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Digital Inheritance in Comparative Law: Islamic Jurisprudence, Digital Assets, and Post-Mortem Rights

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Abstract: The rapid expansion of digital technologies has created new forms of property, personal information, and economic interests, raising significant legal uncertainty concerning their treatment after the death of their holders. This study examines whether existing inheritance rules can adequately accommodate digital assets and reconcile succession rights with privacy, contractual restrictions, intellectual property, and data-protection requirements. It addresses the legal distinction between digital inheritance and digital assets, identifies which digital interests may form part of a deceased person's estate, and evaluates the approaches adopted by Islamic jurisprudence and selected Arab and foreign legal systems. The study employs a qualitative doctrinal and comparative legal methodology, drawing on legislation, judicial and regulatory materials, legal literature, and classical and contemporary Islamic jurisprudential sources. The analysis classifies digital assets according to their economic, proprietary, intellectual, personal, and mixed characteristics and examines their inheritability, transferability, post-mortem access, and associated legal restrictions. The findings demonstrate that digital assets cannot be treated as a homogeneous legal category and that inheritability depends primarily on the legal character, value, transferability, and personal dimensions of the underlying digital interest. The comparative analysis further reveals substantial regulatory fragmentation, particularly concerning post-mortem access, privacy, contractual restrictions, and cross-border succession. The study contributes to legal scholarship by proposing an asset-specific and rights-sensitive framework for digital inheritance that integrates succession law, property, contract, intellectual property, privacy, comparative law, and Islamic jurisprudence.

Keywords: Digital Inheritance; Digital Assets; Islamic Jurisprudence; Post-Mortem Privacy; Succession Law.

INTRODUCTION

The rapid expansion of digital technologies has fundamentally transformed personal wealth, property, and social identity. Individuals increasingly accumulate assets and interests in digital form, including cryptocurrencies, digital accounts, cloud-stored information, photographs, videos, electronic correspondence, social-media content, software, and other digitally mediated economic and personal interests. Consequently, death no longer raises questions only concerning the succession of conventional tangible and financial property; it also raises questions concerning the digital estate left by the deceased. Contemporary scholarship observes that individuals' identities and activities are increasingly created, maintained, and stored through accounts operated by different digital service providers, generating competing interests among heirs, family members, service providers, and other stakeholders after death.[1]

The emergence of digital inheritance therefore represents an important development in contemporary succession law. Digital inheritance encompasses a broad range of interests, from economically valuable assets such as cryptocurrencies and monetized online accounts to photographs, videos, writings, communications, and other digital content. These interests cannot necessarily be treated as a single legal category because some have clear economic or proprietary characteristics, while others are closely connected to the deceased's personality and private life. Recent research similarly distinguishes between financial or intellectual digital assets that may be transferable to heirs and digital content intrinsically connected with the deceased's private life, raising distinct concerns about privacy and dignity.[2]

The central legal problem is therefore not simply whether a digital asset exists or possesses value, but whether and to what extent the relevant digital interest is legally inheritable. Traditional succession law generally operates through concepts such as property, ownership, transferable rights, and the estate, whereas digital assets may simultaneously involve property rights, contractual rights, intellectual-property interests, personal data, privacy, and technologically controlled access. Harbinja demonstrates that digital inheritance involves competing concerns relating to inheritance, digital preservation, and post-mortem privacy,[3] while Banta highlights the interaction between privacy,

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[1] Edina Harbinja, 'Inheritance of Digital Media', in *Partners for Preservation : Advancing Digital Preservation through Cross-Community Collaboration*, ed. Jeanne Kramer-Smyth (Facet Publishing, 2019), https://uhra.herts.ac.uk/id/eprint/14124/.

[2] Ahmed El-Tohami Abdel-Nabi, Talal Salim Alrasbi, and Mohamed Ibrahim Bendari, 'Digital Inheritance from the Perspective of Omani Law and Islamic Jurisprudence', *Journal of Cultural Analysis and Social Change*, 25 November 2025, 1136–1143, https://doi.org/10.64753/jcasc.v10i2.1745.

[3] Harbinja, 'Inheritance of Digital Media'.

contract, property, and freedom-of-information principles. Thus, an heir's legal entitlement does not necessarily guarantee effective access to the relevant digital asset, particularly where passwords, private keys, biometric authentication, encryption, contractual terms, or platform policies restrict access.[4]

The cross-border nature of digital assets and services further complicates the problem. A deceased person may reside in one jurisdiction, hold digital assets through a provider located in another, store information on servers elsewhere, and leave heirs subject to a different succession regime.[5] Recent comparative research confirms that digital estates may include social-media content, e-commerce accounts, digital books, cryptoassets, and NFTs, and that their cross-border nature raises significant questions about jurisdiction and applicable law.[6] Accordingly, digital inheritance involves not only whether an asset is transmissible but also who has legal authority to access, administer, control, or dispose of it after death.

The issue is particularly significant in Islamic and Arab legal contexts. Islamic jurisprudence contains established principles on property, ownership, succession, testamentary disposition, and the protection of legitimate interests, but applying them to technologically mediated assets raises new questions about the legal characterization of digital property. Recent scholarship has examined cryptocurrencies, NFTs, cloud-based accounts, and other digital assets in relation to *farā'iḍ* and *waṣiyya*, demonstrating that digital assets may require a reconsideration of conventional concepts of *māl* and *tirkah*[7]. Contemporary studies further suggest that economically valuable digital assets may constitute inheritable property when they satisfy the relevant requirements of ownership, lawful value, benefit, and transferability, while personal digital content may require different treatment. These developments suggest that Islamic jurisprudence offers potentially relevant principles for addressing digital inheritance, but important questions remain about the distinction between

[4] Natalie Banta, *Death and Privacy in the Digital Age*, 94, no. 3 (2016), https://scholar.valpo.edu/law_fac_pubs/454.

[5] Nibrosu Rohid et al., 'Reconstructing the Legal Enforcement Framework for Digital Activism in an Era of Technological Disruption', *Nusantara: Journal of Law Studies* 5, no. 2 (July 2026): 881–901, https://doi.org/10.66325/nusantaralaw.v5i2.236.

[6] Antón Juárez, '=Mortis Causa Succession of Digital Assets in Light of European Private International Law', 2025, https://e-revistas.uc3m.es/plugins/generic/pdfJsViewer/pdf.js/web/viewer.html?file=https%3A%2F%2Fe-revistas.uc3m.es%2Findex.php%2FCDT%2Farticle%2Fdownload%2F9869%2F7395%2F&utm_source=chatgpt.com.

[7] Rehana Anjum, Arun Barkat, and Asif Ali Jatoi, '(PDF) Succession of Digital Assets Under Islamic Inheritance Law: A Fiqh-Grounded Framework for Crypto, Cloud Accounts, and NFTs', *ResearchGate*, ahead of print, 5 August 2026, https://doi.org/10.63056/academia.5.3.2026.1628.

transferable financial rights and personal or privacy-sensitive digital interests. This adaptability is consistent with contemporary scholarship examining the interaction between Islamic inheritance doctrine, changing forms of property, and the need to reconcile classical rules with contemporary legal and social circumstances.[8]

Nevertheless, existing scholarship has developed in a fragmented manner. Some studies focus on the general concept of digital inheritance and the preservation or administration of digital content; others examine cryptocurrencies and economically valuable digital assets, while another body of literature focuses on post-mortem privacy, personal data, contractual restrictions, or intellectual property. Comparative research has also examined particular national and regional approaches. Harbinja's analysis of digital inheritance in the United Kingdom, for example, identifies ongoing uncertainty about the legal treatment of digital assets and the limits of relying solely on service providers' technological mechanisms.[9] More recent comparative scholarship likewise shows ongoing disagreement about whether digital assets form part of the estate, how heirs may access them, and how privacy and contractual rights should be balanced against succession rights.

Despite these contributions, a significant research gap remains. Existing studies frequently examine digital inheritance through a particular legal lens succession law, property law, privacy, data protection, intellectual property, contractual terms, or technological access without sufficiently integrating these dimensions into a unified comparative framework. Moreover, the distinction between inheritability, legal entitlement, and effective control or access remains insufficiently developed. Recent research continues to identify the practical and legal difficulties arising from heirs' inability to access digital assets despite their potential status as inheritable property. Accordingly, determining whether an asset forms part of the estate represents only the first stage of the legal inquiry; the subsequent questions concern who may access it, under what authority, subject to which restrictions, and according to which law.

This study addresses this gap by developing an asset-specific and rights-sensitive approach to digital inheritance. Rather than treating all digital assets as a homogeneous category, it distinguishes among economically valuable digital assets, proprietary digital interests, intellectual-property-related digital content, and personal or privacy-sensitive digital content. This classification allows a more precise assessment of inheritability because the legal consequences of death may differ depending on the underlying nature of the digital interest. A cryptocurrency

[8] Akramov Akmaljon Anvarjon Ugli et al., 'Legal Issues of Digital Asset Inheritance from an Islamic Law Perspective', *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 25, no. 2 (December 2025): 191–212, https://doi.org/10.18326/ijtihad.v25i2.191-212.

[9] Harbinja, 'Inheritance of Digital Media'.

held by the deceased, for example, raises questions of ownership, control, and succession that differ from those arising from private electronic correspondence or personal photographs. A monetized social-media account may likewise combine economic, contractual, personal, and intellectual-property dimensions. The study therefore shifts the analysis from the asset's technological form to its legal character, transferability, control, and relationship to the rights of the deceased and heirs.

The study further contributes to the comparative debate by examining the interaction between Islamic jurisprudence, selected Arab legal systems, and selected foreign jurisdictions. This perspective matters because existing legal responses remain diverse: some jurisdictions have developed specific mechanisms for fiduciary access to digital assets, while others rely on general succession rules, data-protection legislation, post-mortem privacy rules, or testamentary instructions. The comparative evidence therefore suggests that digital inheritance cannot be adequately addressed through a single universal rule. Instead, an effective framework must reconcile succession rights with contractual restrictions imposed by service providers, intellectual-property rules, privacy and data-protection requirements, and the practical problem of digital control.

Against this background, the study addresses the following central research question: To what extent can existing inheritance rules accommodate digital assets, and what legal framework is required to reconcile succession rights with property, contractual, intellectual-property, privacy, and data-protection rules? The subsidiary questions are: (1) What is the legal distinction between digital inheritance and digital assets? (2) Which categories of digital assets are capable of forming part of the deceased's estate? (3) How can Islamic jurisprudence and Arab legislation accommodate economically valuable and privacy-sensitive digital interests? (4) How do selected foreign jurisdictions regulate post-mortem access, control, and succession? (5) What elements should constitute a coherent legal framework for digital inheritance?

Accordingly, the study aims to examine the legal nature and inheritability of digital assets, identify the principal legal challenges governing their post-mortem transmission and access, and comparatively evaluate the approaches adopted by Islamic jurisprudence, selected Arab jurisdictions, and selected foreign legal systems. It also seeks to develop a legal framework that distinguishes transferable economic and proprietary interests from personal and privacy-sensitive digital content, while reconciling heirs' rights with testamentary autonomy, contractual restrictions, intellectual-property protection, and post-mortem privacy. The significance of the study lies in demonstrating that digital inheritance should be determined not solely by an asset's technological form, but by the legal character of the underlying digital interest, its transferability, the degree of legal control, and the competing rights that survive or arise upon death.

METHOD

This study adopts a qualitative doctrinal and comparative legal research approach, supplemented by an analysis of Islamic jurisprudence. This methodology is appropriate because the study examines the legal status, inheritability, and post-mortem administration of digital assets rather than measuring attitudes or generating statistically generalizable findings. The study focuses on the legal classification of digital assets, succession rights, access to digital accounts, contractual restrictions, privacy and data protection, intellectual property, and cross-border issues. The research relies primarily on primary and secondary documentary sources. Primary sources include legislation, regulations, judicial and regulatory materials relating to succession, digital assets, electronic transactions, data protection, intellectual property, and fiduciary access. Secondary sources include peer-reviewed journal articles, books, legal commentaries, and relevant institutional publications. For the Shariah component, the study examines classical and contemporary Islamic jurisprudential sources on inheritance, property, rights, and emerging forms of wealth.

Data are collected through documentary research and literature review, using academic databases, official governmental websites, and recognized legal repositories. Relevant materials are selected according to their legal authority, scholarly reliability, jurisdictional relevance, and connection to the research questions. The collected materials are analyzed through qualitative doctrinal analysis and structured comparative analysis. Digital assets are classified by their economic, proprietary, intellectual, personal, or mixed characteristics, then assessed for inheritability, transferability, access, privacy implications, contractual restrictions, and applicable law.

The Shariah analysis examines whether digital assets constitute *māl* (property) or legally protected rights and considers relevant principles of *farā'iḍ* (inheritance), ownership, transferability, protection of property (*ḥifẓ al-māl*), prevention of harm (*ḍarar*), contractual obligations, privacy, and human dignity. The study compares classical jurisprudential positions with contemporary scholarship to determine whether established Islamic principles can accommodate emerging forms of digital wealth and inheritance. The credibility and trustworthiness of the findings are enhanced through source verification, legal triangulation, and cross-checking of scholarly interpretations. Primary legal provisions are verified against authoritative sources, while differing academic and jurisprudential views are compared rather than treated as settled law. The same analytical criteria are applied consistently across the selected jurisdictions to ensure comparability. Given the rapid development of digital technology and related legislation, the findings are limited to the legal materials and literature available during the research period.

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Results and Discussion

The Concept of Digital Inheritance and Digital Assets

There is no universally accepted definition of digital inheritance, largely because digital assets vary considerably in nature and legal character, making the concept difficult to define precisely [10]. The Digital Legacy Association in the United Kingdom describes a digital legacy as the digital information about an individual that remains after death, including social-media accounts, online communications, photographs, videos, gaming accounts, blogs, and websites[11]. Similarly, digital inheritance has been described as encompassing the digital content an individual generates or retains during life and leaves after death, including personal data, emails, documents, audiovisual files, social-media content, software, databases, and related digital credentials. [12]

Other scholars adopt a broader approach by distinguishing between financial, intellectual, and personal digital assets, including trademarks, business names, shares in online enterprises, cryptocurrencies, digital creative works, YouTube channels, and privacy-protected accounts[13]. Western scholarship has also characterized digital inheritance as the digital assets owned by a deceased person that possess measurable economic value, or more generally as the collection of assets and data left by an individual upon death.[14] However, limiting digital inheritance to economically valuable assets is problematic because digital legacies may possess either financial or non-financial value, and inheritance law is not necessarily confined to assets capable of monetary valuation.[15] Moreover, it is necessary to distinguish the concept of *digital inheritance* from that of *digital assets*.[16]

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[10] Francesco Mastroberardino, 'Il patrimonio digitale', 2019, https://onesearch.unifi.it/discovery/fulldisplay/alma9913863705003299/39SBART_UFI:39UFI_V1.

[11] 'What Is a Digital Legacy?', *Digital Legacy Association*, 2026, https://digitallegacyassociation.org/about/what-is-a-digital-legacy/.

[12] Ibtisam Morsi and El-Bahrawy Mohamed, "'Access to the Digital Heritage of the Deceased on Social Media Sites and Its Social and Psychological Effects on Their Families: A Field Study.'", *Journal of the Human Studies Sector*, 2025.

[13] Ahmed Mohammed Al-Harmas Al-Shammari, "'National and International Efforts to Combat Financial and Administrative Corruption: An Analytical Study in Light of the Saudi System and International Conventions,'" *Humanities and Educational Sciences Journal*, no. 45 (March 2025): 507–57, https://doi.org/10.55074/hesj.vi45.1343.

[14] Kristin Nemeth, Jorge Morais Carvalho, and Edina Harbinja, *Digital Inheritance in the European Union*, 2017.

[15] Tarek El-Sayed Mahmod Abu Okeal et al., 'Preventive Legislative Approaches to Child Protection in the Digital Environment: A Comparative Study of Australia, France, and Egypt', *Nusantara: Journal of Law Studies* 5, no. 1 (March 2026): 205–28, https://doi.org/10.66325/nusantaralaw.v5i1.222.

[16] Isabella Rose M. Harding, 'Governance, Transparency, and Financial Regulation in the Global Digital Economy', *Journal of Nusantara Economy* 4, no. 2 (December 2025): 112–134, https://doi.org/10.66325/nusantaraeconomy.v4i2.368.

A further approach defines digital inheritance as the process through which a deceased person's digital assets are transferred to beneficiaries in accordance with the legal rules governing digital estates[17]. From this perspective, digital inheritance may encompass both emotional and financial dimensions. Emotional digital inheritance includes photographs, comments, personal reflections, and other digital expressions connected with an individual's private and social life, whereas financial digital inheritance concerns digitally held assets possessing economic value.[18] Italian scholarship similarly emphasizes that the central legal issue is not merely the existence of digital assets, but determining who is legally entitled to access and administer the deceased's digital estate.[19]

Accordingly, digital inheritance may be defined as the legal mechanism through which the digital rights and interests connecting an individual to the digital environment are transferred to heirs or beneficiaries in accordance with applicable law, platform terms of service, or a judicial decision. Definition of Digital Assets: The concept of digital assets has become increasingly important with the expansion of digital products and transactions.[20] They generally consist of intangible items existing in digital form, such as videos, PDF files, presentations, audio files, and images.[21] Digital assets may possess financial, personal, or intangible value and may include online accounts and digital files controlled or owned by an individual. [22] The growing importance of managing these assets has also raised concerns about digital literacy and the financial and non-financial consequences of inadequate knowledge and management. [23]

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[17] Edwin Cruz, *The Digital Inheritance of Mobile Apps: Where's the App for That?*, 2016, https://scholarlycommons.law.northwestern.edu/njtip/vol14/iss1/5.

[18] Mohammad Irfan Al-Khatib, "'The Impact of the Digital Environment on Foundational Concepts in Civil Law: The Digital Extension of Human Personality as an Example; Digital Life and Death: An Examination of the Current and Expected Jordanian Legislative Position in Light of French and European Legislation.'", *Jordanian Journal of Law and Political Science*, 2022.

[19] Stefano Delle Monache, *Successione mortis causa e patrimonio digitale*, 2020, https://www.research.unipd.it/handle/11577/3351013.

[20] Yevhen Leheza, 'Reforming the Legal Framework of Ukraine's Economic System: Challenges, Governance, and Regulatory Transformation', *Journal of Nusantara Economy* 5, no. 1 (June 2026): 56–71, https://doi.org/10.66325/nusantaraeconomy.v5i1.399.

[21] Ahmed Abdullah Khalil Abdo, "'Accounting for Digital Assets as One of the Modern Concepts of Digital Transformation: An Applied and Field Guide from the Contemporary Business Environment.'", sect. 2, *Scientific Journal of Financial and Commercial Studies and Research* 3, no. 2 (July 2022), https://doi.org/10.21608/cfdj.2022.229926.

[22] CHDS Staff, 'Three Dangerous Men: Russia, China, Iran and the Rise of Irregular Warfare', *Center for Homeland Defense and Security*, 30 March 2022, https://www.chds.us/c/three-dangerous-men/.

[23] Ru'a Ali Attiya, "'Contracts for the Sale and Purchase of Virtual Assets: An Analytical Study from a Shariah and Legal Perspective.'", *Researcher Journal for Legal Sciences* (Iraq) 6, no. 2 (2025): 55–63, https://doi.org/10.37940/JRLS.2025.6.2.4; Tim Kaiser et al., *Financial Education*

Legal systems have adopted different approaches to defining digital assets. In the United States, the Internal Revenue Service adopts a technology-oriented definition, treating a digital asset as a digital representation of value recorded on a cryptographically secured distributed ledger or similar technology and capable of being bought, sold, owned, transferred, or traded.[24] Dubai's legislation similarly defines a virtual asset as a digital representation of value that may be digitally traded, transferred, or used for exchange, payment, or investment purposes (Law No. 4 of 2022, art. 2). These approaches primarily emphasize digitally represented assets possessing economic value.[25]

At the European level, the Markets in Crypto-Assets Regulation (MiCA) broadly defines a crypto-asset as a digital representation of value or a right that can be transferred and stored electronically using distributed ledger technology or similar technology (Regulation (EU) 2023/1114). Nevertheless, the United Nations Commission on International Trade Law (UNCITRAL) recognizes that no universally accepted legal definition of digital assets exists.[26] This definitional uncertainty is partly attributable to the concept's relatively recent emergence and the rapid technological development that continually challenges existing legal frameworks.[27]

The literature therefore encompasses a wide range of digital assets, including emails, blogs, social-media profiles, digital photographs and videos, online subscriptions, commercial information, cryptocurrencies, and digitally stored intellectual property. [28]Digital assets may thus be understood as a distinct component of a person's wealth existing in digital form and consisting of data or digital representations subject to the person's control.[29] The International Institute for the Unification of Private Law (UNIDROIT) likewise describes a

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Affects Financial Knowledge and Downstream Behaviors, no. w27057 (National Bureau of Economic Research, 2020), https://doi.org/10.3386/w27057.

[24] Internal Revenue Service, 'Digital Assets', 2025, https://www.irs.gov/filing/digital-assets.

[25] Nesma Saber, "'The Nature of Digital Banking Assets.'", *Journal of Financial and Commercial Research*, 2023.

[26] *UNCITRAL Model Law on Automated Contracting: With Guide to Enactment* (Vienna: United Nations, 2025).

[27] Alexander G. Gurinovich et al., 'About Approaches to the Definition of Concept and Problems of Legal Regulation of Digital Financial Assets', *Public Organization Review* 22, no. 4 (December 2022): 1005–24, https://doi.org/10.1007/s11115-021-00549-x; B. Reid, "'Legal Life After Death: Publicity, Physical, and Digital Assets.'", *Southern Journal of Business & Ethics*, 2017.

[28] S. D. Brunner, "'Access to Digital Assets Florida's New Law for Fiduciaries: What Are Digital Assets and Why Are They Relevant?'", *Florida Bar Journal*, 2016; Kristen-Alex Kolk, 'Digital Inheritance in the European Union.' (Bachelor's thesis, Programme HAJB, Specialisation in European Union Law, 2020).

[29] Christiane Wendehorst, *"Proprietary Rights in Digital Assets and the Conflict of Laws." In Blockchain and Private International Law,.*, 2023.

digital asset as an electronic record consisting of information or data recorded on an electronic medium, retrievable and capable of being subject to control. Accordingly, the term should be understood broadly enough to encompass both economically valuable assets and digital interests of personal or intellectual significance.[30] Based on the foregoing, digital assets may be defined as intangible items existing in digital form through which an individual participates in the digital environment, whether possessing financial, personal, or moral value, including digital data, personal accounts, blogs, online commercial activities, digital banking accounts, cryptocurrencies, and related digital interests.

The preceding literature reveals a fundamental conceptual distinction between digital inheritance and digital assets. Digital inheritance refers primarily to the legal process governing the post-mortem transmission, administration, or disposal of digital rights, whereas digital assets constitute the objects or interests to which that process may apply. The distinction is therefore not merely terminological; it determines the applicable rules of succession, property, privacy, contract, and intellectual property. Table 1 synthesizes this distinction across the principal legal dimensions identified in the literature.

Table 1. Conceptual and Legal Classification of Digital Inheritance and Digital Assets

Dimension	Digital Inheritance	Digital Assets	Legal Significance
Core concept	The legal mechanism for transferring or administering digital rights and interests after death	Intangible items, records, accounts, or interests existing in digital form	Distinguishes the process of succession from its subject matter
Economic character	May involve financial and non-financial interests	May have financial, personal, intellectual, or mixed value	Determines whether the asset may form part of the estate
Typical examples	Transfer of digital accounts, crypto-assets, digital content, or economic rights	Cryptocurrencies, online accounts, photographs, emails, blogs, digital works	Different assets require different succession rules.
Proprietary dimension	Concerns the transmission of rights to heirs or beneficiaries	Depends on whether the asset is legally capable of being controlled or owned	Property classification is central to inheritability

30 Muhammad Azam et al., 'Contemporary Trade Governance and Cross-Border Data Flows: A Comparative Study of Sharīʿah Principles and International Legal Frameworks', *MILRev: Metro Islamic Law Review* 5, no. 1 (May 2026): 686–721, https://doi.org/10.32332/milrev.v5i1.13387.

Personal dimension	May involve privacy, identity, dignity, and personal communications	Social-media profiles, private messages, photographs, personal data	May restrict heirs' access even where the asset has economic value
Contractual dimension	May be affected by platform terms of service	Providers may restrict transfer, access, or account succession	Creates tension between succession law and contract law
Intellectual-property dimension	May involve succession to transferable economic rights	Copyrighted photographs, videos, writings, software, databases	Requires reconciliation with copyright rules
Proposed legal approach	Transfer according to succession law, valid instructions, platform rules, or judicial determination	Classification according to financial, proprietary, intellectual, or personal characteristics	Supports an asset-specific rather than one-size-fits-all framework

Source: Compiled by the researchers based on the relevant legal literature and comparative analysis.

homogeneous succession category. Rather, inheritability depends on the legal character of the underlying digital interest. Economic and proprietary assets are generally more amenable to succession, whereas personal communications, privacy-sensitive information, and platform-dependent accounts require additional safeguards. The principal finding is therefore that the legal treatment of digital inheritance should be asset-specific rather than technologically uniform. The conceptual distinction established above provides the foundation for examining the inheritability of digital assets. Once digital assets are classified by their economic, proprietary, intellectual, or personal characteristics, the central question becomes whether each category can legally survive the holder's death and pass to heirs or beneficiaries. Access restrictions, contractual terms of service, privacy rights, intellectual-property rules, and the cross-border nature of digital platforms complicate this question.

Legal Challenges Concerning the Inheritability of Digital Assets

Inheriting digital assets raises several legal challenges, particularly regarding their legal classification, the contractual terms imposed by digital service providers, and the application of intellectual property law. The appropriate legal treatment largely depends on the nature of each digital asset, which may require a distinct legal framework for different categories.[31]

First, legal classification. Digital assets created by the deceased, such as photographs, videos, and personal writings, may be protected by intellectual property law and therefore potentially form part of the estate. However, practical difficulties arise where such assets are protected by passwords, biometric authentication, or other access controls, preventing heirs from accessing them.[32] Cryptocurrency presents an even greater challenge because heirs may be unaware of its existence or lack the information required to access the relevant wallet. A digital will may facilitate succession by identifying the assets and providing appropriate access arrangements, while sensitive private keys should preferably be kept separately and securely.[33] Cross-border digital assets also create jurisdictional and conflict-of-laws problems where service providers, data repositories, and heirs are located in different jurisdictions.

Second, conflict with service-provider terms. Digital inheritance may conflict with the contractual terms users accept when creating online accounts. This problem is particularly significant because digital service providers commonly operate across borders, while succession remains largely governed by territorial legal systems. [34]Providers may adopt different approaches to deceased users' accounts, including prohibiting transfer, converting accounts into memorial profiles, or permanently deleting accounts after periods of inactivity.[35] Such restrictions may affect income-generating accounts, including YouTube channels, as well as social-media accounts used for commercial and branding purposes.[36]

The tension between contractual restrictions and succession law is particularly evident in the treatment of email and social-media accounts. Some U.S.-based providers have historically restricted the transfer of deceased users' accounts, whereas European approaches have, in certain circumstances, provided heirs with procedures for obtaining access to the deceased's digital information.[37]

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[31] Ágnes Juhász, 'Inheriting Digital Assets – A Glimpse Into the Future', *Juridical Tribune - Review of Comparative and International Law* 14, no. 4 (December 2024): 547–563, https://doi.org/10.62768/TBJ/2024/14/4/02.

[32] Megan Moghtaderi, *"Protecting Your Legacy: Trust and Estate Planning for Musicians."*, 2024.

[33] Moghtaderi.

[34] Maddalena Cinque, *La successione nel 'patrimonio digitale': prime considerazioni*, 2012, https://research.unipd.it/handle/11577/2526944.

[35] Francesco Paolo Patti and Francesca Bartolini, *Digital Inheritance and Post Mortem Data Protection: The Italian Reform*, 13 January 2019, https://papers.ssrn.com/abstract=3397974.

[36] I. Maspes, *Digital Inheritance, Right of the Heirs to Access to the Deceased User's Account, Non-Transferability Clauses: An Overview in the Light of Two Judgments Issued by Italian Courts*, 2022, https://air.unimi.it/handle/2434/948114.

[37] Isabella Martone, 'Sulla trasmissibilità a causa di morte dei "dati personali": l'intricato rapporto tra digitalizzazione e riservatezza', *Pubblicazioni del Dipartimento di Scienze Giuridiche, del*

This divergence demonstrates the difficulty of applying uniform inheritance rules to digital services operating internationally.

Third, digital inheritance and intellectual property. Digital accounts and their contents may involve different ownership interests. The underlying platform and software may constitute the provider's intellectual property. In contrast, user-generated content such as literary works, photographs, videos, and other original creations may qualify for copyright protection and, where legally transferable, form part of the deceased's estate.[38] Under Egyptian Intellectual Property Law No. 82 of 2002, arts. 138, 140, 160, for example, copyright protection extends to literary and artistic works, computer programs, and databases, while economic rights generally continue during the author's lifetime and for fifty years after death.

Applying copyright law to digital content nevertheless presents difficulties, particularly regarding originality, privacy, and the distinction between publicly disseminated and privately shared content. Original user-generated works may be inheritable, whereas private communications or content shared exclusively with particular individuals may raise different legal questions.[39] In the United States, computer source code may qualify as a literary work protected by copyright, and copyright interests may generally be transferred through inheritance or testamentary arrangements, although statutory restrictions may affect certain involuntary transfers.[40]

Overall, the fragmented legal treatment of digital assets demonstrates the limitations of relying exclusively on traditional inheritance and intellectual property rules. Scholarly opinion differs on whether existing rules are sufficient or require adaptation to accommodate digitally created works and assets.[41] The more persuasive approach is therefore to establish a specific legal framework for digital inheritance that identifies which digital assets are inheritable, determines the rights of heirs and beneficiaries, regulates access to protected accounts, and

Linguaggio, dell'Interpretazione e della Traduzione, Sezione Giuridica, 2020, http://hdl.handle.net/10077/33634; Maspes, *Digital Inheritance, Right of the Heirs to Access to the Deceased User's Account, Non-Transferability Clauses.*

38 smail Anas Al-Kilani, 'Digital Accounts and Assets between Inheritance and Termination.' (Master's thesis, College of Law, Qatar University, 2022).

39 Edina Harbinja, 'Digital Inheritance in the United Kingdom', *Journal of European Consumer and Market Law* 6, no. 6 (December 2017), https://kluwerlawonline.com/api/Product/CitationPDFURL?file=Journals\EuCML\EuCML2017055.pdf.

40 Cruz, *The Digital Inheritance of Mobile Apps*.

41 Anwar Rifaa Al-Mutairi, '"Intellectual Property in the Digital Age."', *Benha Journal of Human Sciences*, 2023.

reconciles succession law with contractual, privacy, and intellectual property rules.[42]

Table 2. Principal Legal Challenges Affecting the Inheritability of Digital Assets

Legal Challenge	Affected Digital Assets	Core Legal Problem	Consequence for Inheritance
Legal classification	Cryptocurrencies, digital files, online accounts	Uncertainty whether the asset constitutes property, a right, data, or a personal interest	Determines whether the asset can form part of the estate
Access and control	Crypto wallets, cloud accounts, encrypted files	Passwords, private keys, biometric authentication, and technical barriers	Legal entitlement may not result in practical access
Contractual restrictions	Social-media, email, cloud, and subscription accounts	Terms of service may restrict transfer or post-mortem access	May create tension between succession law and contract law
Privacy and personal rights	Private messages, photographs, personal data, social-media content	Protection of the deceased's privacy, dignity, and confidential communications	May restrict or condition heirs' access
Intellectual property	Photographs, videos, writings, software, databases	Distinction between transferable economic rights and non-transferable personal rights	Only legally transferable interests may pass to heirs
Cross-border issues	International accounts, platforms, cryptocurrencies	Uncertainty concerning jurisdiction and applicable law	May create conflicts between succession, property, contract, and data-protection rules

Source: Compiled by the researcher based on the relevant legal literature and comparative analysis.

Table 2 demonstrates that the inheritability of digital assets is affected by a combination of substantive and procedural legal barriers. The central difficulty is that legal entitlement and practical control do not necessarily coincide: an asset may theoretically form part of the estate while remaining inaccessible because of passwords, private keys, platform restrictions, or data-protection rules. The table

42 Orwan Haroun, "'Legal Challenges of Digital Inheritance: A Comparative Jurisprudential and Legislative Study.'", paper presented at In Legal Challenges in the Digital Age: Proceedings of the Eighth Scientific Conference of the College of Law, 2024.

further demonstrates that digital inheritance cannot be resolved exclusively through succession law. Rather, it requires coordination between property law, contract law, intellectual property law, privacy and data-protection rules, and conflict-of-laws principles. Accordingly, the legal characterization of the digital asset should constitute the first stage of determining its inheritability, followed by an assessment of access, transferability, privacy, and applicable contractual restrictions. Having identified the principal legal challenges affecting the inheritability of digital assets, the analysis now turns to the regulatory responses adopted by Islamic jurisprudence and different national legal systems. The comparative examination seeks to determine whether existing legal frameworks adequately address these challenges and which regulatory approaches may provide a suitable basis for a coherent digital-inheritance regime.

The Legal Regulation of Digital Inheritance in Arab and Foreign Legislation

Defining digital inheritance and identifying the legal challenges it raises is not enough; it is also necessary to examine how different legal systems regulate the transfer of digital assets upon death. While some jurisdictions rely on general inheritance rules and judicial interpretation, others have introduced specific rules addressing digital assets. In Arab countries, Islamic jurisprudence remains an important foundation for inheritance law, making it necessary to consider whether its principles can accommodate digitally based assets. Accordingly, this section examines, first, the position of Islamic jurisprudence and Arab legislation and, second, the approaches adopted by foreign legislation.

Digital Inheritance in Islamic Jurisprudence

Although the concept of digital inheritance is relatively recent, Islamic jurisprudence contains general principles that can address new forms of property and rights.[43] Contemporary scholarship generally defines digital inheritance as the rules and mechanisms determining the fate of the deceased's digital accounts, pages, photographs, writings, and other digital content, whether their transfer is mandatory or dependent on the deceased's wishes.[44]

Divergent Views on Digital Inheritance

Islamic scholarship has developed two principal approaches. The permissive approach treats economically valuable digital accounts and assets similarly to other property forming part of the estate, particularly where online accounts

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[43] Laras Shesa, Oloan Muda Hasim Harahap, and Elimartati Elimartati, 'Eksistensi Hukum Islam dalam Sistem Waris Adat yang Dipengaruhi Sistem Kekerabatan Melalui Penyelesaian al-Takharujj', *Al-Istinbath: Jurnal Hukum Islam* 6, no. 1 May (May 2021): 145–164, https://doi.org/10.29240/jhi.v6i1.2643.

[44] Khalid Fouad Mohamed Balil, '"Digital Estates between Inheritance and Prohibition in Islamic Sharia."', *Scientific Journal of the Faculty of Arts*, 2022.

generate income. This approach emphasizes protecting heirs' financial interests.[45] Conversely, the restrictive approach emphasizes the personal and private nature of many digital accounts. According to this view, purely personal rights do not necessarily form part of the estate, and unrestricted access by heirs could violate the deceased's privacy, particularly regarding unpublished photographs, videos, and sensitive personal information.[46] A more balanced position seeks to reconcile inheritance rights with post-mortem privacy. Digital content may be transferred where doing so does not undermine the deceased's dignity or reputation; however, content whose disclosure would violate the deceased's privacy or dignity should not be treated as inheritable merely because it is digitally stored.[47]

Legal Basis for Digital Inheritance in Islamic Jurisprudence

The permissibility of digital inheritance may be examined through the distinction between financial rights and personal rights.[48] The Hanafi position generally restricts inheritance to rights possessing a proprietary character, whereas the Maliki, Shafi'i, and Hanbali schools adopt a broader approach that recognizes the inheritance of rights having both financial and personal dimensions. This broader approach is particularly relevant to digital assets because many combine economic and personal characteristics.[49] This broader approach is also consistent with the principle that the default rule concerning things is permissibility, and with the need to protect legitimate interests and prevent property loss. Contemporary Islamic jurisprudence has also recognized certain intangible and moral rights as legally protected interests with economic consequences.[50]

Classification of Digital Content

Digital assets can be broadly divided into two categories. The first comprises economically valuable assets, including advertising revenues, income-generating content platforms, and cryptocurrencies. Such assets can generally be regarded as components of the estate because of their identifiable economic

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[45] Balil.

[46] Safaa Mutab Al-Khuza'i and Haider Hussein Al-Shammari, "'Digital Inheritance: A Comparative Legal Study in Islamic Jurisprudence.'", *Journal of Legal Sciences*, 2019, 79-80.,

[47] Mayada bint Mohammed Al-Hassan, . '. "Bequest of Digital Estate.'", *Lebanese Journal of Islamic Sciences* (Lebanon), 2024; Huwayda bint Bakheet Al-Luhaibi, "'Digital Inheritance in Islamic Jurisprudence.'", *Journal of the University of the Holy Qur'an and Islamic Sciences*, 2022.

[48] Adliya Muchni Muharrama, Hasan Matsum, and Muhammad Syukri Albani Nasution, 'Islamic Inheritance Systematics in The City of Binjai (Case Study Of The Division Of Inheritance Of Daughter And Biological Uncle)', *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 7, no. 2 (March 2024): 225–235, https://doi.org/10.29300/mzn.v7i2.2599.

[49] Iyad Abd al-Hamid Nimr, "'Digital Estates: Their Concept and Rulings: A Foundational Jurisprudential Study.'", *Jordanian Journal of Applied Sciences*, 2021.

[50] Marwan Ibrahim Talab, *The Principle That the Default Ruling on Things Is Permissibility: A Jurisprudential Study.*, (Nablus), 2016.

value.[51] The second comprises personal, intellectual, or sentimental content, such as photographs, videos, audio recordings, poems, and personal posts. Such content may be inherited where it satisfies the requirements of intellectual property protection or where the deceased has expressly provided for its disposition through a will.[52] Accordingly, the stronger position appears to recognize digital inheritance where the relevant asset has a financial or legally protected value, while subjecting access to sensitive personal information to safeguards protecting the deceased's dignity and privacy. [53]This approach treats many digital assets as hybrid rights, combining financial and personal characteristics.

Digital Inheritance in Arab Legislation

Despite the growing economic and personal significance of digital assets, specific legislation governing digital inheritance remains largely absent in the Arab legal systems examined. Existing inheritance laws generally employ broad concepts of the estate without expressly addressing digital assets, leaving courts and legal scholars to determine whether traditional rules can accommodate them.[54]

1. Egypt

Egypt currently has no specific legislation regulating digital inheritance. This legislative gap has prompted calls for a comprehensive framework that defines digital assets and determines which categories may form part of the estate.[55] Nevertheless, some scholars argue that existing civil-law provisions may provide a limited basis for dealing with certain personal digital assets. Article 905 of the Egyptian Civil Code, for example, regulates the distribution of family papers and objects connected with the heirs' emotional relationship to the deceased. However, this provision does not adequately address broader questions about purely personal digital accounts, passwords, digital data, and online content.[56] Accordingly, the existing Egyptian framework remains insufficient to resolve the intersection between digital inheritance, intellectual property, personal data, and privacy. A dedicated legislative framework is therefore needed to classify digital

[51] Jihan Sabri Mohamed Abd al-Ghaffar, "'Technological Inheritance: A Comparative Jurisprudential Study.'", *Journal of Jurisprudential and Legal Research* (Damanhur), 2022.

[52] Muharrama, Matsum, and Nasution, 'Islamic Inheritance Systematics in The City of Binjai (Case Study Of The Division Of Inheritance Of Daughter And Biological Uncle)'.

[53] Al-Luhaibi, "'Digital Inheritance in Islamic Jurisprudence.'"

[54] Nisreen Nasser Al-Din, "'Digital Inheritance in Comparative Legislation.'", *Arab Journal of Scientific Publishing*, 2025.

[55] Malek Al-Saeed, "'The Necessity of Enacting a Law on Digital Inheritance in Egypt.'", *Al-Wathiqa Newspaper*, 28 November 2024.

[56] H. Al-Saadi, 'Penalty Clauses in Electronic Service Contracts: Judicial Control and Liability Limits.', *Arab Law Quarterly,* 2023.

assets and determine which assets are inheritable and which require the user's express authorization.

2. Lebanon

Lebanon similarly lacks a comprehensive legal framework specifically addressing digital inheritance. However, Law No. 81 of 2018 on Electronic Transactions and Personal Data contains provisions relevant to the post-mortem treatment of personal data. In particular, Article 99 recognizes certain rights of the deceased's heirs to obtain copies of the deceased's data, while Article 101 permits them, under specified conditions, to request correction, completion, updating, or deletion of inaccurate or incomplete data. The heirs may also seek judicial protection, including through urgent proceedings.[57] Although these provisions do not establish a comprehensive regime of digital succession, they may represent an important step toward recognizing certain post-mortem rights of heirs regarding the deceased's digital information.

3. United Arab Emirates

The UAE likewise lacks a comprehensive statute specifically regulating digital inheritance, despite its advanced regulatory framework for digital transformation and virtual assets. The UAE has adopted several initiatives concerning digital transactions, including federal and Dubai-level regulations governing virtual assets and their service providers.[58] Federal Decree-Law No. 14 of 2023 on Trade through Modern Means of Technology regulates electronic and digital commerce, including transactions conducted through websites, platforms, applications, and social-media networks. It also establishes licensing requirements for relevant virtual-asset service activities. These developments demonstrate that digital assets can possess legally recognized economic value, including ownership and investment value.

However, regulating digital assets does not necessarily regulate their succession. The absence of specific inheritance rules therefore remains significant. Some commentators report that Dubai inheritance courts may recognize certain digital assets as part of an estate where the deceased owned them, they were transferable, and they had a determinable market value. [59] The comparative examination reveals a common legislative gap in the Arab jurisdictions considered. Islamic jurisprudence provides sufficiently flexible principles to accommodate digital inheritance, particularly where digital assets have economic or legally protected value, while still respecting the deceased's dignity and privacy. By contrast, Arab legislation has generally regulated digital

[57] Nasser Al-Din, "'Digital Inheritance in Comparative Legislation.'"

[58] Marwa Mohamed Abd al-Ghani, "'Ownership of Crypto-Assets.'", *Journal of Legal Research*, 2024.

[59] Al-Saeed, "'The Necessity of Enacting a Law on Digital Inheritance in Egypt.'"

https://doi.org/10.66325/nusantaralaw.v5i2.423

transactions, personal data, and virtual assets without establishing an integrated succession framework.

Consequently, the principal legislative challenge is not merely to recognize digital assets as potentially inheritable property, but to establish clear rules distinguishing transferable economic assets from personal or privacy-sensitive digital content, while reconciling inheritance law with contractual restrictions, data protection, intellectual property, and heirs' rights.

The Position of Foreign Legislation on Digital Inheritance

This section examines the regulation of digital inheritance under the Anglo-American and civil-law (Latin) legal systems. The comparison shows that foreign jurisdictions have adopted different approaches, ranging from specific digital-inheritance legislation to applying traditional succession rules supplemented by digital wills and post-mortem data rights.[60]

First: Digital Inheritance in the Anglo-American Legal System

1. United States

Digital inheritance first came before U.S. courts in 2005, after which it attracted increasing legislative and academic attention. Initially, regulation developed at the state level, with five states having enacted legislation addressing digital assets by 2012, although the scope of the assets covered differed among jurisdictions.[61] In 2014, the Uniform Law Commission introduced the Uniform Fiduciary Access to Digital Assets Act (UFADAA) to establish rules governing fiduciary access to digital assets following the death or incapacity of an account holder. The objective was to reduce uncertainty from differences among state laws and conflicts with providers' terms of service, while giving courts, account holders, fiduciaries, and service providers clearer, more predictable rules.[62]

Delaware subsequently became the first U.S. state to enact comprehensive legislation expressly addressing digital inheritance, permitting digital assets, including certain mobile-app-related assets, to pass to heirs.[63] More generally, the U.S. approach has sought to provide a relatively structured framework for determining fiduciary authority, beneficiary rights, and access to digital accounts after death or incapacity.[64]

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[60] Saber, "'The Nature of Digital Banking Assets.'"

[61] A. B. C. News, 'Digital Inheritance Laws Remain Murky', ABC News, 2012, https://abcnews.com/Technology/digital-inheritance-laws-remain-murky/story?id=17267524.

[62] Elizabeth D. Barwick, *All Blogs Go to Heaven: Preserving Valuable Digital Assets Without the Uniform Fiduciary Access to Digital Assets Act's Removal of Third Party Privacy Protections*, 50, no. 2 (2016).

[63] Cruz, *The Digital Inheritance of Mobile Apps*.

[64] Joydeep Chowdhury, 'Digital Legacy: Redefining Estate Law in the Age of Social Media and Virtual Assets', *Legal Research & Analysis* 3, no. 1 (March 2025): 51–56, https://doi.org/10.69971/lra.3.1.2025.57.

2. United Kingdom

The United Kingdom has adopted a gradual approach to adapting common-law property concepts to digital assets. The Property (Digital Assets Etc.) Bill sought to recognize certain digital assets, including crypto-tokens, as a form of personal property capable of receiving legal protection and potentially forming part of an estate. This approach provides greater certainty concerning ownership, inheritance, and the use of digital assets as collateral.[65]

The UK tax framework also treats cryptoassets as property for inheritance-tax purposes, demonstrating the increasing recognition of their economic value.[66] By May 2025, the Bill had completed its third reading in the House of Lords and returned to the House of Commons for consideration of amendments. Its proposed recognition of digital assets as personal property represents an important development in adapting traditional property law to the digital economy.[67]

Second: Digital Inheritance in Civil-Law (Latin) Systems

1. Spain

Spain provides one of the clearest statutory approaches to digital inheritance. Organic Law 3/2018 on the Protection of Personal Data and Guarantee of Digital Rights expressly regulates access to the digital content of deceased persons. Article 96(1)(a) permits persons connected to the deceased by family or factual relationships, as well as heirs, to request access to digital content and provide instructions concerning its use, destination, or deletion. This right is subject to the deceased's express instructions prohibiting such access, although such a prohibition does not affect heirs' rights to content forming part of the estate. Article 96(1)(b) further permits executors and persons or institutions expressly designated by the deceased to access digital content in accordance with the deceased's instructions (Organic Law 3/2018, art. 96). The Spanish model therefore combines inheritance rights, testamentary autonomy, and post-mortem digital privacy. In the absence of contrary instructions, relatives and heirs may exercise significant control over the deceased's digital content, while the deceased retains the ability to determine its post-mortem treatment through a digital will

[65] 'Property (Digital Assets Etc.) Bill', GOV.UK, 13 May 2025, https://www.gov.uk/government/publications/property-digital-assets-etc-bill.

[66] HM Treasury, 'Future Financial Services Regulatory Regime for Cryptoassets (Regulated Activities) - Policy Note (Accessible)', GOV.UK, 16 December 2025, https://www.gov.uk/government/publications/regulatory-regime-for-cryptoassets-regulated-activities-draft-si-and-policy-note/future-financial-services-regulatory-regime-for-cryptoassets-regulated-activities-policy-note-accessible.

[67] Sebastian J. Barling et al., 'UK and EU H1 Digital Assets Regulatory Update | Skadden, Arps, Slate, Meagher & Flom LLP', 3 July 2025, https://www.skadden.com/insights/publications/2025/07/uk-and-eu-h1-digital-assets-regulatory-update.

2. Italy

Italy does not yet have a comprehensive statute dedicated specifically to digital inheritance. However, Legislative Decree No. 101/2018 introduced important rules concerning the exercise of data-protection rights after death. Under Article 2-terdecies, rights under Articles 15–22 of the GDPR relating to a deceased person may, subject to statutory limitations, be exercised by persons acting in their own interests, protecting the deceased's interests, acting as agents, or for legitimate family reasons. The deceased may also expressly prohibit the exercise of such rights through a written, specific, informed, and unambiguous statement communicated to the data controller. This prohibition may subsequently be modified or revoked and cannot prejudice third parties' financial rights arising from the deceased's death or their right to defend their interests before the courts.[68] The Italian approach consequently emphasizes control over personal data after death rather than establishing a comprehensive system of digital succession.

3. France

France has not adopted a comprehensive statute specifically governing digital inheritance. Instead, digital succession is addressed primarily through general succession law and data-protection legislation. Digital assets possessing proprietary value may therefore enter the general estate, while personal data are subject to specific post-mortem rules.[69] Article 40-1, introduced through the Digital Republic Law No. 2016-1321, allows individuals to establish instructions concerning the fate of their personal data after death. Such instructions may regulate how their post-mortem rights are exercised and may be modified or revoked during their lifetime. In the absence of such instructions, heirs may, subject to statutory conditions, exercise certain rights concerning the deceased's digital data. Subsequent amendments further developed the rules on the scope and implementation of these instructions and heirs' rights.[70]

The preceding comparative examination reveals that jurisdictions do not adopt a uniform model for regulating digital inheritance. The differences concern not only whether digital assets are recognized as inheritable property, but also the extent of heirs' access, the legal effect of the deceased's instructions, the protection of post-mortem privacy, and the relationship between succession law and contractual terms imposed by digital service providers. Accordingly, a meaningful comparison requires consideration of these elements collectively rather than examining each jurisdiction in isolation. Table 3 synthesizes the principal regulatory approaches identified in the jurisdictions examined in this study.

[68] Legislative Decree No. 101/2018, Art. 2-Terdecies.
[69] Nasser Al-Din, "'Digital Inheritance in Comparative Legislation.'"
[70] Nasser Al-Din.

https://doi.org/10.66325/nusantaralaw.v5i2.423

Table 3: Comparative Legal Approaches to Digital Inheritance: Arab and Foreign Jurisdictions

Jurisdiction	Principal Legal Approach	Digital Assets / Content Covered	Post-Mortem Access	Testamentary/Personal Autonomy	Principal Legal Gap
Egypt	General succession and civil-law rules	Digital content and potentially proprietary digital assets	No comprehensive statutory mechanism	Limited	Absence of specific digital-inheritance legislation
Lebanon	Electronic transactions and personal-data legislation	Deceased persons' personal data	Certain rights available to heirs under statutory conditions	Recognized to a limited extent	No integrated succession regime
UAE	Digital-transaction and virtual-asset regulation	Virtual assets and digitally conducted transactions	No comprehensive succession mechanism	Limited	Regulation of digital assets does not expressly regulate their succession
United States	Specific fiduciary-access legislation	Digital accounts and assets	Structured fiduciary access under applicable state law	Relatively strong	Interaction between fiduciary authority, privacy, and provider contracts
United Kingdom	Property-law adaptation and general succession	Certain crypto-tokens and digital assets	Depends on property status and succession rules	Increasing recognition	Developing rather than comprehensive framework

	principles				
Spain	Digital-rights and data-protection legislation	Digital content and personal data	Express statutory mechanisms for eligible persons and heirs	Strong; digital instructions recognized	Need to reconcile digital rights with succession and privacy
Italy	Data-protection rules after death	Personal data and related digital rights	Rights may be exercised by specified persons under statutory conditions	Strong recognition of the deceased's instructions	Focuses more on data protection than digital succession
France	General succession + post-mortem data rules	Proprietary digital assets and personal data	Heirs may exercise specified rights under statutory conditions	Digital instructions recognized	No comprehensive digital-inheritance regime
Comparative finding	Fragmented and asset-specific regulation	Financial, proprietary, intellectual, and personal digital interests	Varies substantially	Increasing recognition	Lack of harmonized rules governing classification, access, privacy, and succession

Source: Compiled by the researchers based on the relevant legislation and comparative legal literature.

Table 3 demonstrates a fragmented regulatory landscape. The United States represents a more specific statutory model, particularly through fiduciary-access mechanisms, whereas Spain provides a more integrated approach that combines digital rights, succession, and testamentary autonomy. Italy and France rely more heavily on data-protection mechanisms and general succession principles, while the Arab jurisdictions examined have generally regulated digital transactions, personal data, or virtual assets without establishing an integrated regime for digital succession. This divergence confirms that the principal challenge is not simply recognizing digital assets as property, but determining which digital interests are inheritable, who may access them, and how succession rights should be reconciled with privacy, contractual restrictions, and intellectual-property rights. The comparative analysis demonstrates three principal regulatory models. First, jurisdictions such as the United States have developed specific statutory mechanisms governing fiduciary access and succession to digital assets. Second, Spain and, to a lesser extent, France and Italy have integrated digital inheritance into existing succession and data-protection frameworks while emphasizing the deceased's autonomy through digital instructions. Third, some jurisdictions continue to rely predominantly on traditional succession rules and judicial interpretation. Overall, foreign legal systems have increasingly adapted traditional property and succession principles to the digital environment. A common feature is the recognition that digital assets may have economic, proprietary, personal, or mixed characteristics, requiring different rules depending on their nature. By comparison, the Arab jurisdictions examined above continue to exhibit a significant legislative gap, particularly regarding the classification of digital assets, post-mortem access, digital wills, privacy, and reconciling inheritance rights with contractual and data-protection rules.

CONCLUSION

This study demonstrates that digital inheritance cannot be adequately addressed by treating all digital assets as a homogeneous category. The inheritability of a digital interest depends primarily on its legal character, economic or proprietary value, transferability, and relationship to privacy, contractual, and intellectual-property rights. The comparative analysis further shows that existing legal systems remain fragmented: some jurisdictions have developed specific mechanisms for fiduciary access or post-mortem digital rights, while others still rely on general succession and data-protection rules. Recent comparative scholarship similarly confirms the continuing absence of a uniform approach to the succession, access, and administration of digital assets. The study contributes to legal scholarship by proposing an asset-specific and rights-sensitive framework that distinguishes transferable economic and proprietary digital interests from personal and privacy-sensitive digital content. It also offers a comparative perspective that integrates Islamic jurisprudence with selected Arab and foreign legal systems. This approach may help legislators and courts develop rules on digital estates, digital wills, heirs' access, service-provider obligations, privacy protection, and the post-mortem administration of digital assets. The findings also support the need for clearer legal mechanisms addressing digital assets within Islamic inheritance frameworks, particularly where existing succession rules do not provide adequate technical or procedural solutions. The study has several limitations. It is primarily doctrinal and comparative and therefore does not empirically measure the experiences of heirs, legal practitioners, digital platforms, or other stakeholders. In addition, digital-asset regulation and platform practices are rapidly evolving, while the legal treatment of certain assets remains unsettled. Future research should therefore examine the practical implementation of digital inheritance through empirical studies involving heirs, courts, lawyers, and digital-service providers, as well as further research on cross-border digital succession, digital wills, cryptocurrencies, post-mortem privacy, and the development of harmonized legal standards. Such research could help translate the proposed conceptual framework into practical legislative and judicial mechanisms.

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AUTHOR CONTRIBUTIONS STATEMENT

Omar Sufian Arab contributed to the study design and overall direction of the research. Bilal Marai Hassan was involved in the literature review, data collection, and analysis. Asmaa Ahmed Khalaf contributed to the investigation, data organization, and validation of the findings. Nour Abdelkader Hamad contributed to drafting the manuscript and revising it critically for important intellectual content. All authors participated in discussing and interpreting the findings, reviewed the final manuscript, and approved its submission for publication.

AI USAGE STATEMENT

The authors used artificial intelligence (AI) tools solely to assist with language editing, grammar correction, and improving the clarity and readability of the manuscript. AI tools were not used to develop the research design, collect or analyze data, interpret the findings, or generate the substantive arguments and conclusions. The authors take full responsibility for the content, accuracy, originality, and integrity of the manuscript.

CONFLICT OF INTEREST

The authors declare that they have no conflicts of interest, financial or otherwise, that could have influenced the research, its findings, or the preparation and publication of this manuscript.

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