VALUATION, CATEGORISATION, AND FARAID DISTRIBUTION OF DIGITAL ASSETS

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ABSTRACT

The rapid expansion of digital ownership has introduced new and complex questions for Islamic inheritance law, particularly in relation to the identification, valuation, and distribution of digital assets under the framework of *Tarika* and *Faraid*. While classical fiqh developed comprehensive rules for tangible and intangible property, it did not anticipate the rise of cryptocurrencies, online businesses, monetized content, domain names, digital wallets, and platform-based assets. This article examines how such assets may nonetheless be incorporated within the Shariah inheritance structure by treating them as part of the deceased's estate, subject to the ordinary rules governing debts, bequests, and fixed shares. It explores the practical problems posed by digital inheritance, including asset discovery, volatility in valuation, loss of private keys, and contractual restrictions imposed by platform terms of service. The article further argues that a properly drafted *Wasiyyah* can serve as the central mechanism for digital estate planning by enabling disclosure, access, and administration of digital holdings. Ultimately, the article contends that digital assets are fully capable of being accommodated within Islamic inheritance law, provided that juristic reasoning is applied with technical awareness and a strong commitment to the protection of heirs' rights.

Keywords: Inheritance, Digital Assets, Muslim Family Law, Faraid, Tarika, Testamentary planning, Cryptocurrency.

1. INTRODUCTION

The rapid digitisation of wealth has reshaped the legal meaning of property, ownership, and succession. A growing share of personal and commercial value now exists in digital form, including cryptocurrencies, online businesses, monetised content, domain names, e-money accounts, and platform-based assets. These holdings may be economically significant, yet they often remain difficult to identify, control, transfer, or value after death. Their rise has created a practical challenge for inheritance law generally, and for Islamic inheritance law in particular.

Islamic succession law is among the most carefully structured systems of distribution known to law. Its rules are not limited to tangible assets, but extend to the total estate left behind by the deceased. Even so, the classical juristic tradition developed in a materially different world, one in which wealth was predominantly visible, documentable, and physically recoverable. Digital assets complicate this framework because their existence may depend on private credentials, technical access, platform permissions, or volatile market conditions. As a result, the issue is not merely whether such assets have value, but how that value can be preserved and transmitted in a manner consistent with Shariah.

This article addresses the legal treatment of digital assets within Islamic inheritance law by examining three interconnected questions: how such assets should be classified as part of the estate, how they should be valued for inheritance purposes, and how they should ultimately be distributed among heirs. It argues that digital assets capable of lawful ownership and economic benefit fall within the ambit of inheritable property, and that the principal difficulties surrounding them are practical rather than doctrinal. Proper estate planning, clear categorisation, and structured disclosure can therefore enable classical inheritance rules to operate effectively in the digital environment.

The article further argues that the *Wasiyyah* can play a decisive role in bridging the gap between classical doctrine and digital reality. In the absence of prior planning, valuable digital holdings may remain inaccessible even where heirs have a valid entitlement to them. A well-drafted digital *Wasiyyah* can therefore function not only as a testamentary instrument, but also as a mechanism for disclosure, access, and orderly administration. On this basis, the paper contends that Islamic inheritance law is sufficiently flexible to accommodate digital wealth, provided that juristic principles are applied with technical awareness and administrative precision.

2. THE CONCEPT OF TARIKA AND ITS APPLICATION TO DIGITAL ASSETS

The Islamic law of inheritance works on the principle of Tarika which is the total estate which is left behind by the deceased and includes all the property, rights and obligations which will survive the death of the owner. The classical jurists defined Tarika in general terms so that it can give full economic legacy of the deceased. Al-Zuhayli defines it as all that is left behind to the deceased in terms of property, rights and debts. The Tarika is divided among specified heirs by a prescribed order, that reflects the priorities of the Islamic estate law, the estate is first used to meet the expense of the funeral and burial of the deceased, and only after that there is the distribution of the residue among specified heirs, by a prescribed order, which reflects the priorities of the Islamic estate law.

To enable digital assets to be duly incorporated into this framework, it is necessary first that such assets be identified and listed as part of the overall collection of the digital holdings of the deceased.[1] One of the most serious practical issues in digital inheritance to which the classical Fiqh does not directly apply. An inventory of the physical possessions of the deceased, their documents, their bank statements and title deeds and by making inquiries of their known

[1] Al-Zuhayli (n 2) vol 10, 7732.

business associates might be made to constitute a traditional estate inventory. All these approaches are not sufficient in determining digital assets. Stored in a non-custodial wallet, cryptocurrencies leave no paper trail, just like a monetised YouTube channel or online business. The estate administrator has to be furnished with a mix of both technical information and investigative skill beyond the capabilities required of a traditional estate administrator. This utilitarian fact greatly underpins the jurisprudential argument of the necessity of preparing a comprehensive digital asset inventory as a part of their Wasiyyah as discussed in section below.

3. VALUATION OF DIGITAL ASSETS FOR FARAID PURPOSES

The calculation of virtual assets to be inherited poses problems with no direct analog in Fiqh, mainly due to the unprecedented volatility in prices of some digital assets, specifically the cryptocurrencies, whose value can change by tens of percentage points within one day. Whether the date of proper valuation is a technical accounting issue or a major decision which could have a tremendous impact on the value each heir is assigned. According to the classical Islamic law of inheritance, the value of the estate must be determined to facilitate the calculation of the hereditary shares, payment of debts and the granting of bequests.

The common opinion among classical jurist, such as the Hanafi school, is that properties are valued at their market price at the time of actual distribution to heirs, based on the fact that ownership of particular properties does not pass to individual heirs until the time of distribution. Other modern scholars point to the contrary and say that the date of death should be used as the valuation date, on the ground that the hypothetical transfer of ownership at death and heirs should be given the value of what actually belonged to a deceased person at the time of death and to which heirs are entitled, not a subsequently determined value which might be reflective of market movements rather than the actual wealth of the deceased. [2] An expedient solution that is consistent with the principles of equity (Insaf), and avoidance of harm (Dar al-Darar) is to use the market value at the time of actual distribution, so long as distribution is made with the reasonable expedition which Islamic law requires of an estate administrator. An unreasonable delay that permits the value of assets to change to the disadvantage of heirs is a breach of the fiduciary duty which Islamic law imposes on the Wasi. Where the digital assets are so volatile as to be likely to change materially in value over the period of administration, the estate administrator may with the informed consent of all the competent heirs choose to liquidate the digital assets shortly and distribute the equivalent in fiat currency, thereby fixing the value of the digital assets at a given moment, and avoiding the continuing exposure to market risk during the period of administration.

The valuation procedure with respect to assets in Category One, including digital bank balances, e-money accounts, digital gold deposits and stablecoins, is not controversial and is straightforward to perform. In case of domain names, online businesses and monetised accounts under Category Two, valuation should require the involvement of a qualified expert

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[2] Al-Zuhayli (n 2) vol 10, 7735.

(Ahl al-Khibra) whose opinion the estate administrator and heirs shall have the right to rely upon. [3]

4. Practical Challenges: The Private Key Problem

The most specifically and irreducibly digital problem in the bequest of cryptocurrency is that which may be referred to as the private key problem. The contents of a cryptocurrency wallet are made accessible to their holder with the help of a private key, a unique and very long alpha-numeric value that is generated by cryptographic algorithms and that grants its owner exclusive and unrestricted access to the contents of their cryptocurrency wallet. A cryptocurrency wallet in a private key architecture lacks a backdoor or any customer service override or recovery mechanism of any kind. In case of loss of the private key the assets in the wallet become inaccessible permanently and irreversibly regardless of who the legal title holder to the assets in the wallet happens to be and irrespective of what orders the assets in the wallet may be. Unless the owner records, secures and communicates the private key to a trusted individual before the owner dies, the assets in the wallet are lost to heirs as effectively as the assets in the wallet would have been located and secured.

The magnitude of this issue cannot be overlooked it has been estimated that three to four million Bitcoin, which is a substantial portion of the total supply, have been permanently lost as a result of lost or forgotten private keys. [4] The classical analogue to the case of an owner who burial treasure (Rikaz) and dies before leaving any evidence of its whereabouts, or who loses property in a situation where it cannot be recovered, has the closest classical analogue to the case of an heir who knows that the deceased held cryptocurrency but cannot access it because the private key was unknown bears the closest classical analogy to the case of an heir who knows that the deceased held cryptocurrency but cannot access it because the private key was unknown. Such property is treated by classical jurists as hypothetically part of the property in that the right to such property exists but they acknowledge that this right cannot be practically divided until the property is recovered. When it is shown that recovery is impossible, the property is treated as though destroyed (Talaf) to be distributed, with no liability accruing to the heirs on the loss of the property since loss without negligence or fault does not create any obligation of compensation in the Islamic law.

The Islamic legal solution to the problem of the private key should consequently work on three levels. On an individual level, the Muslims who have access to cryptocurrencies must be made aware and educated that the failure to record and secure their personal key is a failure to safeguard the rights of their heirs which is a matter of Shariah duty and not just a prudent estate planning. On the institutional level, Islamic institutions and scholars need to come up with uniform instructions on the safe practices of managing key practices that can be included in Wasiyyah documentation. At the legislative level, the government must address the need to

[3] 'Investigating the Inheritance of Digital Currency' (Semantic Scholar 2023); Anjum and Barkat (n 16).
[4] Burhan al-Din al-Marghinani, Al-Hidayah fi Sharh Bidayat al-Mubtadi (CreateSpace 2016 translation) 315.

have mandatory disclosure of relevant cryptocurrency holdings to a secure government registry which can be accessed by verified heirs. [5]

5. Platform Terms of Service and Their Conflict with Shariah Inheritance Rights

A structural and systemic barrier to digital inheritance that is completely independent of the issue of private keys emerges, in terms of digital platforms in which assets of value are found or created, out of the Terms of Service agreements that govern virtually all of the digital platforms on which assets of value are held or generated. Most large exchanges, such as Google, Meta (Facebook and Instagram), Apple, Amazon, Twitter, YouTube and virtually all major cryptocurrency exchanges, have clauses in their Terms of Service stating that user accounts are personal, non-transferable, and granted only to the individual user, and that the platform may terminate, restrict, or memorialize user accounts upon death of the user without any obligation to transfer assets or account value to the heirs. These provisions are usually binding as a matter of the law of contract of the jurisdiction in which the platform is incorporated, most commonly the law of the State of California or the State of Delaware in the United States or of an EU member state in the case of European platforms. [6]

The jurisprudential status as against the heirs of the deceased of such contractual terms as entered into by a person during his lifetime raises a fundamental question which is; whether or not a person through a contract signed with a third party which was entered into during his lifetime actually extinguishes the property rights of his heirs upon death?The response to this is that according to the laid down principles of the Islamic inheritance law it is not possible. The classical rule is that by his own act or even agreement a person cannot extinguish the rights of his heirs in the estate since the rights of the heirs in the estate arise by operation of the divine law especially under the Quran in Chapter 4 Verse 11-12. Terms of Service agreed to by the deceased as a condition of using a platform cannot, be treated as that which binds the heirs insofar as they claim to put out or deny the rights of heirs to assets which are Mal al-Mutaqawwam forming part of the Tarika of the deceased. [7]

6. The Faraid Distribution Applied to Digital Assets

After identifying, valuing and confirming Mal al-Mutaqawwam as forming part of the Tarika, their distribution among heirs follows the normal Faraid rules that have accrued around the verses of the Quran on the subject of inheritance. [8] These rules prescribe fixed fractional shares, to be transferred by the will, to the heirs named by the will, being the heirs of the testator. Remainder of the satisfaction of fixed shares is distributed to the Asabat in terms of precedence. These rules regulating digital assets are exactly the same as those that regulate physical assets.

[5] Anjum and Barkat (n 16); Wahab and Katuk (n 17).
[6] Mayasari and Triyono (n 18).
[7] Al-Zuhayli (n 2) vol 10, 7741.
[8] Holy Quran, Surah An-Nisa, 4:11-12, 4:176.

The value of the whole estate, with the assessed value of all the digital assets, is computed and the liabilities and bequests deducted and the residue divided in the Faraid proportions. [9]

The exact shape through which the digital assets are conveyed relies on the technical structure of the digital assets. Naturally divisible units of a digital asset, such as a cryptocurrency, can be distributed in kind whereby the exact fractional amount of a digital asset corresponding to the Faraid share of a particular heir is transferred to a separate wallet or exchange account of that heir. Such in-kind distribution is usually better since it does not result in various types of crystallization of taxes that can be incurred upon liquidation in some jurisdictions. Economically indivisible digital assets, including a domain name, a social media channel or an online business that is operated as a unit must be sold and the net proceeds distributed in the Faraid shares or retained heirs who compensate remaining heirs the value of their shares through payment. This latter disposition is parallel to the idea of Takharuj whereby one or more of the heirs quit the inheritance in relation to a particular asset by accepting a payment agreed upon with the heir retaining the asset.

7. THE WASIYYAH AS THE PRIMARY INSTRUMENT OF DIGITAL ESTATE PLANNING

The most potent and instantly available instrument, which can be used to manage the transfer of digital property upon death, even in the total lack of legislative reform or institutional infrastructure, is bequest or testamentary declaration. The Islamic law allows one to bequeath up to 1/3rd of all his or her property to non-heirs or to charity through a Wasiyyah despite whatever conflicting wishes there might be. However, when applied to the digital inheritance Wasiyyah has much more than that to do. It is primarily and principally a means of complete disclosure and record keeping. [10] A properly prepared digital Wasiyyah will give the estate administrator an inventory of all digital assets owned by the deceased, their approximate value, the platforms on which they are stored, and the access credentials or key recovery information to access them. In the absence of such disclosure the identification of digital assets post-mortem is unfeasible, and valuable assets will undoubtedly be lost. [11]

An extensive digital Wasiyyah must assign a Wasi Raqami or in other words a digital executor, a trusted individual with adequate technical expertise, to gain legal and practical access to digital assets, manage and transfer them. It must also specify where and how to access private keys, whether they are stored on a hardware wallet, in a password manager of some sort, as a paper seed phrase that is held in a safety deposit box, or through a multi-signature arrangement that spreads access between multiple trusted individuals. It must offer instructions on the platform that provides inbuilt legacy management features, including Inactive Account Manager in Google, and Legacy Contact in Facebook. It ought to contain express instructions as to the treatment of each of the categories of digital asset, as to which assets should be transferred in-kind to heirs, and which should be liquidated and distributed as cash, which should be donated to charity under the one-third bequest apportionment, and which should be

[9] Al-Zuhayli (n 2) vol 10, 7780.
[10] Al-Zuhayli (n 2) vol 10, 7752.
[11] Wahab and Katuk (n 17); Anjum and Barkat (n 16).

closed or deleted. Modern scholars in the major schools are all unanimous on the recommendation of the preparation of digital Wasiyyah as a matter of urgent religious duty of any Muslim who has significant digital assets at his disposal, and whose failure to make such provision may be considered a form of negligence towards heirs that is not consistent with the Shariah obligation of guarding the rights of those who will inherit you

8. CONCLUSION

Digital assets have made it necessary to rethink the practical administration of estates without disturbing the doctrinal foundations of Islamic inheritance law. The core principles of succession remain capable of governing digital wealth, but their effective application now depends on the ability of heirs and estate administrators to identify, access, value, and transfer assets that may exist only through code, credentials, or platform-controlled systems.

The analysis shows that the greatest obstacles in this field are not conceptual but operational. Some assets are hidden behind private keys, some are controlled by third-party platforms, and some fluctuate so sharply in value that inheritance shares may be affected by timing. These difficulties do not make digital property incompatible with *Faraid*; rather, they reveal the need for more careful administration, better disclosure, and more deliberate planning during the lifetime of the owner.

The most practical response lies in strengthening the *Wasiyyah* as a tool of digital estate planning. A properly prepared digital *Wasiyyah* can help preserve heirs' rights by identifying holdings, recording access information, and guiding the executor in treating different kinds of digital property. Alongside this, scholars and policymakers should continue developing guidance that reflects the realities of contemporary digital ownership while remaining faithful to the objectives of Shariah.

In the final analysis, digital assets do not stand outside Islamic inheritance law. They simply present a new form of wealth through which the enduring principles of justice, certainty, and protection of heirs must now operate. The task ahead is not to replace classical doctrine, but to ensure that it remains effective in a world where much of a person's estate may no longer be held in paper, land, or metal, but in data, platforms, and code.