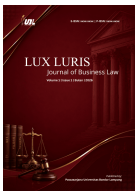
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Digital Personhood and Post-Mortem Identity Rights: Reconceptualizing Inheritance Law and Human Rights in Indonesia

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Abstract

The rapid acceleration of the digital economy in the era of Society 5.0 has introduced significant challenges to inheritance law, as traditional frameworks struggle to accommodate assets that are intangible yet possess substantial economic and personal value. This article explores the legal construction of digital personhood and the protection of identity within the context of post-mortem privacy and succession law in Indonesia. Currently, the Indonesian Civil Code (KUHPerdata) creates a significant legal vacuum by limiting the definition of "property" to physical objects, failing to provide heirs with a clear mechanism to access and claim digital assets such as cryptocurrencies and online archives. Employing a normative juridical method, this study analyzes the inherent tension between traditional succession law and the exigencies of the digital age. The findings reveal that existing provisions are inadequate to protect the post-mortem digital integrity of individuals, as traditional principles like saisine are rendered ineffective by technical access barriers. Consequently, this study proposes a legal reconstruction that formally recognizes digital personhood as a protected human right and mandates an adaptive role for Notaries as secure digital executors, integrating smart contracts within notarial deeds to ensure legal certainty and the protection of heirs' rights.

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INTRODUCTION

The unprecedented acceleration of digital transformation in the era of Society 5.0 has triggered a fundamental disruption to the traditional doctrines of inheritance law that have long dominated the legal landscape in Indonesia (Hardiyansyah et al., n.d.). This paradigm shift has moved beyond the mere digitization of economic transactions, effectively creating a new class of wealth in the form of digital assets that are ontologically inseparable from an individual's identity a concept increasingly defined as *digital personhood* (Amin, 2025) Despite this evolution, the Indonesian civil inheritance framework remains deeply rooted in the *Burgerlijk Wetboek* (KUHPerdata), a legal structure conceived in the 19th century that adopts an anthropocentric and materialist conception of property (Abidin, 2024). Consequently, the current legal system fails to accommodate digital assets as inheritable objects, thereby creating a significant normative vacuum (*legal gap*) that leaves heirs in a state of precarious uncertainty regarding their rightful succession of digital estates (Ali & Salikin, 2025)

This normative gap is further exacerbated by the absence of explicit regulations recognizing *post-mortem privacy* as a fundamental human right (Ayu & Arisanthi, 2025). Theoretically, the Indonesian legal system continues to operate within a rigid dichotomy that distinguishes between legal subjects (living persons) and legal objects (material assets), while largely ignoring the continuity of an individual's digital persona after death (Harbinja et al., 2024) Adopting Nonet and Selznick's Theory of Responsive Law, it is evident that the legal system must undergo a transformative process to become

more adaptive to emerging social needs; yet, the current autonomous-colonial framework remains inherently incapable of addressing the urgent requirement for human rights protection in cyberspace (Khairun, 2023) This failure creates an "ontological vulnerability" where the digital identity of the deceased is exposed to potential exploitation by global platforms or unauthorized third parties, lacking any robust juridical control by the rightful heirs (Yong et al., 2024).

Furthermore, the principle of *saisine* the automatic transfer of rights upon death as stipulated in Article 833 of the KUHPerdata is rendered largely inoperative within the digital realm due to insurmountable technical barriers The absence of a "digital executor" mechanism means that even where heirs possess de jure inheritance rights, the *de facto* control over digital assets protected by sophisticated encryption and private keys remains unattainable(Achadiyat et al., n.d.). The authority of Notaries, as established under the Law on Notary Positions (UUJN), remains largely nominal in this context, limited by a lack of technical guidelines for digital verification and asset custody.Thus, this research aims to reconstruct the *legal standing* of heirs by integrating human rights values into succession law via the recognition of *digital personhood*. Through this framework, digital inheritance will be repositioned not as a mere economic commodity, but as a manifestation of individual honor and privacy that must be respected beyond the threshold of mortality (Ayu & Arisanthi, 2025)

METHOD

This research employs a normative legal research method with a descriptive-analytical approach. The normative approach is utilized to analyze applicable positive legal norms, legal doctrines, and the synchronization of statutory regulations regarding the concept of digital personhood and digital asset inheritance in Indonesia. The study applies a statutory approach (statute approach) to examine the relevance of the Indonesian Civil Code (KUHPerdata), the Electronic Information and Transactions Law (UU ITE), and the Personal Data Protection Law (UU PDP) in addressing phenomena that have not yet been explicitly regulated Furthermore, a conceptual approach is employed to construct a framework regarding digital personhood as an extension of human dignity and to analyze the urgent need for transforming the Notary's role in the Indonesian legal system. The research utilizes secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials include the KUHPerdata, Law No. 2 of 2014 concerning the Position of Notary, Law No. 1 of 2024 concerning Electronic Information and Transactions, and relevant Bappebti regulations concerning crypto asset trading) (Mulyani et al., 2023). Secondary legal materials were obtained through literature review (library research), encompassing accredited scientific journals, civil law literature, inheritance law textbooks, and prior research findings relevant to digital inheritance and post-mortem privacy. Tertiary legal materials, such as legal dictionaries and encyclopedias, were utilized to clarify technical fundamental concepts (Sendrawan et al., 2025). All collected legal materials were analyzed qualitatively using legal interpretation and deductive logic to formulate a robust construction of legal protection for heirs and a modernized role for Notaries in the digital era.

RESULTS AND DISCUSSION

Digital Personhood and the Normative Gap in Indonesian Inheritance Law

The dawn of the Society 5.0 era has triggered a fundamental ontological disruption in the definition of wealth. For centuries, the Indonesian civil legal system, anchored by the *Burgerlijk Wetboek* (KUHPerdata), has maintained a definition of property limited to *res corporales* (physical objects). However, the modern digital economy has introduced *res incorporales* such as cryptocurrency, Non-Fungible Tokens (NFTs), and vast online archives that possess substantial economic and sentimental value. This study finds that because these assets exist solely in binary form, they fall outside the conventional scope of property, creating a significant "legal vacuum" that leaves heirs without a clear juridical mechanism to claim digital estates.

Furthermore, the concept of "digital personhood" now demands legal recognition beyond mere economic utility. Digital data is an extension of an individual's identity, and its persistence after death often termed *digital identity* requires protection under the umbrella of post-mortem privacy. Existing regulations, such as the ITE Law and the Personal Data Protection Law (UU PDP), primarily protect the rights of living subjects and remain silent on the status of digital personas after mortality. This absence

creates an "ontological vulnerability," where the deceased's digital integrity is left to the mercy of global platform policies, effectively stripping heirs of their rightful control over the decedent's digital memories.

Technical Impediments and the Failure of the Saisine Principle

The principle of *saisine*, as established in Article 833 of the KUHPerdata, mandates that inheritance rights pass automatically to heirs upon death. While this principle is theoretically robust, its practical application in the digital age is rendered ineffective by insurmountable technical barriers. Unlike physical assets, digital property is frequently protected by sophisticated encryption, multi-factor authentication, and *private keys* that operate independently of the legal system.

Even when an heir holds a *de jure* right to the inheritance, they often lack *de facto* access because the credentials remain locked within decentralized networks or proprietary cloud systems. Platform providers often cite stringent privacy policies and *Terms of Service* (ToS) as a basis to deny access to third parties, including legitimate heirs, absent specific court orders or platform-defined legacy contacts. This creates a state of "succession paralysis," where legal entitlement does not equate to actual possession, thereby negating the core objective of inheritance law to facilitate an orderly transfer of wealth.

Reconstructing the Notary Role: The Digital Executor and Smart Contracts

To reconcile the divide between rigid traditional norms and fluid digital realities, this study proposes a paradigm shift in the role of the Notary. The current nominal authority of Notaries, as defined by the Law on Notary Positions (UUJN), must be expanded to include the function of a *digital executor* or fiduciary custodian. A critical mechanism for this transformation is the integration of *smart contracts* directly into notarial deeds.

By embedding *smart contracts* within an authentic deed, the Notary effectively digitizes the testator's intent, enabling automated execution upon the fulfillment of specific conditions, such as the verification of death. This ensures that the transfer of digital assets occurs seamlessly and transparently, adhering to the legal certainty demanded by civil law. Such a framework would allow Notaries to perform their duty as a public official to guarantee the authenticity of the transaction while simultaneously leveraging blockchain's inherent security. However, this necessitates a robust legal shield for Notaries, including clear technical standards and liability protections for managing sensitive access credentials within highly secure *digital vaults*.

Harmonization and Human Rights Protection in the Digital Era

Ultimately, the transformation of inheritance law must be grounded in a human-centric approach that upholds dignity and justice. The intersection of Indonesia's pluralistic legal systems combining civil law, customary law, and Islamic law provides a unique opportunity to create a hybrid, adaptive inheritance framework. Islamic law, which categorizes assets as *maal* (wealth), provides a moral foundation to acknowledge digital assets as inheritable, provided they do not involve *riba* or *gharar*.

Harmonizing these diverse systems involves establishing a national standard where *digital legacy* is protected as a form of individual honor. State intervention is necessary to provide an overarching legal framework that overrides restrictive, seceding platform policies and guarantees that the digital identity of an Indonesian citizen is treated with the same sanctity as their physical assets. By prioritizing *post-mortem* privacy and the legitimate interests of the next of kin, Indonesia can evolve its succession law to be both technologically resilient and culturally grounded.

CONCLUSION

Based on the analysis and discussion provided, it can be concluded that the Indonesian inheritance law system is currently facing a critical crisis of adaptation due to a significant disparity between conventional legal norms and the realities of the rapid digital economy. This disconnect creates profound legal uncertainty, as high-value digital assets such as cryptocurrencies, Non-Fungible Tokens (NFTs), and commercial digital archives remain trapped in a "legal vacuum". The conclusions of this study are fundamental:

1. Transformation of the Property Paradigm: Indonesian civil law, rooted in the *Burgerlijk Wetboek* (KUHPerdata), remains constrained by an anthropocentric-materialist paradigm that defines "property" as exclusively physical. There is an urgent need for a formal legal recognition that *digital personhood* and *digital assets* constitute a distinct class of intangible movable property. This recognition must also extend to the protection of *post-mortem privacy* as an integral part of human rights, ensuring that an individual's digital persona is not exploited or erased without authorized oversight (Ayu & Arisanthi, 2025)
2. Failure of the *Saisine* Doctrine: The principle of *saisine* (automatic transfer of rights upon death), as stipulated in Article 833 of the KUHPerdata, has proven insufficient in the digital realm. Legal entitlement does not equate to factual accessibility. The existence of encryption, *private keys*, and proprietary platform policies has created a technical wall that renders the automatic transfer of rights virtually inoperative. Without a bridge between legal succession and technical access, the core intent of inheritance law is effectively nullified for digital estates(Hardiyansyah et al., n.d.).
3. Necessity of Technology-Law Integration: The role of the Notary must evolve from an administrative witness to a "Digital Executor" (*digital executor*). The traditional reliance on paper-based wills is insufficient for the demands of the digital age. The integration of *smart contracts* into authentic notarial deeds is a requisite evolution to provide the security, transparency, and automaticity needed to protect the interests of testators and heirs alike, moving away from archaic procedural limitations (Sendrawan et al., 2025)

To address the aforementioned challenges and modernize the inheritance law framework in Indonesia, this study proposes the following strategic recommendations for stakeholders:

1. Comprehensive Legislative Reform of the Civil Code: The Government and the House of Representatives (DPR RI) should prioritize the revision of Book II of the KUHPerdata concerning Property and Inheritance. This revision must incorporate operational definitions of "Digital Assets" as intangible movable property. Furthermore, the legislation should explicitly outline the legal rights of heirs to access the deceased's digital information for estate administration purposes, while maintaining safeguards for the privacy of third parties involved in the digital records (Sendrawan et al., 2025; Tauda et al., 2023).
2. Institutionalizing the Role of *Digital Executor* and Cyber Notaries: The legal framework must formally institutionalize the position of the *digital executor*. Notaries, as public officials, should be granted the authority to validate, store, and distribute digital access credentials through highly secure, encrypted *Digital Vaults*. The Indonesian Notary Association (INI) must establish standardized *Standard Operating Procedures* (SOPs) for the custody of digital assets, ensuring that Notaries are trained in cryptographic security and the management of virtual assets without compromising their professional liability or the confidentiality of the deeds (Pratama & Syahrul, 2022)
3. Adoption of *Smart Contracts* as Legally Binding Instruments: There is a critical need to promote the adoption of *blockchain* technology and *smart contracts* as complementary instruments to traditional notarial deeds. The government should enact regulations recognizing *smart contracts* when initiated by an authentic notarial deed as valid legal evidence in probate proceedings. This would facilitate the automatic and tamper-proof distribution of digital assets, significantly reducing the potential for litigation and administrative delays (Luthfi et al., 2024)
4. Harmonization through a Multidisciplinary Approach: Given Indonesia's legal pluralism, the Supreme Court should issue a Supreme Court Regulation (PERMA) or jurisprudential guidelines to harmonize the application of civil, customary, and Islamic inheritance laws concerning digital assets. This framework should clarify the distinction between assets with purely commercial value and those with personal privacy value (*post-mortem privacy*), providing judges with a unified interpretative approach to resolve digital inheritance disputes effectively and fairly.(Yulida et al., 2024)

Strengthening Cyber Infrastructure and Legal Literacy: The state must develop a national cyber-infrastructure capable of supporting digital succession, including an integrated system for verifying deaths that communicates with digital service providers. Simultaneously, a national campaign for *digital*

estate planning literacy is essential. Public education should emphasize the importance of explicitly listing digital assets in wills and appointing *legacy contacts* on digital platforms, thereby enabling a proactive approach to prevent the permanent loss of valuable digital property (Roberto et al., 2023)

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