

The Legal Status of Digital Assets as Objects of Inheritance from the Perspective of Islamic Inheritance Law

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Abstract:

The development of digital technology has transformed the concept of property ownership, including the emergence of digital assets such as cryptocurrencies, non-fungible tokens (NFTs), electronic wallets, and digital accounts with economic value. This phenomenon raises legal questions within Islamic inheritance law, particularly regarding the legal status of digital assets as inheritable property. This study aims to analyze the legality of digital assets as objects of inheritance from the perspective of Islamic inheritance law. The research employs a normative legal research method (library-based legal research) using a conceptual approach through the examination of legal doctrines, principles of Islamic inheritance law, and contemporary scholarly literature concerning digital assets. The study argues that digital assets may legally constitute inheritable property (*tirkah*) under Islamic inheritance law insofar as they satisfy the essential elements of *al-māl*, namely possessing economic value, being lawfully owned, providing legitimate benefit, being transferable, and conforming to sharia principles. Accordingly, the inclusion of digital assets within an inheritance estate is not determined by their digital nature, but by the fulfillment of these substantive legal requirements and the ability to establish ownership, value, and access rights. Nevertheless, certain categories of digital assets, particularly cryptocurrencies, require further legal scrutiny due to their volatility and the potential presence of elements of *gharar*, *dharar*, and *qimar*. Therefore, this study contends that the legality of digital assets as objects of inheritance is conditional rather than absolute, depending on the validity of ownership, the certainty of the asset, its lawful benefit, and the practical accessibility of the asset by the heirs.

Keywords: digital assets; inheritance law; Islamic inheritance; *al-māl*; *tirkah*.



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Introduction

The development of digital technology has transformed the form of property ownership in modern society. Property no longer exists only in physical forms such as land, buildings, vehicles, cash, or other movable objects, but also appears in digital forms that possess economic value. Cryptocurrencies, NFTs, electronic wallets, commercially valuable digital accounts, assets within digital platforms, and various forms of electronically based economic rights have begun to constitute part of a person's wealth. In the Indonesian context, this issue has become increasingly relevant because digital financial assets, including crypto assets, have entered the regulatory domain of the Financial Services Authority through OJK Regulation Number 27 of 2024 and were subsequently reinforced through OJK Regulation Number 23 of 2025. The OJK positions digital financial assets as objects traded in the digital financial asset market under the principles of governance, risk management, consumer protection, information system security, and institutional supervision.¹

This phenomenon gives rise to new legal issues in the field of Islamic inheritance law. Classical Islamic inheritance law regulates the transfer of a deceased person's estate to heirs based on the provisions of *farā'id*, by considering the existence of the deceased, the heirs, and the inherited property. However, the emergence of digital property raises the question of whether assets that are not physically tangible, stored within electronic systems, and dependent on digital access can be categorized as inheritable property. This issue becomes more complex when digital assets, particularly cryptocurrencies, remain debated in terms of certainty of value, legality of transactions, the possible presence of *gharar*, *dharar*, and *qimar*, as well as their conformity with the principles of Islamic *muamalah*. The Indonesian Ulema Council, for example, has stated that the use of cryptocurrency as a currency is prohibited because it contains *gharar* and *dharar* and contradicts the legal provisions on currency in Indonesia; even as a commodity or digital asset, cryptocurrency is deemed invalid if it does not fulfill the requirements of *sil'ah* under Islamic law.²

The main legal issue in this study lies in the tension between the reality of the digital economy and the legal construction of Islamic inheritance law. On the one hand, digital property already has economic value, can be controlled, can be transferred, and in certain practices is recognized as an object of transaction. On the other hand, Islamic inheritance law requires clarity of the property object, validity of ownership, utility, and the ability of the property to be transferred to heirs. The emerging legal fact is that not all digital assets share the same characteristics. Some

¹ Peraturan Otoritas Jasa Keuangan Republik Indonesia Nomor 23 Tahun 2025 Tentang Perubahan Atas Peraturan Otoritas Jasa Keuangan Nomor 27 Tahun 2024 Tentang Penyelenggaraan Perdagangan Aset Keuangan Digital Termasuk Aset Kripto, <https://peraturan.bpk.go.id/Download/407174/POJK%2023%20Tahun%202025.pdf>.

² Keputusan Ijtima' Ulama Komisi Fatwa Se-Indonesia Vii Tentang Masalah Fikih Kontemporer (masail Fiqhiyyah Mu'ashirah), <https://fatwamui.com/storage/614/HUKUM-CRYPTOCURRENCY>.

digital assets may fulfill the elements of value and ownership, while others still contain ambiguity, speculative risks, or technical obstacles in the form of the absence of access to passwords, private keys, or digital storage accounts.³ Existing studies generally focus on the economic value or technological dimensions of digital assets, yet they provide limited analysis of how classical Islamic legal concepts can be systematically applied to determine their inheritance status. This article offers a conceptual contribution by developing a normative framework that integrates the doctrines of *al-māl*, *māl mutaqaawwim*, and *tirkah* with the distinctive characteristics of contemporary digital assets. Through this approach, the study seeks to establish legal criteria for assessing when digital assets may legitimately qualify as inheritable property under Islamic law and when their characteristics prevent them from being incorporated into an estate. Therefore, the legality of digital property as an object of inheritance cannot be determined solely on the basis of its economic value, but must be evaluated through the broader framework of Islamic property theory and the principle of legal caution (*ihtiyāt*) in Islamic jurisprudence.

Previous studies on digital asset inheritance can generally be classified into three major themes. First, research focusing on the legal status of digital assets within positive law and Islamic law emphasizes the need for regulatory adaptation to accommodate new forms of property in the digital era. In this regard, Luthfi, Hasan, and Jalaluddin highlight the challenges of harmonizing positive law and Islamic legal principles in regulating the inheritance of digital assets,⁴ while Putri, Rahman, Mu'aziah, and Hikmatullah argue that digital assets possessing economic value and legally recognized ownership may be categorized as *māl mutaqaawwim* and therefore qualify as inheritable property. These studies primarily address issues of legal recognition and certainty but pay less attention to the practical mechanisms of transferring digital assets after the owner's death.⁵ Second, studies on cryptocurrency inheritance examine the position of crypto assets as objects of inheritance within contemporary Islamic legal discourse. Ananda and Irsan conclude that cryptocurrency may constitute inheritable property when it fulfills the legal requirements of ownership and economic value. However, their analysis is largely confined to cryptocurrency and does not encompass other forms of digital assets, such as non-fungible tokens (NFTs), electronic wallets, cloud-based financial accounts, or commercially valuable digital accounts.⁶

³ Nisa Salsabila dkk., "Penggunaan Harta Waris yang Belum di Bagi Sebagai Objek Transaksi Menurut Hukum Islam," *Rayah Al-Islam* 6, no. 2 (2022): 121, <https://doi.org/10.37274/rais.v6i2.543>.

⁴ Fuad Luthfi dkk., "Tantangan Dan Regulasi Dalam Pewarisan Aset Digital: Studi Perbandingan Hukum Positif Dan Hukum Islam," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 4 (2024), <https://doi.org/10.62976/ijjel.v2i4.823>.

⁵ Novi Riyana Putri dkk., "Kepastian Hukum Waris Aset Digital dalam Perspektif Hukum Islam dan Nasional," *Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 5379–89, <https://doi.org/10.61104/alz.v4i1.4032>.

⁶ Firdaus Fika Ananda, "Pengaruh Perkembangan Cryptocurrency Sebagai Objek Harta Warisan Perspektif Ulama Kontemporer," *USRAH: Jurnal Hukum Keluarga Islam* 6, no. 3 (2025): 30–51, <https://doi.org/10.46773/usrah.v6i3.1906>.

Third, although existing scholarship has addressed the normative status of digital assets, relatively limited attention has been given to the technical and practical barriers that may prevent heirs from accessing inherited digital property. Issues such as password protection, private cryptographic keys, platform access restrictions, and the absence of digital inheritance management mechanisms remain underexplored. Consequently, the current literature has yet to provide a comprehensive analysis that integrates the legal classification of digital assets under Islamic inheritance law with the practical challenges associated with their transfer and accessibility after the death of the asset owner. Anggadinata examines intangible assets in contemporary fiqh and shows that digital assets can be recognized as *al-māl* when they possess utility, economic value, and valid ownership, although the study focuses more on the permissibility of crypto assets in fiqh muamalah.⁷ Wedy employs a *maqashid sharia* approach in resolving digital inheritance disputes, but does not specifically formulate the requirements for digital property to be included in *tirkah*.⁸ Safari, Septiadi, Thania, and Saiin discuss crypto asset trading in fiqh muamalah, but their orientation remains on crypto transactions rather than inheritance.⁹ These studies demonstrate that digital assets are not merely a technological issue, but also an issue of ownership, regulation, protection of heirs, and digital legal literacy.

Nevertheless, previous studies still leave room for deeper investigation. Some studies emphasize the aspect of positive legal regulation, others focus on crypto assets as economic instruments, while others discuss digital inheritance planning in general. The strength of previous studies lies in their recognition that digital assets have economic value and have begun to be positioned as part of property that can be inherited. However, their weakness lies in the lack of strong integration between the fundamental concepts of Islamic inheritance, the elements of inherited property, the validity of the property object, and the technical problems involved in transferring digital assets to heirs. Several studies also remain predominantly normative-conceptual, and therefore have not fully answered in a systematic manner how digital property can be assessed as *tirkah* within the framework of Islamic inheritance law, particularly when such assets differ in character between valuable assets, speculative assets, assets with lawful utility, and assets that may potentially conflict with sharia principles.

Based on this gap, the objective of this study is to analyze the legality of digital property as an object of inheritance within the framework of Islamic inheritance law. The objective of this study is to analyze the legal status of digital property as an object

⁷ Rully Ginanjar Anggadinata, "Aset Tak Berwujud Dan Konsep Harta Dalam Fikih Kontemporer: Analisis Kehalalan Kripto Berdasarkan Kajian Platform," *At-Tadhmin: Journal of Islamic Financial Management* 1, no. 1 (2025): 13–26.

⁸ Agus Wedy, "Refleksi Maqashid Syariah Dalam Penyelesaian Sengketa Waris Digital: Menjawab Tantangan Hukum Keluarga Islam Di Era Teknologi," *Listaskunu: Jurnal Hukum Keluarga Islam* 1, no. 1 (2025): 1–11.

⁹ Ridwan Safari dkk., "Perdagangan Aset Kripto dalam Hukum Islam: Studi Fikih Muamalah," *JSHI: Jurnal Syariah Hukum Islam* 4, no. 1 (2025), <https://doi.org/10.47902/jshi.v4i1.376>.

of inheritance based on the principles and requirements of Islamic inheritance law. This question is answered through the argument that digital property can be positioned as an object of inheritance if it fulfills the qualifications of *al-māl*, possesses lawful economic value, can be owned, can be utilized, can be transferred, and does not conflict with sharia principles. Conversely, digital property that contains ambiguity of object, excessive speculative risk, elements of *gharar*, *dharar*, *qimar*, or whose ownership cannot be proven must be positioned cautiously within the framework of Islamic inheritance law. Thus, the legality of digital property as an object of inheritance is not absolute, but depends on the fulfillment of the elements of ownership, value, utility, transactional validity, and the possibility of transfer to heirs.

Method

This article is a library-based legal research study employing a conceptual approach.¹⁰ The conceptual approach is grounded in legal doctrines, theories, and scholarly views that have developed within legal scholarship. This approach is used to analyze the legal status of digital assets, including cryptocurrencies, non-fungible tokens (NFTs), electronic wallets, and other digitally stored assets, within the framework of Islamic inheritance law. The selection of this approach is based on its relevance to the legal issues examined, particularly concerning whether digital assets can be classified as inheritable property (*tirkah*) and transferred to heirs in accordance with the principles of Islamic law. The analysis is conducted through the examination of legal concepts, doctrinal interpretations, and relevant literature related to inheritance and digital property rights. This study employs primary, secondary, and tertiary legal materials. The primary legal materials consist of the Qur'an, Hadith, the Compilation of Islamic Law (KHI), relevant statutory regulations, OJK regulations, and MUI fatwas or decisions related to inheritance and digital assets. Secondary legal materials include books, journal articles, research reports, theses, dissertations, and scholarly opinions discussing Islamic inheritance law, digital property, and contemporary legal developments. Tertiary legal materials comprise legal dictionaries, encyclopedias, and other reference sources that assist in understanding and interpreting the primary and secondary legal materials. Through the examination of these legal materials, this study analyzes how the concept of digital property is understood and positioned within the framework of Islamic inheritance law.

Discussion

The Concepts of *Al-Māl*, Ownership, and *tirkah* in Islamic Law

The discussion of wealth in Islamic law occupies a highly important position because it is directly related to various aspects of the economic, social, and legal life

¹⁰ Muhaimin, *Metode Penelitian Hukum*, 1 ed. (Mataram University Press, 2020), 57, www.uptpress.unram.ac.id.

of society. Within the corpus of *fiqh muamalah*, the concept of wealth is not merely understood as an object possessing economic value but also as an object capable of generating legal rights and obligations. The study of *al-māl*, *māl mutaqaawwim*, ownership (*al-milk*), benefit (*manfa'ah*), transferability, and *tirkah* as inherited property forms an interconnected normative framework. This interrelationship demonstrates that an object is not automatically recognized as property solely because it possesses economic value; rather, it must satisfy the criteria established by the Shari'ah regarding benefit, control, and the legitimacy of its use. This framework is grounded in the fundamental principle that all wealth essentially belongs to Allah SWT, while human beings acquire the right to manage and utilize it in their capacity as *khalifah* and trustees.¹¹

From the perspective of *fiqh*, *al-māl* is defined as anything that possesses value, can be owned, and may be lawfully utilized according to the provisions of the Shari'ah. This definition indicates that the value of wealth is not determined solely by its material aspects or market price but also by the legality of its utilization from the standpoint of Islamic law. Property that possesses benefits recognized by the Shari'ah and can become the object of legal relations is categorized as *māl mutaqaawwim*, whereas objects that lack lawful benefits or whose use is prohibited fall within the category of *ghair mutaqaawwim*. This distinction has significant implications for the legal status of an asset, both in *muamalah* transactions and in inheritance. The existence of benefit (*manfa'ah*) constitutes one of the primary indicators in determining the value of wealth because benefit is the objective sought through the ownership and use of an object. Alongside the development of technology and the digital economy, the concept of benefit has expanded to encompass various forms of intangible assets capable of providing economic value and utility to their owners.¹²

These developments have encouraged the emergence of discourse concerning the legal status of digital assets from the perspective of Islamic law. Various forms of digital assets, such as crypto assets, digital tokens, data storage accounts, electronic platform access rights, and other forms of virtual ownership, exhibit characteristics that differ from conventional assets. Although they do not exist in a physical form, these assets may possess real economic value, be exchanged, and provide benefits to their owners. Within the framework of *fiqh*, the recognition of digital assets as *māl mutaqaawwim* depends on the fulfillment of several essential elements, including the existence of tangible benefits, the ability to exercise control (*hiyāzah*), societal recognition of their existence (*'urf*), and measurable economic value. This development demonstrates that the concept of property in Islam possesses an

¹¹ Saheed Abdullahi Busari dkk., "Ownership transfer of digital assets in Islamic wealth management: A juristic analysis," *Journal of Emerging Economies and Islamic Research* 11, no. 3 (2023): 42, <https://doi.org/10.24191/jeeir.v11i3.22997>.

¹² Abdullahi Busari dkk., "Ownership transfer of digital assets in Islamic wealth management," 43.

adaptive character toward social and technological changes as long as it does not contradict the underlying principles of the Sharī'ah.¹³

The recognition of an object as property is closely related to the concept of ownership (*al-milk*). In Islamic law, ownership is understood as a legal relationship that grants an individual the authority to control, utilize, and undertake legal actions concerning a property in accordance with the limitations established by the Sharī'ah. This right includes various forms of *taṣarruf*, such as sale and purchase, grants (*hibah*), wills (*wasiat*), pledges, and *waqf*. Ownership in Islam is not positioned as an absolute right but rather as a trust that must be exercised responsibly and oriented toward public welfare. Property owners possess the freedom to utilize their wealth, yet such freedom is restricted by the principles of justice, the prohibition against causing harm, and the obligation to respect the rights of others. This perspective reflects the balance between individual rights and social interests that constitutes one of the principal characteristics of the Islamic legal system.¹⁴

The discussion of ownership also encompasses the ability of property to be transferred to another party. In the *fiqh* literature, the transfer of ownership rights may occur through various lawful mechanisms, either through contracts concluded while the owner is still alive or through legal causes arising after death. Sale and purchase, *hibah*, gifts, and wills constitute forms of transfer based upon the owner's intention, whereas inheritance represents a mechanism established by the Sharī'ah to ensure the continuity of rights over property after a person's death. The transferability of an asset constitutes a highly important aspect in determining its existence as a legal object. In the context of digital assets, issues of transferability are often associated with control over private keys, account access rights, digital security systems, and service terms imposed by platform providers. These characteristics create new challenges because legal ownership is not necessarily accompanied by the actual ability to access and transfer the relevant asset.¹⁵ The issue of access becomes increasingly relevant when associated with the Islamic inheritance system. Property that is normatively recognized as belonging to the deceased may lose its practical value if the heirs lack the ability to access it. This condition is frequently found in digital assets whose existence depends upon passwords, multi-factor authentication, or private keys known only to the owner during their lifetime. In such situations, access regulation becomes an inseparable component of the protection of ownership rights. Various mechanisms, such as digital wills, access management by trusted parties, and secure systems for storing access information, have begun to be

¹³ Landy Trisna Abdurrahman dkk., "Rethinking Assets in Islamic Law: Understanding the Logic of Camels as Authorized-Value in Socio-Economic Context," *Az-Zarqa: Jurnal Hukum Bisnis Islam* 17, no. 2 (2025): 288, <https://doi.org/10.14421/az-zarqa.v17.i2.4710>.

¹⁴ Ahmad Sainul, "KONSEP HAK MILIK DALAM ISLAM," *Jurnal AL-MAQASID: Jurnal Ilmu Kesyariahan dan Keperdataan* 6, no. 2 (2021): 197, <https://doi.org/10.24952/almaqasid.v6i2.3433>.

¹⁵ Muhammad Santoso dan Fuat Hasanudin, "The Concept of Digital Asset Inheritance in the Perspective of Faraid Science (A Study of the Application of Blockchain-Based Crypto)," *Indonesian Journal of Law and Justice* 3, no. 3 (2026): 7, <https://doi.org/10.47134/ijlj.v3i3.5587>.

developed as instruments to ensure the continuity of heirs' rights over digital assets left by the deceased.

The development of the modern economy has expanded the scope of objects that may be categorized as *tirkah*. In addition to encompassing money, land, buildings, vehicles, savings, and conventional investment instruments, inherited property may also consist of intellectual property rights, copyrights, patents, royalties, and various forms of digital assets possessing economic value. These rights are not always embodied in the form of physical objects, yet they continue to generate economic benefits that may be transferred to heirs. The recognition of intangible assets as part of *tirkah* demonstrates that Islamic law pays attention to the substance of an object's benefit and economic value rather than merely its physical form. This approach enables the Islamic inheritance system to remain relevant in responding to economic transformations increasingly dominated by information-based ownership and digital technology.¹⁶

The management and distribution of inherited property in Islam are directed toward realizing the protection of wealth (*hifz al-māl*) as one of the primary objectives of the Sharī'ah (*maqāṣid al-syarī'ah*). This principle positions wealth as an instrument whose existence must be preserved, utilized productively, and distributed fairly among those entitled to it. The protection of wealth encompasses not only the aspect of certainty of ownership but also the regulation of the means by which wealth is acquired, utilized, and transferred in order to avoid practices that may harm individuals or society. In the context of the development of digital assets and new forms of ownership, the *maqāṣid al-syarī'ah* approach provides a normative foundation that enables Islamic law to respond dynamically to social change without neglecting the fundamental principles that form the foundation of the Islamic system of inheritance and ownership.¹⁷

Inheritance Law from the Islamic Perspective

Inheritance law comprises a body of rules regulating the transfer of ownership rights from a deceased person to the legitimate heirs. This mechanism guarantees the lawful allocation of the estate according to family relationships and relevant legal regulations.¹⁸ The legal foundation of inheritance in Islam is contained in Surah An-Nisa, verse 11, which explains the distribution of inheritance in accordance with Sharia principles. In this verse, sons are allocated twice the portion granted to daughters, while parents are also entitled to particular shares of the estate. This

¹⁶ Yusnadi, "Hak Paten dalam Tinjauan Hukum Waris Islam (Studi atas Konsep Royalti Hak Paten Menurut Perspektif Hukum Islam)," *Islam Universalia: International Journal of Islamic Studies and Social Sciences* 3, no. 3 (2022): 298, <https://doi.org/10.56613/islam-universalia.v3i3.207>.

¹⁷ Aupal Hadliq Khaiyyul Millati Waddin dan Beni Ashari, "INTEGRASI KONSEP PEWARIS, AHLI WARIS, HARTA WARIS, DAN MAWĀNI' AL-IRTS DALAM KERANGKA KEADILAN DISTRIBUSI WARISAN ISLAM," *Mabahits: Jurnal Hukum Keluarga Islam* 6, no. 01 (2025): 49, <https://doi.org/10.62097/mabahits.v6i01.2218>.

¹⁸ Beni Ahmad Saebani, *Fiqh Mawaris* (Pustaka Setia, 2019), 13.

indicates that inheritance distribution is mandatory and must conform to Islamic Sharia requirements.¹⁹

The essential components of inheritance consist of three principal elements: the deceased, namely the person who has died and whose assets are to be transferred; the heirs, who possess the legal right to obtain a portion of the inheritance; and the estate itself, which encompasses movable and immovable property together with associated rights and obligations. Asset distribution must be carried out in accordance with inheritance law to maintain fairness among all eligible beneficiaries.²⁰ The requirements for inheritance include the death of the deceased, whether actual or legal, and the presence of heirs who remain alive and are legally acknowledged to receive inheritance equitably.²¹

The grounds for obtaining inheritance are classified into three categories of kinship. First, consanguineous relatives connected through lineage, including parents and children. Second, marital relationships linking husbands and wives as well as their broader families. Third, *al-wala*, referring to relationships created through particular legal or contractual connections, such as those between a freed slave and a former master within Islamic tradition.²² Several factors, however, may prevent a person from inheriting, including slavery status that limits personal independence, deliberate killing of the deceased, and differences in religion that can restrict inheritance rights.²³

In Islamic inheritance distribution, the concepts of *hijab* and *mahjub* function as obstacles affecting inheritance entitlements. *Hijab* is categorized into two forms: *hijab hirmân*, which entirely bars an heir from obtaining a share, such as a grandson who cannot inherit while a son of the deceased remains alive. The second is *hijab nuqshân*, under which an heir receives a portion but not the full entitlement, for example, a husband who would ordinarily receive one-half but is limited to one-quarter when the deceased leaves children or grandchildren. These two categories of *hijab* establish priorities in estate allocation in accordance with the Islamic principle of justice.²⁴

Concept of Digital Property

The concept of digital assets encompasses a broad range of resources that exist, are stored, or are controlled through digital technologies and electronic networks, including digital documents, online accounts, electronic records, cryptocurrencies, non-fungible tokens (NFTs), balances held in e-wallets, digital

¹⁹ Ahmad Muntaha AM, "Tafsir Surat An-Nisa Ayat 11," nuonline, 13 Januari 2021, <https://islam.nu.or.id/tafsir/tafsir-surat-an-nisa-ayat-11-v7FUG>.

²⁰ Muhammad Ali Asshoubuni, *Almirats Fi Syari'atis Islamiyyah Fi Dhow'il Kitab Wa Sunah* (Darul Kahfi Alami, 2013), 39.

²¹ Beni Ahmad Saebani, *Fiqh Mawaris*, 129.

²² Beni Ahmad Saebani, *Fiqh Mawaris*, 109.

²³ Muhammad Ali Asshoubuni, *Almirats Fi Syari'atis Islamiyyah Fi Dhow'il Kitab Wa Sunah*, 42.

²⁴ Yazid Muttaqin, "Hijab dalam Ilmu Waris: Definisi, Jenis, dan Contohnya," nuonline, 18 Juli 2018, <https://nu.or.id/warisan/hijab-dalam-ilmu-waris-definisi-jenis-dan-contohnya-czrcW>.

investment portfolios, software, and various forms of intellectual creations.²⁵ In this context, digital property refers to the broader category of assets that possess economic, functional, or personal value in a digital environment and are capable of being owned, controlled, transferred, or inherited. Within this category, digital financial assets constitute a specific subset of digital property characterized by their direct economic value and financial function, such as crypto assets, tokenized assets, digital payment balances, and online investment holdings.²⁶

The main characteristic of digital property lies in its fluid, easily reproducible nature and in the difficulty of distinguishing between the original form and its copies. In digital works, copies may have the same quality as their original source, thereby blurring the boundary between “original” and “reproduction.” In addition, digital works can easily be supplemented, altered, adapted, and redistributed without eliminating their initial form. This condition gives rise to legal problems because the concept of property in classical tradition generally rests on exclusive control over relatively stable objects, whereas digital property operates within a dynamic, open ecosystem and can be replicated without significant cost.²⁷

Conceptually, digital property may be understood as digital records that possess economic value and are capable of being bought, sold, exchanged, or transferred through digital means. This definition is derived from the legal framework discussed by Mirković, which refers to the regulation of digital assets in jurisdictions that recognize digitally recorded assets as objects of property rights and commercial transactions. Within that framework, the legal status of digital property depends on three principal elements: the existence of a digital record, the presence of economic value, and its capacity to become the object of a legal transaction. Although this definition originates from a foreign regulatory context, its analytical relevance can be extended to Indonesia because Indonesian property law likewise recognizes economic value and transferability as important characteristics of proprietary interests. Such an approach is also consistent with the treatment of certain digital assets under Indonesian financial regulations governing crypto assets and other electronically recorded economic interests. The distinction between digital property and ordinary digital records therefore lies not merely in their digital form but in their capacity to embody legally recognizable economic value. The element of value becomes the central criterion that transforms a digital record into an object of

²⁵ Luke Lee, “Examining the Legal Status of Digital Assets as Property: A Comparative Analysis of Jurisdictional Approaches,” *SSRN Electronic Journal*, 2024, 2, <https://doi.org/10.2139/ssrn.4807135>.

²⁶ Marina Mijatovic, “DIGITAL ASSETS AND INHERITANCE LAW: LEGAL VACUUM OR NEW PARADIGM,” *SCIENCE International Journal* 4, no. 3 (2025): 8, <https://doi.org/10.35120/sciencej0403007m>.

²⁷ Robert P. Merges, “The Concept of Property in the Digital Era,” *SSRN Electronic Journal*, advance online publication, 2009, 1247–48, <https://doi.org/10.2139/ssrn.1323424>.

property law, allowing rights to be attached to it, ownership to be transferred, and the asset to participate in broader legal and economic relations.²⁸

Digital property occupies a position as a new legal institution of property because it emerges from the digital sphere and is not entirely identical to conventional property. Its digital character makes it exist in a non-physical form, based on electronic records, and dependent on technological mechanisms such as decentralization, data distribution, and cryptographic techniques to guarantee the validity of transactions and the security of ownership. Its legality is determined not only by the existence of technology, but also by legal recognition that valuable digital records may become objects of sale and purchase, exchange, transfer, and electronic storage. Such recognition demonstrates a paradigm shift in property law from an orientation toward tangible objects to digital objects that possess economic value and transactional functions.²⁹

The legal characterization of digital property is reflected in its classification into several forms, particularly crypto-assets and digital tokens. Crypto-assets constitute a category of digital property that can be traded, transferred, and held through distributed ledger technology or similar digital systems. In the Indonesian legal framework, crypto-assets are not recognized as lawful currency or official means of payment, but are regulated as commodities and digital financial assets within specific regulatory regimes. Digital tokens, meanwhile, are understood as intangible property rights that represent one or more rights in digital form, including access rights, participation rights, or the right to obtain certain services. This classification demonstrates that digital property is not a single legal category but rather an umbrella concept encompassing various forms of digital assets with distinct legal characteristics, rights structures, and economic functions.³⁰

From the perspective of legal subjects, the legality of digital property recognizes that rights holders may consist of individuals or legal entities, with the possible involvement of state entities insofar as this is not expressly restricted by law. This regulation provides a basis for the view that digital property can be owned, controlled, and transferred by legitimate legal subjects.³¹

Digital property bears similarities to capital market instruments, particularly in terms of issuance, secondary trading, and the provision of related services. When a digital property has the characteristics of a financial instrument, the legal regime of the capital market may apply. This relationship demonstrates the hybrid nature of digital property: on the one hand, it is an object of digital property law; on the other, it may exhibit the characteristics of an investment instrument. Payments, receipts, and transfers related to digital property transactions must still comply with the

²⁸ Predrag Mirković, "Digital Assets: A Legal Approach to the Regulation of the New Property Law Institute," *Pravo - Teorija I Praksa* 40, no. suppl (2023): 21–22, <https://doi.org/10.5937/ptp2300017M>.

²⁹ Mirković, "Digital Assets," 21–23.

³⁰ Mirković, "Digital Assets," 23–24.

³¹ Mirković, "Digital Assets," 24.

provisions on payment services and foreign exchange regulations, so that the legality of such transactions is connected to the existing financial legal system.³²

Another important aspect of the legality of digital property is its issuance mechanism through a legally regulated initial offering. The issuance of digital property may be carried out with or without an approved white paper, although more detailed regulations apply to offerings that use a white paper. This document functions similarly to a prospectus in the capital market because it contains information regarding the issuer, the characteristics of the digital property, risks, and information required by investors to make rational decisions. Offering advertisements must not contain false or misleading information, must be consistent with the contents of the white paper, and must remain under the supervision of the competent authority. This framework positions the legality of digital property as a system that not only recognizes the existence of digital assets, but also regulates transparency, investor protection, and issuer accountability.³³

The Concept of Digital Property in Islamic Inheritance

The concept of digital property in Islamic inheritance law must be understood through the theoretical construction concerning the position of property (*al-māl*) as an object of rights and obligations that may be transferred from the deceased to the heirs.³⁴ In the development of the digital economy, forms of wealth are no longer limited to tangible assets such as land, buildings, vehicles, or cash, but also include assets whose existence is situated within electronic systems and digital networks. Crypto assets, non-fungible tokens (NFTs), electronic wallet balances, digital investment accounts, access rights to paid platforms, and various forms of economic rights based on information technology have become part of the wealth owned by individuals.³⁵ This transformation in the forms of wealth has created the need to re-examine the concept of property in Islamic law, particularly regarding whether an asset that lacks a physical form may still obtain recognition as a legitimate object of ownership and be inherited.³⁶

From the perspective of *fiqh muamalah*, an asset may be categorized as *al-māl* if it possesses economic value, can be lawfully owned, can be utilized, and allows for control by its owner. These criteria provide room for the recognition of various forms of intangible property that have developed within modern society. Digital property essentially contains elements of economic value because it may be traded, transacted, transferred, or used as an investment instrument that generates profit for its owner.

³² Mirković, "Digital Assets," 24–25.

³³ Mirković, "Digital Assets," 25–28.

³⁴ Dody Pratama dan Saipudin, "Study of Digital Asset Inheritance: A Review of Contemporary Islamic Law in Indonesia," *Istinbath: Jurnal Hukum* 22, no. 02 (2025): 298, <https://doi.org/10.32332/istinbath.v22i02.art03>.

³⁵ Mufti Ubaid ul Rahman dkk., *Digital Economy and the Jurisprudential Principles of Ownership: An Analysis of Blockchain, Cryptocurrency, and Nfts*, 2, no. 4 (2025): 413, <https://doi.org/https://doi.org/10.63077/r27rd104>.

³⁶ Abdullahi Busari dkk., "Ownership transfer of digital assets in Islamic wealth management," 40.

Furthermore, the existence of blockchain technology, electronic storage systems, and digital authentication mechanisms enables owners to exercise exclusive control and dominion over such assets. These characteristics indicate that the existence of an asset within the digital sphere does not automatically eliminate its status as an object of ownership. Islamic legal assessment is directed more toward the substance of the benefit and value inherent in an asset rather than its visible physical form.³⁷

Determining the status of digital property as *māl mutaqaawwim* requires a more in-depth analysis than merely recognizing its economic value. In Islamic legal theory, *māl mutaqaawwim* refers to property that possesses value and benefits recognized by the Sharī'ah, thereby qualifying as an object of transactions and legal protection. Not all digital assets automatically satisfy this category because there are differences in characteristics among various types of assets. Electronic wallet balances, digital investment accounts, royalty rights stored electronically, or NFTs representing certain economic rights tend to more readily satisfy the element of legally recognized benefit. In contrast, certain types of crypto assets remain the subject of debate due to their high price volatility, excessive speculation, and the uncertainty surrounding the underlying basis of their value. Examination of the elements of benefit, certainty of the object, level of risk, and conformity with Sharī'ah principles constitutes an important part of determining whether a digital asset may be qualified as *māl mutaqaawwim* or instead falls within the category of property that does not receive full recognition under Islamic law.³⁸

The discussion of digital property in Islamic inheritance law is also closely related to the concept of ownership (*al-milk*). Ownership in Islam constitutes a legal relationship that grants an individual the authority to control, use, and undertake legal actions concerning a property within the limits prescribed by the Sharī'ah. In digital assets, ownership is not always evidenced through physical possession as is the case with conventional property, but rather through control over accounts, authentication systems, access codes, or private keys. The existence of these instruments serves as a representation of control that provides legitimacy to the owner to use and transfer the asset. This perspective demonstrates that the concept of ownership in Islam possesses flexibility that allows recognition of modern forms of control, provided that they continue to reflect a clear legal relationship between the owner and the object owned.³⁹

³⁷ Iin Indriani Mokodompis dkk., "Integrating Islamic Law and Modern Regulation: Cryptocurrency as a Sharia-Compliant Digital Asset in Indonesia," *Antmind Review: Journal of Sharia and Legal Ethics* 1, no. 2 (2024): 88, <https://doi.org/10.63077/r27rd104>.

³⁸ Rehana Anjum dkk., "Succession of Digital Assets Under Islamic Inheritance Law: A Fiqh-Grounded Framework for Crypto, Cloud Accounts, and NFTs," *ACADEMIA International Journal for Social Sciences* 5, no. 3 (2026): 165, <https://doi.org/10.63056/academia.5.3.2026.1628>.

³⁹ Mudeer Ahmed Khattak, "Protection and Distribution of Wealth, Islamic Commercial and Financial Transactions: A Maqasid Al-Shariah Perspective," *European Journal of Islamic Finance*, no. 10 (Juli 2018): 2, <https://doi.org/10.13135/2421-2172/2570>.

In the context of inheritance, a digital asset may become part of *tirkah* if, at the time of the deceased's death, the asset remained under his or her ownership and possessed value that could be transferred to the heirs. This principle is consistent with the fundamental concept of inherited property, which encompasses all economic rights and obligations left by the deceased after the deduction of funeral expenses, settlement of debts, and execution of a valid will. Digital property that fulfills the elements of ownership, benefit, and economic value essentially holds a position equivalent to other forms of property within the inheritance process. Its status as part of *tirkah* is not determined by its digital or non-digital nature but rather by its capacity to constitute a legitimate object of ownership that may be transferred to heirs. This approach demonstrates that Islamic inheritance law places greater emphasis on the substance of economic rights than on the physical characteristics of an asset.⁴⁰

Nevertheless, the inheritance of digital assets presents challenges that are relatively different from those associated with the inheritance of conventional property. Legally valid ownership is not necessarily accompanied by the heirs' ability to access the inherited assets. Many digital assets depend upon the existence of passwords, private keys, two-factor authentication systems, or other security mechanisms known only to the owner during his or her lifetime. Under certain circumstances, assets that are normatively part of the inheritance estate may lose their practical value if access to them cannot be obtained by the heirs. This issue demonstrates that the element of accessibility possesses significant relevance in discussions of digital inheritance law. Ownership documentation, access records, the preparation of digital wills, and the management of security information have become integral aspects of protecting inheritance rights that are receiving increasing attention in contemporary legal practice.⁴¹

The analysis of digital property in Islamic inheritance law must also be situated within the framework of *maqāṣid al-sharī'ah*, particularly the objective of protecting wealth (*ḥifẓ al-māl*). The emergence of various forms of digital wealth reflects the transformation in the ways society acquires, stores, and develops economic assets. The Sharī'ah does not preclude the recognition of new forms of property as long as their existence is capable of realizing public welfare, providing lawful benefits, and avoiding elements that contradict the principles of justice and the protection of rights. The *maqāṣid* approach enables Islamic law to respond dynamically to technological developments through an assessment of the economic and social substance contained within an asset.⁴² This framework provides a

⁴⁰ Ahmed El-Tohami Abdel-Nabi dkk., "Digital Inheritance from the Perspective of Omani Law and Islamic Jurisprudence," *Journal of Cultural Analysis and Social Change* 10, no. 2 (2025): 1140, <https://doi.org/10.64753/jcasc.v10i2.1745>.

⁴¹ Akramov Akmaljon Anvarjon Ugli dkk., "Legal Issues of Digital Asset Inheritance from an Islamic Law Perspective," *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 2 (2025): 194, <https://doi.org/10.18326/ijtihad.v25i2.191-212>.

⁴² Ayraf Dusuki dan Said Bouheraoua, "The Framework of Maqasid al-Shari'ah and its Implication for Islamic Finance," *ICR Journal* 2, no. 2 (2011): 322, <https://doi.org/10.52282/icr.v2i2.651>.

normative basis for positioning digital property as part of inheritable assets, provided that its existence fulfills the criteria of *al-māl*, falls within the category of *māl mutaqaawwim*, remains under lawful ownership, and permits the transfer of rights to heirs in accordance with the provisions of *farā'id*.

Conclusion

This study concludes that digital property may qualify as an object of inheritance under Islamic inheritance law when it satisfies the essential elements of *al-māl*, namely possessing economic value, being lawfully owned, providing legitimate benefit, and being capable of transfer to another party. The status of digital property as part of *tirkah* is therefore not determined by its digital form, but by the fulfillment of substantive legal requirements recognized by Islamic law. Based on this analysis, the article proposes a conditional legal framework for assessing digital assets as inheritable property. Under this framework, a digital asset may be incorporated into an inheritance estate only when four cumulative conditions are fulfilled: (1) the existence of valid and provable ownership, (2) the presence of lawful economic value and benefit, (3) compliance with Sharia principles and the absence of excessive elements of *gharar*, *dharar*, and *qimar*, and (4) the practical possibility of transferring and accessing the asset by heirs. This framework constitutes the principal contribution of the article to contemporary discussions on Islamic inheritance law in the digital era.

The study further demonstrates that not all categories of digital assets possess the same legal status. Certain forms of digital property, such as electronic wallet balances, digital investment accounts, royalty rights, and NFTs representing legitimate economic interests, are generally more capable of satisfying the requirements of *māl mutaqaawwim*. By contrast, some crypto-assets require more cautious legal assessment because their volatility, speculative characteristics, and uncertainty of value may affect their conformity with Islamic legal principles. Accordingly, the legality of digital assets as inheritance objects remains conditional rather than absolute and must be assessed on a case-by-case basis.

The findings of this study also carry practical implications for various stakeholders. Heirs should ensure the availability of ownership documentation and lawful access mechanisms to facilitate the transfer of digital assets. Notaries and legal practitioners may play an important role in developing digital estate planning instruments, including digital wills and secure inheritance documentation. Religious courts may utilize the proposed framework as a normative reference when resolving disputes concerning digital inheritance, particularly in determining the validity and inheritability of specific digital assets. Regulators are encouraged to formulate clearer legal guidelines concerning the recognition, valuation, and transfer of digital assets after the death of their owners in order to provide greater legal certainty and protection for heirs within the evolving digital economy.

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