ARVSRÄTT ELLER RÄTT TILL ARV
En studie om arvsberättigande och kvarlåtenskapens fördelning

av

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Akademisk avhandling

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Abstract

The present Swedish law of inheritance has developed slowly and is based on ideas stemming from an earlier social structure than that of today. When reforms have been made, modern regulations have been added to a very old structure. The rules on inheritance are still based on the nuclear family, though changes in society and the family forms that people choose have impacted on the notion of family, a notion which can no longer be seen as homogenous and clear. With changing living conditions and new forms of family, the present regulation has resulted in uncertainties and unpredictable consequences for the affected parties, such as when the wish of the deceased are restricted, equal heirs are treated differently, new forms of inheritance occur or when established protective mechanisms are sidelined. In an age when each person’s right to decide over their own interests enjoys central importance, it can be questioned whether a traditional law of inheritance is effective in contemporary society.

The purpose of this dissertation is to examine from a historical perspective to what extent the law of inheritance is adapted to contemporary society, considering changing living conditions, forms of family and societal values. The dissertation’s point of departure is the law of inheritance of 1928 and the law of wills of 1930, and the question of who has the right to inherit and how the estate is distributed. Within this purpose the conditions for inheriting, principles regarding the distribution of the estate and the motives behind these are examined.

The research has been conducted through an analysis of the development of the existing inheritance law’s design and function in relation to the living conditions, family relationships and social values at different times in history. The approach has required that a wider perspective been applied to the design of the regulations on the right of inheritance and the distribution of the estate, which goes beyond law. The purpose and effect of the mentioned regulations have been identified and analysed on the basis of this background. The approach has meant that the current regulations have been examined both from an internal and an external perspective. The research has resulted in a proposal of change to the present principles of distribution and restrictions in order to accommodate present-day society’s living conditions and forms of family by extending the freedom of the decedent to dispose over the distribution of it’s estate after death.

Keywords: inheritance, direct heirs, successor, will, surviving spouse, testament, distribution, estate.

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