



Legal Certainty of the Position of Substitute Heirs in the Compilation of Islamic Law and Its Relevance to the Principle of Inheritance Justice

Kepastian Hukum Kedudukan Ahli Waris Pengganti dalam Kompilasi Hukum Islam dan Relevansinya dengan Prinsip Keadilan Waris

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Abstract: This article examines the legal certainty of substitute heirs under the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) and its relevance to inheritance justice. Article 185 allows the child of an heir who dies before the testator to replace the parent's position, but the phrases *dapat digantikan* and *tidak boleh melebihi bagian ahli waris yang sederajat dengan yang diganti* remain open to interpretation. Using normative juridical research with statutory and conceptual approaches, this study analyzes legal materials through grammatical, systematic, and teleological interpretation. The findings show that substitute heirship is conditional, derivative, and proportional: it arises when the original heir predeceases the testator and no legal impediment exists, derives from the predeceased parent's position, and is limited by Article 185 paragraph (2). The term *anaknyanya* should include male and female grandchildren in the direct descending line, whether through a son or daughter of the testator. However, legal certainty still depends on consistent interpretation by Religious Courts. Article 185 should therefore be understood not merely as a technical inheritance rule, but as a justice-oriented form of Indonesian Islamic legal *ijtihad* that balances legal certainty, proportionality, substantive justice, and family protection. Its protection of descendants from social and economic vulnerability is also relevant to *hifz al-nafs* and *hifz al-nasl*.

Keywords: Compilation of Islamic Law; inheritance justice; legal certainty; *maqāṣid al-sharī'ah*; substitute heirs

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INTRODUCTION

Islamic inheritance law occupies a fundamental position within Islamic family law because it governs the transfer of rights over a deceased person's estate, determines who is legally entitled to inherit, and regulates the portion received by each heir. In the Indonesian legal context, inheritance is not merely a private family matter, but also a legal issue that may

require judicial settlement, especially when disputes arise among Muslim heirs. The importance of inheritance law is therefore closely connected to the need for certainty in identifying heirs, determining the estate, calculating each share, and implementing the distribution of inheritance in accordance with Islamic legal norms and the applicable national legal framework (Pengadilan Agama Rantau, 2018).

The Compilation of Islamic Law, or *Kompilasi Hukum Islam* (KHI), occupies a distinctive position in the development of Islamic family law in Indonesia. It was disseminated through Presidential Instruction Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law and consists of three main books, namely Book I on marriage law, Book II on inheritance law, and Book III on waqf law. Although the KHI is not formally positioned as a statute in the hierarchy of Indonesian legislation, it has functioned as an important substantive reference for judges in Religious Courts when deciding cases involving marriage, inheritance, and waqf (Hajar M, 2016). For this reason, the norms contained in the KHI, particularly those concerning inheritance, play a significant role in shaping the practice of Islamic law within Indonesia's national legal system.

The relevance of the KHI in inheritance matters is strengthened by the authority of the Religious Courts. Article 49 of Law Number 3 of 2006 concerning the Amendment to Law Number 7 of 1989 on Religious Courts provides that Religious Courts have the authority to examine, decide, and resolve cases at the first instance between Muslims in matters including marriage, inheritance, wills, grants, waqf, zakat, infaq, sadaqah, and sharia economic disputes. In the field of inheritance, this authority includes determining who qualifies as heirs, identifying the estate, determining the share of each heir, and carrying out the distribution of the inheritance. Consequently, unclear or ambiguous norms in the KHI may directly affect judicial consistency and legal certainty in inheritance disputes involving Muslims.

One of the most significant provisions in the KHI concerning inheritance is Article 185, which introduces the concept of substitute heirs. Article 185 paragraph (1) provides that an heir who dies earlier than the testator may have his or her position replaced by his or her child, except in cases involving persons disqualified under Article 173 of the KHI. Article 185 paragraph (2) further provides that the share of the substitute heir must not exceed the share of an heir who is of the same degree as the person being replaced (Hajar M, 2016). This provision reflects an effort to address cases in which descendants, especially grandchildren, may lose access to inheritance merely because their parent died before the testator. In this sense, the concept of substitute heirs may be understood as a legal mechanism designed to

protect descendants of a predeceased heir while still maintaining limits on the share received by the substitute heir (Firdaus Muhammad Arwan, 2025). Viewed systematically, the reference to *anaknya* in Article 185 paragraph (1) should not be restricted by the sex of the grandchild or by whether the predeceased heir was a son or a daughter of the testator. The relevant consideration is whether the person claiming substitution is a grandchild in the direct descending line whose parent would have inherited had he or she survived the testator. This interpretation allows both male and female grandchildren, whether descending through a son or a daughter, to obtain a derivative legal position under Article 185.

However, Article 185 of the KHI also raises interpretive problems that are closely related to legal certainty. The phrase *dapat digantikan* may be translated as “may be replaced,” which can be interpreted either as a discretionary possibility or as a normative entitlement. This wording creates uncertainty as to whether the substitution of heirs is optional, dependent on judicial consideration, or mandatory once the legal requirements are fulfilled. In addition, the term *anaknya* raises questions concerning the personal scope of substitution, particularly whether it includes both male and female grandchildren and whether the right may be derived through either a predeceased son or a predeceased daughter of the testator. It is also necessary to determine whether Article 185 should be limited to grandchildren in the direct descending line or extended to more remote descendants. For analytical clarity, this study focuses on grandchildren who directly replace the legal position of their predeceased parent. These ambiguities have also been observed in judicial practice, where some Religious Court decisions have shown uncertainty or inconsistency in applying the concept of substitute heirs under the KHI (Zuhroh, 2017).

The problem becomes more complex when legal certainty is examined together with the principle of justice in inheritance. On the one hand, legal certainty requires clear, predictable, and consistently applied rules so that heirs can understand their legal position before a dispute arises. On the other hand, justice in inheritance requires that the law respond fairly to the social reality of descendants whose parent died before the testator. Sofyan Mei Utama argues that the legality of substitute heirs under Article 185 of the KHI is connected to the principle of justice in inheritance and to the broader objective of benefit or *maṣlaḥah* in Islamic law.¹⁰ At the same time, other scholarship notes that the existence of substitute heirs remains controversial, particularly in relation to its origin, validity, and compatibility with classical Islamic inheritance principles (Hajar M, 2016). This tension shows that the issue of substitute heirs cannot be examined only as a technical question of inheritance calculation, but must also

be assessed in terms of whether the law provides both certainty and substantive justice. The justice dimension of substitute heirship also concerns the protection of descendants following the loss of a parent. The prior death of a parent may place children in a socially and economically vulnerable position, particularly when it removes their access to property that their parent would otherwise have inherited. From the perspective of *maqāṣid al-sharī'ah*, such protection may be associated with *ḥifẓ al-nafs*, through the preservation of the descendants' welfare and continuity of life, and *ḥifẓ al-nasl*, through the protection of family continuity and the legal interests of the next generation.

Previous studies have discussed substitute heirs from several important perspectives. Hajar M. examines the origin and implementation of substitute heirs from the perspective of Islamic law, including the polemics surrounding their validity. Sofyan Mei Utama connects the position of substitute heirs with the principle of justice in Islamic inheritance law (Utama, 2016). Diana Zuhroh analyzes the concept of heirs and substitute heirs through Religious Court decisions and highlights problems in judicial reasoning (Zuhroh, 2017). Abdul Qodir Zaelani views substitute heirs in the KHI as a unique feature of Indonesian Islamic inheritance law that reflects an encounter between Islamic legal eclecticism and local wisdom (Dzakkii & Mohammad Noviani Ardi, 2020). Nevertheless, previous studies have not sufficiently combined an analysis of the personal scope of the term *anaknya* with the issues of legal certainty, proportional inheritance justice, and the protection of descendants within the framework of *maqāṣid al-sharī'ah*. A more focused examination is therefore required to determine whether male and female grandchildren, whether descending through a son or a daughter, may occupy the position of substitute heirs and how that interpretation can be harmonized with the rights of other heirs. Accordingly, this study aims to clarify the legal scope and certainty of substitute heirs under Article 185 of the KHI and to assess its relevance to inheritance justice, *maṣlahah*, *ḥifẓ al-nafs*, and *ḥifẓ al-nasl*.

This study employs a normative juridical research method, also known as doctrinal legal research, because the object of analysis is legal norms governing the position of substitute heirs under the Compilation of Islamic Law (*Kompilasi Hukum Islam/KHI*) (Asikin, 2016). The research uses a statutory approach and a conceptual approach to examine the legal basis, meaning, and normative implications of Article 185 of the KHI, particularly the phrases *dapat digantikan* and *tidak boleh melebihi bagian ahli waris yang sederajat dengan yang diganti*, in relation to the principle of justice in inheritance law (Peter Mahmud Marzuki, 2011). The conceptual approach is also employed to examine inheritance justice and *maṣlahah* within the framework

of *maqāṣid al-sharī'ah*, particularly the principles of *ḥifẓ al-nafs* and *ḥifẓ al-nasl*. These concepts are used to evaluate whether the protection provided to substitute heirs remains compatible with proportionality and the lawful interests of the other heirs. The primary legal materials consist of Presidential Instruction Number 1 of 1991 concerning the Dissemination of the Compilation of Islamic Law, the provisions of the KHI, especially Article 185, and Law Number 3 of 2006 concerning the Religious Courts, particularly Article 49 regarding the authority of Religious Courts in inheritance matters involving Muslims. The secondary legal materials include books, journal articles, and scholarly writings discussing Islamic inheritance law, substitute heirs, legal certainty, and justice in inheritance distribution. The legal materials are collected through library research and analyzed qualitatively by using grammatical, systematic, and teleological interpretation, so that the study can explain not only the textual meaning of substitute heirs under the KHI, but also whether such regulation provides legal certainty and reflects substantive justice in the distribution of inheritance (Ibrahim, 2006).

RESULT AND DISCUSSION

The Normative Concept of Substitute Heirs under Article 185 of the Compilation of Islamic Law

Islamic inheritance law is a normative system that regulates the transfer of a deceased person's estate to legally entitled heirs. In the framework of Islamic family law, inheritance does not merely concern the economic distribution of property, but also the determination of legal status, family responsibility, and the continuation of rights and obligations after death. The Compilation of Islamic Law defines inheritance law as the law governing the transfer of ownership of the estate, determining who qualifies as heirs and the amount of each heir's share (The Compilation of Islamic Laws No. 1 of 1991, 1991).

The concept of heirs in the Compilation of Islamic Law is closely related to the existence of a deceased person, the estate, and persons who have a legally recognized relationship with the deceased. Article 171 of the KHI provides basic definitions concerning inheritance law, including *pewaris*, *ahli waris*, *harta peninggalan*, and *harta waris*. In this sense, the KHI constructs inheritance as a legal relationship that arises after death and requires the identification of both the estate and the persons entitled to receive it (The Compilation of Islamic Laws No. 1 of 1991, 1991).

Under the KHI, heirship is principally based on blood relationship and marital relationship, provided that the heir is Muslim and is not legally prevented from inheriting. Article 174 classifies heirs according to blood relationship and marital relationship, while

Article 171 emphasizes that an heir must have a blood or marital relationship with the deceased, be Muslim, and not be legally barred from inheriting. This formulation shows that heirship under the KHI is not only genealogical, but also juridical, because the legal status of the heir depends on the fulfillment of statutory requirements (The Compilation of Islamic Laws No. 1 of 1991, 1991).

The concept of substitute heirs is specifically regulated in Article 185 of the KHI. Article 185 paragraph (1) provides that an heir who dies earlier than the testator may have his or her position replaced by his or her child, except those mentioned in Article 173. This provision is important because it introduces a mechanism through which the descendants of a predeceased heir may still obtain a legal position in the inheritance distribution.⁴

Article 185 must be read together with Article 173 of the KHI, because the possibility of substitution does not apply to persons who are legally disqualified from inheriting. Article 173 states that a person is prevented from becoming an heir if, based on a final court decision, he or she is found guilty of killing, attempting to kill, maltreating the testator, or falsely accusing the testator of a serious criminal offense. Therefore, the substitute heir mechanism is not an unlimited right, but a conditional legal construction subject to the general requirements and impediments of inheritance law (Hajar M, 2016).

Article 185 paragraph (2) further provides that the share of a substitute heir must not exceed the share of an heir of the same degree as the person being replaced. This limitation shows that the KHI does not merely create access to inheritance for substitute heirs, but also regulates the extent of that access. As a result, Article 185 may be understood as a special mechanism within Indonesian Islamic inheritance law that combines recognition, limitation, and proportionality (Tauratiya & Eka Ningsih, 2024).

The phrase “substitution of position” in Article 185 means that the child of a predeceased heir is placed in the legal position of the parent who would have inherited had he or she still been alive. The substitute heir does not inherit because of an independent direct line to the testator in the ordinary sense, but because the law allows the child to stand in the position of the predeceased parent. This construction is central to understanding why the substitute heir is different from ordinary heirs listed in the classical order of inheritance (Hajar M, 2016).

The personal scope of the term *anaknya* must be interpreted in a manner consistent with the purpose of substitution. Grammatically, the term does not distinguish between male and female descendants. Systematically and teleologically, Article 185 should therefore be

understood as covering male and female grandchildren whose parent died before the testator, regardless of whether the parental line is through a son or a daughter. Their legal position does not arise as an unlimited independent entitlement, but as a derivative right obtained through the predeceased parent whose position is replaced. For the purposes of this study, this interpretation is limited to grandchildren in the direct descending line and does not extend to collateral relatives.

Normatively, the substitute heir mechanism serves to prevent the descendants of a predeceased heir, especially grandchildren, from being entirely excluded from inheritance. Without such a mechanism, a grandchild whose parent died earlier than the testator may lose access to the estate, even though the parent would have been an heir had he or she survived. Therefore, the substitute heir concept reflects a legal response to a situation in which strict application of ordinary heirship rules may produce a result considered socially and substantively unfair (Fadhilah, 2021).

The recognition of male and female grandchildren does not mean that every grandchild automatically qualifies as a substitute heir merely because of a biological relationship with the testator. The right of substitution arises only when the grandchild's parent died before the testator and would have qualified as an heir had he or she remained alive. The substitute heir must also be free from the legal impediments stipulated in Article 173 of the KHI, while the share received remains subject to the limitation in Article 185 paragraph (2). These requirements confirm that substitute heirship is conditional, derivative, and proportional rather than an unrestricted entitlement.

The emergence of substitute heirs in the KHI reflects a contextual form of Indonesian Islamic legal *ijtihad*. The provision responds to family situations in which the rigid application of ordinary heirship rules may exclude grandchildren solely because their parent died before the testator. Article 185 does not eliminate the established structure of Islamic inheritance, but introduces a limited legal mechanism that protects the descendants of a predeceased heir while preserving the proportional interests of other heirs. In this respect, the KHI represents an effort to harmonize Islamic legal principles, national legal policy, judicial practice, and contemporary expectations of family justice (Fiteriana, 2023).

The rights of substitute heirs under Article 185 are expressly limited. Article 185 paragraph (2) provides that the share of the substitute heir must not exceed the share of an heir who is of the same degree as the person being replaced. This limitation prevents the

substitute heir from receiving a greater portion than what would be proportionate within the structure of the inheritance distribution (Safryan Dilapanga et al., 2021).

The limitation in Article 185 paragraph (2) is significant because inheritance law must protect not only the substitute heir, but also the other heirs whose shares may be affected by substitution. If substitute heirs were granted unlimited rights, the mechanism could disturb the balance of inheritance distribution and reduce the shares of existing heirs beyond what the law considers proportional. Therefore, the limitation functions as a safeguard against injustice toward other heirs (Musa, 2021).

The limitation also reflects the broader principle of balance in inheritance distribution. Article 183 of the KHI allows heirs to reach an agreement on distribution after each heir knows his or her lawful share, which indicates that the KHI recognizes both fixed legal shares and the possibility of consensual settlement. In this context, Article 185 paragraph (2) should be understood as a rule that maintains proportionality before any further settlement or agreement among heirs takes place (UIN Maulana Malik Ibrahim Malang Indonesia & Almubarrok, 2020).

Conceptually, substitute heirs under the KHI should not be understood merely as a technical category of heirship. The concept represents a form of legal reform in Indonesian Islamic inheritance law because it recognizes a legal position that responds to social realities not always addressed explicitly in classical inheritance formulations. The substitute heir mechanism therefore shows how Indonesian Islamic law attempts to harmonize inherited doctrine with contemporary needs.

The substitute heir concept also reflects the interaction between Islamic legal doctrine, national legal policy, judicial practice, and social expectations of justice. The KHI was disseminated through Presidential Instruction Number 1 of 1991 and has functioned as an important guide for Religious Court judges, even though its formal status has been debated in the hierarchy of Indonesian legislation. Within that framework, Article 185 becomes a concrete example of how the KHI operates as applied Islamic family law in Indonesia.

Accordingly, the normative concept of substitute heirs under Article 185 of the KHI may be summarized as a conditional, derivative, and proportional legal mechanism. It permits male and female grandchildren in the direct descending line to replace the position of a parent who died before the testator, whether that parent was a son or a daughter of the testator. The mechanism remains subject to the impediments in Article 173 and the limitation of shares under Article 185 paragraph (2). This construction demonstrates the distinctive character of

Indonesian Islamic inheritance law, which seeks to protect descendants without disregarding the lawful and proportional interests of the other heirs.

Table 1. Normative Elements of Substitute Heirs under Article 185 of the Compilation of Islamic Law

Normative Element	Explanation	Legal Implication
Legal basis	Substitute heirs are regulated under Article 185 of the Compilation of Islamic Law.	The concept of substitute heirs has a written normative basis in Indonesian Islamic inheritance law.
Triggering condition	The original heir dies earlier than the testator.	Substitution is only relevant when the heir who would have inherited has predeceased the testator.
Scope of substitute heirs	Male and female grandchildren in the direct descending line may replace the position of their predeceased parent, whether they descend through a son or a daughter of the testator.	Gender and the parental line do not, by themselves, exclude a grandchild from substitution, provided that the requirements of Articles 173 and 185 of the KHI are fulfilled.
Legal impediment	Substitution does not apply to persons disqualified under Article 173 of the KHI.	The right of substitution is conditional and cannot be used by a person legally barred from inheriting
Limitation of share	The share of the substitute heir must not exceed the share of an heir of the same degree as the person being replaced.	Article 185 protects substitute heirs while preventing disproportionate reduction of other heirs' shares

Source: Data Processed, author 2026

The table above shows that Article 185 of the KHI contains five essential components: recognition, triggering condition, personal scope, legal impediment, and limitation of share. Recognition appears in the acknowledgment that the position of a predeceased heir may be replaced. The triggering condition requires the original heir to have died before the testator. The personal scope includes male and female grandchildren in the direct descending line, whether through a son or a daughter. The legal impediment refers to the disqualification grounds contained in Article 173, while the limitation of share is governed by Article 185

paragraph (2). These components confirm that the substitute heir obtains a derivative legal position rather than an unlimited independent entitlement.

This structure is important because it clarifies that substitute heirship under the KHI is not merely a moral claim based on family closeness. It is a legal construction with specific requirements. A grandchild, for example, does not automatically become a substitute heir merely because he or she is biologically related to the testator.

The legal basis of substitution depends on whether the grandchild's parent was an heir who died earlier than the testator, whether there is no legal impediment under Article 173, and whether the share given does not exceed the limitation under Article 185 paragraph (2). Therefore, substitute heirship under the KHI is best understood as a conditional and proportional legal mechanism.

Legal Certainty of Substitute Heirs under Article 185 of the KHI and Its Relevance to Inheritance Justice

Legal certainty is essential in inheritance disputes because the distribution of an estate depends on clear identification of the heirs, the estate, the applicable shares, and the mechanism of distribution. If the legal position of a person claiming inheritance is unclear, the entire distribution may become contested. For this reason, inheritance law requires rules that are not only normatively valid, but also sufficiently clear to guide heirs, judges, and legal practitioners.

The importance of legal certainty in Muslim inheritance disputes is connected to the authority of the Religious Courts. Article 49 of Law Number 3 of 2006 provides that Religious Courts have the authority to examine, decide, and resolve cases at first instance between Muslims in the fields of marriage, inheritance, wills, grants, waqf, zakat, infaq, sadaqah, and sharia economic matters. This authority means that the legal position of substitute heirs under the KHI has direct relevance to judicial practice in Religious Courts (Constitutional Court of the Republic of Indonesia, 2025).

In inheritance matters, legal certainty requires the court to determine who qualifies as heirs, what assets constitute the estate, how each share is calculated, and how the distribution is implemented. The elucidation of Article 49 concerning inheritance includes the determination of heirs, the determination of the estate, the determination of each heir's share, and the execution of distribution. Therefore, ambiguity in Article 185 of the KHI may affect

not only doctrinal interpretation, but also the practical outcome of Religious Court decisions (Wilda Permatasari et al., 2018).

Article 185 of the KHI provides a formal legal basis for the recognition of substitute heirs. The existence of this article means that substitute heirs are not merely a moral claim, family arrangement, or sociological expectation, but a normative legal category within Indonesian Islamic inheritance law. In this respect, Article 185 contributes to legal certainty by expressly recognizing that the position of a predeceased heir may be replaced by his or her child (Hajar M, 2016).

However, formal recognition alone does not automatically guarantee legal certainty. A legal rule may exist in written form, but still create uncertainty if its wording is open to divergent interpretations. This is precisely the problem of Article 185, because its recognition of substitute heirs is accompanied by phrases that invite debate regarding whether substitution is mandatory, discretionary, limited to certain descendants, or subject to broader judicial consideration (Fajri et al., 2023).

The legal force and practical use of the KHI must also be understood within the institutional context of Religious Courts. Although Presidential Instruction Number 1 of 1991 is not identical to a statute, scholarship notes that the KHI has been institutionally used by judges as a substantive reference in resolving disputes among Muslims. Thus, legal certainty in the position of substitute heirs depends not only on the existence of Article 185, but also on how judges consistently interpret and apply that article.²¹

The main ambiguity in Article 185 paragraph (1) lies in the phrase *dapat digantikan*, which may be translated as “may be replaced.” Grammatically, the word *dapat* suggests possibility rather than obligation. This wording raises the question whether substitution occurs automatically when the legal requirements are fulfilled, or whether the court has discretion to decide whether the replacement should be granted in a particular case (Sugianto & Suhartono, 2018).

This ambiguity may affect judicial consistency. If *dapat digantikan* is read as discretionary, different judges may reach different conclusions even in similar factual circumstances. Conversely, if the phrase is interpreted as creating a normative entitlement, substitute heirs would have a more predictable legal position once the conditions of Article 185 and Article 173 are satisfied (Zuhroh, 2017).

A systematic and teleological interpretation is therefore necessary. Systematically, Article 185 should be read in connection with Article 171 on the meaning of heirs, Article 173

on impediments to inheritance, and Article 174 on classifications of heirs. Teleologically, Article 185 should be read in light of its purpose: protecting the descendants of a predeceased heir without disturbing the proportional structure of inheritance distribution.

A second ambiguity arises from Article 185 paragraph (2), which provides that the share of the substitute heir must not exceed the share of an heir of the same degree as the person being replaced. This phrase creates a limitation, but it may also raise questions about the proper comparison group. In different inheritance compositions, determining which heir is “of the same degree” may require careful legal reasoning (Suarni & Syukrinur, 2024).

The technical difficulty becomes more visible when the composition of heirs varies from one case to another. For example, the calculation of a substitute heir’s share may be different when the surviving heirs include children, grandchildren, parents, siblings, or spouses. If judges do not apply a consistent method of comparison, the same provision may produce different outcomes and thereby weaken legal certainty.

Nevertheless, Article 185 paragraph (2) also has a justice-oriented function. By preventing the substitute heir’s share from exceeding the share of an heir of the same degree as the person being replaced, the KHI seeks to avoid excessive reduction of other heirs’ portions. The provision can therefore be read as an attempt to balance the protection of substitute heirs with the proportional rights of existing heirs (Saniah & Harahap, 2025).

The prior death of a parent may place descendants in a condition of social and economic vulnerability because they lose both parental support and access to property that the parent would otherwise have inherited. Substitute heirship cannot be regarded as an absolute guarantee against poverty, but it provides legal protection against the total exclusion of descendants merely because of the timing of their parent’s death. In this sense, Article 185 maintains a degree of continuity in family protection and prevents inheritance law from producing consequences that are formally correct but substantively unfair (Ideham, 2022).

Viewed through the concept of *maṣlaḥah*, the protection provided by Article 185 is directed toward preserving the welfare of descendants without eliminating the lawful rights of other heirs. Its relevance to *ḥifẓ al-naḥs* lies in maintaining access to family property that may contribute to the continuity and welfare of grandchildren after the loss of a parent. Its relevance to *ḥifẓ al-naṣl* lies in protecting the continuity of the family line and ensuring that descendants are not legally abandoned because their parent died earlier than the testator. This justice-oriented protection remains proportional because Article 185 paragraph (2) restricts

the substitute heir's share and prevents the mechanism from causing excessive harm to other heirs.

The relevance of substitute heirs to inheritance justice may also be understood through equality of legal recognition and family protection. Male and female grandchildren should not be excluded from substitution merely because of their sex or because they descend through a daughter rather than a son. Equality in this context does not require every substitute heir to receive an identical amount. It means that each eligible grandchild receives equal recognition as a legal subject whose share is subsequently calculated according to the position of the predeceased parent and the proportional limitation contained in Article 185 paragraph (2).

The analysis above shows that Article 185 of the KHI already provides a normative basis for substitute heirs, but its legal certainty depends on consistent interpretation. The ambiguity of *dapat digantikan* and the technical limitation in Article 185 paragraph (2) require judges to develop a coherent interpretive method. Without consistency, the provision may fail to deliver the certainty that inheritance disputes require.

Legal certainty and justice should not be treated as opposing principles. In inheritance law, certainty is necessary because justice can only be implemented predictably when heirs know their status and approximate shares. At the same time, legal certainty must not become rigid formalism; it must be directed toward fair, proportional, and socially responsive distribution.

Therefore, Article 185 of the KHI should be interpreted as a legal instrument that protects male and female grandchildren in the direct descending line, respects the rights of other heirs, and maintains proportional inheritance distribution. The provision reflects a contextual form of Indonesian Islamic legal *ijtihad* because it prevents the descendants of a predeceased heir from being entirely excluded from the family estate. Its legal certainty depends on a consistent interpretation that treats substitution as a conditional and derivative entitlement once the statutory requirements are fulfilled. In this construction, Article 185 integrates legal certainty, proportional justice, *maṣlaḥah*, *ḥifẓ al-naḥs*, and *ḥifẓ al-naṣl* within Indonesian Islamic inheritance law.

CONCLUSION

The position of substitute heirs under Article 185 of the Compilation of Islamic Law constitutes a conditional, derivative, and proportional legal mechanism in Indonesian Islamic

inheritance law. When an heir dies before the testator, his or her position may be replaced by male or female grandchildren in the direct descending line, whether they descend through a son or a daughter, provided that the predeceased parent would have qualified as an heir, the substitute heir is not disqualified under Article 173, and the share awarded complies with Article 185 paragraph (2). The term *dapat digantikan* should therefore not be interpreted as an unrestricted judicial discretion, but as a conditional legal entitlement once the statutory requirements are fulfilled. Article 185 also functions as a justice-oriented form of Indonesian Islamic legal *ijtihad* because it prevents descendants from being entirely excluded from inheritance solely due to the prior death of their parent. This protection may reduce the social and economic vulnerability experienced by descendants following the loss of a parent and is relevant to *ḥifẓ al-nafs* through the protection of their welfare and continuity of life, as well as to *ḥifẓ al-nasl* through the preservation of family continuity and the legal interests of the next generation. The legal certainty of substitute heirs must nevertheless remain proportional so that the protection afforded to grandchildren does not unjustifiably diminish the lawful rights of other heirs.

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