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# THE AFTERLIFE OF DATA: REVIEWING GLOBAL DISCOURSES ON DIGITAL REMAINS AND POSTHUMOUS PRIVACY

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## ABSTRACT

The rapid convergence of technology and human life has introduced the concept of digital death, which addresses the ethical, legal, and societal questions surrounding a person's digital presence after they pass away. This literature review brings together insights from recent research on posthumous digital rights, online memorials, and the ownership and management of digital assets. The studies show that digital remains carry significant emotional and moral value, the existing legal frameworks are largely inadequate to manage them effectively. Philosophical discussions emphasize the moral significance of digital traces, while empirical studies reveal challenges related to privacy, consent, and the commercialization of posthumous data. Research from law, ethics, communication, and technology demonstrates that digital immortality reshapes traditional ideas of identity, legacy, and personhood. The current scholarship remains scattered, with limited interdisciplinary engagement and few practical policy solutions. This review highlights a pressing need for coherent global standards that address the ethical, technological, and legal dimensions of digital afterlife. It underscores the importance of creating a multidisciplinary framework that protects individuals' dignity and autonomy, while guiding responsible management of their digital heritage in an increasingly connected and data-driven world.

**Keywords:** Digital Death, Posthumous Digital Rights, Data Privacy, Digital Afterlife, Ethical and Legal Frameworks.

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## INTRODUCTION

In an era where human identity increasingly extends into the digital realm, the concept of *digital death* the continuation, management, or deletion of one's online presence after death has emerged as a profound ethical and legal challenge. As individuals generate vast amounts of digital content across platforms, questions surrounding posthumous digital rights, data ownership, and the moral status of digital remains have become central to scholarly debate. Patrick Stokes (2015) initiated a critical philosophical inquiry into whether digital remains should be treated with the same moral consideration as physical ones, highlighting that deletion equates to a form of "second death." Similarly, Wright (2014) examined online memorialization practices, arguing that the persistence of digital identities transforms cultural understandings of mortality and remembrance.

The digital afterlife industry has evolved rapidly, as Othman and Floridi (2017) observed, often prioritizing profit over ethical stewardship of the deceased's data. This commercialization raises issues of consent and data misuse, echoing the concerns of Lehner (2019), who critiques the commodification of digital legacies. Bicer and Yildirim (2021) deepened this discourse by examining how technological transformation redefines death, while C. Sas (2019) explored the historical and psychological evolution of digital death, emphasizing the lack of a unified framework combining law, ethics, and technology. Booth (2022) extended this discussion into the realm of identity, warning of the implications of digital cloning and personality replication after death.

Legal scholars have also recognized the inadequacy of existing frameworks to address posthumous data rights. Harbinja (2019) and Nwabueze (2022) both stressed that privacy laws typically expire upon death, leaving digital assets in a regulatory void. Fennelly (2019) examined this from a European data protection perspective, arguing for a harmonized legal approach under GDPR principles. Similarly, Nazaria (2025) conceptualized the "digital person" as a rights-bearing entity, calling for reforms that acknowledge data as an extension of human identity. Bassett (2022) and Bicer (2022) further emphasised the ethical complexities of digital technology and healthcare data, demonstrating how posthumous data management intersects with patient confidentiality and dignity.

Beyond legal frameworks, socio-cultural scholars such as Watson (2025) and Fernandez (2025) analysed how journalism and media narrate digital death, shaping public perceptions of digital immortality. Saravia (2025) contributed to this by exploring how digital death alters collective

memory and grief rituals in online communities. Favale (2014) and Sterne (2006) addressed the technological foundations of this transformation, examining copyright and data dematerialization in the digital era. Othman (2019), focusing on Facebook memorial pages, identified unresolved tensions between technological permanence and emotional closure for survivors.

These studies reveal a fragmented yet evolving understanding of digital death. While scholars agree on its ethical and legal urgency, there remains no unified international framework for governing posthumous digital identities. This literature review seeks to synthesize these diverse perspectives, tracing how law, ethics, and technology intersect in defining the boundaries of digital personhood and the right to digital death in the 21st century.

## LITERATURE REVIEW

In the digital era, the concept of death has transcended its traditional physical boundaries and entered the virtual realm. The persistence of data, social media profiles, and digital footprints after death has given rise to what scholars call the “digital afterlife.” This emerging phenomenon has profound ethical, legal, and constitutional implications, as it challenges conventional understandings of privacy, property, and personhood. The existing body of research explores digital death through various lenses philosophy, law, technology, media studies, and sociology revealing a multidimensional discourse that intertwines morality and data governance. Despite growing scholarly attention, there remains a lack of cohesive legal frameworks to address posthumous data rights. The following review synthesizes twenty seminal studies published between 2006 and 2025, examining how digital death has evolved from a philosophical abstraction to a pressing legal concern. Together, these works underscore the urgent need to establish constitutional recognition for the “right to digital death,” balancing dignity, autonomy, and digital continuity in an era of technological immortality.

- The rapid digitalization of society has brought new dimensions to the concepts of memory, mourning, and legacy, giving rise to the notion of digital death, which encompasses the ongoing presence of individuals’ data after death. Sterne (2006) provides a foundational perspective by tracing how media technologies, particularly digital audio, transform cultural memory and preservation practices. While Sterne does not directly address posthumous rights, his historical and cultural analysis reveals that digitization alters what is preserved, who manages preservation, and the meaning of continuity once cultural artifacts become dematerialized. He illustrates that technical

affordances—such as storage, reproduction, and accessibility—shift the control of memory toward those who maintain technical infrastructures, highlighting the power asymmetries inherent in digital preservation. This insight is particularly valuable for understanding posthumous digital governance, as it foregrounds the infrastructural and cultural forces that determine whether digital traces are maintained, altered, or deleted.

- Wright (2014) extends this discussion by emphasizing the cultural and emotional dimensions of the “digital afterlife.” She examines how persistent online profiles and posts complicate closure for bereaved individuals, showing that digital persistence can simultaneously offer comfort and prolong grief. Wright underscores the tension between ownership and stewardship of digital memorials, noting that platform designs often fail to align with the emotional needs and cultural expectations of users. Her work demonstrates that posthumous digital artifacts are socially significant, and that current legal and policy frameworks inadequately address the cultural and emotional consequences of digital persistence, underscoring the need for law to consider the human experience alongside technical regulation.
- Philosophical perspectives, such as those offered by Stokes (2015), further enrich this discourse by framing the deletion of a deceased person’s online presence as a “second death.” Stokes argues that digital remains reflect aspects of personhood and relational values, such as dignity and memory, which must be morally respected. He distinguishes between informational concepts of persons and selves, showing that digital traces can carry relational significance that extends beyond property rights. This normative approach provides a critical foundation for arguments advocating constitutional protections of posthumous digital assets, situating them within broader ethical and human-rights frameworks.
- Practical and commercial dimensions of the digital afterlife are examined by Bassett (2017), who highlights how platforms and memorial services often prioritize monetization and user engagement over privacy and autonomy. She illustrates how institutional designs of digital memorials can conflict with bereaved users’ expectations, creating ethical friction between commercial incentives and cultural practices of mourning. Similarly, Öhman and Floridi (2017) critique the Digital Afterlife Industry, showing that deceased persons’ informational bodies are commodified, raising ethical concerns about the alteration of posthumous identities for profit. Their work shifts attention from individual ethics to structural critiques,

emphasizing the necessity of regulatory oversight to protect dignity and informational integrity.

- The legal and doctrinal landscape surrounding digital remains has been extensively analyzed by Harbinja (2019), who highlights gaps in post-mortem access to digital assets such as emails and social media accounts. She identifies the tension between privacy, property, and succession frameworks, noting that many jurisdictions lack clear guidance on inheritance or posthumous privacy. Harbinja proposes recognizing a form of post-mortem digital rights, providing a bridge between theoretical ethical claims and practical legal solutions. Complementing this, Sas (2019) emphasizes the role of user experience and design ethics in shaping the management of digital remains, showing that online memorials can support grieving processes when cultural nuances and user consent are respected, but can also become exploitative when ignored.
- Lehner (2019) examines the role of digital capitalism in prolonging communicative presence, revealing how platform algorithms and corporate metrics maintain deceased individuals' visibility to serve commercial ends. This critique aligns with Biçer and Yıldırım (2021), who introduce the concept of thanatechnology to theorize technologies that sustain data and simulated presence after death. They propose a "right to nonparticipation" to enable individuals to opt out of posthumous digital simulations, highlighting the need for interdisciplinary governance and normative guidance. Biçer (2022) further expands this lens to healthcare data, showing that uncontrolled persistence of medical records and AI training data poses ethical, legal, and constitutional risks, particularly to privacy and bodily integrity.
- Emerging technological challenges are also reflected in Boothe (2022), who explores AI-based digital cloning and the insufficiency of existing intellectual property, personality, and privacy laws to address posthumous identity replication. Nwabueze (2022) highlights the risks posed by the circulation of death images online, emphasizing the lack of legal recourse and the emotional harms inflicted on families. Fennelly (2019) connects state-driven data retention policies with fundamental rights, demonstrating that blanket retention schemes often clash with privacy principles, while Zuboff (2022) extends her critique of surveillance capitalism to posthumous data, exposing the risks of structural exploitation of digital identities even after death.
- Discussions of authorship and control over dematerialized digital artifacts, as analyzed by Favale (2014), inform approaches to posthumous digital governance, while Saraiva

(2025) provides an ethnographic account demonstrating that cultural and generational factors mediate acceptance of digital memorials, emphasizing the importance of context-sensitive policies. Watson (2025) explores journalistic ethical dilemmas in sourcing death-related information from social media, revealing psychological and professional risks and pointing to the need for ethical safeguards. Ferrández (2025) investigates the ethical, theological, and speculative dimensions of “griefbots” and digital immortality, showing how transhumanist technologies challenge traditional mourning practices. Bassett (2022) highlights the expanding scale of the Digital Afterlife Industry, emphasizing risks to privacy, dignity, and consumer protection, while Kazarina (2025) makes a compelling legal case for the constitutional recognition of posthumous digital rights, proposing practical mechanisms such as digital executors and posthumous certificates.

- Overall, these studies collectively underscore the urgent need for an interdisciplinary framework to manage digital remains ethically, legally, and culturally. They reveal gaps in policy, law, and technical governance, emphasizing the importance of protecting individual dignity, autonomy, and memory in the digital afterlife. The synthesis of philosophical, cultural, technological, and legal perspectives highlights that constitutional recognition of posthumous digital rights is not only a theoretical concern but also a practical necessity in a rapidly digitizing world.

*Table: Literature Review Summary*

| SL<br>N<br>O. | TITLE OF<br>THE<br>MANUSCRIPT                                 | RESEARCH<br>PROBLEM   | METHODOLOGY   | KEY FINDINGS  | RESEARCH GAP  |
|---------------|---|---|---|---|---|
| 1             | Deletion as Second Death: The Moral Status of Digital Remains | Examines whether deleting a deceased person's digital remains constitutes posthumous harm and moral obligations regarding preservation. | Philosophical and normative conceptual analysis using ethical theories (Blustein, Floridi). | Argues digital remains instantiate persons and deletion may represent a 'second death'; moral obligation not to delete without justification. | Lack of philosophical and ethical analysis on moral status and deletion of digital remains. |

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| 2 | Death and the Internet: The Implications of the Digital Afterlife   | Explores how the digital age reshapes cultural understandings of death, persistence of footprints and online memorialisation.            | Conceptual and qualitative literature analysis on digital afterlife and online mourning practices.   | Finds digital platforms enable a 'digital afterlife', transforming mourning rituals and raising ownership, privacy and design issues.   | Lack of scholarly and policy focus on platform management of digital remains and memorialisation.                             |
| 3 | Digital Death and Thanatechnology: New Ways of Thinking About Data (Im)Mortality and Digital Transformation     | Investigates how digital transformation reshapes understanding of death and data (im)mortality; ethical and societal implications.       | Conceptual and theoretical analysis integrating media studies, technology ethics and thanatology.    | Argues digital transformation creates new forms of data immortality; calls for ethical governance and right to nonparticipation in ICT. | Absence of theoretical and normative frameworks on data persistence and digital death; need for interdisciplinary approaches. |
| 4 | The Political Economy of Death in the Age of Information: A Critical Approach to the Digital Afterlife Industry | Addresses lack of critical economic and ethical analysis of the Digital Afterlife Industry (DAI) and commercial interests' implications. | Analytical approach using informational interpretation of Marxian economics and real-life DAI cases. | Shows commercial entities alter 'informational bodies' of the deceased, potentially violating human dignity.                            | Absence of integrated economic and ethical perspectives in literature on digital afterlife.                                   |
| 5 | What's wrong with death images? Privacy protection of deceased persons in the digital age                       | Examines adequacy of existing privacy laws in protecting images of deceased individuals in the digital age.                              | Legal analysis of privacy laws concerning deceased persons, focusing on death images protection.     | Finds current privacy laws often fail to protect death images because privacy rights typically end with death.                          | Lack of comprehensive legal frameworks addressing privacy of deceased persons' images in digital contexts.                    |
| 6 | Futures of Digital Death: Past, Present and Charting  | Calls for comprehensive understanding of digital death   | Theoretical analysis and synthesis of  | Concludes digital death is multifaceted intersecting  | Lack of interdisciplinary research integrating technology, law, and   |

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|    | Emerging Research Agendas  | covering historical, current practices and future implications.  | existing literature on digital death.  | technology, culture and law.   | cultural studies on digital death.   |
| 7  | Digital Capitalism and the Suspension of Communicative Death                                   | Investigates commodification of digital afterlives and ethics of preserving communicative aspects of deceased individuals.         | Critical analysis of digital platforms and services facilitating posthumous online presence.           | Digital capitalism enables suspension of communicative death, allowing deceased to maintain digital presence and raising ethical concerns. | Limited scholarly attention to intersection of digital capitalism and posthumous communication.    |
| 8  | The Death and Life of Digital Audio  | Explores historical and cultural implications of transition from analog to digital audio technologies.                             | Historical analysis and cultural critique of audio technologies.                                       | Argues shift to digital audio is cultural transformation redefining authenticity and reproduction in sound.                                | Limited scholarly attention to cultural dimensions of audio technology transitions.                |
| 9  | The Death and Life of Jang Nayeon: A Case for Personality Rights in the Age of Digital Cloning | Examines legal challenges and ethical implications of digital cloning focusing on personality rights and preservation of identity. | Legal analysis and case study (fictional case) approach exploring personality rights in digital realm. | Finds current legal frameworks inadequately address digital cloning complexities; need robust personality rights laws.                     | Limited interdisciplinary attention to personality rights and digital cloning; need legal reforms. |
| 10 | Are the dead taking over Facebook? A Big Data approach to the future of death online           | Analyzes growing number of deceased users on Facebook and implications for platform's future.                                      | Big data analysis of Facebook user demographics and mortality rates.                                   | Projects if Facebook stops attracting new users (as of 2018), at least 1.4 billion users will have passed away by 2100.                    | Limited research on long-term implications of digital afterlife on social media platforms.         |
| 11 | How Digital Death Knocks Might   | Explores ethical challenges and  | Mixed-methods: 66-question online survey of  | Finds journalists' social media sourcing in death  | Limited research on intersection of digital journalism   |



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|    | Exacerbate Moral Injury  | psychological impacts faced by journalists using social media to report deaths (digital death knock).  | 100 journalists + semi-structured interviews with 10 journalists.                                  | reporting can lead to moral injury; identifies four risky practices.  | practices and journalists' psychological well-being.  |
| 12 | Death and resurrection of copyright between law and technology                         | Examines how copyright justifications persist or reinterpret in digital era given dematerialization of creative outputs.                                       | Review/theoretical analysis of copyright theory, law, and DRM literature.                          | Argues traditional justifications for copyright still hold; DRM must align with normative copyright principles.             | Insufficient integration between legal theory and technological design; need empirical DRM studies.                   |
| 13 | Strategies for Colonizing Death: The Online Dead, Griefbots, and Transhumanist Dragons | Analyzes ethical, theological, and social implications of digital immortality technologies, griefbots and avatars.   | Conceptual and critical analysis drawing from philosophy, theology and science fiction narratives. | Argues digital immortality technologies raise complex questions on identity, personhood, and nature of death.               | Limited interdisciplinary research at intersection of digital technology, theology and ethics on digital immortality. |
| 14 | Data Retention: The Life, Death and Afterlife of a Directive                           | Discusses challenges and implications of ECJ decision to annul Data Retention Directive 2006/24/EC and balance between law enforcement and fundamental rights. | Legal analysis of Digital Rights Ireland judgment and impact on EU legislation and member states.  | Concludes annulment underscores tension between security measures and privacy rights; need nuanced data retention approach. | Limited exploration of broader constitutional implications on EU-member state competences.                            |
| 15 | Surveillance Capitalism or Democracy? The Death Match of                               | Examines emergence of surveillance capitalism and implications   | Conceptual analysis and theoretical exploration of surveillance                                    | Argues surveillance capitalism fundamentally shifts relationship  | Limited interdisciplinary research addressing surveillance capitalism,  |

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|    | Institutional Orders and the Politics of the Future  | for democratic institutions and societal norms.   | capitalism's impact on democracy.   | between individuals and institutions, challenging democratic values.  | democracy, and institutional theory.  |
| 16 | Emails and Death: Legal Issues Surrounding Post-Mortem Access to Email Accounts                                  | Discusses legal complexities and ethical considerations surrounding access to deceased person's email accounts focusing on privacy, property and inheritance. | Legal analysis of existing laws and policies with case studies and ethical discussion.            | Finds some email content can be protected by copyright and transmitted upon death; suggests reforms for post-mortem access.   | Limited comprehensive legal analysis on post-mortem access to digital communications; need updated laws and policies. |
| 17 | Engaging in New Death Ways in Portugal   | Explores evolving practices and societal perceptions of death in Portugal amid digital advancements and cultural shifts.                                      | Qualitative analysis using ethnographic observations and cultural studies.                        | Finds Portuguese society experiencing transformation in death rituals influenced by digital tech leading to new engagements with death.                                       | Limited comprehensive studies on intersection of digital tech and death practices in Portuguese culture.              |
| 18 | Digital Death and Thanatechnology: New Ways of Thinking About Digital Death in the Age of Digital Transformation | Explores concept of digital death and role of thanatechnology in digital transformation, particularly in medicine.  | Theoretical analysis and conceptual exploration within healthcare digital transformation context. | Argues integration of digital tech in healthcare leads to new understandings and practices related to death; calls for reevaluation of ethical, social, medical perspectives. | Limited interdisciplinary research on digital transformation, death, and healthcare; need comprehensive studies.      |
| 19 | The Future of Digital Death: The Creation  | Theoretical exploration supported by  | Notes rapid DAI expansion and projections of  | Limited comprehensive interdisciplinary   |   |

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|    | and Inheritance of Digital Afterlives                                | statistical data and philosophical discourse on digital immortality and post-mortem rights.                           | billions of deceased profiles by 2100; raises ethical and managerial questions. | studies addressing technology, ethics and post-mortem rights.   |   |
| 20 | Towards the Question of the Rights of the Digital Person After Death | Examines concept and scope of 'digital thanatology' and legal implications for rights of digital persons after death. | Theoretical analysis supported by legal and ethical considerations.             | Discusses need for legal frameworks addressing data ownership, privacy and inheritance in digital realm for posthumous digital persons. | Limited legal studies on rights of digital persons posthumously; need for comprehensive legal frameworks. |

## RESEARCH GAP

1. **Constitutional Framing of Posthumous Digital Rights:** Existing studies explore ethical, philosophical, and social dimensions of digital afterlife (Stokes, 2015; Wright, 2014; Öhman & Floridi, 2017), but there is little research conceptualizing posthumous digital rights explicitly as constitutional rights that protect dignity, autonomy, and privacy.
2. **Integration of Legal and Technological Realities:** Current legal analyses (Harbinja, 2019; Boothe, 2022; Kazarina, 2025) often overlook technological complexities such as AI cloning, platform algorithms, and commercial memorial services, leaving a gap in understanding how constitutional safeguards can operate within digital infrastructures.
3. **Cultural and Jurisdictional Variability:** Sociocultural and ethnographic studies (Saraiva, 2025; Watson, 2025) show diverse mourning practices and perceptions of digital afterlife, but existing scholarship rarely translates these differences into adaptable legal frameworks or constitutional protections.
4. **Operationalization of Rights and Enforcement Mechanisms:** Concepts like “digital forgetting,” “right to non-participation,” and posthumous dignity (Biçer & Yıldırım, 2021; Biçer, 2022) are largely theoretical; research is lacking on actionable, enforceable

legal instruments to protect digital remains at both individual and systemic levels.

5. **Regulation of Emerging Posthumous Technologies:** Emerging technologies such as griefbots, AI-generated digital clones, and persistent digital data (Ferrández, 2025; Zuboff, 2022; Lehner, 2019) raise novel ethical and constitutional challenges. There is a critical gap in scholarship addressing how law can preempt misuse, balance commercial interests, and safeguard the deceased's rights in a technologically evolving landscape.

## RESEARCH PROBLEM

The persistence of digital footprints beyond death from social media profiles and emails to AI-generated simulations raises complex ethical, cultural, and legal questions that current frameworks inadequately address. Existing laws often treat digital remains as property, neglecting fundamental concerns of dignity, privacy, and autonomy, while emerging technologies and platform practices exploit posthumous data for commercial and technological gain. Despite extensive ethical, philosophical, and technological scholarship, there is no comprehensive constitutional framework that integrates these dimensions or provides enforceable protections for posthumous digital rights. This research seeks to fill this gap by proposing a constitutionally grounded, culturally sensitive, and technologically informed framework to govern digital afterlife, ensuring individuals' posthumous dignity and autonomy are safeguarded.

## CONCLUSION

The era of digital immortality compels us to rethink the very meaning of death, memory, and rights in the digital sphere. The persistence of online profiles, AI-generated simulations, and platform-managed digital traces challenges traditional notions of privacy, dignity, and personal autonomy, exposing individuals and their families to ethical, emotional, and legal vulnerabilities. Existing laws, often treating digital remains as mere property, are ill-equipped to address these complexities, leaving a void where exploitation and misuse can occur. This research underscores that posthumous digital rights are not a peripheral concern but a fundamental issue that intersects with constitutional principles, human dignity, and societal norms. By developing a framework that integrates ethical reasoning, technological realities, and legal enforceability, this study advocates for proactive recognition and protection of digital remains. Protecting posthumous digital rights is a moral and legal imperative: it ensures that

an individual's digital legacy is respected, that grief is not commodified, and that technological innovation serves humanity rather than undermines it safeguarding the digital afterlife is about extending the principles of autonomy, privacy, and dignity beyond life, ensuring that death does not mean the loss of rights or the erasure of identity in a digitized world.

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