

**ANALISIS HUKUM TERHADAP *LEGITIME PORTIE* BAGI ANAK DI DALAM
DAN DI LUAR PERKAWINAN YANG SAH MENURUT KITAB
UNDANG-UNDANG HUKUM PERDATA (*BURGERLIJK WETBOEK*)**

***LEGAL ANALYSIS OF LEGITIME PORTIE FOR CHILDREN IN INSIDE AND OUTSIDE
LEGITIMATE MARRIAGE IN CIVIL CODE (BURGERLIJK WETBOEK)***

Prasasti Dyah Nugraheni

Program Studi Ilmu Hukum, Fakultas Hukum,
Universitas Negeri Semarang.

Korespondensi : P. D. Nugraheni, Tel. 081326288724

prasastidyahnugraheni.unnes.ac.id@students.unnes.ac.id

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Abstract : *Inheritance law in a Civil Code is one part of a civil law that has basic nature of regulating something and there's no element of coercion in the inheritance law. Because this inheritance law is one part of a civil law that has basic nature of regulating, then in this inheritance law there are rules governing an heir to his assets as long as an heir's still alive. To obtain an inheritance, it can be done in two ways, which include obtaining an inheritance based on the law and obtaining an inheritance based on a will. To obtain an inheritance based on the law, then there must be an absolute part (legitime portie) of an inheritance, namely the existence of an absolute part that's used to protect an inheritance from the actions of an heir who can make a will which deviates from an absolute part (legitime portie). An absolute part (legitime portie) is protected by a law, this is because in an absolute part (legitime portie) there's a right that can be used to make a claim to the court in order to obtain a part of its rights an inheritance that's and has been regulated in a will.*

Keywords : *Legitime portie, heirs, children.*

Abstrak : Hukum waris dalam Hukum Perdata adalah salah satu bagian dari Hukum Perdata yang memiliki sifat dasar untuk mengatur sesuatu dan tidak ada unsur paksaan di dalam hukum waris tersebut. Karena hukum waris ini merupakan salah satu bagian dari Hukum Perdata yang memiliki sifat dasar untuk mengatur sesuatu, maka dalam hukum waris ini ada aturan yang mengatur harta kekayaan pewaris selama pewaris masih hidup. Untuk mendapatkan harta warisan itu dapat dilakukan dengan dua cara, yaitu antara lain memperoleh harta warisan yang berdasarkan hukum dan memperoleh harta warisan yang berdasarkan surat wasiat. Untuk mendapatkan harta warisan yang berdasarkan hukum, maka harus ada bagian yang absolut (*legitime portie*) dari harta warisan tersebut, yaitu keberadaan bagian absolut yang digunakan untuk melindungi harta warisan dari tindakan ahli waris yang dapat membuat surat wasiat yang menyimpang dari bagian yang absolut (*legitime portie*) tersebut. Bagian yang absolut (*legitime portie*) ini dilindungi oleh undang-undang, hal ini karena di bagian yang absolut (*legitime portie*) ini terdapat hak yang dapat digunakan untuk mengajukan sebuah tuntutan ke pengadilan untuk mendapatkan bagian dari hak-haknya sebagai ahli waris yang telah diatur di dalam surat wasiat tersebut.

Kata Kunci : *Legitime portie, ahli waris, anak-anak.*

INTRODUCTION

Inheritance law in a Civil Code (*Burgerlijk Wetboek*) is one part of civil law. All laws which are a part of civil law have the same basic nature, that is, among others, the existence of a regulating trait and a trait that does not have an element of coercion in the law. An element of coercion contained in civil inheritance law, for example, is the existence of provisions on granting absolute rights (*legitime portie*) to certain heirs for a large amount of inheritance. With this provision, an heir is prohibited from making certain provisions, such as making a gift (*grant*) from a certain part of an inheritance owned by him. Whereas for someone who receives a gift (*grant*) from a certain part of inheritance must return an inheritance that has been given (granted) to him to fulfill an absolute part (*legitime portie*) of the heirs who have the right absolute (*legitime portie*). It is regulated in Article 1086 of the Civil Code (*Burgerlijk Wetboek*) concerning Granting (*grants*) which must be included (*inbreng*).¹

Although in civil inheritance law there is an element of coercion, civil inheritance law is also one part of a civil law that has the basic nature of regulating something. So that this element of coercion has little effect on this civil inheritance law. Because a civil inheritance law is one part of a civil law that has the basic nature of regulating something, what things are made by an heir to his assets as long as he is still alive is an absolute authority he has. However, if any matter made by an heir to his assets is contrary to the law, then there must be a legal risk to an inheritance if an heir has passed away.

A civil inheritance law does not apply to all population groups, but civil inheritance law only applies to several groups, namely as follows:²

1. For the European people and those who are equated with the European people.
2. For the Chinese Foreign Easterners and those who are equated with Chinese foreign Easterners.
3. For other Eastern Foreigners and those who are equated with other groups of Eastern Foreigners.
4. For groups of Indigenous people and those who are equated with groups of Indigenous people.

Civil inheritance law has a very close relationship with family law. Therefore, to study a civil inheritance law, it is necessary to study a family law as well. A family law that must be studied is something that concerns a family system and a system of inheritance. The things learned in the inheritance system are, among other things, the form of goods from an inheritance and how to obtain the inheritance. Whereas the things learned in a family system are, among others, a patrilineal family system, a matrilineal family system, and a parental family system. A family system can be learned by finding out the plot of the offspring from both the father and the mother. A patrilineal family system regulates a lineage of descendants from the father's side. A matrilineal family system regulates a lineage of descendants from the mother's side. While a parental family system governs a lineage of descendants from both the father and the mother. A civil inheritance law adheres to an individual inheritance system, that is, the heirs can inherit an inheritance individually and with no differentiation between their sexes so that male heir and female heirs have the same an absolute part (*legitime portie*).³

In a civil inheritance law applies a principle, namely if an heir dies, then

¹Anisitus Amanat, *Membagi Warisan Berdasarkan Pasal-Pasal Hukum Perdata Burgerlijk Wetboek*, Jakarta: Raja Grafindo Persada, 2001, p. 1.

²Erie Hariyanto, 'Burgerlijk Wetboek (Menelusuri Sejarah Hukum Pemberlakuannya di Indonesia)', *Jurnal Al-Ihka'*, 4(4), 2009, p. 150.

³Sabungan Sibarani, 'Penerapan *Legitime Portie* (Bagian Mutlak) Dalam Pembagian Waris Menurut Kitab Undang-Undang Hukum Perdata (Studi Kasus Putusan Nomor 320/PDT/G/2013/PN.JKT.BAR)', *Jurnal Ilmu Hukum*, (5)2, 2015, p. 3.

according to a civil inheritance law and at that time also the rights and obligations of an heir are the rights and obligations of the heirs, as long as the rights and obligations can be assessed with money and is one part of a civil inheritance law. A civil inheritance legal system has a distinctive characteristic from another inheritance legal system, namely to regulate that an inheritance inherited by an heir can be shared as quickly as possible to the entitled heirs. However, if an inheritance that has been inherited by an heir does not want to be divided, then an agreement from the heirs in question must be needed. The difference between an inheritance and an inheritance, namely an inheritance is a property that has not been reduced by debt-a debt from an heir, other costs and is not ready to be shared with the heirs, while an inheritance is a property that has been reduced by debt-a debt from an heir, other costs, and is ready to be shared with the heirs.⁴

An heir as the owner of inheritance has an absolute right to regulate what he wants from the inheritance. This is a consequence arising from a civil inheritance law as part of a civil law that has the basic nature of regulating something.⁵ The heirs who have an absolute right to a part that is not available from an inheritance can be called *legitimate* heirs. Whereas a part that is not available from an inheritance which is an absolute right for *legitimate* heirs can be referred to as an absolute part (*legitime portie*). An absolute part (*legitime portie*) right is a right of *legitimate* heirs to a part that is not available from an inheritance.⁶

In a civil inheritance law, there are two ways to obtain an inheritance, namely as follows:⁷

1. Under the provisions of the law (*ab intestato*), namely, are the heirs to

obtain a part of an inheritance that has been regulated in the law governing an inheritance. This can be caused by blood relations and family relations between heirs and an heir who has passed away.

2. Based on a will (*ad testamento*), that is, the heirs to obtain a part of inheritance have been deposited in a will (*ad testamento*) that has been made by an heir before he dies.

The heirs are based on a statutory provision (*ab intestato*), i. e. a person can become an heir because of his position according to law and has been regulated in a law governing an inheritance to become an expert inheritance. Whereas the heirs are based on a will (*ad testamento*), i. e. a person can be an heir because of the wishes of an heir who has passed away and has been arranged in a will (*ad testamento*) that has been made by an heir before he dies. The heirs based on a will (*ad testamento*) can be divided into two, namely the inheritance *erfstelling* and the heirs are relieved (a testament of a gift (*grant*)). The heirs of *erfstelling*, namely the heirs who obtain part or all of the inheritance from an heir in the presence of an ordinary will (*ad testamento*). Whereas the heirs are relieved, namely the heirs who obtain part or all of the inheritance from an heir with the existence of a will which can specifically be called a *legataris*.⁸ Giving an inheritance using a grant can only be done if an heir has passed away.

In a civil inheritance law, the heirs based on a will (*ad testamento*) take precedence over the heirs based on a statutory provision (*ab intestato*). This is because a will is the last wish of an heir to an inheritance, provided that it must not harm the heirs that have been regulated according to a statutory provision (*ab intestato*). Because the heirs that have been regulated based on a statutory provision

⁴Ali Afandi, *Hukum Waris, Hukum Keluarga, dan Hukum Pembuktian*, Jakarta: Rineke Cipta, 2000, p. 7.

⁵*Ibid*, p. 2-3.

⁶*Ibid*, p. 68.

⁷A. Pitlo, *Hukum Waris*, Jakarta: PT. Intermass, 1979, p. 112.

⁸Surini Ahlan Sjarif, *Intisari Hukum Waris Menurut Burgerlijk Wetboek*, Jakarta: Ghalia Indonesia, 1982, p. 112.

(*ab intestato*) have an absolute part (*legitime portie*) that has been regulated in Article 913 of the Civil Code (*Burgerlijk Wetboek*).⁹

Based on the background described above, the author formulates the following problems are the implementation of the distribution of inheritance from the existence of an absolute part (*legitime portie*) of children legitimate according to the Civil Code (*Burgerlijk Wetboek*) and the distribution of an inheritance in the presence of an absolute part (*legitime portie*) of children outside a legitimate marriage according to the Civil Code (*Burgerlijk Wetboek*).

RESEARCH METHOD

Legal writing is scientific writing in the field of law based on certain methods, thoughts, and systematics to learn something about certain legal events by analyzing these legal events.¹⁰ Based on its form, there are two methods of legal research, namely empirical legal research and library research.

While based on the scope of the discussion, this journal writing can be categorized into normative juridical literature writing. This normative juridical journal writing is also written with qualitative methods and analytical methods. The normative juridical method is a method of writing carried out by analyzing secondary data or library material that is still legal. While qualitative methods and methods of analysis are a method of writing carried out by analyzing statistical processes, both in the form of stories, descriptions, written documents, unwritten documents, and narratives.

Data used in writing this journal is secondary data, namely obtained data from methods that are literature and primary

data, namely data obtained from the interview method. The tools used to collect the data used in writing this journal are a document study. Legal materials used in writing this journal are as follows:

1. Primary legal materials are legal materials that are used as the main source in writing this journal and have a very strong legal force on life in society. The primary legal material used in writing this journal is the Civil Code (*Burgerlijk Wetboek*) which discusses *legitime portie* matters and other laws and regulations that are also related the writing of this journal.
2. Secondary legal materials are legal materials that explain a matter concerning primary legal material. In writing this journal, the secondary materials used include books that discuss *legitime portie* for children in inside and outside legitimate marriage, various research reports, various collections of these, and various writings from experts prominent law.
3. Tertiary legal materials are legal materials that can explain and also a guide to primary legal material and secondary legal material that has been used as the material in writing this journal. The tertiary legal materials used in writing this journal include the encyclopedia and dictionary.

DISCUSSION

A. IMPLEMENTATION OF AN ABSOLUTE SECTION (*LEGITIME PORTIE*) IN A CIVIL CODE (*BURGERLIJK WETBOEK*)

In Article 913 of the Civil Code (*Burgerlijk Wetboek*) it is explained that: "An absolute part (*legitime portie*) is a part of an inheritance that must be given to the heirs who have an absolute right (*legitime portie*) in a straight-up line or a straight-to-side lineage in accordance with the applicable law where an heir who has

⁹Imaniar Putri Novianti, 'Kedudukan dan Kewenangan Balai Harta Peninggalan Dalam Pengelolaan Harta Peninggalan Tak Terurus', *Jurnal Pandecta*, 10(1), p. 5.

¹⁰Soerjono Soekanto, *Pengantar Penelitian Hukum*, Print. 3, Jakarta: Universitas Indonesia, 2006, p. 43.

passed away is not permitted to regulate or determine a thing, either as a giver of a gift (*grant*) who is still alive or as a maker of a testament."¹¹

According to a legal expert named Pitlo, a part of an inheritance based on a law an absolute part (*legitime portie*) is: "An absolute right that is owned by heirs who have a primary position or a privileged position in an inheritance in a straight line up or a straight line to the side."

Everyone has the freedom to regulate and determine what will happen to a property they have after each person dies. An heir has the freedom to revoke an inheritance right to his heirs. Therefore, even though there are provisions stipulated in a law concerning who has absolute rights to inherit an inheritance that has been left from an heir and what part of an inheritance for each person the heir. However, the provisions governing the distribution of inheritance contained in law have the basic nature of regulating, not the nature of force. For the heirs based on a law (*ab intestato*) a certain part of an inheritance must be established that must be accepted by the heirs who have the absolute rights. A certain part of an inheritance is protected by a law governing inheritance. This is because there is a very close family relationship between an heir and the heirs, so that a law judges it is inappropriate if the heirs who should have an absolute part (*legitime portie*) instead do not get an inheritance at all, In order for an heir to not make a mistake against an inheritance he has, then the law prohibits an heir in his lifetime to give (*grant*) and inherit a wealth to someone other than the heirs that have been determined in a law. These heirs in exercising their rights as heirs to an inheritance, they can be protected by the law which can be referred to as legitimacy. While a certain part of an inheritance that can be shared with these heirs can also be protected by the law which can be referred to as an absolute

part (*legitime portie*). So that this *legitimar*is can be divided into two, namely an absolute part (*legitime portie*) and an available part (*beschikbaar*). An available part (*beschikbaar*) is a part of an inheritance that can be controlled by an heir individually, so that he can give it (*grant* it) when he is alive or he can inherit it when he has passed away to someone other than the heirs which have been regulated in a law (*ab intestato*). All laws and regulations that exist around the world that regulate an inheritance, it turns out that in law it also regulates the existence of an absolute part (*legitime portie*) institution. A rule in a country may not be the same as a rule in another country, especially rules governing who has absolute rights to inherit an inheritance that has been left from an heir and what part of an inheritance for each of these heirs.¹²

Although in a civil inheritance law there is an element of coercion, civil inheritance law is also one part of a civil law that has the basic nature of regulating something. So that this element of coercion has little effect on this civil inheritance law. Because a civil inheritance law is one part of a civil law that has the basic nature of regulating something, what things are made by an heir to his assets as long as he is still alive is an absolute authority he has. However, if any matter made by an heir to his assets is contrary to the law, then there must be a legal risk to an inheritance if an heir has passed away.

Civil inheritance law has a very close relationship with family law. Therefore, to study a civil inheritance law, it is necessary to study a family law as well. A family law that must be studied is something that concerns a family system and a system of inheritance. The things learned in the inheritance system are, among other things, the form of goods from an inheritance and how to obtain the

¹¹Article 913, *Burgerlijk Wetboek*.

¹²Hartono Soerjopratikno, *Hukum Waris Testamenter*, Yogyakarta: Universitas Gajah Mada, 1984, p. 308.

inheritance. Whereas the things learned in a family system are, among others, a patrilineal family system, a matrilineal family system, and a parental family system. A family system can be learned by finding out the plot of the offspring from both the father and the mother. A patrilineal family system regulates a lineage of descendants from the father's side. A matrilineal family system regulates a lineage of descendants from the mother's side. While a parental family system governs a lineage of descendants from both the father and the mother. A civil inheritance law adheres to an individual inheritance system, that is, the heirs can inherit an inheritance individually and with no differentiation between their sexes so that male heir and female heirs have the same an absolute part (*legitime portie*).

B. IMPLEMENTATION OF AN ABSOLUTE SECTION (*LEGITIME PORTIE*) IN A CIVIL CODE (*BURGERLIJK WETBOEK*) FOR INHERITANCE GROUPS

An absolute part (*legitime portie*) is a part of an inheritance intended for heirs who do not refuse and who deserve to receive a part of the inheritance. An absolute part (*legitime portie*) arises because of the existence of an heir who refuses and who does not deserve to receive a part of the inheritance. So that if there is an heir who is not fit to receive a part of an inheritance and he is carrying out a prosecution process, then the inheritance may be his. But if there is an heir who is not fit to receive a part of an inheritance and he does not carry out a prosecution process, then the inheritance may not be his property.¹³

In a Civil Code (*Burgerlijk Wetboek*) an absolute part (*legitime portie*) principle must have a consequence. A consequence arises because a civil inheritance law is part of a civil law that has the basic nature of regulating something. So that the heirs cannot carry out the seizure of an

inheritance that has been regulated and has been abandoned by the heir who has passed away.

Although the provisions concerning an absolute part (*legitime portie*) are compelling, a coercive nature is not for the public interest. A coercive nature is only for the sake of legitimacy. So that a *legitimate* interest allows someone to violate their rights and a violation of an absolute part (*legitime portie's*) interests can only be canceled simply, cannot be canceled complicated for the sake of law.¹⁴

In Article 1058 of the Civil Code (*Burgerlijk Wetboek*) it is regulated that: If there is someone who has the right to obtain an absolute part (*legitime portie*), the person rejects an absolute part (*legitime portie*), then other people can be *legitimate*¹⁵. If there are people who are not married and do not have children who have died and have family members consisting of a grandfather or a grandmother (third group) and both their parents and siblings (second group) are still alive, then a grandfather or a grandmother (third group) cannot be a *legitimator*. Whereas if both his parents and siblings (second group) who are still alive reject an absolute part (*legitime portie*), then a grandfather or a grandmother (third group) can become a *legitimator*. Whereas in Article 1914 the Civil Code (*Burgerlijk Wetboek*) stipulates that: An absolute part (*legitime portie*) of an inheritance is a balanced part which will be obtained by each heir determined by law (*ab intestato*).¹⁶ A person cannot be an heir because of an inheritance or impropriety to receive an inheritance from an heir who has passed away and a dismissal as an heir.

A law only regulates and determines that a person who can carry out a prosecution of an absolute part (*legitime portie*) is an heir who has been determined by a law (*ab intestato*) in a straight line upward or in a line straight descendants to

¹³*Ibid*, p. 109.

¹⁴*Ibid*, p. 110.

¹⁵Article 1058, *Burgerlijk Wetboek*.

¹⁶*Ibid*, Article 1914.

the side, not paying attention to whether an heir receives or rejects an inheritance from an heir who has passed away.¹⁷

Some conditions for obtaining an absolute portion (*legitime portie*) from an inheritance are as follows:

1. A person must be a member of a blood family in a straight-up line or a straight line to the side. The position between husband and wife is different from the position between both parents and children. In Article 852a of the Civil Code (*Burgerlijk Wetboek*) stipulates that the position between husband and wife is a blood family in a straight line to the side. Whereas the position between the parents and children is a blood family in a straight down line. Therefore, a husband or a wife does not have an absolute part (*legitime portie*) or it can be called a non *legitimar*is of an inheritance that has been abandoned by one of the parties who died.¹⁸
2. A person must be one of the heirs determined by law (*ab intestato*). Therefore, not all family members who are bloodied in a straight-up line or straight to sideline have an absolute part (*legitime portie*) of an inheritance that has been left behind by an heir.
3. A person is one of the heirs mentioned in a *testament*. Therefore, not all family members who are bloodied in a straight-up line or straight line have a *legitimate* part of an inheritance that has been left behind by an heir.

For the heirs who have obtained an absolute part (*ab intestato*) an absolute part (*legitime portie*) has been arranged of an inheritance intended for them in Article

852a, 852b, 854 - 857 Civil Code (*Burgerlijk Wetboek*), namely as follows:¹⁹

1. Group I: Children or descendants, a widower, and a widow left by an heir. This is regulated in Article 852a and 852b of the Civil Code (*Burgerlijk Wetboek*).
2. Group II: Both parents (a father or a mother) and the brothers left by an heir. This is regulated in Articles 854-857 of the Civil Code (*Burgerlijk Wetboek*).
3. Group III: A grandfather and a grandmother left by an heir.
4. Group IV: Family members in the line are straight to the side to the sixth degree.

C. IMPLEMENTATION OF AN ABSOLUTE SECTION (*LEGITIME PORTIE*) IN A CIVIL CODE (*BURGERLIJK WETBOEK*) FOR CHILDREN IN INSIDE LEGITIMATE MARRIAGE

For the heirs in a straight down line it is set about an absolute part (*legitime portie*) that is intended for them, namely as follows:²⁰

1. If an heir who has passed away leaves only one legitimate child, then based on Article 914 the Civil Code (*Burgerlijk Wetboek*) is a legitimate child who gets 1 / 2 absolute parts (*legitime portie*) from an inheritance which are available.
2. If an heir who has passed away leaves two legitimate children, then based on Article 914 of the Civil Code (*Burgerlijk Wetboek*) two legitimate children receive 2 / 3 absolute parts (*legitime portie*) from an inheritance which are available.
3. If an heir who has passed away leaves three legitimate children or more, then based on Article 914 of the Civil

¹⁷Hartono Soerjopratikno, *Hukum Waris Testamenter*, Yogyakarta: Universitas Gajah Mada, 1984, p. 310.

¹⁸Article 852a, *Burgerlijk Wetboek*.

¹⁹*Ibid*, Article 852a, 852b, 854-857.

²⁰Sulih Rudito, 2015, 'Penerapan Bagian Mutlak (*Legitime Portie*) Dalam Pembagian Waris Menurut Kitab Undang – Undang Hukum Perdata', *Jurnal Ilmu Hukum Legal Opinion*, (3)3, p. 8.

Code (*Burgerlijk Wetboek*) three legitimate children or more get 3 / 4 absolute parts (*legitime portie*) from an available inheritance.

4. An absolute part (*legitime portie*) is a part intended for heirs to an inheritance if a deceased heir does not give a gift (*grant*) or a will (*ad testamento*) that can be carried out by heirs which has an absolute right.

Whereas for the heirs in a straight-up line it is regulated about an absolute part (*legitime portie*) that is intended for them, namely as follows:²¹

1. If an heir who has passed away leaves both *legitimate* parents, then based on Article 915 of the Civil Code (*Burgerlijk Wetboek*) the two *legitimate* parents receive 1 / 2 absolute parts (*legitime portie*) from an inheritance which are available.

D. IMPLEMENTATION OF AN ABSOLUTE SECTION (*LEGITIME PORTIE*) IN A CIVIL CODE (*BURGERLIJK WETBOEK*) FOR CHILDREN IN OUTSIDE LEGITIMATE MARRIAGE

An absolute part (*legitime portie*) for a child born outside of a recognized marriage, then based on Article 916 of the Civil Code (*Burgerlijk Wetboek*) a child born outside of a recognized marriage is legitimate gets 1 / 2 part the absolute (*legitime portie*) of an available inheritance. Several types of children born outside of recognized marriage, namely as follows:²²

1. Adultery children are children born from a relationship outside of marriage between a man and a woman, where one party or both parties are still bound by a marriage with another party.
2. Discordant children are children born from a relationship between a man, where between the two parties there is a prohibition to marry each other

which has been regulated in a law concerning a matter of marriage.

3. Natural children are children born from a relationship outside of marriage between a man and a woman, where both parties have not been tied to marriage with another party.

According to Article 863 of the Civil Code (*Burgerlijk Wetboek*) described as follows:²³

1. Children outside of marriage who inherit with the group I get 1 / 3 parts.
2. Children outside of marriage who inherit with the groups II and III get 1 / 2 parts.
3. Children outside of marriage who inherit with the group IV get 3 / 4 parts.

Heirs who do not have an absolute portion (*legitime portie*) of inheritance available, namely as follows:²⁴

1. A husband or a wife of an heir who has the longest life span.
2. A sibling or siblings from the heir.

They do not have an absolute part (*legitime portie*) or can be referred to as a non *legitimar*is of an inheritance left by an heir who has passed away. Calculation of inheritance based on an absolute part (*legitime portie*) is very dependent on the presence or absence of a gift (*grant*) or a will (*ad testamento*) left by an heir who has passed away.

A *legitimar*is is the heirs who can express a right to obtain an absolute part (*legitime portie*). This is because an absolute part (*legitime portie*) is usually reduced or deducted by debts from an heir and other costs. Also, a reduction or deduction of inheritance is carried out to reduce the existence of a gift (*grant*) and a

²¹Article 915, *Burgerlijk Wetboek*.

²²*Ibid*, Article 916.

²³*Ibid*, Article 863.

²⁴Sulih Rudito, 2015, 'Penerapan Bagian Mutlak (*Legitime Portie*) Dalam Pembagian Waris Menurut Kitab Undang-Undang Hukum Perdata', *Jurnal Ilmu Hukum Legal Opinion*, (3)3, p. 68.

will (*ad testamento*) intended for someone other than the heirs who have absolute rights to the inheritance.

CONCLUSION

For the heirs in a straight down line it is set about an absolute part (*legitime portie*) that is intended for them, namely as follows:

1. If an heir who has passed away leaves only one legitimate child, then based on Article 914 the Civil Code (*Burgerlijk Wetboek*) is a legitimate child who gets 1 / 2 absolute part (*legitime portie*) from an available inheritance.
2. If an heir who has passed away leaves two legitimate children, then based on Article 914 of the Civil Code (*Burgerlijk Wetboek*) two legitimate children receive 2 / 3 absolute parts (*legitime portie*) from an available inheritance.
3. If an heir who has passed away leaves three legitimate children or more, then based on Article 914 of the Civil Code (*Burgerlijk Wetboek*) three legitimate children or more get 3 / 4 absolute parts (*legitime portie*) from an available inheritance.
4. An absolute part (*legitime portie*) is a part intended for heirs to an inheritance if the deceased heir does not give a gift (grant) or a will (*ad testamento*) that can be carried out by heirs which has an absolute right.

An absolute part (*legitime portie*) for a child born outside of a recognized marriage, then based on Article 916 of the

Civil Code (*Burgerlijk Wetboek*) a child born outside of a recognized marriage is legitimate gets 1 / 2 part the absolute (*legitime portie*) of an available inheritance.

For the heirs, namely children outside a representative who are recognized as legitimate, it is regulated matters which become an absolute part (*legitime portie*) for them in Article 863 of the Civil Code (*Burgerlijk Wetboek*) described as follows:

1. Children outside of marriage who inherit with the group I get 1 / 3 parts.
2. Children outside of marriage who inherit with the groups II and III get 1 / 2 parts.
3. Children outside of marriage who inherit with the group IV get 3 / 4 parts.

SUGGESTION

With a will made by an heir, heirs can be more secure in getting the inheritance that is his or her right. So that if the heirs do not get the inheritance, then they can file an absolute claim against inheritance which is legally entitled in accordance with the rules set out in the Civil Code (*Burgerlijk Wetboek*).

To submit a claim process in order to obtain inheritance rights, it must be adjusted to the rules in the Civil Code. In this case, legal heirs may not demand the contents of the will made by the testator. The heirs are only allowed to claim the rights of the absolute part which is their own. This is regulated so that the court can protect the absolute rights of the legal heirs.

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