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Conflicts Occurring Due to the Application of Different Legal Inheritance Systems in Indonesia

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Abstract

The Republic of Indonesia applies three legal systems on inheritance, namely the Islamic law, the Civil Code, and the Indigenous law. Conflicts occur when families use different legal systems in splitting inheritance. This paper aims to analyse: (1) The considerations of the judge in deciding the right of heirs with different religions to obtain inheritance; (2) Whether or not using wasiat wajibah *in distributing inheritance to non-Muslim heirs violates Islamic laws; and (3) The legal efforts which may be taken if heirs who follow a different religion from the decedent do not obtain inheritance. This is normative prescriptive legal research employing a comparative approach. Primary and secondary data were collected from literature review. Results showed that the Supreme Court judge decided that a non-Muslim widow has the right to obtain inheritance from her deceased Muslim husband based on the* wasiat wajibah *stipulation, considering that the widow had been married to the deceased for 18 years. Referring to* wasiat wajibah *to give inheritance to non-Muslim heirs does not violate Islamic law, in which the maximum amount is a third of the inheritance. This paper suggests two ways to resolve conflicts on inheritance: (1) Let the inheritance laws be plural. If there are legal conflicts, they can be resolved in the court, (2) Unify the laws by creating new inheritance national laws to achieve national unity. This research provides novelty, recalling that there have not been any previous research of the same theme in Ternate City.*

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INTRODUCTION

As stipulated in the Compilation of Islamic Laws (CIL), the Islamic inheritance laws (*farâidh*) apply to Muslims in Indonesia. The Religious Court's Procedural Law No. 7 of 1989 that was amended to Law No. 3 of 2006 on the Religious Court Article 49 clause 1 letter (b) stipulates that the Religious Court has the authority to resolve the first-instance cases between Muslims on inheritance. Muslims in Indonesia are formally obliged to follow this law (Saragih et al., 2019).

Then, the Civil Code (*burgelijk wetboek*) applies to non-Muslims who submit to this code. Based on Civil Code Procedures, dispute resolutions are the competence of the District Court as stipulated in Law No. 2 of 1986 as amended to Law No. 49 of 2009 on General Courts. Next, customary inheritance laws apply to indigenous Indonesians who submit to these laws. Materially, these three legal systems are legal choices as the resolution of inheritance cases can be carried out through the non-litigation method. The inheritance should be distributed peacefully, as each heir has his own part as stipulated in the law. These three inheritance systems contain the best, wisest, and most just stipulations on the management of wealth through inheritance.

Conflicts often arise when the inheritance is distributed based on more than one system. This confuses the public and this issue often takes a long time to resolve. For example, in the case where the heirs have different religions, one system stipulates that people of other religions cannot be the heir, while another system stipulates that they can still obtain inheritance but not as an heir and their status becomes the same as an adopted child. Such cases become obstacles in resolving inheritance cases in Indonesia. There have been efforts to unify the inheritance laws in Indonesia, but they have never succeeded. The Dutch East Indies government grouped the citizens based on Article 131 of IS which still applies now simply because Indonesia ironically has not succeeded in making a new relevant law. Thus, the three inheritance systems apply to fulfill the people's need for justice. Everyone is free to choose the most suitable inheritance system though it is stipulated that Muslims should comply with Islamic inheritance laws, non-Muslims should comply with the Civil Code, and indigenous peoples should comply with their customary laws on inheritance.

Another issue arises when the heirs embrace a religion that is different from the decedent. This is an issue because based on Islamic law, the wealth of the decedent can only be inherited by the heir who is of the same religion (Budidarmo & Sara, 2022). But, the Decision of the Supreme Court No. 368 K/Ag/1999 and the Decision of the Supreme Court No. 721 K/Ag/2015 have stipulated that a child who converted to another religion has the same position as other children but not as an heir; the child obtains *wasiat wajibah,* i.e., inheritance given to adopted children from a decedent, and an adopted child cannot be an heir. In the judge and Islamic law perspective because the child who converts to another religion and an adopted son or daughter cannot serve as an heir for family inheritance, the inheritance refers to 2 main requirements regarding blood relevance and the same religion. Since it is an original law from Islamic or Sharia law so the judge basically follows this path. The Decision of the Supreme Court No. 16 K/Ag/2010 on April 16, 2010, also decided that a Non-Muslim wife

who had been married to the decedent for 18 years has the right to obtain inheritance through the *wasiat wajibah* stipulation. The judge from this case in the case document decided in accordance with the Sharia Law because the wife of the deceased husband had a valid proof of wasiat wajibah for inheritance, meaning she has the right to the inheritance according to wasiat wajibah stipulation and this is surely relevant to the sharia law,

In terms of the terminologies used, *Decedents* are the deceased who left the wealth to be inherited. *Heirs* are living people who are legally rightful to obtain an inheritance from the decedent. *To inherit* means to obtain an heirloom. *Inheritance* (*nalatenschap*) means wealth whose ownership will shift to heirs. Concerning inheritance, if the decedent is Non-Muslim, the Civil Code must be applied. Article 830 of the Civil Code states that heirs are people appointed by the decedent based on a will, while Article 832 states that heirs are those who have blood or marital relations with the decedent (Andayani et al., 2019).

There are legal bases for an heir to obtain inheritance according to the Civil Code, namely: (1) *Ab Intestato* where the heir and the decedent are related by blood, and (2) *Testamentair,* which refers to inheritance based on a will (Lev, 2000) (Djaja, 2018). The judge of the court decided the case by referring to these two requirements: blood relation or valid testament, by which the case of inheritance according BW was solved. The Civil Code Article 852 regulates the four priority groups in a blood-based relationship (Tarigan, 2022), namely: *Group I:* the longest living husband/wife and children; *Group II:* biological parents or siblings of the decedent; *Group III:* relatives in a straight line up after the decedent's mother and father; and *Group IV:* uncles, aunts, cousins, and siblings of the grandparents and their children. In a marital relationship, the husband or wife can obtain inheritance so long as they have not been divorced.

Article 838 of the Civil Code the people who do not have the right to obtain the inheritance, namely (Nurhidayah & Mahsyar, 2020): (1) those who killed or attempted to kill the decedent; (2) those who sued the decedent for a crime that is punishable by imprisonment of five years or more but is deemed as slander by the judicial decision; (3) those who prevented the decedent from making a will or those who forced the decedent to revoke the will with violence; and (4) those who destroyed or faked the decedent's will. From the judge and civil law perspective, if people committing those criminal offenses still received inheritance, there would be many crimes committed just to get inheritance, or it would involve killing over inheritance.

There are three kinds of heirs according to the Hadith and the Holy Qur'an (Lestari et al., 2018): *Ashab Al-Furiid* defined as those whose part of the inheritance has been determined, for instance, ½, 1/3, or 1/6; *Ashabah* as those who obtain the remaining proportion of the wealth after the division; and *Zawi Al-Arham* as heirs who have blood relations. The Qur'an stipulates that the *Zawi Al-Arham* cannot obtain inheritance unless they fulfill the requirements set forth in the stipulations on *Ashab Al Furiid* or *Ashabah.* Heirs have the right to obtain half, a quarter, an eighth, two-thirds, a third, or a sixth of the inheritance (Asman, 2020). For instance, if the deceased

wife left no children, the husband obtains half of the inheritance. Then, if the deceased wife left children, the husband obtains a quarter of the inheritance.

According to the Islamic inheritance system, the following people cannot obtain inheritance (Anggraeny, 2020), namely: (1) slaves; (2) murderers of the decedent; (3) heirs of a different religion, as stated in a hadith that a Muslim cannot accept inheritance from a non-Muslim; (4) the decedent and the heir from different countries; and (5) an heir converting to a religion other than Islam. The Sharia or Islamic Law had a specific provision about inheritance and the judge decision was made based on this principle.

Customary inheritance law contains regulations on the process of transferring wealth from a generation of people to the next. The customary law highlights two main lines in determining heirs, namely the priority line and the replacement line. The priority line consists of family members, namely (Hamidjojo, 2000): *Group I:* children of the decedent; *Group II:* the decedent's parents; *Group III:* the siblings of the decedent and their children; and *Group IV*: grandparents of the decedent, etc. The replacement line determines those who were directly appointed by the decedent before death. It may include adopted children (Hamidjojo, 2000). In the customary law, it had many similarities, depending on the specific customary law.

Inheriting wealth to non-Muslim heirs from Muslim decedents often becomes a conflict in the Religious Court (Abdillah, 2017). Article 171 letter c of CIL states that an heir is: (1) someone related to the decedent due to blood or marital relations; (2) a Muslim; and (3) not legally prohibited from becoming an heir. The heir must be Muslim, or the rights to inheritance are revoked, as Muslims cannot obtain an inheritance from non-Muslims and vice versa. The determination of heirs is crucial in distributing inheritance, as after death, the wealth, inheritance, and wills need to be managed by the family (Elinder et al., 2018). This law has clear legal interpretation asserting that an heir must be within blood or marital relations, muslim, and not be legally prohibited from inheritance since being legally prohibited causes the revocation of the rights to inheritance from the victim that one kills. In addition, the prohibition of receiving the inheritance is also due to converting from Islam, making one not able to receive inheritance from his non-muslim family following the conversion.

Wasiat wajibah was firstly stipulated in Article 209 clauses (1) and (2) of CIL, asserting that adoptive parents who do not obtain inheritence can obtain it under the *wasiat wajibah* stipulation with the maximum amount of a third of the adoptive child's wealth. Conversely, an adoptive child who does not obtain inheritence can obtain it under the *wasiat wajibah* stipulation with the maximum amount of a third of the adoptive parent's wealth (Alam, 2021). Article 209 clauses (1) and (2) in the perspective of sharia law imply that even an adoptive child cannot receive inheritance but he/she still can accept some proportion of the wealth called wasiat wajibah with the maximum proportion of a third of inheritance. The judge always considers wasiat wajibah as the form of love from the deceased to the adoptive child or others people who cannot obtain inheritance according sharia (maybe because of the conversion from Islam)

Even so, there are dynamics in distributing inheritance in Indonesia. These dynamics are caused by judicial decisions, as *wasiat wajibah* is an action performed by the authorities or judges as state apparatuses that create decisions on inheritance distributed to certain people under certain conditions. Based on the description above, the research problems are: (1) What are the considerations of the Religious Court judge in deciding the right of heirs with different religions to obtain inheritance? (2) Does the *wasiat wajibah* in distributing inheritance to Non-Muslim heirs violate Islamic laws? (3) What are the legal efforts taken if heirs who follow a different religion from the decedent do not obtain inheritance?

The research problems are the main issues in inheritance in the Religious Court. The parties who try to seek justice through the litigation method always ask the consideration of religious court judges in determining heirs of different religions. They also ask about what legal actions may be taken by heirs of different religions to obtain inheritence, as they regard that they have the same position (they are children/siblings/nephews/nieces of the deceased) though they follow different religions. The research problems mentioned are important credentials from which inheritence in Indonesia departs.

METHOD

This is normative legal research (Juridical law research) that studies legal effectivity and how the law applies in society (Irwansyah, 2020). The factors that influence the operation of law in society include the legal principles, the law enforcers, the available facilities, and social awareness. Descriptive analysis was employed in this research, where primary and secondary data were analyzed, including the contents and the structure of positive law.

This research employed a comparative approach (Al-Fatih & Siboy, 2021), comparing three legal systems and was conducted in Ternate City, Maluku Province, Indonesia where various ethnic groups and religions inhabit, while inheritance distribution-related conflicts are common in this city. The researcher used primary and secondary data in this paper. The primary data were obtained from observation and interviews with informants regarding the conflicts of inheritance distribution, while the secondary data were from the Ternate Religious Court, giving accurate data on inheritance distribution cases and other related information (Asrakal, 2016).

The data were analyzed using descriptive-qualitative methods. The researcher analyzed and described the data qualitatively and systematically before they were articulated based on the phenomena, variables, and conditions obtained from the collected data (Alasuutari, 2010).

RESULTS AND DISCUSSION

Considerations of the Religious Court Judge in Determining the Rights of Heirs of Different Religions to Obtain Inheritance

There are often issues that arise in distributing inheritance. The author believes that conflicts are avoidable, considering that clear inheritance provisions are set forth

in the laws in Indonesia. Most of these conflicts happen due to the lack of people's knowledge of inheritance laws as well as due to their greed (Junus, 2014). The common conflicts appear in the following scenes: (1) Heirs fight over the inheritance wealth without knowing their rightful part; (2) Heirs ignore the rights of other heirs; (3) Some people claim to be heirs while they are actually not; (4) Some heirs make wills so that the inheritance is given to non-heirs or so that the inheritance is distributed unevenly; (5) The rights of a legitimate wife to some inheritance wealth are violated by other family members of the decedent; (6) An heir controls all the wealth without fair distribution to other rightful heirs; and (7) Some heirs follow different religions and they do not justly obtain inheritance, etc.

One's death leads to the legal impact of inheritance—where the ownership of the decedent's wealth shifts to the heirs. The Qur'an stipulates the transfer of wealth ownership through wills in Surah Al-Baqarah verse 180, "Bequest is prescribed for you when death approaches one of you and leaving behind wealth for parents and near relatives according to the customs is a duty (to be fulfilled, a right) upon those who are pious." This verse stipulates that giving a will is obligated for the pious, but Islamic legal experts have differing opinions on this, and they refer to certain hadiths (Bedner & Huis, 2010).

Wills are defined as a statement on the decedent's desires for the distribution of his/her wealth after death. Wills are so important in inheritance that they are stipulated in the Qur'an, Surah An-Nisa verses 11, 12, and 176. These verses stipulate that wills must be completed before distributing the heirlooms to the decedent's children, widow/widower, and siblings. In the Islamic legal system on inheritence in Indonesia, wills are stipulated in CIL Chapter V Articles 194-209 and the President's Instruction No.1 of 1991. Article 194 clause (1) of CIL implies that a person who is at least 21 years old and mentally healthy may voluntarily make a will concerning the distribution of his wealth to other people or institutions (those who are not heirs) (Alfitri, 2015).

CIL with the president instruction was a legal document to fulfil the public needs about marital, inheritance and others. Article 194 clause (1), someone can make a will (wasiat. In Arabic) about his wealth in case of a sudden death. According to law, this is a guaranteed right. He can give his wealth to everyone he wishes, including his adoptive sons or others. Judge's decision on the inheritance case will carefully consider this will and use this law as a base for deciding because the CIL is a positivisation of sharia law into part of Indonesia positive law.

Article 195 of CIL states that the will may be orally stated or written with the presence of two witnesses or a notary. Wills may only apply to a third of the wealth unless all heirs have other agreements. The statement of such an agreement may be revealed orally before two witnesses. It may also be in a written form and witnessed by two people or a notary. The judge's decision on inheritance considers this as a legal will, especially if the orally decreed statement was written before a notary as strong

proof of the will. The will could not be more than a third of the whole inheritance because other heirs also had right to the inheritance. Thus, the judge could not decide to give more than the deceased's one-third wealth.

Article 209 of CIL regulates the will given to adoptive children or adoptive parents. This type of will is called *wasiat wajibah*. This article stipulates, "The inheritance of adoptive children is divided based on Articles 176 to 193 stated above. Adoptive parents who do not obtain a will are given wasiat wajibah with the maximum amount of a third of the adoptive children's wealth. Adoptive children who do not obtain a will are given wasiat wajibah with the maximum amount of a third of the adoptive parents' wealth." This is a legal compromise, where the adoptIve child can obtain a maximum of a third of wealth from the deceased because they cannot receive any inheritance. This is a form of justice for the adoptive child and it complies with the law as in article 209 CIL

Abdillah, a judge of the South Aceh Sharia Council opines that in the development of the courtly processes, the *wasiat wajibah* can also be given to heirs who follows a different religion from the decedent (Abdillah, 2017) although, in the sharia and the CIL stipulations, differing religions can prevent one from obtaining inherited proportion. The CIL does not regulate the distribution of heirlooms to heirs of different religions. Article 171 point c of the CIL states that heirs are those related to the decedent by blood or marriage relations. Heirs must be Muslims and must not be legally prevented from becoming an heir. Article 171-point c of CIL is specifically for Muslims because CIL is based on Islamic Law. The judge in the religious court should abide by the sharia law governing inheritance. Sharia law only acknowledges inheritance for Muslim, meaning if someone converts from Islam, he can no longer inherit part of his Muslim father's asset, or brothers, and the judge will decide on this legal principle according sharia and CIL.

Wasiat Wajibah in Distributing Inheritance for Non-Muslim Heirs does not Violate Islamic Laws

In Islamic inheritance laws, a person may obtain part of the inheritance due to blood or marital relations (Tangkau et al., 2020). Some regulations prevent a person from obtaining inheritance because an heir follows a religion different from the decedent's. Even so, *wasiat wajibah* may be given to heirs of different religions, as reflected in some Supreme Court Decisions, namely the Decisions of the Supreme Court No. 368 K/AG/1995; No. 51 K/AG/1999 on September 29 and No. 16 K/AG/2010. These decisions gave *wasiat wajibah* to family members or heirs (non-Muslim children) of different religions. Thus, this jurisprudence is certainly different from the concept of Islamic *fiqh* where the heirs of different religions cannot obtain an inheritance from Muslim decedents.

In the Decision of the Supreme Court No. 16K/AG/2010, a non-Muslim wife obtained inheritance through *wasiat wajibah*. The judge assembly granted the cassation plea of the wife (the original defendant) on the decision of inheritance – against the decedent's biological mother (the original plaintiff). This Supreme Court decision became a jurisprudence for the courts under it (Adamson, 2007). This Supreme Court decision cancelled the Decision of the Makassar High Religious Court No. 59/Pdt.G/PTA.Mks. on July 15 and strengthened the Decision of the Makassar Religious Court 732/Pdt.G/2008/PA.Mks. on March 2. In the consideration, the Supreme Court Assembly stated that basically, non-Muslim heirs are not entitled to inheritance as differing religions prevent one from obtaining inheritance.

According to Yusuf Al-Qardhawi, non-Muslims who co-exist peacefully with Muslims cannot be categorized as *kafeer harbi* (Qardhawi, 1993). The cassation applicant and the decedent lived peacefully as husband and wife though they are of differing religions. Thus, a non-Muslim widow can obtain inheritance through *wasiat wajibah*. Al-Qardhawi regards this as more just and beneficial because it is intended to prevent conflicts in the family, prevent harm, and maintain benefit. Article 209 CIL on *wasiat wajibah* applies to adoptive children regarding a third of the inheritance. But in this case, the Supreme Court Assembly determined that the Non-Muslim widow could obtain inheritance through *wasiat wajibah*. This decision becomes a new law that can be referred to by religious court judges in adjudicating a similar case.

This case departed from a condition where a Muslim husband died, leaving his non-Muslim widow, biological mother, biological siblings, and inheritance (including movable and immovable assets). The widow (the defendant) controlled the wealth. The plaintiff (biological mother and other family members) asked the defendant to divide the wealth, but the defendant disagreed and she made efforts to illegally control all wealth. To resolve the inheritance disputes between these people, the plaintiff filed a case to the Makassar Religious Court on July 31, 2008. It was to resolve the issue of the inheritance division and to determine the heirs. The court granted the inheritance division and determined the heirs, but the defendant did not obtain any heirlooms as she is not a Muslim. The defendant was dissatisfied, and she filed an appeal to the Makassar High Religious Court. At the appeal level, the decision of the Makassar Religious Court was strengthened. Then, the defendant was still discontented as she did not obtain any heirlooms, and she filed for cassation to the Supreme Court.

According to the Assembly, the decedent and the cassation applicant had been married for 18 years. That is, the cassation applicant had accompanied the decedent for a long time. Although she is non-Muslim, it is appropriate and just for her to obtain her rights as a wife. The Supreme Court's jurisprudence allows her to obtain heirlooms through *wasiat wajibah* and also part of the common property. The issue of the position of non-Muslim heirs has often been analyzed by Islamic experts including Al-Qardhawi, who interpreted that non-Muslim people who live peacefully cannot be

categorized as *kafeer harbi*. Also, the cassation applicant lived peacefully with the decedent though the decedent followed a religion different from the living. Thus, it is appropriate for the cassation applicant to obtain part of the inheritance through *wasiat wajibah*.

The Head of the Religious Sector of the Supreme Court, Andi Syamsu Alam stated that the Supreme Court applies contemporary Islamic laws if parents follow a different religion from their children (Alam, 2021). Depart from CIL, where there is the term wasiat wajibah. Indonesia apply this and it has become jurisprudence. It is not explicitly written in CIL, but the wasiat wajibah institution is borrowed for that. The first one to decide upon this was the Jakarta High Religious Court. It has become a precedent, and is referred to in all over Indonesia. According to Alam, the maximum amount of *wasiat wajibah* is a third of the inheritance (Alam, 2021). Before that, parents and children of different religions cannot give nor obtain heirlooms.

But, H.M Tahir Azhary, stated that people of differing religions cannot obtain inheritence (Azhary, 2003). This is the principle of the Islamic law that is according to the hadith implying that Muslims cannot inherit from a non-Muslim and vice versa. Even so, Azhary stated that a living parent (decedent) can give grants as grants can be given to anyone, whether Muslim or non-Muslim. Regarding the Supreme Court's decision on giving the inheritance to non-Muslim heirs, Azhary admitted to having heard of it from a student's thesis. He believes that giving the inheritance to people of differing religions is the Supreme Court's own decision, but he prefers to return to the original legal basis, as this decision violates the hadith and the CIL.

Legal Efforts If Heirs of a Different Religion from the Decedent do not Obtain Inheritance

It is stated earlier that the Indonesian law applies various legal systems for various citizen groups. The division of inheritance in this state applies the Islamic law (for Muslims), customary law (for indigenous peoples), and national law (the Civil Code/BW, for non-Muslims). Muslims choosing to apply the Civil Code in dividing the wealth indicate that they comply with the national law, but what if, in distributing inheritance, two legal subjects apply two different inheritance systems (for instance the Islamic law and the Civil Code)? The idea to maintain legal plurality does not agree with the national ideals. It is a distortion to the ideals of legal unity. There is actually no constitutional basis to create differing laws that apply to different citizen groups, as the Indonesian constitution does not acknowledge the groupings of citizens (Aulia & Al-Fatih, 2017).

The argument to maintain the plural inheritance laws in Indonesia has negative consequences, as it is against the national ideal to create a unified and codified national law. Such a plurality means maintaining legal conflicts between the three legal inheritance systems (Rahim, 2021). The idea of maintaining inheritance contributions

must be plural because Indonesia has three major systems. The sharia System of inheritance, the civil law and customary law. Each of the system has its own belief and followers, and nearly impossible to be unified as a single system. The founding Fathers of the nation understood this, and they and successors let the three systems work together as unity in diversity of the Nation (bhinneka Tunggal Ika, Diverse but one). People can choose to follow any inheritance available for them without problems.

There have been efforts to unify and codify inheritance laws since the Dutch colonial era. Such efforts aim to prevent family conflicts, give a sense of justice, and bring solution to conflicts between the applicable inheritance legal systems. The method to formulate the future national inheritance law can utilize the sociological jurisprudence perspective of Roscoe Pound (Cotterrell, 2017). He suggests that well-written laws are those that are according to the law that exists in society. Such a formula shows a smart compromise between written laws (from the national legislation process) as a legal need of legal citizens to create legal certainty and a living law as a manifestation of the importance of the role of society in creating the law.

Similar to Pound, Eugen Ehrlich emphasizes the principle of the importance of the balance between formal law and the living law, i.e., a balance between the interest of the state and social interest (Alwino, 2017). In this term, the will of the deceased has huge differentiation in each inheritance system. In the civil law system, the mandatory will, if valid, will become a base for the judge to fulfil. Even for all the deceased wealth, in the Islamic Law the mandatory will can be fulfilled with a maximum of a third from all the deceased wealth, but in the customary law, it had different results according each law. In line with Pound and Ehrlich, the CIL is a reference to inheritance division in Indonesia. It has a rather protruding renewal, especially when compared with the inheritance systems developed by the *Ahlussunnah*. Simply, it concerns how the decedent followed the religion while he/she lived.

This resolution highly depends on each individual. Muslims or indigenous people can divide inheritance under the Civil Law. This depends on their beliefs. Some Muslim indigenous people comply with the customary law. In their journey, these three inheritance laws experience different developments and institutionalization processes. The inheritance law from the Civil Code does not experience any change, as it is sourced from the BW of the colonial era. Customary inheritance laws have developed through various jurisprudences (judge-made laws). What is different is the institutionalization process of the Islamic inheritance law that has been regulated in Law No. 7 of 1989 *jo.* Law No. 6 of 2006.

There are also some issues in the law on marriage, such as when the bride and groom have different nationalities or different religions. Article 7 clause (2) of (2) *regeling of de Gemeengde Huwelijken GHR* states that religious differences do not present issues, but this does not apply anymore after the issuance of the Law on Marriage. The Law on Marriage stipulates a mixed marriage in Article 57, a marriage between two

people in Indonesia that complies with differing laws due to different nationalities, one of which is Indonesian. With this article, a marriage of different religions is no longer placed in the Indonesian law order. Thus, the basis of thought that Indonesia rejects interreligious marriage is argumentatively not found in the formulation of the Law on Marriage.

This marriage is stipulated in Article 1 of the Law on Marriage, but sometimes the marriage must end due to death or divorce (Yusuf, 2020). The end of a marriage due to death results in an inheritance that is given to an heir. In Indonesia, inheritance is stipulated in customary laws, the Civil Code, and Islamic law. If the decedent and his/her heir have different religions, it sometimes causes issues, especially if one of them is Muslim because, in Islamic law, people of different religions cannot inherit one another. Then, which law should be used out of the three systems of inheritance that apply in Indonesia? The writer suggests that there are two ways to resolve such conflicts on inheritance, namely: (1) Let the inheritance laws be plural. If there are legal conflicts, they may be resolved in the court, (2) Unify the laws by creating new national laws on inheritance to achieve national unity.

CONCLUSION

In a case of an inheritance conflict due to differing religions, the Supreme Court judge decided that the non-Muslim widow had the right to obtain the inheritance based on *wasiat wajibah*. There should be special stipulations with detailed explanations to prevent a misinterpretation of the existing stipulations. Referring to *wasiat wajibah* to give inheritance to non-Muslim heirs does not violate Islamic law. As stipulated in Article 176 of the Compilation of Islamic Laws, the maximum amount of wealth that can be inherited according to the *wasiat wajibah* is a third of the inheritance. A person who obtained wealth from *wasiat wajibah* cannot be regarded as an heir.

The writer suggests that there are two ways to resolve such conflicts on inheritance, namely: (1) Let the inheritance laws be plural. If there are legal conflicts, they are resolved in the court, (2) Unify the laws by creating new national laws on inheritance to achieve national unity. Applying the Religious Court jurisprudence on *wasiat wajibah* for non-Muslim heirs must be based on the rightful court decisions, namely: finding an authoritative and efficient solution; it must be based on the court decision; it must be stable and fair. The Religious Court should not only determine who has the right to become an heir and who can obtain *wasiat wajibah*, but it should also determine the amount that each person obtains. Furthermore, the government should revise the Compilation of Islamic Laws by adding stipulations on *wasiat wajibah* for non-Muslim relatives.

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