

Between Testamentary Freedom and Heirs' Rights: Questioning the State's Legal Policy on Legitime Portie Protection in Indonesia

Annisa Ayu Pratiwi¹, Inda Sari Palinrungi²

¹ Faculty of Law, Universitas Prof. Dr. H. M. Arifin Sallatang, Bantaeng, Indonesia.

² Faculty of Sharia and Law, Universitas Islam Negeri Alauddin, Makassar, Indonesia.

Surel Koresponden: annisaayuuu25@gmail.com

Abstrak: Hukum waris memiliki peran penting dalam menjamin kepastian peralihan hak atas harta peninggalan sekaligus melindungi kepentingan para ahli waris. Dalam praktiknya, wasiat menjadi instrumen yang memungkinkan seseorang menentukan kehendaknya atas harta kekayaan setelah meninggal dunia. Persoalan muncul ketika kebebasan pewaris dalam menentukan isi wasiat berpotensi mengurangi atau bahkan menghilangkan bagian mutlak yang secara hukum melekat pada ahli waris tertentu. Kondisi tersebut menimbulkan ketegangan antara prinsip kebebasan berwasiat dan prinsip perlindungan terhadap hak ahli waris. Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Penelitian ini berargumen bahwa kebebasan pewaris dalam membuat wasiat tidak dapat ditempatkan sebagai hak yang bersifat absolut, melainkan harus dipahami dalam kerangka perlindungan hukum terhadap *legitime portie* sebagai batas terhadap kehendak individual pewaris. Hasil penelitian menunjukkan bahwa wasiat tetap memiliki kedudukan hukum sebagai pernyataan kehendak terakhir pewaris, tetapi daya berlakunya dibatasi apabila isinya mengurangi bagian mutlak ahli waris yang dilindungi. Dalam keadaan demikian, ahli waris yang dirugikan memiliki dasar untuk menuntut pengurangan (*inkorting*) terhadap pemberian yang melampaui bagian yang dapat dialihkan melalui wasiat. Temuan ini menunjukkan bahwa konstruksi hukum waris perdata menempatkan wasiat dan *legitime portie* dalam hubungan yang saling membatasi, sehingga kebebasan pewaris tetap diakui tanpa menghilangkan perlindungan terhadap hak mutlak ahli waris. Dengan demikian, perlindungan *legitime portie* mencerminkan upaya menjaga keseimbangan antara otonomi kehendak pewaris dan keadilan bagi ahli waris dalam sistem hukum waris perdata.

Kata Kunci: Kebebasan Berwasiat; Legitime Portie; Hak Ahli Waris

Abstract: Inheritance law plays an important role in ensuring legal certainty in the transfer of rights over an estate while simultaneously protecting the interests of heirs. In practice, a will serves as an instrument that enables a person to determine the disposition of their property after death. Problems arise when testamentary freedom potentially reduces or even eliminates the legally protected reserved portion belonging to certain heirs. This situation creates tension between the principle of testamentary freedom and the principle of protecting heirs' rights. This study employs a normative juridical method using statutory and conceptual approaches. It argues that testamentary freedom cannot be regarded as an absolute right but must be understood within the framework of legal protection for the *legitime portie* as a limitation on the testator's individual autonomy. The findings show that a will retains legal standing as an expression of the testator's final wishes, but its enforceability is limited when its provisions diminish the protected reserved portion of the heirs. In such circumstances, disadvantaged heirs have a legal basis to seek

reduction (inkorting) of testamentary dispositions that exceed the portion lawfully available for disposition. These findings demonstrate that inheritance law places wills and legitieme portie in a mutually limiting relationship, thereby recognizing testamentary freedom without eliminating the protection of heirs' reserved rights. Accordingly, the protection of legitieme portie reflects an effort to maintain a balance between the testator's autonomy and fairness for heirs within the system of civil inheritance law.

Keywords: Testamentary Freedom; Legitieme Portie; Heirs' Rights.



This work is licensed under a Creative Commons Attribution 4.0 International License

A. INTRODUCTION

Inheritance law constitutes a branch of private law governing the transfer of a person's rights and obligations over property after death. Death not only gives rise to personal and familial consequences but also creates legal relations concerning who is entitled to the estate, the extent of the share to which each heir is entitled, and the degree to which the testator's wishes may determine the distribution of the estate. In this context, inheritance law plays an important role in ensuring legal certainty, maintaining continuity of property ownership, and protecting the interests of parties who have legally recognized inheritance rights.[1]

Indonesia has a pluralistic inheritance law system, in which civil inheritance law, Islamic inheritance law, and customary inheritance law coexist. Each system is based on different principles, characteristics, and mechanisms for the distribution of estates. Under civil inheritance law, succession may generally take place either by operation of law or through the expressed wishes of the deceased in a will.[2] A will provides an individual with the legal means to determine who will receive a portion of their property after death. Accordingly, testamentary disposition represents a form of legal recognition of individual autonomy and freedom in determining the fate of one's property.[3]

Such freedom, however, is not unlimited. The legal system reserves a certain portion of the estate for particular heirs in the direct line of succession. This legally protected portion is known as the *legitieme portie*, while heirs entitled to it are referred to as forced heirs or *legitimarissen*. This legal construction reflects the interaction of two competing interests.[4] On the one hand, the testator has an interest in freely determining the disposition of property through a final will; on the other hand, certain heirs possess interests that the State considers worthy of legal protection through a guaranteed minimum share of the estate.

The intersection of these two interests makes *legitieme portie* more than a technical matter of estate distribution.[5] More fundamentally, its existence reflects the State's legal policy in determining the boundary between individual autonomy and the protection of family interests. When the law recognizes testamentary freedom while simultaneously providing that a portion of the estate cannot be freely disposed of where such disposition prejudices the rights of

protected heirs, the State effectively intervenes in the private autonomy of the testator. This intervention raises a fundamental question as to the extent to which testamentary freedom may legitimately be restricted and how the protection of heirs' reserved rights should be constructed without entirely undermining respect for the testator's final wishes.[6]

This issue becomes particularly significant because an infringement of the *legitime portie* does not necessarily render a will automatically without legal effect. An heir whose reserved portion has been prejudiced may seek a reduction, or *inkorting*, of dispositions that exceed the legally disposable portion of the estate. The protection of *legitime portie* therefore demonstrates a distinctive legal character: the State establishes substantive limits on testamentary freedom, yet the actual enforcement of such protection may, under certain circumstances, depend upon action taken by the affected heir. This raises further questions concerning the actual strength of the State's protective framework for heirs' reserved rights and the legal position of testamentary dispositions that conflict with those rights.

A number of previous studies have examined *legitime portie* from different perspectives. Fathur Rozy, examined the validity of testamentary gifts exceeding the *legitime portie* and demonstrated that infringements of the reserved portion are closely connected with the right of protected heirs to challenge dispositions that prejudice their legal entitlement. Anastassia Tamara Tandey et al. discussed the enforcement of heirs' reserved rights against wills that depart from the requirements of *legitime portie*. Meanwhile, Andriyani, Wahyuningsih, and Irfan examined the concept and regulation of *legitime portie* through a comparison between civil and Islamic inheritance law.[7] These studies predominantly position *legitime portie* as a doctrinal institution of inheritance law and as a legal mechanism for protecting forced heirs.

Subsequent studies have further developed the discussion by focusing on legal consequences and the protection of heirs. Mariana and Djaja, examined the position of *legitime portie* in estate distribution from the perspective of civil law. Haerul and Aswari, analyzed testamentary dispositions that prejudice heirs and the legal mechanisms available to protect reserved inheritance rights.[8] In the same year, Muhammad Iqbal and Hadi Iskandar, focused on the responsibility of notaries in relation to testamentary deeds annulled because they infringed the *legitime portie*. These studies indicate that the existing scholarly discourse remains largely directed toward the legal consequences of testamentary dispositions, individual protection of heirs, and the professional responsibility of legal officers involved in the preparation of wills.

More recent studies have continued to emphasize the protection of reserved inheritance rights. Fauzi and Syafriana, for example, examined legal protection for heirs' reserved portions and emphasized the importance of legal remedies through which protected heirs may recover portions of the estate that have been infringed. Other recent studies have also developed case-based analyses concerning disputes over the protection of *legitime portie* and the legal status of testamentary dispositions. Thus, previous scholarship has provided a substantial doctrinal foundation regarding the concept, mechanisms, legal consequences, and forms of protection associated with *legitime portie*.

Nevertheless, these studies have not sufficiently examined *legitieme portie* as a product of the State's legal policy in regulating the relationship between testamentary freedom and the protection of heirs' rights. Existing research has primarily focused on the validity of wills, the legal consequences of infringing the reserved portion, the right of protected heirs to claim *inkorting*, comparative inheritance law, or notarial responsibility. Accordingly, the *state of the art* of this article lies in shifting the analytical focus from the doctrinal operation of *legitieme portie* toward an examination of the legal-policy rationale, orientation, and consequences of State intervention in limiting testamentary freedom for the purpose of protecting heirs' reserved rights.[9]

Based on this research gap, this study addresses two principal questions. First, how is the legal policy concerning the protection of *legitieme portie* constructed as a form of State limitation on testamentary freedom within Indonesia's civil inheritance law system? Second, what is the legal position of testamentary dispositions that diminish heirs' reserved rights, and to what extent do the available mechanisms for protecting forced heirs reflect a balance between the testator's autonomy and the legal protection of heirs? These questions are essential in order to understand *legitieme portie* not merely as a rule concerning the distribution of estates, but also as a reflection of the State's legal orientation in determining the limits of individual freedom when it intersects with legally protected family interests.

This study employs a normative legal research method using statutory and conceptual approaches. The analysis focuses on the legal construction of wills, *legitieme portie*, testamentary freedom, the protection of heirs, and the legal-policy considerations underlying restrictions on the testator's freedom of disposition. Through these approaches, the study does not merely identify the applicable legal norms, but also examines the orientation and legal rationale underlying the protection of heirs' reserved portions. The article is structured into several sections.[10] Following the introduction, the first part of the discussion examines the construction of testamentary freedom and the role of the State within civil inheritance law. The next section analyzes the legal policy underlying the recognition and protection of *legitieme portie* as a limitation on the testator's freedom of disposition. The discussion then turns to the legal status of testamentary dispositions when they conflict with heirs' reserved rights, together with the mechanisms available to protect forced heirs. The final section synthesizes the relationship between testamentary freedom, the protection of heirs, and the State's legal-policy orientation before presenting the conclusion.

This article argues that the protection of *legitieme portie* represents a legal-policy choice by the State to limit the testator's private autonomy in order to guarantee minimum protection for the interests of forced heirs. Testamentary freedom remains recognized as an expression of individual autonomy, yet it is not treated as an absolute right where its exercise eliminates a portion of the estate legally reserved for particular heirs. At the same time, such protection is not entirely automatic, because the restoration of an infringed reserved portion may, in certain circumstances, require affirmative legal action by the protected heir through the available legal mechanisms. In this respect, the legal policy governing *legitieme portie* reflects an attempt to

establish a balance between respect for the testator's final wishes and the protection of fairness and family interests within the law of succession.

B. METHOD

The method employed in this study is normative juridical research, namely legal research that focuses on applicable positive legal norms and their application to particular legal events. This study uses a statutory approach and a conceptual approach. The statutory approach is employed to examine and analyze various legal provisions governing wills and heirs' reserved rights (*legitieme portie*) within civil inheritance law, particularly the provisions contained in the Indonesian Civil Code. Meanwhile, the conceptual approach is used to understand and analyze legal concepts relating to wills, inheritance, and *legitieme portie* based on legal doctrines and the views of legal scholars. The use of these two approaches is intended to provide a comprehensive understanding and analysis of the legal position of wills in relation to heirs' reserved rights, as well as to identify the limitations on testamentary freedom so that the testator's wishes do not conflict with the rights of heirs protected under civil inheritance law.[11]

C. DISCUSSION

1. The Concept of Heirs' Reserved Rights (*Legitieme Portie*) under the Indonesian Civil Code.

A will or testament is a legal act made by a person prior to death. A will is commonly understood as a person's final declaration of intention, which is to be carried out after that person has died. In this sense, a will may be regarded as a written instrument containing provisions that express a person's final wishes before death. A will constitutes a unilateral legal act because it is made solely by the testator without requiring the consent of any other party, and it only takes legal effect after the testator's death.

Where a testator leaves a will, the will must, in accordance with applicable legal provisions, be supported by an authentic and legally accountable instrument. Therefore, the making of a will should be evidenced in writing and contain a clear statement of the testator's intentions regarding matters to be carried out after death.[3] In essence, a will is a declaration of a person's intention concerning the disposition of their property and only produces legal consequences after the testator has died. Under civil law, a will is revocable in nature. Accordingly, as long as the testator remains alive and legally competent, the testator retains the authority to amend or revoke a previously executed will. This authority reflects the testator's freedom to determine and readjust their intentions concerning the estate. Therefore, a will is not absolutely binding during the testator's lifetime because its contents and provisions may be amended or revoked in accordance with the testator's wishes, provided that such actions comply with the applicable legal requirements.[5]

The revocation of a will is a legal act performed by the testator to terminate the effect of all or part of the provisions previously stipulated in the will. Pursuant to Article 992 of the Indonesian Civil Code, the revocation of a will may be carried out through two mechanisms, namely by making a new will or by executing a special notarial deed that expressly declares

the intention to revoke the previous will. Accordingly, the revocation of a will cannot be effected merely through an oral statement but must be made in a form prescribed and recognized by law in order to produce legal consequences.[12]

A will may be revoked in its entirety or only in part. Where the testator executes a new will that expressly contains a declaration revoking the previous will, the provisions of the earlier will cease to have legal effect, provided that the revocation complies with the requirements prescribed by law. However, where the new will does not contain an explicit statement revoking the earlier will, Article 994 of the Indonesian Civil Code provides that the provisions of the previous will may remain valid insofar as they do not conflict with, and can still be reconciled with, the provisions contained in the subsequent will. Thus, the continuing validity of the earlier will depends on whether there is any inconsistency between the contents of the previous will and those of the later will. In addition, the revocation of a will may only be carried out by a testator who possesses the mental capacity to reason soundly.[13] Article 895 of the Indonesian Civil Code requires a person who intends to make or revoke a will to possess the capacity for rational judgment. This provision indicates that the revocation of a will constitutes a legal act that must be performed consciously and based on the testator's free will, without influence, coercion, or pressure from other parties. Accordingly, there are two principal legal mechanisms for revoking a will, namely revocation through a subsequently executed will and revocation through a special notarial deed. These two mechanisms provide legal certainty regarding changes in the testator's intentions while also preventing uncertainty as to which testamentary instrument should be regarded as the testator's final will. Any discussion of wills is inherently connected to the broader issue of inheritance.[14] Within the context of civil law, wills are closely related to inheritance law because they produce legal consequences only after the testator has died. Upon death, the legal status of the testator changes into that of the deceased or decedent, while the property left behind becomes part of the estate to be inherited by the heirs. Therefore, a will cannot be separated from the succession process, since the implementation of the wishes expressed in the will takes place within the broader process of transferring the estate from the deceased to the parties legally entitled to receive it.

The change in the testator's status following death may, in certain circumstances, affect the implementation of the will. Such limitations must, of course, be based on and carried out in accordance with applicable law. In practice, the execution of a will may encounter obstacles, particularly where heirs challenge or object to the dispositions made by the testator. As a result, the legal effect of a testamentary disposition may, through the applicable legal process, be annulled, suspended, or reduced from the amount originally stipulated in the will. This situation demonstrates that legal protection may also be necessary for beneficiaries under a will, provided that such protection remains consistent with the legal principles governing testamentary dispositions and inheritance.[15]

Based on the discussion of the regulation of wills under Indonesian civil inheritance law, it can be understood that a will constitutes a legal instrument through which a person is authorized to express their intentions concerning the disposition of property after death. Under civil law, a will or testament is understood as an instrument containing a person's wishes regarding matters intended to take effect after their death. One of the principal

characteristics of a will is its revocable nature, meaning that it may be withdrawn by the testator during their lifetime, as affirmed in Article 875 of the Indonesian Civil Code.

The legal framework governing wills essentially reflects a balance between the testator's freedom to determine their final wishes and the protection of heirs whose legal status and rights are recognized by law. Accordingly, testamentary freedom is not absolute but remains subject to the limitations imposed by inheritance law. One of the most significant limitations is the recognition of the reserved portion, or *legitime portie*, granted to certain heirs as a form of legal protection for their rights to a specified part of the deceased's estate. Furthermore, the revocable nature of a will demonstrates that the testator retains the authority to alter their intentions for as long as they remain alive. Such revocation may be carried out either by executing a new will or by drawing up a special notarial deed declaring the revocation of all or part of the provisions contained in the previous will, as provided under Article 992 of the Indonesian Civil Code. This legal framework not only provides certainty regarding the status and validity of testamentary instruments but also ensures that the will used as the basis for the distribution of the estate genuinely reflects the testator's final intentions.

Therefore, the existence of a will within civil inheritance law does not merely function as an instrument for determining the allocation of an estate. It also plays an important role in establishing legal certainty, protecting the interests of parties involved in the inheritance process, and preventing disputes that may arise in the future. Consequently, the execution of a will must comply with the legal requirements relating to its form, procedure, and the limits of the testator's authority, while continuing to respect the legally protected rights of heirs. Where these requirements are fulfilled, the testator's final wishes may be lawfully implemented and given legal effect without disregarding the applicable principles and rules of inheritance law.

2. The Legal Position of Wills in Relation to Heirs' Reserved Rights (*Legitime Portie*) from the Perspective of Civil Inheritance Law.

Legitime portie refers to a specific portion of an estate that must be allocated to certain heirs and may not be eliminated by the testator, whether through an inter vivos gift or a testamentary disposition. In essence, *legitime portie* constitutes the portion of an inheritance that must be granted to heirs in the direct line by operation of law, and the testator may not impose any disposition that diminishes such entitlement, as provided under Article 913 of the Indonesian Civil Code. One aspect that remains insufficiently understood by the public, yet carries significant legal relevance, concerns the position of the mother in inheritance. Based on Articles 913 and 914 of the Indonesian Civil Code, a mother is not included among the heirs entitled to a *legitime portie*. Although, in her capacity as a wife, she may qualify as an heir, the legal protection afforded through a reserved portion (*legitime portie*) under these provisions is granted to heirs in the direct line, particularly children as the direct descendants of the deceased.[16] According to Subekti, *legitime portie* constitutes a limitation on an individual's freedom to make a will. Although every person is granted the freedom to arrange the distribution of their property through testamentary dispositions, such freedom must not prejudice heirs who possess reserved inheritance rights. Accordingly, civil

inheritance law recognizes two principles that operate simultaneously, namely testamentary freedom and the protection of heirs, both of which must be maintained in a proper balance.[16] In addition to children, parents may also receive protection in the form of a *legitieme portie* where the deceased leaves no descendants, as provided under Article 915 of the Indonesian Civil Code. This provision demonstrates that civil inheritance law affords protection to certain family members who are related to the deceased by blood. The existence of *legitieme portie* also limits the testator's freedom in determining the disposition of the estate, meaning that the testator cannot freely transfer the entirety of their property to other parties where such transfer would reduce the portion legally reserved for protected heirs.[2]

Where a violation of *legitieme portie* occurs, for example through a testamentary disposition that reduces an heir's reserved portion, the affected heir may bring an action for reduction, or *inkorting*, as provided under Article 916 of the Indonesian Civil Code. This legal remedy is intended to reduce the value of the gift or testamentary disposition so that the heir's reserved portion can be fully restored.[17] Based on the foregoing, *legitieme portie* may be understood as a legal protection mechanism granted to certain heirs who have a blood relationship with the deceased. The right to such reserved portion is guaranteed by law and therefore cannot be unilaterally disregarded by the testator. Consequently, in the distribution of an estate, the fulfillment of the *legitieme portie* must first be taken into account before the remaining estate may be distributed to other parties designated under the will.[5]

Legitieme portie holds a stronger legal position in relation to the execution of a will because it constitutes a reserved portion specifically protected by law for certain heirs. This concept is inseparable from inheritance law as part of civil law, which governs the transfer of a person's rights and obligations over property after death to the parties legally entitled to receive them. Death constitutes the legal event that initiates the inheritance process, resulting in the transfer of the deceased's rights and obligations to the heirs in accordance with applicable law.[18] Under civil inheritance law, succession may occur either by operation of law or through a will.

In principle, every person is free to determine the distribution of their property through a will. However, such freedom is not absolute because it is limited by the reserved rights of heirs. These rights constitute a certain portion of the estate that must be allocated to protected heirs and cannot be eliminated by the testator through a testamentary disposition. Article 913 of the Indonesian Civil Code regulates such reserved rights under the concept of *legitieme portie*. This provision establishes that a certain portion of the estate is legally reserved and that the testator may not make any disposition, whether by gift or will, that diminishes that portion. This demonstrates that the law functions to protect heirs from losing their legally guaranteed rights as a result of the testator's wishes.

Under civil inheritance law, the position of *legitieme portie* in relation to a will is particularly significant because it concerns the protection of certain heirs' rights to a reserved portion of the deceased's estate. *Legitieme portie* constitutes a portion of the estate that receives specific legal protection for entitled heirs, so that the testator may not exclude or reduce such portion through provisions contained in a will. Where the contents of a will result in a reduction of the reserved portion belonging to an heir, the relevant disposition may be reduced through *inkorting* to the extent necessary to restore the *legitieme portie*.

Nevertheless, the existence of *legitieme portie* does not eliminate the testator's freedom to make a will. The testator retains the authority to determine the allocation of part of the estate to particular persons, provided that such dispositions do not prejudice the reserved portion of heirs protected by law. Accordingly, the relationship between a will and *legitieme portie* reflects a legal limitation on the testator's freedom to dispose of the estate. In principle, a will remains enforceable insofar as it does not diminish the reserved rights of heirs, while any portion proven to infringe the *legitieme portie* may be adjusted through the applicable legal mechanisms. This arrangement reflects an effort to maintain a balance between respect for the testator's final wishes and the protection of heirs' rights.

The legal position of a will in relation to heirs' reserved rights may therefore be understood as a relationship between testamentary freedom and limitations imposed by law. In principle, the testator has the authority to determine who will receive the estate or to allocate certain portions of the estate through a will. However, where the contents of the will reduce or infringe the reserved portion belonging to heirs in the direct line, the relevant testamentary provisions cannot be upheld to the extent that they prejudice the *legitieme portie*. In other words, a will cannot be used as a means of eliminating the reserved rights of heirs guaranteed under the Indonesian Civil Code.

The regulation of *legitieme portie* demonstrates that the rights of certain heirs do not depend solely on the wishes of the testator but, under certain circumstances, receive direct guarantees and protection under applicable law. This differs from the position of testamentary beneficiaries, whose entitlement to the estate arises from the wishes of the testator as expressed in the testament. Therefore, where there is an inconsistency between the provisions of a will and the reserved portion to which an heir is legally entitled, the heir's rights protected through *legitieme portie* must remain a primary consideration in the execution of the will.

Where a testator stipulates through a will that all or a substantial portion of the estate is to be transferred to a particular party, thereby reducing the reserved portion belonging to heirs in the direct line, the disadvantaged heirs are, in principle, entitled to claim the fulfillment of their *legitieme portie*. The legal measure used to reduce dispositions that exceed the portion legally available for testamentary disposition is known as *inkorting*. This mechanism serves as an adjustment to testamentary provisions insofar as such dispositions result in an infringement of the reserved portion protected by law. Therefore, the assessment of a will concerns not only the validity of its formation but also the extent to which its provisions can be implemented without diminishing the rights of heirs who receive legal protection.

By way of illustration, where a testator leaves a child as an heir in the direct line and, through a will, transfers most of the estate to another party, such disposition must still take into account the child's reserved portion. If the execution of the will results in a reduction of the child's *legitieme portie*, the relevant testamentary provision cannot be fully enforced to the extent that it prejudices the heir's reserved rights. The portion exceeding the legally permissible limit may be reduced through the *inkorting* mechanism, thereby ensuring that the heir's entitlement to the reserved portion is fulfilled in accordance with civil inheritance law.

Based on the foregoing, it can be understood that the legal position of a will under civil inheritance law is not absolute. A will grants the testator the authority to determine the allocation of the estate in accordance with their expressed wishes, but such authority remains subject to limitations established by law, particularly those concerning *legitieme portie*. These limitations are necessary to maintain a balance between respect for the testator's final wishes and the protection of heirs who are legally entitled to a reserved portion. Accordingly, the assessment of a will should not be based solely on compliance with formal and substantive requirements, but must also take into consideration the impact of its provisions on the reserved portion belonging to protected heirs.

Ultimately, the legal framework governing the relationship between wills and *legitieme portie* demonstrates that the law recognizes and respects the testator's freedom, while preventing that freedom from being exercised in a manner that disregards the legally protected rights of heirs. *Legitieme portie* functions both as a limitation on the testator's authority to determine the contents of a will and as an instrument of legal protection for heirs entitled to a reserved portion. Accordingly, such limitations are intended to provide legal certainty and protection in the inheritance process while maintaining a fair balance between the interests of the testator and the rights of the heirs.

D. CONCLUSION

Based on the overall discussion concerning the regulation of wills under civil inheritance law, the concept of *legitieme portie* under the Indonesian Civil Code, and the legal position of wills in relation to heirs' reserved rights, it can be understood that a will constitutes a legal instrument that grants an individual the authority to determine their wishes regarding the disposition of property to be left after death. In its implementation, testamentary freedom is not absolute but must be exercised in accordance with the requirements and limitations established under civil inheritance law. A will is also revocable as long as the testator remains alive and legally competent. Therefore, the provisions contained in a will should fundamentally reflect the testator's final wishes.

E. REFERENCE

- [1] M. AmmarNurHandyka, "Globalisasi Dalam Dinamika Kontemporer: Studi Kasus Perubahan Sosial Dan Transformasi Budaya," *J. Econ. Technol. Soc. Humanit.*, vol. 1, no. 1, pp. 1–6, 2023, doi: <https://doi.org/10.59945/emnmbp86>.
- [2] Ahmad Hunaeni Zulkarnaen, "SISTEM HUKUM HUBUNGAN INDUSTRIAL PANCASILA DANPRODUKTIVITAS PERUSAHAAN DAN KESEJAHTERAANPEKERJA/BURUH," *Res Nullius Law J.*, vol. 1, no. 1, pp. 1–16, Jan. 2019, Accessed: Apr. 05, 2025. [Online]. Available: <http://ojs.unikom.ac.id/index.php/law>
- [3] M. G. Rahman, S. Tomayahu, F. Syariah, I. Sultan, and A. Gorontalo, "Penegakan Hukum Di Indonesia," Gorontalo, Indonesia, Mar. 2020. [Online]. Available: <http://journal.iaingorontalo.ac.id/index.php/ah>

- [4] P. K. Sosial, “Kebijakan formulasi dalam ruu kuhp terhadap pidana kerja sosial sebagai alternatif pidana penjara,” vol. 10, no. 2, pp. 707–713, 2022.
- [5] K. K. Nawawi Fakultas Agama Islam UIKA Bogor Jl Sholeh Iskandar, “Harta Bersama Menurut Hukum Islam dan Perundang-undangan di Indonesia * (TREASURE HOUSEHOLDS ACCORDING TO ISLAMIC LAW AND POSITIVE LAW IN INDONESIA),” 2013.
- [6] Y. A. Hamzah and A. A. Mangarengi, “The Authority of PPAAT in Making AJB Related to Heritage Land Owned by a Minor,” *SIGN J. Huk.*, vol. 4, no. 2, pp. 364–375, Mar. 2023, doi: 10.37276/sjh.v4i2.253.
- [7] T. Akbar and A. Falah, “Analisis Pidana Kerja Sosial Sebagai Alternatif Pidana Jangka Pendek : Perspektif KUHP Baru Indonesia,” vol. 3, 2025.
- [8] M. Andry Wikra Wardhana Mamonto, “Formulation of Cultural Values Internalization Policy by Regional Government: Efforts to Mitigate the Negative Impact of Globalization on Children”, doi: 10.38035/jlph.v3i4.
- [9] Mubarak Nafi, “SOSIO YUSTISIA: Jurnal Hukum dan Perubahan Sosial SISTEM PEMERINTAHAN DI NEGARA-NEGARA RUMPUN MELAYU,” vol. 1, 2021, [Online]. Available: <https://www.bing.com/ck/a?!&&p=b30e29e4014e0b8dfbc6a73a31e5e5f21dee3fabd45ae1debeba88b79f192772JmltdHM9MTc0MjA4MzIwMA&ptn=3&ver=2&hsh=4&fclid=08d2f883-c725-6071-1353-edc9c67361f4&psq=SISTEM+PEMERINTAHAN+DI+NEGARA-NEGARA+RUMPUN+MELAYU&u=a1aHR0cDovL3JlcG9za>
- [10] O. H. Safithri, “Sita Marital (Maritale Beslag) atas Harta Bersama dalam Perkawinan dalam Hal Terjadi Perceraian”.
- [11] D. J. A. Hehanussa *et al.*, *METODE PENELITIAN HUKUM*. CV WIDINA MEDIA UTAMA, 2023.
- [12] D. Anindya, H. Stie, and M. Riau, “PERBANDINGAN PEMBAGIAN HARTA BERSAMA MENURUT HUKUM POSITIF DAN HUKUM ISLAM,” *J. Gagasan Huk.*, vol. 03, no. 02, 2021, [Online]. Available: <https://journal.unilak.ac.id/index.php/gh/>
- [13] Fitra Dewi Nasution Ferry Aries Suranta, “PENYELESAIAN SENGKETA PERDATA DENGAN MEDIASI MENURUT PERATURANMAHKAMAH AGUNG NOMOR 1 TAHUN 2008,” *Mercatoria*, vol. 5, no. 1, pp. 35–46, Jan. 2012.
- [14] A. Pratiwi, B. Santoso, P. Studi, and M. Kenotariatan, “Arti Penting Pengaturan Franchise Dalam Sistem Tata Hukum Perdata Indonesia,” *NOTARIUS*, vol. 16, 2023.
- [15] D. Nur Azra, F. Annisa Qutrunnadaa, Y. Simamora, R. Dio Wijatmika, F. Siswajayanthi, and U. Pakuan Bogor, “Lisensi: Creative Commons Attribution ShareAlike 4.0

International License (CC BY SA 4.0) 65 Perkembangan dan Pembaharuan Terhadap Hukum Perdata di Indonesia Beserta Permasalahan Eksekusi dan Mediasi.” [Online]. Available: <https://ejournal.yayasanpendidikandzurriyatulquran.id/index.php/AlZayn>

- [16] A. Aswari, “Peran Ganda Administrator sebagai Mediator dalam Sengketa Transaksi Ponsel Bekas secara Online,” *J. Ilm. Kebijak. Huk.*, vol. 12, no. 3, p. 259, Dec. 2018, doi: 10.30641/kebijakan.2018.v12.259-274.
- [17] H. Hasbi, “Alternatif Penyelesaian Sengketa Pertanahan Melalui Proses Mediasi di Badan Pertanahan Kota Makassar,” *PLENO JURE*, vol. 9, no. 1, pp. 36–46, Apr. 2020, doi: 10.37541/plenojure.v9i1.299.
- [18] M. Mangowal, “ANALISIS YURIDIS TERHADAP METERAI ELEKTRONIK DITINJAU DARI UNDANG-UNDANG NOMOR 10 TAHUN 2020 1 Oleh: Feiti Veronika Kalesaran 2 Fritje Rumimpunu 3.” [Online]. Available: <https://aptika.kominfo.go.id/2020/01/revolusi-industri-4-0/>