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## Validity of Crypto Asset (Bitcoin) as Object of Will: Comparative Study of Indonesia and El Salvador

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### Abstract

This study aims to analyze the development of crypto asset regulations in Indonesia and El Salvador and the validity of wills with crypto asset objects (bitcoin) in Indonesia and El Salvador. The type of research used is normative legal research. The results of the study show that the development of crypto asset regulations in Indonesia only recognizes crypto as a commodity that has been accommodated in the Minister of Trade Regulation Number 99/2018, and followed up by several Bappebbti regulations. In contrast to the development of crypto asset regulations in El Salvador, the country is known as the first country to recognize bitcoin as a legal tender equivalent to the US dollar, as stated in the Bitcoin Law or in Spanish, Ley Bitcoin, pronounced [lej bio' kojn]. Making a will with the object of crypto assets (bitcoin) in Indonesia can be recognized or legal, because based on the characteristics of crypto (bitcoin) it has met the requirements as an object as in Book II of the Civil Code Articles 499 and 503 as an intangible object that has economic value, as stated in the regulation of the Minister of Trade number 99 of 2018 which stipulates crypto assets as commodities that can be used as the subject of traded futures contracts. In El Salvador, making a will with the object of crypto assets (bitcoin) is legal to do because in the El Salvador bitcoin law, bitcoin is recognized as a digital commodity and as a legal means of payment equivalent to the US dollar.

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### Introduction

The rapid development of science and technology brings new progress and changes in the world, in this case one form of change is the emergence of crypto (bitcoin). Crypto or cryptocurrency is a type of digital asset that uses decentralized security, namely the use of ledger technology or called blockchain in a peer-to-peer manner. Bitcoin is a form of crypto currency or Cryptocurrency, which is a digital asset created to carry out transactions through a computer network system (Danggur Feliks, Volume 03 Number 2 of 2022, 201.) <sup>[10]</sup>.

Indonesia as one of the countries that recognizes the development of this technology, this is proven by the increasing number of crypto asset enthusiasts (bitcoin), and the increasing number of crypto asset ownership and investors in Indonesia. Until now, Indonesia is recorded as the third ranked country, which in this case has increased from the previous year to enter the seventh ranked category in the world (Dilla Fauziah, 2024) <sup>[17]</sup>. However, Indonesia does not recognize bitcoin as a legal tender, only as a commodity that can be traded (Faesal Mubarak, 2024) <sup>[19]</sup>.

In contrast to the country of El Salvador, which is one of the countries in Central America, which is recorded as the first country to adopt one of the cryptocurrencies, namely bitcoin as legal cash, and can be used for legal tender, as stated in the El Salvador bitcoin law. This is supported by the statement of the president of El Salvador, Nayib Bukele, who believes that Bitcoin will improve banking conditions and support the economy and attract international investment in the country (Elana R, 2024) <sup>[18]</sup>.

In response to these developments, the Indonesian government has issued several regulations, including the Commodity Futures Trading Supervisory Agency (Bappebti) Regulation Number 2 of 2024, the second amendment to Bappebti Regulation Number 11 of 2022 concerning the Determination of the List of Crypto Assets Traded in the Physical Crypto Asset Market, Regulation of the Minister of Trade Number 99 of 2018, Bappebti Regulation Number 5 of 2019 and Number 2 of 2020 which regulates the technical implementation of the physical crypto asset market on the futures exchange (Regular News Coinvestment, 2024) <sup>[15]</sup>.

However, this regulation only covers investment, crypto assets as commodities and technical matters for organizing crypto asset trading in the physical market (M Bagus, Moh Khamin, Tiyas Vika, 2024, 24) <sup>[4]</sup>. This raises fundamental concerns for crypto asset owners (bitcoin) in Indonesia, about how to identify, recognize, handle, and manage crypto assets (bitcoin) when the owner dies. Given that until now, legally there are no specific rules regarding inheritance with crypto assets. so that ownership or crypto assets left behind have comprehensive legal protection (Danggur Feliks)

Considering that bitcoin uses decentralized security into the blockchain network with peer-to-peer features, or without a third party as a manager so that only the crypto asset owner knows the private access key. Decentralization as high security so that you cannot use the Forgot Password feature if the crypto asset owner dies without leaving a private crypto access key. That's why it's important to include crypto assets in your wealth plan or will. This is evident from one of the real events experienced by a crypto asset investor (Bitcoin), namely Mircea Popescu from America, who is estimated to have assets of around 14 trillion. Mircea Popescu died without leaving a private access key in any form of a will. So that his heirs/relatives cannot access, open or obtain the assets left behind, this causes uncertainty about the assets left behind (Dian Tami Kosasih, 2024) <sup>[16]</sup>.

A will in Indonesia is defined as a deed that has a clause regarding inheritance in Article 875 of the Civil Code. By including crypto assets in the will plan, it can be used as a form of protection for assets. However, because crypto assets have not been accommodated in the inheritance law in force in Indonesia, their validity as an object of a will is still in doubt or cannot be ascertained to be recognized. El Salvador is the first country to legally recognize crypto assets (bitcoin) to be used as a legal and legitimate means of payment. As the first country to legalize bitcoin, researchers are interested in comparing the two countries in terms of their recognition of bitcoin and the validity of wills with bitcoin objects.

Based on the above Background explanation, there are several main issues raised in this study, namely how the development of crypto asset regulations (bitcoin) in Indonesia and El Salvador. and how is the validity of Crypto Assets (bitcoin) as Will Objects in Indonesia and El Salvador.

## Research Methods

Based on the title to be studied by the author, this study uses the Normative research type as a problem solving for existing problems, which according to Soerjono Soekanto and Sri Mamudji, explains that normative research is legal research carried out by examining library materials in the form of Laws, Books, Journals or other legal writings related to the problems in this study (Muhaimin, 2020, 47) <sup>[6]</sup>.

The approach method used in the study is the Statute Approach, this approach is carried out by examining all laws

and regulations related to the issues in this study, in the statute approach method it is necessary to understand the hierarchy and principles in the laws and regulations. Comparative Approach, The comparative approach is carried out by comparing existing laws and regulations, for example in Indonesia with one or several laws and regulations in other countries. It can also be compared with the decisions of the competent judicial institutions in one country with other countries. Or by comparing the implementation of laws and regulations that regulate the same legal material in one country or several other countries (Maria Ulfah, 2022) <sup>[5]</sup>. Conceptual approach, this approach starts from the views and doctrines that develop in legal science, this approach is very important, because by studying the views and doctrines will clarify the definition of law, legal concepts and legal principles that are relevant to this research (Maria Ulfah, 2022) <sup>[5]</sup>. Understanding these views and doctrines is a basis for researchers in building a legal argument in solving the issues faced (Amiruddin, Zainal Asikin, 2023, 66) <sup>[11]</sup>.

Since this research is a normative research, the technique of collecting legal materials in this study is carried out by means of a literature study of laws and regulations, books, journals, dictionaries, legal documents and other literature related to the issues in this study. By reading, seeing, hearing, or browsing legal materials through the internet or website (Amiruddin, Zainal Asikin, 2023, 66) <sup>[11]</sup>. Based on the main problems in this study, the analysis process is carried out to arrange the order of legal materials, which organizes or classifies them towards patterns, or category structures and a basic description unit (Muhaimin, 2020, 71) <sup>[6]</sup>. The analysis of legal materials used in this thesis is an analysis using interpretation.

Legal material analysis is carried out as an activity to provide a review that can mean opposing, criticizing, supporting, adding, or providing comments and then making a conclusion on the research results with one's own thoughts with the help of the theory that has been used. The nature of normative research analysis is prescriptive, namely to provide arguments for the results of the research carried out.

## Discussion

### 1. Development of crypto asset regulation (bitcoin) in indonesia and el salvador

#### A. Development of Crypto Asset Regulation (Bitcoin) in Indonesia

Regulations related to crypto assets in various countries are certainly different, there are countries that have accepted and have regulations related to crypto assets, or vice versa. Regulations in a country are able to provide legal protection for its citizens. According to Salim HS, Legal protection is an effort or form of service provided by law to legal subjects and things that are protected objects (Salim Salim Hs, Erlies Septiana, Nurbani, 2015) <sup>[7]</sup>.

Initially, regulation and supervision related to crypto asset trading were carried out by the Commodity Futures Trading Supervisory Agency (Bappebti). This is related to crypto assets which are categorized as commodities, so it is in line with the Regulation of the Minister of Trade Number 99 of 2018 concerning Crypto Assets. Bappebti as an authorized institution has the responsibility to supervise and impose sanctions on parties involved in crypto asset trading (Dona Budi Kharisma, 148) <sup>[11]</sup>.

The use of crypto assets as a means of exchange is not accommodated in the legal provisions in Indonesia. However,

due to its great potential to attract investment interest in Indonesia, based on the letter of the Coordinating Minister for the Economy Number S-302 / M.EKON / 09/2018 concerning the Follow-up to the Implementation of the Coordination Meeting on Crypto Asset Regulation (Crypto Asset) as a Commodity Traded on the Futures Exchange, crypto assets have begun to be accommodated legally as a commodity that can be traded on the futures exchange (Naufal Widi Adyawan, Volume 1 Number, 2024) <sup>[14]</sup>. In Bappebti Regulation Number 2 of 2024 concerning the Second Amendment to the Regulation of the Commodity Futures Trading Supervisory Agency Number 11 of 2022 concerning the Determination of the List of Crypto Assets Traded on the Physical Crypto Asset Market. explained in the law, Indonesia has added a list of legal crypto assets that may be traded, from 501 to 545.

As a follow-up, BAPPEBTI then issued Regulation Number 5 of 2019 concerning Technical Provisions for the Implementation of the Physical Market for Crypto Assets (Crypto Assets) on the Futures Exchange. It contains several provisions such as, cryptocurrencies that can be traded, the responsibilities of each party organizing the trade, to the sanctions that can be imposed by BAPPEBTI for violations committed (Naufal Widi Adyawan, Volume 1 Number, 2024) <sup>[14]</sup>.

Cryptocurrencies can only be traded if they meet several criteria, as stated in Article 3 paragraph (2) of Bappebti Regulation Number 5 of 2019 concerning technical provisions for organizing physical crypto asset markets on futures exchanges, that the basis for determining the list of crypto assets that can be traded on physical crypto asset markets on futures exchanges is as follows:

- Based on distributed ledger technology;
- In the form of utility crypto assets ;
- The market capitalization value (market cap) is ranked in the top 500 (five hundred) Crypto Asset market capitalizations (coinmarketcap) for utility crypto assets;
- Enter the largest crypto asset exchange transactions in the world;
- Having economic benefits, such as taxation, growing the informatics industry and the competence of experts in the informatics field;
- A risk assessment has been carried out

The Minister of Trade of the Republic of Indonesia sees that crypto assets have developed widely in the community and have been declared a viable commodity. In 2018, crypto assets, especially the bitcoin type. Bitcoin was inaugurated as a commodity that can be traded on the Indonesian Futures Exchange based on the provisions of the Minister of Trade Regulation Number 99 of 2018. The Commodity Futures Trading Supervisory Agency (Bappebti) has established several regulations related to physical trading of crypto assets, including regulations governing the technical implementation of the physical market for crypto assets on the Futures Exchange.

As for the development of regulations governing crypto assets in Indonesia, as follows: (Naufal Widi Adyawan)

- Law number 10 of 2011 concerning amendments to Law number 32 of 1997 concerning commodity futures trading;
- Regulation of the Minister of Trade Number 99 of 2018 concerning general policies for the implementation of

crypto asset futures trading ;

- Commodity futures trading supervisory body regulation number 2 of 2019 concerning the organization of physical commodity markets on futures exchanges;
- Commodity futures trading supervisory body regulation number 5 of 2019 concerning technical provisions for organizing physical crypto asset markets (crypto assets) on futures exchanges;
- Regulation of the Commodity Futures Trading Supervisory Agency Number 6 of 2019 concerning the Implementation of Anti-Money Laundering and Prevention of Terrorism Funding Programs Related to the Implementation of Physical Commodity Markets on Futures Exchanges;
- Regulation of the Commodity Futures Trading Supervisory Agency Number 9 of 2019 concerning Amendments to Regulation of the Commodity Futures Trading Supervisory Agency Number 5 of 2019 concerning Technical Provisions for the Implementation of Physical Markets for Crypto Assets (Crypto Assets) on Futures Exchanges;
- Regulation of the Commodity Futures Trading Supervisory Agency Number 2 of 2020 Concerning the Second Amendment to Regulation of the Commodity Futures Trading Supervisory Agency Number 5 of 2019 Technical Provisions for Organizing the Physical Market for Crypto Assets (Crypto Assets) on the Futures Exchange;
- Commodity Futures Trading Supervisory Agency Regulation Number 13 of 2022 concerning Amendments to Bappebti Regulation Number 8 of 2021 concerning Guidelines (Crypto Assets) on Futures Exchanges;
- Regulation of the Minister of Finance of the Republic of Indonesia Number 68/Pmk.03/2022 Concerning Value Added Tax and Income Tax on Crypto Asset Trading Transactions ;
- Law of the Republic of Indonesia Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector;
- Bappebti Regulation Number 2 of 2024 Concerning the Second Amendment to the Commodity Futures Trading Supervisory Agency Regulation Number 11 of 2022 Concerning the Determination of the List of Crypto Assets Traded in the Physical Crypto Asset Market.

The purpose of these regulations is to provide legal certainty to crypto asset traders and investors in Indonesia. To protect against potential trading losses, facilitate innovation and business growth in the crypto asset trading sector, and prevent illegal activities such as terrorism and money laundering. (Aditya Rafi Fauzan, Rianda Dirkareshza, Volume 16 Number 2, 2021) <sup>[8]</sup>

## **B. Crypto asset regulation developments (bitcoin) in el salvador**

El Salvador is a country located in the Central American region, just like other countries. Initially, the Central Bank of El Salvador issued a statement on November 6, 2017, stating that cryptocurrency is not a legal tender in any jurisdiction. Unlike conventional currencies issued by monetary authorities. (A Brief Primer, 2024). However, in 2021 there was a change in the ban, when cryptocurrency (bitcoin) reached its initial popularity, the El Salvador government made history as the first official authority in the world to

successfully take advantage of crypto, especially (Bitcoin) to increase the country's economic income. The journey to this important decision began with the appointment of Nayib Bukele as leader of El Salvador in June 2019 (Incfine, 2024) <sup>[20]</sup>.

Bukele, known for his youthful and moderate initiatives, recognizes the potential of cryptocurrency to transform the country's economy and advance monetary inclusivity. The push to embrace bitcoin intensified in mid-2021, when Bukele expressed his hopes of proposing a regulation that would legalize bitcoin in El Salvador. This statement, made during the 2021 Bitcoin Summit in Miami, Florida, sparked widespread interest and speculation within the cryptocurrency community.

El Salvador's view on bitcoin is changing. On June 8, 2021, the Bitcoin Law in Spanish, *Ley Bitcoin*, pronounced [lej bio'kojn] or Bitcoin La, was passed by the El Salvador Legislative Assembly, and on September 7, 2021, the Law went into effect, granting bitcoin the status of a legal tender cryptocurrency in the country. El Salvador is known for being the first country to adopt Bitcoin as an official currency, which can be used as legal tender and is equivalent to the United States dollar. By adopting bitcoin as legal tender, it quickly sparked the emergence of a jurisdiction as an attractive cryptocurrency for businesses. With a supportive legislative environment and progressive crypto policies, El Salvador is opening up new horizons for innovation and financial opportunities (Manimama, 2024).

The regulation is a historical marker that El Salvador is the first country in the world to make bitcoin an official currency and legal tender or legal tender. The purpose of this law is to regulate bitcoin as a legal tender without limits with liberating power, unlimited in any transaction. And for any rights that must be carried out by a person or legal entity, public or private (David Krause, 2024) <sup>[2]</sup>.

There are several factors that make bitcoin legal tender in El Salvador, one of which is that around 70% of the population in El Salvador do not have bank accounts and access to traditional financial services. This is explained in the considerations of the bitcoin law. Therefore, bitcoin is intended as a digital payment using an application so that residents can more easily receive income and payments (Aditia Rafi Fauzan, Rianda Dirkareshza).

In connection with the acceptance of bitcoin, El Salvador has established a crypto License as an administrative system for directing digital currency exchanges, including the most common way to obtain a crypto license. This license serves as an authority for both organizations and individuals to participate in various features of the cryptocurrency market, including activities such as exchange, mining and currency trading, which are supervised by an administrative body (Incfine). The issuance of crypto permits indicates compliance with El Salvador's specific guidelines overseeing digital currencies, which were established through sanctions in the bitcoin regulations in September 2021. These directives not only recognize bitcoin as an official type of currency, but also establish a system for obtaining permits.

Basically, El Salvador's crypto license plays a vital role in maintaining a controlled and thriving virtual currency climate within the country, paving the way for Development, speculation and monetary progress in the ever-growing computerized scene. The oversight of cryptocurrency activities in El Salvador falls under the jurisdiction of the country's monetary administrative body, known as the

Superintendency Of The Financial System (SSF). The SSF is responsible for monitoring and managing the various monetary areas in El Salvador, including banking, security, monetary and currently virtual currencies.

Following the adoption of the Bitcoin Regulation in 2021, the SSF was tasked with directing activities related to digital currencies and ensuring compliance with administrative principles. This includes licensing and supervision of elements involved in cryptocurrency exchanges, trading, mining, and other related efforts. The SSF plays a key role in establishing and enforcing guidelines aimed at increasing transparency, protecting buyers, combating tax evasion and illicit trafficking, and working with the development of an organized and directed digital currency market in El Salvador. Under the direction of the SSF, administrative conventions are reliably audited and refined to adapt to the development of digital currencies. This ensures that El Salvador remains a pioneer in development and maintains administrative credibility and monetary stability.

## **2. The legality of crypto assets (bitcoin) as will objects in indonesia and el salvador**

### **A. The validity of crypto assets (bitcoin) as will objects in indonesia**

Cryptocurrency transactions that have experienced an extraordinary surge in Indonesia and a significant increase. In providing protection and legal certainty for business actors or crypto asset owners, regulations are needed to regulate this matter. In addition to regulations that regulate the procedures for implementing crypto assets as commodities on futures exchanges, protection for crypto asset owners is no less important to discuss, considering the increasing number of crypto asset owners or cryptocurrencies in Indonesia.

In response to these developments, the Indonesian government has issued several regulations, including the Commodity Futures Trading Supervisory Agency (Bappebti) Regulation Number 2 of 2024, the second amendment to Bappebti Regulation Number 11 of 2022 concerning the Determination of the List of Crypto Assets Traded in the Physical Crypto Asset Market, Regulation of the Minister of Trade Number 99 of 2018, Bappebti Regulation Number 5 of 2019 and Number 2 of 2020 which regulates the technical implementation of the physical crypto asset market on the futures exchange. And the latest Financial Services Authority Regulation (POJK) Number 3 of 2024 (Regular News Coinvestment, 2024) <sup>[15]</sup>.

However, this regulation only covers crypto assets as commodities, investment and protection for investors, and technical implementation of crypto asset trading in the physical market. Until now, there has been no specific regulation that discusses crypto assets or cryptocurrency (Bitcoin) in Indonesia. Considering that Bitcoin is one of the most popular types of cryptocurrency (M Bagus, Moh Khamin, Tiyas Vika). This raises fundamental concerns for crypto asset owners (bitcoin) about how to identify, recognize, handle, and manage crypto assets (bitcoin) when the owner dies. Given that crypto assets have a decentralized nature.

Bitcoin that uses decentralized security into the blockchain network with peer to peer features, or without a third party as a manager so that only the owner of the crypto asset knows the private access key. Decentralization as high security so that you cannot use the Forgot Password feature if the owner

of the crypto asset dies without leaving a private crypto access key.

### 1) Bitcoin recognition in indonesia

The term Bitcoin first appeared in public in 2009, and was the first cryptocurrency, the emergence of bitcoin whose creator's identity is unknown and the public only knows Satoshi Nakamoto the first developer as a pseudonym. Bitcoin does not have a physical form but only exists in an electronic account in the form of an electronic wallet (E wallet) (Firda Nur Amalina Wijaya, 2019, 127), with transaction data based on technology or blockchain that functions like a digital bank. The blockchain database is basically a technological advancement that guarantees the security of bitcoin transactions (Bustanul Fuqaha, Volume 4 Number 2 of 2023) <sup>[9]</sup>.

Bitcoin is designed as a direct transaction system without involving a third party so it is more efficient. Transactions use secret signatures called cryptography for security so that there will be no forgery and double spending. Bitcoin transactions in and out are always recorded and distributed openly, verified through a computer network using cryptography, connected peer-to-peer (Dilla Fauziah). Bitcoin began to be known and developed in Indonesia in 2013, since then Bank Indonesia as a monetary has given an official appeal stating that bitcoin cannot be used as a means of payment in Indonesia. The use of crypto assets as a means of exchange is not accommodated in legal provisions in Indonesia.

### 2) Recognition of crypto assets (bitcoin) as objects of inheritance

To find out whether crypto assets or cryptocurrencies, especially the type of bitcoin that researchers will discuss in this writing, can be classified as inheritance assets so that they can be used as will objects. So first it is necessary to know whether bitcoin can be classified as an object so that it can be recognized as assets (Febrianti Dyahsitasari, Muhammad Yassir, Volume 4 Number 2, 2023. 227) <sup>[12]</sup>.

According to Wirjono Prodjodikoro, inheritance law is an issue related to a person's assets when they die, and the transfer of ownership of these assets to the surviving party. In Indonesia, there is pluralism in inheritance law, where the inheritance law is regulated in Islamic inheritance law, BW inheritance law, and customary inheritance law (Febrianti Dyahsitasari, Muhammad Yassir, Volume 4 Number 2, 2023. 227) <sup>[12]</sup>. Islamic inheritance law provides a definition of property, Mustafa Zarqa argues that Islamic jurists focus on property on two factors, consisting of two components, namely property in the form of actual material, and everything that is valuable, by seeing whether it is still valid if bartered, and if viewed from an economic perspective it can still be cashed.

Assets are all objects, both tangible and intangible, movable and immovable objects that have economic or aesthetic value, which are recognized and protected by law and can be transferred to another person. In inheritance, inheritance is all goods or objects left by someone who has died, in the sense that the goods belong to someone who has died (Danggur Feliks).

### 3) Analysis of the validity of crypto assets (bitcoin) as objects of wills in indonesia

Making a will with crypto assets (bitcoin) as the object can

be recognized in Indonesia. Although crypto assets or cryptocurrency have not been specifically accommodated in the inheritance law in force in Indonesia. Or as a digital object, it is indeed not specifically or explicitly regulated in the law of objects in Indonesia, but this does not mean that it has no legal basis. As Sri Soedewi Masjchoen Sofwan, argues in his book "Civil Law: Law of Objects", that the object itself cannot be separated into only containing tangible goods and rights, but must look at future legal developments (Sri Soedewi Ms.).

In line with this opinion, after the birth of regulations on the legality of the use of crypto assets in the Regulation of the Minister of Trade Number 99 and enacted in October 2018 concerning the General Policy for the Implementation of Crypto Asset Futures Trading (Permendag 99/2018) which stipulates that crypto assets are determined as commodities that can be used as Subjects of Futures Contracts traded on the Futures Exchange.

Regarding the determination of the grouping of crypto assets as commodities, crypto assets fall under the supervision jurisdiction of Bappebti. Commodities in Article 1 number 2 of Law Number 10 of 2011 concerning Amendments to Law Number 32 of 1997 concerning Commodity Futures Trading. Defined as an object or goods that are real and can be traded relatively easily, can be delivered in form and can be exchanged for other products of the same type and can also be stored for a certain period of time, which can usually be bought or sold by investors through a futures exchange (Gozali, D. S, Hafidah N, 2022).

Although crypto assets (bitcoin) in this case cannot be physically felt like other commodities, Bappebti has issued Regulation Number 3 of 2019 concerning Commodities that can be used as Subjects of Futures Contracts, Sharia Derivative Contracts, and/or Other Derivative Contracts traded on the Futures Exchange (Bappebti Regulation 3/2019) in Article 1 letter f which explains that commodities that can be used as subjects of futures contracts traded on the futures exchange include crypto assets as commodities in the digital asset sector.

Digital assets are objects or assets whose ownership is recorded digitally and controlled directly by their owners. Bitcoin as the first Cryptocurrency created as a way of working peer-to-peer electronic money cannot be used as a digital currency in Indonesia but as a digital asset. It is said to be tradable because bitcoin and other crypto assets have an exchange rate. This value is what makes crypto assets also a virtual object as virtual property can be said to be an intangible object.

The grouping of crypto assets as part of virtual property and digital assets provides clarity that bitcoin and other crypto assets can be said to be objects, and have fulfilled the elements as per article 499 of the Civil Code which explains that objects (zaak) are something that can be an object of ownership and intangible objects in article 503 of the Civil Code are all objects whose physical form is not visible or palpable (Gozali, D. S, Hafidah N). Subekti divides the definition of objects including as legal objects. Cryptocurrency (bitcoin) which can be owned through prior transactions so that it has value and is clear regarding its ownership rights, has fulfilled the elements in articles 499 and 503 of the Civil Code concerning intangible goods, so that bitcoin or other crypto assets are virtual objects that can be owned by individuals through legal relationships in the form of transactions. Therefore, crypto assets are said to be

appropriate as digital assets and virtual property because of their nature which can be owned, have value and are intangible.

So making a will with crypto asset objects can be done, as long as it meets and does not conflict with the provisions of inheritance law in force in Indonesia. The steps in adding crypto assets (bitcoin) are not as easy as adding traditional physical assets in general. The steps that can be taken are as follows (M Bagus, Moh Khamin, Tiyas Vika) :

- Add Bitcoin Cryptocurrency to your will. Include the crypto asset in your will as part of the assets you want to distribute and specify where in your will and the details to include.
- Include all digital wallets. List the digital wallets used to store the crypto assets;
- Make a note with the username, public key, private key. This document should be referenced in the will.
- Create a guide to access crypto assets because crypto assets may not be known to the beneficiaries of the will, a detailed guide on how to access them can help.

## **B. Validity of wills with crypto assets (bitcoin) as the object in el salvador**

### **1) Bitcoin recognition in el salvador**

Bitcoin Law as the first policy in the world by El Salvador that makes bitcoin a currency, in Article 1 of Decree No. 57 June 2021 of the Bitcoin Law, it says: (Bitcoin Law)

The purpose of this law is to regulate bitcoin as legal tender, un-restricted with liberating power, unlimited in any transaction and to any title that public or private natural or legal persons require to carry out.

The first article of the Bitcoin Law, which is a policy of El Salvador, explains that the purpose of the law is to regulate bitcoin as a legal/legitimate means of payment, not limited by unlimited power of attorney in any transaction and in any rights owned by individuals or legal entities, public or private. Article 1 of this Bitcoin law has stipulated that Bitcoin is the real cryptocurrency that is indeed legalized as a currency in El Salvador, which in the future this bitcoin can be used by local people and tourists outside El Salvador in making digital transactions as intended by its implementation (Aditya Rafi Fauzan, Volume 16 Number 2, 2021) <sup>[8]</sup>.

With the establishment of bitcoin as currency in El Salvador, it does not mean that it replaces the US dollar as the currency that has been used by the people of El Salvador every day. In this case, bitcoin only becomes the second legal tender after the US dollar. Basically, the nature of the US dollar with bitcoin which is now a legal tender in El Salvador is different. The US dollar currency is centralized whose financial stability and efficiency of the payment system are regulated and maintained by the federal reserve system in Washington, DC While bitcoin as the first cryptocurrency has a decentralized nature and uses a distributed payment system. In the technical nature of bitcoin's decentralization, it does not go through a third party such as a bank when making a transaction. The mechanism of a transaction that has a decentralized nature only processes sending, receiving and information in two directions.

Article 2 of the Bitcoin Law explains that the exchange rate used by El Salvador Bitcoin will continue to use the US Dollar and will be freely regulated by the market.

Article 2 of the Bitcoin Law:

The exchange rate between bitcoin and the dollar of the United States of America, henceforth dollar, will be freely

established by the mark.

Article 3:

“All prices may be expressed in bitcoin

The above market means that sellers are free to determine the exchange rate of bitcoin using the US dollar exchange rate as a reference. Article 3 of the bitcoin law explains that prices can be expressed in bitcoin. As with fluctuations in the bitcoin exchange rate against the US dollar when the theory of supply and demand occurs. When demand for bitcoin increases in the sense that many people have it, the price of bitcoin against the US dollar will increase, but when many of the bitcoins are sold, the price of the US dollar will increase and the price of bitcoin will fall.

In addition, one of the articles in the Bitcoin Law that legalizes Bitcoin as a means of payment is Article 7, which states:

Every economic agent must accept bitcoin as a form of payment when it is offered to him by whoever acquires a good or service.

Every economic agent in El Salvador must accept bitcoin as a form of payment when offered by consumers. Economic agents, for example, such as shops, street vendors, hotel accommodation services and other sellers of goods or services must accept bitcoin payments if consumers want digital payments using bitcoin. In the implementation of Article 7 above, there is an exception, namely economic agents who provide goods and services in this case are exempt from the obligations stated in Article 7 of the Bitcoin Law. As stated in Article 12 below:

They are excluded from the obligation expressed in are clause 7 of this law, those who by a notorious fact and in an obvious way do not have access to the technologies that allow executing transactions in bitcoin. The State will promote the necessary training and mechanisms so that the population can access bitcoin transactions.

When agents do not yet have a digital payment system using Bitcoin, they are not obliged and can refuse if consumers want to pay with Bitcoin.

### **2) Analysis of the validity of wills with crypto assets as objects in el salvador**

Based on the analysis of the discussion above, in this day and age, making a will with the object of crypto assets in El Salvador, especially the type of bitcoin, can be said to be a legal act. Because the status of bitcoin is equivalent to the US dollar currency in force in El Salvador, as stated in the Bitcoin Law.

As long as the formalities associated with the preparation of a will are followed, the will is considered valid. In El Salvador, the terms of a will can vary, depending on the type of will to be made. Basically, there are two types of wills recognized, namely public and private wills. Public wills are made before a notary public, who will keep a record of the will in his office. This type of will benefits from the professional supervision of a notary, who ensures that the will complies with all legal requirements and is easily accessible for future verification.

## **Conclusion**

That the development of crypto asset regulations in Indonesia has been accommodated in the Minister of Trade Regulation Number 99/2018, concerning the General Policy for the Implementation of Crypto Asset Futures Trading. And followed up by the Commodity Futures Trading Supervisory

Agency Regulation Number 2 of 2020 concerning the Second Amendment to the Commodity Futures Trading Supervisory Agency Regulation Number 5 of 2019, concerning Technical Provisions for the Implementation of the Crypto Asset Physical Market (Crypto Asset) on the Futures Exchange. And Bappebti Regulation Number 2 of 2024, concerning the Second Amendment to the Commodity Futures Trading Supervisory Agency Regulation Number 11 of 2022 concerning the Determination of the List of Crypto Assets Traded on the Crypto Asset Physical Market. based on the letter of the Coordinating Minister for the Economy Number S-302 / M.EKON / 09/2018 concerning Follow-up to the Implementation of Crypto Asset Regulations (Crypto Assets) as commodities traded on the Futures Exchange. However, Indonesia only recognizes crypto assets as commodities, not as a means of payment.

In contrast to the country of El Salvador, in the development of crypto assets or Bitcoin -type cryptocurrencies, which is known as the first country to legally recognize Bitcoin, coinciding with June 8, 2021, the Bitcoin Law in Spanish, Ley Bitcoin, pronounced [lej bio' kojn] or Bitcoin Law, was passed by the El Salvador Legislative Assembly, and on September 7, 2021, the Law came into effect, and Bitcoin was given the status of a legal cryptocurrency as a means of payment in the country.

Making a will with the object of crypto assets (bitcoin) in Indonesia can be recognized or legal, although in general crypto assets or cryptocurrency (bitcoin) have not been specifically accommodated into the inheritance law in force in Indonesia. However, because based on the characteristics of crypto (bitcoin) it has met the requirements of objects as stated in Book II of the Civil Code Article 499, and has met the elements in Article 503 as an intangible object, but has economic value. as stated in (Permendag 99/2018) which stipulates that crypto assets are determined as commodities that can be used as Subjects of Futures Contracts traded on the Futures Exchange, and in Law Number 10 of 2011 amending Law Number 32 of 1997, Commodities are defined as objects or goods that are real and can be traded.

El Salvador, a will with bitcoin as an object, although not specifically regulated in the will or inheritance law applicable in the country. Making a will with crypto assets as an object can be recognized and legal, as long as it is carried out in accordance with the provisions of the law applicable in the country, because El Salvador is legally based on the Bitcoin Law. Openly recognizes bitcoin as a digital commodity and a legal means of payment equivalent to the US dollar.

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