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Inheritance Law: The Concept Of A Compulsory Will In Morocco Legal System (Comparative Study Of Mandatory Wills With Indonesia)

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Abstract

As problems in society develop, legal reform is needed to address current issues that have never occurred in the past, one of which is family law in the field of inheritance. The issue of inheritance is a problem that is certain to occur and will be experienced by humans, so that inheritance law as a means for resolving inheritance is always interesting. A phenomenal problem in family law in the field of inheritance is the wajibah will, where grandchildren are made as substitute heirs. Comparative Theory of Legal Comparison (Tertium Comparationum) is a theory that discusses the starting point or specific criteria that form the basis for comparing how legal system A and legal system B and the theory of legal reconstruction (theory of legal sociology). Problem Formulation How is the application and implementation of the wajibah will in the family law system in Morocco? How is the application and implementation of the wajibah will in the Islamic family law system in Indonesia? First, the wajibah will in Muslim countries is influenced by the Islamic schools of jurisprudence, such as Maliki in Morocco, Shafi'i in Indonesia. Despite their different approaches, both demonstrate efforts to adapt Islamic inheritance law to social needs, whether through legal reform, recognition of adopted children and non-Muslim heirs, or alternatives such as gifts. Second, the application of wajibah wills in Indonesia is broader than in Morocco, because Indonesia does not apply the provisions of the Islamic Fiqh School but rather

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emphasizes justice and benefits (maslahah mursalah) that can be felt by the recipient of the will even though under Islamic law they are not actually entitled to receive the inheritance.

Keywords: inheritance, obligation, will, legal system

BACKGROUND OF THE PROBLEM

As problems in society evolve, legal reform is needed to address current issues that have never previously occurred, one of which is family law in the area of inheritance. Inheritance issues are inevitable and will be experienced by humans, so inheritance law as a means of resolving inheritance issues is always interesting. A phenomenal issue in family law in the area of inheritance is the mandatory will, where grandchildren are made substitute heirs.

Regarding the grandson who cannot replace his father's position to receive his grandfather's inheritance because his uncle is blocking him. However, this concept is considered unfair to the grandson, so the concept of a mandatory will was born, pioneered by Egypt, Morocco, and Tunisia, which was then adopted by many, including Indonesia, which is called a substitute heir (bijplaatvervulling) or Representatie replacement of position, which is a breakthrough in the legal system in the field of inheritance [1].

Reforms in Islamic law undertaken by several Muslim countries, particularly in inheritance law, have not been as numerous as those in marriage law. These reforms were undertaken because classical Islamic jurisprudence (fiqh) failed to address inheritance issues in the modern era. Among the Muslim countries that have undertaken reforms in inheritance law are Egypt, Tunisia, Morocco, Iran, Iraq, Turkey, and Pakistan. These efforts are still in the legal compilation stage, and some have been formalized, as was the case in Morocco.

Morocco is part of the Islamic world. Since the conquest of the Amawiyah Dynasty, al-Malik bin Abdul al-Malik played a major role in the process of Islamization and territorial expansion into North Africa and eventually reaching the Atlantic in Morocco. The form of state and government in Morocco is a constitutional monarchy, with the king as the sole ruler. As a Muslim country in the world, Morocco has a legal system and government free from foreign influence. Although the country is a former European imperialist country, namely France, the continental European legal system adopted by France does not necessarily influence the legal system in that country. Morocco, as an Islamic state, is based on Islamic law. Although Islamic law is universal law, its implementation is because Islamic law is used and used as a guideline for

[1]Rio Christiawan, Introduction to Comparative Inheritance Law, Kencana Publishers, 2022. Page 12

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deciding legal cases in all Muslim countries. Islamic law, especially classical fiqh, is influenced by the fiqh of the school of thought adopted by the country.

Before the reform of Mudawanah ahwalsyahsiyah in Morocco in 1957-1958, the law applicable to Moroccan citizens was Islamic law influenced by the Hanafi School of Fiqh and local customary law. According to Muhammad Syafi'i in his book Az Zawaj fil Mudawwanah al-Usrah, there were four phases of the preparation of Mudawwanah: First, the phase of the formation of Mudawwanah in 1957-1958. Second, the phase of efforts to improve Mudawwanah which occurred in 1961, 1979, 1981. Third, the phase of partial amendments to the Mudawwanah text in 1993, as well as the proposal of a national project to involve women in development in 1999. The fourth phase, namely the critical phase, was marked starting in 2003 where the legislature proposed quite radical changes in the structure of family relationships.

During the Mudawwanah's formation phase, the process of drafting this law began when the Moroccan government established a high-level commission on August 19, 1957, tasked with finalizing a draft law on individual status for the entire country. After considerable effort, the commission finally completed the final draft, which drew on the following sources:

1. The principles of various schools of thought, especially the Maliki school.
2. The doctrine of the Maliki school is maslahah mursalah (public interest).
3. Regulations enacted in other Muslim countries.

Several months later, this draft law was passed into law, which was given the name Mudawwanah al-Akhwal asy-Syakhshiyyah the Moudawana (Personal Status Code), which included more than 300 articles arranged in 6 books that were implemented at different times, as can be explained below:

1. Regarding marriage, it came into effect on November 21, 1957.
2. Regarding divorce, it came into effect on November 21, 1957.
3. Its birth and influence came into effect on December 18, 1957.
4. Adulthood and guardianship came into effect on January 25, 1958.
5. Inheritance by Will came into effect on February 20, 1958
6. Intestate inheritance came into effect on April 3, 1958.

The codification and reform of family law in Morocco is based on the principle of maslahat mursalah, which in the Maliki school is a popular model of istinbath. The contents of the "old" Mudawwanah reflect the classical fiqh teachings of the Maliki school, which are widely adopted among the Moroccan population. The lawmakers explicitly stipulated that all provisions not

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expressly included in the Mudawwanah text should be reverted to the accepted, well-known, and practiced opinions of the Maliki school.

Likewise, in Indonesia, when viewed from the history of Islamic legal reform, Indonesia is the country that was the last to implement reforms in family law. Reforms in family law in Indonesia can be seen from the enactment of Law Number 1 of 1974 concerning Marriage. As for inheritance, it only began in 1991 with the birth of the KHI (Compiled Islamic Law), which contains provisions on *obligatory wills* . It is natural that Indonesia ranks first in the shift from classical fiqh regarding *obligatory wills* , because the process of creating the KHI was through comparative studies in other Islamic countries, particularly Egypt and Pakistan.

In Indonesia, the reform of Islamic law and the ratification of Law No. 7 of 1989 concerning Religious Courts is the peak point of Islamic law reform, namely the formation of the Compilation of Islamic Law (KHI) as material law in the Religious Courts, the birth of this Compilation of Islamic Law is a continuation of the effort to present a uniform reference to Islamic law material for all Judges in the Religious Courts and related institutions, especially in the fields of marriage, inheritance law and endowments. [2]Pioneered by 7 Islamic Universities, namely IAIN Syarif Hidayatullah Jakarta, IAIN Sunan Kalijaga, IAIN Sunan Ampel, IAIN Ar-Raniri Aceh, IAIN Imam Bonjol Padang, IAIN Alaudin Ujung Pandang, and IAIN Antasari Banjarmasin, with the result of a major work KHI [3]. The legal fields regulated by KHI consist of three books, namely:

1. Book I Concerning Marriage: consisting of 170 Articles (1-170)
2. Book II on Inheritance which consists of 44 articles (171-214)
3. Book III on Endowments consisting of 15 Articles (215-229).

Of the 6 Mudawanah reforms carried out by Morocco which led to the Codification of Islamic law, the author is interested in Book 5 on Inheritance with a will and makes it the object of writing this article, how is the Moroccan book 5 on inheritance with a will, what is the implementation system and inheritance problems faced in the country, who can be categorized as people who receive inheritance with a mandatory will in the country, can inheritance with a mandatory will be given to other people and can it be given to members of a Muslim family who have apostatized etc., comparing it with Book II of the KHI on inheritance that applies in Indonesia, especially those related to mandatory wills.

[2] Suparman Usman, Islamic Law, Principles and Introduction to Islamic Law in the Indonesian Legal System, GMP Publisher, Jakarta, p.147.
[3]Ibid, p. 147

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Understanding Mandatory Wills

A mandatory will itself is part of Islamic inheritance law, and its practice is influenced by sectarian tendencies and societal realities. A mandatory will is a gift of property from the testator to a specific individual who is not a sharia heir. Its implementation is determined by law, even if the testator did not explicitly state such a will before his death.

A mandatory will is a will whose implementation is not influenced or does not depend on the wishes or desires of the deceased.

Legal Basis for Mandatory Wills

The legal basis for obligatory wills in Islam can be found in the Al-Qur'an and hadith. One of the verses that is used as a reference is Surah Al-Baqarah verse 180:
books Upon you if civilized region One of you death that to leave The will is good . For the parents . and the closest relatives In a good way. truly on The righteous
"It is obligatory upon you, when death approaches any of you, if he leaves behind a large amount of wealth, to make a bequest to his parents and relatives in a manner that is honorable; (this is) an obligation upon the righteous."

This verse shows the importance of wills in Islam, especially for relatives who are not included in the heirs.

Asbabun Nuzul verse: According to the experts of the interpretation of the narrations; that the Arabs, when the signs of death came, did not make a will, so their property was seized by the most powerful person among their family, so the companions asked the Messenger of Allah about this, then in this case Allah SWT revealed the verse above (Tafsir Showi surah Al Abaqarah).

This verse explains the law of bequests to mothers, fathers and relatives which was originally obligatory to carry out at the beginning of Islam, according to the opinion of authentic scholars before the inheritance verse (distribution of inheritance) was revealed and after the inheritance verse was revealed, this verse was made legal but the Rasmunya (its writing) remains valid.

In the context of Islamic law in Indonesia, mandatory wills are regulated in Article 209 of the Compilation of Islamic Law (KHI) [4].

1. The inheritance of an adopted child is divided based on Articles 176 to 193, while for adoptive parents who do not receive a will, a mandatory will is given of up to one third of the inheritance of the adopted child.

[4]Compilation of Islamic Law, Fukusindo Mandiri Publisher, Bandung, p. 77

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2. For adopted children who do not receive a will, they are given a mandatory will of up to one third of their adoptive parents' inheritance.

Thus, a mandatory will gives the adopted child and adoptive parents the right to receive a share of the inheritance, even though they are not heirs according to Islamic law.

Opinions About Wajibah Wills

a. Scholars' Opinions on the Existence of Mandatory Wills

Some scholars, in interpreting verse 180 of Surah Al Baqarah, argue that the will to parents and relatives which was originally obligatory, until now this obligation still remains and can be enforced, so that the granting of a mandatory will to the guardians and aqrabin who receive a share of the inheritance can be applied and implemented. While some argue that the provisions of a mandatory will cannot be applied and implemented because the legal provisions regarding wills in the verse have been abrogated, both by the Qur'an and the Hadith.

Scholars differ on the issue of mandatory bequests to guardians and successors who do not receive a share of the inheritance. Some scholars permit it, while others prohibit it [5]. This difference stems from their differing interpretations of the legal provisions for bequests contained in verse 180 of Al-Baqarah.

1. Opinions of Scholars Who Implement Mandatory Wills

These scholars include Abi Abdillah Muhammad bi Umar Ar Razi, Sayid Qutub, Muhammad Abduh, Said Bin Jabir, Rabi' Bin Anas, Qotadah, Maqatil Bin Hayan, Ibn Abas, and Al Hasan. Scholars who enforce the mandatory will can be categorized into three groups in explaining its permissibility, namely [6]:

a. The group which states that all verses of the Koran are Muhkamat, meaning they are not dinasikh (removed or removed from the law), whether by the verses of the Qur'an, Al Qur'an or Al Hadith. Their opinions include the following:

Inna Hadzihiil verse Ghoiru mansukhotin wa Innamaa hiya mufasirotun bil Ayatil Mawarist.

Meaning: In fact, the verse (QS. Verse 180 Al Baqarah) is not narrated, but is explained or interpreted by the verses of the Prophet (Ibnu Katsir, 1966:372).

Hiya Muhkamatan Dhohiruha al generalu wa ma'naha Al Specialu fi walaidaini aldziina la yaritsani Kakafiriina wal abdaini wa fil qaraabati ghoirul waratsati

[5]Suparman Usman, Inheritance Law, Publisher: Gaya Media Pratama, Jakarta. Page 164
[6]Supaman Usman, Yusuf Somawinata, Islamic Fiqh of Law on Marriage, Gaya Media Pratama Publisher Jakarta, 2002, p. 164

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Meaning: This verse (verse 180 Al Baqarah) is the muhkamat of the birth of a general verse and has a special meaning, namely for walidaini who do not receive inheritance, such as those who are infidels or servants, or for relatives who are not among the heirs (Al Qurtubi 1967: 262).

b. The group that states that the general verse of the Quran (Qs. 180 Al Baqarah), which covers guardians and guardians, is interpreted as being contradicted by the verse of the Quran (verses 11, 12) and the hadith which states that there is no will for heirs. Therefore, according to them, verse 180 Al Baqarah only applies to guardians and guardians who, according to general inheritance provisions, do not receive a share of the testator's inheritance. Meanwhile, guardians and guardians who receive an inheritance are excluded by the generality of the above will verse. As follows:

Likewise, the opinions of Said bin Jabir, Rabi Bin Anas, Qatadah, Muqatil Bin Hayan, but their opinions are not nasakh in the current sense, because the Mawarist verse eliminates the law. Some of what is indicated by the generality of the will verse, because the aqrabin there are generally both those who receive inheritances and those who do not receive them; then the law on accepting inheritance was removed, and the law remained for others as shown in the first verse' (Ibnu Kathir, 1966:373).

Some Salaf scholars are of the opinion that the walidain and aqrabin in verse 180 are general, meaning that whether they are heirs or not, a will is obligatory for them all. Then, those who are heirs are specifically designated (takhshis) by the Mawaris verse and hadith. And their obligations apply as rights to those who do not receive an inheritance. Thus, this verse is a (general) legal verse that is takhshis (Hasanain Muhammad Makhluf, 1958:17).

c. The group that states that verse 180 of the Al Baqarah letter is abrogated by the Mawarist verse, but partially, namely limited to waildain and aqrabin who receive inheritance, so the verse still applies to walidain and aqrabin who do not get an heir or do not receive a share of the inheritance (they are not included in the abrogated part). This opinion is the opinion of Ibn Abas, Al hasan, Masruq, Al Dhahak, Muslim Bin Yasar, and Al 'ala Bin Ziyad (Ibn Katsir, 1966:372).

b. Opinions that do not allow mandatory wills

The scholars who stated that mandatory wills are not enforceable because they have been annulled and declared invalid are Ibn Umar and Baidhawi [7]. These scholars are divided into four groups:

[7] . Ibid, p. 169

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a. The group that states that the provisions of obligatory wills in verse 180 (QS Al Baqarah) cannot be enforced because those verses have been overwritten by Mawarist verses, their opinion is, among others, as follows:

When the verse Faraidh was revealed, the verse of the will was abrogated (its rule was removed) (Ibn Kathir, 1966:372).Most of the earlier commentators, including Ibnu Abbas and Ibnu Umar, think that this verse of the will was actually abrogated by the Mawarist verses in Surat An-nisa (Suparman, 1988:124).Then this obligation was abrogated by the Mawarist verses (Hasanain M. Makhluf, 1958:16).

b. The group that states obligatory wills in verse 180 of Al Baqarah cannot be applied and implemented because the verse has been abrogated by the hadith:
LA WASHIYAT LIL WARISTIN. Not according to the Mawarist verse, this opinion was put forward by Al Qurtubi (1967:263).

c. The group that states that the obligatory will in verse 180 of Al Baqarah cannot be enforced because it has been abrogated by the Mawarist verse and the Hadith of the Messenger of Allah (peace and blessings of Allah be upon him). This opinion was expressed by Imam Baidhawi who stated as follows:
This legal situation (will) occurred at the beginning of Islam, then the verse was abrogated by the verse Mawaris and the hadith "Innallaha Qad A'tho Kulla Dzi haqin Haqahu Fala Washiyata Lil Warisin" (Muhammad Abduh, 1373: 136).

d. The group that states that the provisions of obligatory wills in verse 180 of QS Al-Baqarah cannot be applied and implemented because the verse has been abrogated by Ijma, their opinion is as follows:*Indeed, the obligation of the will for parents and relatives has been overruled by Ijma.*

c. People Who Are Entitled to Receive a Wajibah Will.
Abu Daud, Ibn Hazm and the Salaf scholars (including Ibn Jarir, Jabir Bin Zaid, Qatadah, Thawus, Masyruq) are of the opinion that a mandatory will remains valid and its provisions can be applied and implemented to those entitled to receive it. (See Wahab Afif, 1984: 90). The people entitled to receive a mandatory will are the guardians and guardians who are not included or categorized as heirs. This is as stated by the scholars, among others:

Innaha Mansukhatun Fiiman yaritsu Tsaabitatun Fiiman La Yaritsu.

Which means: In fact, this verse (QS, 2 Al Baqarah) has been used for people who are heirs/receive an inheritance and it is still legal for people who have become heirs (Ibnu Katsir,

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1966:372) [8].

Fiiman Waratsathu Ayatul Miiiratsi Falaa Washiyata lahu Wa Man lam yaritsu baqiyanashul washiyatau huna Yasymuluhu.

This means: So whoever becomes an heir because he is appointed by the verse of Mawaris, for him there is no will; and for those who do not receive a will, the law remains, which is determined by the text (Sayyid Utub, 1967:237).[9]

From the description above, it can be understood that the people who are entitled to receive a mandatory will are the walidain and aqrabin who do not receive/receive an inheritance, while those who receive a share of the inheritance do not receive the will.

d. Mandatory Will Provisions in Various Countries

1. Egypt

The provisions regarding mandatory wills in Egypt are contained in the "Qanunu lWasiat" (Egyptian Law of Bequest), namely the Egyptian Will Law Number 71 of 1946. In one of Article 76 it states:

So it is mandatory to give a will to the descendants of this portion (that is, the inheritance that should have been received by the parents if they were still alive) within a maximum limit of 1/3 provided that they are not heirs and do not receive gifts from the heirs as much as the obligation. If the value is less than the amount of the obligation, then it must be given to the will just to complete it/ complete the number of the given part.

Article 77 states:

If the deceased leaves a will to a person who is obligated to make a will that exceeds the amount he should have received, then the excess is an optional will. Whereas if the will is less than what he should have received, then it is obligatory to complete it/filled with that part.

Article 78 states:

A will is obligatory and takes precedence over other wills. If the deceased did not leave a will to the person who was obligated to make a will, and he left a will to another person, then the person who was obligated to make a will receives the portion he should receive from the remaining 1/3 of the tirkah if it is sufficient, if not, then it is for him and for the other person who was given the will within the limit of that 1/3.

[8] Suparman Usman, Yusuf Somawinata, Fiqh Mawaris: Islamic Inheritance Law, Publisher: Gaya Media Pratama Jakarta, p. 172

[9] Ibid, p. 172

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2. Tunis

According to Tunisian Law it states:

"Regarding mandatory wills, Article 192 stipulates that, deviating slightly from the provisions of Egyptian law, mandatory wills can only be made for grandchildren, both male and female, who die before the testator, namely, males receive two shares and females receive one share."

3. **Syria**

Article 232 states:

No will is permitted for descendants except for the first group, which is the group that is prevented from receiving inheritance.

Article 238 states:

(1) A will to non-heirs should not exceed 1/3 of the estate, after paying off any debts, even without the consent of the heirs.
(2) The will cannot exceed a maximum of 1/3.
(3) What comes first is paying off debts, then the will.
(4) A will for all property that is inherited by the deceased if there are no other heirs.

Article 257 states:

If a person dies, leaves behind a son and has a grandson (heir grandson), then the grandson has the right to take part of their father and may get 1/3 as long as the following conditions are met:

a. The obligatory will for grandchildren should be the same as the portion of the father, as long as it is not more than 1/3 of the assets, which is common practice.
b. Grandchildren should not be given property through a mandatory will if they can inherit power from their parents (their father).
c. Mandatory wills are given to grandchildren and children of one person's grandchildren using a 2:1 system.

4. Morocco

According to Moroccan law, obligatory wills are made for children no matter how low they are, but only for sons who die before the deceased.From the series of descriptions above , *the first step is to examine* how Islamic jurisprudence schools in Muslim majority countries influence the regulation and implementation of mandatory wills in the Islamic

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family law system and the author tries to compare the will laws, especially those applicable in Morocco with those in Indonesia.

FORMULATION OF THE PROBLEM

1. How is the application and implementation of mandatory wills in the family law system in Morocco?
2. How is the implementation and execution of mandatory wills in the Islamic family law system in Indonesia?

RESEARCH METHODS

Descriptive legal analysis, using a comparative study approach, is a philosophical and analytical approach that examines the similarities and differences between two or more legal systems, legal institutions, or legal problem-solving processes. This method is used not only to explore the historical, cultural, and philosophical background of the legal system.

THEORITICAL REVIEW

1. Comparative Theory of Legal Comparison (*Tertium Comparationum)* is a theory that discusses the starting point or specific criteria that form the basis for comparing legal system A and legal system B.
2. Sociological Theory of Law or Legal Reconstruction Theory
   Legal reconstruction theory is an effort to reconstruct or rebuild the law in new ways to make it more relevant to the needs of the times and society. This process involves reviewing existing laws, analyzing legal sources (such as the Quran and Hadith for Islamic law or socio-political values for national law), and applying more modern and contextual interpretation methods. The ultimate goal is to create a law that is adaptive, humanistic, and achieves substantive justice, not procedural justice.

RESULTS AND DISCUSSION

1. **How is the application and implementation of mandatory wills in the family law system in Morocco?**

   Because Morocco adheres to the Mailki School of Fiqh, according to Imam Malik, a will may be executed if approved by the heirs. If only some of them agree, the will is taken from those who allow it. The influence of Maliki Fiqh greatly influences the

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classical Fiqh legal system of Morocco. The concept implemented by Maliki Fiqh is the Maslahatul Mursalah Concept, namely considering the welfare of the people or public interests that are not specifically regulated but are in line with the objectives of sharia.

The principle of the provisions of the Mandatory will that is applied in Morocco, which is contained in the Moroccan law, namely the code of Personal status listed in Articles 266 to 269 where the Law in Morocco mandatory wills are carried out against children no matter how low they are, but only from the son who died before the deceased. From here it can be understood that according to Moroccan law the person who is entitled to receive mandatory wills is only the grandson (and so on down) of the descendants of the son, while the granddaughter (even the first level) is not entitled to receive mandatory wills (Abdullah Sidik, 1984:21). Meanwhile, for the descendants of the son that applies to any generation, although there are provisions for each branch of the descendants to veil the lower branch without affecting the other branches.

Morocco does not apply a mandatory will for adopted children, adoptive mothers, let alone children who apostatize, even though Morocco is a country that applies local customary law provisions, but local customary law usually applies provisions that adopted children are heirs, but these provisions do not apply in Morocco.

2. How is the implementation and execution of mandatory wills in the Islamic family law system in Indonesia?

Indonesia is a country influenced by the Shafi'i school of jurisprudence, but in court practice, especially in religious courts, the influence of Shafi'i jurisprudence does not function, because Indonesia does not adhere to one of the schools of jurisprudence that is applicable in the world, as well as in the implementation of mandatory wills. In the case of inheritance, grandchildren will become substitute heirs (Plaat Pervulling) as long as there are no obstacles or hijab that affect their position as heirs.

In the context of Islamic law in Indonesia, mandatory wills are regulated in Article 209 of the Compilation of Islamic Law (KHI).

1. The inheritance of an adopted child is divided based on Articles 176 to 193, while for adoptive parents who do not receive a will, a mandatory will is given of up to one third of the inheritance of the adopted child.
2. For adopted children who do not receive a will, they are given a mandatory will of up to one third of their adoptive parents' inheritance.

The principle of the provisions of Article 209 is the basis for the implementation of

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mandatory wills in Indonesia. In Indonesia, mandatory wills apply to anyone who is considered to be related by blood, even if not by lineage. Mandatory wills in Indonesia can apply to orphans from both the maternal and paternal lines (grandchildren), because they are considered substitute heirs (Plaat Pervuling or Representatie).

In practice, Indonesia implements mandatory wills for adopted children and adoptive mothers. This is in accordance with the provisions of Article 209 of the Indonesian Islamic Law, even though the mandatory will only allows 1/3 of the assets.

Indonesia also applies that apostate children can file an inheritance lawsuit to the Religious Court using a mandatory will, this is because many Religious Court decisions have granted the lawsuit, this can be seen from Court decisions such as decision No. 4 / Pdt. P / 2013 / PA. Bdg, Decision no. 13 / Pdt.P / 2014 / PA. Bdg. MA Decision. No. 368 K / Ag / 1995, which gives inheritance rights from Muslim heirs (both biological parents) to one of the children who is non-Muslim, by means of a mandatory will.

CONCLUSION

First, the interpretation of *wajibah wills* in Muslim countries is influenced by the Islamic jurisprudence schools of thought, such as the Maliki school in Morocco and the Shafi'i school in Indonesia. Despite their differing approaches, both demonstrate efforts to adapt Islamic inheritance law to social needs, whether through legal reform, recognition of adopted children and non-Muslim heirs, or alternatives such as gifts.

Second, the application of mandatory wills in Indonesia is wider than in Morocco, because Indonesia does not apply the provisions of Madzhab Fiqh but places more emphasis on justice and benefit (maslahah murrasa) as well as a national legal approach that integrates the principles of fiqh and a positive legal system that can be felt by the person receiving the will even though according to Islamic law they are not actually entitled to receive the inheritance.

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