JURNAL AKTA
Volume 12 No. 4, December 2025
SINTA 2,
Decree No. 164/E/KPT/2021

The Urgency of Harmonizing Civil Inheritance Law with Digital Assets in the Indonesian Legal System

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Abstract. *The development of digital technology has given rise to new types of non-physical wealth, such as cryptocurrency, e-wallets, social media accounts, and digital intellectual property. However, Indonesia's civil inheritance law system, which is based on the Burgerlijk Wetboek (Civil Code), does not explicitly regulate the status and mechanism of inheritance of such digital assets. The absence of specific regulations creates legal issues for heirs, ranging from difficulties in identification to obstacles in accessing the digital assets of the deceased. This study employs a normative and comparative legal approach by analyzing national legislation, inheritance practices in several countries such as the United States (RUFADAA), and theories of legal harmonization. The results of the study indicate that, conceptually, digital assets meet the criteria as legal objects that can be inherited because they have economic value and transferable ownership. However, the absence of explicit regulations in national law makes digital assets vulnerable to loss or improper distribution. Therefore, legal harmonization is an inevitability. Legal harmonization of inheritance regarding digital assets can be achieved through three main schemes. First, integrating digital assets into the list of inherited assets by explicitly including them in a will (testamentaire beschikking) or statement of assets. Second, establishing a mechanism for identifying and distributing digital assets involving notaries as legal actors and developing a national digital data system. Third, the formulation of technical regulations that grant legal access to heirs to the deceased's digital accounts and cryptocurrency wallets, accompanied by cross-border enforcement cooperation with global digital service providers. These three schemes are based on the principles of volledigheid van de nalatenschap, gerechtigheid (justice), and rechtszekerheid in Dutch law, and are in line with Nonet and Selznick's theory of responsive law, which encourages the adaptation of law to social and technological dynamics. The comprehensive reformulation of inheritance law provisions in the Civil Code is a strategic step in ensuring legal protection for heirs and addressing the challenges of digital inheritance in the information society era.*

Keywords: *Civil Code; Digital Assets; Harmonization; Inheritance; Heirs.*

1. INTRODUCTION

In this era of globalization and rapid development of information technology, the existence of digital assets has become a phenomenon that cannot be ignored. Digital assets encompass various forms of intangible wealth, such as e-wallets, social media accounts, cryptocurrencies, and digital intellectual property rights stored in cloud systems (Luthfi et al., 2024; Marsanti & Urbaniasi, 2025; Ramadhany, 2024; Tambun & Putuhena, 2022; the Giang & Thi My Huong, 2023). Modern society is increasingly dependent on this form of digital wealth in everyday life, whether in social, economic, or professional contexts. However, this rapid development has not been matched by the development of a relevant legal framework to regulate the existence and inheritance of digital assets.

Inheritance law in Indonesia is still pluralistic in nature, encompassing three main legal systems: Islamic inheritance law, customary inheritance law, and civil inheritance law, which is derived from the *Burgerlijk Wetboek* (BW) or the Civil Code (KUHPerdata) (Huda & Amin, 2025; Kartikawati, 2021; Mustari, 2013; Nugroho, 2016; Surjanti, 2025). Specifically in the context of civil inheritance law applicable to Europeans, Chinese, and some Indonesians subject to this system, regulations regarding inheritance or erfrecht are still based on the concept of physical or conventional assets, such as land, buildings, and movable property (*roerende goederen*) and immovable property (*onroerende goederen*). However, there are no explicit provisions in the Civil Code that recognize or regulate the existence of digital assets as part of the estate (*nalatenschap*) (Fariesta & Sebastian, 2023; Wijaya, 2025; Yulida et al., 2024).

In fact, the economic value of digital assets can in some cases even exceed that of physical assets. For example, crypto assets such as Bitcoin or Ethereum have high fluctuating values and can be traded across countries without going through the formal financial system (Ahmed et al., 2025; Akhtar et al., 2025; Fang et al., 2022; Kapsis, 2020; Kochergin, 2022). In addition, digital accounts such as Google Drive accounts or social media accounts also store personal, business, and important communication data that has not only economic but also sentimental value. When someone passes away, all these assets are not immediately accessible to heirs due to legal limitations and digital company policies (*terms of service*). This creates a serious legal vacuum in the practice of inheritance in the digital age.

The main issue that arises is the lack of formal legal recognition of digital assets in the context of civil inheritance law. The Civil Code does not specifically define the types of property that are included in the inheritance (*erfstellingen*), raising legal questions (*rechtsvraag*) about the legal status of digital assets. Can digital accounts and cryptocurrencies be considered as goederen (*property*) under the Civil Code? If so, what form does the transfer of ownership and rights take after the owner's death? Without a clear answer, there is a potential for disputes among heirs and the loss of assets due to the lack of legal access.

Furthermore, in the context of notarial practice, the drafting of wills *(testaments*) has not yet fully considered the existence of digital assets. Notaries, as public officials who draft and record wills in accordance with Article 938 of the Civil Code, generally only include conventional assets that can be valued and traced (Girindrawardhana, 2021; Rambe et al., 2025). In fact, digital assets are more hidden and require digital authorization to access them. This requires an update to the mechanism for recording and verifying assets by notaries in Indonesia's civil inheritance law system.

The plurality of legal systems in Indonesia also complicates harmonization efforts. In Islamic law, for example, the concept of inheritance refers to the provisions of the Qur'an and Hadith, with a rigid distribution system based on kinship (Suryaman et al., 2024; Wahyu et al., 2024). Meanwhile, customary law is highly contextual and varies from region to region. Therefore, in regulating digital assets in the context of inheritance, it is necessary to emphasize the urgency of harmonization (*harmonisatie van het recht*) to avoid legal overlap or gaps. This harmonization does not mean standardizing all systems, but rather integrating universal principles in the recognition of digital assets as part of inheritance.

The phenomenon of digital assets is not unique to Indonesia. In developed countries, legal developments have begun to move toward the recognition and regulation of digital assets in the context of inheritance law. For example, the United States has enacted the *Revised Uniform Fiduciary Access to Digital Assets Act* (RUFADAA), which grants heirs the right to access the deceased's digital assets through specific legal means. Singapore, the United Kingdom, and Germany have also begun integrating digital assets into their inheritance systems. This demonstrates that the recognition of digital assets in inheritance law is an inevitability in the digital age.

Therefore, there is an urgent need to reform Indonesia's civil inheritance laws to keep pace with the changing times. Legal reform must be directed toward expanding the definition of wealth in the Civil Code to include digital assets. This reform must be carried out through a systematic and inclusive approach, involving stakeholders such as notaries, academics, digital financial institutions, and the general public. In this way, the principles of justice and legal certainty (*rechtszekerheid*) can be realized in the implementation of inheritance law in the digital age.

This study aims to examine the urgency of harmonizing civil inheritance law with regard to digital assets in the Indonesian legal system. Through a normative legal approach and comparative analysis of practices in other countries, this paper seeks to provide an overview and initial recommendations on the direction of inheritance law development that is more responsive to developments in information technology. With concrete steps toward legal harmonization, it is hoped that the national legal system can ensure fair and effective protection of inheritance rights over digital assets.

2. RESEARCH METHODS

This study uses normative legal research based on literature review to examine positive legal norms governing inheritance in the Indonesian legal system, particularly in the context of digital assets as part of inherited property. This study is also supported by a comparative approach to compare digital inheritance practices in several countries, such as the United States, Germany, and Singapore. The normative legal approach is conducted by examining applicable laws and regulations, case law, and relevant legal doctrines, while the comparative approach is used to examine models of digital inheritance regulation that have been implemented in other countries as input for efforts to harmonize Indonesian civil inheritance law.

The methods used in this study include the statute approach, the conceptual approach, and the comparative law approach (Muhaimin, 2020; Nurul Qomar, 2020; Solikin, 2021; Suteki, 2018). A legislative approach was used to examine the content and gaps in the *Burgerlijk Wetboek* (Civil Code), particularly with regard to the definition of inheritance and the possibility of including digital assets in the scope of inheritance. A conceptual approach was used to examine the concepts of wealth and property in classical civil law and their relevance to the development of digital wealth today. Meanwhile, the comparative law approach is used to examine digital inheritance systems in other countries that have legally regulated access to digital accounts and electronic assets.

The research specifications are descriptive-analytical in nature, systematically describing the civil inheritance laws currently in force in Indonesia and examining their normative weaknesses in dealing with the challenges of digital asset inheritance. This research also analyzes secondary data in the form of legal literature, legislation, journal articles, and relevant international documents. In addition, case studies are conducted on a number of cases or factual situations where problems arise in the inheritance of digital assets by heirs, in order to concretely demonstrate the importance of regulatory updates in Indonesian inheritance law.

The data was obtained through a document study of primary legal materials in the form of the Civil Code, the Electronic Information and Transaction Law, and other regulations related to digital assets, as well as secondary legal materials in the form of books, scientific journals, and previous research results. Data analysis was conducted using qualitative analysis methods, which involved a thorough and critical examination of the normative content of legislation, expert opinions, and legal practices in several countries. The results of this analysis were then used as a basis for formulating legal arguments and recommendations for the harmonization of civil inheritance law with regard to the existence of digital assets in the Indonesian legal system.

3. RESULTS AND DISCUSSION

3.1. The Urgency of Digital Asset Regulation in Inheritance Law

Digital assets are all forms of intangible wealth (*onstoffelijke goederen*) whose existence is based on information and communication technology. These assets include various forms, such as electronic money in e-wallets, cryptocurrencies (Bitcoin, Ethereum), social media accounts, digital data, digital artwork (NFTs), and digital intellectual property stored online. Although they are not physically tangible, digital assets have significant economic value and can be transferred or inherited. Therefore, according to the principles of property law (*vermogensrecht*), they should be recognized as part of the estate that can be inherited (Heriyanto et al., 2024). As described in Grotius' theory of ownership (*eigendomsrecht*) in *Inleidinge tot de Hollandsche Rechtsgeleerdheid*, everything that can be owned and transferred can basically be included in the scope of property law, including digital assets that are *onlichamelijke zaken* (*intangible objects*) (Grotius, 1895).

Civil inheritance law in Indonesia, which is based on the *Burgerlijk Wetboek* (BW), does not explicitly regulate the existence and inheritance of digital assets. Article 830 of the Civil Code states that inheritance only becomes effective upon the death of a person, and Article 874 stipulates that all of the deceased's property is transferred to their heirs.

(Maripigi, 2021). However, the term "goods" (*goederen*) in the Civil Code still refers to tangible assets, such as movable property (roerende zaken) and immovable property (*onroerende zaken*). Since digital assets have no physical form, their existence becomes a legal question (*rechtsvraag*) as to whether they can be included in the category of inheritable assets according to inheritance law (*het erfrecht*). This legal vacuum means that digital assets are not fully accommodated in the civil inheritance law system.

In addition to the Civil Code, other laws and regulations such as Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), which was later amended by Law No. 19 of 2016, also do not clearly regulate the mechanism for inheriting digital assets. Although Article 1(5) of the ITE Law defines "Electronic Information," there is no provision addressing the transfer of rights or ownership of digital accounts following the death of the account holder. Similarly, in Law No. 8 of 1999 on Consumer Protection, there are no provisions that can serve as a basis for protecting the rights of heirs to digital ownership linked to online services. In the absence of a lex specialis regulating this matter, a legal vacuum (*rechtsvacuüm*) arises, weakening the legal position of heirs regarding digital assets.

In practice, heirs face significant obstacles when attempting to access the digital assets of the deceased. Many digital service providers such as Google, Facebook, or cryptocurrency wallet services have strict privacy policies and binding terms of service. Under these agreements, when a user passes away, their account is deactivated or deleted without considering the existence of heirs. This creates a serious problem because, according to inheritance law, all rights and obligations of the deceased should be transferred to the heirs. The absence of a legal framework requiring service providers to grant access to heirs results in many digital assets becoming inaccessible or even lost.

Due to the lack of formal mechanisms for recording and bequeathing digital assets, many assets are at risk of being lost permanently. Some digital assets require private keys or multi-factor authentication that are only known to the owner during their lifetime. Without legal protocols requiring the recording of digital assets in a will (*testamentaire verklaring*) or notarization, there is no legal way to access these assets. This contradicts the principle of property protection under Article 570 of the Civil Code, which states that property rights cannot be lost except through specific legal events. The loss of access to digital assets is not the result of a legal transfer but rather the absence of adequate legal regulations.

According to Gustav Radbruch in his theory of Rechtsidee, law must guarantee three main values (Radbruch, 1950):

1. Legal Certainty (*rechtszekerheid*)
2. Justice (*gerechtigheid*)
3. Expediency / Utility (*doelmatigheid*)

In this context, the absence of regulations on digital assets in inheritance law has undermined the principles of legal certainty and justice for heirs. Digital assets that have economic and personal value should not simply disappear due to a legal vacuum. Therefore, the state has a responsibility to provide a legal framework that is adaptive to the times, in line with the spirit of Article 28D paragraph (1) of the 1945 Constitution, which guarantees the right to equal treatment before the law.

Previous literature explains that digital assets need to be explicitly regulated in inheritance law because they have the potential to cause disputes between heirs (Edwards & Harbinja, 2013; Heriyanto et al., 2024; Szwajdler, 2023). In addition, research by Amalia et al (2024) also emphasizes that one of the obstacles to digital inheritance is the absence of legal procedures that heirs can use to claim digital accounts or assets (Amalia et al., 2024). This shows that, academically speaking, the urgency of this regulation has been recognized, but has not yet been followed up with regulatory action by lawmakers.

Some countries have responded to this challenge more quickly. The United States, for example, passed the *Revised Uniform Fiduciary Access to Digital Assets Act* (RUFADAA), which grants legal rights to guardians or heirs to access digital accounts (Mashhour et al., 2024; Walker, 2015). Similarly, in Germany, based on a ruling by the Bundesgerichtshof (*Federal Supreme Court*), social media accounts are considered part of an estate and can be fully inherited (Yulida et al., 2024). Singapore, through its Personal Data Protection Act, has even opened up space for the regulation of digital data management after death (Arisanthi, 2025). Indonesia does not yet have a similar approach, either in terms of legislation or jurisprudence, and therefore lags behind in terms of legal development in the digital age.

In view of all the above issues, it is imperative for lawmakers to reformulate civil inheritance law, particularly by expanding the definition of nalatenschap in the Civil Code to include digitale eigendommen. This reform can be initiated through the issuance of government regulations or, in the long term, through a revision of the Civil Code itself. Harmonization with Islamic and customary inheritance systems is also necessary to avoid legal overlap or discrimination in their implementation. With a systematic and forward-looking approach, Indonesian inheritance law can ensure fair protection of heirs' rights, including in the inheritance of digital assets.

3.2. Analysis of the Harmonization of Civil Inheritance Law Regarding Digital Assets

Based on the above explanation, the author contends that a reformulation of inheritance provisions in the *Burgerlijk Wetboek* (BW) or the Indonesian Civil Code (KUHPerdata) is a crucial step in adapting inheritance law to modern developments, particularly concerning digital assets. Currently, the terms "goods" (*goederen*) or "wealth" (*vermogen*) under the Civil Code do not yet encompass intangible assets such as cryptocurrencies, social media accounts, or data stored in cloud-based systems. Therefore, it is necessary to reformulate relevant articles, especially Article 499 of the Civil Code, which defines "objects" as anything that can be owned. From a modern property law perspective, this definition must be expanded to include *onstoffelijke goederen* (intangible property), in line with technological advancements and contemporary forms of digital wealth ownership.

In other countries, various legal efforts have been made to integrate digital assets into inheritance systems. The United States, for example, has implemented the *Revised Uniform Fiduciary Access to Digital Assets Act* (RUFADAA), a law that grants heirs or legal representatives (fiduciaries) the right to access, manage, and distribute the digital assets of the deceased. This law stipulates that digital service providers are required to grant access to heirs if there is legal evidence, such as a will or court order. In Singapore, although there is no specific law, the Personal Data Protection Act allows for further discussion on the management of personal data after death. Meanwhile, in Germany, the high court (*Bundesgerichtshof*) ruled that social media accounts are part of the estate and can be inherited like personal letters. These practices demonstrate the importance of adapting the law to digital dynamics.

According to the theory of legal responsiveness proposed by Philippe Nonet and Philip Selznick, the law must be able to respond to social needs and developments in order to remain relevant and effective (Djauzie, 2025; Nonet & Selznick, 2019). In this context, Indonesia's inheritance law system needs to be harmonized through the adaptation of inheritance law norms and procedures that cover digital assets. Harmonization here does not mean standardizing the entire legal system (civil, Islamic, and customary), but rather creating a normative common ground that can be applied universally to ensure legal protection and certainty for heirs, especially in terms of access to digital assets.

Efforts to harmonize inheritance law with regard to digital assets need to be carried out gradually and systematically. The initial step recommended is to expand the definition of “goods” or “wealth” in the Civil Code to include digital forms of wealth. This can be done through jurisprudence or limited amendments to the relevant articles of the Civil Code. As a temporary alternative, the Supreme Court could issue a Circular Letter (SEMA) to provide technical guidelines for civil judges in handling cases involving the inheritance of digital assets. This approach would open up space for a more modern and inclusive interpretation of the law in response to technological developments.

The scheme for harmonizing inheritance law with regard to digital assets can be summarized in the following three main points:

1. Integration of Digital Assets into the Estate Inventory
   The first and most fundamental step in harmonizing inheritance law with digital assets is to integrate digital assets as a legitimate part of the estate or nalatenschap. Under Indonesian civil inheritance law, which refers to the *Burgerlijk Wetboek* (BW), the definition of “goods” (goederen) in Article 499 of the Civil Code is still limited to tangible objects and does not cover modern forms of wealth such as digital data or electronic assets. Therefore, expanding the scope of this definition is urgent in order to accommodate assets such as cryptocurrency wallets, social media accounts, copyrighted digital files, and paid software licenses. The principle of volledigheid van de nalatenschap in the Dutch legal system emphasizes that all of the deceased's assets, both visible and hidden, must be recorded in their entirety to ensure fair distribution.

   In practice, explicitly listing digital assets in a will (testamentaire beschikking) or inventory of assets is key to ensuring that digital inheritance is not overlooked or hidden. Given that most digital assets can only be accessed with specific authentication such as private keys, two-factor authentication, or other access codes, the existence and access information for these assets must be legally communicated in a will or inheritance record. This is where the role of a notary becomes crucial as a public official authorized to record and authenticate the testator's statements of intent, as stipulated in Article 938 of the Civil Code. As a result, digital assets can be administered alongside conventional assets in the inheritance distribution process.

This approach is in line with Nonet and Selznick's theory of Responsive Law, which states that law must develop adaptively in response to social and technological changes. In this context, inheritance law should not be static and fixated on the forms of wealth of the past, but must respond to the reality of modern society's digital wealth. Additionally, Law No. 19 of 2016 on Amendments to the ITE Law, although it does not explicitly regulate digital inheritance, can serve as a starting point for regulating the existence and legal status of digital information and assets. With this recognition, digital assets legally obtain valid status in the list of inheritances and can be protected by applicable legal instruments.

2. Mechanism for Identifying and Distributing Digital Assets

Following the legal recognition of digital assets, the next step is to establish a systematic mechanism for identifying and distributing digital assets. In conventional inheritance practices, asset identification is carried out through records of assets known to heirs, notaries, or financial institutions. However, in the digital context, many assets are intangible, stored in online networks, or even unknown to family members. Therefore, the state needs to create an integrated digital asset recording system, similar to the land system (such as through the National Land Agency), but based on digital technology. This system can facilitate individuals to voluntarily register their digital assets in a national system that will become a legal reference when the inheritance is opened.

Notaries may be granted additional authority as parties responsible for recording digital assets in wills or inheritance inventories. Notaries may also collaborate with information technology providers or digital banking institutions to confirm the existence of digital assets belonging to the deceased. This aligns with the spirit of Article 16 of Law No. 30 of 2004 on the Office of the Notary, which allows notaries to innovate in legal services in line with contemporary developments. Additionally, if a national identification system is implemented, disputes arising from ignorance of the existence of digital assets can be minimized. The identification of digital assets must be based on bewijsrecht (evidence law), which emphasizes the importance of authentic evidence for the validity of an inheritance.

This approach is reinforced by Satjipto Rahardjo's opinion that law should not merely be a rigid normative device, but should be a means to achieve substantive justice (Fadhila, 2021). In this case, the distribution of digital assets without proper identification has the potential to cause inequality in access or control by certain heirs unilaterally. Therefore, the distribution of digital assets requires legal protocols that can be used as guidelines, such as inheritance certificates, wills, and authentic evidence of the existence and value of these digital assets. With a transparent and structured system, the distribution process becomes more accountable and avoids practices of inheritance fraud (verduistering van erfenis).

3. Technical Access Arrangements by Heirs

   The third step in the harmonization scheme is to establish a legal mechanism that gives heirs technical access to the digital assets of the deceased. Most digital service providers, such as Google, Apple, Binance, and Meta, have terms of service that prohibit access by third parties without explicit authorization from the account owner. This poses a serious legal obstacle for heirs, who, despite being legally entitled, remain technically blocked by the platform's security systems. Therefore, national regulations must include provisions that provide a legal basis for heirs to gain access to digital assets based on a deed of inheritance, certificate of inheritance, or court decision. These provisions can be incorporated through Government Regulations, Ministerial Regulations, or even lex specialis in the form of a Digital Assets and Inheritance Law.

   These technical regulations must also consider privacy and personal data protection aspects. In this context, Law No. 27 of 2022 on Personal Data Protection is an important reference. Article 13 paragraph (2) of the PDP Law stipulates that data processing must obtain the consent of the data subject, but does not explain the status of data if the subject has died. This gap must be addressed through technical regulations that allow the heirs of a deceased person to access their data on a legal basis. Access to crypto wallets, for example, can be regulated so that the platform grants rights to the heirs after verification of inheritance documents in accordance with national law. This will ensure that property rights are not lost simply due to technical obstacles.

   This approach is consistent with the principles of rechtszekerheid (legal certainty) and gerechtigheid (justice) as put forward by Gustav Radbruch (Radbruch, 1950). Radbruch emphasizes that the law must not only be clear and enforceable, but also fair and beneficial to society. In the case of digital inheritance, legal certainty means that heirs know where to file their claims, and digital companies know when to comply with access requests. Clear access procedures will close the door to abuse or legal confusion. This is where international cooperation through cross-border enforcement, especially with global platforms, is crucial to ensure that national legal provisions are recognized and respected across borders. Thus, technical regulations become a crucial pillar in ensuring the effectiveness of legal harmonization regarding digital assets.

Conceptually, this scheme strengthens the legal position of heirs and creates legal certainty in the realm of digital inheritance. According to Gustav Radbruch's theory of rechtssicherheit (legal certainty), good law must be predictable and provide guarantees for the rights of legal subjects. The harmonization of inheritance law to include digital assets not only provides protection of rights, but also brings national law into line with international standards and developments in the digital society.

With the implementation of this scheme, it is hoped that the inheritance law system in Indonesia can develop into a responsive and inclusive system. This harmonization does not mean eliminating differences between civil, Islamic, and customary inheritance systems, but rather bringing together points of normative commonality through the principles of subsidiarity and complementary law. As a result, digital assets will not become a source of dispute or loss of value, but will instead be a legitimate and protected part of a modern national inheritance system.

4. CONCLUSION

Based on the above explanation, it can be concluded that Indonesian civil inheritance law, which is still rooted in the *Burgerlijk Wetboek* (Civil Code), does not explicitly accommodate the existence and mechanism of inheritance of digital assets such as cryptocurrency, e-wallets, digital accounts, and digital intellectual property, thereby creating a legal vacuum and uncertainty for heirs. Given the characteristics of digital assets—which are intangible, have economic value, and depend on access authorization—the urgency of harmonizing inheritance law becomes crucial to align the national legal system with the reality of digital wealth in modern society. This harmonization must include expanding the definition of inheritance assets, including digital assets in the list of the deceased's assets, establishing legitimate identification and distribution mechanisms, and regulating technical access by heirs, to ensure legal certainty (*rechtszekerheid*) and legal protection of heirs' rights are guaranteed fairly and comprehensively within Indonesia's legal system.

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