

Civil Law: Inheritance Law According To The Civil Code

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ABSTRACT

Inheritance law is an important part of civil law that regulates the transfer of a person's assets after death to their heirs. In the Indonesian legal system, there are three applicable inheritance laws: Western civil inheritance law (KUHPerdara), Islamic inheritance law, and customary inheritance law. This article discusses inheritance law according to *Civil Code* (Civil Code) which is a legacy of Dutch law and is still in effect today. Research purposes This study aims to analyze the inheritance law provisions in the Civil Code, explain the applicable inheritance principles and principles, and outline the status of heirs and the inheritance distribution mechanism based on positive law provisions. This research is expected to contribute to the development of civil law and serve as a reference in the practice of resolving inheritance disputes in Indonesia. This study uses a normative approach by analyzing provisions in the Civil Code and legal doctrines from experts. The analysis shows that the civil inheritance law system emphasizes the principles of individualism, freedom of will, and protection of the rights of certain heirs through legitimate institutions.

Keywords: Inheritance Law, Civil Code, Heirs, Wills, Legitimacy.

1. INTRODUCTION

Inheritance law is an important part of the civil law system because it regulates the transfer of a person's rights and obligations to their heirs after death. In the context of Indonesian law, civil inheritance law originates from *Civil Code* (BW) or the Civil Code is still the main reference in many legal cases, especially in general courts. Article 830 of the Civil Code states that inheritance only occurs due to death, which means that the right to inherit only arises after a legal event in the form of a person's death.

As stated by Subekti (2001) Inheritance law plays a role in maintaining legal certainty in the transfer of assets and serves as a means to protect the interests of the parties involved in the inheritance. Therefore, an in-depth study of civil inheritance law is essential to understanding the foundations of justice in the Indonesian legal system. Subekti (2001) explains that inheritance law is a legal regulation that regulates the legal consequences of a person's death on his assets. Soetojo Prawirohamidjojo (1993) states that inheritance in the Civil Code is based on the principles of individualism and freedom of will, in contrast to the customary law system which is collective in nature.



Sudikno Mertokusumo (2002) emphasizes the importance of the principle of formal justice in the inheritance system, where each heir obtains rights based on legal class. While Soerjono Soekanto & Sri Mamudji (2001) emphasizes that normative legal research is the right method for analyzing inheritance norms in the context of a positive legal system.

Other research by Hadjon (2005) reveals that the inheritance law of the Civil Code reflects the spirit of European legal liberalism, but is still relevant in modern Indonesian society because it provides strong legal certainty.

Furthermore, the increasingly complex development of Indonesian society demands reform of the existing inheritance law system. Legal modernization must consider not only the formal aspects outlined in the Civil Code, but also the sociological aspects that exist within society. In practice, there is considerable overlap in the application of civil inheritance law, Islamic law, and customary law, resulting in legal uncertainty for disputing parties. Therefore, this study seeks to re-examine the relevance of civil inheritance law as a positive legal basis within the national legal system.

Social and economic changes, including the increasing value of assets, patterns of joint property ownership, and the role of women in the family economy, have also given rise to new dimensions in inheritance law. This phenomenon demonstrates the need for reexamination of inheritance provisions in the Civil Code to ensure they continue to meet the needs of modern society. Therefore, this study aims not only to understand the normative content of civil inheritance law but also to evaluate its application within the context of legal pluralism in Indonesia.

2. RESEARCH METHODS

This research uses normative legal approach, namely a legal research method that focuses on the study of applicable positive legal norms. This approach is carried out by analyzing the provisions in Civil Code (KUHP) especially Book II Chapter XII which regulates inheritance. The data source used is data seconds, which includes primary, secondary and tertiary legal materials, namely:

1. Primary legal materials: statutory regulations (Civil Code), court decisions, and related legal documents.
2. Secondary legal materials: legal literature, books and scientific journals on civil inheritance law.
3. Tertiary legal materials: legal dictionary and legal encyclopedia.



The analysis method used is descriptive qualitative analysis, namely, systematically describing the content and meaning of legal norms relating to inheritance law according to the Civil Code. The goal is to gain a comprehensive understanding of the principles, systems, and implications of inheritance law in legal practice in Indonesia.

3. RESULTS AND DISCUSSION

a. Definition and Principles of Inheritance Law

According to Article 830 of the Civil Code, inheritance only occurs due to death. Subekti (1995:112) defines inheritance law as the law that regulates the legal consequences of a person's death on their assets and responsibilities.

Wirjono Prodjodikoro (1981) adding that inheritance law not only regulates the distribution of assets, but also the legal obligations and liabilities of inheritance that are transferred to the heirs.

The principles underlying civil inheritance law are:

1. The Principle of Individualism— each heir receives their own share (not collective);
2. The Basics of Testamentary Freedom— the heir is free to determine who the recipient of his inheritance is, as regulated in Article 875 of the Civil Code;
3. Basics of Protection against Legitimists— provide guarantees of rights to certain heirs (Article 913 of the Civil Code).

These principles demonstrate a balance between individual freedom and family interests. Ridwan HR (2010) assessing that this principle reflects a civil law system that upholds individual rights, but remains within the limits of social norms.

b. Subject and Object of Heritage

Legal subjects in inheritance consist of heir And heir. According to Article 832 of the Civil Code, heirs include blood relatives and legal spouses. Prawirohamidjojo (1993) explains that kinship is the main basis for inheritance rights.

Inheritance objects include all rights and obligations in the field of wealth that can be transferred to heirs. However, Article 955 of the Civil Code excludes personal rights such as usufruct or right of use. According to But (2012), these provisions show that the civil law system places more emphasis on rational and economic aspects, where inheritance is seen as a transfer of wealth, not just a family relationship.

c. Heirs in the Civil Code

The Civil Code divides heirs into four groups:

1. Group I: children and the longest-living husband/wife (Article 852 of the Civil Code);

2. Group II: parents and siblings;
3. Group III: ancestors in a straight line upwards (grandparents);
4. Group IV: family in a line further to the side.

Subekti (2001) emphasized that this system demonstrates the principle of priority based on blood proximity. Soetojo Prawirohamidjojo (1993) adding that this classification provides formal justice while still taking into account family relationships.

In judicial practice, district courts often refer to this provision to determine who is entitled to be the main heir in civil inheritance disputes (see *South Jakarta District Court Decision No. 234/Pdt.G/2016/PN Jkt.Sel*).

d. Inheritance Process and Distribution of Inheritance

The inheritance process begins upon the death of the testator. Based on Article 1045 of the Civil Code, the heirs can accept or reject the inheritance. Sudikno Mertokusumo (2002) explaining that this aims to protect heirs from the risk of bearing the testator's debts.

If the heir receives an inheritance with inventory privileges (*beneficiary acceptance*), he is only responsible for the debts of the testator up to the value of the inherited assets (Article 1100 of the Civil Code).

Hadjon (2005) This principle is considered a form of legal protection for heirs, preventing them from bearing responsibilities exceeding the amount of the inheritance. Inheritance can be distributed voluntarily through an agreement, or judicially through a court decision if a dispute arises.

e. Legitimate Rights and Wills

According to Article 913 of the Civil Code, legitimate is an heir whose rights cannot be set aside. Soetojo Prawirohamidjojo (1993) emphasizes that legitimate institutions reflect moral protection for children against excessive freedom of will.

Will or *testament* regulated in Articles 875–940 of the Civil Code. The Civil Code recognizes three forms of will: general, holographic, and secret. Subekti (2001) emphasizes that freedom to make a will is not absolute, because it remains limited by legitimate rights.

If the testator violates these rights, the legitimary can demand the cancellation of part of the contents of the will through the court (Article 916 of the Civil Code). But (2012) assesses that this mechanism maintains a balance between individual freedom and family justice in civil inheritance law.

f. Comparative Analysis between Civil, Islamic, and Customary Inheritance Law

In the context of the Indonesian legal system, pluralism in inheritance law is one of the main characteristics. The three inheritance law systems that apply simultaneously are Western civil inheritance law (KUHPerdara), Islamic inheritance law, and customary inheritance law. Each system has a different philosophy and basic principles in regulating inheritance. According to Hazairin (1982), customary inheritance law is based on the principles of family and collectivity, where inherited property is considered as the joint property of the extended family. Meanwhile, Islamic inheritance law emphasizes the principle of distributive justice which is expressly regulated in the Qur'an (QS. An-Nisa: 7-12) with a division that is definite and cannot be changed. In contrast to these two systems, civil inheritance law emphasizes the principles of individualism and freedom of will. This comparison shows that civil inheritance law places more emphasis on legal certainty and individual freedom, While Islamic and customary law place more emphasis on social balance and family values. In legal practice in Indonesia, The choice of inheritance law is often adjusted to the religion and culture of the testator, as stated in Article 171 Compilation of Islamic Law (KHI).

g. Practical Implications of Civil Inheritance Law in Dispute Resolution

In judicial practice, the resolution of inheritance disputes based on the Civil Code often faces problems of interpretation regarding wills and determination of legal heirs. Based on Supreme Court data (2023), inheritance cases rank fourth in the number of the most civil cases in Indonesia. Yahya Harahap (2008) explains that the main factor causing the dispute is a disagreement between the heirs regarding the division of property, assets and the validity of wills. Therefore, documentary evidence and notarial approval are important in the legal process. In addition, the practice of using mediation and arbitration in resolving inheritance disputes has begun to be implemented to reduce the backlog of cases in court. This alternative approach is in line with the principles of restorative justice advocated in Law No. 48 of 2009 on Judicial Power.

h. Comparison of Civil Inheritance Law with Inheritance Law Systems in Other Countries

As a country with a mixed legal system, Indonesia has adopted many legal principles from Continental European legal systems, particularly the Netherlands and France. Therefore, it is interesting to see how the inheritance law system in the country of origin of the Civil Code has evolved.

In the Netherlands, inheritance law has undergone modernization through the new Burgerlijk Wetboek, which emphasizes the principle of gender equality and protection for adopted



children. Meanwhile, in France, the Code Civil places importance on the "reserved portion," or mandatory share of the inheritance for children and spouses. This demonstrates that while the principle of freedom of will is upheld, the law still provides protection for those closely related to the testator.

In the Indonesian context, these principles remain relevant, particularly in national legal reforms oriented toward social justice. Reforms to the Civil Code should take into account modern inheritance law practices in these countries to create a system that is fairer and more responsive to societal dynamics.

i. Challenges of Harmonizing National Inheritance Law

Harmonizing the three inheritance law systems in Indonesia—civil inheritance law, Islamic inheritance law, and customary law—is a challenge that has not yet been fully resolved. Conflicting norms often arise in practice, especially when individuals have different religious and cultural backgrounds than those governed by the applicable inheritance law.

One proposed solution is the creation of an inclusive and pluralistic "National Inheritance Law Codification." This codification should incorporate universal principles such as justice, legal certainty, and humanity, while respecting the legal diversity prevailing in society. The government can take progressive steps by harmonizing regulations across inheritance law systems, involving religious, customary, and civil courts.

Furthermore, legal education plays a crucial role in fostering cross-system understanding among practitioners and academics. Collaboration between universities, research institutions, and legal practitioners is necessary to develop more adaptive inheritance dispute resolution models.

j. Case Study of the Implementation of Civil Inheritance Law in Indonesia

As a concrete example, consider case No. 123/Pdt.G/2018/PN.Jkt.Pst, which concerns a dispute over the distribution of inheritance between a biological child and an adopted child. In the ruling, the judge emphasized that an adopted child's inheritance rights can only be recognized if explicitly stipulated in a will. This reinforces the principle that civil inheritance law emphasizes the formal legal aspects of inheritance.

This ruling demonstrates that the civil inheritance law system tends to uphold formal legality over social morality. However, from a substantive justice perspective, a more humane approach should be considered, considering social relations and family responsibilities as the basis for inheritance. Therefore, inheritance law reform should not only be normative but also consider humanitarian values and social justice.

4. CONCLUSION

Inheritance law in the Civil Code is a systematic legal system that upholds the principle of formal justice. By classifying heirs into specific groups and regulating legitimate rights, the Civil Code seeks to maintain a balance between individual freedom and family interests.

Despite being a product of colonial law, the Civil Code remains relevant in Indonesian legal practice because it provides legal certainty and procedural clarity. Understanding this system is crucial for academics, legal practitioners, and the public to resolve inheritance issues fairly and in accordance with positive law.

Civil inheritance law has a strategic role in ensuring legal certainty regarding the transfer of assets after death. The principles of individualism, freedom of will, and legitimate protection show a balance between individual rights and social responsibility. In the context of legal pluralism in Indonesia, this system remains relevant as long as it does not conflict with the values of justice and humanity as stipulated in the constitution. The author recommends the need for reformulation of inheritance law in the form of a national codification that accommodates local values, religion, and social justice. The government, together with academics and legal practitioners, needs to harmonize the inheritance law system. In Indonesia is more adaptive to the dynamics of modern society.

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Author Contribution

This article was written entirely by the sole author, Sulistyani Eka Lestari. The author takes full responsibility for the analysis, interpretation of the data, and conclusions presented in this article.

Implications and Recommendations

It is hoped that the results of this study will serve as a basis for policymakers in formulating national inheritance law policies that are just and adaptable to societal developments. Furthermore, further research can focus on integrating customary and Islamic legal values into national legal codification to achieve more comprehensive harmony in inheritance law.

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