

Legal Implications of Determining Heirs Without a Certificate of Heirs (Study of Bogor District Court Decision No: 147/Pdt.G/2017/Pn.Bgr)

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Abstract. *This study discusses the legal implications of determining heirs without a Certificate of Inheritance (SKW) by studying the Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr. The main focus of the study is legal protection for heirs who do not have a SKW in applications for inheritance determination through the court and its impact on the legal certainty of inheritance. The study uses a normative juridical method with a case analysis approach, based on studies of court decisions, laws and regulations. legislation (Civil Code, judicial regulations, and land regulations), Compilation of Islamic Law, as well as the doctrines of inheritance law experts, legal certainty, and legal protection. The results of the study indicate that legal protection for heirs without a SKW can still be realized through the mechanism of determining heirs by the court, as long as the inheritance relationship is materially proven through written evidence, witnesses, and confessions of the parties which are then formalized in a decision or deed of reconciliation. The court's decision in Decision No. 147/Pdt.G/2017/PN.Bgr functions functionally to replace the SKW because it explicitly determines the identity of the heir, the list of heirs, and their position regarding the inheritance so that it can be used as an administrative basis before third parties such as banks and the National Land Agency. From the perspective of legal certainty, this judicial path is able to provide certainty comparable to the existence of the SKW, but at the same time raises normative challenges in the form of potential disparities in assessments and standards of proof between courts if not followed by uniform guidelines.*

Keywords: *Certificate; Determination; Inheritance; Legal.*

1. Introduction

In the Indonesian inheritance law system, the determination of someone as an heir generally requires a formal document such as a Certificate of Inheritance

(SKW). This document is written evidence that states who are the legal heirs of the testator, whether in the civil, customary, or Islamic legal systems. The SKW plays a crucial role in preventing conflict, fraud, and providing legal certainty in the management of inheritance. The Certificate of Inheritance (SKW) is a vital document in the Indonesian inheritance law system, primarily as an administrative and legal basis for inheritance processes, such as changing the name of the inheritance, disbursing funds from the bank, and settling rights to assets left by the testator. In practice, the Certificate of Inheritance is usually issued by a notary, village official, or authorized agency to validate a person's status as a legal heir. However, there are circumstances where an heir submits an inheritance determination to the court without a Certificate of Inheritance, as occurred in the Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr. This phenomenon has given rise to legal controversy, as a Certificate of Inheritance is essentially the authentic basis recognized by many formal institutions. Without a Certificate of Inheritance, the process of proving the legitimacy of an heir depends entirely on the judge through a series of court hearings. This raises doubts about the consistency of law enforcement, the potential for conflict between heirs, and concerns about legal certainty in inheritance disputes. This legal issue is crucial to examine, as it concerns the protection of the public's civil rights. Furthermore, in the context of a state governed by the rule of law, every citizen has the right to protection and legal certainty in every judicial process, including inheritance matters.

2. Research Methods

The research method is the most important part of any research, because this research method will provide direction and guidance for a research. The research method used in this study is Normative Juridical which discusses the characteristics of legal science, including library research, legal principles, legal systematics, vertical and horizontal synchronization, comparative law and legal history. Research is a scientific tool for the development of science and technology, therefore the research method applied must be in line with the scientific discipline that is its parent. According to Dr. Mukti Fajar ND, in principle, legal research must use logic in an effort to establish truth. The truth of research results based on logical truth will place the science in an honorable position. According to Sutrisno Hadi, research is a systematic effort to discover, develop, and test the truth of knowledge, an effort which is carried out using scientific methods. This research focuses on understanding legal norms reflected in laws and regulations, agreements, and court decisions, particularly regarding legal issues that occurred at the Bogor District Court (Decision Number 147/Pdt.G/2017/PN.Bgr), which relate to the determination of inheritance that is not accompanied by an Inheritance Certificate.

This research is a normative legal study using a case analysis approach. This approach aims to examine the application of legal norms in court practice through

a study of legally binding decisions. This research examines how legal norms are applied and interpreted by the court in a concrete case, in this case related to the absence of a Certificate of Inheritance.

2.1. Approach Method:

The method used is a normative approach, which focuses on analyzing legislation, legal doctrine, and court decisions. This approach emphasizes understanding law as a system of norms that regulates social life, by examining written legal sources.

2.2. Data Types and Sources:

The data in this study uses secondary data obtained through literature studies and literature reviews. Primary data were obtained from official documents in the form of court decisions that are the object of the case study. Data sources include Primary Legal Materials (statutory regulations, such as Law of the Republic of Indonesia No. 16 of 2019 concerning Marriage and the Compilation of Islamic Law (KHI), especially Article 171 letter c. (1991), as well as related court decisions), Secondary Legal Materials (books, scientific journals, research results, and related articles that support the legal analysis) and Tertiary Legal Materials (documents that provide explanations of primary and secondary legal materials).

2.3. Method of collecting data:

Data was collected through two main techniques, namely Documentation Study (reviewing official documents, especially copies of court decisions, to obtain an overview of the application of legal norms at the court level) and Literature Study (reading relevant books, journals and regulations to strengthen the analysis and provide a strong theoretical foundation).

2.4. Data Analysis Method:

The collected data will be analyzed using a qualitative approach, resulting in descriptive and analytical data. This approach will explore relevant legal theories and examine the obstacles encountered in the absence of a Certificate of Inheritance (SKW) and the inheritance determination process. Qualitative analysis will provide an in-depth understanding of current legal practices and their legal implications for the cases studied.

This study aims to reveal how the law is applied in cases involving formal documents such as the Certificate of Inheritance (SKW) and how the legal process can correct the injustice faced by the heir.

3. Results and Discussion

3.1. Inheritance Determination Procedures Found in District Court

The procedure for determining inheritance in the District Court basically follows the general pattern of civil cases in the District Court which describes the journey

of an heir from the position of "claiming rights" to "recognized rights" through a series of administrative stages and trials supervised by a judge. In case No. 147/Pdt.G/2017/PN.Bgr, this flow is clearly visible as a process that is not only technical, but also a means of seeking certainty and justice when the Certificate of Inheritance (SKW) is not available. Within the framework of Indonesian civil procedure law, requests for determining heirs are basically placed as voluntair cases, namely cases that do not always assume the existence of an opposing party as a defendant, but require a judge's assessment of a legal situation that is requested to be confirmed.

Consequently, the court's primary focus is not on the conflict between the two opposing parties, but rather on assessing whether the petition is supported by a legal basis and sufficient evidence to "formalize" the applicants' status as heirs. In practice, this voluntarist approach does not always emerge purely. In many cases, including those reflected in Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr, differing interests between family members make the case tend to be contentious. The case is registered with the code "Pdt.G" (civil suit), but its primary substance remains related to determining the status of heirs and control of the testator's inheritance. This requires judges to combine voluntarist and contentious approaches: on the one hand, determining the legal situation (who the heirs are), and on the other, managing the conflict to prevent it from developing into a new, more complex dispute.

Roya Process Stages.

The process begins with the heir's awareness that there is an inheritance that needs to be legally handled, while an Inheritance Certificate (SKW) has never been issued or is difficult to obtain. At this stage, the applicant contacts the court—usually through the civil registry—to inquire about the mechanism for requesting an inheritance determination. The court official will direct the applicant to prepare a written application or lawsuit that explains the complete identities of the parties, a brief history of the heir, family relationships, and a description of the inheritance that is the object of the known inheritance. In the application, the applicant must also explain why a court determination is necessary, for example, because a third party (bank, BPN, or other agency) requires an heir determination before processing their request.

After the application letter is completed and signed, the applicant files the case with the competent District Court according to relative and absolute competence. In case 147/Pdt.G/2017/PN.Bgr, the court's relative authority is based on the domicile of the parties and/or the location of the inheritance object, in line with the principle of actor sequitur forum rei as recognized in Indonesian civil procedure law. At this stage, the clerk examines basic administrative requirements, including the identity of the parties, a description of their family relationship with the testator, and information about the inheritance in question. The formal examination does not touch on the core of the inheritance relationship,

but assesses the suitability of the application as a civil case that can be examined. The application must contain the elements of "who, to whom, what is requested, and on what basis," as is customary in civil procedure law.

The applicant then pays a down payment on court costs and receives a registration number. In the case under investigation, this registration number is No. 147/Pdt.G/2017/PN.Bgr, which then becomes the official identification of the case throughout the process. This registration signifies that the dispute or application has entered the formal justice system and is no longer merely an internal family matter. At this point, the applicant's status changes from being a mere social heir to a party in a civil case subject to the civil procedural rules (HIR/RBg) and court procedures.

Once the application is declared complete and registered, the Chief Justice of the District Court appoints a panel of judges to examine the application, and this panel's determination is outlined in an internal court ruling. The panel then schedules the first hearing date and instructs the clerk to summon the interested parties. The summons is not only addressed to the applicant, but also to other parties suspected of having an inheritance relationship (including other heirs if known) or an interest in the inheritance, as long as their data is available in the application. This summons stage is important, because it concerns the principle of *audi et alteram partem*: every party who may be affected by the decision must be given the opportunity to attend and express their views or objections, to prevent future objections from parties who feel they were never involved. In case 147/Pdt.G/2017/PN.Bgr, the summons was addressed to parties suspected or recognized as having an inheritance relationship or who control the object of the inheritance.

At the first hearing, the judge examines the parties' attendance and ensures the completeness of the formal requirements of the petition, such as the legality of the applicant's identity, clarity of legal standing, and the court's relative authority (the location of the District Court according to the domicile or location of the object) and absolute authority (that this case falls within the civil realm). If formal deficiencies are found, the judge can order corrections or additions before proceeding to the core of the evidence. In inheritance cases without a Certificate of Inheritance (SKW), the formal examination usually also includes the applicant's explanation regarding the reasons for the absence of a Certificate of Inheritance (SKW), as this will be an important context in the judge's final considerations.

The panel of judges also asked the parties to verbally explain the circumstances of the case: the history of the testator, who the surviving heirs are, the status of the inheritance, and the source of the dispute. This stage helps the judge identify whether the petition is purely aimed at establishing the status of the heirs (*declaratoir*) or whether it already contains a demand for the division and control of the assets (*constitutive*). From this initial mapping, the judge will develop a trial

strategy: whether the primary emphasis will be on status determination, distribution, or both.

The next stage is the provision of evidence, which is the heart of the inheritance determination procedure. Unlike the preparation of a Certificate of Inheritance (SKW), which generally only requires a statement before an official and witnesses, in court, a structured application is required that can be tested both formally and materially. Because a Certificate of Inheritance (SKW) does not exist, the burden of proof shifts to other evidence that can convince the judge that the applicant and certain parties are truly the legal heirs of the testator. Here, documentary evidence plays a primary role. Commonly submitted evidence includes birth certificates used to demonstrate the parent-child relationship; marriage certificates clarifying the status of the couple; Family Cards and ID cards confirming family structure and domicile; while certificates from the village head or village chief can provide an administrative overview of the identity and family relationships recognized in the neighborhood. All of these documents, even if not a Certificate of Inheritance (SKW), if presented consistently can build a fairly strong mosaic of facts.

In addition to written evidence, the parties also presented witnesses with direct knowledge of family relationships, marital history, lineage, and ownership of the inheritance. The court heard testimony from other family members, neighbors, or local community leaders who were familiar with the testator and heirs. They were asked to describe what they knew about family relationships, marital history, number of children, and who had previously been identified as heirs. The judge used their testimony to test the consistency between the parties' claims and the written evidence. In cases like No. 147/Pdt.G/2017/PN.Bgr, witness testimony can be a key point in confirming or refuting the applicant's claims, especially when there is doubt regarding the number of heirs or certain relationships that are not officially recorded.

Judges must not be passive in this process; they can ask clarifying questions to test the consistency of testimony between witnesses or between witnesses and documents. The judge's active approach is part of the effort to uncover material truth, especially since the absence of a Certificate of Inheritance (SKW) means no single document is automatically recognized as the "final mapping" of the heirs. Therefore, inheritance determination proceedings without a Certificate of Inheritance (SKW) tend to emphasize the quality of the arguments and the overall coherence of the evidence over mere formal completeness.

Judges are also required to seek reconciliation as part of the trial process in family cases, both early and during the trial. Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr established that reconciliation plays a crucial role because disputes involving family relationships can potentially lead to long-term rifts if resolved confrontationally.

Through a series of trials and mediation, the parties finally reached an agreement regarding the status of heirs and the management of the inheritance. This agreement was then submitted to a panel of judges for ratification as a peace deed (deed of settlement). Before ratifying, the judge assessed the contents of the agreement for compliance with the law, whether it violated public order and morality, and whether it clearly harmed the rights of the weaker party. Therefore, the peace procedure is not merely a formality, but a substantive instrument to ensure that the final outcome of the case aligns with a sense of justice.

Once the evidence is deemed sufficient, the parties are given the opportunity to present their conclusions, either verbally or in writing. These conclusions reiterate each party's version of the facts and legal arguments, although in applications for inheritance determination without open dispute, it is often only the applicant who submits the conclusions. After the evidentiary process and (if any) settlement are completed, the panel of judges then concludes the evidentiary hearing and begins formulating their deliberations in a panel deliberation meeting.

The judge's deliberations ultimately tie together all the procedural and material aspects that have been discussed. Initially, the judge outlines the circumstances of the case, the identities of the parties, and a brief history of the petition. Then, the judge assesses whether the court has the authority to examine and rule on the case, both in terms of the type of case and its jurisdiction. After that, the judge moves on to the core: assessing the evidence and witness statements individually, and drawing a line between the evidence and the inheritance law provisions in the Civil Code and other related regulations, including the Joint Instruction of the Minister of Home Affairs and the Minister of Justice regarding the Certificate of Inheritance (SKW), which serves as important background even though it cannot be applied rigidly because the Certificate of Inheritance (SKW) does not exist. If the case ends in a settlement, the verdict validates the settlement deed, orders the parties to comply with the terms of the agreement, and confirms that the deed has the same legal force as a final and binding decision (in kracht van gewijsde).

The analysis process in the context of decision no. 147/Pdt.G/2017/PN.Bgr is directed to answer the question: whether without a Certificate of Inheritance (SKW), the evidence submitted is sufficient to state that the applicant and certain parties are legal heirs; and whether there is no indication that the rights of other parties will be violated if the decree is granted. This is where the inheritance determination procedure meets the precautionary principle; The judge not only looks at the sufficiency of the evidence, but also thinks about the impact of the decision on potential disputes in the future.

The verdict concludes the entire procedure. In the verdict, the court explicitly "determines" who is the heir of the testator in question, sometimes also mentioning their respective shares or at least confirming their legal relationship to the inheritance. This verdict, even though it arises from a case without a Certificate of Inheritance (SKW), has permanent legal force if no legal action is filed

and can be used as a basis for managing administrative rights. Thus, the procedure for determining inheritance in the District Court, as reflected in Decision No. 147/Pdt.G/2017/PN.Bgr, demonstrates that the court acts not merely as a formal forum, but as a substantive mechanism for converting family claims into reliable legal certainty. The verdict not only records the existence of reconciliation, but also elevates the content of the agreement to the level of individual-concrete norms that bind the parties with permanent legal force (in kracht van gewijsde) and can be used as a reference by third parties.

The final stage is the execution of the decision, although in inheritance cases, the decision is often more prominent as a basis for administration than execution in the sense of confiscation and auction. Heirs bring an official copy of the decision that has permanent legal force to the National Land Agency, a bank, or other institution to adjust the ownership data and rights to the inherited property. In practice, many institutions accept the inheritance decision as an even stronger basis than the SKW, because it arises from the trial process and the judge's assessment. This demonstrates the functional relationship between judicial procedures and administrative procedures: when the administrative route (SKW) is not taken or is not possible, the judicial route takes over, and the decision is then "returned" to the administrative realm as the basis for data and document order.

The series of procedures outlined in Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr demonstrates that the absence of a SKW does indeed make the inheritance determination process longer and more complex, but it does not preclude the heirs from obtaining legal recognition and certainty. The judicial process, with its formal stages of verification, reconciliation, and decision, ultimately replaces the SKW's role as a source of legitimacy and provides a strong foundation for orderly inheritance administration in the future.

This description of the procedures outlined in Bogor District Court Decision Number 147/Pdt.G/2017/PN.Bgr, from a research methodology perspective, aligns with a normative legal approach based on case studies. Primary data in the form of court decisions are analyzed alongside other primary legal materials such as the Civil Code and ministerial instructions, and then compared with the theories of legal certainty and legal protection discussed in the theoretical framework. This approach allows for not only a technical description of the procedural steps but also an explanation of the rationale behind them: why the court remains open to applications without a Certificate of Inheritance (SKW), how the judge balances documents and testimony, and how the entire process culminates in a decision aimed at safeguarding legitimate inheritance rights.

Legal Protection for Heirs Who Do Not Have a Certificate of Inheritance

Legal protection for heirs who do not have a Certificate of Inheritance (SKW) is essentially born from the need to bridge the gap between ideal administrative

procedures and the social reality on the ground. Within the framework of Indonesian inheritance law, the Certificate of Inheritance (SKW) is positioned as written evidence that explains who is legally an heir and serves as the basis for various administrative actions, from changing the name on the certificate at the National Land Agency to disbursing funds from financial institutions such as banks. However, not all families are in a position to be able or have the time to apply for a Certificate of Inheritance (SKW), even though they still require legal recognition of their inheritance status to continue the process of managing their inheritance.

The absence of an Inheritance Certificate (SKW) has become a real obstacle for thousands of families who want to manage their inheritance, especially those who do not have easy access to a notary or official who makes an Inheritance Certificate. This phenomenon creates a fundamental question: how does the state, in this case through the institution of court, provide legal protection to those who clearly have inheritance rights but are stopped due to the absence of administrative documents? This question is not just academic, but concerns millions of Indonesian families who face legal impasses in exercising their basic rights.

In situations like these, the court plays a crucial role as the primary gateway for legal protection. Heirs who do not possess a Certificate of Inheritance can still apply to the District Court for an inheritance determination to have their inheritance status examined and confirmed through a decision. This process places the judge in the role of verifying the material validity of the inheritance relationship by relying on other evidence, such as birth certificates, marriage certificates, family cards, letters from local authorities, and statements from family witnesses or community leaders who are aware of the blood relationship between the applicant and the heir. This is consistent with the principle of Article 1865 of the Civil Code, which states that evidence can consist of letters, testimonies, allegations, confessions, and oaths. Thus, the validity of the determination of an heir does not depend on the presence of a single type of evidence, but rather on a combination of mutually reinforcing evidence that forms the judge's belief in the truth of the claimed inheritance status. In other words, the court replaces the "legalization" function that is usually carried out through the Certificate of Inheritance (SKW), but with a more formal and transparent evidentiary mechanism in the courtroom to ensure that only those who truly have a legitimate inheritance relationship are protected.

From a legal protection theory perspective, this approach aligns with the idea that law should not be limited to procedural formalities but rather guarantee the substantive rights of citizens. Legal protection here is not simply about guaranteeing someone a share of an inheritance, but rather ensuring that existing legal procedures provide fair and transparent access to prove a person's inheritance status, regardless of the presence or absence of specific administrative documents.

Satjipto Rahardjo's thinking emphasizes that laws are made for humans, not the other way around; meaning, when administrative documents are unavailable due to limited access, cost, or knowledge, the state, through the judiciary, remains obligated to find a way to ensure that inheritance rights are not simply forfeited simply because of the absence of a Certificate of Inheritance (SKW). In the same context, Soerjono Soekanto distinguishes between two important dimensions of legal protection: a preventive dimension that prevents rights violations from occurring, and a repressive dimension that provides redress when rights have been violated. In the context of inheritance without a Certificate of Inheritance (SKW), the preventive dimension arises when an open court accepts a request for a ruling without simply rejecting it due to the absence of administrative documents; the repressive dimension appears when a judge protects rights that were previously closed by issuing a ruling that has permanent legal force.

Heirs who come to court without a Certificate of Inheritance are not automatically denied or forfeit their legal rights. By accepting the application, the court implicitly acknowledges that the absence of a Certificate of Inheritance (SKW) is not an absolute barrier to proving a person's inheritance status. Normatively, inheritance rights arise from the legal relationship between the testator and the heirs as stipulated in the Civil Code and other inheritance regulations, not from the existence of the Certificate of Inheritance itself. The Certificate of Inheritance is merely administrative evidence that facilitates recognition before third parties; meanwhile, substantial rights as heirs remain based on biological facts, marriage, or other verifiable legal relationships. When the application is submitted to the court, the heir's legal standing is at the level of "presumed right," which is then tested through a series of proofs before being elevated to "recognized right" by a judge's ruling.

In this case, the court serves as a balance between the interests of the heirs, the interests of other heirs who may not yet appear, and the interests of third parties such as the National Land Agency (BPN) or financial institutions. To ensure fair protection, the judge is not sufficient to simply accept the applicant's confession; he must also actively assess the consistency between the documentary evidence and witness statements, and ensure that there is no indication of falsification or omission of other heirs. The judge proactively asks questions, requests explanations, and attempts to establish a conviction regarding the material truth. This is where the principle of material truth comes into play: the judge not only examines administrative completeness but also tries to establish a conviction that the person petitioned as an heir truly has a legitimate inheritance relationship.

This attitude of judges is in line with the principle of "legal hermeneutics" developed in modern legal philosophy, where judges are not merely mechanical application of the law, but active interpreters who strive to achieve justice in concrete cases. In the context of inheritance without a Certificate of Inheritance (SKW), the judge's proactive attitude becomes an integral part of legal protection,

because the judge seeks to uncover the material truth behind the claims submitted by the applicant without relying on administrative evidence that may be easily falsified.

The court's actions regarding heirs without a Certificate of Inheritance (SKW) can be interpreted as a positive legal adjustment to social dynamics. Research positions cases of determining heirs without a Certificate of Inheritance (SKW) as an opportunity for the development of more flexible and responsive norms to societal conditions. When the court accepts an application without a Certificate of Inheritance (SKW), but still makes a decision argumentatively and carefully, this practice demonstrates that the Indonesian legal system recognizes alternative paths to achieving legal certainty beyond purely administrative procedures. From the perspective of legal protection theory, as developed by Satjipto Rahardjo and Soerjono Soekanto, among others, the law must not stop at formal-legalistic aspects, but must also guarantee the substantial rights of legal subjects so that they are not lost simply because of administrative obstacles. The determination of heirs by the court without a Certificate of Inheritance (SKW) can be seen as a form of preventive and repressive legal protection, because on the one hand it prevents the emergence of prolonged conflict between families, and on the other hand it provides a means of recovery for heirs whose rights were previously hampered.

The court's role as a substitute for the Certificate of Inheritance (SKW) also requires strict evidentiary standards to ensure that only those with a legitimate inheritance relationship are designated as heirs. This is where legal protection is not solely focused on the applicant, but also on the possibility of other heirs not yet involved, as well as third parties who may use the decision as the basis for administrative action.

Such protection is certainly not without risks. Without clear and uniform evidentiary standards regarding the extent to which a court decision can replace a Certificate of Inheritance (SKW), there is the potential for differences in practice between courts, impacting the consistency of decisions and certainty for third parties. For example, one court may require numerous witnesses and supporting documents, while another court is relatively lenient; in practice, this could lead institutions such as banks or the National Land Agency (BPN) to doubt whether all heir determinations without a Certificate of Inheritance (SKW) can be treated equally as administrative grounds. In heir determination cases, the evidentiary standard cannot be so stringent as to be practically impossible to meet, but it also cannot be so lenient as to open up the possibility of invalid claims. This research found that courts generally use a "balance of probabilities" standard, which relies on the judge's belief based on materially proven facts. This standard is more flexible than the "beyond reasonable doubt" standard used in criminal cases, but still maintains a sufficient level of certainty to provide fair protection to all parties.

The legal position of heirs who do not have a Certificate of Inheritance (SKW) in a court application can be summarized as follows: their inheritance rights are still

recognized in principle, but this recognition is potential until proven before a judge. The court provides room for them to change their position from "merely claiming to be heirs" to "recognized as heirs" through a legally binding decision. In this process, legal protection is seen at two levels: first, the court does not close the door simply because the Certificate of Inheritance (SKW) is not available; second, the judge oversees the evidentiary process in such a way that the rights of those who are truly entitled are protected and not usurped by unilateral claims.

This mechanism offers hope to families who have difficulty accessing notaries or officials who issue Certificates of Inheritance (SKW). When conventional administrative systems (notaries/officials issuing Certificates of Inheritance) cannot reach most people for economic, geographic, or other reasons, the courts serve as a responsive alternative legal mechanism. This response is not simply a gesture of generosity from judges, but rather a recognition of the social reality that access to inheritance justice should not depend on a person's financial ability or geographic access to a notary. Thus, they still have a formal legal means to reorganize their inheritance and avoid lengthy internal conflicts. At the same time, researchers use these cases to critique and propose improvements, such as the need for Supreme Court guidelines or more detailed derivative regulations on evidentiary standards in determining heirs without a Certificate of Inheritance (SKW), so that the legal protection provided by the courts can go hand in hand with the legal certainty expected by the community.

Mochtar Kusumaatmadja, in his integrative thinking on law and development, emphasizes that law must be responsive to the evolving needs of society. This principle is particularly relevant when examining the practice of determining inheritance by the courts. Meanwhile, in Satjipto Rahardjo's view, law exists to protect people, not merely to enforce rigid regulatory texts. This idea appears relevant when courts accept applications for determining heirs without a Certificate of Inheritance (SKW) and continue to strive to ensure that inheritance rights are not forfeited simply due to administrative limitations.

3.2. Legal implications of determining inheritance without a Certificate of Inheritance

The case registered under Number 147/Pdt.G/2017/PN.Bgr at the Bogor District Court stems from a civil dispute that essentially relates to the status of the parties as heirs and control over the testator's inheritance. In this case, the parties did not come to court with a Certificate of Inheritance (SKW) as a formal basis to confirm their position as heirs, but instead relied on other evidence such as family relationships, population documents, witness statements, and concrete facts regarding control of the inheritance. The absence of this Certificate of Inheritance (SKW) is an important starting point for assessing how the court positions itself when dealing with inheritance disputes that do not go through the usual administrative channels. Normatively, the Certificate of Inheritance (SKW) has long been seen as an authentic document that serves as the main reference for

institutions such as banks, the National Land Agency (BPN), and other agencies when dealing with requests for name changes, disbursement of funds, or other administrative actions related to inheritance. However, this case at the Bogor District Court demonstrates that when disputes arise between parties claiming to be heirs, administrative mechanisms alone are no longer sufficient. In such a context, the court becomes the forum for assessing the material validity of the inheritance relationship, and a Certificate of Inheritance (SKW)—if available—is only one form of evidence, not the sole one.

One of the interesting characteristics of the Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr is that the case ended with an understanding between the parties which was then raised by the panel of judges into a peace deed (*akta van dading*). In the construction of civil procedural law, a peace deed stated and confirmed in a decision has the same force as a decision that has obtained permanent legal force (*in kracht van gewijsde*). Thus, although the initial dispute was related to the status of heirs and the distribution of inheritance, the resolution resulted in a decision that has binding power not only between the parties, but can also be used as a basis for third parties to take further administrative action.

The peace agreement essentially contains the parties' acknowledgement of who is recognized as an heir, how the inheritance is divided or controlled, and certain mutually agreed-upon obligations. It is at this point that the court appears to have functionally replaced the role of the SKW. While the SKW typically contains a list of heirs and serves as the administrative basis, in this case, that function is taken over by the decision ratifying the parties' peace agreement. The legal implication is that the basis for legal certainty of inheritance no longer depends on the existence of the SKW, but rather on a legally binding court ruling. From a legal certainty perspective, this case demonstrates that the status of heirs can be determined through two channels: administrative (through the SKW) and judicial (through a court decision). In case 147/Pdt.G/2017/PN.Bgr, the judicial route prevailed due to differing views among family members regarding their respective status and rights. Through the trial process, examination of evidence, and ultimately, the settlement, the parties "formalized" the agreement regarding who is recognized as an heir.

The legal implications of determining an inheritance without a Certificate of Inheritance (SKW) on legal certainty can be read from two sides: from within the decision itself (micro) and from its impact on inheritance practices in Indonesia more broadly (macro). The Bogor District Court Decision No. 147/Pdt.G/2017/PN.Bgr is a reflection of how the court fills the administrative vacuum when a Certificate of Inheritance (SKW) is not available, while also showing the extent to which the legal system is able to maintain clarity regarding the status of heirs and inheritance objects in less than ideal conditions.

The closest side of the decision provides legal certainty for the parties directly involved, because the decision explicitly identifies the heirs (the late Dr. Marudin

Siahaan and the late Siti Rianggur Napitupulu) and clearly formulates who are recognized as heirs and what their position is regarding the inheritance, namely the Plaintiff (Petrus Oktavianus Siahaan) and the Defendants (Minar Rouli Siahaan, Tunggul Hasiholan Siahaan, Roma Uli Siahaan, and Tonggo Sahata Siahaan). Before the decision, the applicant's position as heir only rests on claims and family relationships that are known socially, but does not yet have legal certainty to be presented to third parties such as banks or the National Land Agency because there is no Certificate of Inheritance (SKW) issued by a notary or other official. With the issuance of the decision determining the heirs, the identity and legal standing of each heir changes from a "claim" to a "legally recognized status" that can be proven through official documents because it has been tested through the evidentiary process in court, so that the applicant has a strong basis to process the name change, disburse funds, or settle rights and obligations related to the testator's inheritance. In this context, the determination without a Certificate of Inheritance (SKW) actually functions as a tool that strengthens legal certainty for the parties in the case; the court "fills" the role of the Certificate of Inheritance (SKW) through the mechanism of evidence and the ruling. This is in line with the principle of legal certainty according to Radbruch and Kusuma atmadja, that the rights and obligations of legal subjects must be predictable and proven through valid legal instruments. In this context, the court's determination takes over the function of certifying the status of heirs, which is usually done through a SKW.

When linked to the theory of legal certainty (*rechtszekerheid*), the basic principle of legal certainty demands that the law be predictable, consistent, and provide a sense of security for legal subjects, so that citizens can anticipate the legal consequences of an action or decision. Gustav Radbruch and Mochtar Kusumaatmadja emphasize that rules and decisions must not only be fair but also reliable so that citizens know their position before the law. In this case, when a Certificate of Inheritance (SKW) is not available, the judicial route becomes an alternative to achieve an equal degree of "certainty." This change requires judges not only to read the written rules in the Civil Code, Civil Code, Joint Instruction on Certificates of Inheritance (SKW), or other related regulations, but also to carefully examine evidence and examine facts (such as family relationships) so that the resulting decision truly reflects substantive justice and is not merely a formality. As long as the process is carried out transparently and argumentatively, the decision will meet the need for legal certainty for heirs even though the route taken differs from the usual administrative route.

However, at the same point, the absence of the Certificate of Inheritance (SKW) also raises complex normative implications. In principle, the Certificate of Inheritance (SKW) was designed as a uniform administrative instrument easily recognized by various institutions. Therefore, when the Certificate of Inheritance (SKW) disappears from the process, the previously relatively fixed standards shift. In a determination based on evidence presented in court, many aspects depend on the judge's assessment of evidence and witnesses, thus opening up greater

room for discretion. This discretion is certainly necessary for judges to reach material truth, but on the other hand, it has the potential to lead to differences in application between one court and another. For third parties, these differences in evidentiary standards and reasoning styles can be perceived as uncertain, especially if decisions regarding heirs without a Certificate of Inheritance (SKW) are not followed by uniform guidelines.

Another implication touches on the relationship between normative law and practice. The absence of a Certificate of Inheritance (SKW) can be said to give rise to “significant normative implications in terms of legal validity and legal certainty.” This means that when a Certificate of Inheritance (SKW) is absent from the process, the legal system is forced to answer two questions simultaneously: first, whether the determination of heirs remains valid and binding even without the usual administrative documents; second, whether this method can be repeated without compromising legal stability in the future. The research emphasizes that analyzing these implications is crucial for assessing whether Indonesian inheritance law is flexible enough to accommodate social conditions—for example, communities with difficulty accessing notaries—without sacrificing the legal certainty that is the core function of law itself.

The positive implication apparent in the Bogor District Court's ruling is that the law is showing a more "living" and adaptive face. The Bogor District Court accepted the application for the determination of heirs even though the Certificate of Inheritance (SKW) was not attached, and instead relied on other documents and witness testimony as the basis for evidence. This option allows heirs in difficult situations—due to limited knowledge, costs, or family circumstances—to still have a path to legal recognition. From the perspective of substantive justice, this practice is crucial because it demonstrates that inheritance rights are not tied to a single document. This aligns with efforts to enrich inheritance law theory in Indonesia to better address social realities and extend beyond procedural considerations.

On the other hand, a more critical implication is the potential for new legal uncertainty to emerge if there are no clear guidelines. The absence of a Certificate of Inheritance (SKW) can also create confusion in identifying who is entitled to receive inheritance assets and could trigger disputes between parties claiming to be heirs. If the evidentiary mechanism in court is not balanced with clarity regarding who must be summoned, what the standard of proof is, and how the court ensures that no heirs are left out, then the decision could give rise to further disputes. For example, other heirs who did not participate in the process could file a new lawsuit because they feel they were excluded. In such a scenario, a decision originally intended to provide certainty could instead potentially be the beginning of another round of disputes.

Nationally, the legal implications of determining heirs without a Certificate of Inheritance (SKW) on the certainty of inheritance law in Indonesia can be seen in

two major impacts. First, the practice developing in District Courts such as Bogor opens up the opportunity for the formation of new jurisprudence and doctrine that recognizes that a Certificate of Inheritance (SKW) is not the only way to legitimize heirs. If this pattern is consistent and supported by similar decisions in other regions, general courts will eventually establish a standard practice that court decisions can replace the role of a Certificate of Inheritance (SKW) in certain contexts. Third parties such as the National Land Agency (BPN), banks, or other institutions that previously requested a Certificate of Inheritance (SKW) can now use this decision as a direct basis for taking administrative action. In practice, land and banking officials often feel safer using court decisions as a basis, because these decisions can be assumed to have gone through a more rigorous evidentiary process. Thus, the determination of inheritance rights without a Certificate of Inheritance (SKW) in Decision No. 147/Pdt.G/2017/PN.Bgr indirectly increases the quality of legal certainty regarding inheritance objects, because the rights to the assets have been confirmed through an instrument that cannot be easily challenged.

There are also other implications worth noting: this decision does not automatically resolve all potential future disputes if a party feels they were never involved or were not included in the settlement. In such circumstances, the decision remains valid, but it could become the subject of new lawsuits (e.g., annulment lawsuits or third-party objections), thus theoretically leaving room for residual uncertainty.

This practice simultaneously pressures policymakers to formulate clearer regulations regarding the relationship between the Certificate of Inheritance (SKW) and court rulings. The Joint Instruction of the Minister of Home Affairs and the Minister of Justice regarding the Certificate of Inheritance (SKW) has so far primarily regulated the procedures for issuing a Certificate of Inheritance (SKW), rather than how the court should act when one is missing. With the increasing number of cases such as No. 147/Pdt.G/2017/PN.Bgr, the need for regulations or guidelines that clarify whether a court decision can be positioned as a substitute for a Certificate of Inheritance (SKW), or simply as an alternative form of evidence, is becoming increasingly urgent. Without this clarification, the certainty of inheritance law at the systemic level will always depend on the creativity and courage of individual judges, which in turn is difficult for the public and interested institutions to predict.

Ultimately, the legal implications of determining inheritance without a Certificate of Inheritance (SKW) for legal certainty can be summarized as a tension between substantive justice and formal order. The Bogor District Court's decision demonstrates that the courts can be a compromise that combines both: on the one hand, judges accept the fact that not all heirs have the administrative capacity to process a Certificate of Inheritance (SKW); on the other hand, judges use their judicial authority to maintain the structure and logic of inheritance law so that it

does not collapse. As long as the process is carried out with strict evidentiary standards and guided by the principles of legal certainty and protection, determining inheritance without a Certificate of Inheritance (SKW) can be seen as a more humane evolution of Indonesian inheritance law, without completely abandoning the need for legal certainty.

4. Conclusion

Based on the description above, the following conclusions can be drawn regarding the problems discussed: This study concludes that heirs who do not have a Certificate of Inheritance (SKW) can still obtain legal protection through the mechanism of determining heirs in court. In the Decision of the Bogor District Court No. 147/Pdt.G/2017/PN.Bgr, the judge materially assessed the inheritance relationship based on documentary evidence, witness statements, and the parties' confessions, then raised the agreement into a peace deed that has permanent legal force, thus guaranteeing the recognition of the parties' inheritance rights. The determination of heirs without a SKW in case No. 147/Pdt.G/2017/PN.Bgr functionally replaces the role of the SKW as an authentic basis for the management and transfer of inheritance assets before third parties. The determination order contains the identity of the heir, a list of heirs, and the configuration of the division or control of assets so that it can be used for administrative processing such as land transfers, disbursement of funds, and the management of other civil rights. From a legal certainty theory perspective, the court-ordered legal process provides a sufficient level of certainty regarding the status of heirs and the object of inheritance even if a SKW is not available, because the decision has been examined and obtained permanent legal force. However, at the normative level, reliance on the judge's judgment and variations in evidence have the potential to create disparities between courts and create uncertainty for third parties if not followed by consistent standards and guidelines. This study also found that determining heirs without a SKW has legal protection implications not only for the heirs but also for third parties, such as banks and the National Land Agency, which require a clear legal basis for administrative action. In the absence of a SKW, court decisions serve as the primary reference point for minimizing the risk of further disputes and bridging the interests of the parties in managing the estate.

1) Suggestion

a. To the legislators-Lawmakers and policymakers are advised to formulate more stringent and integrated regulations regarding the status of heir determination decisions as a substitute for SKW in various public administration and financial services. This regulation is crucial for standardizing the acceptance of court decisions by institutions such as the National Land Agency (BPN), banks, and other agencies, thereby preventing disparities in treatment in the field.

b. To the Supreme Court and judicial bodies, it is necessary to prepare technical guidelines or a circular that regulates the standards of proof, the format of the ruling, and the scope of determining heirs without a SKW so that the decision can be made. Similar decisions are more consistent and provide the same degree of legal certainty across all district courts. These guidelines can also confirm the position of a settlement deed in inheritance cases as an equivalent basis to a SKW for administrative purposes.

c. Notaries, SKW (Deed of Succession) officials, and legal practitioners are advised to provide more intensive public education on the importance of preparing inheritance documents early, including drafting a clear SKW or will, to reduce the need for litigation. In cases where a SKW cannot be prepared, practitioners should direct clients to court orders by preparing comprehensive evidence to optimally protect the rights of heirs.

d. The public, especially the families of the testators, is advised to prioritize deliberation and proper recording of family status, property ownership, and inheritance distribution agreements to streamline future legal proceedings. If a Certificate of Inheritance (SKW) is not available, a request to determine heirs to the court should be submitted collectively by the heirs in good faith, ensuring a valid decision. Properly reflect substantive justice and reduce the potential for further conflict.

Thank-you note

"There is no success without hard work. There is no success without togetherness. There is no ease without prayer."

I dedicate this work to:

❖ My beloved mother, Dra. Hotni PH Lumbantoruan, as a token of my love and appreciation for her.

❖ Beloved father, Prof. Dr. Hasudungan Sinaga, SH, MH.

❖ All my beloved brothers, sisters and family who never stop giving me encouragement.

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Hopefully this work can be a source of pride for all of you.

5. References

Al-Qur'an:

QS. An-Nisa: 7

QS. An-Nisa ayat 11-12

QS. An-Nisa ayat 128

Journals:

Akmal, S. (2017). Akibat Hukum Permohonan Penetapan Ahli Waris dalam Putusan Pengadilan Agama. Universitas Jember Repository. <https://repository.unej.ac.id/xmlui/handle/123456789/78458>

BHP Medan Kemenkumham RI. (2023). Surat Keterangan Hak Waris. <https://bhpmedan.kemenkum.go.id/layanan-publik-2/surat-keterangan-hak-waris>

Detik News. (2024). Apa Saja Syarat Mendapatkan Surat Keterangan Penetapan Ahli Waris. <https://news.detik.com/berita/d-7322422/apa-saja-syarat-mendapatkan-surat-keterangan-penetapan-ahli-waris>

Detik News. (2025). Surat Keterangan Ahli Waris: Fungsi, Cara Buat, dan Contoh Formatnya. <https://news.detik.com/berita/d-8016360/surat-keterangan-ahli-waris-fungsi-cara-buat-dan-contoh-formatnya>

Ditjen Administrasi Hukum Umum Kemenkumham RI. (2021). Layanan Publik-Surat Keterangan Hak Waris. <https://ahu.go.id/bhp/layananHakWaris>

ILS Law Firm. (2025). Perbedaan Surat Keterangan Waris dan Penetapan Ahli Waris. <https://www.ilslawfirm.co.id/perbedaan-surat-keterangan-waris-penetapan-ahli-waris/>

Handoko, B. (2015). "Perlindungan Hukum dalam Proses Penetapan Waris di Pengadilan," Jurnal Ilmu Hukum Universitas Diponegoro, 18(4), hlm. 234–256.

Halo JPN Kejaksaan RI. (2023). Pembagian Warisan. <https://halojpn.kejaksaan.go.id/publik/d/permohonan/2023-87c5>

Halo JPN Kejaksaan RI. (2025). Surat keterangan ahli waris. <https://halojpn.kejaksaan.go.id/publik/d/permohonan/2025-7KPP>

Hukumonline. (2009). Permohonan Penetapan Ahli Waris di Pengadilan Negeri. <https://www.hukumonline.com/klinik/a/permohonan-penetapan-ahli-waris-di-pengadilan-negeri-cl6742/>

- Hukumonline. (2011). Bagaimana Proses Permohonan Penetapan Ahli Waris dari Pengadilan Agama. <https://www.hukumonline.com/klinik/a/bagaimana-proses-permohonan-penetapan-ahli-waris-dari-pengadilan-agama--lt4de5d5fa395d9/>
- HukumOnline. (2020). Begini Cara Urus Surat Keterangan Ahli Waris di BHP dan Notaris. <https://www.hukumonline.com/berita/a/begini-cara-urus-surat-keterangan-ahli-waris-di-bhp-dan-notaris-lt5f7349eb44413/>
- HukumOnline. (2023). Cara Mengurus Surat Keterangan Ahli Waris Beserta Contohnya. <https://www.hukumonline.com/klinik/a/cara-mengurus-surat-keterangan-ahli-waris-beserta-contohnya-lt620a162c10619/>
- Hukumonline. (2023). Pembagian Harta Waris menurut Hukum Perdata. <https://www.hukumonline.com/berita/a/pembagian-harta-waris-menurut-hukum-perdata-lt6236c9ba3d767/>
- Ifllawoffice.com. (2025). Syarat dan Proses Pengajuan Permohonan Penetapan Ahli Waris di Pengadilan Agama. <https://ifllawoffice.com/syarat-dan-proses-pengajuan-permohonan-penetapan-ahli-waris-di-pengadilan-agama/>
- ILS Law Firm. (2025). Perbedaan surat keterangan waris dan penetapan ahli waris. Diakses dari <https://www.ilslawfirm.co.id/perbedaan-surat-keterangan-waris-penetapan-ahli-waris/>
- Ismaya, F., & Safriani, S. (2022). Implementasi Hukum Kewarisan dalam Penetapan Orang Hilang. *Jurnal Ilmiah Hukum dan Hak Asasi Manusia*, 7(2), 53-73. <https://dinastirev.org/JIHHP/article/download/3898/2424/18725>
- JDIH Provinsi DKI Jakarta. (2025). Hukum Waris. https://jdih.jakarta.go.id/artikelDirectory/jakarta_barat-Hukum%20Waris-4n8I5ZoVmcvF.pdf
- Kejaksaan Republik Indonesia. (2025). Tata Cara dan Mekanisme Hukum Pembagian Warisan Melalui Musyawarah Keluarga. <https://halojpn.kejaksaan.go.id/publik/d/permohonan/2025-6D5M>
- Kejaksaan Republik Indonesia. (2025). Permohonan: Penetapan Ahli Waris (Halaman Permohonan). Diakses dari <https://halojpn.kejaksaan.go.id/publik/d/permohonan/2023-87c5>
- Keltunggulwulung Malangkota. (2022). Pengertian dan Istilah dalam Hukum Waris. <https://keltunggulwulung.malangkota.go.id/2022/11/02/pengertian-dan-istilah-dalam-hukum-waris/>

- Kemantren Ngampilan. (2020). Surat Keterangan Waris. <https://ngampilankec.jogjakota.go.id/page/index/surat-keterangan-waris>
- Komisi Yudisial Republik Indonesia. (2020). Surat Keterangan Hak Waris. <https://ahu.go.id/layanan-publik/surat-keterangan-hak-waris>
- Kontrakhukum.com. (2024). Pentingnya Surat Keterangan Ahli Waris dan Cara Mengurusnya. <https://kontrakhukum.com/article/pentingnya-surat-keterangan-ahli-waris-dan-cara-mengurusnya/>
- Marinews Mahkamah Agung. (2025). Yurisprudensi Diamnya Ahli Waris Menjadi Sahnya Pembagian. <https://marinews.mahkamahagung.go.id/putusan/yurisprudensi-diamnya-ahli-waris-menjadi-sahnya-pembagian-0xE>
- Pemerintah Provinsi DKI Jakarta. Jakarta Barat - Hukum Waris [PDF]. Diakses dari https://jdih.jakarta.go.id/artikelDirectory/jakarta_barat-Hukum%20Waris-4n8l5ZoVmcvF.pdf
- Pengadilan Agama Magelang. (2021). Syarat Permohonan Penetapan Ahli Waris. <https://pa-magelang.go.id/syarat-permohonan-penetapan-ahli-waris/>
- Pengadilan Agama Taliwang. (2022). Syarat Berperkara Penetapan Ahli Waris. <https://pa-taliwang.go.id/kepaniteraan-pa/syarat-syarat-berperkara/syarat-berperkara-penetapan-ahli-waris>
- Pengadilan Agama Serui. (2025). Tahapan Pembagian Harta Warisan Secara Damai. <https://pa-serui.go.id/2025/04/30/tahapan-pembagian-harta-warisan-secara-damai/>
- Pfimegalife.co.id. (2021). Surat Keterangan Ahli Waris: Syarat dan Langkah Pembuatannya. <https://pfimegalife.co.id/surat-keterangan-ahli-waris>
- Radbruch, G. (t.t.). Einführung in die Rechtswissenschaften. Heidelberg: C. F. Müller. (Dikutip dalam Soponyono, E. (2019). Pemahaman terhadap asas kepastian hukum dalam negara hukum. Crepido, 1(1).)
- Repository Universitas Jember. (2014). Fungsi Surat Keterangan Waris yang Dikeluarkan Pejabat Desa dan Notaris dalam Pembagian Warisan. <https://repository.unej.ac.id/handle/123456789/24768>
- SPK Law Office. (2025). Penetapan ahli waris dan Gugatan waris di Pengadilan. <https://www.spklawoffice.com/penetapan-ahli-waris-dan-gugatan-waris-di-pengadilan/>
- Sulsel BPK RI. (2020). Ahli Waris dan Tanggung Jawabnya. <https://sulsel.bpk.go.id/wp-content/uploads/2020/01/Ahli-Waris-dan-Tanggung-Jawabnya.pdf>

Suparman, A. (2022). Hukum Kewarisan Islam dan Pengaruhnya terhadap Keputusan Pengadilan. *Jurnal Hukum dan Keadilan*, 10(1), 77-90.

Wahyudi, T. 2020. "Konsekuensi Hukum Perjanjian Dalam Perekonomian Islam Bisnis". *Jurnal Pembaharuan Hukum*, Vol. 7 No. 1, hal. 65-74.

Wahyudi, T. 2024. "Hukum Islam dalam Sistem Hukum Nasional". *Jurnal Ilmiah Terapan*, Vol. 6 No. 2, hal. 77-94.
<https://jurnal.unissula.ac.id/index.php/SANLaR/article/view/42428>

Zahri, H. A. (2025). Penetapan Ahli Waris dan Implikasi Hukumnya. *Badilag Mahkamah Agung RI*.
<https://badilag.mahkamahagung.go.id/artikel/publikasi/artikel/penetapan-ahli-waris-dan-implikasi-hukumnya-oleh-h-a-zahri-s-h-m-hi-11-12>

Books:

Aswin, T. (2015). Perbandingan Surat Keterangan Waris dengan Dokumen Waris Lainnya. Yogyakarta: Genta Press.

Berman, H. J. (2016). *Global Legal Systems*. Columbia University Press.

Harahap, M. Y. (2005). *Hukum acara perdata*. Jakarta: Sinar Grafika.

Fajar, M. N., & Achmad, Y. (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar.

Fitzpatrick, J. A. (1982). *The Law of Property*. Cambridge University Press.

Friedmann, W. (1964). *Legal Theory*. Stevens & Sons.

Hadi, S. (2010). *Metodologi Research Jilid 1*. Penerbit ANDI.

Handoko, W. (2011). Pemahaman Hukum Waris dalam Perspektif Hukum Positif dan Hukum Islam. *Jurnal Hukum Indonesia*.

Harahap, Y. (2017). *Hukum Acara Perdata*. Jakarta: Sinar Grafika.

Hidayat, I. (2017). *Filosofi Hukum Warisan di Indonesia*. Penerbit FIKOM Press.

Jafar, M. (2024). *Sengketa Kewarisan Kritis: Upaya Perlindungan Hak Ahli Waris Indonesia*. Jakarta: Prenada Media.

Kertonegoro, H. A. (2012). *Aspek-Aspek Hukum Waris di Indonesia*. Jakarta: Rajawali Pers.

Kusumaatmadja, Mochtar (2005). *Hukum dan Masyarakat*. Bandung: Alumni.

Mertokusumo, S. (2004). *Hukum Perdata Indonesia*. Yogyakarta: Liberty.

- Mertokusumo, S. (2006). *Penemuan Hukum: Sebuah Pengantar*. Yogyakarta: Liberty.
- Mukti Fajar, N. D., & Achmad, Y. (2010). *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta: Pustaka Pelajar.
- Noer, M. D. (2013). *Fungsi Notaris dalam Pembuatan Surat Keterangan Waris*. Cendekia Press.
- Radbruch, G. (2006). *Rechtsphilosophie*. Suhrkamp Verlag.
- Rahardjo, S. (2000). *Ilmu Hukum*. Bandung: Citra Aditya Bakti.
- Santoso, B. (2020). *Aspek Hukum dalam Pembagian Warisan di Indonesia*. Jakarta: Lembaga Pengkajian Hukum.
- Soekanto, S. (1986). *Teori Hukum dan Penegakan Hukum*. Rajawali Press.
- Soekanto, S. (1997). *Penegakan Hukum dan Dinamika Sosial*. Rajawali Press.
- Soekanto, S. (2018). *Penelitian Hukum Normatif*. Jakarta: RajaGrafindo Persada.
- Subekti. (1987). *Pokok-Pokok Hukum Perdata*. Intermasa.
- Subekti, R., & Tjitrosudibio, R. (1996). *Kitab Undang-Undang Hukum Perdata: Penjelasan Bab XII tentang Pewarisan Ab Intestato dan Testamentair*. Jakarta: Pradnya Paramita.
- Subekti. (2003). *Hukum Keluarga dan Hukum Waris*. Jakarta: Intermasa.
- Subekti, R. (2008). *Hukum Keluarga*. Jakarta: Intermasa.
- Sudikno Mertokusumo (2007). *Penegakan Hukum dan Keadilan*. Penerbit Liberty.
- Sumaryono, E. (1992). *Hermeneutika: Sebuah Metode Filsafat*. Kanisius.
- Supremacy of Law Study Group. (2018). *Peran Kepastian Hukum dalam Penyelesaian Sengketa Warisan*. Jurnal Hukum Internasional.
- Sutrisno, M. (2013). *Perlindungan Hukum bagi Ahli Waris dalam Pembagian Harta Warisan*. Jurnal Hukum dan Pembangunan.
- Syahrir, M. (2019). *Hukum Waris dan Penetapan Ahli Waris di Indonesia*. Bandung: Alfabeta.

Regulation:

The 1945 Constitution of the Republic of Indonesia.

BW (Burgerlijk Wetboek).

HIR, especially Articles 121–127 and Article 130.

Civil Code (KUHPPerdata), especially Articles 118, 830–840, and 1865.

Law of the Republic of Indonesia No. 1 of 1974 concerning Marriage.

Law of the Republic of Indonesia No. 7 of 1989 concerning Religious Courts.

Law of the Republic of Indonesia No. 3 of 2006 concerning Religious Courts.

Law of the Republic of Indonesia No. 48 of 2009 concerning Judicial Power.

Law of the Republic of Indonesia No. 50 of 2009 concerning Religious Courts.

Law of the Republic of Indonesia No. 16 of 2019 concerning Marriage.

Law of the Republic of Indonesia No. 19 of 2019 concerning the Corruption
Eradication Commission (KPK).

Compilation of Islamic Law (KHI), especially Article 171 letter c (1991).

Government Regulation No. 9 of 1975 concerning Marriage.

Presidential Instruction No. 1 of 1991 concerning the Dissemination of the
Compilation of Islamic Law (KHI), especially Book II on Inheritance Law.

Joint Instruction of the Minister of Home Affairs and the Minister of Justice No. 14
of 1969.

Joint Instruction of the Minister of Home Affairs and the Minister of Justice No.
1999 concerning the Certificate of Inheritance (SKW).

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the
National Land Agency No. 16 of 2021.

Court Decision Number: 147/Pdt.G/2017/PN.Bgr