INHERITANCE RIGHTS OF DIGITAL ASSETS IN INDIA AND BEYOND: A COMPARATIVE ANALYSIS WITH POLICY RECOMMENDATIONS

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A Comparative Study of India and the BRICS Jurisdictions on the Succession, Access, and Taxation of Cryptocurrency, Virtual Property, and Online Accounts

ABSTRACT

The proliferation of cryptocurrency, non-fungible tokens, monetized social media and gaming accounts, domain names, and cloud-stored content has created a new and largely unregulated category of inheritable wealth: the digital estate. This paper examines whether India's succession framework anchored in the Indian Succession Act 1925 and the Hindu Succession Act 1956 is equipped to handle the transmission of such assets upon death and situates that inquiry within a comparative analysis of the other BRICS jurisdictions (Brazil, Russia, China, and South Africa) alongside external benchmarks such as the United States' Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA) and the United Kingdom's Property (Digital Assets etc.) Act 2025.

Drawing on statutory text and recent case law, including the Madras High Court's October 2025 decision in Rhutikumari v. Zanmai Labs, which for the first time judicially classified cryptocurrency as property under Indian law, and industry data on dormant and permanently lost crypto holdings, the paper finds that India's legal architecture remains fragmented across the Indian Succession Act 1925, the Information Technology Act 2000, the Digital Personal Data Protection Act 2023, and the Income-tax Act 1961, none of which was drafted with digital assets in mind. A comparative review of BRICS jurisdictions reveals a common pattern: judicial or administrative recognition of digital assets as property is outpacing legislative reform everywhere except, arguably, China, where a dedicated judicial case category now exists. The paper concludes with India-specific recommendations, including a dedicated Digital Assets Succession framework, integration of the DPDP Act's nomination mechanism with testamentary law, and mandatory disclosure norms for exchanges and BRICS-level recommendations for a shared framework addressing cross-border access, valuation, and mutual recognition of digital executors.

Keywords: digital assets; digital inheritance; cryptocurrency; succession law; Indian Succession Act 1925; Digital Personal Data Protection Act 2023; RUFADAA; BRICS; comparative law; Rhutikumari v. Zanmai Labs.

1. Introduction

1.1 The Digital Estate: A New Category of Property

Every generation redraws the boundary of what counts as inheritable property. Where nineteenth-century succession law concerned itself with land, jewelry, and negotiable instruments, the twenty-first-century estate increasingly consists of assets that exist only as data: a cryptocurrency wallet secured by a private key, a monetized YouTube channel, a decade of family photographs on a cloud server, or a domain name generating advertising revenue. These "digital assets" hold financial, creative, and sentimental value simultaneously, and often in ways that are difficult to disentangle. A useful classification, adapted from academic literature on the subject, is threefold: (i) financial digital assets (cryptocurrency, tokenized securities, PayPal or exchange-wallet balances, and revenue-generating accounts); (ii) creative and content assets (digital art, blogs, manuscripts, and monetized media); and (iii) sentimental or social assets (email archives, social-media profiles, gaming avatars, and message histories with no independent market value but considerable personal significance to survivors [1,2]). Indian scholars Tripathi and Umair have applied a similar tripartite classification in analyzing the gaps in India's own succession statutes, noting that cryptocurrency, NFTs, cloud storage, and social media and email accounts now form a routine part of an individual's estate that existing law simply does not contemplate [3].

1.2 The Scale of the Problem

The scale of digital-asset loss upon death is not speculative. Blockchain analytics firm Chainalysis estimates that between 2.3 million and 3.7 million Bitcoin, between roughly eleven and eighteen percent of the fixed 21-million-coin supply, are permanently inaccessible, largely because of forgotten passwords, discarded hardware, and the deaths of holders who

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[1] Samriddhi Tripathi & Reshma Umair, 'Digital Inheritance: Bridging India's Legal Gap' (2025) 6(8) International Journal for Research Publication and Reviews (IJRPR), Amity Law School, Amity University Lucknow Campus.

[2] 'Digital Inheritance in India' (2026) International Journal of Advanced Legal Research (IJALR), comparative analysis referencing RUFADAA (USA), the GDPR (EU), the German Federal Court of Justice's Facebook inheritance ruling, and France's Digital Republic Act.

[3] Samriddhi Tripathi & Reshma Umair, supra note 1.

left no recovery instructions [4][5]. At mid-2026 valuations, this represents several hundred billion dollars of value that exists on the blockchain but can never be spent [6]. The most notorious illustration remains the collapse of the Canadian exchange QuadrigaCX, whose founder Gerald Cotten died in 2018 holding the sole private keys to roughly C$250 million in client cryptocurrency, which has never been recovered [7]. Because cryptocurrency ownership is proven exclusively through possession of a private key with no central authority able to reset or override it, crypto inheritance is structurally more fragile than the inheritance of a bank account or a title deed: a legal right to inherit is worthless without the technical means of access [8].

1.3 India in Context

India supplies a particularly urgent setting for this inquiry. According to Chainalysis's Global Crypto Adoption Index, India ranked first in the world for the third consecutive year in 2025, topping every sub-index measured retail activity, overall centralized service value, decentralized finance value, and institutional activity with an estimated 119 million Indians, or roughly 8.2 percent of the population, holding cryptocurrency, the largest such user base of any country [9][10][11]. This adoption has persisted despite a punitive tax regime: a flat 30 per cent tax on gains and a 1 per cent tax deducted at source on every transaction that was, if anything, designed to discourage participation [12]. Yet none of India's principal succession statutes the Indian Succession Act 1925, the Hindu Succession Act 1956, or the Muslim Personal Law (Shariat) Application Act 1937 contains the word 'digital.' All were drafted for a world of land, jewelry, and bank balances, and none anticipates how a cryptocurrency wallet, a monetized Instagram account, or a cloud-stored manuscript should pass to an heir [13][14]. The result, as this

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[4] Bloomberg, 'Digital Ghosts Raise Questions Over Who Owns Dormant Bitcoin' (2026), citing Chainalysis estimates of 2.3-3.7 million permanently lost Bitcoin.
[5] Cointimeatm, 'Lost Bitcoin Wallets: The 2026 Guide to Finding and Recovering Unclaimed BTC' (2026), citing Chainalysis valuation of \$275-480 billion in permanently inaccessible Bitcoin.
[6] Cointimeatm, supra note 5.
[7] LastWithYou, 'What Happens to Your Cryptocurrency When You Die?' (2026), discussing the QuadrigaCX/Gerald Cotten case (BBC, 2019) and Chainalysis lost-Bitcoin data.
[8] LastWithYou, supra note 7.
[9] CryptoBriefing, 'Chainalysis Ranks India as Top Country for Crypto Adoption for Third Year Running' (2026).
[10] CoinIndex.in, 'India Crypto Adoption Statistics 2026 - 119 Million Owners & Global Ranking' (2025).
[11] MEXC Blog, 'India Claims Top Spot in Global Crypto Owner Count in 2025 Surpassing US and China' (2026).
[12] CryptoBriefing, supra note 9.
[13] 'Digital Inheritance Law in India: The Complete Guide' (2026) Prime Legal, discussing s.2(h) of the Indian Succession Act 1925 and the Income-tax Act's Virtual Digital Asset definition.
[14] 'Digital Assets and Death: A Legal Vacuum in Indian Succession Law?' (2025) TaxTMI.

paper documents, is that Indian courts, tax authorities, and data-protection regulators have each begun to address fragments of the problem most visibly through the Madras High Court's 2025 recognition of cryptocurrency as property without any of these interventions amounting to a coherent statutory regime for digital succession.

1.4 Objectives

This paper pursues four objectives:

- First, to examine the specific gaps in India's current legal architecture for digital-asset inheritance, spanning succession law, the Information Technology Act 2000, the Digital Personal Data Protection Act 2023, and the Income-tax Act 1961.

- Second, to compare India's position with international models, with particular emphasis on the other BRICS economies: Brazil, Russia, China, and South Africa, supplemented by reference to the United States' RUFADAA framework and the United Kingdom's Property (Digital Assets etc.) Act 2025.

- Third, to identify the issues common to all of these jurisdictions, principally barriers to fiduciary access, valuation difficulties for volatile or illiquid assets, and the tension between platform terms of service and domestic succession law.

- Fourth, to propose both India-focused statutory reforms and a broader BRICS-level framework for addressing the cross-border dimensions of digital succession.

2. Digital Assets under Indian Law: The IT Act, the DPDP Act, and the Intermediary Rules

2.1 Property under the Indian Succession Framework

Section 2(h) of the Indian Succession Act 1925 defines property broadly as movable and immovable property, a formulation open, in principle, to purposive interpretation that could encompass digital assets with economic value [15]. In practice, however, courts and commentators have had to reason by analogy from intellectual-property and shares

[15] 'Digital Inheritance Law in India: The...', supra note 13.

jurisprudence, since the Act, like the Hindu Succession Act 1956 that governs the majority of the population, was drafted at a time when the very idea of an intangible, cryptographically secured asset did not exist [16][17].

Legal commentary is near-unanimous that this leaves email accounts, cryptocurrency wallets, and monetized social media or gaming accounts in a position where there is no explicit statutory guidance on whether or how they may be bequeathed by will or devolve on intestacy[18].

2.2 The Information Technology Act 2000

The Information Technology Act 2000 provides the foundational legal recognition of electronic records and digital signatures in India and is frequently invoked as a background source of legitimacy when heirs seek to assert ownership of a digital wallet or account [19]. However, the Act was designed to regulate electronic commerce, cybercrime, and the evidentiary status of electronic records; it contains no provisions addressing what happens to a person's electronic records, accounts, or digital property on death. It neither defines a 'digital asset' for succession purposes nor creates any mechanism comparable to RUFADAA's fiduciary-access provisions in the United States through which an executor or administrator can compel an intermediary to grant access to a deceased person's account.

2.3 The Digital Personal Data Protection Act 2023: The Right to Nominate

The most significant recent statutory development is Section 14 of the Digital Personal Data Protection Act 2023 (DPDPA), operationalized through Rule 13 of the DPDP Rules, 2025. Section 14 allows a data principal to nominate an individual who may exercise the data principal's rights, including the right to access, correct, and erase personal data, and to seek grievance redressal in the event of the data principal's death or incapacity [20][21]. Commentators

[16] 'Digital Assets and Death: A Legal Vacuum in...', supra note 14.
[17] 'Digital Assets and Inheritance: The Next Frontier in Indian Succession Law' (2025) Legal Service India.
[18] 'Digital Assets and Inheritance: The Next...', supra note 17.
[19] Khanna & Associates, 'Inheriting Crypto-Assets from India as an NRI: Tax, FEMA, and Succession Issues' (2026).
[20] KSandK, 'Data Principal's Right to Nominate under the DPDP Act, 2023: Succession of Rights after Death or Incapacity' (2025).
[21] DPDPA.com, 'Digital Personal Data Protection Act, 2023 - Section 14 with Interpretation' (2026).

have described this as India's 'digital will' provision and as the first statutory recognition of post-mortem privacy rights in Indian law, noting that jurisdictions such as the European Union (through the GDPR) and the United States (through state consumer-privacy statutes) do not extend an equivalent, express nomination right to data subjects generally [22][23]. It is essential, however, not to conflate this nomination mechanism with inheritance. As legal commentary on the DPDPA has emphasized, the right to nominate operates within the register of informational privacy: a nominee acts as a guardian who may enforce the deceased's data rights;

for example, by requesting erasure of an account to prevent misuse without thereby acquiring any proprietary or economic interest in the underlying asset [24]. Where a digital asset has independent economic value, such as a cryptocurrency holding or a monetized channel, the nominee's DPDPA-derived authority over the data does not by itself resolve who is entitled to the value of the asset; that question remains governed by succession law, which the DPDPA does not purport to displace [25]. The DPDP Rules further require data fiduciaries to verify a nominee's identity and authority, typically through a death certificate and proof of identity, before acting on a nomination request, and permit fiduciaries to require legal documentation such as a will or court order where a dispute arises [26][27]. The consequence is a two-track system: a fast, largely extra-judicial nomination mechanism for data and privacy rights running alongside the slow, court-supervised probate and succession-certificate process required to transfer economic ownership. These are two tracks that current law does little to reconcile.

2.4 The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

The Intermediary Guidelines impose due-diligence obligations on intermediaries and additional obligations on 'significant social media intermediaries' appointing India-resident compliance and grievance officers, enabling traceability of message originators, and

[22] KSandK, supra note 20.
[23] DPDPAedu.org, 'Rights of Data Principals under the DPDPA' (2025).
[24] Lexology, 'Posthumous Privacy under the DPDP Act, 2023: Nomination vs Inheritance' (2025).
[25] Lexology, supra note 24.
[26] DPDPA.com, supra note 21.
[27] DPDPAedu.org, supra note 23.

publishing terms of service and privacy policies [28][29]. These rules are principally concerned with content moderation, grievance redressal for living users, and platform accountability to the state; they contain no provision addressing the status of a deceased user's account, no obligation on intermediaries to cooperate with an executor, and no standardized procedure of the kind some platforms voluntarily offer through 'memorialization' or 'legacy contact' features for the disposition of an account on death. Where an heir seeks access to a deceased relative's account, the rules leave the intermediary's own terms of service, rather than any binding Indian statutory obligation, as the operative rulebook, mirroring a criticism that has also been levelled at the pre-RUFADAA legal position in the United States and at the current position in South Africa and Brazil, discussed below.

2.5 Taxation of Virtual Digital Assets

India's Income-tax Act 1961, as amended by the Finance Act 2022, introduced a specific tax regime for 'Virtual Digital Assets' (VDAs), taxing gains at a flat 30 percent under Section 115BBH, without the benefit of indexation or set-off of losses, and imposing a 1 percent tax deducted at source on qualifying transfers [30][31]. Because the Act defines VDAs as taxable property, it indirectly reinforces the case that cryptocurrency is 'property' capable of forming part of a deceased person's estate, a foundation later confirmed judicially in Rhutikumari (discussed in Part 3) [32]. For NRI heirs, inheriting VDAs from an Indian resident additionally engages the Foreign Exchange Management Act 1999, since cross-border repatriation of the proceeds of a VDA sale constitutes a regulated foreign-exchange transaction [33][34]. While the receipt of an inheritance is generally not itself treated as a taxable gift under Section 56 of the Income Tax Act, the eventual sale of inherited VDAs by the heir attract the same 30 percent flat tax, calculated (in the absence of any specific valuation rule) from the cost to the original holder, a valuation exercise complicated by the inherent volatility of crypto-assets and the frequent unavailability of transaction records at the date of death.

[28] PRS Legislative Research, 'The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021' (2026).
[29] Inventus Law, 'Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021' (2021).
[30] Khanna & Associates (2026), supra note 19, discussing Income-tax Act 1961 s.115BBH and FEMA 1999 implications for NRI heirs.
[31] Finnovate, 'Digital Assets and Crypto Inheritance in India' (2026).
[32] Khanna & Associates, supra note 30.
[33] Khanna & Associates, supra note 30.
[34] Finnovate, supra note 31.

2.6 Synthesis: A Fragmented Architecture

Taken together, these four statutory regimes, succession law, the IT Act, the DPDP Act, and the Income-tax Act were each drafted for a distinct purpose, and none for the purpose of governing digital-asset succession as such. The result is that an heir seeking to inherit a deceased relative's cryptocurrency holding in India today must simultaneously satisfy the probate or succession-certificate requirements of general succession law, negotiate a nomination or grievance process under the DPDPA that was designed for privacy rather than property, contend with an intermediary bound by no India-specific death-related obligation under the IT Rules, and finally navigate a tax regime that treats the VDA as ordinary taxable property without any bespoke rule for valuation at death. No single authority, judicial, executive, or regulatory, has yet been tasked with reconciling these four tracks, which is precisely the gap that the case study and comparative analysis below seek to illuminate.

3. Case Study: Rhutikumari v. Zanmai Labs (Madras High Court, 2025)

The clearest judicial intervention in Indian digital-asset law to date arose not from a succession dispute but from an exchange-security incident. In July 2024, the cryptocurrency exchange WazirX, operated by Zanmai Labs, suffered a major cyberattack. Among the account holders affected, though her specific XRP holdings were not themselves compromised in the breach, was an investor whose assets were frozen as part of the exchange's platform-wide response [35][36]. She approached the Madras High Court seeking release of her holdings.

On 25 October 2025, Justice N. Anand Venkatesh delivered what commentators have described as the first Indian High Court judgment to expressly classify cryptocurrency as property under Indian law [37][38][39]. The Court reasoned that cryptocurrency, while neither a tangible chattel nor a form of legal-tender currency, nonetheless constitutes property in the broader sense recognized by Indian law: an asset capable of being beneficially owned, held on

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[35] Finnovate (2026), supra note 31, reporting *Rhutikumari v. Zanmai Labs*, Madras High Court, 25 October 2025 (Anand Venkatesh J).
[36] CryptoTimes, 'Your Crypto, NFTs, and Online Wealth May Die With You in India' (2026).
[37] Finnovate, supra note 35.
[38] CryptoTimes, supra note 36.
[39] SCC Online Blog, 'The Digital Afterlife: Post-Mortem Privacy & Succession in India' (2026).

trust, possessed, and significantly for present purposes inherited [40][41]. The judgment also affirmed that Indian courts may in appropriate cases exercise jurisdiction over offshore or foreign-incorporated platforms dealing in Indian users' crypto-assets, a holding of considerable importance given that a large share of Indian crypto trading volume passes through platforms based outside the country [42].

The significance of Rhutikumari for this paper's argument is twofold. First, it confirms, at the level of binding judicial authority in at least one High Court, the proposition that Indian legal commentators had previously reached only by analogy that cryptocurrency falls within the broad definition of 'property' in Section 2(h) of the Indian Succession Act 1925 and can therefore in principle pass by will or intestacy [43][44]. Second, and more troublingly, it illustrates the limits of judicial recognition standing alone. The ruling addresses ownership and jurisdiction; it does not, and could not, resolve the practical mechanics of digital succession, how an executor proves entitlement to a foreign exchange, how a private key is to be transmitted or recovered where the deceased left no recovery instructions, or how the asset is to be valued at the date of death for tax purposes. Judicial recognition of the legal category therefore represents necessary but insufficient progress: it establishes that digital assets belong inside the estate, without building any of the administrative infrastructure needed to get them there.

4. Comparative Analysis of Inheritance Laws for Digital Assets in BRICS Countries

4.1 Introduction

The BRICS grouping; Brazil, Russia, India, China, and South Africa: offers a particularly instructive comparative frame for digital-asset succession. All five are large, rapidly digitizing economies with substantial and growing cryptocurrency user bases, civil- or mixed-law succession traditions distinct from the common-law trust-and-probate model that has shaped much Western commentary on this subject, and, with the partial exception of China, an absence of dedicated digital-inheritance legislation. Comparing how courts, legislatures, and

40 Finnovate, supra note 35.
41 SCC Online Blog, supra note 39.
42 SCC Online Blog, supra note 39.
43 'Digital Inheritance Law in India: The...', supra note 13.
44 Finnovate, supra note 35.

tax authorities in each BRICS state have responded to functionally identical problems makes it possible to separate genuinely universal challenges (for example, private-key loss) from challenges that are artifacts of a particular jurisdiction's statutory drafting (for example, India's absence of any nomination-succession bridge).

4.2 Methodology

This comparative analysis follows a functional-doctrinal method. For each jurisdiction, the paper examines (i) whether digital assets, and cryptocurrency specifically, have been recognized as 'property' capable of forming part of a deceased estate, whether by statute, regulation, or judicial decision; (ii) the principal legislative instruments bearing on succession, data protection, and digital assets; (iii) the applicable tax treatment of inherited digital assets; (iv) practical barriers to access and valuation; and (v) recent or pending reform proposals. Primary sources consulted include the relevant civil and succession codes, recently enacted or proposed legislation (such as Brazil's PL 4066/2025 and Russia's Federal Law 259-FZ), and reported judicial decisions, including China's 2025 gaming-account inheritance rulings and Russia's 2026 Constitutional Court ruling on crypto-assets as property. Secondary academic and professional commentary is used to contextualize these primary sources and to identify areas of doctrinal disagreement within each jurisdiction.

4.3 Legal Landscape in Individual BRICS Countries

4.3.1 India

As detailed in Parts 2 and 3 above, India's position combines an increasingly favorable judicial and tax-law recognition of cryptocurrency as property with a near-total absence of legislative infrastructure for digital succession. Classification: cryptocurrency is now judicially recognized as property (Rhutikumari) and is defined as a taxable virtual digital asset under the Income Tax Act, but social media accounts, domain names, and cloud content remains governed only by general, non-digital-specific succession principles. Applicable laws: the Indian Succession Act 1925, the Hindu Succession Act 1956, the IT Act 2000, the DPDP Act 2023 (Section 14), and the Income-tax Act 1961 (Section 115BBH). Tax implications: a flat 30 percent tax plus 1 percent TDS applies to VDA transfers, including disposals by heirs, though the inheritance itself is not typically treated as a taxable gift. Transfer process: heirs must obtain probate, letters of administration, or a succession certificate and separately satisfy each exchange's or platform's own KYC and next-of-kin procedures, with no statutory obligation on platforms to cooperate. Challenges: absence of a digital-executor concept, jurisdictional friction with offshore exchanges, and irreversible loss on death of an unshared private key. Reforms: the DPDPA's nomination mechanism and the Rhutikumari precedent are incremental steps; legal commentators, including in peer-reviewed Indian journals, have called for either amendment of the Indian Succession Act or a standalone digital-estate statute [45][46][47].

4.3.2 Brazil

Brazil illustrates a jurisdiction where courts have been notably more cautious than India's, even as the legislature moves toward comprehensive reform. Classification: Brazilian courts have expressly declined to treat digital assets as automatically inheritable in the absence of legislation. In one widely discussed ruling, a Brazilian court denied a mother's request for access to her deceased child's digital accounts, holding that neither the Marco Civil da Internet (Law 12,965/2014) nor the Lei Geral de Proteção de Dados (LGPD) expressly addresses digital inheritance and that in the absence of the deceased's own instructions, a platform's terms of use should prevail provided they are lawful [48]. Applicable laws: the Civil Code of 2002 (Law 10,406/2002), the Marco Civil da Internet, and the LGPD form the current (incomplete) framework; reform is being pursued through multiple bills, including PL 4099/2012, PL 6468/2019, PL 5820/2019 (permitting video-recorded digital wills), and, most significantly, PL 4066/2025, filed in August 2025, which would insert a new Article 1.797-A into the Civil Code providing that digital assets form part of the estate and creating the office of a 'digital executor' (inventariante digital) [49][50][51]. A parallel preliminary draft of a wholesale Civil Code reform, coordinated by STJ Minister Luis Felipe Salomão, proposes analogous provisions (draft Articles 1.791-A and 1.791-B) explicitly protecting private messages from disclosure

[45] Samriddhi Tripathi & Reshma Umair, supra note 1.
[46] 'Digital Inheritance in India', supra note 2.
[47] 'Digital Assets and Death: A Legal Vacuum in...', supra note 14.
[48] Chambers and Partners, 'Tax Challenges of Digital Inheritance' (2026), Brazil chapter.
[49] SGC Advogados, 'Digital Inheritance and Corporate Law: The New Invisible Asset' (2025), discussing Brazilian Bills PL 4099/2012, PL 6468/2019, PL 5820/2019, and PL 1144/2021.
[50] Click Petroleo e Gas, 'The Proposed New Civil Code Creates a Digital Inheritance in Brazil' (2025), on PL 4066/2025 and proposed Article 1.797-A of the Civil Code.
[51] Revista Topicos, 'Heranca Digital: Lacunas Normativas e Sucessao a la Carte' (2026).

even as financial digital assets are folded into the inventory process [52][53]. Tax implications: Brazil's state-level inheritance tax, the ITCMD, applies at rates generally between four and eight percent and is increasingly understood to extend to declared crypto-assets as part of the taxable estate [54]. Transfer process and challenges: in the continued absence of enacted legislation, Brazilian families rely on judicial interpretation on a case-by-case basis, producing what one recent academic commentary has termed a regime of 'sucessão à la carte' succession unilaterally dictated by platform terms of service in the absence of state regulation [55]. Reforms: PL 4066/2025 and the broader Civil Code reform package represent the most concrete legislative movement of any BRICS state toward a comprehensive digital-succession framework, though neither had been enacted as of the time of writing.

4.3.3 Russia

Russia presents a pattern of judicial oscillation gradually resolving in favor of recognizing crypto-assets as property, driven substantially by litigation over debt and enforcement rather than succession as such. Classification: as early as 2018, the Arbitrazh Court of Moscow held, in bankruptcy proceedings, that cryptocurrency should be treated as 'other property' within the meaning of Article 128 of the Civil Code [56]. Subsequent rulings were inconsistent; a 2020 Saint Petersburg district court declined to treat extorted cryptocurrency as legitimate property for restitution purposes, reflecting the absence, until 2020, of any dedicated statutory basis [57]. That gap was substantially closed by Federal Law No. 259-FZ 'On Digital Financial Assets, Digital Currency, and on Amendments to Certain Legislative Acts of the Russian Federation' (2020), and definitively by a 2026 ruling of the Constitutional Court of the Russian Federation, arising from a Moscow resident's civil claim over an unrepaid stablecoin loan, which held that lawfully acquired crypto-assets fall within the scope of property protected under Russian constitutional and civil law regardless of whether they had been declared to the tax authorities

[52] Revista Topicos, supra note 51.
[53] Lucas Brandao Affonso, 'A relacao da heranca digital com as carteiras de criptoativos (criptomoedas e non-fungible tokens - NFT) no direito brasileiro' (2023) 18(2) Revista dos Estudantes de Direito da Universidade de Brasilia 185.
[54] Click Petroleo e Gas, supra note 50.
[55] Revista Topicos (2026), supra note 51.
[56] Clifford Chance, 'Russian Court Issued the First Ever Decree Recognising Cryptocurrency as Property' (2018), Case No. A40-124668/2017, Arbitrazh Court of the City of Moscow.
[57] CoinDesk, 'Russian Courts Can't Agree on Whether Crypto Is Property' (2021).

[58][59][60]. Applicable laws: Civil Code Articles 128 and 1112 (succession of 'other property'), Federal Law 259-FZ, and, following the 2026 ruling, an accompanying legislative package establishing procedures for the court-ordered seizure and confiscation of cryptocurrency in criminal and civil enforcement [61]. Tax implications: no dedicated crypto-inheritance tax exists; general civil succession rules apply, while gains from digital financial assets are taxed as income. Challenges: valuation volatility and the practical difficulty of enforcing a Russian court's civil judgment against assets held on foreign or decentralized platforms. Reforms: the 2026 Constitutional Court decision is likely to have the same catalytic effect for Russian civil and succession litigation that Rhutikumari has had in India, though as in India no dedicated statutory succession mechanism has yet followed the judicial recognition.

4.3.4 China

China is the BRICS jurisdiction that has progressed furthest toward an institutionalized approach to digital-asset succession, notwithstanding the continued generality of its governing statutory text. Classification: Article 127 of the Civil Code of the People's Republic of China (effective 2021) provides that where other laws contain special provisions for the protection of data and online virtual assets, those provisions shall prevail, a deliberately open-textured clause that does not itself define which digital assets are inheritable but that Chinese courts have used with increasing confidence to override platform terms of service purporting to bar account transfer [62][63][64]. Applicable laws: Civil Code Article 127 (virtual property), Article 1122 (general scope of the estate, extended by commentary to cover assets such as Alipay balances), and Article 1127 (order of statutory heirs: spouse, children, and parents as first-order heirs) [65]. Case law: a series of rulings, most reported between 2024 and 2026, has required gaming companies to transfer deceased players' accounts and in-game assets to their heirs in one case encompassing eighty-seven verified game profiles, while a separate 2024 ruling folded a gaming account worth approximately 200,000 yuan, a Bitcoin holding, and a monetized social

[58] KuCoin News, 'Russian Constitutional Court Rules Crypto Assets Fall Under Property Rights' (2026).
[59] DL News, 'Russia's Top Court Just Handed Crypto Holders a Big Win' (2026), discussing the Timchenko case.
[60] En.iz.ru, 'Protective Code: The Constitutional Court Was Asked to Review the Rules on Digital Assets' (2025).
[61] Cryptopolitan, 'Russia to Seize Cryptocurrency as Property Under New Law' (2026).
[62] LEVEL UP, 'Chinese Court Rules That Video Game Accounts Can Be Inherited' (2026), discussing Article 127 of the Civil Code of the People's Republic of China (2021).
[63] Sixth Tone, 'Video Game Accounts Can Be Inherited, Chinese Court Rules' (2026).
[64] Tom's Hardware, 'Chinese Courts Allow Heirs to Inherit Accounts of Deceased Gamers' (2026).
[65] Clausius Press, 'Transnational Judicial Dilemmas and Rule' (2025), citing the Hangzhou Internet Court White Paper on Digital Legacy Inheritance Trials (2024) and Civil Code arts. 127, 1122, 1127.

media account into a single inheritable estate, while continuing to shield private chat content from disclosure [66][67][68][69]. In 2025, China's Supreme People's Court created a dedicated case category for data and online virtual-property disputes, and the Hangzhou Internet Court has published a white paper on digital-legacy trial practice. The clearest institutional acknowledgment among BRICS states that digital succession requires specialized judicial infrastructure [70][71]. Tax implications: China levies no general national inheritance tax, so valuation disputes center on division among heirs rather than tax liability. Challenges: platform terms of service WeChat's user agreement, for instance, expressly prohibits account transfer or inheritance, continuing to conflict with the Civil Code's protection of virtual property, and cross-border cases (for example, involving a Chinese-American heir and data mandatorily localised in China under the Personal Information Protection Law) add a further jurisdictional layer [72]. Reforms: rather than fresh legislation, China's principal innovation has been institutionalizing a dedicated judicial case category and specialized court guidance, suggesting that judicial capacity-building, and not only statutory amendment, is a viable reform pathway.

4.3.5 South Africa

South Africa most closely resembles India in combining a workable, general property-law basis for treating crypto-assets as estate property with an almost complete absence of digital-specific succession machinery. Classification: South African regulators and tax authorities treat crypto-assets as intangible movable property for estate-duty purposes, without recognizing them as legal tender or currency [73][74]. Applicable laws: the Administration of Estates Act 66 of 1965 governs the general executor process, including the requirement that any executor dealing with South African assets, whether appointed locally or abroad, be

[66] Yahoo News, 'Chinese Court Successfully Forced a Game Developer to Transfer 87 Game Accounts to a Deceased Player's Mother' (2026).
[67] LEVEL UP (2026), supra note 62.
[68] Techolam, 'Chinese Courts Set Precedent for Digital Inheritance in Gaming' (2026), discussing the 'Golden Blade' (Zhengtu) ruling and the 2024 gaming-account/Bitcoin ruling.
[69] Drpress.org, 'Study on the Inheritance System for Virtual Property on the Internet' (2021).
[70] Clausius Press, supra note 65.
[71] Drpress.org, supra note 69.
[72] Clausius Press, supra note 65.
[73] Schindlers Attorneys, 'Are Crypto Assets Property in South African Law?' (2021).
[74] Tech4Law, 'What to Do with Cryptocurrency in a Deceased Estate: A Guide for Executors in South Africa' (2025).

authorized by the Master of the High Court [75]; the Estate Duty Act 45 of 1955 and the Income Tax Act 58 of 1962 govern taxation. Tax implications: Estate duty is levied at 20 percent on the first R30 million of dutiable value and 25 per cent above that threshold, after an abatement of R3.5 million, with an unlimited exemption for bequests to a surviving spouse; capital gains tax applies on the eventual disposal of crypto-assets by the estate or heirs [76][77]. Transfer process and challenges: executors must locate wallets and exchange accounts, often relying solely on the deceased's own records, private keys, or seed phrases, with no institutional recovery mechanism if these were not documented in advance [78][79]. South African law does not recognize electronic or digital wills, meaning testators cannot validly bequeath digital-asset instructions in electronic form, while a registered physical will becomes a public document, creating a further incentive not to record sensitive access credentials within it [80][81]. Reforms: professional and industry commentary (from SARS guidance on the tax treatment of crypto-assets to law-firm advisories) has proliferated, but no legislative amendment to the Administration of Estates Act or the Wills Act specifically addressing digital assets has yet been enacted, leaving reform driven almost entirely by private estate-planning practice rather than by the state.

4.4 Key Similarities and Differences

Three similarities recur across all five jurisdictions. First, in every BRICS state, judicial or constitutional recognition of cryptocurrency as 'property' has arrived well before any legislature has enacted a comprehensive digital-succession statute. India's Rhutikumari, Russia's 2026 Constitutional Court ruling, and China's line of Civil Code Article 127 cases all illustrate courts filling a vacuum that legislatures have been slow to occupy, while Brazilian courts, more cautious, have expressly declined to fill that vacuum themselves and have called

[75] Department of Justice and Constitutional Development (South Africa), 'Master/Deceased Estates/Foreign Estates', discussing s.13(1) of the Administration of Estates Act 66 of 1965.
[76] SD Law Cape Town Attorneys, 'Cryptocurrency and Your Will' (2023), discussing the Estate Duty Act 45 of 1955 and s.4(q) deductions.
[77] Old Mutual / Cognizant, 'Safeguarding Digital Wealth: Crypto as a Component of UHNW Estate Planning' (2025).
[78] Tech4Law, supra note 74.
[79] Spence Attorneys, 'Unraveling the Legal Implications of Cryptocurrency in South African Estate Planning' (2024).
[80] VDT Attorneys Inc., 'Is There Digital Life After Death? Providing for Virtual Assets in Your Digital Estate' (2025).
[81] Life Vault Blog, 'Digital Assets and Estate Planning: What Happens to Your Online Accounts When You Die?' (2025).

on the legislature to act [82][83]. Second, every jurisdiction reports the same practical access barrier: private keys and platform credentials are typically undocumented, and neither courts nor tax authorities can conjure access to a wallet whose recovery phrase died with its owner. Third, valuation of volatile, rapidly appreciating, or depreciating digital assets at the date of death is a live and unresolved problem in every jurisdiction surveyed, complicating both tax assessment (India, South Africa) and equitable division among heirs (China, Brazil).

The differences are equally instructive. China stands apart in having built dedicated judicial infrastructure, a Supreme People's Court case category, and a specialized court white paper while treating the underlying statutory text (Civil Code Article 127) as sufficiently open-ended to require no amendment. Brazil stands apart in the sophistication of its pending legislative reform, with PL 4066/2025 proposing the most detailed statutory apparatus of any BRICS state, including an explicit 'digital executor' role. India and South Africa are the most similar to one another: both possess a workable general property-law basis for including digital assets in the estate, both rely on general tax statutes never designed with crypto-assets in mind, and neither has enacted (or come close to enacting) dedicated succession legislation. Russia is distinguished by the extent to which its recognition of crypto-as-property has been driven by debt-enforcement and bankruptcy litigation rather than succession disputes as such, meaning the succession implications of its 2026 Constitutional Court ruling remain, for now, largely inferential.

4.5 Implications for Broader Research on Digital Assets

These findings carry three implications for the wider research agenda on digital assets. First, they suggest that legal recognition of digital assets as property is a necessary but insufficient condition for functioning digital succession, a proposition already visible within India alone when Rhutikumari is read against the continued absence of any digital-executor mechanism. Comparative research on digital-asset regulation should therefore resist treating 'is it property?' as the central question and should instead prioritize the administrative and technical infrastructure (verification protocols, platform cooperation duties, valuation methodologies) that translates legal recognition into practical access. Second, the China case study indicates that judicial or administrative capacity-building, specialized courts, dedicated case categories,

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[82] Chambers and Partners, supra note 48.
[83] Revista Topicos, supra note 55.

and published guidance may achieve outcomes comparable to legislative reform at a lower political cost, a pathway underexplored in Indian policy discussion, which has focused almost exclusively on the question of statutory amendment. Third, the persistence of platform terms of service as a de facto governing instrument in Brazil, South Africa, and (for private messages) even China underscores that domestic succession law cannot fully resolve digital-asset inheritance without either binding platforms operating within the jurisdiction or securing their cooperation through international coordination, a theme taken up in Part 5 below.

4.6 Recommendations from the Comparative Study

Drawing on the strengths observed across the five jurisdictions, three cross-cutting recommendations emerge for BRICS policymakers generally, before the India-specific and BRICS-level recommendations are developed further in Part 6:

- Adopt China's model of judicial capacity-building, a dedicated case category or specialized bench for digital-asset disputes, as a low-cost, near-term measure that can operate even while more comprehensive legislation, on the Brazilian model, is drafted.

- Adopt Brazil's approach of a named 'digital executor' or equivalent office, distinct from a general executor, tasked specifically with locating, valuing, and transferring digital assets, and empowered by statute (rather than left to platform discretion) to request cooperation from exchanges and intermediaries.

- Establish, in every BRICS jurisdiction, a standard valuation methodology for volatile digital assets at the date of death, for instance, a specified exchange-rate reference point and averaging window to reduce both tax disputes and inter-heir conflict.

5. Lessons from Outside BRICS: RUFADAA and the UK Property (Digital Assets etc.) Act 2025

When considering how BRICS states might frame their own approach to digital succession, two external benchmarks provide particularly useful points of comparison. In the United States, the **Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA, 2015)** addresses the long-standing tension between fiduciary responsibility and practical access.

Before its adoption, executors were often legally obliged to manage a decedent's digital estate but found themselves blocked by platform restrictions. RUFADAA resolves this by creating a clear three-tier hierarchy of authority: first, the platform's own online tool (for instance, Facebook's "legacy contact" designation); second, the user's formal instruments such as a will, trust, or power of attorney; and finally, the platform's terms of service where neither of the first two exists.[84] [85][86]This hierarchy not only clarifies the order of precedence but also reduces uncertainty for fiduciaries and platforms alike. Importantly, RUFADAA introduces a subtle but significant distinction between the *catalogue* of electronic communications (metadata such as sender, recipient, date, and subject line) and their *content* (the substantive message itself). Fiduciaries may access the catalogue relatively freely, but access to content requires explicit prior authorization from the user. This granular differentiation anticipates the privacy-versus-property debate that commentators on India's **Digital Personal Data Protection Act (DPDPA)** have already identified, offering a structured way to balance individual privacy with the practical needs of estate administration.

By contrast, the United Kingdom's **Property (Digital Assets, etc.) Act 2025**[87] takes a more direct legislative route. Rather than focusing on fiduciary access, it amends the general law of personal property to state unequivocally that an object is not excluded from being property merely because it is neither a chose in possession nor a chose in action. In effect, this places crypto-assets, tokens, and other digital objects squarely within the category of personal property, capable of ownership, inheritance, and recovery through ordinary remedies. The Act thereby ends the piecemeal, case-by-case judicial interpretation that BRICS jurisdictions currently rely upon. It offers a model of statutory clarity: digital assets are property, full stop. For countries such as India, Russia, and South Africa where courts and administrative bodies have been left to stretch traditional property concepts to cover digital phenomena this kind of legislative certainty could be transformative.

Read together, RUFADAA and the UK Act suggest that a genuinely mature digital-succession framework requires two distinct legislative moves, neither of which BRICS states have yet combined. First, there must be an **unambiguous statutory declaration that digital assets are**

[84] Uniform Law Commission, Revised Uniform Fiduciary Access to Digital Assets Act (2015).
[85] Financial Planning Association, 'Estate Planning for Digital Assets: Understanding the Revised Uniform Fiduciary Access to Digital Assets Act' (2018).
[86] LegalClarity, 'Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA)' (2026).
[87] Nolo, 'The Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA)' (2025).

property[88], as the UK Act provides. Second, there must be a **specific fiduciary-access mechanism** that reconciles privacy and property interests, as RUFADAA demonstrates. At present, BRICS states have tended to rely on judicial improvisation or administrative guidance for the first, and have scarcely begun to tackle the second. Brazil's pending **PL 4066/2025** is the closest within BRICS to a fiduciary-access statute, but even that remains incomplete without a parallel property-law amendment. The comparative lesson is clear: without both pillars—property recognition and fiduciary access—digital succession remains fragmented, leaving executors, heirs, and platforms in a state of uncertainty. The US and UK examples show that legislative clarity, rather than judicial patchwork, is the path toward a coherent and balanced framework.

6. Recommendations and Conclusion

6.1 India-Specific Recommendations

First, Parliament should enact a dedicated Digital Assets Succession framework, whether as a standalone statute or as a substantial amendment to the Indian Succession Act 1925, that (i) defines 'digital asset' to expressly include cryptocurrency and other virtual digital assets, monetized online accounts, domain names, and cloud-stored content; (ii) creates a nomination mechanism for digital assets analogous to the nomination facility already available for bank deposits, insurance policies, and demat holdings, allowing a testator to designate a recipient for specified digital assets outside the ordinary probate timeline; and (iii) imposes an affirmative obligation on intermediaries operating in India to cooperate with a verified executor or nominee, modelled on RUFADAA's tiered-access approach but adapted to Indian evidentiary practice (for example, recognizing a succession certificate or probate order as equivalent to a RUFADAA court order).

Second, this statutory nomination mechanism should be expressly integrated with, rather than left to operate in parallel to, the DPDP Act's Section 14 nominee. As Part 2 explained, the DPDPA nominee currently holds authority only over the deceased's privacy rights, not over the economic value of the underlying asset; legislative amendment should permit with the data principal's informed consent at the time of nomination the same nominee to be vested with

[88] MEXC News, 'UK Classifies Crypto as Property: Potential Legal Safeguards for Digital Assets', discussing the Property (Digital Assets etc.) Act 2025 (UK).

authority to initiate the succession process for financial digital assets, reducing the current duplication between DPDPA grievance procedures and probate court filings.

- Require cryptocurrency exchanges and wallet providers registered or operating in India to offer a standardized, opt-in beneficiary-designation feature, reportable to the Financial Intelligence Unit, mirroring the nomination facilities already mandatory for mutual funds and bank accounts.

- Direct the Central Board of Direct Taxes to issue a specific valuation methodology for virtual digital assets at the date of death, referencing a defined exchange rate and averaging window, to reduce disputes over the tax base under Section 115BBH.

- Encourage the judiciary, following the Madras High Court's lead in Rhutikumari, to develop a specialized bench or case-management protocol for digital-asset disputes, taking guidance from China's Supreme People's Court case category and the Hangzhou Internet Court's published practice guidance.

- Amend the IT (Intermediary Guidelines) Rules 2021 to require significant social media and financial intermediaries to publish and adhere to a clear death-and-incapacity access policy, subject to grievance-officer oversight.

6.2 Global and BRICS-Level Recommendations

Because digital assets are inherently borderless, an Indian resident's cryptocurrency may sit on an exchange incorporated in Singapore or the Seychelles, and a Chinese heir may need to assert rights against a US-headquartered platform. No single jurisdiction's reform can fully resolve the problem. BRICS institutions (or, absent formal BRICS legal cooperation, bilateral memoranda among member states' data-protection and financial-intelligence authorities) should pursue a shared framework addressing mutual recognition of digital-executor or succession-certificate documentation issued by another BRICS state so that an Indian probate order carries evidentiary weight before a Brazilian or South African platform without requiring fresh litigation; common minimum standards for exchange cooperation with verified heirs, comparable to the Financial Action Task Force's role in setting common anti-money-laundering standards; and a shared position, advanced through fora such as the G20 and the

Financial Stability Board, urging global platforms to adopt RUFADAA-style tiered-access and legacy-contact tools uniformly, rather than on a market-by-market basis. The World Economic Forum's own 2026 commentary on digital assets identifies interoperability and global regulatory coordination as priorities for the digital-asset ecosystem generally; the succession dimension explored in this paper is a natural, and currently neglected, extension of that agenda[89].

6.3 Conclusion

This paper has argued that India's legal treatment of digital-asset inheritance is best understood not as a single gap but as a set of four uncoordinated tracks: succession law, data protection, intermediary regulation, and taxation, each of which has evolved independently and none of which was designed with the others in mind. The Madras High Court's 2025 decision in Rhutikumari v. Zanmai Labs marks an important inflection point, but, read against the comparative BRICS survey conducted here, it also demonstrates the limits of judicial recognition standing alone: China shows that judicial recognition can be paired with institutional capacity-building; Brazil shows what a legislatively comprehensive response could look like; and the UK's 2025 statutory intervention shows that legislative clarity on the property status of digital assets need not wait for a body of case law to accumulate first.

The paper's principal contribution lies in bringing together, for the first time in a single comparative frame, the recent statutory and judicial developments across all five BRICS economies on this question, several of which (Russia's 2026 Constitutional Court ruling, China's 2025 judicial case category, Brazil's 2025 reform bill, and India's own Rhutikumari decision) postdate most existing comparative literature on digital inheritance, which has tended to compare India chiefly against the United States and the European Union rather than against its BRICS peers. In doing so, it fills a specific gap in the literature while confirming a broader proposition: that digital succession law worldwide remains at an early, largely judge-made stage, and that comprehensive legislative reform integrating property recognition, fiduciary access, valuation methodology, and cross-border cooperation has nowhere yet been fully achieved. Future empirical research should quantify the scale of digital-asset loss specifically attributable to death (as distinct from simple forgetfulness) within India and across

[89] World Economic Forum, 'What to Expect for Digital Assets in 2026' (2026).

BRICS states, a data gap that presently forces researchers, including this one, to rely on global rather than jurisdiction-specific estimates of lost or dormant holdings.