

Legal Certainty and Protection of Heirs' Rights over Digital Assets: Reconstruction of Islamic Inheritance Law in the Digitalization Era

Farhan Dwi Rachmawan¹, Astika Nurul Hidayah²

Fakultas Hukum, Universitas Muhammadiyah Purwokerto^{1,2}

Email: farhanrachmawan65@gmail.com¹, astikanurul87@gmail.com²

Abstract: Digital assets such as cryptocurrency, social media accounts, NFTs (Non-Fungible Tokens), and other types of virtual ownership have emerged as a result of rapid technological advances. This phenomenon raises new issues in Islamic inheritance law in Indonesia, particularly regarding the status, inheritance procedures, and security of assets. This research method uses a normative juridical approach with a legislative and conceptual approach. The study utilizes primary legal sources from legislation, hadith, and the Quran, as well as secondary legal sources from literature reviews. The objective of this research is to evaluate the status of digital assets as inheritable property from an Islamic legal perspective and to determine their legal certainty within the Islamic inheritance system in Indonesia. The results of the study indicate that digital assets, which have economic value, can be inherited according to Islamic law. Highlighting the absence of regulations, technical challenges in access and security, and the need for harmonization between Sharia law and technological developments, despite the detailed regulation of principles of justice and transparency in Islamic inheritance law, the implementation of digital asset distribution is still hindered by the absence of clear legal mechanisms and operational standards for the inheritance of digital assets. To achieve justice and avoid disputes among heirs, there is a need to strengthen regulations, promote Sharia digital literacy education, and foster collaboration between the government, religious scholars, and technology practitioners.

Keywords: Digital Assets, Inheritance Division, Islamic Heirs Law

Abstrak: Aset digital seperti cryptocurrency, akun media sosial, NFT (Non-Fungible Token), dan jenis kepemilikan virtual lainnya telah muncul sebagai hasil dari kemajuan teknologi yang cepat. Fenomena ini menimbulkan masalah baru dalam hukum waris Islam di Indonesia, terutama terkait status, prosedur pewarisan, dan keamanan aset. Metode penelitian ini menggunakan yuridis normatif dengan pendekatan perundang-undangan dan konseptual. Penelitian ini menggunakan bahan hukum primer dari peraturan perundang-undangan, hadis, dan Al-Qur'an, serta bahan hukum sekunder dari penelitian pustaka. Tujuan dari penelitian ini adalah untuk mengevaluasi status aset digital sebagai harta waris dari sudut pandang hukum Islam dan untuk menentukan kepastian hukumnya dalam sistem kewarisan Islam di Indonesia. Hasil penelitian menunjukkan bahwa aset digital, yang memiliki nilai ekonomis, dapat diwariskan menurut hukum Islam. Menyoroti adanya kekosongan regulasi, tantangan teknis akses dan keamanan, serta perlu adanya harmonisasi antara hukum syariah dengan perkembangan teknologi, meskipun prinsip-prinsip keadilan dan transparansi dalam hukum waris Islam telah diatur secara rinci, implementasi pembagian aset digital masih terkendala oleh belum adanya mekanisme hukum yang jelas dan standar operasional pewarisan aset digital dan untuk mewujudkan keadilan dan menghindari sengketa antar

ahli waris, diperlukan penguatan regulasi, edukasi literasi digital syariah, serta kolaborasi antara pemerintah, ulama, dan praktisi teknologi.

Kata Kunci: *Aset Digital, Pembagian Waris, Hukum Waris Islam*

Introduction

Indonesia has formally recognized digital assets, specifically crypto assets, as commodities. This is stipulated in the Regulation of the Commodity Futures Trading Regulatory Agency (BAPPEBTI) of the Republic of Indonesia Number 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market for Crypto Assets on the Futures Exchange. Article 1 states that "crypto assets are intangible commodities in the form of digital assets, utilizing cryptography, peer-to-peer networks, and distributed ledgers to regulate the creation of new units, verify transactions, and secure transactions without the intervention of other parties."¹

As tradable commodities, digital assets possess unique characteristics: ownership contingent upon a private key, existence within a virtual space, and limitless value. Beyond these unique traits, digital assets ranging from social media accounts and crypto assets to NFT collections worth billions of rupiah are becoming an increasingly dominant component of wealth.²

Digital assets qualify as "intangible movable property" in accordance with Article 511 of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata or KUHPerdata), which defines movable goods as such by determination of the law. Digital assets fit this definition as they are objects that can be owned, lack physical form, are transferable, and possess economic value.³ Consequently, the inheritance of digital assets has become an increasingly relevant issue in the digital era, given the significant number of individuals owning valuable digital assets such as social media accounts, cryptocurrency, or digital artworks.⁴

A 2024 survey by Consensys indicates that 23% of cryptocurrency investors in Indonesia do not possess an inheritance strategy for their digital assets. Furthermore, 63% of respondents admitted they did not fully understand the concept of cryptocurrency. This

¹ Wira Dhoga Ramadhani, "Kedudukan Aset Kripto Sebagai Harta Warisan Dalam Perspektif Hukum Perdata," *Lex Positivis* 2, no. 8 (2023): pp. 968.

² Qishuo Cheng et al., "Secure Digital Asset Transactions: Integrating Distributed Ledger Technology with Safe AI Mechanisms," *Academic Journal of Science and Technology* 9, no. 3 (2024): pp. 156, <https://doi.org/10.54097/2qhab557>.

³ Diyah Amalia, Ismatul Alfiyah, and Widodo Hami, "Pembagian Harta Waris Berbentuk Cryptocurrency," *Posita: Jurnal Hukum Keluarga Islam* 2, no. 1 (2024): pp. 14

⁴ Maureen Keisha et al., "Exploring Digital Assets Inheritance: A Comparative Study of Transnational Legal Frameworks and Practices," *Jurnal Penelitian Dan Pengabdian Masyarakat Indonesia* 4, no. 1 (2025): pp. 950, <https://doi.org/10.57235/aurelia.v4i1.4483>.

lack of preparedness holds significant potential to create legal disputes in the future.⁵ A case cited in the United States, specifically the Antalya Regional Court's 6th Civil Chamber number 2020/1149 regarding the inheritance of an Apple account, serves as a prime example of the public's lack of understanding regarding digital asset inheritance. Heirs often face difficulties claiming ownership of digital assets due to the absence of legally recognized transfer mechanisms; for instance, accessing a crypto wallet requires a private key known only to the owner. If this key is lost or not recorded in a will, the asset is potentially lost forever.⁶

Heirs also face significant difficulties in accessing the private key, which serves as the personal key used within a cryptographic system to secure digital assets. Blockchain functions as a decentralized and distributed digital recording system, while cryptocurrency is a digital currency built upon this blockchain system.⁷ The private key acts as a secret code allowing the owner to access and control their digital assets. It consists of a very long and complex sequence of alphanumeric characters, which is mathematically linked to a public key to form an asymmetric encryption key pair. This special combination makes sure that the public key can be shared freely to get money, but the private key must stay secret to keep people from getting in without permission. So, anyone who deals with cryptocurrency needs to keep their private key safe.⁸

Methods such as sharding private keys or storing keys through services that provide storage, financial asset administration, and security (custodian platforms) have begun to gain popularity. However, these measures have not yet been regulated within the legal framework governing the inheritance distribution of digital assets. Law Number 1 of 2024 concerning Electronic Information and Transactions (UU ITE) primarily regulates personal data protection and information security rather than addressing digital asset inheritance, thereby creating numerous challenges, one of which is a legal vacuum.⁹ Presidential Instruction Number 1 of 1991 concerning the Dissemination of the

⁵ Djumardin Santi Dewi Sukresna, "Pewarisan Aset Digital Dalam Hukum Positif Indonesia Dan Amerika Serikat," *Jurnal Ilmiah Universitas Mataram* 15, no. 1 (2024): pp. 37–48.

⁶ Nicolas Mario Gunawan, "Pewarisan Akun Digital," *Lex Patrimonium* 1, no. No. 1, Article 11 (2022): pp. 11

⁷ Suryani Suryani et al., "Analisis Pengaruh Supply Terhadap Harga Cryptocurrency Di Market Indodax Dan Binance Menggunakan Metode Korelasi Spearman," *Digital Transformation Technology* 3, no. 2 (2024): pp. 950, <https://doi.org/10.47709/digitech.v3i2.3500>.

⁸ Jungwon Seo et al., "Reminisce: Blockchain Private Key Generation and Recovery Using Distinctive Pictures-Based Personal Memory," *Mathematics* 10, no. 12 (2022): pp. 2, <https://doi.org/10.3390/math10122047>.

⁹ Gabriella Ivana and Andriyanto Adhi Nugroho, "Akibat Kekosongan Hukum Terhadap Non-Fungible Token Sebagai Pelanggaran Hak Kekayaan Intelektual Teknologi Informasi . 1 Perkembangan Zaman Yang Semakin Canggih Menghadirkan Baru Yang Saat Ini Dikenal Sebagai NFT Atau Non-Fungible Token . Dilansir Dari," *Jurnal USM Law Review* 5, no. 2 (2022): pp. 709.

Compilation of Islamic Law (KHI) also does not clearly regulate the existence of digital assets, leaning more towards the technical distribution of inheritance according to Islamic inheritance law.

This legal vacuum necessitates a rapid response from the legislature. Many academics have proposed the issuance of legislation specifically regulating the legal status, transfer mechanisms, and distribution of digital assets in inheritance. Regulating digital assets requires discussions involving religious scholars (*ulama*), technology experts, and legal practitioners to formulate comprehensive guidelines aligned with both national law and Islamic law.¹⁰ The perspective of Islamic Law itself does not impede technological advancement; however, every innovation must adhere to Islamic principles.¹¹ This step not only protects the rights of heirs but also serves as a preventive measure against the loss of high-value economic assets due to ignorance or procedural errors.

Islamic Law has not yet clearly accommodated digital assets. The validity of these assets was initially doubted due to their volatile value and lack of physical form.¹² Some scholars consider them as *mal mutaqaawwim* (valuable property/wealth) as long as they meet the requirements of clear ownership and value. The regulatory void connecting Islamic law with digital reality creates significant potential for conflict among heirs, particularly in families with diverse religious understandings. Furthermore, regarding the ownership of digital assets, the context of inheritance law may lead to conflicts among heirs and even impede the lawful transfer of ownership.¹³

The focus of this article is to examine the legal status of digital assets as inheritance objects within the perspective of Islamic inheritance law, as well as to explore how the principles of *maqāṣid al-syarī'ah* can serve as the foundation for reconstructing Islamic inheritance law in the context of digital asset succession. This study carries significant urgency as it aims to develop an Islamic inheritance system that is more adaptive to technological advancements while at the same time ensuring the preservation of justice and legal certainty for heirs. Accordingly, this research is expected to make a

¹⁰ Candrika Arivia Apriliani, Achmad Irwan Hamzani, and Muhammad Wildan, "Legalitas Transaksi Aset Kripto Menurut Perspektif Hukum Islam," *Jurnal Ilmiah Mahasiswa Perbankan Syariah (JIMPA)* 3, no. 1 (2023): pp. 113–24, <https://doi.org/10.36908/jimpa.v3i1.161>.

¹¹ Sifa Barokah Aini, "Lelang Aset Digital Melalui Non-Fungible Token Dalam Perspektif Hukum Ekonomi Syariah," *El-Uqud: Jurnal Kajian Hukum Ekonomi Syariah* 1, no. 2 (2023): pp. 107–117, <https://doi.org/10.24090/eluqud.v1i2.8304>.

¹² Husnama Patih, "Analisis Hukum Fikih Muamalah Kontemporer Terhadap Penggunaan Aset Kripto Dalam Zakat Produktif," *Journal of Industrial and Syariah Economics* 2, no. 1 (2024): pp. 38, <https://doi.org/10.63321/jise.v2i1.49>.

¹³ Masykurotus Syarifah, "Dinamika Hukum Waris Dalam Era Digital: Tantangan Dan Solusi," *Nawala Patra Biksa* 1, no. 1 (2024): pp. 26–38, <https://doi.org/10.33859/npb.v1i1.535>.

meaningful contribution to the establishment of an Islamic inheritance framework that remains responsive to technological progress while safeguarding the values of fairness and legal certainty for heirs. The author is interested in conducting research titled “Legal Certainty of Digital Assets in Inheritance Distribution according to Islamic Inheritance Law”.

Method

This research employs a normative juridical method, analyzing legal regulations governing inheritance distribution where the object is a digital asset. It utilizes statutes, court decisions, and legal theories to study the juridical implications of existing conflicts and to provide solutions for inheritance distribution involving digital assets.

The approach used in this research is the statute approach. This approach involves analyzing all laws and regulations related to the status of digital assets as objects. A conceptual approach is also utilized to understand the concept of *al-māl* (wealth/property) in Islamic jurisprudence (*fiqh*), the principles of *maqāṣid al-syarī'ah* (objectives of Islamic law), and Gustav Radbruch's theory of legal certainty as a conceptual framework bridging Islamic law with modern legal theory.

This research utilizes secondary legal data consisting of three types of legal materials: primary, secondary, and tertiary. Primary legal materials include the main sources of Islamic law, such as the Qur'an and Hadith, as well as formal regulations like the DSN-MUI Fatwa Number 116/2017 regarding Electronic Money, Law Number 1 of 2024 concerning Electronic Information and Transactions (UU ITE), BAPPEBTI Regulation Number 5 of 2019, and the Compilation of Islamic Law (KHI). Secondary legal materials include classical *fiqh* literature. Meanwhile, tertiary legal materials consist of legal dictionaries, encyclopedias of Islamic law, and trusted online sources used to reinforce the understanding of digital legal terms and contexts.

The data analysis technique in this research employs a qualitative-descriptive approach by interpreting and explaining legal norms, *fiqh* concepts, and relevant legal theories. The analysis is conducted in three stages: a descriptive-analytical stage aimed at identifying and describing legal provisions related to digital assets and inheritance from the perspectives of Islamic law and Indonesian positive law. The results of this analysis are used to formulate a reconstruction model of Islamic inheritance law based on the principles of justice, legal certainty, and public benefit (*mashlahat*).

Data validation is performed to ensure the validity of research results through several techniques: source triangulation by comparing and verifying data from various types of legal materials to ensure substantive legal consistency; cross-referencing to

strengthen legal arguments with cross-references from classical *fiqh* literature and contemporary research to avoid interpretative bias; peer discussion with experts in Islamic law and cyber law to obtain feedback on the suitability of legal arguments with digital reality; and an internal coherence check to ensure consistency between research objectives, theories used, and analysis results, thereby producing a logical and systematic line of reasoning.

Discussion

A. Legal Status of Digital Assets as Inheritance Objects in the Perspective of Islamic Inheritance Law

Digital assets, now a crucial part of modern life, along with the transformation of communication technology, have created data and digital memories possessing significant privacy, sensitivity, sentimental, and monetary value.¹⁴ Technically, digital assets qualify as "intangible movable property" in accordance with Article 511 of the Civil Code, which states that movable goods are determined by law. Digital assets fit this description as they are objects that can be owned, lack physical form, are transferable, and possess economic value.¹⁵

Digital assets with economic value should be inheritable by heirs in accordance with the principles of justice in inheritance distribution. Every heir has the right to know in detail about the estate and the portion to which they are entitled. The principle of digital assets faces challenges due to the nature of these assets, which are often hidden or not easily identified by heirs. Furthermore, cryptocurrency and blockchain-based digital assets present specific challenges in determining their legal status.¹⁶

Islamic inheritance law is comprehensively regulated in the Qur'an, particularly in Surah An-Nisa verse 11, which translates to: "Allah instructs you concerning your children: for the male, what is equal to the share of two females. But if there are (only) daughters, two or more, for them is two-thirds of one's estate. And if there is only one, for her is half. And for one's parents, to each one of them is a

¹⁴ Anuar Ali, Mohd Azul, and Mohamad Salleh, "Implikasi Wasiat Aset Digital Dalam Konteks Memobilia , Kebergantungan Telefon Pintar Dan Pembentukan Aset Digital Dalam Kalangan Belia Implications of Digital Inheritance in the Context of Memobilia , Smartphone Dependency and Digital Assets Formation Am," *Jurnal Komunikasi: Malaysian Journal of Communication* 40, no. 3 (2024): pp. 206,.

¹⁵ Amalia, Alfiyah, and Hami, "Pembagian Harta Waris Berbentuk Cryptocurrency." *Posita : Jurnal Hukum Keluarga Islam*, Vol 2, no. 1, (2024) pp. 14

¹⁶ Rahmat Zubandi Thahir and Nur Mu'minah, "Hukum Waris Terhadap Harta Benda Digital Perspektif Hukum Islam Di Indonesia," *Hukum Ekonomi Syari'ah* 3, no. 1 (2024): pp. 43, <https://doi.org/https://doi.org/10.32505/albay.v3i1.10987>.

sixth of his estate if he left children. But if he had no children and the parents (alone) inherit from him, then for his mother is one third. And if he had brothers (or sisters), for his mother is a sixth, after any bequest he (may have) made or debt. Your parents or your children you know not which of them are nearest to you in benefit. (These shares are) an obligation (imposed) by Allah. Indeed, Allah is ever Knowing and Wise." Verse 11 establishes the shares of children and parents in inheritance, with the principle that a son receives twice the share of a daughter. Verse 12 regulates inheritance for spouses and families without direct descendants, while verse 176 completes the provisions regarding the inheritance of siblings in the condition of *kalalah*. Surah An-Nisa serves as the primary foundation of the inheritance distribution system in Islam.¹⁷

Islamic inheritance law possesses fundamental principles established in the Qur'an and Hadith and developed through the *ijtihad* of scholars. The primary principle is that the estate (*tirkah*) must be divided according to the provisions established by Allah SWT, considering the rights of heirs explicitly determined. Objects of inheritance in classical *fiqh* generally include property that has economic value and can be legally owned according to Islamic Sharia.¹⁸

Such property must meet the criteria of *mal*, meaning ownership can be transferred and it possesses lawful benefits. The concept of *mal* in classical *fiqh* generally refers to tangible objects that can be physically possessed; however, the changing times have opened space for a broader interpretation of this concept. *Fiqh* principles suggest that digital assets possessing economic value and capable of legal transfer of ownership can be classified as valid *mal* for inheritance.

This *fiqh* maxim aligns with the view that anything possessing economic value and capable of legal ownership can be an object of transaction and inheritance.¹⁹ While digital assets offer many advantages regarding transaction efficiency and transparency, existing market volatility and regulatory challenges demand a more mature policy approach. From an Islamic legal perspective, cryptocurrency which may hold values in the hundreds of millions of rupiah per coin, making it a stable

¹⁷ Yossiramah Sucia, "Kedudukan Hukum Harta Waris Sebagai Objek Jaminan Hak Tanggungan Dalam Kewarisan Islam," *Journal of Education, Humaniora and Social Sciences (JEHSS)* 5, no. 2 (2022): pp. 1490, <https://doi.org/10.34007/jehss.v5i2.1484>.

¹⁸ Karin Joana Abigail, "Analisis Yuridis Terhadap Investasi Cryptocurrency Dalam Kerangka Hukum Ekonomi Syariah Di Indonesia," *Ekopedia: Jurnal Ilmiah Ekonomi* 1, no. 2 (2025): pp. 454, <https://doi.org/https://doi.org/10.63822/kd7fp567>.

¹⁹ Saudah Sidiqoh et al., "Impotensi Sebagai Alasan Fasakh: Analisis Terhadap Kompilasi Hukum Islam Pasal 116 Perspektif Maqashid Syariah," *AL-USARIYAH: Jurnal Hukum Keluarga Islam* 1, no. 3 (2023): pp. 392, <https://doi.org/https://doi.org/10.37397/al-usariyah.v2i3.752>.

exchange value recognized legally can be categorized as valid *mal* for inheritance, provided the acquisition and usage processes do not violate Sharia principles.

Digital assets in the form of data, information, and digital content also require special evaluation. Personal data with commercial value, such as social media accounts with large followings, revenue-generating YouTube channels, or copyright-protected digital works, can be categorized as inheritable assets. However, the transfer of ownership for these types of assets is often constrained by the terms of service of the respective platforms and intellectual property regulations.²⁰

Law Number 1 of 2024 concerning Electronic Information and Transactions, specifically in Article 1, needs to be adjusted and updated to include social media and digital assets as part of property rights. Additionally, the Civil Code particularly Articles 830-856 which regulate inheritance and estate distribution, should encompass specific provisions regarding digital assets.²¹ The status of several digital assets now meets the requirements of inheritance property namely possessing value, capable of being owned, and transferable and has been recognized by the Commodity Futures Trading Regulatory Agency (BAPPEBTI) as an investment instrument.²²

The MUI Fatwa itself regulates transactions of a specific digital asset, namely Bitcoin (BTC), classifying it as *haram* (forbidden) if used as currency and invalid if categorized as a general commodity, but valid if certain conditions are met.²³ Digital assets themselves cannot be used as currency due to their fluctuating or uncertain value a factor that renders them *haram* in that specific capacity but this does not eliminate their classification as an object of inheritance. The current perspective on digital assets acknowledges their existence as value; if viewed from the perspective of Islamic inheritance law, they meet the conditions of valid property. However, in practice, digital assets still face uneven regulatory and technical challenges.

Digital assets in Islamic inheritance systems face complex challenges due to their intangible nature, limited specific regulations, and the need to adapt *fiqh* principles to contemporary digital realities, blockchain technology, and

²⁰ Ahfanza Nugraha et al., "Kajian Normatif Kerangka Regulasi Perdagangan Aset Digital : Perspektif Global Dan Nasional Pada Bursa Kripto Di Indonesia," *Jurnal Cakrawala Akademika (JCA)* 1, no. 6 (2025): pp. 1893–1894, <https://doi.org/https://doi.org/10.70182/JCA.v1i6.6>.

²¹ Thahir and Mu'minah, "Hukum Waris Terhadap Harta Benda Digital Perspektif Hukum Islam Di Indonesia."

²² Febrianti Dyahsitasari and Muhammad Yassir, "Aset Digital Bitcoin sebagai Objek Harta Waris Dalam Perspektif Hukum Islam Kontemporer," *Jurnal Bustanul Fuqaha* 4, no. 2 (2023): pp. 227–228, <https://doi.org/10.36701/bustanul.v4i2.961>. Febrianti.

²³ Liyyu Lathifa et al., "Analisis Pengharaman Cryptocurrency Dan Aset Digital Dalam Perspektif Fikih Islam (Analisis Fatwa DSN-MUI No . 116 / DSN- MUI / IX / 2017)," *SALSABIL: Jurnal Syariah Dan Hukum Ekonomi* I, no. 1 (2025): pp. 33.

cryptocurrency, which have revolutionized the financial sector with more efficient and transparent transactions.²⁴ Determining the legal status of digital assets as inheritance objects in the perspective of Islamic Inheritance Law requires a deep analysis of the characteristics and nature of digital assets.

The theory of legal certainty proposed by Gustav Radbruch posits three main pillars of law: justice (*Gerechtigkeit*), legal certainty (*Rechtssicherheit*), and utility (*Zweckmäßigkeit*).²⁵ Regarding the aspect of justice, the distribution of digital assets must follow the principles of *faraid* established in Islamic Sharia. However, the unique characteristics of digital assets create challenges in implementing distributive justice. The aspect of legal certainty requires clear and predictable legislation regulating the status of digital assets. The aspect of utility requires that the regulation of digital assets provides benefits to society at large without causing greater harm (*mudharat*), closely relating to the protection of heirs' rights and the prevention of family conflicts in inheritance distribution.

The principle of *hifzh al-mal* or the preservation of wealth in *maqashid syariah* provides an important foundation for analyzing the status of digital assets in Islamic inheritance.²⁶ The preservation of wealth in Islam includes the circulation and distribution of assets so that they are not concentrated in one group, as well as asset management based on principles of justice.²⁷ In contemporary practice, the application of *maqashid syariah* is inseparable from the needs of Muslims, implemented in wealth preservation reflected in sharia insurance and mutual funds to guarantee the return of one's assets according to agreed agreements. This principle can be applied to digital assets if they meet strict sharia requirements.

B. The Legal Vacuum Regarding Digital Assets in Inheritance Distribution According to Islamic Inheritance Law

In the era of digitalization, cases of inheritance distribution involving digital assets as objects have emerged, including cases where the heirs are Muslim. Islamic

²⁴ Loso Judijanto and Ahmad Rizani, "Analisis Bibliometrik Tentang Strategi Investasi Jangka Panjang Berbasis Aset Digital Dan Cryptocurrency," *Urnal Multidisiplin West Science* 03, no. 11 (2024): pp. 1809,

²⁵ Heriyanto Heriyanto, Yulius Efendi and Wicaksono. Teguh, "Perlindungan Hak Ahli Waris Terhadap Aset Digital Di Indonesia.," *Hukum Inovatif: Jurnal Ilmu Hukum Sosial Dan Humaniora*, 1(2), (2024) pp. 169–180. <https://doi.org/https://doi.org/10.62383/humif.v1i2.612>.

²⁶ Aryo Jasmiko et al., "Perbandingan Perlindungan Harta (Hifdz Al-Mal) Antara Perbankan Syariah Dan Konvensional," *Journal of Economics and Business* 2, no. 1 (2024): pp. 91, <https://doi.org/10.61994/econis.v2i1.468>.

²⁷ Arif Muktiono, M.Hasyim Muzadi, and Muannif Ridwan, "Pengelolaan Harta Dalam Tinjauan Maqashid Al-Syariah," *Jurnal AL-MAQASID: Jurnal Ilmu Kesyarahan Dan Keperdataan* 8, no. 2 (2022): pp. 158, <https://doi.org/https://doi.org/10.24952/almaqasid.v8i2.6142>.

inheritance law emphasizes justice based on Qur'anic principles that assign different shares to men and women, reflecting different responsibilities within the family structure.²⁸ Justice in the context of digital assets must consider accessibility and the heirs' ability to manage high-technology assets.

The security of digital assets in Islamic inheritance encompasses comprehensive digital estate planning, the use of multi signature cryptocurrency wallet technology, and the development of a regulatory framework harmonious with Sharia principles. A holistic approach involving technical, juridical, Sharia, and security aspects of digital assets in inheritance according to Islamic law can be significantly improved. Facing rapid technological development, collective *ijtihad* is needed to develop security solutions that are adaptive yet grounded in Sharia values, so that digital asset inheritance can be executed according to the principles of justice and legal certainty in Islam.

Digital assets utilizing decentralized security on blockchain networks create distinct challenges. When an asset owner passes away and the digital asset inheritance is not well-prepared, the high security of the blockchain can prevent heirs from accessing the assets, requiring special procedures to access digital assets typically protected by passwords or private keys. The digital asset inheritance system in Indonesia faces significant challenges regarding the harmonization between legal systems and adaptation to modern asset forms.²⁹

Current regulations, namely Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law (1991), have not clearly regulated digital technology developments in the context of inheritance. Similarly, Law Number 28 of 2014 concerning Copyright and DSN-MUI Fatwa No 116/DSN-MUI/IX/2017 regarding transactions of specific digital assets remain limited. Digital asset regulation is still confined to trading aspects as commodities through BAPPEBTI Regulation Number 5 of 2019. The absence of digital asset regulation in inheritance law, both in the KHI (Compilation of Islamic Law) and the Civil Code, creates a normative vacuum with the potential to cause disputes.³⁰

²⁸ Hikmatullah Djamud et al., "Keadilan Hukum Waris Islam Versus Hukum Waris Burgerlijk Wetboek Di Indonesia (Analisis Perbandingan)," *Falah: Journal of Sharia Economic Law* 6, no. 1 (2024): pp. 6, <https://doi.org/10.55510/fjhes.v6i1.282>.

²⁹ Utari Amanda, "Kedudukan Hukum Para Pihak Dalam Pewarisan Menurut Sistem Hukum Perdata Indonesia," *Paraduta Jurnal Ekonomi Dan Ilmu-Ilmu Sosial* 3, no. 1 (2025): pp. 24, <https://doi.org/https://doi.org/10.56630/paraduta.v3i1.854>.

³⁰ Adelia Nelma Mutiara and Urbanisasi Urbanisasi, "Perkembangan Kebijakan Cryptocurrency Di Indonesia (Perspektif Hukum Perdata)," *QISTINA: Jurnal Multidisiplin Indonesia* 4, no. 1 (2025): pp. 1253, <https://doi.org/https://doi.org/10.57235/qistina.v4i1.6523>.

This legal vacuum creates uncertainty for the Indonesian Muslim community owning digital assets. Without clear regulations, heirs face difficulties in recognizing and dividing digital assets according to Sharia provisions, potentially leading to inheritance disputes and injustice in estate distribution. This legal vacuum may reduce Muslim society's trust in investing in halal digital assets. Although specific regulatory vacuums exist, digital asset users in Indonesia have received protection and legal certainty in the context of buying and selling transactions. The government, through the Ministry of Trade and its supervisory agency BAPPEBTI, has regulated several brokers trading these digital assets in accordance with Indonesian law.³¹

The specific regulatory vacuum and the debate over the Sharia status of digital assets add complexity to security issues in Islamic inheritance. The security level of digital assets in inheritance according to Islamic inheritance law faces complex challenges requiring a comprehensive approach; although blockchain technology offers high security, this can paradoxically become an obstacle in the inheritance process if not well prepared.

Gustav Radbruch's theory of legal certainty demands clear, consistent, and predictable rules. Therefore, legal certainty must fulfill: normative certainty, meaning clear regulation regarding the legal status of digital assets as inheritance objects; procedural certainty regarding inventory, valuation, and the distribution itself; and finally, certainty of execution guaranteeing effective implementation. Furthermore, *maqashid syariah* in digital asset regulation must align with: *hifz al-din* (Protection of Religion) ensuring inheritance practices do not contradict Islamic values; *hifz al-nafs* (Protection of Life) preventing family conflict due to inheritance distribution; *hifz al-aql* (Protection of Intellect) through education and understanding of digital assets; *hifz al-nasl* (Protection of Lineage) guaranteeing the rights of future generations; and *hifz al-mal* (Protection of Wealth) providing protection and management of digital assets as inheritance.

From the *maqashid syariah* perspective, digital asset regulation must consider public benefit by minimizing harm (*mudharat*), which includes developing adaptive regulations, consumer protection mechanisms, and effective supervisory systems. Thus, the solution to overcome security issues in digital asset inheritance is through digital wills and comprehensive estate planning. Digital asset owners are required to prepare mechanisms for transferring access and ownership to heirs, including storing

³¹ Tontje Koencoro and Muhammad Ajid Husain, "Studi Analisis Terhadap Perlindungan Hukum Bagi Pengguna Asset Cryptocurrency," *Justicia Journal* 13, no. 1 (2024): pp. 118, <https://doi.org/10.32492/jj.v13i1.13110>.

critical information like private keys securely yet accessible to heirs post-mortem. Technology can be a solution to enhance digital asset security in the context of inheritance, such as making transactions require approval from multiple parties (multi-sig), thereby preventing unauthorized use by a single party.

Conclusion

Technological developments have birthed various types of assets previously unknown in classical Islamic inheritance law. Digital assets like Bitcoin and cryptocurrency face significant legal controversy from a Sharia perspective. The Indonesian Ulema Council (MUI) has issued a fatwa declaring Bitcoin *haram* as a medium of exchange because it contains elements of *gharar* (uncertainty), *dharar* (harm), and is not recognized by the government as legal tender. However, digital assets can be accepted as inheritance assets if they meet the criteria of property in Islam, with the note that the inheritance law depends on the fatwa trusted by the deceased's family.

Hifz al-mal, as one of the five main principles of *maqasid syariah*, holds special significance in the context of digital asset protection, meaning the protection of property encompassing financial security, asset protection, and the avoidance of excessive risk, fraud, and elements inconsistent with Sharia principles. In the paradigm of Islamic *fiqh*, wealth (*al-mal*) belongs to Allah SWT and should be used as a tool to achieve true welfare, not as an ultimate goal. *Hifz al-mal* in Islamic inheritance law prioritizes the protection of lineage (*hifdh al-nasl*) over the protection of assets (*hifdh al-mal*); however, in the digital era, both aspects must be integrated to provide comprehensive protection. The ideal inheritance distribution in Islam, related to preserving lineage and wealth, aims to create a family that is prosperous both materially and spiritually.

The main challenge facing digital assets is the absence of adequate regulation to govern their inheritance. The regulatory vacuum for digital assets in inheritance distribution according to Islamic law in Indonesia is a complex challenge requiring immediate and comprehensive handling. Traditional Islamic inheritance law has not fully accommodated the complexity of digital assets, which possess unique characteristics like high volatility, dependency on technology, and access requiring private keys or passwords. This results in a legal vacuum that can disadvantage heirs in accessing and managing inherited digital assets. Collaborative efforts are needed between the government, religious scholars (*ulama*), technicians, and legal practitioners to develop an adaptive regulatory framework, responsive *fiqh* guidelines, and improved public education. Through a comprehensive and sustainable approach, the legal status of digital

assets in Islamic inheritance can evolve alongside technological progress while maintaining fundamental Sharia values.

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