



## Analysis of the Protection of Women's Inheritance Rights in the Civil Inheritance Law System

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### ABSTRACT

The protection of women's inheritance rights represents a fundamental issue within Indonesia's civil inheritance law system, which continues to encounter various challenges stemming from patriarchal cultural influences and gender-biased social constructs. Although the Indonesian Civil Code (KUHPerdata) explicitly affirms that men and women are entitled to equal rights in inheritance matters, practical realities often reveal persistent disparities in wealth distribution. Such inequities frequently arise from societal perceptions that position men as the principal heirs while viewing women as less entitled to family property. This article aims to examine the legal protection afforded to female heirs within the framework of Indonesia's civil inheritance law and to evaluate the extent to which principles of equality and non-discrimination have been effectively applied in legal practice. Employing a normative juridical approach, this study analyzes statutory regulations, judicial decisions, and relevant legal literature. The findings indicate that, although civil inheritance law normatively guarantees equal inheritance rights for women and men, gaps remain in its practical implementation. Therefore, strengthening legal protection mechanisms, enhancing gender awareness, and fostering cooperation between law enforcement institutions and women's advocacy organizations are essential to achieving substantive justice for female heirs in Indonesia.

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### INTRODUCTION

Inheritance law is a fundamental branch of civil law that plays a central role in maintaining the continuity of an individual's rights and obligations after death. From a juridical perspective, inheritance law refers to a set of legal rules that regulate who is entitled to receive an inheritance, how much they are entitled to, and the procedures for transferring ownership of the deceased's estate to their heirs (Simanjuntak, 2020). Socially, inheritance law not only governs property ownership and distribution but also reflects the moral values, cultural patterns, and power structures within a society. Consequently, inheritance law is dynamic in nature, constantly evolving in response to social values, belief systems, and societal transformations.

In the Indonesian legal framework, the inheritance system is pluralistic, meaning that multiple legal systems coexist and are applied concurrently. Indonesia recognizes three primary inheritance systems: civil inheritance law, derived from the Burgerlijk Wetboek (BW); Islamic inheritance law, based on the Qur'an, Hadith, and the Compilation of Islamic Law (KHI); and customary inheritance law, which originates from the traditional norms and customs of local communities (Sudiyat, 2020). These systems operate side by side, with their application depending on an individual's religious background, ethnicity, and region. Among these, the civil inheritance system is predominantly applied to non-Muslim citizens and those who are subject to the Western civil law tradition.

One of the key principles in civil inheritance law is the concept of equality between men and women in terms of inheritance rights. This principle is explicitly stated in Article 852 of the Indonesian Civil Code (KUHPerdata), which provides that both male and female descendants are entitled to equal shares of their

parents' estate. This provision embodies the modern legal ideals of justice and equality. Normatively, there is no legal distinction between male and female heirs, implying that Indonesian civil law fully recognizes and protects women's rights to inheritance under statutory provisions.

Nevertheless, empirical evidence indicates a considerable gap between the ideal norms of equality and their actual application in society. In many communities deeply influenced by patriarchal traditions, women still face disproportionate treatment in inheritance practices. It is not uncommon for women to relinquish their inheritance rights due to social pressure, familial expectations, or cultural beliefs that they will become part of their husband's family after marriage. Such practices reflect the persistent influence of gender bias in Indonesian inheritance customs (Suryani, 2021).

Patriarchal culture has historically positioned men as dominant figures in social and economic spheres. Within inheritance matters, this manifests in the belief that men are the rightful successors and custodians of family wealth, while women are confined to domestic roles. This imbalance not only results in unequal wealth distribution but also perpetuates women's economic marginalization. Yet, in the eyes of the law, women are equal legal subjects with the same ownership rights as men (Handayani, 2022).

The disparity between men and women in inheritance distribution is also tied to the low level of legal awareness among women. Many are unaware of their legal entitlements as heirs or lack the confidence to assert their rights. Additionally, socioeconomic and educational factors greatly influence a woman's ability to claim her inheritance. Women with limited education and financial independence often lack bargaining power within family inheritance negotiations (Rahayu, 2021).

From a national legal standpoint, gender equality has been firmly integrated into Indonesia's legal system. The state has recognized equal rights between men and women through several legislative instruments. Notably, Law No. 7 of 1984 on the ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) underscores Indonesia's commitment to eliminating all forms of discrimination against women, including in the realms of family and property law. Similarly, Law No. 39 of 1999 on Human Rights guarantees every individual equal treatment before the law, regardless of gender.

These instruments align with Article 27(1) of the 1945 Constitution of the Republic of Indonesia, which declares that all citizens are equal before the law and the government. Therefore, constitutionally, women possess the same legal standing and rights as men in seeking justice, including in matters of inheritance.

Despite these legal guarantees, challenges persist in achieving gender equality in practice. Courts often face dilemmas when adjudicating inheritance disputes that involve conflicts between civil, customary, and religious norms. In some traditional communities, inheritance is still distributed unequally, privileging male heirs. Judges, therefore, must balance respect for local customs with adherence to the constitutional principle of equality (Utami, 2024).

Beyond sociocultural challenges, weak law enforcement also contributes to the inadequate protection of women's inheritance rights. Many women lack access to legal aid or advocacy organizations. Lengthy legal procedures, high litigation costs, and limited familial support often discourage women from pursuing their claims. Consequently, numerous inheritance disputes involving female victims remain undocumented in official judicial records (Puspitasari, 2023).

Recent developments, however, indicate a gradual shift toward gender-sensitive interpretations in judicial decisions. For instance, in Supreme Court Decision No. 1799 K/Pdt/2018, the court reaffirmed that daughters have the same inheritance rights as sons. This ruling serves as an important precedent in strengthening women's legal standing in inheritance disputes under civil law. Yet, societal perceptions shaped by longstanding patriarchal traditions remain slow to change (Rahayu, 2021).

From a legal theory perspective, this discrepancy can be explained using Roscoe Pound's distinction between law in the books and law in action. Law in the books represents the written legal norms, while law in action reflects how those laws are actually applied in everyday life. In the context of inheritance, law in the books upholds equality between men and women, but law in action reveals a continuing gender imbalance. This indicates that the legal system has yet to fully respond to social realities (Simanjuntak, 2020).

Therefore, strategic efforts are needed from the government, legal institutions, and society to strengthen legal protection for women's inheritance rights. First, social reform through legal education should be promoted to enhance women's awareness of their rights. Such education could be provided through community programs, religious institutions, and civil society organizations. Second, the judiciary must be empowered to adopt a gender-sensitive approach in legal proceedings. Judges and legal officers should receive training on gender justice to ensure that court rulings reflect equality principles. Third, harmonization between customary law and civil law is necessary to prevent conflicting interpretations that lead to injustice for women (Utami, 2024).

Institutions such as the National Commission on Violence Against Women (Komnas Perempuan) also play a vital role in advocating for women's rights, including in inheritance cases. Komnas Perempuan can act as a mediator between affected individuals and the judiciary in addressing gender-based legal discrimination.

Its involvement is crucial, given that many women are reluctant to seek justice due to social stigma or fear of family conflict.

The issue of women's inheritance rights is also closely linked to global movements for gender equality and women's empowerment. As part of the international community, Indonesia is obligated to align its national laws with global standards set out in CEDAW and the Sustainable Development Goals (SDGs), particularly Goal 5: Gender Equality. This goal emphasizes the elimination of all forms of discrimination against women in both public and private spheres, including property ownership. Thus, strengthening women's inheritance rights contributes to Indonesia's broader commitment to sustainable development.

It is also essential to distinguish between formal equality and substantive equality in inheritance protection. Formal equality pertains to the equal legal recognition of rights, while substantive equality concerns the actual realization of those rights in practice. In other words, women must not only be granted equal rights under the law but must also be given real opportunities to exercise and enjoy those rights without cultural, social, or economic constraints (Handayani, 2022).

Hence, this study holds significant academic and social relevance. Academically, it enriches the discourse on Indonesian civil law, particularly regarding gender equality and human rights. Socially, it contributes to enhancing legal awareness and institutional accountability in protecting women's inheritance rights. Using a normative juridical approach, this research examines statutory provisions, legal doctrines, and judicial decisions related to women's inheritance protection.

The primary objective of this study is to comprehensively analyze how Indonesia's civil inheritance law safeguards women's rights as heirs, to what extent gender equality principles are implemented in practice, and the key factors influencing their enforcement. The findings are expected to provide practical recommendations for strengthening gender-responsive legal policies and guiding policymakers and legal practitioners in developing a more equitable, inclusive, and gender-sensitive inheritance system.

## RESEARCH METHODOLOGY

This study employs a normative juridical research method, which focuses on the analysis of legal norms written in statutory regulations, legal doctrines, and relevant court decisions. This approach is applied to understand and interpret how Indonesian positive law regulates and protects the inheritance rights of women within the civil inheritance law system. The normative juridical approach is particularly suitable for this research because the study emphasizes the normative aspects of inheritance law, rather than empirical or sociological dimensions. Consequently, the research aims to explore the principles, rules, and legal provisions that uphold gender equality in inheritance matters and to analyze the extent to which these norms are implemented in line with justice and non-discrimination principles.

The data sources used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations forming the foundation of Indonesia's civil inheritance law, such as the Indonesian Civil Code (KUHPerdata), Law No. 39 of 1999 on Human Rights, and Law No. 7 of 1984 on the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). These regulations serve as the main reference for analyzing legal protection for women in inheritance matters, ensuring that national legal norms are aligned with international human rights standards.

Secondary legal materials consist of academic literature, scientific journals, prior research findings, expert opinions, and legal articles that discuss gender justice and the inheritance system in Indonesia. Tertiary materials, such as legal dictionaries, encyclopedias, and legislative indexes, are used to strengthen the understanding of terminology and the conceptual framework of the research.

The analysis in this study uses a descriptive-analytical approach, which not only describes applicable legal provisions but also examines their implementation in practice through systematic interpretation of regulations and court decisions. The analysis is conducted deductively, starting from general norms established in national law to their application in concrete social contexts. This approach also allows for an assessment of how gender equality principles are applied in civil inheritance practices, including challenges arising from patriarchal culture or societal perceptions regarding women's positions as heirs.

As noted by Soerjono Soekanto (2019), normative legal research aims to study law as a system of prescriptive norms, focusing on how the law should function and be applied in society according to principles of justice. Therefore, employing this method provides a strong foundation for evaluating the effectiveness of legal protection for female heirs and for formulating recommendations to strengthen the application of gender-just inheritance law in Indonesia.

## RESULT AND DISCUSSION

### The Legal Status of Women in the Civil Inheritance System

In Indonesia's civil inheritance system, which is derived from the Burgerlijk Wetboek (BW) or the Indonesian Civil Code (KUHPerdata), women are legally entitled to inherit equally alongside men. This is explicitly articulated in Article 852 of the Civil Code, which states that "children or legitimate descendants, whether male or female, inherit from their parents without distinction of gender." This provision reflects the

application of the principle of equality before the law in inheritance matters, serving as the foundation for eliminating gender-based discrimination in inheritance distribution (Simanjuntak, 2020).

Conceptually, civil inheritance law categorizes all children as primary heirs, granting equal rights to both sons and daughters. Unlike Islamic inheritance law, which prescribes a 2:1 ratio between male and female heirs, civil law enforces absolute equality, recognizing inheritance rights through both paternal and maternal lines (Marpaung, 2021).

Despite these legal guarantees, women often encounter structural and cultural barriers that hinder their ability to claim their inheritance. These obstacles include social pressures, economic dependence, and limited legal literacy. In many instances, women relinquish their inheritance rights to maintain family harmony or because they feel powerless to assert them (Setyowati, 2022).

Patriarchal bias also influences the practical enforcement of the law. In certain inheritance disputes, women may be excluded from asset distribution or receive smaller portions due to moral or familial traditions. This demonstrates that the ideal legal norms have yet to be fully realized in social practice. Therefore, while the Civil Code formally recognizes gender equality, its application faces significant challenges from entrenched cultural and societal perceptions (Sari, 2023).

This situation underscores the need for a progressive legal approach that prioritizes substantive justice. Protecting female heirs should not be limited to normative acknowledgment but must be actualized through affirmative policies, legal awareness programs, and enforcement mechanisms sensitive to gender issues. Only then can civil inheritance law fulfill its purpose of achieving justice and equality in Indonesia's pluralistic society.

### **Social and Cultural Factors Affecting Women's Inheritance Rights**

Social and cultural factors play a significant role in shaping societal perceptions regarding women's positions as heirs. Deeply rooted patriarchal norms in Indonesia remain a major obstacle to achieving gender equality in inheritance law. In patriarchal social structures, men are often viewed as heads of households and successors of family wealth, while women are perceived as having domestic roles confined to household management. These perceptions directly affect inheritance practices, often favoring sons as the primary recipients of family assets (Puspitasari, 2023).

Patriarchal culture also influences legal enforcement. In traditional communities, despite the legal entitlement of women to equal inheritance shares, social pressures frequently lead women to forgo their rights voluntarily. In some areas, women "cede" their inheritance to male siblings out of compliance with societal norms rather than genuine choice (Handayani, 2022).

Economic dependence further weakens women's bargaining power. Those without independent income are reluctant to claim inheritance for fear of family conflict or losing financial support. This issue is exacerbated by limited legal literacy, leaving many women unaware of the rights guaranteed under the law (Nasution, 2021).

Education also plays a crucial role. Women with lower educational attainment may struggle to understand formal legal procedures, including court processes in inheritance disputes. Consequently, women often choose to concede rather than engage in legal proceedings, even though human rights principles affirm every citizen's entitlement to equal legal protection without gender-based discrimination (Article 3, Law No. 39 of 1999 on Human Rights).

Addressing these social and cultural barriers requires a comprehensive approach, including legal reform, public education, and women's empowerment. Sustained efforts to transform patriarchal paradigms through legal socialization, gender awareness campaigns, and accessible legal aid are essential to ensure that gender equality in inheritance law is realized in practice (Wulandari, 2024).

### **Legal Protection of Women's Inheritance Rights**

Legal protection of women as heirs is a crucial component of the state's effort to realize gender equality. Normatively, such protection is embedded in both national and ratified international legal instruments. The Civil Code, as the primary source of civil inheritance law, enshrines the principle of equality regardless of gender, reinforced by additional legislation guaranteeing women's rights to property and inheritance.

A key legal foundation is Law No. 7 of 1984 on the Ratification of CEDAW, which obliges the state to eliminate all forms of discrimination against women, including in economic rights and property ownership. Nationally, Law No. 39 of 1999 on Human Rights further affirms that women have equal rights with men in all aspects of life, including acquiring, owning, and inheriting property (Articles 17–19).

Legal protection is also evident in judicial practice. For example, the Supreme Court Decision No. 1799 K/Pdt/2018 affirmed that daughters are entitled to inheritance shares equal to those of sons, reinforcing justice and equality before the law. This precedent strengthens the legal position of women in inheritance disputes (Rahayu, 2021).

Additionally, laws like Law No. 12 of 2022 on Sexual Violence though not directly related to inheritance support normative frameworks for women's empowerment and protection, addressing structural discrimination. This highlights that safeguarding women's inheritance rights is part of a broader national strategy for gender justice.

However, the effectiveness of these legal protections depends on consistent enforcement and societal awareness. Many women remain hesitant to pursue legal claims due to social stigma and limited access to legal aid. Strengthening the capacity of judicial institutions and legal advocacy is critical to ensuring that all women receive fair and equal treatment in inheritance matters (Putri, 2023).

### **Recommendations for Strengthening Gender Equality in Inheritance Law**

Enhancing legal protection for female heirs requires strategic measures across both legal and social domains:

**Increasing legal literacy:** Many women are unaware of their inheritance rights. Regular legal outreach programs at village and urban levels are necessary to raise public awareness (Utami, 2024).

**Empowering legal institutions and civil society organizations:** Entities such as Komnas Perempuan, LBH APIK, and other gender advocacy organizations play a critical role in providing legal aid, advocacy, and public education regarding women's inheritance rights.

**Gender-sensitive training for legal professionals:** Judges, prosecutors, and lawyers often hold conservative views regarding women's roles in families. Gender justice training can enhance sensitivity and fairness in adjudicating inheritance cases.

**Harmonizing civil and customary law:** In some indigenous communities, women lack full inheritance rights. Legal harmonization, guided by the principle *lex superior derogat legi inferiori* (higher law overrides lower law), ensures that discriminatory customary norms align with national non-discrimination standards.

**Legal reform:** Revising inheritance regulations to reflect modern social dynamics and clarifying mechanisms for dispute resolution can further ensure gender justice in inheritance law.

Through these measures, Indonesia's civil inheritance system can serve as an instrument of substantive justice, protecting the rights of all individuals regardless of gender. Gender equality is not only a moral imperative but also a prerequisite for developing a democratic, just, and civilized legal system.

### **CONCLUSION**

In Indonesia's civil inheritance system, women are legally recognized as having equal status to men in terms of inheritance rights. This equality is explicitly stated in Article 852 of the Civil Code (KUHPerdata), which guarantees that both sons and daughters are entitled to inherit from their parents without distinction of gender. This provision reflects the adoption of the principle of equality before the law and demonstrates the civil law system's effort to eliminate gender-based discrimination. However, in practice, the realization of these rights is often limited by prevailing social and cultural structures, particularly patriarchal norms that prioritize male heirs within families.

Social, cultural, and economic factors remain the primary barriers to achieving equitable inheritance for women. Gender-biased customary norms and societal perceptions often result in women receiving disproportionate shares of inheritance, with some even relinquishing their rights to male relatives. These challenges are exacerbated by low legal literacy and economic dependence, leaving many women unaware of their legal entitlements or unable to assert their rights effectively.

From a legal perspective, several national instruments provide protection for women's inheritance rights. In addition to the Civil Code, Law No. 39 of 1999 on Human Rights, Law No. 7 of 1984 ratifying CEDAW, and judicial precedents such as Supreme Court Decision No. 1799 K/Pdt/2018 reinforce gender equality in inheritance distribution. Nonetheless, the effectiveness of these legal safeguards depends on increased legal awareness, women's empowerment, and the consistent application of non-discriminatory principles within judicial practice.

Therefore, strategic measures are necessary to strengthen the protection of female heirs. These include enhancing legal literacy, providing gender-sensitivity training for legal professionals, harmonizing civil law with customary law, and empowering advocacy organizations such as Komnas Perempuan and LBH APIK. By combining legal reform, education, and social transformation, Indonesia's civil inheritance system can evolve into an instrument of substantive justice, ensuring that women's rights are respected equitably and contributing to the development of a more inclusive, gender-just society.

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