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Integration of Sharia Values in Notarial Practices in Muslim Wills

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Abstract. *This study aims to examine the integration of sharia values in notarial practices in making wills for Muslim testators, with an emphasis on Article 939 of the Civil Code as the entry point for harmonization of national law and Islamic law. The research method used is normative juridical with a statutory and conceptual approach. The results of the study indicate that although Article 939 of the Civil Code regulates secret wills formally, its interpretation space allows notaries to consider the provisions of Islamic law, particularly in limiting parts of the will and determining the beneficiaries of the will according to the Compilation of Islamic Law. This integration is in line with the principles of maqāṣid al-syarī'ah and substantive justice, and strengthens the role of notaries in preventing inheritance disputes in the future.*

Keywords: *Article 939 Of The Civil Code; Muslim Will; Notary; Sharia Values; Substantive Justice.*

1. Introduction

Legal pluralism in Indonesia allows for the simultaneous application of Islamic law, customary law, and Western civil law. In the context of inheritance, this pluralism often creates dilemmas.[1]when a Muslim testator makes a will before a notary based on the Civil Code, while materially he is bound by the provisions of the Compilation of Islamic Law (KHI). According to Kastury & Munsharif (2020), many testamentary deeds for Muslim testators are formally valid according to the Civil

[1]Adelina Nasution, (2018), Pluralisme Hukum Waris Di Indonesia, *Al-Qadha* Vol. 5 No. 1, https://download.garuda.kemdikbud.go.id/article.phparticle=1754643&title=PLURALISME+HUKUM+WARIS+DI+INDONESIA, accessed on Friday, August 8, 2025, at 11:11 PM WIB.

Code, but conflict with Islamic law[2], particularly regarding the prohibition of wills for heirs and the maximum limit of one-third of assets for non-heir recipients. Article 939 of the Civil Code regulates the procedures for general wills made before a notary. Even though the notary does not know the contents of the will, the principle of prudence and the principle of compliance with public order provide space for the notary to ensure that the will does not violate the material laws that apply to testators. This provision can be interpreted to accommodate Islamic law for Muslim wills, in line with the principle of lex specialis derogat legi generali. Without the integration of sharia values, notarial practice has the potential to ignore substantive justice, which according to John Rawls can only be achieved if all parties are willing to accept legal provisions as if they are unaware of their social position. This study aims to analyze Article 939 of the Civil Code as a basis for integrating sharia values in notarial practices in Muslim wills.

The integration of sharia values in notarial practice is a strategic effort to ensure that the will deeds made by notaries not only meet the legal-formal standards as regulated by the Civil Code and the Notary Law, but also comply with the substance of Islamic inheritance law as regulated in the Compilation of Islamic Law (KHI) and the principles of maqāṣid al-syarī'ah. In the context of pluralistic inheritance law in Indonesia, the role of notaries is crucial because they operate at the intersection of Western legal formalism (the Civil Code) and Islamic legal substance (the Compilation of Islamic Law). Prof. Sri Endah Wahyuningsih emphasized that notaries have an ethical and normative responsibility to bridge these two systems, particularly when handling mandatory wills or wills involving non-heirs according to faraidh. Thus, notaries are not merely recorders of the testator's wishes, but also guardians of substantive justice values rooted in religious norms.

This integration can be realized through several steps:

1. Verify the legal status of wills and heirs**:** The notary must check whether the testator is a Muslim so that the provisions of the KHI apply as lex specialis to the Civil Code in material aspects.

2. Implementation of sharia limits**:** In accordance with Articles 195–209 KHI and the hadith "lā waṣiyyata liwārith", bequests to heirs are limited to a maximum of one third of the inheritance unless with the consent of all the heirs.

[2]Maizidah Salas, Susilo Wardani & Teguh Suroso, Harmonisasi Hukum Waris Islam, Hukum Adat dan Hukum Nasional Telaah Normatif terhadap Kompilasi Hukum Islam, Hukum Adat dan KUHPerdata, *Jurnal Penelitian Serambi Hukum* Vol. 18 No. 02 Tahun 2025, https://www.journal.uniba.ac.id/index.php/SH/article/view/1339, accessed on Friday, August 8, 2025, at 23.16 WIB.

3. Providing educational legal advice**:** The notary is obliged to explain to the testator that the provisions of the Civil Code and the KHI may differ, as well as the potential for disputes to arise if sharia provisions are ignored.

4. Legal awareness documentation**:** The inclusion of a clause stating that the testator has understood the legal consequences of the contents of the will, both positively and from a sharia perspective.

5. Strengthening reporting procedures**:** Notaries report wills to the Will Registration Center and, in the case of Muslim wills, can coordinate or notify the Religious Court as a form of institutional integration.

The importance of this integration is driven by the fact that legal pluralism, without synchronization mechanisms, has the potential to create inequality of justice. For example, the Civil Code does not prohibit the granting of a will to an heir who has already received a share, while Islamic law prohibits it. This inconsistency, if not addressed by the notary, can result in a will that is formally valid but flawed in Islamic norms. By internalizing sharia values into notarial practice, substantive justice can be upheld in line with the objectives of maqāṣid al-syarī'ah:

- *Hifẓ al-māl* (protection of property) → preventing the distribution of property that is unjust or exceeds the limits of sharia.

- *Hifẓ al-nasl* (protection of offspring) → maintaining family harmony and avoiding disputes.

- *'Adl* (justice) → ensuring that each heir gets his or her rights without unlawful deductions.

Thus, notarial practices integrated with sharia values not only strengthen the position of Islamic law amidst the pluralism of Indonesian inheritance law, but also become an effective instrument to avoid epistemic conflicts between legality (positive law) and legal morality (sharia values).

2. Research Methods

This research uses a normative juridical approach method.[3], which is an approach carried out by examining theoretical approaches, concepts, and reviewing laws and regulations related to the research. By taking secondary data, then reviewing primary, secondary, and tertiary legal materials, both in the form of laws and

[3]Pujiati, (2024). *Metode Penelitian Yuridis Normatif di Bidang Hukum.* https://penerbitdeepublish.com/metode-penelitian-yuridis-normatif, accessed on Friday, August 8, 2025, at 23.27 WIB.

regulations, court decisions, doctrines, and relevant literature. This approach is used to study and understand law as a norm or rule that applies in society, especially related to the application of Islamic law in the pluralistic inheritance legal system in Indonesia. The main focus of this approach is how legal norms regulate a legal event, in this case related to wills and the applicability of Islamic inheritance law principles in notarial practice and religious courts. The specifications of this research are descriptive analytical.[4]Descriptive research aims to provide a systematic, factual, and accurate description of the facts and characteristics of a particular object. Analysis is conducted by examining in more depth the content of norms, principles of substantive justice, and maqasid al-syariah that should underlie the formation and implementation of a will. This approach is used to analyze whether a formally valid will may contain substantive injustice from an Islamic legal perspective.

The type of data in this study is qualitative data sourced from primary legal materials and secondary legal materials. The primary data is the decision of the South Jakarta Religious Court Number 4368/Pdt.G/2018/PA.JS. While secondary data includes relevant laws and regulations such as the Civil Code, UUJN, KHI, legal literature, scientific journals and expert opinions. Data collection was carried out through document studies, by reviewing and interpreting relevant legal documents and library materials. The data analysis technique was carried out using a qualitative analysis method, namely analyzing non-numerical data with an interpretative approach to legal norms, doctrine and theory. The data that has been collected is analyzed using substantive justice theory and maqasid al-syariah approaches[5].

The theory of substantive justice is used to evaluate the extent to which a will reflects the values of true justice, which are not limited to procedural legality but also pay attention to the balance of rights between legal subjects. This refers to Aristotle's view of distributive justice and is reinforced by John Rawls's theory of justice, which emphasizes the importance of equal rights and favoring the most disadvantaged groups.[6]. Meanwhile maqasid al-syariah is used as an evaluative lens towards normative aspects in Islamic law, with emphasis on the protection of

[4]Alifa Nadya Salsadila, Wulan Tricahyani, (2025). Tinjauan Yuridis Tentang Hukum Waris Dalam Rangka Pembentukan Hukum Waris Nasional. *Jurnal Penelitian* Hukum Audi Vo. 4 No. 01, https://jurnal.saburai.id/index.php/jaeap/article/view/3734, accessed on Friday, August 8, 2025, at 23.35 WIB.

[5]Sidiq Siadio, Ismail, (2024). Keadilan Maqasid al-Syariah : Mengatasi Reformasi Hukum dan Keadilan Sosial, *ICSIS Proceedings* Vol. 1 (2024). https://icsisproceedings.org/index.php/icsis/article/view/21, accessed on Friday, August 8, 2025, at 23.41 WIB.

[6]Vidya Prahassacitta, (2018). Makna Keadilan Dalam Pandangan John Rawls. https://business-law.binus.ac.id/2018/10/17/makna-keadilan-dalam-pandangan-john-rawls. accessed on Saturday, August 9, 2025, at 07.38 WIB.

hifz al-mal (property protection), hifz al-nafs (protection of the soul) and hifz al-nasl (family/descendants) which are important foundations in Islamic inheritance law[7]. By combining these two approaches, this research seeks to examine not only the formal suitability of a will, but also its substantive fairness according to sharia values.

3. Results and Discussion

3.1. Integration Space in Article 939 of the Civil Code

Article 939 of the Civil Code regulates the procedure for an open will (open baar testament), which is made before a notary and two witnesses. The essence of this provision is the notary's obligation to write or have the testator's will written in clear, precise wording that avoids multiple interpretations. This aims to prevent disputes arising from unclear wording and to ensure that the entire contents of the deed are in accordance with the testator's wishes.[8].

These provisions contain forms of confirmation that are procedural standards:

1. Confirm reading – The notary is obliged to read the deed in front of the testator and witnesses so that it is fully understood.

2. Confirmation of approval – The testator states that the deed is in accordance with his wishes and was made without coercion.

3. Signature confirmation – The heir, notary and witnesses sign the deed at that time as a sign of finalization.

Normatively, Article 939 of the Civil Code provides legal protection for the authenticity and validity of wills. However, teleologically, specifically for Muslim testators, this article can provide a gateway for notaries to exercise their authority not only as deed-making officials but also as guardians of Islamic law within the pluralism of inheritance law in Indonesia.

The argument:

- First**,** The phrase “write in clear words” provides space for notaries to ensure that the contents of the will do not conflict with public order, including

[7]Syahrul Sidiq, *Maqasid Syari’ah & Tantangan Modernitas : Sebuah Telaah Pemikiran Jasser Auda,* file:///Users/gilijulianti/Downloads/dikyfmaulana,+7+Syahrul+Sidiq_Maqasid.pdf. accessed on Saturday, August 8, 2025, at 07.40 WIB.
[8]Diah Trimurti Saleh, (2023). *Disertasi : Rekonstruksi Regulasi Peran Notaris Dalam Pembuatan Akta Wasiat Tanpa Penunjukkan Pelaksana Wasiat Berbasis Keadilan*. https://repository.unissula.ac.id. accessed on Saturday, August 8, 2025, at 07.44 WIB.

religious norms that apply to Muslim testators, namely Islamic inheritance law according to the KHI.

- Second**,** the process of confirming the reading and approval can be used as an opportunity to provide legal advice, reminding the testator about sharia restrictions (for example, the prohibition on giving wills to heirs and provisions on giving wills exceeding 1/3 of assets without the consent of all heirs.

- Third, the notary's position as a public official who is subject to the Law on Notary Positions and dealing with Muslim wills places him in a dual role: implementing positive law while ensuring the implementation of sharia law for legal subjects subject to it (lex specialis derogat legi generali).

- Fourth, This role maintains the existence of Islamic law as part of the national legal system, because notaries are the first parties to integrate KHI norms into legal documents that they recognize.

A notary must not only play a passive role as a recorder of wills[9], but must actively bridge the formalism of the Civil Code with the substance of Islamic legal justice. Article 939 of the Civil Code, with its multi-layered writing and confirmation mechanisms, provides a strong legal foundation for carrying out this integrative function.

3.2. The Normative and Ethical Role of Notaries in Muslim Wills

Notary Position Law Article 16 paragraph (1) letters a and b requires notaries to act honestly, independently and safeguard the interests of the parties. In the context of Muslim wills, this obligation is expanded to include a moral responsibility to ensure that the contents of the will are in line with Islamic principles of substantive justice[10].

A notary public should not merely record the will of the testator, but also act as a gatekeeper of substantive justice. A fitting analogy is the role of a doctor, who remains obligated to provide correct medical recommendations even if the patient

[9]Muhammad Rafli, Muhammad Rinaldi Bima, & Yuli Adha Hamzah, (2024). Peran Notaris dalam Pengaturan Hak Ahli Waris dalam Kasus Warisan Tanah dan Properti Di Kepulauan Selayar. *Qawanin Jurnal Ilmu Hukum* Vol. 5 No. 1. file:///Users/gilijulianti/Downloads/aanaswari_ishlah,+fix.pdf. accessed on Saturday, August 8, 2025, at 07.56 WIB.
[10]Mohammad Hafid Arkan. (2020). Peran Notaris Dalam Membuat Akta Wasiat Yang Bertentangan Dengan Kompilasi Hukum Islam (Studi Akta Notaris Nomor 12 Tanggal 27 Oktober 1984 Tentang Wasiat). *Lex Renaissance* No. 3 Vol. 5. file:///Users/gilijulianti/Downloads/16963-ArticleText-45011-49394-10-20210420.pdf,. accessed on Saturday, August 8, 2025, at 08.01 WIB.

desires erroneous treatment. Therefore, a notary public has a responsibility to provide legal advice that prevents violations of sharia norms.[11].

3.3. Integration of Sharia Values through Maqāṣid al-Syarī'ah

The integration of sharia values in notarial practice aims to ensure that the creation of a will fulfills the main objectives of maqāṣid al-syarī'ah, namely:

1. *Hifẓ al-māl* (property protection) – ensuring that inherited assets are distributed according to sharia provisions.

2. *Hifẓ al-nasl* (protection of descendants) – preventing family breakdown due to inheritance disputes.

3. *'Adl* (justice) – avoid harm to the legal heirs.

The hadith lā waṣiyyata liwārith and Article 195 KHI form the basis for the prohibition on granting wills to heirs and the prohibition on granting wills exceeding the shar'i portion without the consent of all heirs. The integration of these principles strengthens the protection of heirs' rights and reduces the potential for conflict after the death of the testator.

3.4. Case Study of the Practice of Ignoring Sharia Values

In the South Jakarta Religious Court Decision Number 4368/Pdt.G/2018/PA.JS, the main problem is not just the amount of assets bequeathed, but the substance of the will itself. The testator, who is a Muslim, has six biological children, but through the will, he only gives assets to three children, while the other three children are completely ignored. There is no evidence of consent from the three ignored heirs, so the contents of the will clearly violate the provisions of Article 195 paragraph (3) of the KHI which states:

"A will to heirs is only valid if approved by all other heirs."

Thus, this violation occurs on two levels:

1. In terms of sharia material→ granting a will to an heir without the consent of the other heirs is contrary to the lā waṣiyyata liwārith hadith and Article 195 paragraph (3) KHI.

[11]Niwan Kusuma. (2022). Tesis : Peran Notaris Dalam Pembuatan Akta Wasiat Tentang Pembagian Harta Waris Menurut Hukum Islam. https://repository.unissula.ac.idm. accessed on Saturday, August 9, 2025, at 08.06 WIB.

2. Notarial ethics→ The notary who made the deed did not carry out the function of legal education and correction in accordance with the authority provided in Article 939 of the Civil Code, which requires the writing of the testator's will in clear words and through a process of confirmation of reading and approval.

If the notary had carried out a preventive role by inquiring about the testator's religious status and explaining the consequences of Article 195 paragraph (3) of the Indonesian Islamic Law Code, the testator would have understood that a will to the heirs without the consent of all heirs could potentially be legally void. This failure shows that the procedural provisions of Article 939 of the Civil Code are not being optimally utilized as a gateway to ensure the conformity of the substance of the will with Islamic law (sharia compliance).

On the other hand, the judge at the South Jakarta Religious Court in this ruling tended to rely on the formal evidentiary force of the notarial deed as an authentic deed (Article 1870 of the Civil Code), without conducting a material review of the substance of the will based on the Compilation of Islamic Law (KHI). However, as a religious court, the judge has inquisitorial authority to explore substantive justice and annul the contents of a deed that conflicts with Islamic law.

The implications**,** this case shows a chain of disharmony:

- Preventive stage (notary)→ failed to direct the Muslim testator so that the contents of the will comply with Article 195 paragraph (3) KHI.

- Curative stage (judge)→ ratify the deed based on the formalities of Article 939 of the Civil Code and the evidentiary force of Article 1870 of the Civil Code, without correcting the substantive violations of the KHI.

Therefore, this case is evidence that the suboptimal role of notaries in the procedures of Article 939 of the Civil Code can open up loopholes for violations of Islamic law which are then legitimized at the court level because judges are trapped in the formalities of the deed, not in its material justice.

3.4.1. Legal Ethics in Pluralism: Cross-System Responsibility

Within Indonesia's legal pluralism, where Islamic, customary, and Western law coexist, the ethical role of notaries and judges is crucial. They are required to identify applicable legal norms and determine when principles of substantive justice should take precedence over procedural legality.

Legal pluralism should not be used as an excuse to ignore the normative values inherent in society. Legal actors in a pluralistic system must be reflective and contextual, not merely legalistic.[12].

Thus, both notaries and judges have an epistemic and moral responsibility to ensure that every legal act, including the preparation and ratification of a will, is not only legally valid but also substantively just within the social and spiritual context of Muslim society. In preparing a will, a notary is not merely an extension of the testator, but also holds an ethical responsibility and must guide the testator to avoid committing acts that are unjust to his heirs.

Similarly, a religious court judge is not sufficient to simply accept a will as a legal fact but is also obligated to explore its substantive justification. This principle aligns with the inquisitorial principle in Islamic civil procedure. Religious court judges have extensive authority to explore Islamic justifications, even beyond the parties' requests. This means that if the judge finds that the contents of a will contradict the maqāṣid al-syarī'ah (the principle of law) and the principles of 'adl (law), the decision must reflect substantive corrections, even if all the formal requirements of the deed have been met.

3.5. John Rawls' Theory of Justice Perspective

John Rawls in A Theory of Justice proposed the concept of justice as fairness, where a legal rule is considered fair if everyone is willing to accept it even if they do not know their social position (veil of ignorance).

If this principle is applied to the case of a will, then an heir will certainly not be willing if the law allows one party to receive an excessive share of the inheritance without the consent of all the heirs. In Islamic law, this is explicitly prohibited by Article 195 paragraph (3) of the Compilation of Islamic Law which states: "Wills to heirs are only valid if approved by all the other heirs." This provision comes from the hadith of the Prophet Muhammad SAW: "Lā waṣiyyata liwārith" "There is no will for heirs" (HR. Abu Dawud No. 2870), which contains the principle of limitation so that the distribution of assets does not harm the rights of heirs which have been determined through faraidh.

In Indonesian positive law, the principle of justice is also a constitutional basis. Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia guarantees that every person has the right to recognition, guarantees, protection and fair legal certainty. This principle is strengthened in Article 5 paragraph (1) of

[12]Lutfi, Amir Muallim. (2021). Penerapan Kompilasi Hukum Islam pada Peradilan Agama dalam Perkara Hadhonah dan Eksekusi Pelaksanaan Putusannya. *Millah : Jurnal Studi Agama* Vol. 20 No. 2. file:///Users/gilijulianti/Downloads/15737-ArticleText-43709-48138-10-20210504.pdf, accessed on Saturday, August 9, 2025, at 08.15 WIB.

Law no. 48 of 2009 concerning Judicial Power, which requires judges to explore, follow and understand legal values and the sense of justice that lives in society. For Muslim communities, the living value of justice is justice that is in line with maqāṣid al-syarī'ah including protecting property (ḥifẓ al-māl), protecting offspring (ḥifẓ al-nasl), and upholding justice ('adl).

Thus, the application of justice as fairness in will cases is not only theoretical, but has double legal legitimacy:

1. Legitimacy of Islamic law — limiting the provision of wills to heirs in order to maintain the balance of rights determined by sharia.

2. Legitimacy of Indonesian positive law — guarantee the protection of the rights of all heirs through the principle of fair legal certainty.

This argument confirms that when a judge or notary validates a will that substantially violates Article 195 paragraph (3) of the KHI, they are not only ignoring justice according to Islamic law, but also violating the principle of constitutional justice as outlined in the 1945 Constitution. Therefore, from both the perspective of Rawls' theory and national law, a will that is detrimental to some heirs without their consent must be considered flawed in justice and null and void by law.

3.6. Harmonization of the Civil Code, KHI, and UUJN

Harmonization of these three legal instruments can be done by dividing the Civil Code as the formal basis, the KHI as the material basis for Muslim testators, and the UUJN as the procedural basis for notaries in making wills for Muslim testators, which have certain limitations:

1. KHI does not contain complete formal regulations

The Indonesian Compilation of Laws (KHI) does regulate material aspects, such as the limitations on the content of a will (Articles 195–209), but it does not provide detailed technical guidance on the wording of the deed or the procedure for writing the testator's wishes. Consequently, notaries must still refer to Articles 938–939 of the Indonesian Civil Code to ensure that the form and format of the will comply with the formal requirements of positive law.

2. The Civil Code is neutral on religion, the KHI is specific

The Civil Code does not differentiate between the testator's religion and therefore applies generally, while the Compilation of Islamic Law (KHI) is a lex specialis, applicable only to Muslims. Harmonization means the Civil Code is used for

procedural and formal aspects, while the KHI serves as a reference for material content.

3. UUJN as a binding professional procedure

The UUJN is a bridge for notaries to comply with standard professional procedures (Article 16 paragraph (1) letters a–b UUJN), but at the same time provides space for notaries to carry out ethical obligations in ensuring that deeds do not conflict with public order, which includes religious norms (Wahyuningsih, 2018).

As far as this harmonization goes Notaries can combine the format and procedures for making wills from the Civil Code with the material content of the Compilation of Islamic Law (KHI), so that the resulting document is formally and materially valid. However, if the KHI does not contain technical provisions for wording, the Civil Code becomes the primary reference for formal matters.

To ensure this integration works, a notary SOP is required to serve as a practical guide. This SOP includes:

1. Verify the religious status of the will to determine the applicable material legal reference.

2. Explanation of sharia limits at the deed reading stage (Article 939 of the Civil Code), including the prohibition on giving wills to heirs without the consent of all heirs as regulated by Article 195 paragraph (3) KHI.

3. Recording of legal advice in the minutes of the deed as proof that the notary has carried out an educational function.

4. Reporting to the Will Registration Center and, if necessary, coordination with the Religious Court to avoid potential disputes.

5. Sharia compliance affirmation clause in the deed stating that the substance of the will has been adjusted to the provisions of the KHI.

With this SOP, the format and procedures for deed preparation follow the Civil Code, its substance is aligned with the Compilation of Islamic Law (KHI), and its implementation complies with the UUJN (National Law). This step ensures that harmonization is not only a theoretical concept, but also a concrete implementation in notarial practice, thereby preventing the creation of deeds that are formally valid but flawed in sharia, while also strengthening the role of notaries as guardians of Islamic law amidst the pluralism of inheritance law.

3.7. Benefits of Integration for Dispute Prevention

The integration of sharia values into notarial practices in the preparation of Muslim wills provides tangible benefits: reducing the potential for inheritance disputes in Religious Courts, increasing legal certainty, strengthening public trust in the notary profession, and ensuring substantive justice.

As the country with the largest Muslim population in the world, Indonesia recognizes the validity of Islamic law for Muslims through Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, Law No. 3 of 2006, and the Compilation of Islamic Law (KHI). Islamic law has both moral and legal legitimacy.

The principle of lex specialis derogat legi generali places the Islamic Law (KHI) as a special law for the material aspects of wills for Muslims. Notaries play a crucial role in ensuring the application of the KHI, ensuring that the deeds are not only formally valid but also in accordance with the substance of Islamic law.

In the long term, this integration needs to gain formal legitimacy through a revision of the Notary Law, which includes a specific obligation for notaries to materially apply Islamic law to Muslim testators. This way, the principles of maqāṣid al-syarī'ah—protection of property (ḥifẓ al-māl), protection of descendants (ḥifẓ al-nasl), and justice ('adl)—will be truly internalized in national legal practice, strengthening the existence of Islamic law and guaranteeing substantive justice for Muslims, the majority of Indonesia's population.

As a country with the largest Muslim population in the world, Indonesia has a constitutional basis that recognizes and provides space for the application of Islamic law for Muslims, as stated in Article 29 paragraph (1) of the 1945 Constitution of the Republic of Indonesia concerning freedom to practice religious teachings, and is legally implemented through Law Number 3 of 2006 concerning Religious Courts and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law (KHI). Thus, Islamic law has dual legitimacy, namely moral legitimacy as a religious teaching and legal legitimacy as part of the national legal system.

This integration of sharia values also aligns with the principle of lex specialis derogat legi generali, where the Compilation of Islamic Law (KHI) serves as a special law governing the material aspects of inheritance and wills for Muslims, while the Civil Code serves as general law. In this position, notaries play a strategic role in ensuring the application of the KHI when the legal subject is a Muslim testator, so that the deed is not only formally valid but also in accordance with the substance of Islamic law.

In the long term, it is hoped that the implementation of this integration of sharia values will not remain an internal professional policy but will instead gain formal

legitimacy through a revision of the Notary Law. This revision could include specific obligations for notaries to materially apply Islamic law when drafting wills for Muslim legal entities. This specific regulation will create legal certainty that aligns with the principles of maqāṣid al-syarī'ah (protection of property, property, offspring, and justice).

This kind of integration ultimately strengthens the position of Islamic law amidst the pluralism of Indonesian inheritance law, avoids conflicts between legality (positive law) and legal morality (sharia values), and ensures that substantive justice can be upheld for the benefit of Muslims as the majority of Indonesia's population.

4. Conclusion

This research confirms that, in the context of pluralistic inheritance law in Indonesia, the formal validity of wills often does not align with the principles of substantive justice upheld in Islamic law. Based on an analysis of several Religious Court decisions, it was found that even though wills were made in accordance with legal procedures (formal legality), their contents often ignored the rights of heirs guaranteed by Islamic law. The absence of objections from heirs does not automatically constitute substantive justice for a will. This indicates the existence of unequal access to information and a high level of legal ignorance among the Muslim community. The application of the principles of maqāṣid al-syarī'ah, particularly the ḥifẓ al-māl and al-'adālah, must be the primary orientation in assessing the validity and appropriateness of a will. In this case, justice is not simply measured by legal formalities, but must be seen in its alignment with the substantial values and welfare of the heirs. Notaries, as the deed makers, and judges, as the testators of the will, cannot be normatively neutral. Both have an ethical and moral responsibility to ensure that legal instruments such as wills are not used as a means to commit legal injustice. Thus, the national inheritance law system needs to be continuously strengthened with an integrative approach that combines procedural legality and substantive justice. Strengthening the ethical and normative capacity of legal practitioners, including notaries and religious judges, is an urgent need to ensure inheritance law is implemented in accordance with Islamic values and social justice.

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