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Application of Justice Principles in Islamic Inheritance Disputes: Kompilasi Hukum Islam and Supreme Court Jurisprudence

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Abstract

This article examines how principles of justice are applied in Indonesian Islamic inheritance disputes through the interaction between the Kompilasi Hukum Islam (KHI) and Supreme Court jurisprudence. The study uses normative legal research with statute, conceptual, and case approaches, focusing on KHI, relevant legislation, and Supreme Court decisions concerning wasiat wajibah. The selected decisions show a gradual judicial development: Decision No. 368 K/Ag/1995 recognised a compulsory bequest for a child who had converted from Islam; Decision No. 16 K/Ag/2010 extended the approach to a non-Muslim spouse in light of a long marital relationship and care; and Decision No. 331 K/Ag/2018 considered a non-Muslim wife's care for her husband when determining a bequest. The analysis distinguishes the status of an heir under Article 171(c) KHI from the separate position of a person who may receive wasiat wajibah through judicial interpretation. It argues that substantive justice should be pursued through a bounded contextual approach that requires evidence, proportionality, transparent legal reasoning, and protection of other heirs' legitimate expectations. The article contributes a doctrinal framework for reconciling legal certainty, family protection, and human-rights values in Islamic inheritance adjudication.

Keywords: *Islamic Inheritance; Legal Protection; Substantive Justice; Supreme Court Jurisprudence; Wasiat Wajibah.*

A. INTRODUCTION

The application of justice principles in Islamic inheritance disputes remains a significant issue in Indonesia, particularly where the formal allocation of inheritance rights intersects with changing family relations and demands for substantive protection. The Kompilasi Hukum Islam (KHI), disseminated through Presidential Instruction No. 1 of 1991, provides the principal reference for Religious Courts in resolving inheritance matters involving Muslims. It translates selected doctrines of

Islamic inheritance law into provisions that can be applied within the national legal system. Nevertheless, contemporary disputes may involve family circumstances that are not fully addressed by a literal reading of the KHI, including interfaith marriages, adopted children, marital property, and the financial and caring contributions of family members (Syarif et al., 2025; Irianto, 2024). The issue is therefore not simply whether the written rules should be followed, but how they should be interpreted without sacrificing either legal certainty or fair protection.

The debate is especially visible in discussions of gender justice and the position of family members who do not satisfy the formal requirements for inheritance. Courtroom research in Indonesia shows that legal pluralism and gender relations shape the practical distribution of inheritance, while judicial practice may either accommodate or reproduce unequal outcomes (Irianto, 2024). Recent constitutional analysis likewise highlights the need to reconcile inheritance rules with women's constitutional rights without assuming that equality always means mechanically identical shares in every legal context (Jinoto, 2025). These findings call for a careful distinction between the determination of heirs, the calculation of inheritance shares, the settlement of marital property, and alternative mechanisms such as hibah and wasiat wajibah. Treating these legal questions as interchangeable risks obscuring the doctrinal basis of a court's decision.

The judiciary, particularly the Supreme Court, has an important role in addressing cases in which the application of KHI raises questions that the text does not expressly resolve. Through a series of decisions, the Court has developed the use of wasiat wajibah for certain family members who are not recognised as heirs under the ordinary rule on religious affiliation. This development has attracted scholarly attention, including analysis of the ratio legis of the religious-difference impediment and the maqasid-based reasoning associated with the Supreme Court's jurisprudence

(Wahyudi, 2021; Nikmah, 2026). The decisions should, however, be examined individually. A jurisprudential formula cannot be treated as an independent case number, nor should the outcome of one fact-specific dispute automatically be converted into a universal rule for all inheritance cases.

Against this background, the article addresses three research questions: (1) how does the KHI construct distributive justice and legal protection in Islamic inheritance matters? (2) how has the Supreme Court interpreted wasiat wajibah in selected inheritance decisions involving non-Muslim family members? and (3) what doctrinal limits and safeguards are needed to reconcile legal certainty, substantive justice, and the protection of vulnerable family members? These questions focus the inquiry on the relationship between legal status, judicial reasoning, and the legal consequences of an exceptional bequest.

Existing scholarship has addressed important parts of this debate. Rizkal (2016) examined the legal basis for granting inheritance-related benefits to non-Muslims through wasiat wajibah, while Wahyudi (2021) investigated the rationale underlying the prohibition on inheritance across religious lines. Irianto (2024) approached inheritance pluralism and gender justice through courtroom research, and Jinoto (2025) considered the constitutional boundaries of legal pluralism in relation to women's inheritance rights. More recently, Nikmah (2026) specifically examined the Supreme Court's 1/Yur/Ag/2018 jurisprudence on compulsory bequests to non-Muslim relatives. These studies provide a substantial foundation, but their primary emphases differ: some focus on the religious impediment, some on gender and constitutional pluralism, and others on the jurisprudential rule concerning non-Muslim beneficiaries. The present article brings these strands together by comparing the doctrinal operation of KHI with a sequence of Supreme Court decisions and assessing their implications for legal protection and judicial consistency.

The article's contribution is therefore not a claim that the issue has never been studied. Its contribution lies in a comparative doctrinal analysis of the relationship between KHI's formal heir requirements and the Supreme Court's separate use of wasiat wajibah, supported by a proposed standard for bounded contextual reasoning. The analysis distinguishes a person's legal status as an heir from eligibility to receive a compulsory bequest, and evaluates how courts should justify the latter without arbitrarily disturbing the rights of other heirs. It also connects this doctrinal issue with the protection of women, adopted children, and non-Muslim relatives as family members who may otherwise be exposed to legal vulnerability. The objective is to formulate a reasoned framework that preserves the authority of KHI while allowing carefully justified protection in exceptional cases.

B. RESEARCH METHOD

This study employs normative legal research to examine the application of justice principles in Islamic inheritance disputes through the KHI and Supreme Court jurisprudence (Butar-Butar, 2018; Marzuki, 2005). It uses three complementary approaches. First, the statute approach examines the 1945 Constitution, Presidential Instruction No. 1 of 1991 and the KHI, Law No. 48 of 2009 on Judicial Power, Law No. 7 of 1989 on Religious Courts as amended by Law Nos. 3 of 2006 and 50 of 2009, Law No. 39 of 1999 on Human Rights, and Law No. 7 of 1984 ratifying the Convention on the Elimination of All Forms of Discrimination against Women. Particular attention is given to Articles 171(c), 176, 183, 195, 201, and 209 of the KHI. Second, the conceptual approach uses distributive justice, legal certainty and justice, and maqasid al-shariah as analytical lenses (Aristotle, 2009; Radbruch, 2006; Auda, 2008). Third, the case approach examines Supreme Court Decisions No. 368 K/Ag/1995, No. 51 K/Ag/1999, No. 16

K/Ag/2010, No. 721 K/Ag/2015, No. 218 K/Ag/2016, and No. 331 K/Ag/2018. The decisions were selected purposively because they are identified in the Supreme Court's jurisprudence compilation as relevant to the development of wasiat wajibah for non-Muslim family members and represent a progression from a child to a spouse and other family circumstances. The analysis concentrates on three decisions (No. 368 K/Ag/1995, No. 16 K/Ag/2010, and No. 331 K/Ag/2018) for closer comparison, while the remaining decisions are used to trace doctrinal continuity. Legal materials were collected through document and literature study and analysed qualitatively by grammatical, systematic, and teleological interpretation, examination of ratio decidendi, and comparison of legal consequences. The normative framework assesses whether judicial reasoning is supported by the facts, whether the proper legal mechanism is used, and whether the result is proportionate and consistent with the rights of other heirs. This is a doctrinal study and does not claim to measure the empirical impact of the decisions on litigants.

C. RESULT AND DISCUSSION

a. Normative Framework of Justice Principles in Islamic Inheritance Law under the Kompilasi Hukum Islam (KHI)

The normative framework of Islamic inheritance law in Indonesia is primarily reflected in the KHI, which provides a structured reference for Religious Courts in adjudicating inheritance disputes. The KHI was disseminated through Presidential Instruction No. 1 of 1991 and is commonly applied as an authoritative practical reference in Religious Court adjudication. Its legal form should nevertheless be described accurately: the KHI was not enacted as an Act of Parliament, but was disseminated by Presidential Instruction for use as guidance by relevant state institutions and the public. This distinction matters because the KHI's practical authority in adjudication

should not be confused with the formal position of statutes in the hierarchy of legislation. Its role is to provide a framework through which Islamic family-law norms are applied within Indonesia's plural legal system (Syarif et al., 2025).

The KHI's rules on inheritance combine legal status, prescribed shares, and mechanisms for the settlement of family property. Article 171(c) defines an heir by reference to a blood or marital relationship with the deceased, being Muslim, and not being legally prevented from inheriting. Article 176 regulates the shares of sons and daughters, while Article 183 permits heirs to agree on a distribution after each has understood the share to which they are entitled. The latter provision is significant because it recognises consensual settlement without treating a negotiated arrangement as a licence to disregard the prior legal determination of each heir's entitlement. In this sense, distributive justice is not simply the arithmetic division of an estate; it also requires clarity about the relevant legal relationships, the composition of the estate, and the informed consent of the heirs.

A distributive conception of justice is useful for explaining why inheritance law assigns legal entitlements according to defined categories and relationships. Aristotle's account of distributive justice associates fairness with proportionate allocation according to a relevant criterion, rather than an abstract requirement that every person receive an identical amount (Aristotle, 2009). Applied cautiously, this perspective helps explain the internal logic of differentiated inheritance shares while also requiring the legal criterion to be stated and justified. It does not, by itself, determine the content of Islamic inheritance rules or resolve every contemporary dispute. Rather, it provides an analytical tool for asking whether a distribution follows the applicable legal

criteria and whether the decision has adequately considered the legal and factual position of each party.

The normative framework nevertheless faces challenges where contemporary family and economic conditions are more complex than the assumptions underlying a formal allocation of shares. Research on Indonesian courtroom practice demonstrates that gender, legal pluralism, and the circumstances of family members influence how inheritance rules operate in practice (Irianto, 2024). Recent constitutional scholarship similarly argues that legal pluralism must be bounded by constitutional commitments, including the protection of women's rights (Jinoto, 2025). These arguments do not mean that judges may replace the KHI's inheritance provisions with an unrestricted personal sense of fairness. They instead support a more careful inquiry into the identity of heirs, the existence of marital property, prior transfers, the evidence of family contribution, and the availability of lawful mechanisms for addressing hardship.

The KHI itself contains mechanisms that qualify the idea that the inheritance system is wholly inflexible. Hibah may affect the property that remains in the estate, while testamentary provisions are regulated by Articles 195 and 201. Article 183 also allows heirs, after understanding their respective shares, to agree on a different distribution. Article 209 provides for wasiat wajibah in favour of an adopted child or adoptive parent, subject to the statutory limit of one-third of the estate. These mechanisms must be kept conceptually separate: a consensual distribution under Article 183 is not the same as a testamentary bequest, and the express scope of Article 209 should not be silently treated as if it expressly includes every category later recognised in judicial practice. The distinction is central to a sound doctrinal

analysis.

The tension between certainty and fairness can be evaluated through Radbruch's account of the relationship between legal certainty, justice, and purposiveness. A legal order requires stable and foreseeable rules, but legal certainty cannot be understood as an absolute justification for ignoring manifest injustice (Radbruch, 2006). In Islamic legal reasoning, maqasid al-shariah adds a purposive dimension by directing attention to the objectives and consequences of legal rules, including the protection of family relations and individual rights (Auda, 2008). These theories do not displace the positive law. They help assess whether an interpretation is textually defensible, consistent with the legal system, and proportionate to the concrete problem presented before the court.

A particularly important distinction concerns the position of non-Muslim relatives. Under Article 171(c) KHI, religious affiliation is part of the definition of an heir; the Supreme Court's decisions on wasiat wajibah should therefore not be described as automatically converting a non-Muslim relative into an heir under the KHI. The jurisprudential approach instead provides a separate legal benefit through a compulsory bequest in particular circumstances. Wahyudi (2021) discusses the rationale of the religious-difference impediment, while Rizkal (2016) analyses the use of wasiat wajibah as a mechanism for extending protection without treating the recipient as an heir in the ordinary sense. Maintaining this distinction allows the Court's protective reasoning to be examined without inaccurately rewriting Article 171(c).

The protection of women, adopted children, and non-Muslim relatives also requires attention to rights that are not reducible to the calculation of

inheritance shares. Legal protection includes access to a fair process, a correct determination of the estate, recognition of any marital property rights, the opportunity to present evidence, and a reasoned judicial response to claims of vulnerability or contribution. The constitutional guarantees of equality before the law and freedom from discriminatory treatment, together with the Human Rights Law and Indonesia's ratification of CEDAW, provide a broader framework for examining whether the process protects family members effectively. Harmonisation between Islamic law and human-rights principles must be contextual and legally reasoned, rather than achieved through general assertions that one legal system automatically overrides the other (Karimullah, 2023).

Accordingly, the normative framework of justice in the KHI should be understood as structured but not closed to legally controlled accommodation. Its core rules establish the baseline for identifying heirs and calculating their entitlements. Its internal mechanisms, including hibah, wasiat, and consensual settlement, provide lawful flexibility. Supreme Court jurisprudence adds a further interpretive layer in exceptional cases, especially through wasiat wajibah. The doctrinal task is to determine the limits of that interpretive development and to ensure that the protection granted to one family member is supported by evidence, a proper legal basis, and reasons that remain compatible with the legitimate expectations of other heirs.

b. Judicial Interpretation and the Role of Supreme Court Jurisprudence in Islamic Inheritance Disputes

Judicial interpretation is central to the application of Islamic inheritance law because disputes arise from circumstances that cannot always be resolved by reading a single provision in isolation. Article 24(1) of the

1945 Constitution establishes judicial power as an independent power exercised to uphold law and justice. Law No. 48 of 2009 further requires judges, under Article 5(1), to explore, follow, and understand the legal values and sense of justice that live in society. The jurisdiction of Religious Courts in inheritance matters involving Muslims is grounded in Law No. 7 of 1989 on Religious Courts, as amended by Law Nos. 3 of 2006 and 50 of 2009. These provisions provide the institutional and interpretive context in which KHI is applied; they do not authorise judges to decide inheritance disputes solely on subjective notions of fairness.

In concrete disputes, judges must first establish the relevant facts and legal relationships: who was married to the deceased, who is related by blood, whether an adopted-child relationship exists, which property belongs to the marital estate, what property remained at death, and whether any legal impediment applies. Only after these matters have been determined can the court assess whether a mechanism such as hibah, wasiat, a consensual arrangement, or wasiat wajibah is legally available. The Supreme Court's role is important because its decisions influence the development of legal reasoning in lower Religious Courts. In Indonesia's civil-law setting, such decisions are not identical to formally binding common-law precedent, but repeated and reasoned decisions can carry substantial persuasive and institutional authority.

The Supreme Court's 2018 jurisprudence compilation lists the legal rule under the designation 1/Yur/Ag/2018 (Supreme Court of the Republic of Indonesia, 2020): wasiat wajibah may be granted, beyond the adopted-child context of Article 209 KHI, to a non-Muslim family member in appropriate circumstances. The designation 1/Yur/Ag/2018 is the number of the

jurisprudential formulation in the compilation, not the number of an individual judgment. The underlying leading decision is Supreme Court Decision No. 368 K/Ag/1995. This clarification is essential because treating the jurisprudential index as a case number obscures the factual record and the judicial reasoning from which the rule developed.

Decision No. 368 K/Ag/1995 concerned the estate of H. Sanusi and Hj. Suyatmi and their children, one of whom had converted from Islam to Christianity. A dispute arose after a family member argued that the daughter should not receive a share because of the difference in religion. The Religious Court of Central Jakarta initially rejected her claim as an heir (Decision No. 337/Pdt.G/1993/PA.JP, 4 November 1993), while the Jakarta High Religious Court reversed that outcome and granted a compulsory bequest (Decision No. 14/Pdt.G/1994/PTA.JK, 25 October 1994). The Supreme Court affirmed the use of wasiat wajibah. The important doctrinal point is not that the daughter became an heir under Article 171(c), but that the Court recognised a separate bequest-based benefit for a close family member excluded from inheritance by the religious qualification.

The ratio of Decision No. 368 K/Ag/1995 thus separates the formal rule on inheritance from a protective mechanism available through wasiat wajibah. The decision does not expressly repeal or amend Article 171(c) KHI. Instead, it uses the logic of compulsory bequest to address the consequences of exclusion in a particular family relationship. The Supreme Court's jurisprudence compilation also records (Supreme Court of the Republic of Indonesia, 2020) Decision No. 51 K/Ag/1999 as reiterating the approach. This continuity supports the view that the 1995 decision was not merely an isolated equitable outcome; it became a reference point in the Court's subsequent

treatment of non-Muslim family members. However, the factual and legal conditions of each later case still require independent examination.

A further development appears in Decision No. 16 K/Ag/2010, decided on 30 April 2010. The case concerned a non-Muslim wife who had lived with the deceased for approximately 18 years. The Supreme Court's reasoning, as summarised in its jurisprudence compilation (Supreme Court of the Republic of Indonesia, 2020), considered the length of the marital relationship and the wife's role in accompanying the deceased, and regarded the award of wasiat wajibah as fair in the circumstances. The case also requires a distinction between the wife's rights in joint marital property and the bequest from the deceased's estate: the former concerns the identification of property belonging to the surviving spouse, while the latter concerns a benefit from the estate. Conflating the two could produce an inaccurate calculation of the inheritance estate and the legal basis for the award.

The jurisprudential compilation records (Supreme Court of the Republic of Indonesia, 2020) Decision No. 721 K/Ag/2015 as extending the approach to two non-Muslim children, and Decision No. 218 K/Ag/2016 as following the developing line of reasoning. These decisions are relevant because they suggest that the doctrine was not confined to the precise facts of the 1995 case. Nevertheless, a decision's inclusion in a jurisprudential sequence does not establish that every non-Muslim relative automatically qualifies for the same benefit. The relationship with the deceased, the facts established in the case, the reasoning of the court, and the proportion of the bequest must still be examined. This is especially important where an award may affect the interests of other heirs.

Decision No. 331 K/Ag/2018, dated 31 May 2018, further illustrates

the contextual character of the approach. The Supreme Court considered a non-Muslim wife's position and the fact that she had accompanied and cared for her husband during illness. The jurisprudence compilation (Supreme Court of the Republic of Indonesia, 2020) records an award of one-quarter of the estate by way of wasiat wajibah. That amount should be read as the outcome of the particular case, not as a general formula applicable to all non-Muslim spouses. The decision is significant because it demonstrates that the Court's reasoning may consider the nature and duration of family care; it also raises the need for clear explanation of how such considerations relate to the legal limits on testamentary dispositions and the rights of other heirs.

Read together, the decisions disclose a discernible development. Decision No. 368 K/Ag/1995 established the possibility of a compulsory bequest for a child who was not qualified as an heir because of a difference in religion. Decision No. 51 K/Ag/1999 reiterated that direction. Decision No. 16 K/Ag/2010 applied the approach to a spouse and distinguished the bequest from the spouse's rights in joint property. Decisions No. 721 K/Ag/2015 and No. 218 K/Ag/2016 indicate subsequent application, while Decision No. 331 K/Ag/2018 illustrates a fact-sensitive award in a case involving care during illness. The trend is therefore one of interpretive extension through a separate legal mechanism, not a wholesale revision of the KHI's definition of an heir.

The doctrinal importance of this line of cases lies in the Court's construction of wasiat wajibah as a protective mechanism that operates alongside, rather than simply replacing, the rules of inheritance. The distinction also helps reconcile two concerns: the KHI continues to provide predictable criteria for identifying heirs, while the Court may prevent a rigid application of those criteria from leaving a close family member without any

legal recognition of the relationship or contribution. A comparable concern appears in scholarship on inheritance and human rights, which calls for contextual harmonisation between religious legal norms and the protection of individual rights (Karimullah, 2023). The approach is most defensible when the Court expressly explains the legal basis for the bequest and does not merely invoke fairness as a conclusion.

There is, however, a doctrinal limit. Article 209 KHI expressly regulates wasiat wajibah for adopted children and adoptive parents, including a maximum of one-third of the estate. The Supreme Court's extension to non-Muslim relatives is not written into Article 209 in the same terms. It is therefore necessary to distinguish the textual scope of Article 209 from the jurisprudential rationale used in the later cases. A court applying the broader approach should identify the legal basis of its interpretive reasoning, explain why the recipient is not being treated as an heir under Article 171(c), and clarify how the amount of the bequest is determined. The one-third limit in Article 209 should not be mechanically transferred to every jurisprudential category without explanation, but neither should its protective rationale be expanded without principled limits.

This distinction also has consequences for the meaning of justice. If wasiat wajibah is treated as an automatic substitute for inheritance, the boundary between heir status and testamentary benefit becomes uncertain. If, on the other hand, the Court treats the mechanism as an exceptional and separately reasoned form of protection, it can respond to concrete vulnerability while preserving the structure of the KHI. The decision should therefore explain the recipient's relationship to the deceased, the nature of the vulnerability or contribution relied upon, the evidence supporting that finding,

the basis for selecting the amount, and the effect on other heirs. Such a structured explanation improves transparency and enables meaningful review of the ratio decidendi.

A further concern is consistency. Because Indonesia does not apply the common-law doctrine of stare decisis in a strict form, differences in the factual assessment or legal reasoning of individual panels may lead to divergent outcomes. The Supreme Court's jurisprudential compilation is valuable because it makes a recurring legal formulation visible to lower courts, but a compendium entry does not replace the need to examine the underlying decisions. Judicial guidance should state the relevant criteria, explain the relationship between Article 171(c) and wasiat wajibah, and distinguish the recipient's status from the calculation of the bequest. This would reduce the risk that a protective doctrine is applied unevenly or becomes unpredictable for other heirs.

The case analysis therefore supports a limited conclusion: Supreme Court jurisprudence has supplemented the KHI by recognising wasiat wajibah for certain non-Muslim family members, but it has not generally converted them into heirs under Article 171(c). The decisions are strongest when understood as fact-sensitive exercises of judicial interpretation, grounded in family relationship and relevant circumstances. Their legitimacy depends on reasoned and proportionate application, clear separation of marital property and estate assets, and adequate regard for the rights of all parties. This conclusion provides the basis for assessing how legal certainty and substantive justice can be balanced in a more systematic way.

c. Balancing Legal Certainty and Substantive Justice in the Application of Islamic Inheritance Law in Indonesia

The relationship between legal certainty and substantive justice is central to the interpretation of Islamic inheritance law. Legal certainty requires that the criteria for identifying heirs, defining the estate, and allocating shares remain sufficiently clear and predictable. Radbruch's account of legal philosophy is useful here because it recognises the importance of certainty while resisting an understanding of law that is wholly indifferent to justice (Radbruch, 2006). In the Indonesian context, Article 28D(1) of the 1945 Constitution guarantees recognition, protection, and certainty before the law and equal treatment, while Law No. 48 of 2009 requires judges to uphold law and justice. These norms support contextual interpretation, but not unstructured discretion that disregards the KHI or the interests of other heirs.

Substantive justice also requires a meaningful assessment of equality and protection. Article 28I(2) of the 1945 Constitution recognises the right to be free from discriminatory treatment, while Law No. 39 of 1999 on Human Rights and Law No. 7 of 1984 ratifying CEDAW provide additional normative foundations for the protection of women and other vulnerable persons. These instruments should not be interpreted as automatically prescribing identical inheritance fractions in every case. Rather, they require legal institutions to examine whether a person has been denied procedural fairness, access to a remedy, recognition of separate property rights, or protection against arbitrary exclusion. Scholarship on constitutionally bounded legal pluralism similarly stresses the need to reconcile legal diversity with women's constitutional rights (Jinoto, 2025).

For women in inheritance disputes, the analysis should distinguish the distribution of the deceased's estate from the determination of joint marital

property and from any claim based on contribution or care. A surviving spouse may have a legally distinct interest in joint property before the estate is calculated; that interest should not be described as an inheritance share or as wasiat wajibah. Where a non-Muslim spouse is not qualified as an heir under Article 171(c), a court must separately identify the basis for any compulsory bequest and explain how the amount was reached. This approach avoids both the under-protection of a surviving spouse and the mistaken assumption that all legal interests can be resolved by adjusting the inheritance fraction alone (Irianto, 2024; Rizkal, 2016).

The position of adopted children requires similar doctrinal precision. Article 209 KHI provides a specific mechanism for an adopted child or adoptive parent through wasiat wajibah, but it does not transform adoption into a blood relationship for purposes of heir status. The legal protection therefore operates through a testamentary mechanism, not by disregarding the categories in Article 171(c). The court should establish the adoption relationship and apply the conditions of Article 209, including its one-third limit, while also taking account of any valid will, hibah, and the interests of other heirs. This prevents the protective objective from being detached from its express statutory basis.

For non-Muslim relatives, the Supreme Court cases show that protection has been developed through judicial interpretation beyond the express wording of Article 209. This approach can be understood as a response to family relationships that remain socially and ethically significant even when the formal requirements for inheritance are not met. At the same time, the remedy should be identified as wasiat wajibah rather than ordinary inheritance. A court should not assume that religious difference alone proves

vulnerability, nor should it presume that every non-Muslim relative is entitled to an identical award. The relationship, the evidence, the circumstances of the deceased and recipient, and the impact on other heirs should be set out in the judgment. These safeguards make the remedy more transparent and reduce the danger of arbitrary treatment.

The purposive approach of maqasid al-shariah can assist this analysis by directing attention to the objectives and consequences of a legal rule, including the protection of family relations and individual welfare (Auda, 2008). Yet maqasid should be used as a disciplined interpretive framework, not as a free-standing formula that displaces positive law. Inheritance adjudication should therefore proceed in sequence: determine the estate and the heirs under the KHI; identify marital property, valid gifts, and testamentary dispositions; assess whether Article 183 or Article 209 applies; and only then consider whether established Supreme Court jurisprudence supports a separate wasiat wajibah in the circumstances. This order protects doctrinal coherence and makes the judicial reasoning easier to review.

On this basis, the article proposes a model of bounded contextual justice for Islamic inheritance adjudication. The model has four requirements. First, the court must begin with the KHI's rules on heir status and inheritance shares rather than bypassing them. Second, any claim for exceptional protection must be supported by evidence of the relevant family relationship and the specific circumstances relied upon, such as sustained care, dependency, contribution, or another legally relevant factor. Third, the court must select and explain the correct legal vehicle—marital property, hibah, ordinary wasiat, consensual settlement under Article 183, Article 209 wasiat wajibah, or the jurisprudential extension of wasiat wajibah—without

conflating their legal effects. Fourth, the amount and consequences of the remedy must be proportionate, transparently reasoned, and attentive to the legitimate interests of other heirs. This is a proposed analytical framework developed by this study, not a claim that the Supreme Court has already adopted a formal four-part test.

The proposed model has implications for judicial practice and legal reform. The Supreme Court could issue guidance that distinguishes heir status from eligibility to receive wasiat wajibah, identifies the evidentiary factors relevant to a protective award, and requires courts to state the method used to determine its amount. Such guidance should also clarify the relationship between Article 209's express scope and the jurisprudential extension to non-Muslim relatives. In the longer term, a review of the KHI could consider whether the treatment of adopted children, interfaith family members, and other vulnerable relatives requires clearer normative formulation. Any reform should preserve the systematic structure of inheritance law while making the grounds and limits of exceptional protection more accessible and predictable.

Legal protection must also be assessed by its practical effectiveness, rather than by the mere existence of formal provisions. A recent contribution in Realism: Law Review, although addressing discrimination against persons with disabilities rather than inheritance, similarly frames legal protection in terms of whether safeguards respond meaningfully to the position of affected persons (Rahmadhani et al., 2025). The comparison is methodological rather than substantive: in inheritance disputes, courts should likewise examine whether a remedy can be accessed, whether relevant evidence is heard, and whether the reasons for granting or refusing protection are intelligible and reviewable. This perspective reinforces the need for procedural fairness

alongside doctrinal consistency.

The reconciliation of certainty and substantive justice therefore does not require choosing one principle at the expense of the other. The KHI supplies the baseline rules; constitutional and human-rights norms inform the protection of parties; and Supreme Court jurisprudence allows a narrowly reasoned response to exceptional family circumstances. The bounded contextual justice model seeks to preserve this institutional balance by requiring a clear legal starting point, an evidentiary basis for contextual protection, correct characterisation of the remedy, and proportionate reasoning. Properly applied, this framework can support a more consistent and transparent development of Islamic inheritance law while respecting its doctrinal foundations and the rights of all affected family members.

D. CONCLUSION

This study finds that the application of justice principles in Indonesian Islamic inheritance disputes is shaped by the interaction between the KHI and Supreme Court jurisprudence. The KHI remains the starting point for identifying heirs and determining inheritance shares, particularly through Article 171(c), while Articles 183 and 209 provide specific mechanisms for consensual distribution and wasiat wajibah. The Supreme Court's decisions, beginning with No. 368 K/Ag/1995 and followed by No. 51 K/Ag/1999, No. 16 K/Ag/2010, No. 721 K/Ag/2015, No. 218 K/Ag/2016, and No. 331 K/Ag/2018, show that wasiat wajibah has been used to protect certain non-Muslim family members without necessarily recognising them as heirs under Article 171(c). The jurisprudential designation 1/Yur/Ag/2018 is the formulation recorded in the Supreme Court's compilation, not an individual judgment number. The cases demonstrate a development from a child to a spouse and other family circumstances, but their outcomes remain fact-sensitive and should

not be treated as automatic entitlements or universal formulas. The central doctrinal contribution of this article is the proposed model of bounded contextual justice. Under this model, courts begin with KHI's rules, establish the family relationship and relevant circumstances through evidence, distinguish among marital property, hibah, wasiat, consensual settlement, and wasiat wajibah, and explain any exceptional award in proportionate terms while protecting the legitimate interests of other heirs. This approach draws on distributive justice, the balance between legal certainty and justice, and the purposive objectives of maqasid al-shariah. It also requires attention to the rights and procedural protection of women, adopted children, and non-Muslim relatives without conflating their different legal positions. The study recommends that the Supreme Court issue clearer guidance on the criteria, evidence, and proportionality of wasiat wajibah awards and that the KHI be reviewed to clarify the relationship between its express provisions and jurisprudential developments. These measures would strengthen predictability, transparency, and substantive legal protection in Islamic inheritance adjudication. Further empirical research may examine how Religious Courts apply these standards in practice.

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