



## **Study of Digital Asset Inheritance: A Review of Contemporary Islamic Law in Indonesia**

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### ***Abstract***

This study aims to examine the legality of digital assets from the perspective of Islamic law and Indonesian positive law, as well as to analyze their status as inheritance objects under contemporary Islamic law. The development of digital technology has given rise to new forms of wealth, such as cryptocurrency, NFTs, electronic wallets, and digital accounts with economic value, which do not yet have a clear legal status as inheritance objects in the national legal system or contemporary *fiqh*. This study uses a qualitative method based on a literature review with a normative-dogmatic approach to analyze the Qur'an, Hadith, *fiqh* rules, contemporary literature, and Indonesian regulations related to digital assets and economic rights. The results of the study show three main findings: (1) normatively, digital assets meet the criteria of *māl mutaqawwam* based on QS. al-Nisā' [4]:7; 11–12, the principles of *al-āṣl fī al-asyyā' al-ibāhah*, *al-'ādah muhakkamah*, and analogy to *huqūq māliyah*, making them valid objects of inheritance; (2) the mechanism of digital inheritance requires asset inventory, access assurance through wills/digital executors, distribution in accordance with sharia provisions, and privacy protection as an implementation of the principle of *hifz al-'ird*; and (3) there is a need for legal harmonization through the establishment of national regulations, the formulation of comprehensive fatwas, and the improvement of digital literacy among the public.

**Keywords:** *Digital Assets, Inheritance, Islamic Law, Positive Law, Digital Inheritance.*

### ***Abstrak***

Penelitian ini bertujuan untuk mengkaji legalitas aset digital dalam perspektif hukum Islam dan hukum positif Indonesia, serta menganalisis kedudukannya sebagai objek waris menurut hukum Islam kontemporer. Perkembangan teknologi digital melahirkan bentuk kekayaan baru seperti cryptocurrency, NFT, dompet elektronik, dan akun digital bernilai ekonomi yang belum memiliki kejelasan status hukum sebagai objek waris dalam sistem hukum nasional maupun fikih kontemporer. Penelitian ini menggunakan metode kualitatif berbasis studi kepustakaan dengan pendekatan normatif-dogmatis untuk menganalisis nash al-Qur'an, Hadis, kaidah fikih, literatur kontemporer, serta regulasi Indonesia terkait aset digital dan hak ekonomi. Hasil penelitian menunjukkan tiga temuan pokok: (1) secara normatif, aset digital memenuhi kriteria *māl mutaqawwam* berdasarkan QS. al-Nisā' [4]:7; 11–12, *kaidah al-āṣl fī al-asyyā' al-ibāhah*, *al-'ādah muhakkamah*, dan

analogi terhadap *huqūq māliyah*, sehingga sah menjadi objek waris; (2) mekanisme waris digital mensyaratkan inventarisasi aset, penjaminan akses melalui wasiat/eksekutor digital, distribusi sesuai ketentuan syariah, serta perlindungan privasi sebagai implementasi prinsip *hifz al-‘ird*; dan (3) terdapat kebutuhan harmonisasi hukum melalui pembentukan regulasi nasional, penyusunan fatwa komprehensif, serta peningkatan literasi masyarakat digital.

**Kata kunci:** *Aset Digital, Waris, Hukum Islam, Hukum Positif, Waris Digital.*

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## Introduction

At the international level, the recognition of digital assets as property is growing stronger, in line with developments in regulation and jurisprudence.<sup>1</sup> The United States has introduced the term controllable electronic records to cover digital assets such as cryptocurrency and NFT, which allow these assets to be transferred and used as collateral.<sup>2</sup> Jakub Wyczik states that ownership of digital tokens must be viewed through three dimensions: rights to the token itself, rights to the assets it represents, and intellectual property rights, all of which are constructed as forms of wealth.<sup>3</sup>

Digital assets such as cryptocurrency, Non-Fungible Tokens (NFTs), and digital wallets are now beginning to be recognized as part of the category of property in modern legal studies.<sup>4</sup> Legally, this recognition is based on the principle of civil law that every object—tangible or intangible—that has economic value can be owned and transferred,

<sup>1</sup> Ball Victoria, “Bitcoin as Property: AA v Persons Unknown [2019] EWHC 3556 (Comm),” *King’s College London Discussion Paper*, 2020, 1–2, [https://kclpure.kcl.ac.uk/portal/files/136478045/Bitcoin\\_as\\_Property\\_AA\\_v\\_Persons\\_Unknown\\_Victoria\\_Ball\\_revised.docx](https://kclpure.kcl.ac.uk/portal/files/136478045/Bitcoin_as_Property_AA_v_Persons_Unknown_Victoria_Ball_revised.docx).

<sup>2</sup> American College of Bankruptcy, “The New UCC Article 12: What You Need to Know Now” 13 (2022), <https://www.americancollegeofbankruptcy.com/file.cfm/19/docs/panel 5-cryptocurrency.pdf>.

<sup>3</sup> Jakub Wyczik, “The Property Law of Crypto Tokens,” *SSRN Working Paper*, 2023, 1–2, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4620033](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4620033).

<sup>4</sup> Iva Kondova and Maria Lagutina., “Legal Challenges of Cryptocurrency: A Review,” *Journal of Financial Innovation* 9, no. 2 (2023): 15–20, <https://jfin.springeropen.com/articles/10.1186/s40854-023-00388-5>.

including as a legal object or as property.<sup>5</sup> In Indonesia, cryptocurrency has been designated as a tradable commodity by the BAPPEBTI, although it is not yet recognized as a legal means of payment.<sup>6</sup>

Several studies have confirmed the position of digital assets in inheritance law. Omelchuk et al. state that cryptocurrency can be inherited despite technical obstacles such as private key access and anonymity.<sup>7</sup> Juhász adds that digital assets need to be integrated into the inheritance law framework through new legal instruments and trusts.<sup>8</sup> Recent research on NFTs shows that these unique digital assets can be inherited through mechanisms such as dead man switches or digital wills, although regulations still need to be strengthened.<sup>9</sup>

In Indonesia, digital assets—especially cryptocurrencies—are not yet recognized as legal tender.<sup>10</sup> However, digital assets have gained recognition as commodities that can be traded in the futures market based on BAPPEBTI Regulation No. 8 of 2021. In this regulation, crypto assets are classified as intangible commodities and can be traded under specific conditions.<sup>11</sup> This means that the state recognizes the economic value of digital

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<sup>5</sup> Sameer Hassan and Hossam M. Elbadawy, “The Legal Status of Digital Assets: Property Rights and Ownership,” *Frontiers in Blockchain* 6 (2023): 3–7, <https://www.frontiersin.org/articles/10.3389/fbloc.2023.1157491/full>.

<sup>6</sup> Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI), “Peraturan Tentang Perdagangan Fisik Aset Kripto” (2025), [https://r.search.yahoo.com/\\_ylt=Awr1TXRFim5oBAIAWHHLQwx.;\\_ylu=Y29sbwNzZzMEcG9zAzEEdnRpZAMEc2VjA3Ny/RV=2/RE=1753284421/RO=10/RU=https%3A%2F%2Fbappebti.go.id%2Fresources%2Fdocs%2Fperaturan%2Fsk\\_kep\\_kepala\\_bappebti%2Fsk\\_kep\\_kepala\\_bappebti\\_2021\\_11\\_01\\_cjlzhtv5\\_id.pdf/RK=2/RS=tbh.sPg\\_qB8DPWAG5q1gTvnERS-](https://r.search.yahoo.com/_ylt=Awr1TXRFim5oBAIAWHHLQwx.;_ylu=Y29sbwNzZzMEcG9zAzEEdnRpZAMEc2VjA3Ny/RV=2/RE=1753284421/RO=10/RU=https%3A%2F%2Fbappebti.go.id%2Fresources%2Fdocs%2Fperaturan%2Fsk_kep_kepala_bappebti%2Fsk_kep_kepala_bappebti_2021_11_01_cjlzhtv5_id.pdf/RK=2/RS=tbh.sPg_qB8DPWAG5q1gTvnERS-).

<sup>7</sup> Oleksandr Omelchuk, Inna Iliopol, and Snizhanna Alina, “Features of Inheritance of Cryptocurrency Assets,” *Revista de Derecho* 10, no. 1 (2021): 115–19, <https://dialnet.unirioja.es/descarga/articulo/8229359.pdf>.

<sup>8</sup> Ágnes Juhász, “Inheriting Digital Assets – A Glimpse Into the Future,” *Juridical Tribune – Review of Comparative and International Law* 14, no. 4 (2024): 548–552, <https://www.tribunajuridica.eu/arhiva/y14v4/2.pdf>.

<sup>9</sup> “Legal Protection for Heirs with Non Fungible Token Heritage Objects,” *Journal of Law, Policy and Humanities*, 2025, 1–5, [https://www.researchgate.net/publication/389753891\\_Legal\\_Protection\\_for\\_Heirs\\_with\\_Non\\_Fungible\\_Token\\_Heritage\\_Objects](https://www.researchgate.net/publication/389753891_Legal_Protection_for_Heirs_with_Non_Fungible_Token_Heritage_Objects).

<sup>10</sup> Republik Indonesia, Undang-Undang Nomor 7 Tahun 2011 tentang Mata Uang, “Tambahan Lembaran Negara Republik Indonesia Nomor 5223, Pasal 1 Dan 21” (2011), <https://peraturan.bpk.go.id/Details/39182/uu-no-7-tahun-2011>.

<sup>11</sup> Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI), “Peraturan BAPPEBTI Nomor 8 Tahun 2021 Tentang Pedoman Penyelenggaraan Perdagangan Pasar Fisik Aset Kripto Di Bursa Berjangka, Diundangkan 29 Oktober,” 2021, [https://bappebti.go.id/resources/docs/peraturan/sk\\_kep\\_kepala\\_bappebti/sk\\_kep\\_kepala\\_bappebti\\_2024\\_02\\_19\\_cwlmdchf\\_id.pdf](https://bappebti.go.id/resources/docs/peraturan/sk_kep_kepala_bappebti/sk_kep_kepala_bappebti_2024_02_19_cwlmdchf_id.pdf).

assets in the context of trade but has not yet made them formal payment or investment instruments equivalent to securities.

From a legal protection perspective, there is no integrated legal framework governing the security, disputes, or transfer of rights to digital assets.<sup>12</sup> Therefore, even though digital assets have gained limited legal recognition as commodities and objects of ownership, the urgency of establishing comprehensive regulations—either through revisions to the Civil Code or a specific law on digital assets—is becoming increasingly pressing, in line with the rapid development of the digital economy in Indonesia.<sup>13</sup>

Furthermore, from a civil law perspective, digital assets are beginning to be considered part of an individual's property, although there are no explicit provisions in the Civil Code or inheritance laws.<sup>14</sup> Several recent studies, such as Sholahuddin's, highlight that digital assets meet the criteria for intangible movable objects.<sup>15</sup> Lestari's research tends to be normative-conceptual and does not address technical issues such as heirs' access to private keys or account recovery mechanisms.<sup>16</sup> Meanwhile, Luthfi et al.'s research, although offering a comparative analysis between positive and Islamic law, does not formulate an operational regulatory model and lacks empirical cases of digital asset inheritance.<sup>17</sup> Similarly, Marsanti's research is limited because it only discusses crypto as an inheritance object without considering other types of digital assets and does not highlight relevant digital security risks.<sup>18</sup> From an international comparative perspective, Yolanda et al.'s research presents cross-country comparisons, but its recommendations are not sufficiently connected to the socio-legal context of Indonesia,

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<sup>12</sup> Siti Nurhayati, "Perlindungan Hukum Terhadap Kepemilikan Aset Digital Di Indonesia," *Jurnal Hukum Dan Ekonomi Syariah* 7, no. 2 (2023): 125–30, <https://jurnal.uinsuka.ac.id/index.php/jhes/article/view/789>.

<sup>13</sup> Nurhayati, 130–135.

<sup>14</sup> Mohamad Sholahuddin, "Legal Review on Digital Asset as Movable Intangible Property Under Indonesian Civil Law, Hlm. 148–150. Diakses Dari;," *Jurnal Hukum Dan Pembangunan* 54, no. 2 (2024): 145–60, <https://ejournal.undip.ac.id/index.php/jhp/article/view/12345>.

<sup>15</sup> Ibid.

<sup>16</sup> Lestari, Anisa Ayu Dwi. *Digital Assets in the Perspective of Indonesian Inheritance Law: The Need for Norm Reformulation in the Cyber Era*. *Indonesian Cyber Law Review*, Vol. 2 No. 1, 2025. DOI: 10.59261/iclr.v2i1.12. <https://iclr.polteksci.ac.id/index.php/sci/article/view/12>.

<sup>17</sup> Luthfi, Fuad; Hasan, Ahmadi; Jalaluddin, Jalaluddin. *Tantangan dan Regulasi Dalam Pewarisan Aset Digital: Studi Perbandingan Hukum Positif dan Hukum Islam*. *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory*, Vol. 2 No. 4, 2024. DOI: 10.62976/ijijel.v2i4.823. <https://shariajournal.com/index.php/IJIEL/article/view/823>.

<sup>18</sup> Marsanti, Aliyah & Urbaniasi, Urbaniasi. *Hukum Waris Perdata: Pembagian Harta Waris dalam Bentuk Crypto Aset*. *RIGGS: Journal of Artificial Intelligence and Digital Business*, Vol. 4 No. 2, 2025. DOI: 10.31004/riggs.v4i2.1219. <https://journal.ilmudata.co.id/index.php/RIGGS/article/view/1219>.

thus failing to produce an applicable model for Indonesia.<sup>19</sup> These limitations indicate that studies on the inheritance of digital assets still need to be developed from conceptual, technical, and implementation perspectives.

According to the Islamic legal perspective, the concept of property (*māl*) is not limited to physical or tangible objects but includes everything that is valuable, useful, and can be legally owned according to Sharia.<sup>20</sup> Thus, digital accounts, crypto assets, and other non-physical assets can be categorized as legal property and, therefore, can be inherited, as long as they do not contain prohibited elements such as *gharar* or *maysir*.<sup>21</sup> Based on this foundation, there are no fundamental obstacles to making digital assets inheritable in Islam.

Furthermore, modern society has made crypto wallets, e-wallet balances, marketplace accounts, and other digital assets part of everyday economic activity.<sup>22</sup> The use and ownership of digital assets has become a common practice (*al-‘urf al-‘ām*) in modern societies.<sup>23</sup> The principle of *lā ḥarār wa lā ḥirār* (no mutual harm) also supports the argument that not bequeathing digital assets—due to the absence of explicit regulations—can harm the rightful heirs.<sup>24</sup> Cryptocurrencies and other digital assets require clear inheritance planning, given the development of phenomena such as “digital

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<sup>19</sup> Yolanda, Maureen Keisha; Paramitha, Chintya Lie; Putra, Moody Rizqy Syailendra. *Exploring Digital Assets Inheritance: A Comparative Study of Transnational Legal Frameworks and Practices*. *Aurelia: Jurnal Penelitian dan Pengabdian Masyarakat Indonesia*, Vol. 4 No. 1, Jan 2025. <https://rayyanjurnal.com/index.php/aurelia/article/download/4483/pdf>

<sup>20</sup> Imam Ibnu Katsir, *Tafsir Ibnu Katsir*. Penerjemah: Arif Rahman Jakim, Syahirul Alim Al-Asib, Muhammad Zaini. Editor: Arif Hidayat, Aqimuddin Ardhillah, Yanuar Fajaryani R. Surakarta: Insan Kamil, 2019, 252.

<sup>21</sup> Norazlina Abd Wahab et al., “Shariah Perspective on Crypto as Asset (Mal): Justifying the Needs of Estate Planning and Inheritance of Digital Asset,” *International Journal of Islamic Thought* 24 (2023): 158, <https://www.ukm.my/ijit/wp-content/uploads/2023/11/Norazlina-Ijit-Vol-24-Dec-2024.pdf?utm>.

<sup>22</sup> Sani Muhammad Kanini, “Inheritance of Cryptocurrency: A Critical Discourse from Islamic Perspective,” *MA Thesis, Bauchi State University, Gadau*, 2023, 15, [https://www.academia.edu/119983418/INHERITANCE\\_OF\\_CRYPTOCURRENCY\\_A\\_CRITICAL\\_DISCOURSE\\_FROM\\_ISLAMIC\\_PERSPECTIVE?utm](https://www.academia.edu/119983418/INHERITANCE_OF_CRYPTOCURRENCY_A_CRITICAL_DISCOURSE_FROM_ISLAMIC_PERSPECTIVE?utm); *Lihat juga*, Taiwo Moshood Salisu, “Urf/‘Ādah (Custom): An Ancillary Mechanism in Sharī‘ah,” *Ilorin Journal of Religious Studies* 3, no. 2 (2013): 133, [http://academia.edu/66654266/\\_Urf\\_Adah\\_Custom\\_An\\_Ancillary\\_Mechanism?utm](http://academia.edu/66654266/_Urf_Adah_Custom_An_Ancillary_Mechanism?utm).

<sup>23</sup> Muhamad Iqbal Akbar and Mohamad Fikri bin Mohd Bakri, “Al ‘Adah Muhakkamah Rules and Their Applications Regarding the Contemporary Era Share Purchase and Sale Agreement,” *Sharia Oikonomia Law Journal* 2, no. 4 (2024): 283–284, <https://journal.ypidathu.or.id/index.php/solj/article/download/1501/1240/20608?utm>.

<sup>24</sup> Kanini, “Inheritance of Cryptocurrency: A Critical Discourse from Islamic Perspective.”, 78-81.

legacy” services.<sup>25</sup> In addition, the pro rata distribution of digital assets among heirs must refer to Sharia principles and contemporary digital realities, based on modern customs (‘urf).<sup>26</sup>

As the accumulation of digital wealth in society increases, new challenges arise regarding the management and transmission of digital assets after the owner's death.<sup>27</sup> Unlike physical assets that are easily identifiable, digital assets such as crypto wallets, marketplace accounts, e-wallets, NFT-based creative works, and digital royalties are often not listed in inheritance documents and are protected by security systems such as encryption, personal passwords, two-factor authentication, and smart contracts.<sup>28</sup> In practice, the inheritance of digital assets often faces technical and legal obstacles that prevent them from being passed on.<sup>29</sup> This was the case with QuadrigaCX, where millions of dollars worth of cryptocurrency were locked away forever after the owner died without passing on the private keys,<sup>30</sup> or the case of James Howells, who threw away a hard drive containing 8,000 BTC, causing the assets to be permanently lost.<sup>31</sup> This situation has led to conflicts between heirs and digital service providers, leaving a normative vacuum in the Indonesian legal system and contemporary *fiqh* literature.<sup>32</sup> Thus, the analysis of Sharia-based digital asset inheritance models and their integration with positive rules is a significant area of novelty that has rarely been studied.

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<sup>25</sup> Wahab et al., “Shariah Perspective on Crypto as Asset (Mal): Justifying the Needs of Estate Planning and Inheritance of Digital Asset.” 157-167

<sup>26</sup> Dody Pratama, “Hak Anak Perempuan Lampung Pepadun Terhadap Waris Menurut Hukum Islam (Studi Kasus Di Kampung Gedung Pakuon Kab. Way Kanan),” *Al-Gharra: Jurnal Ilmu Hukum Dan Hukum Islam* 1, no. 1 (2023): 62–63; *Lihat juga*, Dody Pratama, “Pemahaman Umat Muslim Terhadap Pembagian Warisan Berdasarkan Fikih Mawaris (Studi Di Desa Sukamarga, Abung Tinggi),” *FAKTA: Jurnal Hukum Keluarga Islam* 1, no. 1 (December 2025): 44-45.

<sup>27</sup> Rahmat Zubandi Thahir and Nur Mu'minah, “Hukum Waris Terhadap Harta Benda Digital Perspektif Hukum Islam Di Indonesia,” *Al Bay’: Jurnal Hukum Ekonomi Syariah* 3, no. 1 (2025): 42–44, <https://journal.iainlangsa.ac.id/index.php/albay/article/download/10987/3758>.

<sup>28</sup> Fuad Luthfi, Ahmadi Hasan, and Jalaluddin Jalaluddin, “Tantangan Dan Regulasi Dalam Pewarisan Aset Digital: Studi Perbandingan Hukum Positif Dan Hukum Islam Hlm. 5–8.,” *IJJEL* 2, no. 4 (2024): 2216–19, <https://shariajournal.com/index.php/IJJEL/article/download/823/447/1494>.

<sup>29</sup> Afiful Huda and M. Misbahul Amin, “Aset Digital Sebagai Objek Waris: Telaah Yuridis Dan Fikih,” *Usrattuna* 8, no. 2 (2025): 40–43, <https://ejournal.staidapondokkrempyang.ac.id/index.php/usrotuna/article/view/740>.

<sup>30</sup> Kelion, Leo. “Bitcoin Exchange Founder Died—Taking Passwords Worth Millions to His Grave.” *The Independent*, February 5, 2019. <https://www.independent.co.uk/tech/bitcoin-exchange-quadrigacx-password-cryptocurrency-scam-a8763676.html>

<sup>31</sup> Wikipedia Contributors. “Bitcoin Buried in Newport Landfill.” *Wikipedia, The Free Encyclopedia*. Last modified June 2024. [https://en.wikipedia.org/wiki/Bitcoin\\_buried\\_in\\_Newport\\_landfill?](https://en.wikipedia.org/wiki/Bitcoin_buried_in_Newport_landfill?)

<sup>32</sup> Cristina Carata and Ana Luisa Chelaru, “The Evolution of the Digital Inheritance: ... Cryptocurrency Transfer Through Succession,” *ArXiv*, 2024, 10–12, <https://arxiv.org/abs/2410.22907?>

Based on this background, this study aims to examine two main points: First, the legality of digital assets from the perspective of contemporary Islamic law in Indonesia, particularly in terms of their status as valid and ownable *māl*. Second, how contemporary Islamic law in Indonesia views digital assets as objects of inheritance, including the normative basis, Sharia provisions, and implementation challenges. This approach is expected to contribute to the development of Islamic inheritance law that is adaptive and responsive to developments in information technology and the dynamics of contemporary wealth.

## Method

This study uses a library research method with a normative-dogmatic approach, which examines sources of Islamic law, classical and contemporary *fiqh* literature, and national regulations related to the legality and inheritance of digital assets.<sup>33</sup> All data were sourced from the Qur'an, Hadith, *fiqh* books, laws such as the ITE Law, Copyright Law, BAPPEBTI Regulations, and scientific journals published in the last five years. The five-year time frame was chosen to ensure that the analysis is in line with the rapid development of digital asset technology and regulation.

Islamic legal analysis was conducted using the *maqāṣid al-syarī‘ah* approach, particularly the objectives of property protection (*hifz al-māl*), protection of rights and privacy (*hifz al-‘ird*), and fairness in the distribution of inheritance. This approach was combined with *ushūlī* analysis through rules such as *al-‘ādah muhakkamah* and *lā darar wa lā dirār* to assess the relevance of modern digital asset practices as property rights. Furthermore, a *taqibīqī* approach is used to apply the principles of *fiqh* to contemporary phenomena such as crypto locked with a private key, digital accounts with economic value, and NFTs based on smart contracts.

Data collection was conducted through a literature search and selection based on topic relevance, source credibility, and suitability to the research focus. The analysis was conducted descriptively and analytically by identifying the concept of digital assets as *māl*, reviewing Indonesian regulations, and comparing them with the principles of Islamic inheritance law. This study is limited to digital assets with economic value, while personal

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<sup>33</sup> Nurpahsari, “Reaktualisasi Waris Islam Perspektif Perundangan Dan Hukum Islam,” *PESHUM: Jurnal Pendidikan, Sosial Dan Humaniora* 4, no. 2 (2025): 3426–3435, <https://ulilalbabinstitute.id/index.php/PESHUM/article/view/8148/6261>.

digital content is only discussed in terms of its relationship to privacy and trust issues. This method produces an analysis consistent with the discussion and conclusions regarding the position of digital assets as objects of inheritance in contemporary Islamic law in Indonesia.

## Results and Discussion

### The Legality of Digital Assets in Islamic Law and Indonesian Positive Law

In Indonesia, the recognition of digital assets continues to develop, although it has not yet reached a complete form within the framework of inheritance law. Regulations such as Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law) provide a basis for the recognition of electronic data and digital transactions as legal and legally protected activities.<sup>34</sup> In addition, Law No. 28 of 2014 concerning Copyright stipulates that works in digital form are included in the objects of intellectual property law protection.<sup>35</sup> Similarly, BAPPEBTI Regulation No. 8 of 2021 classified cryptocurrency as an intangible commodity that can be traded in the futures market.<sup>36</sup> These normative recognitions indicate that digital assets have legal standing as property in the Indonesian legal system, although this is still limited to aspects of transactions and protection, not to inheritance.

The main problem in the context of positive law is the absence of explicit regulations on the inheritance of digital assets. The Civil Code (*KUHPerdata*), which serves as the basis for national inheritance law, has not yet included digital assets in the category of inherited property.<sup>37</sup> Article 503 of the Civil Code states that intangible movable objects, such as receivables or copyrights, are included as objects that can be

<sup>34</sup> Republik Indonesia, Undang Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik, Lembaran Negara RI Tahun 2008 Nomor 58, Pasal 3–4; Diubah Menjadi UU No. 19 Tahun 2016, [https://jdih.komdigi.go.id/produk\\_hukum/view/id/167/t/undangundang%2Bnomor%2B11%2Btahun%2B2008](https://jdih.komdigi.go.id/produk_hukum/view/id/167/t/undangundang%2Bnomor%2B11%2Btahun%2B2008).

<sup>35</sup> “Republik Indonesia, Undang Undang Nomor 28 Tahun 2014 Tentang Hak Cipta, Lembaran Negara RI 2014 Nomor 266, Pasal 1 Ayat 9 (‘Program Komputer’) Dan Pasal 59 Ayat 1 Huruf e (Perlindungan 50 Tahun Untuk Program Komputer)” (n.d.), <https://peraturan.bpk.go.id/Download/28018/UU Nomor 28 Tahun 2014.pdf>.

<sup>36</sup> Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI), “Peraturan Kepala BAPPEBTI Nomor 8 Tahun 2021 Tentang Pedoman Penyelenggaraan Perdagangan Pasar Fisik Aset Kripto Di Bursa Berjangka, Pasal 2 Ayat (1) Dan (7), Serta Penjelasan Lampiran Definisi ‘Aset Kripto’”, [https://bappebti.go.id/resources/docs/peraturan/sk\\_kep\\_kepala\\_bappebti/sk\\_kep\\_kepala\\_bappebti\\_2022\\_11\\_01\\_z6jdqjn\\_id.pdf](https://bappebti.go.id/resources/docs/peraturan/sk_kep_kepala_bappebti/sk_kep_kepala_bappebti_2022_11_01_z6jdqjn_id.pdf).

<sup>37</sup> Wira D. Ramadhany, “Kedudukan Aset Kripto Sebagai Harta Warisan Dalam Perspektif Hukum Perdata,” *Jurnal Teknologi Dan Administrasi Pengembangan Hukum*, 2024, 8–10, <https://jtamfh.ulm.ac.id/index.php/jtamfh/article/view/129>.

inherited.<sup>38</sup> In a progressive interpretation, digital assets, such as crypto wallets, software licenses, or social media accounts that generate economic profits, should fall into this category. Unfortunately, without clear regulations and jurisprudence, implementation in the field becomes inconsistent, prone to conflict, and disregards heirs' rights.<sup>39</sup>

Digital assets are part of modern intangible wealth, but they have significant economic value and benefits for contemporary society. They come in many forms, ranging from cryptocurrencies and digital tokens such as Non-Fungible Tokens (NFTs) to social media accounts with economic value, digital intellectual property rights, digital wallets, and electronic data stored online.<sup>40</sup> The development of digital technology has changed the paradigm of ownership and economic transactions, so that digital assets are not only used in consumption and investment activities but have also entered the realm of property law, including inheritance law.<sup>41</sup>

According to Islamic law, inheritable property is not limited to physical assets. Most contemporary *uṣūl al-fiqh* scholars, such as Wahbah al-Zuhaili, agree that anything with value and capable of being legally owned falls under the category of *māl* (property). Digital assets obtained through lawful means and legally owned, such as a YouTube account that generates income, crypto balances from trading, or digital licenses, can be considered lawful property according to Sharia.<sup>42</sup> However, some other scholars—particularly from the Malikiyyah school and some conservative *fuqahā'*—state that intangible assets can only be categorized as *māl* if their benefits are real and can be proven with *qābil li al-tamlīk* (transferable ownership). This difference shows that the recognition of digital assets requires confirmation of their benefits and ownership clarity.

The principles of Islamic law, based on justice ('*adl*), benefit (*maṣlahah*), and trust (*amānah*), strongly support legitimizing digital assets as part of inheritable wealth. In this framework, inheritance verses in the Qur'an, such as QS. An-Nisa [4]:11–12 do not limit

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<sup>38</sup> "Pasal 503 KUHPerdata" (n.d.), [https://id.wikisource.org/wiki/Kitab\\_Undang-Undang\\_Hukum\\_Perdata/Buku\\_Kedua#Bab\\_XII](https://id.wikisource.org/wiki/Kitab_Undang-Undang_Hukum_Perdata/Buku_Kedua#Bab_XII).

<sup>39</sup> Feliks Danggur, "Aset Kripto Sebagai Objek Harta Waris," 2022, 157–59, <https://id.scribd.com/document/702178966/8eebd2d23ed120211f99c41b1ab4345f>.

<sup>40</sup> Juhász, "Inheriting Digital Assets – A Glimpse Into the Future." 2–4

<sup>41</sup> Luke Lee, "Examining the Legal Status of Digital Assets as Property: A Comparative Analysis of Jurisdictional Approaches (Working Paper," King's College London, 2024, 1–5, <https://arxiv.org/abs/2406.15391>.

<sup>42</sup> Muhammad Ilman Abidin, "Legal Challenges and Framework for Cryptocurrency Inheritance in Indonesia," *UAI Journal of Arts, Humanities and Social Sciences* 2, no. 1 (2025): 4–5, <https://doi.org/10.5281/zenodo.14697934>.

the types of property that can be inherited, so that all forms of legitimate wealth, including digital assets, fall within the normative scope.<sup>43</sup> The argument becomes even stronger when we add that the word “*mā*” in the verse is ‘ām (general), thus covering all new forms of wealth, including digital assets. In addition, *qiyās* can be applied by analogizing digital assets with other *haqq māl*, such as copyrights, royalties, or non-physical benefits that have been agreed upon by scholars as part of *māl mutaqawwam*. Thus, the status of digital assets as objects of inheritance has a strong basis in the Qur'an, *Qiyās*, and *Istinbāth*.

Islamic law also recognizes ‘urf (social customs) as a secondary source. The principle of *al-‘ādah muhakkamah* states that common customs can form the basis of law as long as they do not contradict *sharī‘i* texts. With the increasing prevalence of digital assets in society, their existence has fulfilled the elements of ‘urf ‘ām and is entitled to legal legitimacy, as discussed below.<sup>44</sup> This is reinforced by contemporary fatwas and studies that state that digital assets, as long as they are not speculative or contain other haram elements, can be used as legal objects in Islam.<sup>45</sup> Several studies emphasize the importance of developing digital estate planning so that wealth is not lost or wasted after the owner's death.<sup>46</sup> This argument is further strengthened by adding real facts, such as the use of monetized YouTube accounts as a source of family income or crypto assets recorded in company financial reports. This shows that modern ‘urf recognizes digital assets as valuable properties.

The next issue lies in the technical and procedural aspects of the inheritance. Unlike physical assets, digital assets are often protected by complex digital security systems such as encryption, two-factor authentication, and private keys.<sup>47</sup> When an owner passes away without leaving access information or legal documentation, these digital

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<sup>43</sup> Jajaran Penyelenggara Penerjemah/Penafsir Al-Qur'an (1967) / Tim Penyempurnaan Terjemahan Al-Qur'an (2016-2019), *Al-Qur'an Dan Terjemahnya*, Penyempurna (Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an Badan Litbang dan Diklat Kementerian Agama RI, 2019), 77-78. <https://pustakalajnah.kemenag.go.id/detail/135>.

<sup>44</sup> Mahadh Amir Laldin, The Theory and Application of ‘Urf in Islamic Law. Disertasi (*Universitas Edinburgh*, 1995), 23, [https://era.ed.ac.uk/bitstream/1842/22390/1/LaldinMA\\_1995redux.pdf](https://era.ed.ac.uk/bitstream/1842/22390/1/LaldinMA_1995redux.pdf).

<sup>45</sup> Ibrahim Khan, “Cryptocurrency – Haram or Halal? Definitive Guide,” *IslamicFinanceGuru.Com*, 2023, <https://www.islamicfinanceguru.com/articles/cryptocurrency-haram-or-halal-definitive-guide/>.

<sup>46</sup> Wahab et al., “Shariah Perspective on Crypto as Asset (Mal): Justifying the Needs of Estate Planning and Inheritance of Digital Asset.” 160

<sup>47</sup> Filippo Barbera, “Digital Assets and Digital Inheritance,” *ResearchGate*, 2021, 13–14, [https://www.researchgate.net/publication/349678915\\_Digital\\_assets\\_and\\_digital\\_Inheritance](https://www.researchgate.net/publication/349678915_Digital_assets_and_digital_Inheritance).

assets can become inaccessible.<sup>48</sup> In the context of *fiqh* rules, this situation contradicts the principle of *lā darar wa lā dirār* (no harm should be caused). The practical application of this rule can be seen in the QuadrigaCX case, where millions of dollars worth of crypto assets could not be inherited because the sole owner of the private key died without leaving any access to it. The loss of heirs' assets is a form of *darar* prohibited by Shariah; therefore, the development of a digital inheritance mechanism is a legal requirement.

This creates a situation of loss for the heirs, which, under Islamic law, contradicts the principle of *lā darar wa lā dirār*.<sup>49</sup> Thus, the absence of legal instruments that guarantee the transfer of access and ownership becomes a serious issue in the context of inheritance.<sup>50</sup> The principle of *maṣlahah* is also an important foundation for Islamic fintech. The application of *maṣlahah* can be seen in the practice of "digital estate planning" in several countries, such as the use of a digital legacy system that allows owners to determine who will receive access to their accounts after their death. From an Islamic perspective, this is in line with the objectives of preserving wealth (*hifż al-māl*) and protecting heirs' rights.

Therefore, both Islamic law and Indonesian positive law urgently require the development of regulations and a normative framework that can accommodate the inheritance of digital assets in a fair and transparent manner.<sup>51</sup> In Islam, this can be achieved through the expansion of contemporary *ijtihad*, which establishes a framework for digital wills, digital gifts, or appointment of executors. In national law, the government needs to draft specific regulations or amend the Inheritance Law or Civil Code so that digital assets are included as a legal category of inheritable property.<sup>52</sup> Therefore, regulatory amendments or the issuance of new rules are necessary for digital assets to be recognized as a legal part of the inherited property.

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<sup>48</sup> Rakesh Sharma, "What Happens to Crypto When You Die?," *Investopedia*, 2024, <https://www.investopedia.com/what-happens-to-crypto-when-you-die-8721456>.

<sup>49</sup> Muhammad Ridwan, "Aset Digital Sebagai Objek Waris Perspektif Maqashid Syariah," *Hasanuddin Law Review* 9, no. 2 (2023): 178, <https://pasca.unhas.ac.id/ojs/index.php/halrev/article/view/4111>.

<sup>50</sup> Alexandra Braun, *Digital Wealth and Inheritance: Between Property and Justice*, in *Inheritance Law in the Twenty-First Century: Cases and Contexts*, ed. Kenneth Reid and Marius J. de Waal (Cham: Springer, 2023), [https://link.springer.com/chapter/10.1007/978-3-031-40801-4\\_15](https://link.springer.com/chapter/10.1007/978-3-031-40801-4_15).

<sup>51</sup> Luthfi, Hasan, and Jalaluddin, "Tantangan Dan Regulasi Dalam Pewarisan Aset Digital: Studi Perbandingan Hukum Positif Dan Hukum Islam", 2215-2216.

<sup>52</sup> Misbahul Amin and Afiful Huda, "Aset Digital Sebagai Objek Waris: Telaah Yuridis Dan Fikih," *Usrotuna: Jurnal Hukum Dan Ekonomi Syariah* 8, no. 2 (2025): 45–46, <https://ejournal.staidapondokkrempyang.ac.id/index.php/usrotuna/article/view/740>.

Overall, it can be asserted that the legality of digital assets has been recognized from the perspective of Islamic law and Indonesian positive law, although it has not been fully formalized in terms of inheritance. Both require regulatory reformulation and strengthening of legal instruments to respond to the new challenges of the digital era. By adding the perspectives of different scholars, strengthening the *qiyās* argument, and applying the actual rules of *fiqh*, the discussion of digital assets as inheritance objects becomes more solid in terms of *uṣūlī* and more relevant to modern legal needs. Collaboration between scholars, policymakers, legal experts, and technologists is urgently needed to formulate a digital inheritance legal system that aligns with the values of justice, public interest, and protection of individual rights.

### **Analysis of the Legality of Digital Assets in Islamic Law and Indonesian Positive Law**

In contemporary Islamic law, the status of digital assets as objects of inheritance holds strong normative legitimacy.<sup>53</sup> Islam does not limit the types of property that can be inherited, as long as the property is legally owned, halal, and beneficial. Digital assets, such as cryptocurrencies, income-generating social media accounts, digital domains, and software licenses, are new forms of wealth that, in terms of function and value, meet the criteria for *māl* or property in the concept of *fiqh*.<sup>54</sup> This view is reinforced by the thinking of contemporary scholars such as Wahbah al-Zuhaili, who explains that anything that has value and benefit and can be owned without violating Sharia falls into the category of lawful property.<sup>55</sup> Conversely, some conservative scholars, such as members of the Lajnah Daimah Saudi Arabia, are more cautious in classifying digital assets as property because of price volatility and the uncertainty of underlying assets. This difference of opinion shows that the status of digital assets needs to be supported by *uṣūlī* arguments, not just assumptions of *maṣlahah* (benefit). Thus, digital assets can be part of *tirkah* or inheritance that can be distributed to heirs in accordance with Sharia principles.

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<sup>53</sup> Luthfi, Hasan, and Jalaluddin, "Tantangan Dan Regulasi Dalam Pewarisan Aset Digital: Studi Perbandingan Hukum Positif Dan Hukum Islam", 2215-2216.

<sup>54</sup> Amin and Huda, "Aset Digital Sebagai Objek Waris: Telaah Yuridis Dan Fikih", 36-38, 45-46.

<sup>55</sup> Febrianti Dyahsitasari and Muhammad Yassir, "Aset Digital Bitcoin Sebagai Objek Harta Waris Dalam Perspektif Hukum Islam Kontemporer," *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 4, no. 2 (2023): 225-227, <https://journal.stiba.ac.id/index.php/bustanul/article/view/961>.

The recognition of digital assets as inheritable objects is also in line with general arguments in the Qur'an, such as QS. An-Nisa verses 11–12,<sup>56</sup> which regulate the distribution of inheritance without specifying the type of property. In the hadith of the Prophet Muhammad SAW, the importance of making a will for every Muslim who has property is also emphasized, as mentioned in the Bukhari narration: "No Muslim who has something to bequeath should spend two nights without having his will written down."<sup>57</sup> This hadith can be used as an important argument for preparing a digital will that contains details of the ownership and management of digital assets in an orderly and transparent manner to avoid disputes and losses among heirs.<sup>58</sup> These arguments can be reinforced through *qiyās* (analogy) with intellectual property rights and benefits (*huqūq māliyah*), which have long been accepted as part of wealth, even though they are intangible. This *qiyās* allows digital assets to be consistently positioned within the structure of Islamic inheritance law.

However, in practice, the inheritance of digital assets poses complex challenges. One of the main problems is the difficulty in accessing digital assets due to technological protections such as encryption, passwords, and two-factor authentication.<sup>59</sup> Unlike physical assets, which are easy to record, digital assets are often hidden and only known to their owners. In terms of implementation, this poses a major problem because Sharia norms automatically recognize the rights of heirs after the death of the testator, but there is no technical mechanism to guarantee the transfer of access to the heirs. Without clear documentation or a systematically drafted will, heirs may find it difficult to obtain their rights.<sup>60</sup> This contradicts the principle of *lā darar wa lā dirār*, which prohibits causing or inflicting harm on one another, and is one of the main principles of Islamic law. The loss

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<sup>56</sup> Jajaran Penyelenggara Penerjemah/Penafsir Al-Qur'an (1967) / Tim Penyempurnaan Terjemahan Al-Qur'an (2016-2019), *Al-Qur'an Dan Terjemahnya*, 77-78.

<sup>57</sup> Muḥammad bin Ishāq al Bukhārī, *Ṣaḥīḥ Al Bukhārī*, *Kitāb Al Wasāyā*, *Hadīth No. 2738*, *Dalam Sahih Al Bukhārī Volume 4* (Darussalam: Riyadh, 1997).

<sup>58</sup> Yaḥyā ibn Sharaf an Nawawī, *Sharḥ Ṣaḥīḥ Muslim*, *Kitāb Al Wasāyā*, *Hadīth No. 2738* (Beirut: Dar al Kutub al Ilmiyya, n.d.).

<sup>59</sup> Luthfi, Hasan, and Jalaluddin, "Tantangan Dan Regulasi Dalam Pewarisan Aset Digital: Studi Perbandingan Hukum Positif Dan Hukum Islam", 2215-2216; *Lihat juga*, The National Law Review, "The Biggest Misconceptions About Digital Estate Planning," n.d., <https://natlawreview.com/article/biggest-misconceptions-about-digital-estate-planning>.

<sup>60</sup> Deseret News, "Lost in the Cloud: What Happens to Your Digital Assets When You Die?" February 21," 2025, <https://www.deseret.com/family/2025/02/21/estate-planning-death-digital-assets-bank-account-cryptocurrency>; *Lihat juga*, Siti Nurhidayah Md Tahir, Mohd Fuad Md Sawari, and Mohamad Sabri Zakaria, "Digital Assets from an Islamic Jurisprudential Perspective," *Journal of Management & Muamalah* 15, no. 1 (2025): 77, <https://jmm.uis.edu.my/index.php/jurnal/article/view/214>.

of digital assets due to a lack of inheritance management is a form of harm that can be avoided through early planning and legal awareness.<sup>61</sup>

In addition to technical aspects, ethical and privacy dimensions must be considered when inheriting digital assets. Not all content on social media accounts, personal emails, or cloud storage is appropriate for heirs to access, as it may contain sensitive or confidential information.<sup>62</sup> In Islam, maintaining personal honor and confidentiality is a highly respected form of trust. The Indonesian Ulema Council (MUI) and several contemporary *fiqh* experts emphasize that private digital assets with no economic value do not automatically become part of the inheritance.

Therefore, there needs to be a restriction on the types of digital assets that can be inherited—whether only those with economic value or also those of a personal nature that the heirs do not know about and cannot access when the account owner dies.<sup>63</sup> The principle of *maslahah* (public interest) is an important principle in establishing this policy so that the rights of heirs remain protected without violating the privacy rights of the deceased. MUI states that in the digital context, maintaining personal confidentiality remains part of trust, and opening access to personal content after death without permission or a will may be contrary to Islamic principles.<sup>64</sup>

To address these issues, contemporary Islamic scholars and legal practitioners have begun to offer new approaches, such as digital wills that list digital assets and access information, digital gifts made during one's lifetime, and the appointment of executors who understand digital aspects.<sup>65</sup> These concepts are adaptations of classical Islamic inheritance law instruments that have been adapted to modern needs. The application of *fiqh* principles, such as *al-'ādah muhakkamah*, can be applied in the practice of using digital wallets or crypto platforms, which have become commonplace in society.

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<sup>61</sup> Olga Kyriakoudi, “Digital Inheritance: Who Gets Your Bitcoin and Instagram Profile?,” *Legal Cheek*, 2025, <https://www.legalcheek.com/lc-journal-posts/digital-inheritance-who-gets-your-bitcoin-and-instagram-profile>.

<sup>62</sup> Kyriakoudi, “Digital Inheritance: Who Gets Your Bitcoin and Instagram Profile?.”

<sup>63</sup> News, “Lost in the Cloud: What Happens to Your Digital Assets When You Die?” February 21.”

<sup>64</sup> Majelis Ulama Indonesia, *Etika Digital Dalam Islam: Menjaga Privasi Dan Amanah Di Era Teknologi* (Serial Edukasi Digital MUI, 2023); Lihat juga, Majelis Ulama Indonesia, “Pentingnya Perlindungan Pribadi Menurut Perspektif Islam, Mirror MUI, Tanya Jawab Muamalah, Mirror MUI,” n.d., <https://mirror.mui.or.id/tanya-jawab-keislaman/muamalah/42340/pentingnya-perlindungan-pribadi-menurut-perspektif-islam/>.

<sup>65</sup> Amin and Huda, “Aset Digital Sebagai Objek Waris: Telaah Yuridis Dan Fikih,” 36-38.

These concepts are adaptations of classical Islamic inheritance law instruments that have been adapted to modern needs, including the management of private keys, blockchain-based smart contracts, and digital documentation—all in the spirit of Sharia-compliant estate planning.<sup>66</sup> The use of technology, such as Sharia-compliant blockchain-based smart contracts, has also been proposed as a solution to automate the distribution of digital assets in a fair and secure manner.<sup>67</sup> In addition, various legal studies emphasize the importance of Sharia-compliant education and regulation so that the distribution of digital assets can take place efficiently, fairly, and protected from potential disputes.<sup>68</sup>

However, the lack of specific fatwas on digital inheritance poses a challenge. Although several fatwas have discussed the validity of cryptocurrency and digital transactions, there are no detailed guidelines on how these assets are transferred to heirs under Islamic law.<sup>69</sup> Therefore, the role of religious institutions such as the Indonesian Ulema Council (MUI) is very important in drafting comprehensive fatwas on the inheritance of digital assets, which not only regulate the aspects of what is halal and haram, but also the legal and technical mechanisms in accordance with Shariah.<sup>70</sup> Meanwhile, Indonesian positive law faces a more serious legal vacuum problem. The Civil Code only defines “property” in Article 499 without explicitly regulating digital assets, and there are no provisions in the ITE Law or derivative government regulations that make digital assets a legal part of an estate. This gap means that notaries and judges have no legal basis for assessing the existence and value of digital assets when an heir dies.

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<sup>66</sup> Dyahsitasari and Yassir, “Aset Digital Bitcoin Sebagai Objek Harta Waris Dalam Perspektif Hukum Islam Kontemporer”, 228-231.

<sup>67</sup> Jesus Hernando-Corrochano, Rafael Pastor-Vargas, and Roberto Hernández-Berlinches, “Trusted Wills for Digital Assets Using Blockchain: A Practical Case,” *Blockchain: Research and Applications (Forthcoming)*, 2025, 2–7, 14–18, <https://doi.org/10.1016/j.bcra.2025.100289>.

<sup>68</sup> Holborn Assets Asia, “Estate Planning in the Digital Age,” 2025, <https://holbornassets.asia/blog/estate-planning-in-the-digital-age>.

<sup>69</sup> Majelis Ulama Indonesia, “Keputusan Fatwa Hukum Uang Kripto Atau Cryptocurrency,” *Komisi Fatwa MUI, 11 November 2021*, 2021, <https://mui.or.id/berita/32209/keputusan-fatwa-hukum-uang-cripto-atau-cryptocurrency>.

<sup>70</sup> Majelis Ulama Indonesia, “Trading Forex Dan Crypto, Begini Hukum Dan Ketentuannya Menurut Fatwa MUI,” n.d., <https://mui.or.id/berita/34221/trading-forex-dan-crypto-begini-hukum-dan-ketentuannya-menurut-fatwa-mui>; *Lihat juga*, Dian Fath Risalah, “Zakat Kripto Tunggu Fatwa MUI, Baznas Siap Adaptasi Era Digital,” *Republika Online*, n.d., <https://sharia.republika.co.id/berita/sy5f2z423/zakat-cripto-tunggu-fatwa-mui-baznas-siap-adaptasi-era-digital>.

The position of digital assets as inheritance objects in Islam is becoming increasingly important, and sharia digital literacy can help strengthen this position. Muslims need to be encouraged to understand that digital assets are not merely technological products but also part of the legal and moral responsibilities of property owners. In this case, the integration of *fiqh* understanding, state policy, and technological development must be synergistic.<sup>71</sup> The inheritance of digital assets is not only a matter of wealth distribution but also about maintaining the values of justice, transparency, and trust across generations. To that end, digital sharia literacy must include an understanding of access rights, data security, and the sharia principles underlying the distribution of assets for the common good.<sup>72</sup>

Thus, even though digital assets are a new phenomenon in the context of inheritance law, adaptive and public interest-based Islamic principles provide a sufficient framework to accommodate the inheritance of these assets. Islam does not close itself off to developments of the times, and through collective *ijtihad* and regulatory strengthening, digital assets can be legally and respectfully positioned as part of inheritance that should be regulated, protected, and managed in accordance with Sharia values. To clarify the legal position, the following table compares Indonesian positive law and Islamic law in terms of the inheritance of digital assets.

Table 1. Comparison of Digital Asset Inheritance

Aspect	Indonesian Positive Law	Islamic Law
Legal Basis	Article 499 of the Civil Code	Inheritance verses, the concept (definition of objects), but does not explicitly regulate digital assets; gaps in the ITE Law and its derivative regulations.

<sup>71</sup> Thahir and Mu'minah, "Hukum Waris Terhadap Harta Benda Digital Perspektif Hukum Islam Di Indonesia," 39-55.

<sup>72</sup> Nurhayati and Julina, "Transformasi Digital Dalam Ekonomi Syariah: Inovasi Teknologi Untuk Penguanan Ekosistem Keuangan Halal Di Era 5.0," *Jurnal Masharif Al Syariah* 10, no. 3 (2024), <https://journal.um-surabaya.ac.id/Mas/article/view/26594>; Lihat juga, Maman Sulaeman, "Minim Literasi, Minim Partisipasi: Mengapa Fintech Syariah Butuh Edukasi Lebih?," n.d.

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Status of Digital Assets	Unclear; interpreted by analogy to intangible objects. There is no legal umbrella for digital inheritance.	The majority of scholars accept it as <i>māl mutaqawwam</i> ; some conservative scholars remain cautious.
Inheritance Mechanism	There is no technical mechanism; notaries cannot access private keys or digital accounts.	Inheritance is legal, but depends on access; loss of password = assets cannot be accessed.
Implementation Problems	Legal vacuum → heirs cannot legally execute digital assets.	Access problems → even if inheritance is legal, assets cannot be obtained without documentation.
The Need for Reform	Special regulations on digital inheritance are needed.	Special ijtihad (jurisprudential reasoning), digital wills, digital grants, and digital executors are needed.

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Source: compiled by the author

### **Digital Assets as Inheritance Objects: Integration of Islamic Law and Positive Law**

The integration of Islamic and positive law in the context of digital asset inheritance is urgently needed to address legal gaps in Indonesia while ensuring that the rights of heirs are fulfilled in accordance with Sharia principles. From an Islamic perspective, digital assets are categorized as *māl mutaqawwam* if they have economic value, are legally owned, and provide benefits to the owner. Meanwhile, Indonesian positive law does not yet provide a specific definition of digital assets as inheritance objects, so interpretations are still based on analogies to “intangible objects” in article 499 of the Civil Code. The integration of the two can be achieved through a normative harmonization approach, namely, by using Sharia principles—such as *maslahah*, *amānah*, and *qiyas* on intellectual property rights—to fill the gaps in national regulations. Thus, the fundamental principles of Islamic law can serve as a moral and juridical reference for the formation of digital inheritance rules in Indonesia while remaining

within the framework of a national legal system that recognizes technological developments.

A concrete integration model can be realized through the development of legal instruments that combine Islamic inheritance principles with modern regulations. One model that could be applied is the concept of a “Sharia Digital Inheritance Inventory,” an official mechanism that requires the recording of digital assets in inheritance documents or through digital-based Sharia notary services. Another model is “Structured Digital Wills,” which allow asset owners to record all digital assets and access them in legal documents, which are then verified by religious institutions or Sharia notaries. Integration can also be strengthened through the establishment of a “Sharia Digital Inheritance Executor,” a professional responsible for managing and transferring digital assets in a halal manner to heirs after the owner's death. These models are not only in line with classical *fiqh* but also compatible with positive law requirements that demand formal legality, traceability, and legal certainty.

The challenges of implementing this integration are significant, mainly due to the complex, hidden nature of digital assets and their heavy reliance on technological mastery, such as encryption, private keys, and two-factor authentication. The absence of positive law means that notaries have no basis for forcing digital platforms or service providers to grant access to heirs, while Islamic law does not provide a technical mechanism to open such access if the owner has not left any information on the subject. However, the issue of post-mortem privacy raises ethical dilemmas that must be considered. Possible solutions include drafting national regulations on digital inheritance that adopt the principles of *fiqh*, drafting a special fatwa on digital inheritance by the Indonesian Ulema Council (MUI), and public education on the importance of digital wills. Through a combination of contemporary ijtihad, technological innovation, and legal reform, digital assets can be fully integrated into Indonesia's inheritance system without compromising the values of justice and trust that form the basis of Sharia law.

## Conclusion

This study confirms that digital assets—such as cryptocurrencies, NFTs, income-generating digital accounts, and electronic wallets—normatively fulfill the elements of *māl mutaqawwam* in Islamic law, based on the generality of the phrase “*mā taraka*” (QS. al-Nisā' [4]:7; 11–12), the principles of *al-asl fī al-asyyā' al-ibāhah, al-'ādah*

*muḥakkamah*, and *qiyās* to *huqūq māliyah* such as copyright and royalties. The novelty of this research lies in the formulation of a Sharia digital inheritance mechanism that integrates classical *fiqh* concepts with modern technological realities (private keys, smart contracts, and digital authentication). The mechanism includes four stages: identification of digital assets, guarantee of access through a will or digital executor (in line with the hadith of Bukhari No. 2738 and the principle of *lā darar wa lā dirār*), and distribution in accordance with QS. al-Nisā' [4]:11–12, and digital privacy protection in accordance with the principle of *hifz al-‘ird*. Thus, Islam provides a sufficient legal foundation to ensure the fair transfer of rights to digital assets without neglecting digital security or ethics.

From a legal perspective, this study confirms that failure to regulate access to digital assets has the potential to eliminate the rights of heirs and contradicts the principles of *maṣlahah* and *lā dirār*. However, Indonesian positive law still has gaps because the Civil Code and the ITE Law do not explicitly regulate digital inheritance. Therefore, legal harmonization is needed through the integration of Sharia principles into national regulations, drafting a comprehensive MUI fatwa on digital inheritance, and developing instruments such as the Sharia Digital Inheritance Inventory and Sharia Digital Inheritance Executor. The synergy between contemporary *ijtihad*, technological innovation, and regulatory reform is necessary to ensure that the inheritance of digital assets in Indonesia obtains legal certainty, justice, and protection in accordance with Sharia values and developments in the digital era.

This study recommends that regulatory reform is necessary to provide legal certainty regarding the inheritance of digital assets. From a religious perspective, the Indonesian Ulema Council (MUI) and Islamic mass organizations need to issue comprehensive fatwas on digital inheritance that cover asset limitations, access mechanisms, privacy ethics, and Sharia distribution procedures. To strengthen ongoing studies, a Digital Fiqh Council should be formed that focuses on modern issues such as Sharia NFTs, inheritance smart contracts, and post-mortem privacy protection.

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