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The Role and Responsibilities of a Notary in the Deed of Inheritance Renunciation and Its Impact on Creditor Protection: An Islamic Law Perspective[1]

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Abstract:
This study aims to analyze the role and responsibilities of notaries in drafting deeds relating to the renunciation or transfer of inheritance rights, and to examine their implications for creditor protection under civil and Islamic law. A normative juridical method was employed, utilizing statutory, conceptual, case-based, comparative, and *fiqh mawaris* approaches. The findings establish a fundamental distinction between renunciation of inheritance (verwerping van erfenis) under Article 1057 of the Indonesian Civil Code—which falls within the court's jurisdiction—and the transfer of inheritance rights formalized through notarial deeds under contractual freedom. Within Islamic inheritance law, the relevant concepts are not renunciation of inheritance but rather takharuj (التخارج) and tashaluh (التصالح), which are mechanisms for the consensual transfer of inheritance rights after such rights have vested, pursuant to the principle of *ijbari*. With respect to creditor protection, Islamic law explicitly prioritizes the settlement of debts over the distribution of inheritance, as stipulated in Surah An-Nisa verses 11–12, so that no agreement among heirs may lawfully prejudice the rights of legitimate creditors. Indonesian civil law, by contrast, continues to rely on repressive mechanisms such as *actio pauliana* under Article 1341 of the Civil Code and Article 1061, which have not provided adequate preventive protection. Comparative analysis with Dutch law (*beneficiaire aanvaarding*) and French law (*renonciation à succession*) underscores the need for comprehensive reform of Indonesian inheritance law. This study recommends strengthening notarial professional standards, developing more comprehensive regulations, and harmonizing Islamic inheritance principles with civil law within Indonesian notarial practice.

Keywords: Notary; Inheritance Renunciation; *Takharuj*; Creditor Protection; Islamic Inheritance Law

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A. INTRODUCTION

The responsibility of a notary in drafting a deed of inheritance renunciation cannot be confined to the formal dimension of producing an authentic deed. Rather, such responsibility must be understood as a comprehensive legal accountability encompassing administrative, civil, and potentially criminal dimensions. Within the framework of Indonesian positive law, particularly under Law Number 2 of 2014 concerning the Office of Notary, notaries are required to act in accordance with the principles of prudence, accuracy, impartiality, and independence. However, practical realities indicate that these normative standards have not yet been implemented optimally in everyday notarial practice. In many cases, notarial practice still exhibits a strong tendency toward legal formalism, with notaries often focusing on fulfilling formal procedural requirements rather than conducting substantive examinations of the deed's legal consequences. As a result, the preventive function of the notary within the legal system often remains underdeveloped in practice, creating legal vulnerabilities particularly for third parties such as creditors.

From the perspective of creditor protection, deeds of inheritance renunciation pose fundamental legal problems because they directly preclude the transfer of the deceased's debts to the heirs. Within the Indonesian civil law system, which largely derives from the Kitab Undang-Undang Hukum Perdata, creditor protection continues to depend heavily on repressive legal instruments such as the *actio pauliana*. In practice, however, such mechanisms face considerable limitations in terms of evidentiary burden and procedural effectiveness. Creditors bear the burden of proving bad faith on the part of heirs, a task that is often difficult to establish through litigation. Consequently, a structural imbalance emerges between heirs, who possess broad freedom to renounce inheritance, and creditors, who must undergo lengthy judicial proceedings merely to preserve their legal rights. This imbalance reflects a structural weakness in the current Indonesian legal framework, in which the system appears to prioritize the autonomy of heirs while insufficiently considering creditors' vulnerability.

Compared with the Dutch legal system, the parent legal system of the Indonesian Civil Code shows a more progressive and balanced approach. Dutch inheritance law recognizes the concept of *beneficiaire aanvaarding*, which allows heirs to accept inheritance while limiting liability solely to the value of the inherited estate. This mechanism creates equilibrium because heirs are protected from excessive debt while creditors retain access to estate assets for repayment. Similarly, the French legal system treats inheritance renunciation (*renonciation à succession*) not as an unlimited and absolute right, but as a legal act subject to judicial scrutiny when it harms creditors' interests. French law provides creditors with opportunities to challenge an inheritance renunciation when bad faith or an abuse of rights can be demonstrated. Compared with both systems, Indonesian law still lacks adequate preventive instruments to effectively supervise inheritance renunciation, resulting in creditor protection that tends to remain reactive rather than preventive. These comparative observations reinforce the urgency of reforming Indonesian inheritance law toward more comprehensive and balanced protection mechanisms.

The issue of inheritance rights waivers and their legal implications has become increasingly important in the Indonesian legal system, particularly given the interplay among notarial practice, creditor protection, and Islamic inheritance law. From the perspective of Islamic inheritance law, the transfer of inheritance rights is governed by principles that differ significantly from those found in the Civil Code. Islamic inheritance law is founded on the principle of ijbari, whereby inheritance rights arise automatically by operation of law upon the death of the deceased, without requiring personal consent or contractual agreement from the heirs. Nevertheless, Islamic jurisprudence recognizes mechanisms such as *takharuj* (التخارج) and *tashaluh* (التصالح), which allow heirs to relinquish or transfer their inheritance rights through mutual agreement after such rights have vested. These mechanisms accommodate consensual redistribution of inheritance without prejudicing creditors' rights, since Islamic law consistently prioritizes settling the deceased's debts before any distribution of inheritance among heirs. Therefore, examining notarial responsibility in deeds waiving inheritance rights from both civil and Islamic law perspectives is essential to achieving legal certainty, justice, and protection for all parties involved.

Within this context, the role of the notary should undergo a significant paradigm shift from merely functioning as a legal drafter to becoming an active legal gatekeeper responsible for maintaining equilibrium among competing legal interests. A notary must not merely verify the formal validity of a deed, but must also assess potential legal risks arising from the transaction, including unresolved debts left by the deceased. This preventive obligation is particularly important given the notary's position as a public official entrusted with public confidence and legal authority. Failure to exercise such prudence may not only trigger future legal disputes but also expose the notary to civil, administrative, or even criminal liability. Therefore, notarial responsibility extends beyond technical compliance with procedural rules to include the broader obligation to prevent legal abuse and to uphold principles of fairness and legal certainty.

Based on the foregoing considerations, systemic and sustainable legal reforms are clearly necessary within the Indonesian legal system. First, provisions in the Indonesian Civil Code should be amended to introduce the concept of limited acceptance of inheritance (*beneficiair*) as a balanced alternative between total acceptance and complete rejection of inheritance, capable of protecting both heirs and creditors simultaneously. Second, explicit legal norms should be established to provide preventive protection for creditors, including possible restrictions on renunciation of inheritance under specific circumstances. Third, stricter operational standards should be imposed on notaries, particularly regarding their obligation to conduct legal due diligence before drafting deeds of renunciation of inheritance. Fourth, institutional supervision over notarial practice must be strengthened to ensure compliance with prudential and professional standards. These reforms are necessary not only to enhance legal certainty but also to achieve substantive justice and balanced protection for all parties affected by inheritance transactions. Accordingly, this study aims to analyze the role and responsibilities of notaries in drafting deeds of inheritance renunciation and their implications for creditor protection, examined through the integrated perspectives of Indonesian positive civil law and Islamic inheritance law.

B. METHODE

This study employs a normative juridical research method to examine legal norms governing notarial authority, waiver of inheritance rights, creditor protection, and the integration of Islamic inheritance principles into the Indonesian legal system. Normative legal research is utilized because the issues addressed in this study primarily concern legal doctrines, statutory provisions, legal principles, and judicial interpretations rather than empirical social phenomena. Accordingly, the research analyzes the coherence and interaction among civil law, notarial law, creditor protection mechanisms, and Islamic inheritance law, with particular emphasis on the structural imbalance between heirs' rights and creditors' legal interests identified in the introduction.

The study applies five legal approaches in an integrated manner. First, a **statutory approach** is employed to examine relevant legislation, including the Indonesian Civil Code (*Burgerlijk Wetboek*), particularly Articles 1057, 1061, and 1341 concerning inheritance renunciation, creditor protection, and *actio pauliana*; Law Number 2 of 2014 concerning the Office of Notary, which governs the principles of prudence, accuracy, impartiality, and independence binding upon notaries; and Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. These statutory instruments are analyzed to determine the scope of notarial authority and the legal consequences of inheritance-related acts that may affect creditors' substantive rights.

Second, a **conceptual approach** is used to clarify fundamental legal concepts that constitute the core issues of this study. Particular attention is given to distinguishing between inheritance renunciation (*verwerping van erfenis*) under Article 1057 of the Civil Code, waiver of inheritance rights as a contractual legal act formalized through notarial deeds, and the Islamic law concepts of *takharuj* (التخارج) and *tashaluh* (التصالح). This approach is essential because terminological ambiguity has frequently led to conceptual misunderstandings regarding the authority and responsibility of notaries in inheritance-related matters. Through doctrinal analysis, the study seeks to establish clear conceptual boundaries between legal institutions recognized under civil law and those recognized under Islamic inheritance law, including the principle of *ijbari* (الإجباري) as the foundational basis of succession in Islamic jurisprudence.

Third, a **case-based approach is adopted by examining** judicial decisions relevant to creditor protection and inheritance-related legal acts, including Supreme Court Decision Number 319 K/Pdt/2010 and Supreme Court Decision Number 1572 K/Pdt/2015. These decisions are analyzed to identify judicial reasoning concerning bad faith, abuse of rights, legal certainty, and the protection of third parties affected by inheritance transactions. The case approach also serves to evaluate how Indonesian courts balance the competing interests of heirs, creditors, and notaries when inheritance rights are transferred, waived, or disposed of through legal instruments.

Fourth, a **comparative legal approach** is incorporated by examining selected aspects of Dutch and French inheritance law. The Dutch concept of *beneficiaire aanvaarding* and the French approach to *renonciation à succession* are analyzed to provide comparative insights into how other legal systems address the tension between inheritance rights and creditor protection. This comparative analysis aims to identify alternative regulatory models, particularly preventive legal mechanisms, that could inform future legal reform in Indonesia and strengthen the balanced protection of both heirs and creditors, as recommended in this study.

Fifth, a ***fiqh mawaris* approach** is employed to strengthen the Islamic legal perspective by examining classical and contemporary Islamic legal doctrines concerning inheritance distribution, debt settlement, *takharuj*, and *tashaluh*. Primary Islamic legal sources, including Surah An-Nisa verses 11 and 12 of the Qur'an, are analyzed alongside scholarly interpretations that address the priority of debt repayment over inheritance distribution and the principle of ijbari as the basis for automatic succession in Islamic law. This approach is intended to determine the extent to which Islamic inheritance principles can be harmonized with notarial practice and creditor protection within Indonesia's pluralistic legal framework.

The legal materials used in this research comprise primary, secondary, and tertiary sources. Primary legal materials include statutory regulations, judicial decisions, and Islamic legal sources. Secondary legal materials include legal textbooks, journal articles, scholarly commentaries, and prior research on notarial responsibility, inheritance law, creditor protection, and Islamic inheritance law. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting references that help clarify legal terminology and concepts. The collected legal materials are analyzed qualitatively through **prescriptive legal analysis**, which is employed not only to describe existing legal norms but also to evaluate their adequacy in addressing issues of notarial authority, waiver of inheritance rights, and creditor protection. Through this analysis, the study seeks to formulate legal arguments and policy recommendations to enhance legal certainty, strengthen preventive creditor protection, clarify the limits of notarial authority, and promote the harmonization of civil law and Islamic inheritance law within Indonesia's contemporary legal system.

C. RESULTS AND DISCUSSION

1. Legal Distinction Between Inheritance Renunciation, Inheritance Rights Waiver, and *Takharuj*. A clear conceptual distinction between inheritance renunciation, inheritance rights waiver, and *takharuj* is fundamental to determining the scope of notarial authority and ensuring legal certainty in inheritance-related transactions. As noted in the introduction, terminological ambiguity in legal practice has frequently led to misunderstandings about the role and responsibilities of notaries, as well as the legal consequences affecting creditors.

Under the Indonesian Civil Code, inheritance renunciation (*verwerping van erfenis*) is regulated under Article 1057, which stipulates that an heir who intends to reject an inheritance must declare such rejection before the Registry of the District Court within whose jurisdiction the inheritance is opened. Inheritance renunciation, therefore, constitutes a judicial act falling exclusively within the authority of the court, not the notary. Its legal consequence is that the heir is deemed never to have become an heir from the outset, thereby eliminating all rights and obligations attached to the inheritance. Accordingly, a notary does not possess legal authority to create an authentic deed constituting an inheritance renunciation within the meaning of Article 1057.

By contrast, an inheritance rights waiver is a legal act undertaken after inheritance rights have vested in the heirs. An heir voluntarily relinquishes or transfers his or her inheritance rights to another heir or interested party based on the principle of freedom of contract embodied in Article 1338 of the Civil Code. Since this act constitutes a consensual agreement among the parties, it may legitimately be formalized by an authentic deed executed by a notary. The notary's authority in this context derives not from inheritance renunciation provisions but from the authority granted under Law Number 2 of 2014 concerning the Office of Notary to record and authenticate legal agreements.

From the perspective of Islamic inheritance law, the concept most analogous to the waiver of inheritance rights is *takharuj* (التخارج). *Takharuj* refers to a consensual agreement among heirs whereby one or more heirs voluntarily withdraw from their inheritance rights, with or without compensation, in favor of other heirs. Closely related is the concept of *tashaluh* (التصالح), which refers to an amicable settlement among heirs concerning the redistribution of inheritance shares, recognized as an extension of the broader principle of *sulh* (الصلح) in Islamic jurisprudence. Both *takharuj* and *tashaluh* operate only after inheritance rights have vested under the principle of *ijbari* (الإجباري), under which inheritance passes automatically to heirs upon the death of the deceased by operation of Islamic law, without requiring personal consent or contractual agreement. Consequently, Islamic inheritance law does not recognize renunciation of inheritance in the same sense as Article 1057 of the Civil Code. The principle of *ijbari* establishes that inheritance rights cannot be rejected before they vest; rather, redistribution or waiver may only occur after such rights have legally transferred to the heirs.

This distinction carries significant implications for the scope of notarial authority. A notary cannot lawfully create a deed of inheritance renunciation as contemplated by Article 1057, since such authority belongs exclusively to the District Court. However, a notary may draft authentic deeds concerning the waiver of inheritance rights, takharuj, and *tashaluh* agreements, as these legal acts arise from consensual arrangements among heirs after inheritance rights have vested. Therefore, any analysis of notarial responsibility in inheritance-related matters must be grounded in deeds of inheritance rights waiver or *takharuj*, rather than inheritance renunciation in the strict legal sense.

2. Notarial Responsibility in Drafting Deeds of Inheritance Rights Waiver (*Takharuj*)As established in the introduction, the responsibility of a notary in drafting deeds of inheritance rights waiver cannot be confined to the formal dimension of producing an authentic deed. Such responsibility must be understood comprehensively, encompassing administrative, civil, and potentially criminal dimensions in accordance with Law Number 2 of 2014 concerning the Office of Notary.

Administratively, a notary is required to perform their duties in accordance with the principles of prudence, accuracy, impartiality, and independence as mandated by the Law on the Office of Notary. Violations of these principles may result in sanctions ranging from written warnings and temporary suspension to permanent dismissal. From a civil perspective, a notary may be held liable if the deed they prepare causes losses due to error or negligence constituting an unlawful act (*onrechtmatige daad*). Criminal liability may further arise where there is an element of deliberate intent, such as falsification of data or abuse of authority in the preparation of the deed.

The complexity of notarial responsibility intensifies when deeds of inheritance-rights waiver are used to avoid obligations to creditors. In such circumstances, the waiver may be challenged through the actio pauliana mechanism under Article 1341 of the Civil Code and Articles 41–47 of Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. Jurisprudence confirms this position. In Supreme Court Decision Number 319 K/Pdt/2010, the Court affirmed that legal acts carried out with the intention of evading obligations toward creditors may be annulled as they prejudice third-party interests. Similarly, in Supreme Court Decision Number 1572 K/Pdt/2015, the Court held that legal acts conducted in bad faith and causing harm to other parties may be declared null and void. These decisions confirm that the exercise of inheritance rights, including their waiver, must not be abused for purposes contrary to the law.

Within this framework, the notary's preventive function becomes particularly critical. A notary must not merely act as a passive recorder of parties' intentions but must serve as an active legal gatekeeper, identifying potential indications of bad faith before a deed of inheritance rights waiver is executed. This includes examining whether the deceased's outstanding debts have been identified and whether the waiver may reduce assets available for creditor satisfaction. The principle of *informed consent* in deed preparation is equally important: notaries are obliged to provide adequate legal explanation to ensure that parties fully understand the legal consequences of their actions, particularly the potential impact on third-party creditors. Failure to discharge this obligation may expose the notary to legal liability if the deed subsequently gives rise to disputes.

This preventive orientation aligns with the broader objective identified in the introduction: strengthening the role of the notary from a mere legal drafter into an active legal gatekeeper responsible for maintaining equilibrium among the competing interests of heirs, creditors, and the public interest. A notary who fails to exercise this preventive function not only risks personal legal liability but also undermines the broader integrity of the legal system.

3. Implications of Inheritance Rights Waiver (*Takharuj*) for Creditor Protection

Under the doctrine of *saisine*, as embodied in the Indonesian Civil Code, heirs automatically acquire the deceased's rights and obligations upon the opening of the inheritance, without the need for formal acceptance. Consequently, the estate transferred to heirs includes not only assets but also liabilities owed to creditors. This principle ensures the continuity of legal obligations after the debtor's death and establishes that creditors' interests are inherently embedded in the inheritance system.

The Indonesian Civil Code expressly addresses creditor protection through Article 1061, which provides that creditors prejudiced by an heir's renunciation of inheritance may seek judicial authorization to accept the inheritance on behalf of the debtor-heir. This provision reflects the principle that renunciation of inheritance is not an absolute right and remains subject to limitation when its exercise unjustly harms third parties. Beyond Article 1061, creditor protection may be pursued through *the actio pauliana under Article 1341 of the Civil Code, which enables creditors to challenge legal acts performed in bad faith that prejudice* their interests. In the context of inheritance rights waiver or *takharuj*, this mechanism is particularly relevant when an heir relinquishes inheritance rights to reduce assets that could otherwise satisfy creditor claims.

However, as noted in the introduction, these mechanisms remain predominantly reactive. Creditors bear the burden of proving bad faith, a task that is often difficult to accomplish through litigation, resulting in the structural imbalance between heirs' broad freedom to waive inheritance rights and creditors' limited access to preventive legal safeguards. The inconsistency in the application of good faith principles, as observed in jurisprudence, further contributes to legal uncertainty for creditors.

Comparative analysis reinforces the need for reform. The Dutch concept of *beneficiaire aanvaarding* offers a balanced intermediate mechanism, allowing heirs to accept the inheritance while limiting liability to the value of the estate, thereby ensuring that creditors retain access to the estate's assets for repayment. The French approach to *renonciation à succession* similarly subjects inheritance renunciation to judicial scrutiny where it prejudices creditor interests. Both models demonstrate that creditor protection can be strengthened through preventive legal mechanisms without disproportionately restricting heirs' rights, providing instructive models for Indonesian legal reform.

From the perspective of Islamic inheritance law, creditor protection occupies a fundamental and non-negotiable position within the administration of an estate. The Qur'anic foundation is established in Surah An-Nisa, verses 11 and 12, which state:
"Min ba'di waṣiyyatin yūṣī bihā aw dayn" (مِنْ بَعْدِ وَصِيَّةٍ يُوصِي بِهَآ أَوْ دَيْنٍ)
meaning: *"After the payment of any bequest that may have been made or any debt."*
(Qur'an 4:11–12)

This provision establishes a clear hierarchy, placing debt repayment before any distribution of inheritance among heirs. Accordingly, neither *takharuj* nor *tashaluh* may lawfully be conducted in a manner that undermines the rights of creditors with outstanding claims. The doctrine of *maqāṣid al-sharī'ah* (مقاصد الشريعة) further reinforces this position through the objective of preserving wealth (*ḥifẓ al-māl* – حفظ المال), which encompasses the protection of lawful financial rights and obligations, including creditor claims. Under this framework, any arrangement among heirs that deprives creditors of their legitimate rights is inconsistent with the fundamental objectives of Islamic law.
This convergence between Islamic inheritance law and Indonesian civil law demonstrates that creditor protection is a shared legal value that can bridge both normative frameworks. Both traditions recognize that the transfer or redistribution of inherited assets must not be used as a mechanism to evade lawful financial obligations. This finding highlights the possibility of harmonizing Islamic inheritance principles with contemporary civil law mechanisms within Indonesia's pluralistic legal system, as recommended in the introduction and methodology.

4. Integration of *Takharuj* in Notarial Practice and Future Legal Reform

The findings of this study confirm that *takharuj* and *tashaluh* provide a more legally appropriate and conceptually accurate framework for inheritance arrangements among Muslim heirs than does renunciation of inheritance under Article 1057 of the Civil Code. By accurately characterizing such agreements as *takharuj* or *tashaluh* rather than inheritance renunciation, notaries can ensure that the legal instruments they prepare are both conceptually correct and legally valid, reducing the risk of legal uncertainty arising from terminological confusion and strengthening the evidentiary value of authentic deeds.

The integration of Islamic inheritance principles into notarial practice also promotes substantive justice by ensuring that inheritance arrangements respect both Islamic legal values and the legitimate interests of creditors. At the same time, it allows Islamic legal principles to be incorporated into contemporary legal practice without compromising the requirements of positive law. This integration is particularly important in Indonesia, where the coexistence of civil and Islamic law requires a balanced approach that accommodates both legal traditions within a unified legal system.

Based on the foregoing analysis, legal reform in Indonesia must be directed toward four interconnected priorities as identified in the introduction. First, the Indonesian Civil Code should be amended to introduce limited acceptance of inheritance (beneficiarius) as an alternative between total acceptance and complete rejection, creating a more balanced mechanism that protects both heirs and creditors. Second, explicit preventive legal norms should be established to govern the waiver of inheritance rights, including requirements to verify the deceased's outstanding obligations before such deeds may be executed. Third, stricter due diligence standards should be imposed upon notaries in inheritance-related transactions, supported by enhanced professional ethics and institutional supervision. Fourth, clearer regulatory guidance should be developed on the implementation of takharuj and tashaluh in Indonesian notarial practice, recognizing these concepts as legitimate legal instruments within Indonesia's pluralistic legal framework. Only through such comprehensive and integrated reform can Indonesia establish a more responsive, equitable, and legally certain system for governing inheritance rights, creditor protection, and notarial responsibility.

D. CONCLUSIONS

This study has examined three fundamental issues concerning the intersection of notarial law, inheritance rights, creditor protection, and Islamic inheritance principles within the Indonesian legal system. The conclusions drawn from this integrated analysis are as follows.

First, the study confirms that a clear conceptual distinction between inheritance renunciation (*verwerping van erfenis*) under Article 1057 of the Indonesian Civil Code, inheritance rights waiver as a contractual legal act, and the Islamic law concepts of *takharuj* (التخارج) and *tashaluh* (التصالح) is foundational to determining the scope of notarial authority and ensuring legal certainty in inheritance-related transactions. Inheritance renunciation under Article 1057 constitutes a judicial act falling exclusively within the jurisdiction of the District Court, producing the legal consequence that the heir is deemed never to have become an heir. A notary, therefore, does not possess legal authority to create an authentic deed of inheritance renunciation in the technical sense contemplated by Article 1057. By contrast, an inheritance rights waiver, conducted after inheritance rights have vested upon the opening of succession, constitutes a private legal act grounded in the principle of contractual freedom under Article 1338 of the Civil Code, which may legitimately be formalized through a notarial deed. Within the framework of Islamic inheritance law, the principle of *ijbari* (الإجباري) establishes that inheritance rights vest automatically in heirs by operation of divine law, without requiring personal consent or contractual agreement. Consequently, Islamic jurisprudence does not recognize inheritance renunciation in the same manner as Article 1057. Instead, *takharuj* and *tashaluh* provide the appropriate legal framework for consensual redistribution of inheritance rights among Muslim heirs after such rights have vested, and these concepts offer a more accurate doctrinal basis for inheritance-related notarial deeds in Indonesia's pluralistic legal system.

Second, the responsibility of a notary in drafting deeds of inheritance rights waiver extends well beyond the fulfillment of formal legal requirements. As public officials entrusted with legal authority under Law Number 2 of 2014 concerning the Office of Notary, notaries are required to apply the principles of prudence, professionalism, impartiality, and legal accuracy in every deed they execute. Notarial responsibility in this context encompasses administrative obligations, potential civil liability for negligence causing harm to third parties, and, in cases of deliberate misconduct, potential criminal liability. The jurisprudential analysis of Supreme Court Decision Number 319 K/Pdt/2010 and Supreme Court Decision Number 1572 K/Pdt/2015 confirms that legal acts carried out in bad faith and causing prejudice to creditors may be annulled by operation of law. These decisions reinforce the preventive obligation of notaries to conduct adequate legal due diligence, including examining whether the deceased has outstanding debts, before executing deeds waiving inheritance rights. The role of the notary must therefore evolve from that of a passive legal drafter into that of an active legal gatekeeper, responsible for safeguarding legal certainty, preventing the abuse of rights, and maintaining equilibrium among the competing interests of heirs, creditors, and the public interest.

Third, the waiver of inheritance rights generates significant implications for creditor protection that the current Indonesian legal framework has not adequately addressed. Although Article 1061 of the Civil Code and the doctrine of *actio pauliana* under Article 1341 of the Civil Code provide legal remedies for creditors, these mechanisms remain predominantly reactive and impose a heavy evidentiary burden on creditors to prove bad faith. This structural imbalance, identified in the introduction as a central weakness of Indonesian inheritance law, continues to place creditors in a vulnerable legal position. The doctrine of *saisine*, under which heirs automatically succeed to the deceased's rights and obligations, reinforces the imperative to scrutinize inheritance-related transactions that may diminish assets available for debt satisfaction. From the perspective of Islamic inheritance law, Surah An-Nisa verses 11 and 12 establish an unambiguous hierarchy, placing debt repayment before inheritance distribution, such that neither takharuj nor tashaluh may lawfully be conducted in a manner that prejudices outstanding creditor claims. The doctrine of *maqāṣid al-sharī'ah* (مقاصد الشريعة), particularly the objective of preserving wealth (*ḥifẓ al-māl* – حفظ المال), further confirms that creditor protection constitutes a moral and legal imperative under Islamic law. This convergence between Islamic inheritance law and Indonesian civil law demonstrates that creditor protection is a shared fundamental value that can bridge both normative frameworks.

Fourth, comparative analysis of the Dutch and French legal systems demonstrates that stronger, more balanced creditor-protection mechanisms can be developed without disproportionately restricting heirs' rights. The Dutch concept of *beneficiaire aanvaarding* provides a balanced intermediate mechanism between total acceptance and complete rejection of an inheritance, ensuring that creditors retain access to the estate's assets while heirs are protected from excessive liability. The French approach subjects inheritance renunciation to judicial scrutiny where it prejudices creditor interests, reflecting a preventive orientation that Indonesian law has yet to adopt. These comparative models reinforce the recommendations advanced in the introduction and methodology: that Indonesian inheritance law requires reform toward preventive rather than exclusively reactive legal protection.

In light of these findings, this study advances four integrated recommendations for legal reform. First, the Indonesian Civil Code should be amended to introduce limited acceptance of inheritance (beneficiarius) as an alternative between total acceptance and complete rejection, creating a balanced mechanism that protects both heirs and creditors. Second, explicit preventive legal norms should be established that require verification of the deceased's outstanding obligations before deeds of inheritance-rights waiver may be formally executed, thereby reducing the risk of abuse and the need for subsequent litigation. Third, stricter due diligence standards and professional ethics obligations should be imposed on notaries in inheritance-related transactions, with strengthened institutional supervision to ensure compliance with prudential and professional standards. Fourth, clearer regulatory guidance should be developed on the implementation of takharuj and tashaluh in Indonesian notarial practice, formally recognizing these Islamic inheritance concepts as legitimate legal instruments in Indonesia's pluralistic legal system. Through such comprehensive and integrated reform, Indonesia can establish a more coherent, equitable, and legally certain framework ensuring balanced protection for heirs, creditors, notaries, and all parties involved in inheritance transactions, while harmonizing the principles of civil law and Islamic inheritance law within the contemporary Indonesian legal order.

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