advanced consent using digital wills, standing by heirs or nominees, obligatory disclosure of AI-generated material, and well-crafted exceptions safeguarding freedom of expression, historical study, and biographical works.

Keywords: Generative Artificial Intelligence, Posthumous Personality Rights, Digital Afterlife, Griefbots and Deadbots, Digital Personal Data Protection Act, 2023.

I. INTRODUCTION

Dudesy podcast created an hour-long audio special titled *George Carlin: I'm Glad I'm Dead* in January 2024 where a synthetic voice, based on George Carlin, the deceased comedian who died in 2008, narrated a brand-new comedy routine about trans-gender rights and politics in general. This routine was made by an AI technology, which had reportedly used "fifty years of Carlin's audio material."¹ Soon after, Carlin's estate filed suit claiming copyright infringement and the violation of George Carlin's right of publicity, and the matter was finally settled in two months in favor of Carlin's estate, with the special being withdrawn and a permanent injunction against further usage of George Carlin's voice, appearance, or identity unless authorized by the estate.² In one way, this case was a non-event – it ended without any judicial decision on the merits, and it was settled out of court.³ In another

¹ *Estate of George Carlin v Will Sasso and Chad Kultgen* (C.D Cal, filed 25 January 2024) (Complaint) <https://www.cbsnews.com/news/george-carlin-fake-comedy-special-ai-lawsuit-his-estate/> accessed 28 July 2026.

² Gene Maddaus, 'George Carlin Estate Settles Lawsuit Over AI Imitation' *Variety* (Los

Angeles, April 2024) <https://variety.com/2024/biz/news/george-carlin-ai-impersonation-lawsuit-settlement-1235958396/> accessed 28 July 2026.

³ Carlin (n 1).



way, however, it was a warning of what is to come, because while it used technology that was available to a production company only, nowadays it is available to everybody who has a smart phone and uses a consumer AI service.

There is another parallel, and in many ways more personal, industry that has sprung up based upon precisely this possibility. Services like HereAfter AI and Project December allow individuals, or those who have lost a loved one, to upload text messages, voicemails, photographs and social media records of a person who is now deceased, in exchange for which they are given back a conversational bot, or 'griefbot'/'deadbot',⁴ able to respond in the voice and manner of that individual. In South Korea, broadcaster MBC created a popular documentary in 2020 featuring a bereaved mother interacting with her deceased seven-year-old daughter in virtual reality through motion capture techniques.⁵ In China, companies like Silicon Intelligence and Super Brain have developed an entire industry of creating AI-generated avatars of dead individuals from photographs, videos, and recordings of their voice; this was done in response to domestic demand.⁶ Cambridge University researchers Tomasz Hollanek and Katarzyna Nowaczyk-Basińska, who came up with the language now being used to describe this field, note that "nearly anyone with internet access and some basic know-how can resurrect a dead loved one" with currently existing technology, which makes "an ethical minefield."⁷

The present piece poses a more specific, legally-oriented question inherent in both the Carlin dispute

and the broader griefbot phenomenon: is there a legally cognizable right (vested in the estate, family members, or even the dignity of the deceased) in India regarding how the deceased may be digitally recreated through generative AI technology? According to this article, the answer, regrettably, is substantially negative and, moreover, this is because of the doctrinal approach chosen by Indian courts long before generative AI technology came into existence, namely, that the right to privacy, publicity and personality are purely personal rights which do not survive death. This doctrinal approach has been most conclusively explicated in *Krishna Kishore Singh v Sarla A Saraogi*⁸ and it has effectively shaped Indian responses to a totally novel kind of injury unforeseen by the law.

The article will be structured further into eight more sections. Part II outlines the technology and commercial services involved in the digital afterlife industry. Part III considers the Indian law in relation to posthumous personality, privacy, publicity, and its clash with the AI recreation problem. Part IV compares the two best statutory solutions to this issue till date, California and Tennessee, as well as the GDPR and the AI Act of the European Union. Part V again focuses on the Carlin case as a concrete example of how uncertainty of the doctrine impacts reality. Part VI discusses the Indian Digital Personal Data Protection Act, 2023 and the inefficacy of its nominee approach in solving the problem. Part VII considers the ethical considerations regarding griefbot and deadbot development, while Part VIII provides for a legislation solution for India.

⁴ Joanna Stern, 'Talk With Your Dead Loved Ones – Through a Chatbot' *CNET* (16 December 2021) <https://www.cnet.com/culture/hereafter-ai-lets-you-talk-with-your-dead-loved-ones-through-a-chatbot/> accessed 28 July 2026.

⁵ In Kyeong-sook, 'Virtual Reality TV Series Reunites Grieving Mother with Her Dead Seven-Year-Old' *Reuters* (16 April 2020) <https://www.reuters.com/> accessed 28 July 2026.

⁶ Zhaoyin Feng, 'Chinese Companies Offer to "Resurrect" Dead Loved Ones. It's AI'

Reuters (16 June 2024) <https://www.reuters.com/> accessed 28 July 2026.

⁷ Tomasz Hollanek and Katarzyna Nowaczyk-Basińska, 'Griefbots, Deadbots, Postmortem Avatars: On Responsible Applications of Generative AI in the Digital Afterlife Industry' (2024) *Philosophy & Technology* <https://www.cam.ac.uk/research/news/call-for-safeguards-to-prevent-unwanted-hauntings-by-ai-chatbots-of-dead-loved-ones> accessed 28 July 2026.

⁸ *Krishna Kishore Singh v Sarla A Saraogi* and Ors 2023 SCC OnLine Del 4885.



II. THE DIGITAL AFTERLIFE PHENOMENON: TECHNOLOGIES AND MARKET

A. From Memorial Pages to Generative Recreation

Memorialization through digital means has been around since more than a decade ago in the form of 'memorialized' social media accounts, which store posts and pictures from the deceased user but don't create any further content in the name of the dead person. The innovation in generative AI technologies lies in creating an entirely new statement that will be made in the voice of a reconstructed persona based on a deceased user's messages, photos or videos in response to questions or statements posed by another person. Hollanek and Nowaczyk-Basińska have usefully described three distinct roles involved in this process, including the data donor, whose text messages, audio or video recordings, photos or videos will serve as input for training the recreation of the persona; the data recipient, normally a family member of the deceased who has commissioned or inherited such a recreation; and the service interactant, the one who will talk with this deadbot, who may or may not be the same person as the data recipient. It is important in terms of legal implications, since each of these roles carries a different interest.

B. The Digital Afterlife Industry: A Comparative Snapshot

Commercial digital afterlife technologies have already evolved into several business models. For instance, consumer-oriented products such as HereAfter AI and Project December offer individuals to record their own 'life story' in advance or create a chatbot based on the messages of the deceased relative that participated

in the process beforehand.⁹ In China, two companies, namely Silicon Intelligence and Super Brain, created a commercial product of similar nature, which allows the creation of photorealistic AI avatars of the deceased person using photos, videos and recordings made before the death for bereaved clients; reportedly, the demand for such products increases rapidly.¹⁰ Finally, in the 2020 documentary Meeting You by South Korean public broadcaster MBC, a grieving mother in a virtual reality headset interacted with an animation of her deceased daughter created through motion capture; although the company claimed that it offered the grieving person a therapeutic experience, it was quite controversial among the general population due to psychological risks of such interaction.¹¹ Common feature of all of these services is lack of legal clarification regarding the consent that is required in order to create, store, use and monetize such product.

III. THE DOCTRINAL VACUUM: DOES A RIGHT SURVIVE DEATH?

A. Privacy, Publicity and Personality Rights in Life: The Indian Position

Over the last two decades, Indian courts have developed a fairly substantial body of law in respect of personality rights for living individuals. The Delhi High Court acknowledged the right of publicity as covering commercial interest in a celebrity's persona as early as in ICC Development (International) Ltd v Arvee Enterprises, and elaborated it further in Titan Industries Ltd v Ramkumar Jewellers, wherein the Court held that infringement of right would require the plaintiff to prove his/her right in respect of his/her persona, and such use would render him/her identifiable.¹² That doctrine, since 2022, has been

⁹ James Vlahos, 'Artificial Immortality: Preserving Life After It's Gone' *Reuters* (20 December 2021) <https://www.reuters.com/> accessed 28 July 2026.

¹⁰ Zhaoyin Feng, 'Chinese Companies Offer to "Resurrect" Dead Loved Ones. It's AI' *Reuters* (16 June 2024) <https://www.reuters.com/> accessed 28 July 2026.

¹¹ In Kyeong-sook, 'Virtual Reality TV Series Reunites Grieving Mother with Her Dead Seven-Year-Old' *Reuters* (16 April 2020) <https://www.reuters.com/> accessed 28 July 2026.

¹² *ICC Development (International) Ltd v Arvee Enterprises* 2003 SCC OnLine Del 614; *Titan*



used increasingly in cases relating precisely to AI and synthetic media harms, albeit always in relation to the living, as in the Delhi High Court decision in *Amitabh Bachchan v Rajat Nagi*, which prohibited the unauthorized use of Amitabh Bachchan's persona, including manipulated AI images; in *Anil Kapoor v Simply Life India*, which granted Anil Kapoor extensive relief against GIFs, deepfakes and AI tools exploiting his persona of "Jhakaas"; and, most directly, in relation to AI voice cloning, in the case of *Arijit Singh v Codible Ventures LLP*, in which the Bombay High Court prohibited the use of AI platforms offering tools to create new songs in the playback singer's voice without his permission¹³. This is itself a powerful body of law protecting against precisely such unauthorized AI reproduction, albeit only as long as the living person whose persona has been recreated is still alive.

B. Krishna Kishore Singh v Sarla A Saraogi: The Rule Against Heritability

The doctrine comes to an end at the graveyard. Upon the death of Sushant Singh Rajput, a renowned actor in Hindi films, in June 2020, Krishna Kishore Singh, his father, filed a suit seeking to restrain a movie called *Nyay: The Justice*, alleged to be biopic about his son. In his suit, he alleged that he had inherited the right of publicity and personality rights that had vested in his son. This claim was that the right to privacy and personality had gone to him as an heir and that he had the right to determine whether the representation of SSR's name, portrait and biography should take place. In denying the interim relief sought by the plaintiff in June 2021, the Delhi High Court considered the doctrine of inheritance of the right of publicity as articulated in the *Titan Industries* case, but did not find that the film had reached beyond fiction to

commercialisation of SSR's identity. According to the Court, relying on the 1979 judgment of the Supreme Court of California in the case of *Lugosi v Universal Pictures*, the screen persona of the actor Bela Lugosi was not inheritable.¹⁴ This is because the comparative body of authority leaned in favour of considering rights to privacy and publicity not inheritable but extinguished on death. It was again brought to focus and decided by the Court in its final judgment on 11 July 2023 when it stated clearly that the right to privacy, right to publicity, and personality rights are not inheritable and are extinguished on the death of the individual so much so that even if any depiction caused distress to the relatives of the individual, there would be no legal heir with locus standi to sue any third party depicting the life, name, and persona of the dead.¹⁵

This consequence for the creation by AI of deceased individuals flows directly. Since personality and publicity rights are extinguished at death, then where an individual family member finds out that his or her deceased relative has been impersonated by the company that creates an AI chatbot, synthetic voice, or video impersonating the deceased, then there is no claim that he or she can make personally based on those rights, irrespective of how commercially exploitative, distressing, or inaccurate the impersonation is, according to Krishna Kishore Singh. The only possible legal remedy from the doctrine stated in the case is defamation, since the Explanation 1 of the erstwhile Section 499 of the Indian Penal Code, which is now codified in the *Bharatiya Nyaya Sanhita*, 2023, states that an imputation about a deceased individual can be defamatory if it would cause harm to the feelings of that deceased person's

Industries Ltd v Ramkumar Jewellers 2012 SCC OnLine Del 2382.

¹³ *Amitabh Bachchan v Rajat Nagi* 2022 SCC OnLine Del 3680; *Anil Kapoor v Simply Life India and Ors* 2023 SCC OnLine Del 1235; *Arijit Singh v Codible Ventures LLP and Ors* (Bombay HC, 26 July 2024) (ad-interim order).

¹⁴ *Lugosi v Universal Pictures* 603 P 2d 425 (Cal 1979).

¹⁵ *Lugosi v Universal Pictures* 603 P 2d 425 (Cal 1979); *Bharatiya Nyaya Sanhita*, 2023, s 353 Explanation 1 (corresponding to IPC 1860, s 499 Explanation 1) <https://www.indiacode.nic.in/> accessed 28 July 2026.



family members.¹⁶ However, defamation law only provides a remedy for reputational harm and not for the damage to dignity and commercial value of a personality of the deceased individual, nor does it give any remedy to the family members for an affectionate and respectful but unauthorized and commercially exploitative AI impersonation.

C. Copyright's Narrower Survival: Moral Rights and Performers' Rights

However, in Indian copyright law, there is a separate, narrow stream of thought that stands apart from the mainstream position on AI. The Copyright Act, 1957 preserves special "moral" rights of the author to claim authorship of the work and to prevent distortion, mutilation or any other modification to the work prejudicial to his honor or reputation; and these rights have been explicitly held to survive past the author's death.¹⁷ The Performer's Right is granted under Section 38 of the Copyright Act, which provides a right in respect of fixation of their performance for fifty years.¹⁸ However, the provisions provide protection in a situation where an AI recreation involves copying or adaptation of an existing copyright-protected work (the deceased author's manuscript, the musician's performance recording), but they cannot solve the problem of an actual griefbot or deadbot — an AI algorithm trained on text messages and voice recordings of a deceased person,¹⁹ which then generates an entirely new speech of the dead person. As the output generated by the algorithm does not amount to reproduction of an existing work, such a scenario falls outside the copyright doctrine of reproduction and adaptation of works.

IV. COMPARATIVE PERSPECTIVES: JURISDICTIONS THAT HAVE LEGISLATED

A. California's Digital Replica Amendment

In contrast to what Krishna Kishore Singh did, California has for long followed a doctrinal approach where it recognizes the statutory right of postmortem publicity for a 'deceased personality' under Civil Code section 3344.1, which affords protection of the 'deceased personality's' name, voice, signature, photograph or likeness from unauthorized commercial use for seventy years after death. On 17 September 2024, the Governor of California Gavin Newsom signed off Assembly Bill 1836, which was an amendment to section 3344.1 of the Civil Code to specifically address the issues concerning generative AI;²⁰ the amendment makes it liable for anyone to create, distribute or otherwise make available a 'digital replica' of the voice or likeness of a deceased personality in an expressive audiovisual work or sound recording without the prior authorization of the deceased personality's publicity rights holder. The most significant aspect of the amendment is that it carefully defines its exemptions for expressive uses, such that it does not interfere with the use of a digital representation in the making of a documentary, biography, or historical account that accurately represents the deceased individual's life, even if it includes "some degree of fictionalization,"²¹ as long as it does not leave the impression that the represented actions of the digital representation actually occurred. The California method has thus drawn exactly the line that Krishna Kishore Singh did not draw in SSR. A biography of the deceased that involves some element of fictionalization continues to be a form of permissible expressive speech, but a commercial production using AI to represent a deceased individual

¹⁶ Indian Penal Code 1860, s 499 Explanation 1 (as repealed); Bharatiya Nyaya Sanhita 2023, s 356 Explanation 1 <https://www.indiacode.nic.in/> accessed 28 July 2026.

¹⁷ Copyright Act 1957, s 57; see *Amar Nath Sehgal v Union of India* 2005 (30) PTC 253 (Del).

¹⁸ Copyright Act 1957, s 38.

¹⁹ Copyright Act 1957, ss 13, 14, 57 and 38.

²⁰ California Assembly Bill No. 1836, Chapter 258, 'Use of Likeness: Digital Replica' (approved by Governor, 17 September 2024) https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202320240AB1836 accessed 28 July 2026.

²¹ *ibid* s 3344.1(e).



and create content in his or her voice, as in the Dudesy special, can stand on its own as an infringement.

B. Tennessee's ELVIS Act: Voice as Postmortem Property

While Tennessee's new Ensuring Likeness, Voice, and Image Security Act, enacted on 1 April 2024 and effective from 1 July 2024,²² takes a complementary approach by focusing specifically on voice cloning through a revision of the state's Personal Rights Protection Act of 1984 – itself adopted largely in order to safeguard Elvis Presley's posthumous publicity rights – by recognising voice as a protected property right along with name, photograph and likeness, while establishing liability not just for the individual making use of a voice clone without authorisation but also for the provision of the technology that is intended specifically to produce it. This latter approach, making the producer of the technology liable for any violation of voice property rights, is a consciously constructed legislative response to the problem of targeting the unknown and potentially financially insolvent individuals who produce the deepfake itself, and constitutes a more assertive approach than the California amendment, which addresses itself solely to the producers and distributors of the replica. The postmortem period under the Act is drafted in such a way that it accounts for the commercial exploitation of the deceased person rather than the period of time being limited: the period during which the protection will last is ten years from the date of death, or an indefinite period as long as the name, photograph, voice or likeness is used commercially until there are two successive years when it stops being used at all.

²² Ensuring Likeness, Voice, and Image Security (ELVIS) Act 2024 (Tennessee) (codified in Tenn Code Ann § 47-25-1101 et seq) <https://publications.tnsos.org/acts/> accessed 28 July 2026.

²³ Jenifer deWolf Paine, 'New York Passes Post-Mortem Right of Publicity Law' *Fish & Richardson* (29 April 2026) <https://www.fr.com/insights/thought-leadership/blogs/new-york-passes-post-mortem-right-of-publicity-law/> accessed 28 July 2026.

C. The Absence of a Federal Baseline

Neither the reform of California nor Tennessee is an expression of consensus in the United States. Right of publicity in the United States is still a creature of state common law and statute, thus creating precisely the kind of jurisdictional diversity that Singh's logic itself criticized in pointing to Lugosi's contrary position in California common law prior to 1985:²³ a deceased personality's estate could have strong AI-specific rights, indeed far stronger than those available in the case of non-domiciliaries of California or Tennessee, should the personality have been a domiciliary of either state at the time of death, while having significantly lesser or no rights at all if the personality were a domiciliary of another state, depending upon whether the nature of the injury caused by the AI recreation depends in any way upon the decedent's state of domicile.²⁴

D. The European Position: GDPR's Silence on the Dead

Whereas the Regulation on data protection adopted by the European Union and generally cited as the most protective regime of data privacy in the world contains no provisions in respect of the exact question at issue, with Recital 27 explicitly stating that the Regulation shall not apply to personal data relating to deceased persons,²⁵ leaving Member States free to make their own laws regarding the data of the deceased, a privilege utilized only by some Member States, notably France and Denmark, to date.²⁶ It is against this backdrop of silence that the new EU instrument

²⁴ Mary LaFrance, 'Choice of Law and the Right of Publicity: Rethinking the Domicile Rule' (2019) 37 *Cardozo Arts & Entertainment Law Journal* 1 <https://scholars.law.unlv.edu/facpub/1182> accessed 28 July 2026.

²⁵ Regulation (EU) 2016/679 (General Data Protection Regulation) OJ L119/1, recital 27.

²⁶ loi n° 78-17 du 6 janvier 1978 relative à l'informatique, aux fichiers et aux libertés, art 40-1 (France) <https://www.legifrance.gouv.fr/> accessed 28 July 2026; Danish Data Protection Act 2018, s 2(5)



addressing AI must be understood, and it is to that instrument, whose transparency requirements were, as of the writing of this article, just a few days away from becoming legally binding, that we will now turn our attention.

E. The EU AI Act (2024–2026): Transparency Without a Posthumous Right

The Artificial Intelligence Act Regulation (EU) 2024/1689 was adopted on 1 August 2024 but has become applicable gradually and not uniformly: the obligations concerning the prohibition of practice and AI-literacy became applicable from 2 February 2025, obligations of the provider of general-purpose AI model became applicable from 2 August 2025, while other obligations of the Act, including those set out in Article 50 about the obligation of transparency, upon which Part VIII of this paper relies for its suggestions, have become applicable only from 2 August 2026,²⁷ being the very day when, as this paper is going to be written, the European Commission issued its implementing guidelines on the provision.²⁸ Once in force, Article 50 makes it obligatory for any deployer of a deepfake — as per the Commission’s definition of it as a product that satisfies three cumulative requirements of a very strong similarity to an existing or realistic subject as well as a deceptive quality — to make a clear and prominent disclosure about the synthetic nature of such content, while requiring providers of systems generating synthetic audio, image, text or video to include machine-readable markers capable of detecting the same irrespective of any intent to deceive or irrespective of whether the individual is alive or dead.²⁹ Indeed, in its essence, it is exactly the disclosure obligation proposed by Part

VIII of this article for India. It will, once implemented, obligate any EU-based griefbot, deadbot or posthumously delivered speech narrated by an AI system to display the content’s artificial nature in a conspicuous manner — an obligation that has been given by the current form of the AI Omnibus package until 2 December 2026 to only a short period more to providers of systems already available on the market under Article 50(2). Labeling is not a personality right, however. Article 50 is a transparency requirement with respect to products, enforced by the national authorities for market surveillance through an administrative fine of up to EUR 15 million or three percent of worldwide turnover, not a private right of action available to the estate or any family members, requiring a provider or user who has already made the decision to create a synthetic recreation of a deceased individual to disclose the same, without saying anything at all about whether or not such a decision can be made legally, much less about what kind of consent, if any, would be needed before doing so. This absence is not an accident but a structural characteristic of the Act as written, similar to that of the GDPR before it, which is predicated on the protection of the rights of natural persons and the security of the internal market, which, as defined under the terms of Recital 27 of the GDPR itself, do not include the deceased. In consequence, the AI Act does indeed leave the implementation of any substantive posthumous right concerning unauthorized reproduction of AI to national legislation, consciously or unconsciously replicating, in relation to the digital afterlife, the same jurisdictional patchwork which exists within the US: the Civil Code of California and the ELVIS Act of Tennessee, and not an EU-wide unified measure,

(Denmark) <https://www.datatilsynet.dk/> accessed 28 July 2026.

²⁷ European Commission, ‘AI Act’ (Digital Strategy, 9 June 2026) <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai> accessed 28 July 2026.

²⁸ European Commission, ‘Draft of the Guidelines on the Implementation of the Transparency Obligations under Article 50 of the AI Act’ (7 May 2026)

<https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai> accessed 28 July 2026.

²⁹ European Commission, ‘Guidelines on Transparency Obligations for Providers and Deployers of Certain AI Systems under Article 50 of the AI Act’ (adopted July 2026) <https://digital-strategy.ec.europa.eu/en/policies/regulatory-framework-ai> accessed 28 July 2026.



provide the closest analogues for the posthumous right which this article suggests India should now enact.

V. LITIGATING THE DIGITAL DEAD: THE GEORGE CARLIN PRECEDENT

A. Facts and Claims

Indeed, the dispute between Carlin's estate and the creators of Dudesy deserves consideration in great detail due to being the most developed and extensively litigated, if not adjudicated, dispute to date involving the AI recreation of a deceased public figure. In this regard, the opening of the Dudesy special began with an artificial voice introducing the fact that the AI system had heard Carlin's fifty years of audio recordings and "did my best to imitate his voice, cadence and attitude"³⁰ talking about modern issues that Carlin did not address during his lifetime. The lawsuit initiated by Carlin's estate and its executor against the creators of the AI voiceover was filed in January 2024 in the Central District of California, and there were two separate legal claims – copyright infringement based on the fact that the AI system had been trained on the copyrighted Carlin's recordings; and violation of the right of publicity of Carlin's name, image, and likeness under California's post-mortem statute 3344.1. The complaint identified the special as "a piece of computer-generated click-bait" and "a casual theft of a great American artist's work,"³² a formulation which reflects both of the two separate harms that have been analyzed in this paper: the economic injury caused by the devaluation of Carlin's intellectual property, and the dignitary injury caused by the way in which he has been misrepresented, neither of which is redressable under current law, either in the US or in India.

B. The Settlement and Its Limits as Precedent

In the week that the lawsuit was filed, the defendants had already removed the special from YouTube and from the podcast archive. The two parties reached an agreement in the form of a settlement in April 2024, whereby the defendants agreed to be bound by a permanent injunction preventing them from re-posting the special or using any image, voice or likeness of Carlin without the approval of the estate of Carlin in writing. In addition, the lawyers for the Carlin estate indicated that this settlement was made "as a template for future resolution of such cases, where an individual's rights may have been violated via the use of artificial intelligence." Kelly Carlin, the daughter of Carlin indicated that she hoped that this case would act as "a lesson in how dangerous the technology can be to every human being on this earth," and not just public individuals who have the ability to sue. This hope must be regarded with some suspicion. Settlements, unlike judgments, are not decisions with binding precedent: no court has decided whether creating an AI program using recordings of a deceased comedian's performances, and developing new imitating performances, amounts to copyright infringement or whether the generated content constitutes a violation of the postmortem right of publicity before it was modified by the 2024 digital-replica amendment. The real value of the case is less what it decided legally than what it revealed about bargaining power: a well-funded estate, in a jurisdiction with a recognized postmortem publicity statute, was able to achieve a fast capitulation from naive defendants who were operating openly on a major platform. But neither the well-funded party nor the jurisdiction with postmortem statutes would necessarily be true in the case of an average deceased Indian person, whose relatives find an anonymously run griefbot or deepfake operation using their relative's likeness; this is a situation where Krishna

³⁰ Carlin (n 1).

³¹ Carolyn Wimby Martin, Sara Etemad-Moghadam and Ella Sands, 'A Case Study: George Carlin, Artificial Intelligence and the Right of Publicity' (Lutzker & Lutzker, 14 February 2024)

<https://www.lutzker.com/insights/a-case-study-george-carlin-artificial-intelligence-and-the-right-of-publicity/> accessed 28 July 2026.

³² Carlin (n 1).



Kishore Singh fails to provide any personality-rights protection in the first place.

VI. DATA, NOT PERSONA: INDIA'S DPDP ACT AND THE NOMINEE MECHANISM

A. Section 14's 'Digital Will'

The Digital Personal Data Protection Act, 2023 of India is one of the acts that contains a specific clause with some relevance to the problem of the digital afterlife. Under Section 14 of the act, a data principal gets the right to designate a second individual who will be entitled to perform the rights of the data principal under the act, including accessing, correcting, and deleting personal data controlled by the data fiduciary in the case of death or incapacity of the data principal.³³ The section has rightly been termed a 'digital will' since this act marks the very first time when an Indian statute has introduced any kind of post-mortem privacy-related right, whereby a person can choose beforehand who would have the power to control their digital presence after they pass away.

B. A Right Not Yet in Force

In practice, however, the significance of the provision is significantly less than the way it has been commented upon in terms of a "breakthrough" in digital succession law would suggest, due to one point which has been largely overlooked – as of mid-2026, the enactment of Section 14 was still not yet in force. The Central Government has made notifications to bring certain provisions of the Act into force, such as the establishment and process provisions relating to the Data Protection Board, effective from 13 November 2025 and a second smaller set of provisions from 13 November 2026; whilst the other substantive provisions, including the important data-principal rights contained in Sections 11 through 14, have not

been made effective until 13 May 2027.³⁴ Until such time, a data principal's statutory ability to appoint a post-mortem data representative remains a provision of an enacted statute without any currently enforceable legal obligation upon any data fiduciary, whilst the celebrated "digital will" procedure of the DPDP Act is still aspirational and not operative law – a difference that has been largely missed by the digital succession literature which discusses Section 14.

C. Data Rights Are Not Publicity Rights: The Conceptual Gap

In fact, even with the entry into force of Section 14, there would still be plenty of room left for the gap that concerns this article. The right granted to DPDP Act nominee is to exercise all those data protection rights of the deceased – such as access to information, correction, erasure and redress of grievances – vis-à-vis any data fiduciaries that process data of the deceased; however, the nominee would have no say regarding whether or not some third-party person was authorized to use those data for the training of a generative AI algorithm producing the speech attributable to the deceased. Indeed, the nominee could, under Section 14, demand that the messaging platform deleted conversations of his or her deceased relative; however, if those data were somehow already obtained by the algorithm developer before any such deletion demand, Section 14 gives no means for preventing the recreation of the deceased's voice. Nominee mechanism, thus, is a governance approach for data dealing with the control over information stored by a dead person; it is not, and it was never meant to be, a publicity/personality rights approach dealing with who could create new synthetic content in the likeness of a dead person. Mixing up both – as most of the overly enthusiastic initial discourse on Section 14 did – will likely leave India's issue of its

³³ Digital Personal Data Protection Act 2023, s 14 <https://meity.gov.in/> accessed 28 July 2026.

³⁴ Ministry of Electronics and Information Technology, Notification bringing provisions of the

Digital Personal Data Protection Act, 2023 into force in phases (13 November 2025) <https://www.meity.gov.in/> accessed 28 July 2026.



digital afterlife untouched, but cloaked under the garb of a data protection reform.³⁵

VII. THE ETHICS OF RESURRECTION: GRIEBOTS, DEADBOTS AND CONSENT

A. The Cambridge Framework

As a result of the unresolved legal landscape, the most sophisticated ethical approach that can be applied in the evaluation of digital afterlife products is found not in the courts and legislators but in ethical scholarship. In the study by Hollanek and Nowaczyk-Basińska in 2024, a set of hypothetical design scenarios has been constructed, including a scenario where a deadbot based on a deceased grandmother starts asking a bereaved person for business deals, demonstrating how a motivation to make profit in the re-creation process can influence a healing conversation.³⁶ Their primary suggestions that providers ought to acquire explicit consent from the data donor before death wherever possible; that services ought to create in place a procedure for the dignified “retirement” of a deadbot which would not require grieving persons to remain perpetually stuck in an emotional simulation, nor allow them no exit from such a situation; and that recreations ought to refrain from engaging in advertisements, unsolicited social media use, or any other activities which would be a dishonor to the donor’s memory are directed at industrial practices rather than legislatures but fit reasonably well into the gaps left uncovered in Indian and comparative law. Earlier work done by Floridi and Taddeo posed the problem in its philosophical essence asking what obligations the living owe to an informational digital “infosphere” belonging to the deceased individual.³⁷

Similarly, Danaher raises the philosophical question of whether digital resurrection may be considered unethical as it involves hurting someone who cannot be hurt anymore as a result of the process of digital resurrection.³⁸

B. Consent Before Death: Contractual and Testamentary Solutions

One possible partial fix would require no change to the law whatsoever. An individual could, through contracts and a last will and testament, decide in advance whether or not he wished to be digitally resurrected after death in exactly the same manner as he could determine what happens to his physical body or property after he dies. For example, the actor Robin Williams had a will that contained a clause providing a twenty-five-year restriction on the commercial exploitation of his image, voice and likeness in the years after he was dead. This provision is often used as a paradigm of the way in which the right way of drafting a will or creating a licensing device during one’s life can create binding restrictions on posthumous digitalization through normal principles of contract and testamentary succession – and not because of any independent survival of the personality right. The problem, of course, is that this approach works only for those who plan ahead and seek competent legal counsel; it solves nothing for the ordinary deceased person whose family members are called upon to make an after-the-fact decision about allowing a posthumous AI resurrection by a grief-tech service or a stranger.

³⁵ Digital Personal Data Protection Act, 2023, s 14 <https://www.meity.gov.in/> accessed 28 July 2026

³⁶ Tomasz Hollanek and Katarzyna Nowaczyk-Basińska, ‘Griefbots, Deadbots, Postmortem Avatars: On Responsible Applications of Generative AI in the Digital Afterlife Industry’ (2024) *Philosophy & Technology* <https://link.springer.com/article/10.1007/s13347-024-00744-w> accessed 28 July 2026.

³⁷ Luciano Floridi and Mariarosaria Taddeo, ‘What Is Data Ethics?’ (2016) 374 *Philosophical Transactions of the Royal Society A* 1 <https://royalsocietypublishing.org/doi/10.1098/rsta.2016.0360> accessed 28 July 2026.

³⁸ John Danaher, ‘The Ethics of Digital Duplicates: A Minimally Viable Permissibility Principle’ (2025) *AI and Ethics* <https://link.springer.com/article/10.1007/s43681-024-00447-9> accessed 28 July 2026.



C. Psychological Risk and the Case for Design Regulation

The psychological and emotional harms described by the Cambridge model — the risk that a grieving individual, after finding comfort in a deadbot, may be unwilling to detach from an “overwhelming emotional weight” they do not want to carry anymore, especially in situations where the underlying service contract does not provide a way out with dignity — are not covered by the personality rights and data protection models discussed in Parts III and VI, both of which are concerned with property interests and dignity in relation to the deceased, not with the psychological needs of the live individual in interaction with their creation. This indicates that an Indian legislative solution focused only on personality rights or data protection, however effective, would be unable to tackle a specific harm — psychological manipulation and dependency on emotionally realistic simulation — and that a more encompassing approach should combine consumer protection and regulation of service design along with property law considerations discussed in Part IV.

VIII. TOWARDS A FRAMEWORK FOR INDIA: RECOMMENDATIONS

In any event, India begins in a less favourable position in relation to California and Tennessee in one key aspect, since Krishna Kishore Singh being a judicial holding and not a legislative silence, means that correcting the problem identified therein requires legislation to overturn judicially-established precedent and is not merely a matter of enacting a previously untouched statutory regime. Given that limitation, five steps could be taken that, when taken together, would create a viable regime.

Firstly, the Indian legislature should pass a narrow and temporary right of posthumous protection against unauthorized commercial use of AI reproductions that would be separate from and more limited than the general personality rights held to subsist after death by Krishna Kishore Singh, vested in an estate or nominee for a period of up to twenty years, inspired by the

digital reproduction provision in California’s statute but including the equivalent exceptions for documentary, biographical and news reporting.

Second, the Central Government needs to fast-track the enforcement of Section 14 of the DPDP Act and, in formulating the rules under the section, must specify that a data principal’s nomination may incorporate a binding directive regarding whether the nominee is authorized to allow, commission, or object to any AI recreation produced from the data principal’s personal data after his/her death — thus broadening the ‘digital will’ concept from data management to recreation management, instead of relying on the future litigations for such an expansion.

Third, adopting the transparency regime set forth under Article 50 of the Artificial Intelligence Act of the European Union, all AI systems that produce audio, image, and video content of a deceased identifiable individual must bear a mandatory and visible disclosure indicating the content is synthetic, irrespective of whether the use case falls under an exception of documentary or biographical character — a labeling rule that serves to safeguard the interest of the service interactant not to get deceived, even if the AI recreation is lawful.

Fourth, the law must make explicit the effect of advance, lifetime consent or objection: a registration system similar to that of organ donation in which a person can record an irrevocable directive, until death, either consenting to or objecting to the potential future commercial exploitation of their data to build an AI recreation of themselves, will extend to the ordinary citizen the same estate-planning protections currently offered only to the rich and astute via the Robin Williams model.

Fifth, and separate from the above property-rights reforms, the Ministry of Electronics and Information Technology should adapt the due-diligence guidelines on deepfakes and synthetic media, which it issued to intermediaries under the Information Technology (Intermediary Guidelines and Digital Media Ethics



Code) Rules, 2021,³⁹ to mandate that digital afterlife and griefbot service providers operating within India take the design steps recommended by the Cambridge framework – obtaining informed consent from the data donor whenever possible, providing a respectful and user-friendly means by which the data recipient can decommission or "retire" the deadbot, and prohibiting the use of a recreation for advertising or unsolicited communication – in order to protect against the psychological harms which no property-rights-based reform could alone address.

IX. CONCLUSION

The advent of generative AI has significantly transformed the connection between memory, identity, and law by making it possible to resurrect the voices, faces, and personalities of those who have departed. While these innovations provide new avenues for commemoration and archival purposes, they also pose threats of commercial misuse, misrepresentation, and violation of dignity. The current laws in India cannot tackle these issues effectively. In the case of *Krishna Kishore Singh v. Sarla A. Saraogi*, decided by the Delhi High Court, it is clear that privacy, publicity, and personality rights die along with their respective individuals, providing no remedy whatsoever to the estates and families of the deceased against any unauthorised AI creations other than through defamation. Equally, the Digital Personal Data Protection Act, 2023, even after introducing the nominee mechanism, regulates only the handling of personal data but not that of synthetic personalities.

As demonstrated by comparative developments, legislative intervention is both possible and required. California and Tennessee have started acknowledging posthumous interests in digital replicas and voice cloning, whereas the EU has enacted transparency requirements for AI-created content despite its failing to provide any substantive posthumous rights. It

follows that there is no reason why protecting digital identity of deceased persons could jeopardise freedom of speech, history research, and artistic creativity.

For these reasons, India must enact a specific legislative framework that would include a restricted right against any unauthorised creation of AI replicas of individuals, allow advance consent via digital wills, provide standing to authorised representatives or descendants, require disclosure of synthetic content, as well as offer an adequate civil remedy system along with suitable exceptions. Such legislative intervention would fill the existing gap in doctrine and would help ensure that technological development goes hand in hand with the protection of human dignity and autonomy.

³⁹ Ministry of Electronics and Information Technology, Notification amending the Information Technology (Intermediary Guidelines and Digital

Media Ethics Code) Rules 2021 (10 February 2026) <https://www.meity.gov.in/> accessed 28 July 2026.