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The Inheritance Status of Non-Muslim Heirs under Islamic Law in Indonesia

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Abstract. The legal position of non-Muslim family members in Islamic inheritance law in Indonesia remains a contested issue, particularly concerning the distinction between their status as legal heirs and their entitlement to part of the deceased's estate through the mechanism of wasiat wajibah. This study aims to analyze the legal status of non-Muslim family members based on the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI) and the development of Islamic judicial jurisprudence in Indonesia, while identifying patterns of legal reasoning in granting wasiat wajibah. This study employs a normative legal research method using statutory and case approaches through the analysis of relevant court decisions. The research gap lies in the absence of a systematic analytical framework that distinguishes between the status of heirs and recipients of wasiat wajibah based on structured legal reasoning indicators. This study proposes a five-indicator matrix consisting of the recipient's legal status, the basis and method of legal reasoning, relevant family circumstances, the basis and amount of the bequest, and its implications for Muslim heirs as an analytical instrument for examining judicial considerations in wasiat wajibah cases. The proposed framework represents a conceptual contribution that requires further examination through broader analysis of complete judicial decisions. This study recommends the development of clearer regulatory arrangements concerning wasiat wajibah to strengthen legal certainty in Islamic inheritance practices.

Keywords: Inheritance Law; Islamic Jurisprudence; Islamic Law Compilation; Non-Muslim Heirs; Wasiat Wajibah.

1. INTRODUCTION

The distribution of a deceased person's estate within an interfaith family raises questions in Islamic inheritance law concerning the relationship between religious rules, family ties, and the protection of family members' interests. These questions require clarification of the legal grounds on which a person may receive estate assets and the permissible limits of such transfers. Riyanta et al. (2025) explain that compulsory bequests (*wasiat wajibah*) do not apply unconditionally but depend on a case-specific assessment of welfare considerations and the personal relationship between a Muslim decedent and relatives of a different faith. Their findings indicate that awards to non-Muslim relatives through compulsory bequests depend on an assessment of family relationships in individual cases and therefore cannot be separated from the particular circumstances considered by judges (Riyanta et al., 2025). In this context, scholarship on inheritance law must examine how welfare considerations translate into clear legal reasoning that can withstand scrutiny.

In Indonesia, this issue concerns both the eligibility requirements for heirs under the Compilation of Islamic Law (*Kompilasi Hukum Islam*, hereafter KHI) and developments in adjudication within the religious courts. Wahyudi (2021) explains that the KHI requires only that the decedent and the heirs share the same religion. His analysis shows that religious court judges have used compulsory bequests to allocate a share of the estate to non-Muslim family

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members, drawing on Supreme Court Decision No. 368 K/AG/1995. Nevertheless, this mechanism retains religious difference as an impediment to mutual inheritance (Wahyudi, 2021). This position requires a distinction between legal recognition as an heir and entitlement as the beneficiary of a compulsory bequest. Receiving a portion of an estate does not, in itself, confer the status of an heir. Maintaining this distinction is essential to interpreting the basis of entitlement, the judicial reasoning, and the shares awarded to non-Muslim family members.

A more specific issue arises when the extension of compulsory bequests to additional categories of beneficiaries generates debate over the permissible limits of such awards. Zubair et al. (2022) explain that Supreme Court jurisprudence has broadened the scope of Article 209 of the KHI to include persons barred from inheriting because of religious differences. However, they criticize arrangements that, in their assessment, exceed the quantitative limits applicable to compulsory bequests. They state: "This application appears to overlook the constraints governing compulsory bequests, particularly the prescribed maximum limit for testamentary dispositions" (Zubair et al., 2022). This criticism requires an examination of the assets concerned and the basis of calculation in each decision. Assessments of the amount awarded may be inaccurate if interests in marital property, estate assets, and compulsory bequest allocations are treated as equivalent. Accordingly, the reasoning used to determine the amount awarded is as significant as the grounds for extending eligibility to additional beneficiaries.

Previous studies have identified several forms of judicial interpretation used to accommodate the interests of non-Muslim family members. Fawzi et al. (2024) identify an extensive interpretation of the KHI provisions governing compulsory bequests for adopted children and adoptive parents. They observe: The decision demonstrates an extension of the provisions of the Compilation of Islamic Law concerning compulsory bequests (Fawzi et al., 2024). Hakim (2024), meanwhile, examines three decisions, from the first instance through cassation, in a case involving a decedent without heirs. The study identifies legal and philosophical arguments supporting transfers of property to non-Muslim relatives through compulsory gifts (*hibah wajibah*). Hakim (2024) states: "They interpret the provisions on gifts expansively while remaining attentive to prevailing and evolving conceptions of justice in society." Together, these studies demonstrate the significance of judicial interpretation and the need to distinguish among the legal mechanisms used, the family circumstances involved, and the legal consequences of each case.

Against this background, the research gap concerns an integrated examination of the relationship between the recipient's legal status, the reasoning underlying judicial interpretation, and the basis for calculating compulsory bequest allocations. An account of

expanded beneficiary eligibility must also examine whether judicial reasoning and operative rulings consistently distinguish compulsory bequest beneficiaries from heirs. Similarly, variations in the amounts awarded require closer analysis to determine whether they arise from differences in family circumstances, the assets concerned, or legal reasoning. This study proposes a comparative analysis of six Supreme Court decisions using five common indicators: the recipient's legal status; the grounds and methods of judicial interpretation; the relevant facts; the assets concerned and the amount awarded; and the implications for Muslim heirs. Its intended contribution lies in examining the connections among these five indicators, while leaving its claim to novelty open to scrutiny through a comprehensive review of the literature and judicial decisions.

Accordingly, this study aims to analyze the legal position of non-Muslim family members in relation to a Muslim decedent's estate, compare judicial reasoning and the determination of compulsory bequest allocations, and formulate limits on their application. The analysis focuses on Supreme Court Decisions Nos. 368 K/Ag/1995, 51 K/Ag/1999, 16 K/Ag/2010, 721 K/Ag/2015, 218 K/Ag/2016, and 331 K/Ag/2018, as identified in the study's initial corpus. A central concern is how courts accommodate the interests of non-Muslim family members and explain the relationship between these awards and the inheritance eligibility requirements under the KHI. Through an examination of legal norms and a comparison of reasoning across decisions, the study seeks to identify the elements of judicial reasoning needed to clarify the recipient's legal status, the basis for the award, and the calculation of the allocation. These elements provide a basis for assessing the balance between legal certainty, the welfare of non-Muslim family members, and the protection of Muslim heirs' shares.

2. RESEARCH METHODS

This study adopts an analytical and prescriptive normative legal research methodology to examine the legal position of non-Muslim family members in relation to a Muslim decedent's estate and formulate limits on the application of compulsory bequests (*wasiat wajibah*). The units of analysis comprise inheritance norms, the legal reasoning underlying judicial decisions (*ratio decidendi*), and the operative provisions of Supreme Court rulings. As a methodological point of reference, Jafar et al. (2024) examine judicial interpretation in compulsory bequest cases through statutory, conceptual, and case-based approaches. They describe their research design as normative legal research (Jafar et al., 2024).

The statutory approach examines the relationship among inheritance eligibility requirements, testamentary provisions, and judicial authority to interpret and develop the law. The conceptual approach distinguishes heirs from compulsory bequest beneficiaries and operationalizes the concepts of legal certainty and welfare. The case-based approach examines the relationship among family circumstances, the grounds for an award, and the amount allocated. The examination of Islamic jurisprudence and the Compilation of Islamic Law (KHI) focuses on the sources and limits of recipients' entitlements. The study does not assume at the outset that all transfers to non-Muslim family members constitute inheritance, as the accuracy of this legal characterization is itself subject to examination.

The collection of legal materials was conducted through library research and documentary studies involving the Supreme Court Decision Directory, the Legal Documentation and Information Network (JDIH), publishers' websites, and institutional repositories. The primary legal materials consisted of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), disseminated through Presidential Instruction Number 1 of 1991, Law Number 48 of 2009 concerning Judicial Power, as well as copies of relevant court decisions. The Qur'an, hadith concerning interfaith inheritance, and Islamic jurisprudence literature were examined to analyze the foundations of Islamic legal reasoning. The initial corpus was purposively selected from six established judicial decisions, namely Decision Number 368 K/Ag/1995, 51 K/Ag/1999, 16 K/Ag/2010, 721 K/Ag/2015, 218 K/Ag/2016, and 331 K/Ag/2018. Decisions were included in the detailed analysis when they involved Muslim deceased persons and non-Muslim family members, addressed issues concerning *wasiat wajibah*, and provided complete copies containing both judicial considerations and rulings. Jurisprudential summaries were used solely as a reference tool for case identification and tracing.

Reskiani et al. (2022) describe a conceptual discussion that examines competing supportive and opposing views on the basis of materials obtained through qualitative research. Their account illustrates an approach that brings contrasting positions into dialogue when analyzing research materials. Accordingly, the literature search covers publications from 2020 to 2026 and includes arguments both supporting and limiting the extension of compulsory bequests. Searches use case numbers and combinations of the Indonesian terms "wasiat wajibah" (compulsory bequest), "non-Muslim," "kewarisan beda agama" (interfaith inheritance), and "pertimbangan hakim" (judicial reasoning). Each source is recorded with its bibliographic or identifying details, URL, access date, relevant pages, and argumentative

position. The publication-year restriction does not apply to the legal norms or judicial decisions under examination.

Oderkerk (2025) emphasizes that comparison requires an initial description of the objects being compared. The comparative process involves defining the purpose and selecting the objects of comparison, describing those objects, explaining their similarities and differences, and evaluating them where the research seeks to inform legal reform (Oderkerk, 2025). This sequence is adapted to compare decisions within the Indonesian legal system. The analysis begins by identifying the relevant legal norms and reading each decision in full, followed by extracting its contents into a matrix organized around five indicators: the recipient's legal status and relationship to the decedent; the grounds and methods of judicial interpretation; the facts considered by the court; the assets concerned and the amount awarded; and the implications for Muslim heirs. Interpretive methods are classified only where the judicial reasoning provides sufficient textual support. The calculation of allocations is examined by distinguishing marital property, estate assets, the decedent's outstanding obligations, and the assets against which the compulsory bequest is charged. The amount awarded is then assessed against the KHI's testamentary provisions, with due regard to the scope of each article. Consistency is evaluated by examining the alignment between judicial reasoning and the operative ruling, together with the comparability of reasoning across cases involving similar relevant facts. Differences in outcomes are not, in themselves, treated as evidence of inconsistency.

Analytical accuracy is maintained by cross-checking judicial decisions against legal norms and scholarly literature, recording page references, and documenting unavailable information. The final stage develops prescriptive arguments concerning the elements of judicial reasoning required to balance clarity regarding recipients' legal status, the welfare of non-Muslim family members, and the protection of Muslim heirs' shares. The conclusions are limited to decisions examined in full.

3. RESULTS AND DISCUSSION

Inheritance issues in interfaith families require an examination of the relationship among eligibility to inherit, the legal basis for compulsory bequests, and the implications of estate distribution for surviving family members. Consistent with the normative approach, this discussion examines the provisions of the KHI alongside findings in the literature concerning judicial reasoning. The analysis addresses three interrelated issues: the recipient's legal status, consistency in reasoning and calculation, and legally justifiable limits on awards.

The Legal Position of Non-Muslim Family Members in Relation to a Muslim Decedent's Estate under Islamic Jurisprudence and the KHI

The framework of inheritance law in Islamic jurisprudence shares certain features with the KHI but also differs in several respects (Djawas et al., 2022). Djawas et al. (2022) explain that both draw on the Qur'an and hadith, although their legal formulations also reflect differences associated with social and cultural contexts. These findings provide a basis for understanding developments in Indonesian inheritance law while remaining attentive to the wording of its provisions. In this study, Article 171(c) of the KHI, which requires an heir to be Muslim, serves as the starting point for determining eligibility to inherit. Article 172 concerns the identification of a person as Muslim, whereas Article 173 establishes specific grounds for disqualification based on criminal convictions. Religious difference should therefore not be described as a ground expressly stipulated in Article 173. Identifying the correct legal basis is essential before considering alternative mechanisms for transferring estate assets to non-Muslim family members.

Such awards derive from the recipient's position as a compulsory bequest beneficiary rather than as an heir (Fatahullah et al., 2025). In their discussion of adoption, Fatahullah et al. (2025) distinguish the status of compulsory bequest beneficiaries from that of heirs. This distinction clarifies a central issue in the present study: receiving estate assets does not automatically confer the legal status of an heir. Article 209 of the KHI expressly provides for compulsory bequests to adoptive parents and adopted children who have not received a testamentary bequest. Extending this mechanism to non-Muslim family members requires a separate interpretive basis and judicial justification. Accordingly, the expression "non-Muslim heirs" in the title of this study should be understood as a general reference to family relationships. For the purposes of normative analysis, the more precise term is "non-Muslim family members potentially eligible for a compulsory bequest.

Nevertheless, in judicial practice, some decisions have awarded a portion of an estate to children whose religion differs from that of the decedent through compulsory bequests (Susilo et al., 2021). Susilo et al. (2021) identify a tension between these awards and inheritance eligibility requirements, while explaining that the decisions seek to uphold justice, welfare, and legal certainty within the family. Assessing this tension requires attention to the legal mechanism employed. Where an award takes the form of a compulsory bequest, the analysis must examine the judicial authority and reasoning supporting its extension, rather than immediately concluding that the religious requirement for inheritance has been abolished. This

distinction in legal classification affects both the interpretation of the operative ruling and the calculation of the parties' entitlements. The present study therefore treats the recipient's legal status as the first indicator when coding legal materials, before assessing the amount awarded.

The application of compulsory bequests nevertheless differs between Malaysia and Indonesia, particularly in the categories of beneficiaries and the mechanisms of distribution (Alma'amun et al., 2022). Alma'amun et al. (2022) identify similarities in the quantum of beneficiaries' entitlements but differences in beneficiary categories and distribution procedures. Their comparison underscores the need to examine compulsory bequests within each country's legal framework. Practices in other jurisdictions may inform legal arguments, but they do not, by themselves, provide an operative legal basis for distributing estates in Indonesia. The synthesis in this subsection thus establishes the need to distinguish three questions: who qualifies as an heir, who may be considered eligible for a compulsory bequest, and what legal basis authorizes the award. Keeping these questions separate connects the issue of inheritance status identified in the introduction with the analysis of judicial decisions in the following subsection.

Judicial Reasoning and Consistency in Determining Compulsory Bequest Allocations in Supreme Court Decisions

Earlier decisions provide legal reference points for judges adjudicating subsequent cases (Baihaki, 2021). Baihaki (2021) traces the award of a compulsory bequest through a decision of the Jakarta Religious High Court, subsequently upheld in Supreme Court Decision No. 368 K/Ag/1995, which became a reference for resolving similar disputes. This finding supports the use of a case-based approach in the present study. However, the shared use of the term "compulsory bequest" does not establish that decisions rest on equivalent legal reasoning. The analysis must identify the issue adjudicated, the grounds for extending beneficiary eligibility, the facts considered relevant, and the relationship between the reasoning and the operative ruling. Reliance on an earlier decision becomes more meaningful when the court identifies the reasoning it adopts and explains why the circumstances of the subsequent case are comparable. Information from this article serves as a guide to examining the decisions, rather than a substitute for reviewing their full texts.

Rosadi and Ropiah (2020) explain that a wife whose religion differs from that of the decedent is not recognized as an heir. In their analysis of Decision No. 16 K/Ag/2010, they relate this position to the requirement that an heir be Muslim under Article 171(c) of the KHI (Rosadi & Ropiah, 2020). Their account reinforces the distinction between legal statuses

discussed in the preceding subsection. In cases involving spouses, the analysis must also distinguish the surviving spouse's ownership interest in marital property from the decedent's assets available for distribution. Conflating these categories may create the impression that a beneficiary receives a larger allocation, even though some of the property already belongs to that person. Comparisons across decisions must therefore use equivalent asset bases. An assessment based solely on percentages risks producing misleading conclusions about the protection or reduction of Muslim heirs' entitlements.

Judicial reasoning also draws on sociocultural considerations concerning the relationship between family rights and responsibilities within society (Hasan, 2023). Hasan's (2023) study of the Pontianak Religious Court identifies judicial interpretation, reliance on case law, and the relationship between family rights and responsibilities as elements of judicial reasoning. These findings help inform the analytical categories used here, although they cannot be generalized to all Supreme Court decisions. In the present study, family relationships must be examined through verifiable facts, such as the forms of responsibility and circumstances of dependency expressly identified in a decision. These facts are then connected to the grounds for the award. This approach moves welfare considerations beyond general assertions, allowing their relevance to be assessed through the relationship among the parties' circumstances, their protection needs, and the legal consequences determined by the court.

The application of compulsory bequests rests not only on normative legal grounds but also on social and political considerations (Budiman et al., 2024). Budiman et al. (2024) associate these awards with the pursuit of equality within interfaith families while highlighting the absence of explicit provisions specifically governing non-Muslim beneficiaries. Their findings help explain why judicial development of the law requires transparent reasoning. This study proposes assessing consistency through five indicators: the recipient's legal status, the legal basis, family circumstances, the asset base and amount awarded, and the implications for Muslim heirs. Consistency does not necessarily require identical allocations. Differences in outcomes may be justified where they reflect relevant factual differences and clear criteria for assessment. Conversely, reliance on the same general reasoning to support different outcomes without adequate explanation warrants critical scrutiny.

Table 1 operationalizes the five indicators set out in the research methods. The matrix is a proposed analytical instrument; it does not indicate that all five indicators have been identified in each of the six decisions. Each entry must include a page reference to the reasoning or operative ruling in the decision examined. Missing information is recorded as "not found in the document" to prevent evidentiary gaps from being filled by authorial inference.

Table 1. Matrix for Assessing Consistency in Judicial Reasoning on Compulsory Bequests

Indicator	Information to Record	Analytical Question
Recipient's legal status	Religion, family relationship, and legal status in the operative ruling	Does the ruling distinguish the beneficiary from an heir?
Legal basis	Statutory provisions, case law, and interpretive methods	How does the court justify extending beneficiary eligibility?
Family circumstances	Facts concerning relationships and responsibilities assessed by the court	Does the court connect established facts to the need for protection?
Asset base and amount awarded	Ownership interests, marital property, outstanding obligations, and the basis of calculation	Are the amount and percentage calculated using a clearly defined asset base?
Implications for heirs	Other recipients and the remaining estate available for distribution	Does the court explain the consequences and limits of the award?

Source: Author's compilation based on the five indicators set out in the research methods and the analysis in Subsection 2.

Limits on the Application of Compulsory Bequests: Balancing Legal Certainty, Welfare, and the Protection of Muslim Heirs

Roziqi et al. (2025) consider the possibility of adapting compulsory bequests to benefit groups excluded from inheritance, provided that such adaptations comply with Sharia principles. They also limit their findings to normative analysis rather than empirical assessment of the effectiveness of judicial decisions. This limitation is relevant to the present study. Arguments concerning welfare must address both the applicable legal norms and the interests of affected parties. Article 209 of the KHI establishes a maximum allocation of one-third in the context of adoptive parents and adopted children. When compulsory bequests are extended to non-Muslim family members, this study proposes using that limit as a benchmark for assessing judicial reasoning, accompanied by an explanation of the legal basis for its application. This proposal must not be presented as a finding that all decisions apply a uniform limit or method of calculation.

The legal framework governing compulsory bequests requires strengthening (Rahman et al., 2024). Rahman et al. (2024) emphasize the need for clearer regulation to protect non-Muslim family members and address demands for justice in a pluralistic society. Such regulation should specify eligible beneficiary categories, the grounds for an award, its relationship to recipients' existing rights, and the method for determining the amount. This clarity could reduce reliance on overly general formulations of justice. Article 195(2) of the KHI requires the consent of all heirs for testamentary bequests exceeding one-third of the estate. However, this provision governing ordinary testamentary bequests should not automatically be applied to every extension of compulsory bequests without supporting legal reasoning. Where a decision adopts this approach, the analysis must explain its basis and the context of its use. Legal protection becomes more clearly defined when beneficiaries and heirs can trace both the reasons for the distribution and its consequences.

Aslati et al. (2024) emphasize the importance of understanding Sharia values and applying *maqāṣid al-sharīʿah*, the objectives of Islamic law, in contemporary *ijtihad* so that Islamic jurisprudence can engage with changing circumstances. In the present study, this approach serves to examine the relationship between the objective of protecting family members and the mechanism through which assets are awarded. Welfare-based reasoning must explain who requires protection, what harm the award seeks to prevent, and why the amount is appropriate. The rights of Muslim heirs form part of this assessment. Accordingly, arguments for protecting non-Muslim family members must also address the remaining estate and the position of other recipients. Here, *maqāṣid* provides a framework for evaluating legal reasoning; it does not replace evidence of family relationships, the identification of ownership interests, or the examination of the decedent's outstanding obligations.

Yamin et al. (2026) identify recipients' actual contributions to the decedent, the closeness of social relationships, and the protection of vulnerable persons as considerations in extending compulsory bequests. These factors can inform the questions used in the assessment, but they should not become exclusive eligibility criteria that exclude vulnerable family members who cannot make material contributions. Contributions must also be distinguished from ownership rights already held by a recipient. Where a person has an ownership interest in marital property, that interest must be established before assessing the need for a compulsory bequest. This study therefore proposes a sequential assessment: establish the parties' legal status, explain the grounds for extending beneficiary eligibility, evaluate family circumstances, determine the asset base and amount awarded, and examine the implications for heirs.

The contribution of this study lies in integrating these five indicators into a transparent and traceable reasoning process. The framework helps avoid both automatic awards based solely on religious difference and rejection without examining the available grounds for protection. Under the proposed framework, each award must rest on an articulated legal basis, relevant facts, and a transparent method of calculation. Legal certainty is assessed through the traceability of the reasoning; welfare through clearly explained protection needs; and the protection of heirs through clarity regarding their rights and the consequences of distribution. The framework's practical utility remains subject to testing through its application to the full texts of the judicial decisions under examination.

4. CONCLUSION AND RECOMMENDATIONS

Based on the analysis conducted, non-Muslim family members do not hold the legal status of heirs under the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), as Article

171(c) of the KHI stipulates that an heir must be a Muslim. The receipt of a portion of the deceased's estate by non-Muslim family members through the mechanism of *wasiat wajibah* does not alter their legal position into that of heirs; rather, it constitutes a form of legal entitlement granted through a distinct mechanism based on specific judicial considerations. Accordingly, maintaining a clear distinction between heirs and recipients of *wasiat wajibah* is essential, as both involve different legal foundations, allocation mechanisms, and legal consequences.

This study demonstrates that the granting of *wasiat wajibah* to non-Muslim family members is not solely determined by religious differences but also involves an assessment of familial relationships, the basis and method of legal reasoning, the specific circumstances of the parties, the nature of the estate, and the implications of such allocation for Muslim heirs. Based on the analysis of the judicial decisions examined, five analytical indicators—consisting of the recipient's legal status, the basis and method of legal reasoning, relevant family circumstances, the basis and amount of the bequest, and its implications for Muslim heirs—can be employed as an analytical framework for examining the judicial rationale underlying the granting of *wasiat wajibah*.

The five-indicator framework proposed in this study represents a conceptual contribution aimed at facilitating the systematic examination of legal reasoning in *wasiat wajibah* cases. However, this framework remains an analytical instrument and should not yet be regarded as fully validated. Further empirical examination is required through a broader review of complete judicial decisions to determine the consistency and applicability of this framework across diverse inheritance disputes with varying factual circumstances.

From a legal development perspective, this study highlights the need for clearer regulatory arrangements concerning the categories of recipients entitled to *wasiat wajibah*, the legal basis for its granting, the methodology for determining its proportion, and its relationship with the rights of other heirs. Such regulatory clarity is necessary to maintain a balance between legal certainty, the protection of non-Muslim family members, and the preservation of Muslim heirs' inheritance rights. These recommendations remain normative in nature and require further discussion within future legal scholarship and policy development.

Future research should apply the five-indicator matrix to a broader dataset of judicial decisions, including decisions from different levels of the judiciary, to evaluate its consistency in explaining judicial reasoning patterns. Such studies may further assess whether the proposed indicators are capable of capturing variations in inheritance disputes involving different family structures, factual contexts, and types of inherited assets.

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