



Analysis of the Distribution of Inheritance to Heirs Based on Legal Status and Replacement in the Civil Code

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Info Articles	Abstract
Article History Received: 2025-04-13 Revised: 2025-05-01 Published: 2025-05-30 Keywords: <i>Division of Assets; Heirs; Legal Replacement.</i>	This study discusses the distribution of inheritance to heirs based on legal status and replacement in Civil Law. The purpose of this study is to analyze the inheritance distribution procedure that is fair and in accordance with applicable legal provisions, as well as to understand the role of replacement heirs in the process. The method used is a normative approach by referring to Articles 841-848 of the Civil Code (KUHPerdata) which regulate the placement of heirs. The results of the study indicate that the distribution of inheritance that does not pay attention to the status and rights of heirs can trigger conflicts between them. Therefore, it is important to follow legal provisions to create justice and legal certainty for all parties involved in the distribution of inheritance.

I. INTRODUCTION

Distribution of inheritance is an important aspect of civil law concerning family relationships and a person's property rights after death. (Hulu & Telaumbanua, 2022) In Indonesia, the applicable inheritance law system is pluralistic, encompassing customary inheritance law, Islamic inheritance law, and Western inheritance law as regulated in the Civil Code (KUHPerdata). (Nuzul, 2010) This study specifically highlights the distribution of inheritance according to the Civil Code, which systematically regulates who is entitled to receive an inheritance, the order of inheritance priority, and the mechanism for replacing the position of heirs.

In the Civil Code, inheritance (erfenis) can only be distributed if three main elements are fulfilled, namely the existence of a deceased heir, inherited assets (boedel), and the existence of legitimate heirs. (Setiawan et al., 2021) The Civil Code classifies heirs into several groups based on their blood relationship and/or marital ties with the testator, starting from the descending line (children and their descendants), then upwards (parents and grandparents), and then to the lateral line (siblings, nephews, and so on). Each group has a strict order of priority, where the

group that is closer genealogically will close the inheritance rights of the more distant group. (Riyanto, 2024).

One of the important aspects in the Civil Code inheritance system is the principle of replacement of legal status (plaatsvervulling). (Liastikha, 2024) This mechanism allows the descendants of deceased heirs to take their place and receive their rightful share of the inheritance. This concept reflects the principle of justice in inheritance law by providing a fair opportunity for descendants to retain their rights, while also avoiding gaps in the inheritance process. (Ahmad & Ramdhan, 2023).

However, in practice, the application of the principle of legal status and succession in the distribution of inheritance often raises issues, both in terms of legal interpretation and disputes between heirs. This necessitates a more in-depth legal study to understand how the provisions of the Civil Code are implemented in practice and how effectively they ensure legal certainty and justice for the parties concerned.

Therefore, this study aims to systematically analyze the distribution of inheritance based on the provisions of legal status and replacement in the Civil Code, and to evaluate the extent to which

these provisions are consistently applied in inheritance practices in Indonesia. Using a normative approach and literature review, this study is expected to contribute to strengthening the understanding of civil inheritance law and serve as a reference for practitioners, academics, and the wider community in resolving inheritance issues fairly and proportionally.

II. RESEARCH METHODS

This research will use the legal document analysis method.(Mahmud Marzuki, 2005)Documentation from the Civil Code will be selected as the primary data source. The analysis is conducted by reading and analyzing relevant articles related to the distribution of inheritance and legal status/replacement. The results of the analysis are then presented in a concise and easy-to-understand form so that they can be useful for all groups. In this study, the types of data used are secondary data related to normative legal analysis methods, empirical legal research, scientific journals, providing recommendations for improvements or changes in inheritance practices in accordance with applicable legal provisions. With this research method, it is hoped that a deeper understanding can be obtained regarding the distribution of inheritance to heirs based on their legal status and placement in the Civil Code.

III. RESULTS AND DISCUSSION

A. Definition and Elements of Civil Inheritance Law in Indonesia

Inheritance law is an integral part of the civil law system which regulates the transfer of a person's rights and obligations regarding his assets after he dies.(Natania & Lesmana, 2024). In the context of civil law in Indonesia, the term "inheritance law" comes from the Dutch language, namely *Erfrecht*, which literally means law regarding inheritance.(Junaidi et al., 2023)This civil inheritance law is based on the provisions regulated in the Civil Code (KUHPerdata), which is a legacy from the Dutch colonial era and is enforced in Indonesia through the principle of concordance, namely the principle that states that legal regulations applicable in the Netherlands

also apply in its colonies, including the Dutch East Indies.(Mubarak, 2024).

In general, civil inheritance law regulates the mechanism for transferring ownership rights to the wealth of a deceased person (*erflater*) to another living person (*erfgenaam*) based on certain legal relationships, especially blood or marriage relationships.(Wowor, 2019)In Indonesian Inheritance Law, Prof. Wirjono Prodjodikoro explains that inheritance concerns whether and how a person's rights and obligations regarding wealth will be transferred to others who are still alive upon their death. This means that inheritance law is not only concerned with property but also encompasses the legal responsibilities inherent in the heir, such as debts or other civil obligations.(Prodjodikoro, 1966).

The Civil Code stipulates that inheritance can only occur due to death, as stated in Article 830 of the Civil Code: "Inheritance only occurs due to death." This provision emphasizes that the right to inheritance cannot be granted while the testator is still alive. Furthermore, Article 833 of the Civil Code states that heirs automatically, by law, acquire ownership rights to all goods, rights, and receivables of the deceased. Article 836 of the Civil Code also states that "those who receive a share or right to the testator's assets are those who are still alive when the inheritance is distributed." This indicates that the existence of heirs at the time of the testator's death is an absolute requirement for obtaining an inheritance.

From these various provisions, it can be concluded that there are three main elements in the inheritance system according to the Civil Code, namely:(Junaidi et al., 2023)

1. Heir (*Erflater*): An heir is a person who dies and leaves behind assets, whether in the form of movable or immovable property, civil rights, or obligations that can be inherited. The heir is the starting point for the process of transferring inheritance rights.
2. Heirs (*Erfgenaam*): Heirs are individuals or groups of individuals who are legally entitled to receive and inherit the assets left by the testator. The right to inherit is determined based on the legal relationship

regulated in the Civil Code, such as descendants, husband or wife, and other parties designated through a will.

3. Inherited Assets (Boedel): Inherited assets include all assets left by the heir, both active (assets) and passive (debts). This property then becomes the object of inheritance and will be distributed to the heirs in accordance with applicable legal provisions.

The inheritance system in the Civil Code prioritizes the principles of legality and legal certainty, where each stage of inheritance must follow established procedures and hierarchies. The distribution of inheritance not only takes into account who the heirs are, but also takes into account the legal status and the principle of succession (*plaatsvervulling*) in the event of the death of the heir in advance of the testator (Liastikha, 2024).

As a long-established legal system in Indonesia, civil inheritance law plays a crucial role in ensuring order within families and communities regarding the distribution of wealth after death. However, the plurality of inheritance legal systems in Indonesia often gives rise to overlapping and conflicting norms, particularly in inheritance practices involving customary law or Islamic law. Therefore, a thorough understanding of the concept and elements of civil inheritance law is an essential foundation for a comprehensive study of inheritance law.

B. Inheritance Methods in Civil Law Based on Position and Succession

In the civil law system regulated by the Civil Code (KUHPerdata), inheritance can only occur upon death, as stipulated in Article 830 of the Civil Code. Inheritance is a legal event that results in the transfer of rights and obligations over the testator's assets to the legal heirs. (NAFI, 2024) In this context, civil law views men and women as having equal status in inheritance rights, and inheritance rights themselves are granted to blood relatives or due to marriage ties.

There are two methods of inheritance recognized in civil law. First, inheritance that occurs based on statutory provisions, known as *ab intestato*. In this system, the law determines who

is entitled to inherit based on blood or kinship ties. Heirs can obtain inheritance rights based on their own status, that is, inheriting directly due to their relationship with the testator, or obtain inheritance rights through a substitution mechanism, namely when an heir who should have inherited has died first, then their position is replaced by their descendants. (Natania & Lesmana, 2024).

Second, inheritance can occur based on the testator's wishes as stated in a will. In this inheritance system based on a testament or will, the heir has the freedom to determine who will receive his property after he dies, as long as it does not violate the absolute rights of legal heirs as regulated in law. (Sjarif, 2004).

In inheritance according to law, Article 832 of the Civil Code states that those entitled to be heirs are blood relatives, both legitimate and illegitimate, as well as the longest-living husband or wife. The basic principle adopted is that closer blood relatives will override the rights of more distant relatives, so that the order of closeness of relationship determines the priority in inheritance. (Jamaluddin et al., 2024).

The Civil Code implicitly divides heirs into several groups based on their relationship to the testator. The closest group consists of the testator's children and legal spouse. If neither group is present, inheritance rights pass to parents and siblings. If neither group is present, inheritance rights pass to paternal and maternal grandparents. If none are present, then only relatives in the lateral line, such as uncles, aunts, and cousins, will receive the inheritance. This provision reflects the principle of justice and order in the inheritance system, where the testator's wealth is given first to those with the closest biological and emotional family ties. (Natania & Lesmana, 2024).

Regarding the succession mechanism, the Civil Code stipulates that succession is only possible in a downward line. This means that if a child of the testator dies first, that child's child (the testator's grandchild) can take his or her place in the inheritance and receive the inheritance they are entitled to. However, succession does not apply in a lateral or upward line; for example, an uncle

cannot take the place of a deceased grandfather to inherit from his or her grandchild.(Wowor, 2019).

Meanwhile, Article 843 and Article 851 of the Civil Code also stipulate that the division of inherited property *or cloving* This can only be done once in a single lineage, so multiple divisions within the same branch are not permitted. This rule aims to maintain clarity regarding inheritance distribution and prevent disputes between heirs within the same lineage.

Overall, the inheritance system in civil law prioritizes the principles of legal certainty and regularity in the distribution of inheritance. By regulating the detailed mechanisms of inheritance based on status and succession, civil law aims to create distributive justice and protect the rights of the legitimate heir's family.

C. Inheritance Based on Replacement (Plaatsvervulling) in Civil Law

In the civil inheritance law system, the principle of inheritance does not only apply to heirs who are directly related to the testator and are still alive at the time the testator dies, but also opens up space for an inheritance mechanism based on replacement.(Ahmad & Ramdhan, 2023) This mechanism is explicitly regulated in the Burgerlijk Wetboek (BW), which in Indonesian legal practice is part of the Civil Code (KUHPerduta), specifically in Articles 841 to 845.

The concept of replacement or *plaatsvervulling* in civil inheritance law is a legal mechanism that allows the descendants of an heir who has died earlier to replace his position and obtain the portion of the inheritance that should have been received by his parents.(Liastikha, 2024) Article 841 of the Civil Code explains that replacement grants the successor the right to act at the same level and with all the rights of the person being replaced. This means that the children or descendants of a deceased heir can inherit by taking the place of their parents as if they were still alive at the time of the testator's death.

This succession is not limited to just one line of descent. In practice, descendants of a deceased successor retain the right to continue to succeed. Thus, succession under civil law can continue

indefinitely as long as there is a line of descent from the successor. This mechanism ensures that inheritance rights are not lost simply because the direct heir has died, but are instead passed on to the next generation.(Natasya, 2022).

In civil inheritance law, there are three forms of succession, as regulated in Articles 842, 844, and 845 of the Civil Code. Article 842 regulates succession in a legitimate descending line. This provision emphasizes that succession applies continuously, without limitation on the level of descent. When one of the children of the testator dies first, his or her children (the testator's grandchildren) can replace him or her and inherit alongside the siblings of their parents. If the children of the successor also die, their grandchildren (the testator's great-grandchildren) still have the right to succeed, as long as they are in the legitimate line of descent. This system adopts the principle that all descendants of one branch of the family inherit as one unit, and the inheritance is divided within one branch, not based on the number of individual recipients.(Zubair, 2023).

Furthermore, Article 844 of the Civil Code regulates succession in the lateral line, specifically for children and descendants of the testator's brothers or sisters who have died before him. In this situation, the nephews or grandchildren of the testator's siblings can replace their parents in receiving the inheritance from the testator, whether they inherit together with their uncle or aunt, or in a situation where all the testator's siblings have died and the inheritance must be divided among their descendants. This succession mechanism remains valid even if the relationship between the siblings and the testator is not of the same father or mother, as long as they still have a blood relationship recognized by law.(Ritonga & Harahap, 2022).

However, this provision also requires that new descendants can act as replacement heirs if all of the heir's siblings who should receive the inheritance have died, are deemed incompetent, or have rejected the inheritance.

Article 845 of the Civil Code complements the provisions on succession by granting the right of succession in special situations, namely when the

testator's nephew, who is the closest heir, inherits together with the children and descendants of the testator's predeceased sibling. In this situation, the nephew's children can take the place of their parents and receive a proportional share of the inheritance along with the other nephews. This provision expands the scope of succession in the lateral line and ensures fairness among the descendants of the testator's siblings.

The principle of succession in civil inheritance law essentially reflects the desire to maintain inheritance rights within one family branch. This provision also ensures that the heir's assets remain within the circle of his biological descendants, and that inheritance rights are not lost solely due to the death of a primary heir. Thus, civil inheritance law, through its regulation of *plaatsvervulling*, not only emphasizes the importance of the continuity of rights within the lineage but also maintains balance in the fair distribution of inheritance among the testator's family. (Ahmad & Ramdhan, 2023).

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

The status of heirs in the distribution of inheritance significantly influences the size of their share. The Civil Code classifies heirs into two categories: those based on blood relations and those based on wills. Legal heirs have a stronger position to protect the family's rights. The principle of justice is emphasized, especially regarding the replacement of heirs, to prevent inequality. Compared with Islamic inheritance law in the Compilation of Islamic Law (KHI), despite differences in mechanisms and proportions, both systems emphasize fairness and balance in the distribution of the testator's assets.

B. Suggestion

The government needs to harmonize regulations between civil and Islamic inheritance law, in order to create legal certainty in a pluralistic society.

REFERENCE LISTAN

Ahmad, S., & Ramdhan, AWBTA (2023). Comparative Study of Substitute Heirs (*Plaatsvervulling*) from the Perspective of

the Civil Code and the Compilation of Islamic Law. *Menara Tebuireng: Journal of Islamic Sciences*, Vol. 18 (No. 2), 1–15.

Hulu, KI, & Telaumbanua, D. (2022). Ownership Rights to Inherited Land Obtained Through Parental Inheritance. *Jurnal Panah Keadilan*, Vol.1(No.2), 52–61.

Jamaluddin, SH, Faisal, SA, SH, M., & Sela Azkia, SH (2024). Marriage Law (Marriage Law Approach and Compilation of Islamic Law). Deepublish.

Junaidi, J., Hutabarat, SA, Abas, M., Mahmudah, H., Kamilah, A., Zuhrah, Z., & Rizqi, AM (2023). Introduction to Indonesian Civil Law. PT. Sonpedia Publishing Indonesia.

Liastikha, VO (2024). The Position of Substitute Heirs in Inheritance Disputes Based on the Civil Code. *Sang Pencerah: Scientific Journal of Muhammadiyah University of Buton*, Vol.10(No.2), 309–320.

Mahmud Marzuki, P. (2005). Legal research. Jakarta: Kencana Prenada Media, 55.

Mubarak, N. (2024). The History of the Development of Criminal Law in Indonesia: Welcoming the Arrival of the 2023 Criminal Code through a Historical Perspective. *Al-Qanun: Journal of Islamic Legal Thought and Reform*, Vol. 27 (No. 1), 15–31.

NAFI, KFN (2024). Inheritance of Different Religions in the Views of Wahbah Al-Zuhailly and Ibn Qayyim Al-Jauziyyah (Case Study of Tanon Village, Papar District, Kediri Regency). IAIN Kediri.

Natania, M., & Lesmana, J. (2024). Analysis of the Inheritance System in Indonesia from a Civil Law Perspective. *Citizenship Journal*, Vol.8(No.1), 990–999.

Natasya, E. (2022). Gender Equality in Inheritance Distribution in Chinese Families in Tegal City. In *JOURNAL OF LAW, POLITICS AND POWER* (Vol. 2, Issue 2, pp. 120–134). Soegijapranata Catholic University.
<https://doi.org/10.24167/jhpk.v2i2.5070>

Nuzul, A. (2010). Efforts to Codify Inheritance Law Bilaterally with Differentiation Patterns in a Pluralist Society. *Old Website of Jurnal Mimbar Hukum*, Vol.22(No.3), 465–481.

Prodjodikoro, W. (1966). Inheritance law in Indonesia. Sumur Bandung.

Ritonga, R., & Harahap, AM (2022). The Dynamics of Islamic Inheritance in the Case of Muslim Women in the Concept of Syajarotul Mirats. In *Al-Ahwal Al-Syakhsiyyah: Journal of Family Law and Islamic Justice* (Vol. 3, Issue 1, pp. 1–18). Sunan Gunung Djati State

- Islamic University of Bandung.
<https://doi.org/10.15575/as.v3i1.17248>
- Riyanto, A. (2024). Indonesian Inheritance Law. Tri Edukasi Ilmiah Foundation.
- Setiawan, MR, Fakhry, M., & Apriano, M. (2021). Legal Protection of Creditors in Inheritance of Unmanaged Inherited Assets According to the Western Inheritance System. *Journal of Legal Communication (JKH)*, Vol.7(No.1), 419–438.
- Sjarif, SA (2004). Western Civil Inheritance Law: Inheritance According to Law.
- Wowor, K. (2019). Inheritance Law on Land According to Civil Law. *Lex Privatum*, Vol.7(No.6).
- Zubair, A. (2023). Conflict Resolution on the Distribution of Inheritance in the Bugis Bone Community. CV. SYAHADAH CREATIVE MEDIA (SCM).