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The Transformation of the Concept and Legal Character of Digital Assets of Economic Value in Indonesian Family Law

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ABSTRACT

The development of technology and the digital economy has transformed the form of public wealth from conventional assets to digital assets with economic value such as cryptocurrencies, digital wallets, marketplace accounts, monetized social media accounts, and various other forms of virtual assets. These developments have also influenced legal relations within the family sphere, particularly regarding joint property, inheritance, and gifts. However, Indonesian family law is still dominated by the conventional property paradigm, which focuses on tangible objects and physical control, thus not fully encompassing the character of digital assets based on electronic systems and digital access control. This study aims to analyze the transformation of the concept and legal character of digital assets with economic value in Indonesian family law and examine the reinterpretation of the concept of property to accommodate the development of digital wealth in the modern era. The study uses normative legal research methods with a conceptual approach, a statutory approach, and a multidisciplinary approach that combines legal, digital technology, and digital economic perspectives. This study also uses national law, Islamic law, and customary law perspectives to analyze the concept of property in Indonesian society. The results show that digital assets are essentially part of property or wealth because they have economic value and can be controlled, utilized, and transferred in legal relations. However, digital assets possess unique legal characteristics, including intangibility, electronic access control, and reliance on digital systems. These characteristics have led to a shift in the concept of asset control from physical control to digital access control. Therefore, a reinterpretation of the concept of assets in Indonesian family law needs to be directed toward recognizing that digital assets are part of family wealth, with distinct control characteristics from conventional objects. This allows Indonesian family law to be more responsive and adaptive to the development of economically valuable digital assets in the digital era.

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1. Introduction.

The development of digital technology has driven significant changes in people's economic activity patterns, including a shift in the form of wealth from conventional assets to digital assets with economic value. The e-Conomy SEA 2024 report, compiled by Google, Temasek, and Bain & Company, indicates that Indonesia's digital economy will reach US$90 billion (approximately Rp1,420 trillion) by 2024, making it the largest in Southeast Asia.[1]. Furthermore, the Commodity Futures Trading Regulatory Agency (Bappebti) recorded that the value of crypto asset transactions in Indonesia reached Rp650.61 trillion throughout 2024, with 22.91 million investors.[2]On the other hand, data from the Central Statistics Agency (BPS) shows that nearly 30% of households in Indonesia will have used digital wallets or e-wallets by 2024.[3]This situation demonstrates that the development of digital technology is not only changing economic transaction patterns but also transforming the form of community wealth into digital assets that have real economic value and are increasingly integrated into people's social lives.

This transformation of digital-based wealth forms directly impacts legal relationships within the family, particularly those related to joint property, inheritance, and gifts. Digital assets such as cryptocurrency, e-wallet balances, monetized social media accounts, marketplace accounts, digital domains, and other virtual assets are beginning to have significant economic value and are becoming part of the modern family's wealth.[4]The development of the digital economy and creator economy also shows that people's sources of income no longer come solely from conventional jobs, but are instead growing through digital activities that generate assets of economic value.[5]In practice, digital assets are often managed and used in family life, either as an investment vehicle, a source of income, or a form of wealth storage.[6]However, the electronically accessed nature of digital assets means that control of these assets is highly dependent on specific accounts, passwords, private keys, and digital authentication systems. This situation has the potential to raise legal issues in divorce, inheritance, or transfer of rights within a family relationship, as the existence and control of digital assets cannot always be identified through conventional legal mechanisms.[7].

Although digital assets have developed as part of modern family wealth, the Indonesian family law system is still dominated by the conventional property paradigm which is oriented towards tangible objects and physical control.[8], [9]. Regulations regarding joint property, inheritance, and gifts in national law and the Compilation of Islamic Law do not explicitly regulate the position of digital assets with economic value as part of the object of family law.[10], [11]On the other hand, the intangible and electronically access-based nature of digital assets raises new legal issues related to proving ownership, control, transfer, and identification of assets in family relationships.[12]This problem becomes increasingly complex because control of digital assets is often determined more by control of passwords, private keys, and electronic accounts than by formal ownership, as is the concept of property in classical law.[13]. In addition, various cases of lost account access, unilateral control of digital assets, and misuse of electronic accounts show that the character of digital assets is fundamentally different from the concept of conventional objects.[14]This situation indicates a conceptual gap in Indonesian family law in addressing the development of digital assets with economic value in the digital era.

Various studies on digital assets have generally focused on aspects of technology, electronic transactions, the digital economy, and regulations for trading crypto assets and other virtual assets.[15]Several studies have also discussed the position of digital assets from the perspective of business law and cyber law, but the discussion is still limited to the aspects of transactions and legal protection in the digital space and tends to use a conventional normative legal approach.[16]On the other hand, studies on digital assets in Indonesian family law are still relatively limited and generally only position digital assets as economic objects without linking them to the transformation of the concept of property in modern family relations.[17]. In fact, the development of digital assets with economic value has influenced how society understands control, ownership, and forms of wealth within family relationships. This research is novel because it not only examines digital assets as objects of the digital economy but also analyzes the transformation of the concept and legal character of digital assets in Indonesian family law through a multidisciplinary approach that combines legal, digital technology, and digital economic perspectives. Furthermore, this research also uses national law, Islamic law, and customary law perspectives to construct a reinterpretation of the concept of property in Indonesian family law to accommodate the evolving character of digital assets with economic value in the digital era.

Based on this background, the problem formulation in this research is as follows:

1. How is the transformation of the concept and legal character of digital assets of economic value in Indonesian family law?
2. To what extent can the reinterpretation of the concept of property in Indonesian family law accommodate the character of control of digital assets of economic value in the digital era?

In line with the formulation of the problem, this study aims to analyze the transformation of the concept and legal character of digital assets with economic value from the perspective of Indonesian family law. This study is also directed at identifying the forms and characteristics of digital assets that are relevant as objects of property in family relationships, both in the context of joint property and inheritance. Furthermore, this study aims to examine the suitability of the concept of property in Indonesian family law to the development of digital assets in the modern era and to find a basis for reinterpreting the concept of property that can accommodate the character of digital assets as part of family wealth. Thus, the results of this study are expected to provide a theoretical contribution to the development of Indonesian family law that is more responsive, adaptive, and provides legal certainty regarding the development of digital assets with economic value.

2. Research methods.

This research employs a normative legal research method with a multidisciplinary approach. This approach focuses on

analyzing the concepts, principles, norms, and legal character of digital assets with economic value in Indonesian family law. This research aims not only to identify existing legal regulations but also to analyze the transformation of the concept of property and wealth control due to technological developments and the digital economy. Therefore, this research positions law as a system of norms examined through a conceptual approach and statutory regulations to determine the relevance of the concept of property in addressing the development of digital assets in the digital era. Furthermore, this research employs a multidisciplinary approach to understand the character of digital assets, which cannot be fully explained solely through a conventional normative legal perspective.

The main approaches in this research are the conceptual and statutory approaches. The conceptual approach is used to analyze the transformation of the concepts of property, ownership, and control of wealth due to the development of digital assets with economic value, while simultaneously identifying their legal character. Meanwhile, the statutory approach is used to examine laws and regulations related to family law, electronic transactions, and the digital economy to identify gaps in legal regulation regarding digital assets in family relationships.

In addition to the primary approach, this research also employs a multidisciplinary approach, including a digital technology approach and a digital economy approach. The digital technology approach is used to understand the nature of digital asset ownership based on electronic access, such as accounts, passwords, and digital authentication. The digital economy approach is used to analyze the development of digital assets as part of modern wealth with economic value and the potential to become the subject of family legal relations, such as joint property, inheritance, and gifts.

This study also uses national law, Islamic law, and customary law perspectives to analyze the concept of property in Indonesian society. The national law perspective is used to examine the concept of property within Indonesia's positive legal system, while the Islamic law perspective is used to understand the concept of mal as property that has utility value and can evolve with societal changes. Meanwhile, the customary law perspective is used to examine the flexibility of the concept of property, which is not always dependent on the physical form of an object, but also on social values and control within familial relationships.

The data analysis technique used in this study is qualitative analysis with a descriptive-prescriptive method. Descriptive analysis is used to describe the development of digital assets with economic value, their legal character, and the transformation of the concepts of wealth and property ownership in a digital society. Meanwhile, prescriptive analysis is used to provide arguments and legal construction regarding the reinterpretation of the concept of property in Indonesian family law to accommodate the character of digital assets with economic value in the digital era. All legal materials are analyzed using legal interpretation and conceptual analysis techniques to identify normative relationships, legal gaps, and changes in the concept of property ownership due to the development of digital assets with economic value.

Various studies on digital assets to date have generally focused on aspects of technology, electronic transactions, the digital economy, and the regulation of trading in crypto assets and other virtual assets. Some studies have also addressed the position of digital assets from the perspective of business law and cyber law, but these discussions are limited to aspects of transactions and legal protection in the digital space and tend to use a conventional normative legal approach. On the other hand, studies on digital assets in Indonesian family law are relatively limited and generally only view digital assets as economic objects without linking them to the transformation of the concept of property in modern family relations. Yet, the development of digital assets with economic value has influenced how society understands control, ownership, and the form of wealth within family relationships. This research is novel because it not only examines digital assets as objects of the digital economy but also analyzes the transformation of the concept and legal character of digital assets in Indonesian family law through a multidisciplinary approach that combines legal, digital technology, and digital economic perspectives. Furthermore, this research utilizes national law, Islamic law, and customary law perspectives to construct a reinterpretation of the concept of property in Indonesian family law to address the evolving nature of digital assets with economic value in the digital era.

3. Results and Discussion.

3.1. Transformation of the Concept and Character of the Law of Digital Assets of Economic Value in Indonesian Family Law.

A. Transforming the Concept of Wealth in the Digital Age.

The development of information technology and the digital economy has brought about significant changes in the economic activity patterns of modern society, including the way people create and control wealth. The digitalization of various economic sectors has resulted in people no longer relying solely on physical wealth but also beginning to utilize various electronic-based assets with economic value. This is evident in the increasing use of digital wallets (e-wallets), crypto assets, marketplace accounts, monetized social media accounts, and various other forms of virtual assets that have developed as part of people's economic activities.[18]This development is in line with the legal recognition of electronic information and documents in Law Number 11 of 2008 concerning Electronic Information and Transactions as amended by Law Number 19 of 2016, which confirms that electronic information and electronic documents have legal standing in the activities of the digital community.[19]. Thus, the development of the digital economy has shifted the structure of society's wealth from a conventional paradigm to one based on digital systems.

The transformation of the digital economy has also influenced changes in the form of wealth in society. In the conventional paradigm, wealth is generally understood as objects that have a physical form and can be directly controlled, as reflected in the concept of objects in the Civil Code, which is still oriented towards tangible objects or objects that can be equated with material objects. However, the development of digital technology has given rise to new forms

of wealth that do not always have a physical existence, but still have economic value and can be used in people's economic activities. This condition shows that the development of the digital economy has expanded the form of wealth from physical objects to wealth based on data, accounts, and electronic systems. This change also shows that the concept of wealth in modern society is no longer solely dependent on the physical existence of an object. Thus, the development of the digital economy has ultimately transformed the way society understands the form and existence of wealth.[20].

These changes in the form of wealth also affect the concept of property control within family relationships. In conventional systems, property control is generally determined through physical possession of an object or through formal proof of ownership, as is known in family law practices regarding joint property, inheritance, and gifts. However, for digital assets with economic value, control relies more on digital access controls such as accounts, passwords, electronic authentication, and other digital security systems.[21]This characteristic demonstrates that the development of the digital economy has shifted the concept of asset ownership from physical ownership to digital access control-based ownership. This condition ultimately gives rise to a form of digital wealth that can no longer be fully explained through the conventional object-based physical ownership paradigm. Therefore, the development of the digital economy has given rise to the need to understand the legal character of digital assets in family law relationships in the digital era.[22].

B. Legal Characteristics of Digital Assets of Economic Value.

Digital assets with economic value are forms of digital wealth that possess economic value and can be controlled, utilized, and transferred within legal relationships. Digital assets are not limited to cryptocurrencies, but also include digital wallets (e-wallets), marketplace accounts, monetized social media accounts, digital domains, and various other electronic accounts with economic value. In practice, these assets can become part of a family's wealth because they can be used as a means of storing value and as a source of income.[20]The existence of digital assets has also been recognized in various digital economy and electronic system regulations, including the Electronic Information and Transactions Law and various regulations regarding digital asset trading and electronic payment systems in Indonesia.[18]. Therefore, digital assets can essentially be qualified as part of modern wealth or property in a digital society.

The primary legal characteristic of digital assets lies in their intangible nature and their reliance on electronic systems. Unlike conventional objects, which can be seen and controlled directly, digital assets exist in the form of data, accounts, and specific electronic systems. Despite their lack of physical form, digital assets still possess real economic value and can become the subject of legal relationships because they can be used and transferred by certain parties.[23]This characteristic aligns with the recognition of electronic information and electronic documents as legal objects in the Electronic Information and Transactions Law. Thus, digital assets have broadened the understanding of the forms of property in modern life.

Besides being intangible, digital assets also possess a control characteristic based on digital access control. Control of digital assets is generally determined through accounts, passwords, electronic authentication, or private keys used to control access to digital systems. In practice, the party with access to an electronic system can become the real owner of the digital asset. This control characteristic differs from conventional assets, which have traditionally emphasized physical control over an object.[21]. In addition, digital assets are also dependent on digital platforms, internet networks, and electronic authentication systems, making them vulnerable to loss of access, hacking, and electronic system failures.[22]Therefore, digital assets have a special legal character that distinguishes them from the conventional paradigm of physical possession.

3.2. Reinterpretation of the Concept of Assets in Indonesian Family Law Regarding the Character of Control of Digital Assets of Economic Value in the Digital Era

A. Shifting Concepts of Property Control in Family Law.

The concept of property control in Indonesian family law is fundamentally based on the paradigm of physical control over an object. In conventional systems, property control is generally determined through direct ownership, physical control, or formal evidence of assets such as land, houses, vehicles, and cash. This paradigm is reflected in the provisions regarding joint property in Law Number 1 of 1974 concerning Marriage and the Compilation of Islamic Law, which are still fundamentally oriented toward tangible assets.[24]Therefore, the legal relationship to property has so far been more closely linked to the physical existence of the object and a person's ability to directly control it. This situation indicates that the concept of property control in family law is still based on the paradigm of physical control over the object of wealth.

The development of digital assets with economic value has brought about changes in the pattern of wealth control in modern society. Control of digital assets is no longer solely determined by a physical connection to an object, but rather through digital access control, such as accounts, passwords, electronic authentication, and private keys. In practice, those with access to digital systems can become the real owners of digital assets even without physical control of the object. This characteristic demonstrates that control of wealth in a digital society depends more on the ability to control electronic access than on physical connections to specific objects.[25]. Thus, the development of digital assets has shifted the concept of asset control from physical control to digital access control-based control.

This shift in the concept of control has implications for family law, particularly regarding joint property, inheritance, and gifts. In practice, digital assets are often accessible only to certain parties who have control over electronic accounts or systems, potentially giving rise to issues of identification, proof, and transfer of rights within the family. Furthermore, loss of digital access can result in the loss of control over assets, even if they still exist economically. This situation demonstrates that the nature of control over digital assets differs from that of conventional objects, which have traditionally been the basis for the concept of property in Indonesian family law.[26]Therefore, the development of digital assets ultimately demonstrates the need to reinterpret the concept of property ownership within family relationships

in the digital age.

B. Reinterpretation of the Concept of Property in Indonesian Family Law.

The concept of property in Indonesian family law is still fundamentally based on the conventional wealth paradigm, which focuses on tangible objects and physical control over an object. This paradigm is evident in various family law regulations, such as the Civil Code, Law Number 1 of 1974 concerning Marriage, and the Compilation of Islamic Law, which generally still position property as a physically identifiable object of wealth.[27]However, the development of digital assets with economic value shows that modern wealth is no longer always in the form of tangible objects, but also in the form of data, accounts, and electronic systems that have economic value.[11]This situation presents challenges for the concept of property in family law in addressing the nature of digital property, which is based on electronic access control. Therefore, the development of digital assets ultimately demonstrates the need for a reinterpretation of the concept of property in Indonesian family law to accommodate the development of digital property in the modern era.

From a national legal perspective, digital assets can essentially be understood as part of property as long as they have economic value and can be controlled and transferred within a legal relationship. The recognition of electronic information and electronic documents in the Electronic Information and Transactions Law demonstrates that the Indonesian legal system has begun to acknowledge the existence of digital objects in society's legal activities.[28]Furthermore, from an Islamic legal perspective, the concept of wealth is not limited to tangible objects, but encompasses anything that has utility value and can be legally controlled. Meanwhile, customary law is inherently more flexible regarding the development of forms of wealth within society, as long as it has social value and function within family relationships.[11]These three perspectives demonstrate that the concept of property in the Indonesian legal system still has room to expand into the development of digital assets with economic value.

However, the electronic access control-based nature of digital assets suggests that the concept of property in family law can no longer be understood solely on the basis of physical control over an object. Digital assets demonstrate that modern control over property depends more on the ability to control access to digital systems than on physical relationships with specific objects. This situation suggests that reinterpreting the concept of property is not only related to the recognition of digital assets but also to changes in the concept of control within family relationships. Therefore, the reinterpretation of the concept of property in Indonesian family law needs to be directed towards an understanding that digital assets remain part of property or wealth, but have a different control character than conventional objects. Therefore, Indonesian family law ultimately needs to adjust its understanding of property and control over property to accommodate the development of digital assets with economic value in the digital era.

4. Conclusion

The development of technology and the digital economy has transformed the concept of wealth in society from a paradigm of physical objects to wealth based on digital systems and electronic access control. This transformation has given rise to digital assets with economic value that are no longer necessarily physical, but still have economic value and can be controlled, utilized, and transferred in legal relationships. Digital assets are essentially still part of property or wealth, but have special legal characteristics in the form of intangibility, based on digital access control, and reliance on electronic systems that distinguish them from conventional objects. These characteristics indicate that the development of digital assets has influenced the way society understands the forms of wealth, ownership, and control of assets in modern life. Thus, the development of the digital economy has ultimately brought about a transformation in the concept and character of property law in a digital society.

The evolving nature of digital assets with economic value has also led to a shift in the concept of property ownership in family law from physical ownership to ownership based on electronic access control. This shift has implications for family legal relationships, particularly regarding joint property, inheritance, and gifts, which have traditionally been based on the conventional wealth paradigm. Based on the perspectives of national law, Islamic law, and customary law, the concept of property still has room to accommodate digital assets as part of family wealth. However, the nature of digital asset ownership suggests the need for a reinterpretation of the concept of property and property ownership in Indonesian family law to accommodate the development of digital wealth in the modern era. Therefore, the reinterpretation of the concept of property needs to be directed at recognizing that digital assets remain part of family assets, but have a different ownership character than conventional objects based on physical ownership.

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