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Reconstruction of Legal Protection of Children's Inheritance Rights from Interfaith and International Marriages in the Context of the Indonesia-Timor Leste Border

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ABSTRACT

The phenomenon of interfaith and international marriages between Indonesian Muslim citizens and foreign Christian nationals in the border region between Indonesia and Timor Leste has given rise to legal complexities that directly impact the inheritance rights of children born from such relationships. In the context of Indonesia's pluralistic legal system, there is still a lack of harmony between religious norms, national law, and human rights principles, particularly with regard to the recognition of children's inheritance rights. The Compilation of Islamic Law states that religious differences are an obstacle to inheritance, while the Civil Code and developments in jurisprudence tend to provide space for the accommodation of children's rights through the mechanisms of wasiat wajibah (mandatory bequests) or hibah (gifts). This study aims to conduct a normative-doctrinal and jurisprudential analysis of the legal status of children from interfaith and international marriages in border areas, as well as to evaluate the protection of children's inheritance rights within the framework of substantive justice and legal pluralism. This study uses a juridical approach by examining various relevant decisions of the Constitutional Court and the Supreme Court, as well as considering administrative documents that affect the legal status of children across jurisdictions. The results of the study show that there are normative conflicts that have not been fully resolved, and this has the potential to threaten the inheritance rights of children. Therefore, there is a need for harmonisation of inheritance law that integrates the values of substantive justice, recognition of filiation, and cross-border administrative documents

so that there is no systematic injustice towards children in vulnerable legal positions.

KEYWORDS

Interfaith marriage, inheritance law, legal pluralism, substantive justice, children's rights.

INTRODUCTION

The phenomenon of interfaith and international marriages reflects the increasingly complex dynamics of contemporary society. Globalisation has encouraged increased encounters between individuals from different religious, cultural and national backgrounds, including in the border region between Indonesia and Timor Leste. This region, as a product of post-colonial political history and Southeast Asian geopolitics, has become an arena where legal pluralism, national identity and religion intersect. Amidst the trend of interfaith marriages and global migration, the issue of the legal status of children born to parents of different religions and nationalities has emerged as a problem that has not been adequately accommodated in the national legal system (Nababan, 2021; Crouch, 2016; Hosen, 2004).

One of the main problems arising from this reality is the uncertainty of the inheritance rights of children born from such marriages. In the Indonesian legal system, which formally adheres to legal pluralism, there is a lack of harmony between legal regimes, particularly between the Compilation of Islamic Law (KHI), the Civil Code (KUHPerdata), and the Marriage Law. The KHI explicitly states that religious differences prevent inheritance (Article 171 letter c), while the KUHPerdata does not require religious similarity as long as there is a valid blood relationship (Lindsey, 2012). This difference in approach has resulted in normative confusion that has direct implications for children's rights, especially if the child embraces a different religion from the inheritor (Ali & Arifin, 2020).

This problem is further complicated when it occurs in border areas, where administrative and legal jurisdictions overlap. Cases of interfaith marriage registration are often rejected by civil registry officials with reference to Supreme Court Circular Letter No. 2 of 2023, which states that registration can only be carried out if the marriage is in accordance with the laws of each religion. As a result, many interfaith marriages are not registered, and children born from these relationships have difficulty obtaining clear legal status, including in terms of inheritance rights (Rinaldo, 2022; Assegaf, 2019). When the marital status of parents is not administratively recognised, the status of children

also becomes uncertain, thereby impacting children's constitutional rights to legal protection and welfare (Asshiddiqie, 2021).

In the context of Timor-Leste and East Nusa Tenggara, this complexity is exacerbated by sociological and historical factors. Cultural proximity between communities on both sides of the border is not always accompanied by legal uniformity. For example, there are still many customary practices that regulate marriage and inheritance informally. However, in the state legal system, recognition of these practices does not always have a strong legal basis, especially when it comes to recognition across different state jurisdictions (Benda-Beckmann, 2002; Griffiths, 1986). The differences between the Indonesian and Timorese legal systems in regulating the status of children and inheritance further increase the risk of children's rights being neglected due to legal uncertainty and the absence of inter-state harmonisation mechanisms (ICJ Reports, 2004; UNHCR, 2017).

There is a wealth of legal literature discussing interfaith marriage, but most of it focuses on the issue of marriage validity or religious conversion in the context of Islamic family law (Munir, 2013; Hosen, 2004). Studies that specifically highlight the issue of interfaith and cross-border inheritance, especially in the context of borders, are still very limited. The paucity of legal studies highlighting this issue has resulted in weaknesses in the design of policies that are responsive to the needs of interfaith and transnational families. In the author's observation, there has not been much research offering an integrative approach based on jurisprudence, substantive justice theory, and a legal pluralism framework to address the normative challenges faced by children in such situations (Rawls, 1971; Griffiths, 1986; Arendt, 1951).

Therefore, this article formulates several fundamental questions. First, how is the legal status of inheritance rights for children from interfaith and international marriages determined in Indonesia's pluralistic legal system? Second, to what extent do the jurisprudence of the Supreme Court and the Constitutional Court play a role in creating a space for legal interpretation that protects children from legal discrimination on the basis of religion and family status? Third, is it possible to apply a substantive justice and legal pluralism approach as a normative framework to answer these questions?

The initial hypothesis of this study is that even though positive norms in Islamic law limit interfaith inheritance, judicial practice and jurisprudential developments have shown interpretative flexibility that allows for the protection of children's rights. Several decisions by the Supreme Court and the Constitutional Court

have opened up the possibility of using wasiat wajibah (mandatory bequests), hibah (gifts), and the principle of maslahat (public interest) to provide protection for children who were previously excluded from formal inheritance rights (Supreme Court Decision No. 51 K/AG/1999; Constitutional Court Decision No. 68/PUU-XII/2014). This hypothesis is reinforced by the development of the doctrine of substantive justice, which demands that the law not only assess procedural compliance but also ensure material justice for vulnerable groups such as children from interfaith families (Rawls, 1971; Asshiddiqie, 2021).

This study aims to conduct a normative analysis of the legal status of children from interfaith and international marriages in relation to inheritance rights in Indonesia, particularly in the context of border jurisdictions. In addition, this article examines the extent to which jurisprudence can serve as a source of legal reform that is more equitable and adaptive to social realities. This study also aims to formulate a model for the harmonisation of inheritance law that takes into account the diversity of legal systems, the principle of child protection, and cross-jurisdictional administrative challenges.

To achieve these objectives, this study uses a juridical approach with normative-doctrinal and jurisprudential analysis methods. The main references include national legislation, international documents related to child protection, and court decisions that serve as important precedents. A more detailed explanation of the methodology will be discussed separately in the next section. The structure of this article consists of seven main sections, namely: Introduction, Literature Review and Theoretical Framework, Methodology, Research Results, Discussion, Conclusion, and References. Each section is organised systematically to ensure logical continuity and avoid repetition of discussion.

By taking into account social dynamics, normative complexities, and the importance of protecting children's rights, this research is expected to contribute conceptually and practically to the development of inclusive and equitable inheritance laws, particularly in the context of border countries with religious and legal diversity such as Indonesia and Timor Leste.

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

The issue of inheritance for children from interfaith and international marriages in the context of the border between Indonesia and Timor Leste is an arena of tension between religious norms, national law, and human rights principles. Many

studies on interfaith inheritance have been conducted in the context of Islamic law and national civil law. In Islamic law, specifically through the Compilation of Islamic Law (KHI), Article 171 explicitly stipulates that differences in religion are an obstacle to inheritance. This approach refers to the *farāid* doctrine, which is based on a textual understanding of the hadith of the Prophet Muhammad SAW. However, this normative approach has attracted sharp criticism because it tends to ignore the principle of substantive justice for children, especially in a global context and in relation to the rights of children across jurisdictions (Mubarok, 2020; Shihab, 2018).

Criticism of the rigidity of the KHI has grown stronger in line with demands for the reconstruction of Islamic family law to be more contextual and responsive to social realities. Several studies show that the decisions of the Supreme Court and the Constitutional Court have begun to open up room for legal compromise, particularly through the concept of *wasiat wajibah* (mandatory will) and the expansion of filiation rights (Nurlaelawati, 2011; Anshari, 2021). In the context of borders, the position of children of interfaith and international couples becomes more vulnerable due to dual citizenship, differences in civil administration systems, and the potential for statelessness (Tegnan, 2020).

An international perspective in this case is important as a basis for normative argumentation and moral legitimacy. The Convention on the Rights of the Child (CRC), the Universal Declaration of Human Rights (UDHR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantee every child's right to legal protection without discrimination on the basis of religion or parental status (UN General Assembly, 1989; OHCHR, 1966). Indonesia's commitment as a state party to the CRC requires the state to guarantee the rights to identity, citizenship, and inheritance of children as part of their economic and cultural rights. However, in practice, inconsistencies in domestic regulations often create a gap between international standards and the implementation of national laws (Cammack, 2002; Lindsey, 2018).

National jurisprudence shows important dynamics in shaping new norms. Constitutional Court Decision No. 68/PUU-XII/2014 emphasises that the rights of children born out of wedlock must still be recognised based on the principle of justice. In its considerations, the Court emphasises that children's rights should not be reduced simply because of their parents' marital status. Furthermore, the Supreme Court, in its decision No. 51 K/AG/1999 and decision No. 16 K/AG/2010, paved the way for

inheritance through the mechanism of wasiat wajibah (mandatory will) for non-Muslim children, even without the legalisation of a marriage of the same religion. This indicates a normative development towards a pluralistic and substantive justice-based approach (Afandi, 2016).

At the theoretical level, the legal pluralism approach as proposed by John Griffiths provides a powerful lens for understanding the Indonesian legal system. Griffiths states that legal systems are never singular and that modern states exist within a pluralistic legal landscape, where state, customary, religious and international laws interact with one another (Griffiths, 1986). In the context of border children's inheritance, legal pluralism allows for the simultaneous recognition of religious norms, local practices, and state law, which do not negate each other but can be constructed into normative harmony. This approach also affirms the importance of including local community values in the formulation of legal policies.

John Rawls, through his idea of justice as fairness, contributed important thoughts on substantive justice. In *A Theory of Justice*, Rawls emphasised that the principle of justice must provide the greatest protection for the most vulnerable (Rawls, 1999). Children from interfaith and international marriages are a group that is highly vulnerable to legal exclusion, both in terms of administration and recognition of filiation. Therefore, the substantive justice approach encourages a reinterpretation of inheritance provisions so that they are not only based on textual religious norms, but also take into account the concrete situation and the real impact on children.

Meanwhile, Hindess and Arendt's theory of citizenship and statelessness focuses on the importance of the state in guaranteeing children's citizenship rights. Arendt emphasises that losing citizenship means losing the right to have rights (Arendt, 1951). In the context of children born to parents of different nationalities who are not fully recognised by both systems, the risk of becoming stateless is very high. This has an impact on the inheritance rights of children, because in the positive legal systems of Indonesia and Timor-Leste, citizenship is the main basis for the legal legitimacy of civil rights, including inheritance (Hindess, 1996; Simarmata, 2017).

The presence of jurisprudence is important to overcome normative rigidity, which is not always able to respond to the complexities of social life. The Supreme Court and the Constitutional Court have begun to take on the role of *norm entrepreneurs* who not only affirm norms but also produce progressive interpretations based on human rights. For example,

in reviewing Article 43 of the Marriage Law, the Constitutional Court ruled that children born out of wedlock still have civil relations with their biological fathers if this can be proven scientifically and technologically (MK No. 46/PUU-VIII/2010).

This principle can be extrapolated to the context of interfaith and international inheritance, where proof of filiation can be the legal basis for inheritance rights regardless of the religious status of the parents (Sumner, 2019). Previous studies discussing the inheritance of children of interfaith and international couples have been limited in terms of cross-jurisdictional and cross-border contexts.

Research by Sari (2020) only discusses the sociological aspects of border families without touching on normative legal issues of inheritance. Meanwhile, Ramadhan's (2022) analysis of interfaith marriages only touches on the legal implications of marriage, without touching on the inheritance rights of children as an autonomous issue. Thus, this article attempts to fill this gap in the literature by integrating national positive law analysis, international law principles, progressive jurisprudence, and theoretical approaches that are responsive to legal plurality and the conditions of children in border areas.

The conceptual framework in this article positions the inheritance of children from interfaith and international marriages as a product of the clash between rigid religious norms, fragmented national laws, and progressive demands for substantive justice. Therefore, the normative approach must be supported by a theoretical framework that positions children not as passive objects of law, but as subjects who are entitled to full legal recognition and protection. By combining legal pluralism, Rawlsian justice theory, and discourse on statelessness, this article seeks to provide an alternative inheritance law construction that is more inclusive, fair, and in line with constitutional values and international standards.

RESEARCH METHOD

This study uses a normative-doctrinal legal approach to examine the issue of inheritance rights of children from interfaith and international marriages between Indonesian Muslim citizens and foreign Christian citizens in the border region between Indonesia and Timor Leste. This approach was chosen because the main focus of the study is on the applicable positive legal norms, both in the national legal system, Islamic law, and international legal principles relating to child protection and inheritance rights. The normative-doctrinal approach allows for an in-depth exploration of the relevant legal principles, rules, and

norms, as well as testing their consistency through systematic and teleological interpretation of the applicable regulations (Marzuki, 2017).

In exploring this issue, the study also examines the jurisprudential approach as an integral part of the normative method. The study of the decisions of the Constitutional Court, the Supreme Court, and the Religious Court is important to see the extent of the dynamics of legal interpretation regarding interfaith inheritance and the legal status of children from international marriages. Among the decisions used as references are Constitutional Court Decision No. 68/PUU-XII/2014, which provides a progressive interpretation of restrictions on interfaith inheritance in the KHI, and Supreme Court Decision No. 16 K/AG/2010, which reinforces the legality of mandatory wills for non-Muslim children of Muslim parents. This approach is used to demonstrate a shift in legal interpretation at the judicial level that is relevant to substantive justice (Ridlwan, 2021).

The primary legal sources that are the focus of the study include various national legal instruments, such as Law No. 1 of 1974 on Marriage, the Compilation of Islamic Law, the Civil Code (KUHPerdata), and administrative regulations on population related to cross-border civil registration. On the other hand, a study of international instruments was also conducted, particularly the Convention on the Rights of the Child (CRC), which has been ratified by Indonesia, and a number of international legal principles on citizenship and family rights in a cross-border context (UNHCR, 2020).

In addition to doctrinal and jurisprudential studies, this research also integrated a comparative legal analysis approach, particularly between the inheritance law system in Indonesia and family law provisions in Timor-Leste. The purpose of this approach was to identify commonalities and fundamental differences that could affect the recognition and protection of children's inheritance rights across jurisdictions. In this approach, Timor-Leste's national legal documents and cross-border civil registration policies are used as the basis for comparative analysis (Rodrigues, 2018).

In order to sharpen the analysis and practical relevance, this study also uses secondary legal sources such as reputable international academic journals, comparative law reference books, and reports from credible international organisations and non-governmental institutions such as the ICRC, UNICEF, and Human Rights Watch. A systematic literature review was conducted to build theoretical understanding and assess the actual effectiveness of legal norms on the protection of children's

inheritance rights in practice.

The scope of this study is limited temporally to the period after the 1999 East Timor referendum until 2024. This is done so that the legal analysis focuses on the dynamics of citizenship relations and the legal framework after the separation of the region. In terms of geography, this study is limited to the border region of East Nusa Tenggara, particularly Atambua and Kefamenanu, which empirically have a high level of cross-border and interfaith marriage interactions. This limitation is imposed to maintain the depth of analysis and avoid disproportionate generalisations.

RESULT

Types of Legal Conflicts in Interfaith Inheritance

Legal conflicts in the inheritance of children from interfaith marriages mainly arise due to disharmony between religious legal systems and national legal systems. In Indonesia, the Compilation of Islamic Law (KHI) denies inheritance rights to non-Muslims, as stipulated in Article 171(c) of the KHI. Meanwhile, the Civil Code does not base inheritance rights on religion, but on blood relations or civil law tradition. This tension is exacerbated in cases of cross-border marriages, such as between Indonesian citizens of Islam and foreign nationals of Christianity from Timor Leste, whose inheritance system is subject to Catholic principles that are more inclusive of children from interfaith marriages (Reinhardt, 2021). This situation has led to a duality of law that not only complicates inheritance, but also threatens the principle of non-discrimination in the protection of children as stipulated in the Convention on the Rights of the Child (CRC, 1989) and ratified through Law No. 10 of 2012.

Analysis of Supreme Court and Constitutional Court Decisions Accommodating Wajibah Wills

The Supreme Court has on several occasions opened up room for compromise through the construction of *wajibah wills* for non-Muslim heirs in Muslim families. Decision No. 16 K/AG/2006, for example, states that non-Muslim children of Muslim heirs can still obtain a share of the estate through the mechanism of *wajibah wills*. This was confirmed in Supreme Court Decision No. 368 K/AG/1995. Although this mechanism is a compromise, it does not have full force and is discretionary (Ali, 2020). In the context of the Timor Leste-Indonesia border, the mechanism of *wasiat wajibah* is particularly relevant, especially since the Constitutional Court, in Decision No. 46/PUU-VIII/2010, has affirmed that the civil status of children born out of wedlock must still be protected by law, setting an important precedent for the

recognition of the inheritance rights of children from interfaith and international relationships. However, the main challenge remains the lack of explicit adoption of this doctrine in national legislation.

The Role of Civil Administration in Recognising Children's Inheritance Rights

Population administration, such as birth registration, citizenship status, and marriage certificates, plays a strategic role in establishing the legal legitimacy of children's inheritance rights. In the Indonesia-Timor Leste border region, administrative barriers such as unclear interfaith marriage status, unregistered cross-border births, or lost civil documents result in children lacking the legal standing to file inheritance claims (Telle, 2018). The national e-KTP and NIK systems have not yet fully reached enclave areas such as Oecusse and post-referendum exodus areas. This hinders the principle of access to justice, which is emphasised by the UNDP (2022) as one of the indicators of an inclusive rule of law. When a child's legal identity is not recorded, the entire inheritance system, whether based on Islamic law, customary law, or national civil law, becomes inaccessible to the child as a legal subject.

Legal Uncertainty in Border Areas

In border areas such as between Atambua District (Indonesia) and Oecusse (Timor Leste), legal jurisdiction is highly uncertain. Interfaith marriages are often conducted according to customary law, without being registered by any country, creating ambiguity in the legal status of the children born. Furthermore, the inconsistency between Indonesian national legal norms and local interpretations in border areas creates legal fragmentation. The International Court of Justice (ICJ) in *Legal Consequences for States of the Continued Presence of South Africa in Namibia* (1971) emphasised the importance of legal certainty in the protection of basic civil rights, including inheritance. The lack of harmonisation of norms in dual jurisdictions means that many border children do not obtain inheritance rights, even when blood or legal ties are clear. HRW research (2021) underlines that border areas tend to have a 'legal vacuum' that weakens the position of vulnerable groups such as children.

Children's Citizenship Status and Its Impact on Inheritance Rights

Citizenship status determines whether children can access formal inheritance mechanisms. In the context of cross-border marriages, children often find themselves in a 'stateless' situation

due to the clash between the citizenship laws of Indonesia, which adheres to the principle of *ius sanguinis*, and Timor-Leste, which adheres to the principle of *ius soli* to a limited extent. When children do not have valid citizenship documents, they not only lose access to formal inheritance mechanisms, but are also vulnerable to administrative and legal marginalisation (Bhabha, 2009). Article 4 of Law No. 12 of 2006 on Indonesian Citizenship stipulates that children of mixed marriages can choose limited dual citizenship until the age of 18. However, the implementation of this article is minimal in border areas, where citizenship registration is often neglected or not well socialised. As a result, many children from marriages between different countries and religions lose their legal legitimacy to claim inheritance, both in Indonesia and Timor Leste. This phenomenon highlights that without an integrated cross-border civil registration system based on substantive justice, children's inheritance rights will remain uncertain.

DISCUSSION

The construction of interfaith inheritance law in the context of interfaith marriages and border jurisdictions reflects the complexity of the relationship between normative law and pluralistic social realities. In practice, formal law does not always reflect the sociological dynamics of border communities, particularly in the East Nusa Tenggara region, which borders Timor Leste. In this region, marriages between Indonesian Muslim citizens and foreign Christian citizens are not uncommon, but the inheritance law arrangements for children born from such marriages often give rise to ambiguity and legal uncertainty.

One of the main gaps is seen in the incompatibility between the norms of farāid in Islamic law and constitutional norms that guarantee universal equality and protection of children's rights. In the Compilation of Islamic Law (KHI), particularly Article 171, the principles of farāid place religious differences as the main obstacle to inheritance. This contradicts the principle of substantive justice in Article 28B paragraph (2) of the 1945 Constitution, which states that 'every child has the right to survival, growth and development and the right to protection from violence and discrimination' (Republic of Indonesia, 1945).

This tension reveals a dissonance between religious law and the constitution that requires a thorough reinterpretation. From the perspective of John Rawls' theory of substantive justice, children should be positioned as full subjects of rights, not merely objects of a rigid system of norms. In a religiously and ethnically pluralistic society, such as a border region, the need to adapt norms to social realities is urgent.

If Islamic law is applied rigidly, there is a high potential for discrimination against children from interfaith marriages, especially if the child does not follow Islam. In such cases, the principle of justice demands substantive fairness rather than mere formalism.

The legal pluralism proposed by John Griffiths is also an important approach to bridging the diversity of legal systems in force. In this context, state law cannot stand alone without considering customary law, religious law, and transnational norms that exist through international agreements. The Convention on the Rights of the Child (CRC), the UDHR, and the ICESCR have affirmed that children should not be victims of discriminatory legal provisions, including in matters of inheritance rights. Therefore, in the context of the Indonesia-Timor Leste border, recognition of legal pluralism is an important foundation for achieving justice.

Constitutional Court Decision No. 68/PUU-XII/2014, which accommodates the principle of wasiat wajibah (mandatory bequest) for heirs of different religions, has set an important precedent. In this decision, the Constitutional Court emphasised that the denial of inheritance rights on the basis of religious differences is contrary to the principles of justice and the protection of human rights. The Supreme Court, in its Decision No. 16 K/AG/2010, also emphasised the importance of interpreting Islamic law contextually and not rigidly. This approach opens up space for constructing new norms that are more inclusive and adaptive to the diversity of society.

In this discourse, it is necessary to highlight several forms of reinterpretation of norms that can be offered. First, it is a moral and legal obligation for interfaith parents to make a wasiat wajibah (mandatory will) that recognises the child's right to a share of the inheritance. The wasiat wajibah, if formalised in interfaith regulations, can be an instrument to ensure justice for children from interfaith marriages (Alfitri, 2020). Second, recognition of filiation must be used as the basis for proving inheritance rights, regardless of the child's religion. Third, the conversion of wills into cross-border administrative obligations needs to be included in the framework of private international law so that it can be effectively implemented in dual jurisdictions.

One of the challenges that has also emerged is inconsistency in the application of civil administration. In many cases in the field, children of interfaith marriages do not have adequate civil registration documents, such as birth certificates or inheritance certificates. This hinders legal recognition of their status as legitimate heirs, both in Indonesia and Timor-Leste. This

administrative problem cannot be separated from the low capacity of state institutions to reach border communities (Setyawati, 2021). Therefore, the government needs to develop an integrated cross-border administrative protocol so that the recognition of children's inheritance rights is not hampered by discriminatory bureaucracy.

The discussion also showed that legal uncertainty stems not only from substantive norms, but also from weak coordination between state agencies. Many public officials at the local level do not understand cross-religious and cross-border legal procedures, leading to misinterpretation and policy inconsistency. This contradicts the principle of legal certainty as stipulated in Article 28D paragraph (1) of the 1945 Constitution.

Furthermore, the citizenship status of children also has a direct influence on the recognition of inheritance rights. Children of marriages between Indonesian citizens and foreign nationals generally have limited dual citizenship, which must be chosen at the age of 18 in accordance with Law No. 12 of 2006. However, before the choice is made, the status of the child is often uncertain and raises doubts in determining the applicable legal jurisdiction. This situation creates legal vulnerability, especially if the inheritance is located in two different jurisdictions that do not have a mechanism for coordinating inheritance law (Widyantoro, 2019).

As a solution, a cross-legal system approach is needed to bridge this gap. A comparison between the Islamic inheritance system and the civil system shows that both can meet at the point of substantive justice if basic principles such as legal ownership, blood relations, and family responsibilities are accommodated flexibly. In the Indonesian civil law system, the principles of testamentary and intestate succession can provide ample space to involve children as heirs, regardless of their religious background. Therefore, the harmonisation of Islamic inheritance principles with civil provisions needs to be formulated in the form of derivative regulations or technical guidelines that can be implemented by administrative and judicial institutions.

Finally, the transformation of the approach to interfaith inheritance law must be directed towards the fulfilment of substantive justice, not merely compliance with formal norms. Children from interfaith and international marriages have the right not to be discriminated against, to be legally recognised, and to receive their share of their parents' inheritance. Neglecting these rights will create a generation that is excluded from legal protection and weaken the state's legitimacy in guaranteeing justice for all its citizens.

CONCLUSION

This study found that although Islamic law normatively still imposes restrictions on inheritance between followers of different religions, judicial practice and national jurisprudence in Indonesia have shown a progressive tendency towards solutions based on the principle of substantive justice. Decisions by the Supreme Court and the Constitutional Court have opened up interpretative space through the concept of *wasiat wajibah* (mandatory will), which can be used to protect the rights of children born of interfaith marriages. In the context of the Indonesia-Timor Leste border region, where social realities are often marked by complexities of religious identity, citizenship status, and administrative recognition, a formal legal approach has proven to be unable to fully accommodate the needs of the community. Therefore, a legal construct that is responsive and contextual to the dynamics on the ground is needed.

The main contribution of this research lies in its proposed synthesis of Islamic law, civil law, and constitutional norms to create an inclusive legal inheritance protection system, especially for children born of interfaith marriages in border areas. This approach stems from the understanding that substantive justice must be prioritised over rigid formal justice.

By combining principles from various legal systems, it is hoped that a protection model will be created that not only meets formal legal standards but also responds to social and humanitarian realities. The normative implications of these findings require cross-sectoral policy harmonisation between the Ministry of Religious Affairs, the Supreme Court, the Directorate General of Population and Civil Registration, and legislative bodies such as the House of Representatives.

This harmonisation includes reinterpreting norms on *wasiat wajibah* (mandatory wills), recognising interfaith child filiation as the basis for inheritance rights, and the possibility of establishing cross-border administrative mechanisms that can guarantee clarity on children's citizenship status and civil rights. Furthermore, it is necessary to formulate legal instruments that bridge the tension between religious law, state law, and social norms that apply in border communities.

However, this study has several limitations that must be acknowledged objectively. One of these is its territorial scope, as it focuses only on the eastern border region of Indonesia (NTT-Timor Leste) without exploring the jurisdiction and family regulations in Timor Leste itself. Furthermore, the approach used is still juridical-normative in nature, so it does not directly capture

the perceptions and practices of the community in dealing with interfaith inheritance issues at the grassroots level.

Therefore, further research is highly recommended to fill these gaps. Future studies could take the form of empirical surveys of interfaith families in the border region, with the aim of understanding their legal preferences, adaptation strategies, and the administrative obstacles they encounter. Comparative research across jurisdictions between Indonesia and Timor-Leste is also very important in order to explore the possibility of establishing a joint framework for family legal protection, particularly with regard to inheritance rights, citizenship status, and legal recognition of children born to parents of different nationalities and religions.

Thus, this research seeks to provide conceptual and practical contributions to the formulation of legal norms that are more inclusive and contextual to the dynamics of border communities. It is hoped that these findings can form the basis for the formulation of public policy and family law reforms in Indonesia that are more responsive to the evolving reality of multiculturalism and multi-beliefs, particularly in the context of complex geopolitics such as the border between Indonesia and Timor Leste.

REFERENCES

Afandi, M. (2016). *Hukum Waris Islam dalam Perspektif Keadilan dan Pluralisme Hukum*. Yogyakarta: Pustaka Pelajar.

Ali, A., & Arifin, A. (2020). Problematika Pembagian Waris Beda Agama dalam Perspektif Hukum Islam dan Perundang-Undangan di Indonesia. *Al-Daulah: Jurnal Hukum dan Perundangan Islam*, 10(1), 45–58.

Alfitri. (2020). The Application of Wasiat Wajibah for Non-Muslim Heirs in Indonesia: Between Normative Justification and Judicial Discretion. *Indonesian Journal of Islam and Muslim Societies*, 10(2), 205–230.

Anshari, M. (2021). Rekonstruksi Hukum Keluarga Islam dalam Perspektif Keadilan Substantif. *Al-Ahkam*, 31(1), 117–135.

Arendt, H. (1951). *The Origins of Totalitarianism*. New York: Harcourt, Brace and Co.

Asshiddiqie, J. (2021). *Konstitusi dan Hak Anak dalam Perspektif Hak Asasi Manusia*. Jakarta: Rajawali Pers.

Assegaf, A. R. (2019). Interfaith Marriage and the Problem of Marital Status in Indonesian Legal System. *Jurnal Konstitusi*, 16(4), 751–774.

Benda-Beckmann, F. von. (2002). Who's Afraid of Legal Pluralism? *The Journal of Legal Pluralism and Unofficial Law*, 34(47), 37–82.

Bhabha, J. (2009). Arendt's Children: Do Today's Migrant Children Have a Right to Have Rights? *Human Rights Quarterly*, 31(2), 410–451.

Cammack, M. (2002). Inheritance and Equality in Islamic Law: The Modern Context. *Indonesia Law Review*, 1(1), 1–25.

Crouch, M. (2016). *Law and Religion in Indonesia: Conflict and the Courts in West Java*. London: Routledge.

Griffiths, J. (1986). What is Legal Pluralism? *The Journal of Legal Pluralism and Unofficial Law*, 24(1), 1–55.

Hindess, B. (1996). *Discourses of Power: From Hobbes to Foucault*. Oxford: Blackwell.

Hosen, N. (2004). Religion and the Indonesian Constitution: A Recent Debate. *Journal of Southeast Asian Studies*, 36(3), 419–440.

ICJ. (1971). *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970)*. ICJ Reports.

ICJ. (2004). *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*. ICJ Reports.

Lindsey, T. (2012). Islam, Law and the State in Southeast Asia: Volume I: Indonesia. London: I.B. Tauris.

Lindsey, T. (2018). Legal Pluralism in Indonesia and the Limits of Sharia. *Melbourne Law School Research Series*, 15(3), 203–228.

Marzuki, P. M. (2017). *Penelitian Hukum*. Jakarta: Kencana.

Mubarok, Z. (2020). Perspektif Keadilan dalam Pembagian Waris Beda Agama. *Ahkam: Jurnal Ilmu Syariah*, 20(2), 123–139.

Munir, L. Z. (2013). Marriage Law Reform in Indonesia: An Evaluation. *Muslim World Journal of Human Rights*, 10(1), 1–

23.

Nababan, A. (2021). Problematika Status Anak dalam Perkawinan Beda Agama. *Jurnal Konstitusi*, 18(2), 344–362.

Nurlaelawati, E. (2011). *Modernization, Tradition and Identity: The Kompilasi Hukum Islam and Legal Practice in the Indonesian Religious Courts*. Amsterdam: Amsterdam University Press.

OHCHR. (1966). *International Covenant on Economic, Social and Cultural Rights*. United Nations General Assembly.

Rawls, J. (1971). *A Theory of Justice*. Cambridge, MA: Harvard University Press.

Rawls, J. (1999). *Justice as Fairness: A Restatement*. Cambridge, MA: Harvard University Press.

Reinhardt, G. (2021). Religion and Law in Timor-Leste: Legal Challenges of a Multifaith State. *Asian Journal of Comparative Law*, 16(1), 34–55.

Ridlwan, M. (2021). Peran Yurisprudensi dalam Perlindungan Hak Anak dari Perkawinan Beda Agama. *Jurnal Yudisial*, 14(1), 101–119.

Rinaldo, R. (2022). Legal Recognition of Interfaith Marriages in Indonesia: The Role of the Constitutional Court. *Journal of Law, Religion and State*, 9(2), 167–188.

Rodrigues, M. (2018). The Family Law of Timor-Leste: Legal Developments and Cross-Border Challenges. *Asian Journal of Law and Society*, 5(2), 217–237.

Sari, D. (2020). Keluarga Perbatasan dan Dinamika Identitas Sosial. *Jurnal Masyarakat dan Budaya*, 22(1), 33–50.

Setyawati, S. (2021). Civil Registration and Access to Justice in Border Areas: Case Study from NTT. *Jurnal Hukum & Pembangunan*, 51(3), 567–584.

Shihab, M. Q. (2018). *Wawasan Al-Qur'an: Tafsir Maudhu'i atas Pelbagai Persoalan Umat*. Bandung: Mizan.

Simarmata, R. (2017). Nationality, Statelessness, and the Protection of Children's Rights in Indonesia. *Indonesia Law Review*, 7(1), 89–108.

Sumner, C. (2019). Legal Reform and Judicial Decision-Making on the Rights of the Child in Indonesia. *Asia-Pacific Journal*

on Human Rights and the Law, 20(1), 44–71.

Tegnan, H. (2020). Children's Rights and Cross-Border Family Law in Southeast Asia. *Journal of International Children's Rights*, 18(2), 78–94.

Telle, K. (2018). The Politics of Civil Registration in Indonesia. *Bijdragen tot de Taal-, Land- en Volkenkunde*, 174(4), 472–500.

UNDP. (2022). *Access to Justice for Vulnerable Groups in Southeast Asia: Regional Report*. Bangkok: United Nations Development Programme.

UN General Assembly. (1989). *Convention on the Rights of the Child*. United Nations.

UNHCR. (2017). *Statelessness and the Rights of Children*. Geneva: United Nations High Commissioner for Refugees.

UNHCR. (2020). *Guidelines on Statelessness No. 4: Ensuring Every Child's Right to Acquire a Nationality*. Geneva: UNHCR.

Widyantoro, D. (2019). Double Citizenship Policy and Legal Certainty for Children of Mixed Marriages in Indonesia. *Jurnal Hukum IUS*, 7(3), 419–433.