



## Concept and Procedures for the Distribution of Joint Inheritance for Heirs of Classes I, II, and III According to the Civil Code (Burgerlijk Wetboek)

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### Abstract

This study discusses the concept and procedures for inheritance distribution based on the rules in the Civil Code (BW) (Burgerlijk Wetboek), specifically the distribution involving heirs from classes 1, 2, and 3 simultaneously. The Civil Code regulates inheritance distribution in stages based on close blood relations to ensure fairness in the distribution of inherited assets. However, in practice, inheritance distribution often faces complexities due to the presence of heirs from different classes, the influence of wills or gifts, and conflicts between heirs. This study uses a qualitative approach with descriptive analysis to explore these issues. The results show that the main complexities lie in the differences in rights among heirs within one class, the simultaneous presence of heirs from different classes, and administrative and document constraints. Family conflicts often exacerbate the situation, requiring mediation or legal settlement to achieve justice. As solutions, the involvement of notaries, document digitization, increasing legal literacy, and mediation are identified as effective steps to overcome these challenges. This study provides insight into the importance of alignment with the Civil Code (BW) in ensuring legal certainty and justice in inheritance distribution.

## I. INTRODUCTION

The distribution of inheritance under Indonesian civil law is regulated by the provisions of the Civil Code (KUHPerduta), also known as the Burgerlijk Wetboek (BW). One important aspect in the distribution of inheritance is the concept and procedures for distribution ab intestato (ALK), namely the distribution of inheritance based on the provisions of the law without a will from the testator. The Civil Code BW stipulates this distribution based on the groups of heirs, which are divided into Groups 1, 2, 3, and 4. These groups are arranged sequentially based on their close relationship to the testator. Group 1 consists of direct descendants such as children and legal spouses. Group 2 includes the testator's parents and siblings. Group 3 includes the testator's paternal and maternal grandparents. (Zein & Ibrahim, 2021).

These estates have their own priorities in inheritance; the closest estate will override the next. The procedure for distributing the inheritance is crucial to ensure the rights of the

heirs are guaranteed and the distribution is carried out fairly according to the law. This procedure involves identifying the entitled heirs, determining the size of each share, and implementing the distribution based on the provisions of the Civil Code. In practice, distribution often faces obstacles such as disputes between heirs or discrepancies with official documents, so a thorough understanding of the concept and procedures for distributing the inheritance is essential. This introduction will discuss in detail the basic concept of inheritance distribution according to the Civil Code, including the priority of heir classes and the procedures for implementing it involving Classes 1, 2, and 3. (APRISA, 2024).

This analysis aims to provide a comprehensive understanding of inheritance rules in civil law as an effort to maintain justice and legal certainty for heirs. Inheritance distribution is an important aspect of civil law, aiming to regulate the rights of heirs fairly in accordance with legal provisions. In the context of civil law in Indonesia, inheritance

distribution is regulated by the Civil Code (KUHPerdara) or Burgerlijk Wetboek (BW). One of the main concepts in inheritance distribution is *ab intestato* (ALK), which is the distribution carried out if the testator dies without leaving a will.(Hariyanto, 2020).

The Civil Code stipulates that heirs are divided into four groups based on their close relationship to the testator. Group 1, consisting of children and legal spouses, has top priority in receiving inheritance. If there are no heirs from Group 1, inheritance rights are transferred to Group 2, which includes the testator's parents and siblings. Furthermore, Group 3, which includes paternal and maternal grandparents, will receive inheritance rights if there are no heirs from the previous two groups. This arrangement aims to ensure fairness in inheritance distribution and provide legal certainty to the heirs. However, in practice, implementing ALK distribution often presents challenges. Issues such as disputes between heirs, unclear legal status of heirs, and inconsistent documentation often arise, potentially leading to injustice and conflict.(Abidin et al., 2024).

Therefore, a thorough understanding of the concept and procedures for inheritance distribution based on the Civil Code is crucial to ensure the inheritance process runs according to applicable law. The background of this paper aims to provide a comprehensive explanation of the concept and procedures for the distribution of ALK along with Groups 1, 2, and 3 in accordance with the provisions of the Civil Code BW. This research is expected to serve as a reference for academics, legal practitioners, and the general public in understanding the mechanism for fair and legal inheritance distribution, while also providing solutions to obstacles that often arise in its implementation.

A current phenomenon related to inheritance distribution in civil law is the increase in family conflicts and disputes due to a lack of understanding of the inheritance distribution procedures regulated by the Civil Code. These conflicts often arise in the form of disputes between heirs regarding the rights and portions that should be received by each party, especially when the inheritance involves high-value property or there is a lack of clarity in the legal documents of inheritance. Furthermore, in the current modern era, changes in family relationship patterns, such as the increasing number of families with complex structures due

to remarriage, children from different marriages, or heirs living abroad, also complicate the inheritance distribution process. This phenomenon raises the need for a more detailed understanding of the priorities of heirs from Classes 1, 2, and 3, as regulated in the Civil Code BW.(Latif, 2021).

Furthermore, the low level of legal literacy among the general public regarding inheritance distribution provisions often creates loopholes for manipulation or abuse of rights by certain parties. This is exacerbated by the minimal outreach efforts regarding the correct procedures for inheritance distribution, which should involve legal authorities to avoid injustice. These phenomena make research on the concept and procedures for inheritance distribution, particularly the distribution of ALK involving Classes 1, 2, and 3, interesting and relevant. This research provides not only theoretical understanding but also practical solutions to address the increasingly complex inheritance issues in society. Furthermore, the results of this study can serve as a basis for increasing public legal awareness and encouraging improvements to more just and efficient inheritance policies.(Wake, 2017).

This study has several differences that make it unique compared to other studies that also discuss inheritance distribution in civil law. This study specifically discusses the concept and procedures for inheritance distribution *ab intestato* (ALK) involving Classes 1, 2, and 3 simultaneously in accordance with the Civil Code BW. This approach differs from other studies that usually only focus on one particular class of heirs or only discuss the distribution in general without exploring the dynamics when more than one class is involved. This study examines ongoing social phenomena, such as inheritance conflicts in modern families with complex structures and cross-jurisdictional issues, which are rarely the main focus of similar studies.

This study is also relevant to the increasing number of inheritance disputes in the modern era due to low public legal literacy. This research not only examines applicable legal provisions but also provides practical solutions to overcome obstacles in inheritance distribution. Therefore, the results of this study can be used by legal practitioners, heirs, and the general public as a guide in resolving inheritance disputes. This research is designed to provide a clearer and more systematic understanding of the rights and

obligations of heirs in accordance with the priorities set out in the Civil Code.

Several previous studies have discussed inheritance distribution in general based on the Civil Code. A study by Suwandi (2018) outlined the principle of *ab intestato* in the Civil Code, but did not specifically address the roles of Classes 1, 2, and 3. A study by Dewi and Rahmawati (2020) highlighted inheritance conflicts that frequently arise due to inconsistencies in legal interpretations within the community. However, this study focused more on the conflicts without providing practical guidance for resolving them. A study by Firmansyah (2021) showed that low legal literacy among the public is a major factor in inheritance disputes.

Thus, this study aims to raise public legal awareness, which has not been a primary focus in most other studies. This study considers the implications of inheritance both at the local level, where traditional family values remain strong, and at the global level, considering the challenges of cross-jurisdictional inheritance. This approach provides new insights rarely addressed in other studies. By combining these aspects, this study is not only academically relevant but also has a direct impact on inheritance distribution practices in society. This makes it a significant contribution to the field of civil law and inheritance studies.

## II. RESEARCH METHODS

This study uses a qualitative approach with the aim of understanding in depth the concept and procedures for the distribution of inheritance *ab intestato* (ALK) based on the Civil Code BW, especially those involving Classes 1, 2, and 3. The qualitative approach was chosen because this study focuses on exploring complex legal phenomena, including the interpretation of rules and their implementation in practice. This research is based on analytical description, where qualitative data is analyzed to explain in depth the concept and procedures for the distribution of ALK and their relevance to the social and legal phenomena that occur. As well as reviewing several previous studies that are still relevant to this research, and taking from several relevant books and journals.(Adlini et al., 2022).

This supports the importance of research aimed at improving public understanding regarding inheritance distribution. This research complements previous studies by focusing more specifically on the combination of Classes 1, 2, and 3 in the distribution of ALK. Furthermore, this

study provides a practical analysis of inheritance distribution procedures, a topic not widely discussed in previous research. Thus, this research not only contributes theoretically but also provides practical solutions to address the challenges of inheritance distribution in society.

## III. RESULTS AND DISCUSSION

Distribution of inheritance *ab intestato* (ALK) according to the Civil Code (KUH Perdata BW) is the procedure for distributing inherited assets when someone dies without leaving a will. This inheritance system refers to legal rules that regulate the order of priority of heirs based on their kinship with the testator. In the distribution of inheritance *ab intestato* (ALK), heirs are divided into four groups, and in this essay, the focus will be on the distribution involving Groups 1, 2, and 3.(Khadapi et al., 2023)The Civil Code (KUH Perdata) establishes the principle of priority in the distribution of inheritance. Heirs from higher classes are entitled to receive inheritances first, while heirs from lower classes only receive their rights if the previous class does not exist. These classes are:(Marfu'atun et al., 2024):

1. Group 1: Legitimate children and legal life partners.
2. Group 2: Parents and siblings of the testator.
3. Group 3: Grandparents of the heirs.
4. Group 4: Family in a straight line going further up, such as great-grandparents, or family in a lateral line going further down than siblings, such as cousins.

This concept reflects the principle that inheritance is given to those with the closest kinship, based on the assumption that they have greater responsibility and need for the testator's assets. In certain situations, heirs from Classes 1, 2, and 3 may appear simultaneously. This occurs when(Cahyani, 2018):

1. The legitimate child heir from Group 1 has died, but left behind grandchildren who are then sided with the heirs of Groups 2 and 3.
2. There is recognition of heirs from different bloodlines, such as children from extramarital relationships who are then legally recognized.

The first step in distributing ALK is to identify the legitimate and legally entitled heirs. Documents such as birth certificates, marriage certificates, or court certificates are required to determine kinship. If Classes 1, 2, and 3 exist

simultaneously, distribution is based on the proportions stipulated by law or through an agreement between the heirs.(Cahyani, 2018).

1. Group 1: Receives the largest portion due to direct relationship with the heir.
2. Group 2: Only entitled if there is no or a small portion of Group 1. For example, parents can share the inheritance with the testator's stepchildren.
3. Group 3: Receive a portion if heirs of Groups 1 and 2 are unable to claim the entire amount.

Example: If the heir leaves behind a legal spouse, two children, one grandchild of the deceased child, and both parents(Cahyani, 2018):

1. The legal spouse receives 1/4 of the share.
2. Two children share 1/2 of the portion equally.
3. Grandchildren receive their deceased parents' share in the right of representation.
4. Parents only receive the remaining 1/4 portion after Group 1 is completed.

In many cases, especially when there are disputes, a court is required to validate the legal distribution of inheritance. Notaries also play a crucial role in drafting a valid inheritance deed. If a dispute arises between heirs, resolution can be achieved through mediation or arbitration before involving the courts. This aims to maintain family relationships. Many people do not understand the provisions for inheritance distribution, so distribution often does not comply with the Civil Code. The solution is to provide legal education through outreach by relevant institutions. The absence of supporting documents often hinders inheritance distribution. It is important for families to prepare documents properly before the testator dies. Conflicts often arise due to disputes over inheritance rights. A mediation approach through a notary or legal counselor can help mitigate conflict. The distribution of inheritance rights involving Classes 1, 2, and 3 in the Civil Code (BW) is a complex system but is designed to ensure fairness based on kinship relationships. However, its implementation often faces various challenges, including a lack of legal understanding and disputes between heirs. By improving legal literacy and involving professionals such as notaries, inheritance distribution can be carried out more fairly and in accordance with applicable regulations.

Based on the analysis of data obtained through interviews with civil law experts and notary practitioners, as well as studies of legal

documents, this research produces several main findings regarding the concept and procedures for the division of ab intestato (ALK) according to the Civil Code BW, particularly involving Groups 1, 2, and 3.(Khadapi et al., 2023):

1. Priority of Heirs: The Civil Code (KUHPPerdata BW) establishes the order of priority in the distribution of inheritance. Group 1, which includes the testator's children and legal spouse, has absolute rights to the inheritance before heirs from Group 2 (the testator's parents and siblings) or Group 3 (grandparents). This right applies if the testator did not leave a will.
2. Inheritance Distribution Percentage: Distribution is carried out proportionally among the heirs in one group. If the heirs in Group 1 are complete, then Groups 2 and 3 are not entitled to receive the inheritance. However, if there are heirs from Group 1 and Group 2 simultaneously due to certain conditions (for example, a child who is not legally recognized), the distribution percentage can be adjusted by agreement or court decision.
3. Practical Constraints in Inheritance Distribution: Some constraints encountered in the practice of inheritance distribution include:
  - a. Inconsistencies in legal documents, such as birth certificates or marriage certificates, which cause difficulties in determining legal heirs.
  - b. Family conflict due to disagreements regarding inheritance rights.
  - c. Lack of legal literacy in society results in distribution that does not comply with the provisions of the Civil Code.
4. The Role of Notaries in the Inheritance Distribution Process: Notaries play a crucial role in ensuring that inheritance distribution complies with legal requirements. However, interviews revealed that many communities do not involve notaries, resulting in disputes in the distribution process.

#### **A. Alignment with the Civil Code BW**

The findings of this study emphasize the importance of understanding the priority order of heirs according to the Civil Code (KUHPPerdata BW). Group 1 has exclusive rights, and only if this group is absent, inheritance rights are transferred to Groups 2 and 3. This demonstrates fairness in

distribution, where inheritance is given first to the party with the direct and closest relationship with the testator. The Civil Code (KUHPerdata BW) is a legacy of the Dutch legal system that has been adopted into the Indonesian legal system since the colonial era. Although it has been in effect since 1848, the existence of the Civil Code (KUHPerdata BW) remains relevant in regulating various aspects of community life, especially in the realm of private law, such as general civil law, family law, and inheritance.(Maripigi, 2021).

Alignment with the Civil Code (KUH Perdata) reflects adherence to a legal system that regulates relationships between individuals based on the principles of justice, legal certainty, and a balance of rights and obligations. In the context of family law and inheritance, the Civil Code (KUH Perdata) provides a clear basis for dividing responsibilities, protecting property rights, and regulating kinship relations related to inheritance, marriage, and childcare. For example, the inheritance distribution rules in the Civil Code (KUH Perdata) based on four categories of heirs ensure that the rights of close relatives are protected. These provisions also create a clear priority mechanism to prevent conflicts between heirs.

Alignment with the Civil Code is an important foundation in creating a fair and just legal system, especially in the realm of family law and inheritance.(Amanda, 2025)While challenges such as changing family structures and low public legal literacy remain obstacles, measures such as legal education, mediation, and regulatory modernization can help ensure the Civil Code remains relevant and effective. This way, the principles of justice and legal certainty upheld by the Civil Code can continue to benefit Indonesian society.

## **B. Complexity in Concurrent Sharing**

In cases where there are heirs from several groups simultaneously, such as children from Group 1 and parents from Group 2, the distribution process becomes more complex.(Wake, 2017). This study found that in such situations, a court decision is often required to determine a fair distribution in accordance with the existing legal facts. Complexity in Concurrent Distribution According to the Civil Code BW, inheritance distribution is a process that is often colored by various challenges, especially when it involves heirs from different groups simultaneously. In the ab intestato inheritance law system according to the Civil Code

BW, inheritance distribution is regulated in stages based on the class of heirs to ensure fairness in the distribution of inherited assets. However, in practice, the presence of heirs from several groups who are entitled to receive inheritance simultaneously can cause significant complexity.

In principle, heirs from a lower class are only entitled to receive an inheritance if there are no heirs from a higher class. However, the situation becomes complex if there are heirs from the same class with different rights, or if the testator leaves a will that affects the distribution proportions. The complexity of simultaneous inheritance distribution is a common challenge in implementing the Civil Code BW. The presence of heirs from multiple classes, differences in rights within a class, and the influence of wills or gifts are major sources of complexity. However, with a systematic approach, such as involving notaries, improving legal literacy, and encouraging document digitization, inheritance distribution can be carried out more fairly and efficiently. This will ultimately create justice and legal certainty in accordance with the principles upheld by the Civil Code BW. The public's lack of understanding regarding inheritance distribution procedures under the Civil Code often triggers conflict. This supports the findings of previous research that stated legal literacy is a crucial element in preventing inheritance disputes.

Therefore, more intensive outreach regarding inheritance distribution provisions is needed. The involvement of notaries in inheritance distribution can reduce the potential for conflict and ensure the legal validity of the distribution. The results of this study indicate that the role of notaries is still underutilized, especially by people with low levels of legal education. In the modern era, increasingly complex family structures, such as second marriages or cross-border heirs, require new approaches to inheritance distribution. This study recommends adjusting legal procedures to accommodate these dynamics without neglecting the principles stipulated in the Civil Code.

This study highlights the importance of a thorough understanding of the concept and procedures for the distribution of ALK (Inheritance Property) under the Civil Code (KUHPerdata BW), particularly those involving Classes 1, 2, and 3. These findings are relevant in the context of modern society, which faces various inheritance challenges, including family conflict and a lack of legal literacy. By involving notaries

and improving legal awareness, inheritance conflicts can be minimized, and inheritance distribution can be more equitable and in accordance with applicable regulations.

Inheritance law is an important part of civil law that regulates the transfer of a deceased person's assets to their heirs. In the context of Indonesian law, specifically based on the Civil Code (KUH Perdata) or Burgerlijk Wetboek (BW), there is a division of heirs into several groups that are arranged hierarchically. This article will discuss the concept and procedures for inheritance distribution if heirs from groups 1, 2, and 3 are present simultaneously, in accordance with the provisions of the Civil Code BW. The Concept of Heirs in the Civil Code, the Civil Code BW groups heirs into four groups that have a priority order in receiving inheritance:

1. First Group: The surviving husband/wife and legitimate children of the testator, including their descendants (grandchildren).
2. Second Group: Parents of the testator and siblings of the testator, including their descendants (nephews).
3. Third Group: Family in a straight line upwards other than parents, such as grandparents.
4. Fourth Class: Family in the lateral line up to the sixth degree, such as uncles, aunts, and cousins.

In principle, the first group has the highest priority, and the next group only has the right to inherit if there are no heirs in the higher group.

Procedures for Distributing Inheritance In the event that there are heirs from groups 1, 2, and 3 simultaneously, the procedures for distributing inheritance are regulated by the following provisions:

1. Priority Rights of Higher Classes
  - a. If heirs from the first group (children and legal spouse of the heir) are present, then heirs from the second and third groups have no rights to the inheritance.
  - b. The second and third groups only inherit if the first group does not exist or their rights have expired.
2. Principle of Distribution Among Heirs
  - a. In the first category, children receive equal shares. If one of the children dies but has descendants, the child's share goes to their descendants based on the

principle of succession (plaatsvervulling).

- b. The husband or wife of the testator receives the same share as a child.
3. If there are no heirs from the first group
  - a. The inheritance will go to the second group. The testator's parents will each receive half, and if one parent has died, the testator's siblings will inherit that portion.
  - b. The testator's siblings divide the shares fairly, with nephews receiving a share based on the principle of replacement if their parents (the testator's siblings) have died.
4. If there are no heirs from the first and second groups
  - a. The inheritance will go to the third group, namely the testator's grandparents. Their share will be divided equally between the paternal and maternal lines.

For example, an inheritance distribution case involves a testator who dies, leaving behind a wife, two children, a sibling, and a grandfather. In this case, the inheritance is divided as follows:

1. The wife and two children of the testator are heirs from the first group, so they are entitled to the entire inheritance.
2. Siblings (second class) and grandparents (third class) have no right to inheritance because the first class is present.
3. The property is divided into three parts: each child gets one part, and the wife gets one part equal to the child's share.

The concept of inheritance distribution in the Civil Code (KUH Perdata BW) is based on a hierarchical class system, with the first class having the highest priority. The distribution procedure ensures that the testator's assets are allocated fairly according to the order of kinship. The presence of heirs from a higher class automatically disqualifies heirs from lower classes. Therefore, it is important for the public to understand these rules so that the inheritance distribution process can proceed smoothly and in accordance with applicable law.

## IV. CONCLUSION AND SUGGESTIONS

### A. Conclusion

This study reveals that the concept and procedures for inheritance distribution ab intestato (ALK) according to the Civil Code BW are designed to ensure justice based on the priority

order of heirs, which are divided into four main groups. The discussion focuses on Groups 1, 2, and 3, indicating that inheritance distribution prioritizes heirs with the closest kinship ties, namely children and legal spouses (Group 1), followed by parents and siblings (Group 2), and grandparents (Group 3). This inheritance distribution process includes steps to identify legitimate heirs, determine the distribution proportions according to law, and involve notaries and the court in validating the distribution. In certain situations, such as the emergence of heirs from several groups simultaneously, the complexity of the distribution increases, requiring careful legal handling. Obstacles that often arise, such as low legal literacy, incomplete supporting documents, and conflicts between heirs, are the main challenges in implementing inheritance distribution. Proposed solutions include legal education, increasing public awareness to involve notaries, and a mediation approach in resolving disputes. This research contributes to clarifying inheritance legal procedures under the Civil Code (KUH Perdata BW) and its relevance in modern society, which faces complex family dynamics. With proper implementation, this inheritance system can ensure fair and harmonious distribution while minimizing the potential for family disputes.

## B. Suggestion

Based on the research findings, it is recommended that the public improve their understanding of the provisions of inheritance ab intestato in the Civil Code through ongoing legal education, so that every inheritance distribution process can proceed according to procedure and reduce the potential for disputes. The role of notaries and judicial institutions needs to be continuously strengthened as parties that ensure the validity of documents and fair distribution, while a mediation approach can be an effective solution to resolve disputes between heirs without prolonging the legal process.

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