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Legality of Electronic Wills (Comparative Study Between Indonesian Conventional Wills And Electronic Wills in the State Of Indiana)

Ahmad Jayadi[1*], Salim HS[2], Aris Munandar[3]
Universitas Mataram

Corresponding Author: Ahmad Jayadi , ahmadjayadi763@gmail.com

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A B S T R A C T

This thesis examines the legality of electronic wills with a focus on a comparison between conventional wills in Indonesia and electronic wills in the state of Indiana, United States. The background to this study is based on the rapid development of technology, which has changed the paradigm of human communication and has had a significant impact on various aspects of life, including inheritance law. Digital technology has introduced new forms of legal instruments, such as electronic wills, which offer efficiency and convenience in the creation and management of legal documents. This research uses a comparative descriptive method to analyze the legality of conventional wills in Indonesia, the legality of electronic wills in Indiana, and compares these two systems to understand the similarities and differences as well as their legal implications. The data used is secondary data obtained from documentation, literature, legal regulations and related documents. The research results show that although electronic wills offer convenience and efficiency, there are significant challenges regarding security, trust and legal legitimacy. It is hoped that this research can contribute to legal literature and academic needs and become a basis for policy makers in developing regulations that support the application of technology in the inheritance law system.

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INTRODUCTION

The development of the times has brought about significant changes in the human communication paradigm. Technological developments, which are constantly evolving, have shaped the human communication landscape from time to time. For example, in the previous era, landline telephones were considered the most revolutionary innovation because they allowed direct communication between people even over long distances. However, with the advent of digital technology such as email, WhatsApp, and Facebook, the use of landlines has become obsolete and marginalized.

Technological development, refers to the process of innovation and improvement in the creation of tools and systems that facilitate human interaction and communication, including all aspects of innovation in hardware and software that affect the way humans interact and communicate. Rapid technological developments, such as the emergence of digital communication media, have drastically changed the landscape of human communication, which in turn, influences the dynamics of inheritance law by introducing new forms of legal instruments, such as electronic wills.

This change not only affects the technological domain, but also has deep implications in various aspects of human life, including in the legal field. One aspect affected is inheritance law. When someone dies, there is a transfer of ownership rights to the property they leave behind, which is known as the inheritance process.

One of the common methods used by heirs to receive an inheritance is through a will, which is often expressed in the form of a will. This will is an expression of the testator's wishes regarding the distribution of his assets after death. However, complexities arise when the contents of a will conflict with applicable civil law principles, such as the legitimacy of portie.

Legitim portie is a principle that determines the minimum portion of inherited assets that must be given to each heir in accordance with civil law provisions. When a will violates this principle, conflicts can arise between heirs who feel disadvantaged by the testator's decisions

Apart from that, the influence of internet media in society also influences the dynamics of inheritance law. Digital technology enables faster and more efficient storage and exchange of information, including in the context of creating and completing electronic wills.

The dynamics of inheritance law include changes and complex interactions between legal principles that influence the process of dividing inheritance between heirs, as well as the dynamics of changes in inheritance law regulations, interactions between civil law principles and customary law, as well as responses to technological developments in the context of distribution. inheritance.

This research aims to investigate how technological developments and the influence of internet media influence the dynamics of inheritance law, especially in the context of a comparison between conventional wills and electronic wills in the state of Indiana. By analyzing expert opinions and previous

research, this research will provide a deeper understanding of the complexity of inheritance law in the current digital era.

The state of Indiana, located in the Midwestern region of the United States, has a rich and varied history in the legal arena. Indiana was one of the original fifteen states that formed the United States, admitted to the union in 1816. With a significant population, Indiana has a structured legal system and is governed by a series of federal and state statutes.

Indiana has a series of laws and regulations that govern various aspects of life in the state. Indiana law covers a wide variety of areas, including criminal, civil, property, business law and more. For example, Indiana has a Code of Laws that includes various legal provisions relating to crime, motor vehicle regulations, property law, and family law. Additionally, Indiana is also subject to federal laws that apply throughout the United States. This includes federal laws governing interstate commerce, human rights, environmental policy, and more. In cases where there is a discrepancy between state law and federal law, federal law usually applies.

In the context of the use of legal precedent, in both state and federal courts in Indiana, attorneys and judges often refer to previous cases that have established precedent. These legal precedents form the basis for future legal decision-making, ensuring consistency and fairness in the legal system. Therefore, a thorough understanding of Indiana state law and applicable federal law is essential in researching and handling legal cases in the area.

Thus, it is hoped that this research will be able to provide a deeper understanding of how technological developments and the use of internet media influence the dynamics of inheritance law, especially related to the legality of electronic wills in the state of Indiana. Through a careful analysis of the comparison between conventional wills in Indonesia and electronic wills in Indiana, it is hoped that this research can provide a broader view of the challenges and opportunities in applying technology in the context of inheritance law. In addition, by contributing to legal literature and academic needs, it is hoped that this research can become a starting point for further research aimed at increasing understanding of the complexity of inheritance law in this digital era.

Based on the description above, there are several main issues that are examined in the research, namely how the Legality of Indonesian Conventional Wills is in the Civil Code, what the Legality of Electronic Wills is in the State of Indiana, and how the Indonesian conventional Wills in the Civil Code compare with Electronic Wills in the State of Indiana.

METODE PENELITIAN

The research method used in this study is a comparative descriptive research method. According to Sugiyono (2020), the descriptive method is a research method used to describe or describe a phenomenon or event in a systematic and factual way. Meanwhile, the comparative method is a method used to compare two or more phenomena to determine their similarities and differences. In the

context of this study, a comparative descriptive method was used to describe and compare the legality of electronic wills with conventional wills in the state of Indiana. (Muhaimin; 2020)

The approach used in this research is:

a. Legislative Approach (Statue Approach)

This approach examines statutory regulations which are the central theme of the research theme. (Jhonny Ibrahim; 2005) The approach is taken by studying and researching statutory regulations, principles and norms that exist in society.

b. Conceptual Approach (Conceptual Approach)

The approach is to examine the concepts and theories put forward by experts who are related to law enforcement of the Notary's code of ethics. Concepts in legal science can be interpreted as starting points or approaches for legal research analysis, because many concepts will emerge for a legal fact. (Muktifajar, Yulianto Achmad; 2009)

Because this research uses qualitative research, the type of data used in this research is secondary data, namely data obtained from a number of statements or facts indirectly through documents. To obtain accurate data and information related to the discussion in this research, the author conducted research in the Indiana region.

The data collection technique used is document study data, namely collecting and reviewing primary legal data and secondary legal data such as related legislation and books related to the problem being studied.

Data collection techniques used in this research include literature study. A literature study was carried out by collecting data from various relevant sources, such as literature, legal regulations, and documents related to the legality of electronic wills and conventional wills in the state of Indiana.

Data analysis is the process of organizing, interpreting, and concluding data that has been collected to answer research questions or test hypotheses. In this research, data analysis was carried out through qualitative analysis and comparative analysis to understand and compare the legality of electronic wills and conventional wills in the state of Indiana.

Data analysis in this research was carried out qualitatively, comprehensively and completely, resulting in more perfect legal research results. Then describe the data in the form of good and correct sentences, so that it is easy to read and give meaning (interpret).

PEMBAHASAN

1. Legality of Indonesian Conventional Wills in the Civil Code

In the context of civil law in Indonesia, the legality of conventional wills refers to the validity and enforceability of a will made in accordance with the provisions regulated in the Civil Code (Civil Code). A conventional will is a legal instrument that contains provisions regarding the inheritance of a person's property or assets after death. In general, to fulfill the legality of a conventional will, a testator must comply with the provisions regulated in the Civil Code, including the conditions that must be met for the will to be valid and valid.

Formally, the Civil Code stipulates that a conventional will must fulfill certain requirements, such as being made in writing, signed by a testator, and witnessed by authorized witnesses. These formal requirements aim to ensure the validity and authenticity of the will document, as well as to prevent misuse or manipulation in the process of making it. Apart from that, the Civil Code also emphasizes the importance of substance in determining the legality of conventional wills, including the suitability of the testator in granting the will, the existence of valid severance pay, and the appointment of appropriate heirs.

Wills or testaments are regulated in the second book of the Civil Code (KUHPerdata). Wills are a problem that is often encountered in people's lives, because of individuals' desires to fulfill their needs or life satisfaction, especially in terms of statements regarding their assets in the future or after death. A will is made with the aim that the heirs can determine to whom their assets will be inherited, either to legal heirs or other parties, until the time for the will to be read. This often causes conflict between the heirs and the parties who receive inheritance based on the will, because there are parties who may feel disadvantaged and file a dispute or cancellation of the will. Therefore, a will only takes effect after the testator dies, and its validity is often difficult to prove, Especially if it is made without the intervention of a notary.

Making a will is a legal act in which someone determines what happens to their assets after they die. Inherited assets often give rise to various legal and social problems, so they require orderly and orderly arrangements in accordance with applicable laws and regulations. A will is a unilateral legal act, closely related to the "herroepelijkheid" nature of testamentary provisions, which means that a will cannot be made by more than one person to avoid difficulties if one of the makers wants to revoke it. Article 930 of the Civil Code states that in one deed, two or more people are not allowed to declare their wills together or reciprocally. Provisions in a will have two characteristics, namely that they can be revoked and come into force in connection with a person's death.

Article 875 of the Civil Code states that a will is a deed that contains a person's statement about what he wishes would happen after he dies and which can be revoked. There are many opinions from legal scholars regarding wills, but there is not always agreement on their definition. However, it can be concluded that a will is a way to fulfill someone's wishes regarding their future assets. However, the will must not conflict with applicable law, and the law regulates the provision or limitations of wills to ensure a fair distribution of inherited assets and does not conflict with the law. With a will, disputes between heirs can often

be avoided, because they respect the testator's last will. However, the law also limits the contents of a will so that it remains in accordance with applicable laws. The difference between legal provisions and community practice in making wills raises the question of whether existing legal provisions are still relevant to current societal developments. This research focuses on the regulations in the Civil Code regarding wills.

In the context of civil law, the opinion according to the Civil Code emphasizes that the legality of a conventional will is a prerequisite that must be fulfilled so that the will has valid and binding legal force. Thus, the Civil Code provides a clear and firm legal framework for assessing whether a will meets the standards required to be legally recognized and implemented. This emphasizes the importance of respecting the legal procedures stipulated in the Civil Code in the context of making and implementing conventional wills in Indonesia.

A will or testament is a statement from someone regarding what they want to happen after they die. Basically, the statement is unilateral (eenzijdig) and can be revoked by the maker at any time. However, not everything a person wishes in a will can be permitted or implemented, especially if it conflicts with the law. Article 872 of the Civil Code states that wills must not conflict with the law. In a will, there is the concept of "erfslling" where someone appointed as the recipient of the inheritance or "testamentaire erfgenaam" acquires all the rights and obligations of the testator.

The legal construction of wills in the Civil Code is contained in Articles 874 to Article 1002. These articles regulate various aspects related to wills, including general provisions, the ability to make a will, as well as the legitimacy of the portie or part of the inheritance according to law. In Articles 874 to Article 894, it is explained that all the assets inherited from someone who dies belong to the heirs. A will is a deed that contains a person's statement regarding his will after he dies and can be revoked by him. Wills can be made for the benefit of blood relatives, heirs according to law, or even for the benefit of poor people without distinction of religion.

Furthermore, a person's ability to make or enjoy the benefits of a will is regulated in several articles, for example Article 901. People who want to make or withdraw a will must have the ability to reason. Any person who is legally competent can make a will, except those who are declared incompetent by law, such as children under eighteen years of age. Heirs must already exist when the testator dies to be able to enjoy the benefits of a will. There is also a provision that grants to religious or social institutions must receive government approval.

Legitime portie or part of the inheritance according to the law stipulates that there is a part of the property that cannot be taken by the heir for a gift or will. Article 913 states that legitime portie is a portion of assets that must be given to heirs in a straight line, which cannot be reduced by a gift or will. This share is always half of what each blood relative in the line is entitled to upon inheritance due to death. Children born outside of marriage but who have been legally recognized also receive a share of the legitime portie, as regulated in Article 916a. Overall, the regulations in the Civil Code aim to ensure that wills do not violate legal provisions and can provide justice for all parties involved. Heirs who feel

disadvantaged by a will can file a lawsuit for a reduction or return of their share. These articles provide a clear and structured legal framework for the execution of wills, ensuring that the testator's last wishes are respected while preserving the rights of heirs under the law.

Conventional wills regulated in the Indonesian Civil Code consist of several points or provisions that must be complied with by the testator. Some of these points include formal and substantial requirements that must be met for the will to be considered valid. For example, one of the formal requirements is that the will be written in written form and signed by the testator. Apart from that, the Civil Code may also regulate substantial requirements relating to who can inherit, how property is distributed, and other relevant provisions. Therefore, in analyzing the legality of Indonesian conventional wills in the Civil Code, it is necessary to clearly understand the points or provisions regulated in this law so that wills can be legally recognized by the authorities and applied correctly in legal practice in Indonesia. .

Wills based on Indonesian civil law regulate four main forms, which are regulated in detail in the Civil Code (KUHPerdata). The first is a general will, which must be made before a notary and two witnesses, in accordance with Article 938 of the Civil Code. Meanwhile, Article 931 of the Civil Code regulates olographic wills, which are handwritten by the prospective heir himself and signed in the presence of two witnesses. The secret will, which was attended by four witnesses, including two from the family and two from the notary's office, is regulated by Article 940 of the Civil Code. Finally, Articles 946, 947, and 948 of the Civil Code regulate emergency wills, which are used in special circumstances such as war or when someone is seriously ill.

Apart from various forms of wills, Indonesian civil law also stipulates that making a will must be based on the location of the inheritance. This is confirmed in Article 945 BW, where for Indonesian citizens who have assets abroad, a will must be made by a notary or authorized official in the country where the assets are located. This shows the importance of compatibility with applicable laws where the assets are located.

Execution of a will, in accordance with the provisions of Article 1005 Paragraph 1 of the Civil Code, requires the appointment of an executor of the will through a special notarial deed or testamentary deed. However, Article 1006 of the Civil Code contains a list of people who cannot be appointed as executors of a will, such as married women or minors. The main duties and authority of executors of wills are regulated by Article 1007 of the Civil Code to Article 1018 of the Civil Code, including the obligation to make an inventory of inherited assets and ensure that the separation and distribution of inherited assets is carried out correctly.

Finally, the rights and obligations of executors of wills, including the wages they receive, are regulated by Article 411 of the Civil Code. The executor of the will has the right to receive wages in accordance with the provisions stipulated in the article, with a certain percentage of the income, expenses and capital received.

The calculation process and accountability of the will executor, as explained in the relevant articles of the Civil Code, is the final step in executing the will before the end of his duties.

The items that include conventional wills are explained in the Civil Code in Part 4. A will, or testament, is a document that contains a determination of a person's will which will take effect after he or she dies. According to Law Number 30 of 2004 concerning the Position of a Notary, wills are messages that only come into effect when the maker dies. Article 875 of the Civil Code defines a will as a deed that contains a person's statement about what he wants to happen after he dies, and which can be revoked by the maker. This will is a unilateral legal act which contains an act of transferring ownership rights regarding the testator's assets, which is stated in written and special form.

A will must be considered an authentic deed because it was made with the intervention of an official official, namely a notary. Because the statements in a will are unilateral, the will must be revocable. The last will in a will is a legal act aimed at causing legal consequences. Although the last will does not have to go directly to a specific person, the people who benefit from the will may only find out about it after the testator dies, usually through a notary. Therefore, the effectiveness of a last will does not depend on notification to the other party, as stated in Article 875 of the Civil Code.

Article 944 of the Civil Code stipulates that witnesses in making a will must be adults, residents of Indonesia, and understand the language used in making the will. People who may not be witnesses include heirs or beneficiaries of a will, as well as blood relatives or siblings up to the sixth degree of the notary who made the will. Article 40 UUJN complements the provisions of Article 944 of the Civil Code, confirming that these rules apply to all types of wills.

Article 898 of the Civil Code explains that a person's ability to inherit is assessed based on his or her position when the will is made. Evidence that the testator was in a normal and conscious state before or after making the will is considered sufficient to state that he was in that state when the will was made. A will made by a person of unsound mind is considered invalid, whether the insanity is permanent or temporary. For cases of temporary insanity, such as drunkenness or high fever, the will is considered invalid. The notary does not need to certify the will maker's soundness of mind because this requires an expert assessment.

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1. 1. Legality of Electronic Wills in the State of Indiana

One of the aspects regulated in Electronic Will Indiana is the equality of electronic wills (N. Krueger; 2019). The legality of this electronic will is regulated in Section 4 of Indiana's Electronic Will.

Section 4 Electronic Will Indiana, which states that:

"*(a) To be valid as a will under this article, an electronic will must be executed by the electronic signature of the testator and attested to by the electronic signatures of at least two (2) witnesses in the following manner:*

(1) The testator, the attesting witnesses, and any individual who signs for the testator under subdivision (4)(B) must be in each other's presence when the electronic signatures are made in or on the electronic will. A person, including an attorney or directed paralegal, who supervises the execution of the electronic will may act and sign as one (1) of the attesting witnesses if the person does not sign the electronic will at the testator's direction under subdivision (4)(B). The testator and witnesses must be able to interact with each other and the witnesses must be able to observe the testator and each other as the electronic will is being signed.

(2) The testator and attesting witnesses must comply with:

(A) the prompts, if any, issued by the software being used to perform the electronic signing; or

(B) the instructions by the person, if any, responsible for supervising the execution of the electronic will.

(3) The testator must state, in the presence of the attesting witnesses, that the instrument to be electronically signed is the testator's will.

(4) The testator must:

(A) electronically sign the electronic will in the presence of the attesting witnesses; or
(B) direct another adult individual who is not an attesting witness to sign the electronic will on the testator's behalf in the presence of the testator and the attesting witnesses.
(5) The attesting witnesses must electronically sign the electronic will in the presence of:
(A) the testator; and
(B) each other;
after the testator has electronically signed the electronic will.
(6) The:
(A) testator; or
(B) other adult individual who is:
(i) not an attesting witness; and
(ii) acting on behalf of the testator;
must command the software application or user interface to finalize the electronically signed electronic will as an electronic record.
The process described in this section may include as part of the electronic record for the electronic will any identity verification evidence pertaining to the testator or any document integrity evidence for the electronic will"

Section 4 of Indiana's Electronic Will states that to be valid as a will hereunder, an electronic will must be executed with the electronic signature of the testator and witnessed by the electronic signatures of at least two witnesses in the following manner:

First, the will maker, witnesses, and other individuals signing for the will maker must be in each other's presence when the electronic signature is created in or on the electronic will. An individual, including a designated attorney or paralegal, who supervises the creation of an electronic will may act and sign as one of the witnesses if the individual does not sign the electronic will at the direction of the will maker. The will maker and witnesses must be able to interact with each other and the witnesses must be able to observe the will maker and each other while the electronic will is being signed.

Second the will maker and witnesses must comply with instructions issued by the software used to perform the electronic signature, or instructions by the individual responsible for overseeing the creation of the electronic will.

Third, the will-maker must certify, in the presence of witnesses, that the instrument to be electronically signed is the will-maker's will.

Fourth, the will maker must electronically sign the electronic will in the presence of witnesses, or direct another adult individual who is not a witness to sign the electronic will on behalf of the will maker in the presence of the will maker and witnesses.

Fifth, witnesses must electronically sign the electronic will in the presence of the will maker and each other after the will maker signs the electronic will.

Sixth, the will maker or another adult individual who is not a witness and is acting on behalf of the will maker must instruct a software application or user

interface to complete the electronically signed electronic will as an electronic record. The process described in this section may include as part of the electronic record for an electronic will any proof of identity verification relating to the maker of the will or proof of document integrity for an electronic will (D. J. Bodenhamer and R. T. Shepard (Eds.); 2006).

There are four things regulated in section 4 letter a, which include:

1) Validation;
2) Electronic signature;
3) Self-evident clause; And
4) Compliance statement letter.
5) Electronic will validation is conceptualized as the validity of an electronic will that has been made by the testator.

An electronic will is said to be valid if it meets the following conditions, which include:

1) An electronic will must be made with a signature
2) Electronics from the heir or designated person; And
3) Signed by two witnesses using electronic signatures. (S. N. Gary; 2020)

There are three ways to sign an electronic will. as presented below.

a. The heir, witnesses and everyone who signs the will must be present at the time of electronic signature.
b. A legal representative or paralegal is appointed, who supervises the implementation of the electronic will.
c. The testator and witnesses must be able to interact with each other during the signing of the electronic will

In the state of Indiana, the Electronic Wills Act regulates the process of creating, recognizing, and executing electronically executed wills. In today's digital era, many individuals are turning to electronic media to create legal documents such as wills, making the legal framework provided by this law extremely important.

The act sets forth specific requirements that must be met in order for an electronic will to be recognized as valid in the state of Indiana. For example, electronic wills may need to be stored on a secure platform or system and can be verified for authenticity. In addition, there are requirements regarding digital authentication or identification procedures to ensure that the will was made by the legal heir.

Data regarding implementation of the Electronic Wills Act in the state of Indiana may include statistics on the number of electronic wills created each year, the percentage of electronic wills recognized by courts, and issues or disputes that arise related to electronic wills. Additionally, data on changing trends in the use of electronic wills over time could provide

Valuable insight into the impact of this law on will-making practices in society. By understanding the laws governing electronic wills in the state of Indiana and data regarding their implementation, research can provide a deeper understanding of the status and impact of electronic wills in the practice of inheritance law in the state.

In the state of Indiana, there is no inheritance tax or estate tax imposed by the state on residents and non-residents who own property there. However, keep in mind that taxpayers must report the following things:
1) Final federal and state individual income tax returns, each due on the tax day of the year following the individual's death.
2) Federal estate/trust income tax returns, due April 15 of the year following the individual's death.
3) Federal estate tax returns, are due nine months after the individual's death, although there is an automatic six-month extension available if requested before the end of the nine-month period. This is only required for individual estates that exceed the previous taxable gross estate and gift value of $13.61 million in 2023.
The function of a tax is usually simple, but to complete it in the name of one's estate requires a little more work. You can file online, by fax, or by mail with the IRS to obtain an employer identification number (EIN). This important number will represent the estate in all tax situations.

2. Comparison of Indonesian Conventional Wills in the Civil Code with Electronic Wills in the State of Indiana

a. Comparative Analysis of Indonesian conventional Wills in the Civil Code with Electronic Wills in the state of Indiana

In the Indonesian Civil Code, conventional wills must meet formal and substantial requirements to be considered valid. Formally, a will must be made in writing, signed by the testator, and witnessed by valid witnesses. These requirements aim to ensure the validity and authenticity of documents, prevent misuse or manipulation, and protect the rights of all parties involved. Substantively, the testator must meet certain criteria and the appointment of heirs must be in accordance with applicable law. The Civil Code emphasizes the importance of clear legal procedures in making and implementing conventional wills.

In contrast to Indonesia, in Indiana, USA, the legality of electronic wills is regulated in Electronic Will Indiana, Section 4. Electronic wills must be executed with an electronic signature from the testator and witnessed by two witnesses using electronic signatures as well. Both parties, including witnesses and attestators, must be present virtually during the signing process. This electronic will requires real-time interaction between the testator and witnesses during the signing process to ensure the validity and authenticity of the document.

The Indonesian Civil Code regulates several forms of wills: general wills, graphic wills, secret wills, and emergency wills. A general will is made in the presence of a notary and two witnesses (Article 938), a graphic will is handwritten by the prospective heir and witnessed by two witnesses (Article 931), a secret will involves four witnesses including family and the notary (Article 940), and an emergency will for circumstances specifically such as war (Articles 946, 947, 948). Each form has specific procedures and requirements to ensure legality and validity.

Section 4 of the Civil Code regarding the form of a will explains the various legal ways to make a will in Indonesia. First of all, Article 930 states that it is not permitted for two or more people to make a will in the same deed, either for the benefit of a third party or based on a mutual or joint determination. This is to maintain the integrity and authenticity of the will of each heir. Furthermore, Article 931 regulates that a will can be made in the form of a graphic deed (written by one's own hand), a public deed, or a secret (closed) deed. An olographic will must be completely handwritten and signed by the testator, and must be submitted to a notary for safekeeping, who will then draw up a deed of custody with two witnesses (Article 932). This deed records the delivery of a will, whether open or sealed, and provides the same legal force as a general deed after being deposited by a notary (Article 933).

Articles 934 and 935 provide additional flexibility regarding olographic wills. The heir can request the return of the olographic will from the notary at any time, and with this return, the will is considered revoked (Article 934). In addition, Article 935 allows for a private letter written, dated and signed by the testator for the appointment of a funeral agent or small gifts, such as clothing or jewelry. This kind of letter does not require any further formalities and its revocation can be done privately as well. However, if this letter is found after the testator dies, it must be handed over to the Inheritance Hall to be opened and handed back to the notary for safekeeping (Article 936). Olographic wills submitted to the notary after the testator dies must also be submitted to the Inheritance Office for processing in accordance with the provisions (Article 937). Articles 938 to 947 regulate wills with public deeds and closed or secret wills. A will with a general deed must be made in the presence of a notary and two witnesses, with the notary writing down the testator's will clearly and reading it again in the presence of witnesses before being signed by all parties (Articles 938 and 939). A closed or secret will must be sealed and submitted to a notary in the presence of four witnesses with an explanatory deed stating that the document is the testator's will (Articles 940 and 941). After the heir dies, the notary must submit a secret or closed will to the Inheritance Hall to be opened and an official report made (Article 942). The notary is also obliged to notify interested parties about the existence of a will after the testator dies (Article 943). Witnesses who are present when making or opening a will must be adults and understand the language used in the will (Article 944). Indonesian citizens abroad must make a will before an authorized public official in accordance with local law (Article 945). In an emergency, a will can be made in any form as long as it clearly expresses the testator's last will (Article 946). Other provisions in the ordinance or regulation that differ from this regulation do not apply except for wills regulated in Articles 954 to 956 (Article 947).

On the other hand, Indiana uses technology to ensure the validity of electronic wills. The electronic signing process must comply with the software or supervisor's instructions, and include steps to verify the identity and integrity of the document. This allows for flexibility in the execution of wills, although it requires special attention to digital security and the legal validity of the electronic signature.

The execution of a will in Indonesia must be carried out by an executor appointed through a special notarial deed (Article 1005 Paragraph 1). The executor of the will has major responsibilities, including making an inventory of the estate and ensuring that the separation and distribution is carried out correctly (Articles 1007-1018). In contrast, in Indiana, the execution of an electronic will includes digital steps to ensure the validity of the documents and the identity of the parties involved, as well as electronic procedures for completing and storing the will.

According to positive legal theory, law is a rule established by a competent authority and must be implemented strictly. In this context, the Indonesian Civil Code establishes clear rules regarding the making of conventional wills. The Civil Code requires that a will be written, signed by a testator, and witnessed by a valid witness. These formalities are designed to ensure the validity and integrity of the will document. For example, Article 938 of the Civil Code regulates general wills which must be made in the presence of a notary and two witnesses, while Article 931 regulates olographic wills which are handwritten by the prospective heir and signed in the presence of two witnesses. This shows the application of positive legal theory in providing clear structure and legitimacy to conventional will procedures.

On the other hand, in Indiana, positive law is also applied in validating electronic wills through the Electronic Will Act. Section 4 of Indiana's Electronic Will provides that an electronic will must be signed electronically by the testator and witnessed by two electronic witnesses. These rules provide a clear and unambiguous legal framework for how electronic wills must be executed to be considered valid. The use of electronic signatures and the electronic presence of witnesses are important elements regulated by positive law in Indiana, ensuring that even though the medium is digital, the process and legality remain firm and structured.

Comparative legal theory analyzes the differences and similarities between different legal systems to understand how they operate. In this context, conventional wills in Indonesia and electronic wills in Indiana offer different approaches to making wills. The Indonesian Civil Code focuses on physical formalities such as handwriting and physical signatures in the presence of witnesses to ensure the validity of a will. This process involves direct interaction between the testator, witnesses, and the notary, which is considered important to prevent fraud and validate the validity of the document.

On the other hand, Indiana has adapted technology by introducing electronic wills that allow digital signatures and the presence of electronic witnesses. These procedures reflect a shift towards digitalization in the legal system, allowing greater flexibility and easier access, especially in situations where physical presence may not be possible. Although different in approach, both systems aim to ensure that the will made is original, valid and reflects the will of the testator.

b. Comparison of conventional Indonesian Wills in the Civil Code with Electronic Wills in the State of Indiana in Legal Theory

Legal certainty theory emphasizes the importance of clear and predictable rules in the legal system. The Indonesian Civil Code provides legal certainty through

strict formal requirements for making wills. By stipulating that wills must be formally written and witnessed, the Civil Code reduces the possibility of disputes and inconsistent interpretations. Provisions such as Articles 938 and 931 ensure that there are standard and reliable procedures for every will made, thereby providing legal certainty for heirs and heirs.

In Indiana, legal certainty in electronic wills is achieved through detailed regulations in the Electronic Will Act. Section 4 of the act provides clear guidance on how electronic wills should be signed and witnessed, including the use of valid software and identity verification procedures. This rule ensures that even though the medium used is digital, legal certainty standards are maintained. By having clear guidelines, the risk of legal disputes can be minimized, and the parties involved can have confidence that wills made electronically are valid and will be recognized by the court.

Legal protection theory focuses on how the law protects individual rights and ensures justice. In the context of the Indonesian Civil Code, legal protection for heirs and heirs is guaranteed through strict formal procedures. Requirements such as the presence of a notary and witnesses when making a will aim to protect heirs from fraud and pressure. In addition, the provisions in Article 1006 of the Civil Code, which prohibit certain individuals from being executors of wills, also aim to protect the interests of heirs and heirs from potential conflicts of interest and abuse of authority.

In Indiana, legal protections in the context of electronic wills are realized through arrangements that ensure the integrity and security of electronic documents. Section 4 of Indiana's Electronic Will provides that electronic wills must be accompanied by proof of identity verification and proof of document integrity. This procedure protects heirs from digital fraud and ensures that only authorized individuals can sign and witness electronic wills. Additionally, supervision by a legal professional such as an attorney or paralegal during the electronic will creation process also adds an additional layer of protection for the testator.

CONCLUSION

Legality of Conventional Wills in Indonesia: Conventional wills must meet the formal (written, signed by the testator, witnessed by legal witnesses) and substantial (eligibility of the testator, appointment of heirs) requirements according to the Civil Code to be considered valid. Comparison to Electronic Wills in Indiana: Indiana allows electronic wills with electronic signatures and virtual presence. This is different from the traditional Indonesian approach which requires handwriting or notarization. Execution and Appointment of Executors of Wills: In Indonesia, executors of wills are appointed through a notarial deed and have important duties such as inventorying assets. Indiana uses digital procedures to ensure the legitimacy and identity of the parties involved.

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