

Civil Law in the Context of Inheritance: Drafting a Valid and Functioning Will

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Abstract

This research aims to explore the aspects of civil law related to inheritance with a focus on the preparation of legal and functional wills in Indonesia. Wills are important documents in estate planning that can reduce potential disputes between heirs. However, public understanding of the importance of wills and the legal provisions that govern them is still low. Through a normative juridical approach, this study collects data from literature studies, analysis of laws and regulations, case studies, and interviews with legal practitioners and the public. The results of the study show that the involvement of notaries in the preparation of wills is very important to ensure the validity of documents and prevent disputes. Although there are various educational programs regarding wills, their effectiveness still needs to be improved. The recommendations resulting from this study include the need for increased cooperation between legal practitioners, educational institutions, and community organizations in educating the public on the importance of heritage planning. Thus, it is hoped that public awareness of the preparation of wills will increase, so that the practice of inheritance planning in Indonesia can be more effective and in accordance with the applicable legal provisions.

Kata kunci : Civil law, context of inheritance, drafting legal

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1. Introduction

Civil law is one of the branches of law that regulates the relationship between individuals in the context of rights and obligations, including the inheritance aspect. Inheritance, in a legal perspective, is not just the transfer of property, but also relates to the rights possessed by individuals after death. In this case, a will is an important tool to determine how a person's property will be distributed to their heirs. A will is a legal document that states a person's will (testator) regarding the distribution of his or her property after his death. In the Indonesian legal system, wills are regulated in the Civil Code (KUHPerdata), which provides a legal basis for the existence and strength of wills. Wills can be in writing, orally, or in front of a notary, with certain conditions that must be met in order to be considered valid. One of the crucial aspects in the preparation of a will is to meet the formal and material requirements set by law. Formal requirements include provisions regarding the form of the will, such as the requirement to be written and signed by the testator. Meanwhile, the material requirements are related to the testator's legal capacity to make a will, as well as clarity regarding the objects to be inherited and who are the heirs who are entitled to it.

The importance of a will lies not only in arranging the division of property, but also in creating clarity and preventing disputes among the heirs. Without a will, the process of distributing the inheritance



can be complicated and cause conflicts between heirs who may have different interpretations of the deceased's will. With a will, the testator can express his or her wishes clearly, so that all parties understand what his will is. In Indonesia, there are two types of wills that are recognized, namely wills under hand and notary wills. An underhanded will is made by the testator himself and signed without involving a notary, whereas a notary will is made before a notary and has stronger legal force. The choice of this type of will can affect the validity and function of the will itself. In practice, many people are still reluctant to draft a will. This is due to various reasons, such as a lack of understanding of the importance of a will, the assumption that making a will is taboo, or uncertainty about the process of drafting it. In fact, by making a will, the testator can ensure that his property will be managed according to his will and expectations.

The preparation of a will also needs to pay attention to legal provisions regarding inheritance. For example, in the applicable inheritance law, there are provisions on heir rights that cannot be ignored, such as inheritance rights owned by children or legal spouses. Therefore, it is important for testators to understand these rights so as not to violate existing legal provisions. Another aspect that is no less important is the need to involve heirs in the process of drafting a will. Through open discussions, testators can explain their intentions and objectives, as well as listen to the views of heirs regarding the distribution of property. This will not only make the process of drafting a will more transparent, but also reduce the potential for future conflicts. The preparation of a will must also pay attention to current conditions and situations that can affect the testator's decision. For example, changes in financial conditions, family relationships, or even changes in the law can affect the way and choice of inheritance distribution. Therefore, it is important for testators to update their wills regularly.

In a global context, the importance of wills is also recognized in different countries with different legal systems. Each country has its own regulations and procedures for drafting a will, but the essence of the purpose of a will remains the same: to ensure that the will of the deceased is respected and properly implemented. With a deep understanding of the legal and procedural aspects of drafting a will, individuals can make wise decisions in managing their estate. In this context, the role of notaries and legal advisors is very important to provide direction and assistance in the preparation of a valid and functioning will. Through this research, it is hoped that various challenges faced in the preparation of wills will be revealed as well as solutions that can be taken to overcome these challenges. In addition, the importance of legal education regarding inheritance and wills will also be a focus, to increase public awareness about the importance of good estate planning. Finally, a strong understanding of civil law in the context of inheritance will help people to not only protect their rights, but also provide peace of mind for testators and heirs. Thus, the preparation of a valid and functioning will is a crucial step in wise and responsible estate planning.

The preparation of wills in Indonesia faces various challenges that require special attention in the context of civil law. One of the main issues is the lack of public awareness of the importance of wills, which many individuals consider unimportant or taboo. This can lead to uncertainty in the distribution of inheritance and potentially cause conflicts among heirs. In addition, a low understanding of the legal provisions governing wills, including the formal and material requirements that must be met, also increases the risk that the prepared will is invalid and cannot function according to the testator's wishes. The role of a notary in the preparation of a will is very important, as the notary is responsible for ensuring the validity and legal suitability of the document. However, many people do not know when and how to involve a notary, so it has the potential to cause errors in the drafting process. In addition, the high number of inheritance disputes in Indonesia is often caused by unclear distribution of property. In the absence of a clear will, heirs can have different views regarding their rights to the inheritance, which can trigger conflicts between them. To increase public understanding of the importance of wills, legal education plays a very crucial role. Evaluation of the effectiveness of educational programs conducted by various organizations, both government and private, is also necessary to ensure that information on heritage planning is well accessible. By understanding the challenges and opportunities in the preparation of wills, this study aims to provide recommendations for individuals, legal practitioners, and policymakers to improve practices related to effective estate planning.

There are various studies that discuss aspects of civil law related to inheritance and the preparation of wills, but there are still several gaps that need to be explored more deeply in the legal context in Indonesia. Most of the existing studies focus more on legal theory or formal aspects of wills, while public understanding of the practice of drafting them is still limited. Therefore, a more comprehensive study is needed on people's attitudes and understanding of the importance of wills, as well as the challenges they face in the process of drafting them. The role of notaries in the preparation of wills is considered important, but research that analyzes how the public decides to engage a notary or not, as well as how the decision affects the validity and functionality of the will, is still relatively rare. Further research is needed to explore the factors that influence an individual's decision to use notary services and their impact on the settlement of inheritance disputes in the future. With a deeper understanding of the relationship between notary involvement and the validity of wills, solutions to improve legal compliance in the preparation of wills can be found. There is also a need to research the influence of legal education and educational programs regarding wills on public awareness. Several organizations have attempted to improve public understanding through these programs, but there have been no studies that comprehensively measure the effectiveness of these programs. Research that can identify the most effective methods in increasing public awareness and understanding of the preparation of wills will be invaluable. Thus, the results of this study are expected to provide recommendations for legal practitioners and policymakers to support better heritage planning in Indonesia.

2. Method

The research method used in this study is normative juridical, focusing on the analysis of laws and regulations and legal principles relevant to the topic "Civil Law in the Context of Inheritance: Compiling a Valid and Functional Will." The research began with a literature study to collect legal literature related to civil law, inheritance, and wills, including the Civil Code (KUHPer) and other related laws. Furthermore, an analysis of the laws and regulations governing wills will be carried out, as well as case studies of inheritance disputes to identify the factors that cause conflicts and the role of wills in resolving them. The research also involved interviews with legal practitioners, notaries, and individuals who have drafted wills to explore their experiences and challenges, as well as surveys to collect quantitative data on public understanding of wills. The data obtained will be analyzed qualitatively and quantitatively to draw conclusions about public understanding, the role of notaries, and the effectiveness of related educational programs. Based on these findings, recommendations will be prepared for individuals, legal practitioners, and policymakers to improve the understanding and practice of estate planning, especially in the preparation of legal and functional wills, so that this research is expected to make a significant contribution to the development of wills preparation practices in Indonesia.

3. Results and Discussion

The results of this study show that the preparation of wills in Indonesia still faces various challenges, especially in terms of public understanding of the importance of this legal document. From the interviews conducted, most respondents admitted that they did not understand the terms and conditions that must be met to make a valid will. Many of them feel that wills are only needed by wealthy people or those with large assets, so they do not feel the need to compile such documents. This attitude creates gaps in estate planning that have the potential to lead to uncertainty and disputes among heirs. This trend suggests that legal education regarding wills and inheritances needs to be improved, considering that wills are not only important documents for high-income people, but also for individuals with simpler assets.

An analysis of laws and regulations shows that although there are clear provisions regarding wills in the Civil Code (KUHPer), the practice of drafting them in the field is often not in accordance with these provisions. Many individuals do not involve a notary in the preparation of their wills, even though the involvement of a notary is very important to ensure the validity and validity of the document. From the case studies of inheritance disputes analyzed, many conflicts arise due to unclarity in the content of the will or non-compliance with the formal requirements that have been determined by law. For example, some cases show that wills made orally or without adequate witnesses are not recognized by the court, ultimately leading to dissatisfaction among the heirs. This shows that the involvement of a notary in the process of drafting a will not only strengthens the

legality of the document, but also provides protection for the testator and future heirs.

Furthermore, this study found that education programs about wills carried out by various organizations have not been fully effective in increasing public awareness. Interviews with legal practitioners and notaries indicate that there are still many people who do not know about the existence of these programs, as well as how to access them. In addition, the content delivered in educational programs is often technical and not easy to understand by the layman. Therefore, a more innovative and directed approach is needed in conveying information about the importance of wills, including through social media, digital platforms, and community seminars. The application of interactive learning methods and based on real case studies can also increase public understanding of the process of preparing wills. By increasing public access and understanding of the preparation of a valid and functioning will, it is hoped that clarity can be created in the distribution of inheritance, so that conflicts between heirs can be minimized.

The results of this study provide recommendations to increase cooperation between legal practitioners, notaries, educational institutions, and community organizations in educating the public about estate planning and the importance of drafting wills. Through this collaboration, it is hoped that more comprehensive and targeted counseling can be carried out, so that the community can better understand their rights and obligations as heirs or heirs. In this way, it is hoped that public awareness of the importance of wills will increase, and thus, the practice of drafting wills in Indonesia can be more structured and in accordance with the applicable legal provisions. In addition, further research needs to be conducted to evaluate the impact of existing educational programs and identify new innovations that can be applied in raising public awareness of the importance of heritage planning.

Conclusions

The cancellation of a will is usually carried out if there is a discrepancy with legal provisions or an indication of a defect in its manufacture. Conditions that allow annulment include non-conformity with formal procedures, such as the absence of a valid witness, undue coercion or pressure from other parties, fraud or misperception, and legal or mental incapacity of the testator at the time of drafting the will. Each country or jurisdiction may have different legal standards regarding this condition, but the basic principle is to ensure the validity of the testator's will. The legal impact of the annulment of the will is very significant because it changes the distribution of the inheritance that has been determined. This cancellation will return the inheritance rights to the heirs in accordance with the provisions of the applicable inheritance law, for example following the rules for the distribution of inheritance regulated in local laws or customary laws. In addition, cancellation can also have additional legal consequences such as adjustment or transfer of ownership, as well as cause further legal disputes if any party is dissatisfied with the cancellation decision. Overall, the process of canceling the will is very important to maintain fairness and avoid abuse of inheritance rights, as well as provide legal certainty for all interested parties in the distribution of heirs' assets.

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