

The Expansion of *Wasiat Wajibah*: Protecting Legal Certainty and Fairness in Indonesian Inheritance Law

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Abstract

Article 209 of the Compilation of Islamic Law normatively limits the recipients of *wasiat wajibah* 'mandatory bequests' only to adopted children and adoptive parents with a maximum limit of one-third of the testator's property. However, the development of the Supreme Court's jurisprudence shows that there is an expansion of the recipients of compulsory probate to other parties such as stepchildren, children from unregistered marriages, and non-Muslim heirs, which creates a gap between written norms and judicial practice. This study aims to analyze the legal considerations of the Supreme Court in expanding the subject of compulsory probate recipients and its contribution to the renewal of probate law in the development of national law. The research uses an empirical juridical approach with data collection techniques through documentation studies of Supreme Court decisions, laws and regulations, and legal literature, which are analyzed descriptively- analytically using *maqāṣid al-sharī'ah* theory, legal reform theory, and legal discovery theory; validation is done through triangulation of primary and secondary legal sources. The results show that the Supreme Court's consideration in expanding the mandatory bequests is based on the recipient's real contribution to the testator, social proximity, and protection of vulnerable parties for the sake of substantive justice. Theoretically, this research contributes to the development of the concept of *maqāṣid al-sharī'ah*-based mandatory bequests and strengthens the legitimacy of jurisprudence as an instrument of Islamic law reform in Indonesia's national legal system, especially in bridging the tension between normative norms and social reality.

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INTRODUCTION

Islamic Family Law is a field of law that continues to develop in line with the social changes of Muslims in various regions of the world. Differences in cultural backgrounds, traditions, and social structures of the community cause the application of Islamic Family Law to not be uniform, including in the Southeast Asian region. Basic principles such as the pillars and conditions of marriage are relatively fixed, while other aspects, especially inheritance law, undergo adjustments to respond to the demands of justice and community benefit. Indonesia reflects this dynamic through the process of adapting Islamic inheritance law to the social realities of a plural Muslim society (Anam, 2017).

Islamic Family Law in Indonesia is formulated and implemented through the Compilation of Islamic Law (KHI) which includes the laws of marriage, inheritance, and trusts. The Compilation of Islamic Law is the result of the codification of various opinions of *fiqh* scholars adapted into the national legal system and used as guidelines for the Religious Courts. The establishment of KHI shows the state's efforts to provide legal certainty over the application of Islamic law while bridging the teachings of *fiqh* with the needs of positive law in Indonesia (Cahyani, 2016).

The formation of the Compilation of Islamic Law is inseparable from the dynamics of legal anthropology of Indonesian society. The provisions in the KHI are the result of a compromise between classical *fiqh* texts and the socio-cultural conditions of Indonesian Muslims. Consequently, not all family law issues can be accommodated comprehensively. One such issue relates to the

regulation of compulsory bequests. Article 209 KHI limits the recipients of compulsory wills to adopted children and adoptive parents, causing problems for other parties who have strong emotional and social relationships with the testator, but are normatively prevented from obtaining inheritance.

The concept of *wasiat wajibah* 'mandatory bequests' in the treasures of Islamic law actually has a broader foundation of thought. Ibn Hazm of the Zhahiri school of thought argues that certain relatives who are prevented from receiving inheritance are still entitled to a share of the property through a will, even though the testator did not explicitly make a will. This view confirms that there is room in Islamic law to priorities benefit and justice (Eddie Halim & Shamsudin, 2023). Indonesia adopted the concept in a limited way through Article 209 KHI as an acknowledgement of non-biological social relations, but the normative arrangement has not fully answered the social development of contemporary society.

The limitations of the normative arrangements in the Compilation of Islamic Law are then responded to through judicial practice. The Supreme Court of the Republic of Indonesia through a number of decisions expanded the subject of mandatory bequests recipients, no longer limited to adopted children and adoptive parents. The expansion includes heirs of different religions, stepchildren, children from unregistered marriages, and children born out of wedlock. These decisions demonstrate the active role of the Supreme Court in filling legal gaps and responding to the growing demands for justice in society.

The expansion of compulsory probate recipients through Supreme Court decisions has significant juridical implications for the national legal system. The Supreme Court not only performs the function of applying the law, but also acts as a law maker through jurisprudence. The judges' considerations in these decisions reflect the use of legal discovery methods that are oriented towards benefit, substantive justice, and the protection of vulnerable groups. However, the legal reasoning behind the expansion of the mandatory bequests has not been systematically studied in legal studies.

Previous studies show that research on mandatory bequests has been conducted in various themes and perspectives. Based on a literature search, the dominant themes include: (1) Mandatory bequests for non-Muslim heirs (Budiman et al., 2024; M. Y. Fauzi, n.d.; A. M. Najib et al., 2025); (2) Mandatory bequests for adopted children in the perspective of Article 209 of the Islamic Family Law (Agus Armaini, 2025; Arafat & Syibli, 2023; Faizal, 2022; Khomaini, 2023; Probowati & Lestari, 2024; Trinanda et al., 2022; Yassir et al., 2023; Yunus, 2019); (3) Ibn Hazm's thoughts and their relevance to the renewal of Islamic law (Daud & Azahari, 2018; Eddie Halim & Shamsudin, 2023; Fierro, 2018; Naofal, 2017; Suryantoro, 2025; Zakariya, 2020); (4) Mandatory bequests and *maqāṣid al-sharī'ah* (Andinata, 2026; Arifin et al., 2025; Auda, 2008; Heriandita et al., 2025; Hidayati et al., 2025; A. Najib et al., 2023; Salma & Agustiar, 2022); and (5) Islamic family law reform through jurisprudence (Andinata, 2026; Arifin et al., 2025; Heriandita et al., 2025; Hidayati et al., 2025; Hududillah et al., 2025; Mudzhar, 2014; Nurlaelawati, 2015). The literature comes from national and international reputable journals in the fields of Islamic law and family law.

Based on the mapping of the literature, it can be concluded that the study of Mandatory bequests so far has focused more on normative-doctrinal aspects, classical fiqh analysis, or partial discussion of one particular category of obligatory will recipients. Meanwhile, studies that specifically and systematically analyse the legal considerations of the Supreme Court in expanding the subject of compulsory probate across categories and placing it within the framework of national legal reform are still very limited. The research gap lies in the absence of studies that comprehensively examine the argumentation patterns and juridical rationality of the Supreme Court in compulsory probate decisions, especially in integrating *maqāṣid al-sharī'ah*, legal reform theory, and legal discovery theory as the basis for jurisprudential legitimacy. Previous studies have not placed the Supreme Court's decision as a unified construction of legal reform that directly contributes to the development of national law. Therefore, the urgency of this research lies in the need to explain academically the basis of the Supreme Court's legal considerations in expanding the

mandatory bequests, as well as assessing its contribution to the evolution of Islamic inheritance law in Indonesia. The data analysed in this research is in the form of Supreme Court decisions related to compulsory probate that were purposively selected, using an empirical juridical approach. The analysis is conducted using *maqāṣid al-sharī'ah* theory, legal reform theory, and legal discovery theory to understand the dynamics between written norms, judicial practice, and the demands of substantive justice.

This study focused on analyzing the Supreme Court's reasoning in decisions that expand the scope of mandatory bequests and its contribution to the renewal and development of national law. This study is expected to provide an academic contribution in understanding the strategic role of the Supreme Court as an agent of legal reform, especially in developing Islamic inheritance law that is responsive, just, and relevant to the dynamics of Indonesian society.

METHODS

This research used an empirical juridical approach by examining legal norms regarding *wasiat wajibah* 'mandatory bequests' and linking them to Supreme Court decisions that expand the subject of mandatory bequests recipients. The research method used is descriptive-analytical, namely describing and analyzing research data systematically in order to obtain a clear understanding of the problems studied, so that an objective assessment can be made of the truth and relevance of the research findings (Sugiyono, 2007). The author describes all research data obtained, including copies of court decisions, laws and regulations, as well as literature in the form of books and legal journals. The data is then analysed using the theoretical framework used in the research, namely *maqāṣid al-sharī'ah* theory, legal reform theory, and legal discovery theory, in order to obtain a comprehensive understanding of the issues studied.

The research data sources come from primary legal materials and secondary legal materials. Primary legal materials are legal materials that have binding force (authoritative) including: laws and regulations, minutes of making regulations, and court decisions. While secondary legal materials include: all publications regarding law that do not include official documents, such as law books, law journals, legal dictionaries, and notes on judges' decisions (Mahmud Marzuki, 2005). Primary legal materials include applicable laws and regulations and Supreme Court Decisions related to the division of inheritance and the application of mandatory bequests. Secondary legal materials include law books, *fiqh* and *ushul fiqh* books, legal journals, case documents, dictionaries, and legal encyclopedias.

The decisions studied were Supreme Court Decision Number 016 K/Ag/2010, Supreme Court Decision Number 331 K/Ag/2024, Supreme Court Decision Number 721 K/Ag/2015, Supreme Court Decision Number 871 K/Ag/2023, and Supreme Court Decision Number 489 K/Ag/2011. The author collected several Supreme Court decisions regarding mandatory bequests by using purposive sampling, namely determining samples with certain considerations that are considered to be able to provide maximum data (Saebani, 2023).

RESULTS AND DISCUSSION

Consideration of the Supreme Court Decision

Based on the research, there are five Supreme Court decisions that expand the subject of *wasiat wajibah* 'mandatory bequests' recipients, which can be described as follows:

First, Cassation Decision No. 016 K/Ag/2010 considers the fact that the marriage between the testator and the Cassation Petitioner lasted about eighteen years. The length of the marriage shows the devotion and contribution of the wife in the household life with the testator. The Supreme Court considered that the Cassation Petitioner, despite being a non-Muslim, deserved to obtain her rights as a wife, including a share of joint property and a share of inheritance through a mandatory bequests. This consideration is in line with the Supreme Court's jurisprudence and the public's sense of justice.

Second, Cassation Decision No. 331 K/Ag/2024 emphasises the harmonious relationship between the Cassation Petitioner as a widower and the testator during his lifetime. Continuous assistance, including when the testator was sick and undergoing treatment abroad, became the basis *pewaris sakit dan menjalani pengobatan di luar negeri, menjadi dasar pertimbangan hukum.* of legal considerations. The Supreme Court determined that the Cassation Petitioner was entitled to a share of the inheritance through a mandatory bequests amounting to a quarter of the inheritance, despite having a different religion from the testator.

Third, Cassation Decision Number 721 K/Ag/2015 confirmed that the testator was Muslim and left only one Muslim heir, namely his wife. The children of the testator who are non-Muslims do not obtain direct inheritance rights based on Islamic inheritance law. The Supreme Court considered that the children of the testator were still eligible to receive a share of the property through a mandatory bequests. This consideration is based on harmonious family relationships despite differences in beliefs.

Fourth, Cassation Decision No. 871 K/Ag/2023 confirms that the marriage between the testator and his second wife, which took place without a polygamy permit, did not have material legal consequences for the testator or his wife. The testator's children from the second wife are entitled to inheritance because the marriage fulfils the terms and conditions of Islam. The heir's daughter from the third unregistered marriage is entitled to a share of the mandatory bequests equal to other daughters.

Fifth, Cassation Decision No. 489 K/Ag/2011 assessed that the *judex facti's* decision to hand over the remaining inheritance to the *Amil Zakat, Infaq and Shadaqah* Institution was incorrect. The remaining assets should have been given to the stepchildren of the deceased. The Supreme Court emphasised the fairness and rationality of the law, considering that adopted children received a certain share, while the inherited children of the deceased's wife did not receive any share at all.

Expansion of Subjects Receiving Compulsory Wills

Non-Muslim Heirs

Islamic inheritance law requires that the testator and heirs are both Muslims. The division of inheritance is carried out based on the provisions of Islamic law, and if a dispute arises, the settlement is carried out through a judge of the Religious Court based on Islamic law. The difference in religion between the testator and the heir becomes a barrier to inheritance. This provision is confirmed in Article 171 letters b and c of the Compilation of Islamic Law as a manifestation of the Islamic principle. Nevertheless, for heirs who are obstructed, a certain portion can still be given based on the principle of maintaining kinship relations and continuing responsibility (Arto, 2009).

Several Supreme Court decisions that provide space for the application of mandatory bequests to non-Muslim parties reflect a significant development in the discourse of Islamic inheritance law in Indonesia. This development marks the judiciary's sensitivity to increasingly complex social realities, especially in pluralistic societies characterised by interfaith family interactions. This orientation shows that the law is not positioned as an instrument independent of the social context, but rather as a normative mechanism that is required to remain fair, relevant and responsive to the dynamics of community life.

The phenomenon gains deeper meaning when analysed through the perspective of al-Syātibī's *maqāṣid al-sharī'ah* theory, legal reform theory, and legal discovery theory. These three approaches complement each other in explaining the rationality and legitimacy of the Supreme Court's decision. Law in this context is not understood as a frozen collection of rules, but rather as a normative system that moves following the goals, legal causes, and benefits to be realised.

Supreme Court Decision Number 331 K/Ag/2018 places the harmonious relationship between the Cassation Petitioner, who is a non-Muslim, and the testator as the main basis for the granting of the mandatory bequests. The empirical facts regarding the husband's active involvement in the testator's life, including intensive assistance during illness and treatment abroad, show a moral

commitment and devotion that cannot be ignored. This consideration shows a shift in legal orientation from formalistic assessment towards appreciation of the quality of human relations.

The construction of these considerations is in line with the fiqh rule that the law depends on the *illat* - the presence or absence of the *illat* (an-Nadawi & Fiqhiyah, 1994), which asserts that the applicability of the law always follows the presence or absence of the *illat*. *Illat* in the form of emotional closeness, real contribution, and potential benefit become the basis for the legitimacy of the stipulation of mandatory bequests. When the absolute denial of rights has the potential to create injustice and mafsadah, the law is required to move to accommodate the benefit.

Al-Syātibī's *maqāṣid al-sharī'ah* theory places benefit as the fundamental objective of every law. The protection of the five basic elements, namely religion, soul, mind, offspring, and property, becomes an evaluative benchmark for legal policy. The granting of compulsory bequests to non-Muslims who have a significant role in the life of the testator can be understood as an effort to protect property and soul within the framework of *maqāṣid*. The *maqāṣid* approach in these cases does not stop at the normative dimension of religious differences. The protection of human dignity, respect for loyalty, and recognition of devotion to life are placed as an integral part of the benefit. This orientation is in line with *maqāṣid* at the *ḥājiyyāt* level, which aims to eliminate hardship and prevent social inequality.

Supreme Court Decision No. 16 K/Ag/2010 further confirms this pattern of consideration through emphasis on the duration of the marriage between the testator and the Cassation Petitioner. The marital bond that lasted approximately 18 years shows a substantial contribution in building a household life and joint property. This fact is used as an argumentative basis to recognise the husband's rights despite differences in belief.

The rule */al-ḥukm yadūru ma'a maṣāliḥ al-'ibād fahaiṣuma wujidat al-maṣāliḥ faṣama ḥukm Allah/* 'the law revolves with human interests, so wherever it is found, there is Allah's law' (As-Suyuti & Jalaluddin, 2016) becomes a relevant normative basis in this context. The benefit of justice for those who have made a real contribution demands proportional legal recognition. Absolute denial of rights has the potential to create injustice that is contrary to the main objectives of Sharia.

Legal reform theory views these decisions as part of the process of adapting Islamic law to social change. Legal reform does not always have to be done through formal legislation, but can take place through judicial practice and the formation of jurisprudence (Cahyani, 2016). The Supreme Court in this context functions as an agent of legal reform that develops contextual interpretation. The legal reform approach is reflected in the Supreme Court's courage to interpret Islamic inheritance law flexibly without losing its basic principles. The prohibition of inheritance across religions is maintained as a fundamental norm, but is complemented by the mechanism of mandatory bequests as an alternative solution. This strategy shows an effort to balance legal certainty with substantive justice.

The theory of legal discovery provides an explanation of the active role of judges in building the legal construction (Saadah et al., 2022). Judges do not simply apply written norms textually, but explore the values of justice that live and develop in society. This *rechtsvinding* process is evident in the use of sociological and moral considerations. The discovery of the law departs from the awareness of the limitations of classical norms in answering contemporary problems. Islamic inheritance law does not regulate in detail the protection mechanism for non-Muslims who have a close relationship and real contribution to the heir (Manan, 2013; Mertokusumo, 2014; Saadah et al., 2022). This normative void is then filled through systematic and teleological interpretation by judges. The Supreme Court's reference to Yusuf al-Qaradawi's views demonstrates the use of non-positive law sources in the legal discovery process. The view that non-Muslims who coexist peacefully do not fall into the category of *kafir harbi* provides theological legitimacy to the granting of mandatory bequests. This approach broadens the spectrum of inclusive interpretations of Islamic law.

Supreme Court Decision No. 721 K/Ag/2015 reaffirmed the basic principle of Islamic inheritance law that religious differences are a barrier to inheritance. A Muslim heir leaves only one Muslim heir, while his children are non-Muslims. This normative principle is maintained as the foundation of the inheritance law system. The application of compulsory testament in this case shows an effort to harmonies between legal norms and social justice. The children of the testator who are non-Islamic are not designated as heirs, but still receive a share through the mandatory bequests mechanism. This approach maintains the consistency of the legal structure while fulfilling the demands of social (Yunus, 2019).

The *maqāṣid al-sharī'ah* theory views such harmonization as a form of protection of interests without damaging the normative order. Protection of property and offspring is realised through alternative mechanisms that are legal and proportional. This flexibility shows the adaptability of Islamic law to the times. The benefit aspect is also reflected in the consideration of harmonious social relations between the heir and his children. A harmonious and peaceful family life despite different beliefs is seen as a social fact that has legal relevance. This fact becomes the moral basis for the granting of mandatory bequests.

Legal reform theory assesses the pattern of the decision as an indication of a shift in Islamic inheritance law towards a more humanist approach. Changes in family structure and increased interfaith interaction demand adaptive and solutive legal responses. Supreme Court jurisprudence serves as a strategic instrument in answering these challenges. Legal reform through jurisprudence is evolutive and contextual. Changes are not made radically, but through reinterpretation of known *fiqh* concepts. *Wasiat wajibah* is a means of renewal that remains rooted in the tradition of Islamic law (Nurlaelawati, 2015). The theory of legal discovery reaffirms the role of judges as important actors in the formation of law. Judges find the law not only in normative texts, but also in social values and the community's sense of justice. This role places judges as a link between ideal norms and empirical reality.

The consistency of the Supreme Court in various decisions shows the formation of a relatively stable pattern of jurisprudence. This pattern provides legal certainty while opening up space for justice for parties who are in a vulnerable position. The stability of jurisprudence is an important element in a modern legal system. The *maqāṣid al-sharī'ah* approach also demands that the law does not become a source of new mafsadah. The total rejection of the rights of non-Muslims who have a close relationship with the heir has the potential to create social injustice. Compulsory testament serves as a preventive instrument against such negative impacts. The dimension of justice is a common thread throughout the decisions analyzed (Munadi Usman, 2021; Rosa, 2021; Suraiya, 2018; Tono, 2013). Justice is understood as the proportional placement of rights based on contributions and concrete conditions, not just formal compliance with legal texts. This understanding is in line with the main objective of Islamic law.

Legal reform theory views the practice as part of the transformation of Islamic law within the framework of a modern legal state. The judiciary plays a role in bridging religious norms with principles of social justice and human rights. This transformation takes place in a gradual and measured manner. The theory of legal discovery also emphasises the ethical dimension of judicial decisions. Juridical considerations cannot be separated from moral and social responsibility. Human values become an essential element in the decision-making process. Judges are expected to be able to balance the application of the rule of law with the principles of justice that prioritise the interests of society as a whole (Mertokusumo, 2014).

The integration of *maqāṣid al-sharī'ah*, legal reform, and legal discovery results in a comprehensive and coherent approach. Law is understood as a dynamic instrument that moves with the illat and the benefit. The rules */al-ḥukm yadūru ma'a 'illatihi wujudan wa 'adaman/* and */al-ḥukm yadūru ma'a maṣāliḥ al-'ibād/* become the normative foundation of the approach.

The overall judgement of the Supreme Court shows that Islamic inheritance law in Indonesia is moving towards a paradigm that is more inclusive and responsive to social dynamics. Although the basic principles of Islamic inheritance are maintained, their application is increasingly adapted

to the diverse realities of contemporary society. This approach allows Islamic law to be not only normatively applicable, but also relevant in practice, thus strengthening the legitimacy of Islamic law in the context of a plural society that values justice and legal certainty.

The use of mandatory bequests as a legal solution is a clear example of controlled and responsible legal creativity. Through this instrument, the Supreme Court can expand the space for justice without violating the core norms of inheritance law (Lestari, 2022; Muhammad Arafat & M. Roem Syibli, 2023). Such mechanisms demonstrate how Islamic law can balance adherence to normative texts with the need to protect vulnerable parties, such as adopted children or family members who do not have direct inheritance rights. This proportional creativity is one of the important characteristics in the process of legal reform through jurisprudence.

The Supreme Court plays a strategic role in directing the development of Islamic inheritance law in Indonesia. The *maqāṣid al-sharī'ah* approach provides normative direction by emphasising legal objectives, such as justice and benefit, while legal reform theory provides a systematic transformation framework to adapt the law to social needs. On the other hand, legal discovery theory explains the operational mechanism for judges to fill normative gaps through ethical legal interpretation and construction.

The synergy between these three approaches results in judgements that are not only juridically valid, but also substantively just and socially relevant. The Supreme Court's decision shows that Islamic inheritance law in Indonesia is able to adapt to modern challenges without losing its identity. Supreme Court jurisprudence acts as an instrument of legal reform that combines legal certainty, justice, and human values, while strengthening the position of Islamic law as a responsive and inclusive legal system.

Stepchildren

Supreme Court decisions in inheritance cases involving non-biological heirs mark an important development in the construction of Islamic family law in Indonesia (Nurlaelawati, 2015). This development shows a paradigm shift from a normative-textual approach towards a more substantive and contextual approach..

Cassation Decision Number 489 K/Ag/2011 is a concrete example of how the Religious Courts respond to the complexity of modern family relations that are not fully accommodated by classical Islamic inheritance law. The provision of a share of inheritance to stepchildren after deducting the wife's share as a legal heir reflects a conscious effort to bridge the gap between legal norms and social reality.

The juridical significance of Cassation Decision No. 489 K/Ag/2011 lies in the courage of the Supreme Court to transfer the rest of the testator's property that was previously potentially handed over to the *Amil Zakat, Infaq* and *Sadaqah* Institution (LAZIS) to the testator's stepchildren. This consideration shows that the judge places personal relationships and family responsibilities as the top priority over institutional interests. Stepchildren are seen as legal subjects who have a real and urgent interest in the testator's inheritance because of their ongoing attachment to life.

This argument affirms that factual relationships in the form of care, fulfilment of economic needs, and emotional ties during the life of the testator are important bases in determining the direction of inheritance justice. Stepchildren, although they do not have a nasab relationship, are in a position of real dependence on the testator. This condition distinguishes stepchildren from social institutions such as LAZIS that do not have a personal relationship with the testator. Such considerations reflect the human-centred orientation of justice and concrete social relations.

The judge's consideration in this decision also contains an implicit criticism of the formalistic approach that has dominated the practice of Islamic inheritance. The formalistic approach tends to exclude stepchildren solely due to the absence of blood relations, without considering the reality of family life. The Supreme Court questioned the consistency of the legal logic that accommodates adopted children through the mandatory bequests mechanism, but ignores stepchildren who live, are cared for, and are economically supported by the testator.

This reasoning reflects the courage of the judge in exploring the value of justice that lives in society. The judge did not stop at the formal boundaries of faraidh norms, but rather attempted to interpret the law in accordance with the sense of justice that developed in the current social context. This approach emphasises that the law should not be separated from the social reality in which it is applied.

The legal construction built by the Supreme Court in this decision shows a progressive and responsible use of judicial discretion. The judge did not simply apply the law mechanically, but made a contextual assessment of the social and economic relations between the heir and stepchildren. This shift marks a transition from normative legalism to social reality-based justice, which places humanity at the centre of legal considerations.

Legal discovery theory provides a strong analytical framework to understand this approach. The Supreme Court appears to have utilised the legal construction method by expanding the scope of mandatory bequests beneficiaries. This expansion is not done by bumping into written norms, but through teleological interpretation of the purpose and spirit of mandatory probate as an instrument of corrective justice in Islamic law (Manan, 2013).

The courage of the Supreme Court in Decision No. 489 K/Ag/2011 gained normative legitimacy through the issuance of Supreme Court Circular Letter No. 7/2012. This Circular Letter explicitly provides guidance that stepchildren who have been cared for since childhood are entitled to a share of inheritance through the mechanism of mandatory bequests. This policy shows the continuity between judicial decisions and institutional policies of the Supreme Court.

Supreme Court Circular Letter No. 7/2012 confirms that legal discovery is not only done to resolve certain cases, but has been institutionalized as a guideline that can be used by judges at all levels of the Religious Courts. This arrangement indicates a change in the role of the Supreme Court, from an institution that decides individual cases to one that actively directs and shapes the development of Islamic family law in the national legal system.

This approach confirms the position of the mandatory bequests as an adaptive provision, so that it can accommodate the interests of parties who are juridically not heirs, but have a real relationship with the testator. Stepchildren are seen as having legal interests that deserve protection because of their role in family life as well as the maintenance and maintenance responsibilities that have been carried out by the testator during his lifetime. This form of protection reflects the application of the principle of social justice which is the spirit of Islamic law (Mudzhar, 2014).

Supreme Court Justice Yasardin's view on the philosophy of granting mandatory bequests to stepchildren provides a solid theoretical basis for the policy. Stepchildren do not inherit directly according to faraidh law, but are socially and economically part of the testator's nuclear family. This dependency creates a vulnerable position that requires legal intervention after the death of the testator.

The concept of compulsory probate, as Yasardin argues, was born from the principle of justice to protect parties who are prevented from obtaining inheritance due to sharia provisions, but have a real relationship with the testator. This principle confirms that Islamic law is not only oriented towards normative certainty, but also to the benefit and prevention of harm (Elika, 2020). Analysis based on *maqāṣid al-sharī'ah* theory shows that the granting of mandatory bequests to stepchildren is oriented towards the protection of *hifz al-nafs* and *hifz al-māl*. Protection of the survival of stepchildren is the main goal, especially when the child has been economically dependent on the testator. The distribution of assets through mandatory bequests serves as a preventive mechanism against poverty and neglect.

The dimension of *hifz al-nasl* is also reflected in this policy even though stepchildren do not have blood relations. The protection of the social family structure is part of the sharia's goal in maintaining family stability and harmony. Neglect of stepchildren has the potential to cause conflict, jealousy, and injustice that are contrary to the objectives of sharia.

The opinion of the Supreme Court Justice, Imron Rosyadi, further strengthens the normative justification for the granting of mandatory bequests to stepchildren. Stepchildren are not included as

heirs in the *faraid* system, but their strong emotional and economic relationship with the testator creates moral rights that deserve to be protected by law. Compulsory probate becomes a means of transforming these moral rights into legal rights.

The limitation of a maximum of one-third of the estate in the implementation of the mandatory bequests reflects an effort to maintain a balance between the protection of the interests of non-heirs and respect for the rights of legal heirs. This provision is intended so that compulsory bequests do not interfere with the basic order of Islamic inheritance, but still open up space for justice for parties who socially and morally deserve to be protected (Zein, 2017).

Decision No. 489 K/Ag/2011 and Supreme Court Circular Letter No. 7/2012 show that Indonesian Islamic family law is dynamic and adaptive. Legal development takes place through a dialectic between normative texts, social practices, and legal discovery by judges. This dialectic characterises law that is responsive to social change.

The absence of explicit regulation regarding stepchildren in the Compilation of Islamic Law encourages judges to make creative and responsible legal discoveries. Judges are tasked with making decisions that have legal consequences for other parties. Judges cannot refuse on the grounds that there is no law (Mertokusumo, 2014). The discovery of this law can not be seen as a deviation, but as an effort to fill the legal vacuum in order to achieve justice which is the main purpose of sharia.

The legal construction of the mandatory bequests for stepchildren also reflects the application of the principles of *istihsān* and *maṣlaḥah mursalah*. The judge chooses the legal solution that brings the most benefit and causes the least harm, even though it is not explicitly formulated in classical normative texts. This approach shows the internal flexibility of Islamic law in responding to social reality without losing its normative identity. Compulsory probate serves as a bridge between *faraidh* norms and the increasingly complex demands of contemporary social justice. The sustainability of the application of mandatory bequests for stepchildren requires consistency of jurisprudence and strengthening of regulations. Without clear guidelines, judges' discretion has the potential to create disparities in decisions that harm legal certainty and a sense of justice.

The overall analysis confirms that the granting of compulsory probate to stepchildren is a manifestation of the integration between legal discovery theory and *maqāṣid al-sharī'ah*. This integration results in a law that is normatively valid, substantively just, and socially relevant. Compulsory probate for stepchildren is not a casuistic policy, but part of the evolution of Indonesian Islamic family law. This evolution reflects the commitment of the religious courts in realising justice, benefit and legal protection for all family members without discrimination based on nasab relationship.

Children from Unregistered Marriages

Decision No. 871 K/Ag/2023 presents a very complex and layered problem of Islamic inheritance law, particularly in relation to the legal status of children born from unregistered polygamous marriages. This complexity stems not only from the tension between normative Islamic law and positive state law, but also from the judiciary's efforts to balance legal certainty with justice. This context is even more relevant when it is linked to Supreme Court Circular Letter No. 3 of 2023, which explicitly emphasises the protection of the best interests of children through the mechanism of mandatory bequests.

This case departs from the legal facts that have been tested and proven in the *judex facti* examination, namely that *Nur Qalbi* is the biological child of the testator. The biological facts are not denied by the parties and are reinforced by valid evidence according to procedural law. The blood relationship or nasab between the child and the testator has thus been proven scientifically and juridically, so that there is no doubt about the origin of the offspring concerned (Al-Mabruri, 2024; Reskiani et al., 2022).

The main legal issue arose not on the biological aspect, but on the marital status of Nur Qalbi's parents. The marriage between the heir and the third wife was proven to have been

conducted according to Islam, but was not officially registered in accordance with the provisions of the legislation. This condition places the child in a vulnerable position in the formal inheritance legal system, even though the substantive nasab relationship has been fulfilled.

The judex facti then provided a solution by determining *Nur Qalbi's* rights through the mechanism of compulsory wills. This approach shows the judges' caution in applying Islamic inheritance law formally, as well as opening up space for legal protection for children. Compulsory testament was chosen as an instrument that allows the fulfilment of children's rights without having to determine them as heirs in the classical sense.

The Supreme Court strengthened this consideration by adding the dimension of the principle of justice. The assessment does not stop at the administrative legality of marriage, but rather expands the perspective on the social and humanitarian impacts that children will experience if their economic rights are neglected. This orientation is in line with the spirit of Supreme Court Circular Letter No. 3 of 2023 which places the best interests of the child as the primary consideration.

The Supreme Court's move became even more progressive when *Nur Qalbi's* share of the mandatory bequests was equalised with that of other heiresses' daughters. The uniformity is not only symbolic, but also substantive because it eliminates the economic gap between children born from registered and unregistered marriages. This approach demonstrates the application of distributive justice that is orientated towards results, not solely on formal status.

The relevance of this decision to SEMA No. 3 of 2023 is evident in the affirmation that biological children from marriages conducted according to Islam, even if they are not registered, can be designated as recipients of mandatory bequests ([Surat Edaran Mahkamah Agung, 2023](#)). This policy norm provides institutional legitimacy to judicial practice that places child protection above administrative rigour. The Supreme Court's decision can thus be understood as the concretisation of this policy in real cases.

Problems become more apparent when a comparison is made with the treatment of the children of the second wife. The facts of the trial showed that the marriage between the protection of offspring is not limited to the formal recognition of nasab, but includes the fulfilment of the basic rights of children as human beings. Al-Syātibī asserted that all sharia laws are established in order to realise the benefit of mankind ([Mawardi, 2018](#)). This principle requires the law to provide real protection to children who are biologically proven to have a relationship with the heir.

Giving *wasiat wajibah* to *Nur Qalbi* can be understood as a concrete effort to maintain the benefit of the child. The economic rights granted aim to prevent harm in the form of social inequality, injustice, and potential neglect. This approach is in line with the maqāṣid at the *darūriyyāt* level, particularly in the aspect of safeguarding property and offspring. The nominal equalisation of the compulsory testamentary share with the share of other daughters shows a more progressive maqāṣid orientation. The substance of justice is placed as the main goal, while administrative formalities are positioned as a means. This approach confirms that the law should not stop at procedures if the goal of benefit has not been achieved.

The difference in legal status between the children of the second wife and the third wife shows that administrative factors are still used as an important reference by the Supreme Court. Recording the marriage of the second wife after divorce is considered to provide additional legal legitimacy. This factor makes a difference in the judges' legal construction, even though the substantive conditions of the children's birth are similar.

The perspective of legal discovery theory shows that the Supreme Court does not merely act as the mouthpiece of the law. Judges conduct *rechtsvinding* by exploring the value of justice that lives in society as well as developing legal policies. This process is evident in the use of mandatory bequests as a corrective instrument. The theory of legal discovery views judges as active subjects who fill the void of norms ([Mertokusumo, 2014](#)). Classical Islamic inheritance law does not explicitly regulate the status of children from unregistered marriages. The void is then filled through systematic and teleological interpretations oriented towards child protection.

Wasiat wajibah in this context is the result of a benefit-oriented legal construction, functioning to bridge the tension between positive legal norms, classical Islamic law, and the demands of social justice, so that children still obtain economic rights without having to overhaul the basic structure of inheritance law. This approach gains legitimacy from the concept of *maslahah mursalah*, which is a benefit that is not explicitly mentioned in the *nash* but does not contradict the principles of *sharia*. Within this framework, the Supreme Court acts as a judicial authority that establishes legal policies to protect children as weak parties. Although the different paths of acquiring assets between heirs and recipients of compulsory wills still leave conceptual problems because nominal equality does not erase differences in legal status, the *maqāṣid al-syarī'ah* perspective considers the compromise acceptable as long as the main benefit is achieved, thus showing the flexibility of Islamic law in responding to evolving social dynamics and realities.

The potential for legal uncertainty still arises due to the different treatment of children from second and third wives because the standards used by the Supreme Court are not fully consistent and measurable, so a more systematic formulation of rules is needed and in line with the spirit of SEMA Number 3 of 2023. The theory of legal discovery asserts that argumentative consistency is essential for a decision to function as a strong jurisprudence, because differences in the basis for granting rights have the potential to cause doubts in the future. In this context, the integration between *maqāṣid al-syarī'ah*, *maslahah mursalah*, and judicial policy needs to be explicitly stated in the legal reasoning. Decision No. 871 K/Ag/2023 reflects a paradigm shift in Islamic inheritance law in Indonesia from a formalistic approach to a substantive approach that is just and orientated towards child protection, with a dialectic between text, context, Supreme Court policy, and the value of benefit as the foundation for the development of Islamic inheritance law that is more humanist, progressive, and responsive to the needs of the times

Contribution of Obligatory Testament Reform in National Law Development

Legal Protection of Non-heir Parties with Proximity to the Testator

The Supreme Court's decision to expand the category of obligatory will recipients to include stepchildren, non-Muslim heirs, and children born from unregistered marriages reflects a significant development in the practice of Islamic inheritance law in Indonesia. This development marks a shift in orientation from a normative approach that is formal in nature towards an approach that emphasises substance and social context. *Wasiat wajibah* is no longer understood in a limited way as a special mechanism for adopted children, but is positioned as an instrument of justice that is able to answer the complexity of contemporary family relations (Sulaiman, 2024). The function of Islamic inheritance law in this framework appears as a normative system that is dynamic and responsive to social change.

The *maqāṣid al-sharī'ah* approach provides a strong conceptual foundation for the expansion of the recipients of the mandatory bequests. The orientation towards the protection of property (*hifẓ al-māl*) and the preservation of offspring in the social sense (*hifẓ al-nasl*) places justice and benefit as the main objectives of determining the law. Stepchildren, children from unregistered marriages, and non-Muslim family members are often in an economically vulnerable condition after the heir dies (Andinata, 2026). Ignoring their position has the potential to create structural injustice that contradicts the basic objective of *sharia* to prevent harm and realise welfare.

The granting of obligatory wills to stepchildren reflects legal recognition of the social relations and economic responsibilities that have been clearly established in family life. The practice of caring for, financing, and treating stepchildren on an equal footing with biological children indicates a functional relationship that is legally relevant. The *maqāṣid* framework views such relationships as part of the social maintenance of offspring, so the protection of stepchildren's economic rights is a manifestation of substantive justice. The role of the mandatory bequests in this context serves as a correction to the limitations of the *faraid* system that focuses on biological relationships (Ahmad, 2018).

The *maqāṣid* foundation also appears strong in the granting of compulsory bequests to children from unregistered marriages. The blood relationship with the testator has been factually established, although hampered by administrative issues in positive law. The Supreme Court's decision to accommodate children's rights through compulsory testament affirms the principle that legal consequences should not be imposed on children as a result of parents' actions. This orientation is in line with the values of justice and protection of the weak, as well as confirming that the purpose of sharia focuses on human welfare, not just procedural compliance.

The application of the mandatory bequests for non-Muslim heirs shows the inclusiveness of Islamic law in a pluralistic society (Y. Fauzi & Mohammad, 2020; Hazmi & Analisa, 2022; Rosa, 2021). The faraid system normatively does not recognise interfaith inheritance, but the Supreme Court has used compulsory testament as an alternative mechanism to maintain justice. The *maqāṣid* perspective places this step as an effort to maintain family harmony, prevent conflict, and protect those who have economic dependence on the testator. This protection is not intended to change the basic principles of sharia, but to actualise the value of justice as the main purpose of Islamic law.

Analysis through the theory of legal reform shows that the expansion of the recipient of the mandatory bequests is part of the process of transformation of Islamic law in Indonesia. The Compilation of Islamic Law as a national legal product provides space for reinterpretation of fiqh to be in line with the evolving needs of society (Gunawan, 2025). The practice of compulsory probate in judicial decisions is not intended to replace the faraid system, but to complement it with mechanisms that are more adaptive to changes in family structure and modern social relations.

The theory of legal reform views law as a system that constantly moves and adapts to social reality without losing normative legitimacy. The Supreme Court's decisions on compulsory probate demonstrate a moderate approach that maintains a balance between the consistency of sharia principles and the demands of social justice. This approach allows Islamic law to remain relevant and functional within the national legal framework, as well as being able to answer issues that are not explicitly formulated in classical legal literature.

The connection with the theory of law discovery (*rechtsvinding*) is evident in the way the Supreme Court judges interpreted Article 209 KHI. The norm is not applied textually alone, but is developed through legal reasoning that considers the concrete context of the case (Faizal, 2022; A. Najib et al., 2023; Nofitasari, 2021). The limited norms in regulating non-conventional family relations encourage judges to conduct legal discovery so that substantive justice is still realised.

The legal discovery framework is realised through the use of *istinbāṭ* methods such as *maslaḥah mursalah*, *qiyās*, and *istihsān*. The provision of mandatory bequests to stepchildren and children from unregistered marriages can be understood as the implementation of *maslaḥah mursalah* which is oriented towards the protection of vulnerable parties. The determination of rights for non-Muslim heirs reflects the application of *istihsān* as a solution when the application of formal law has the potential to cause social injustice.

The overall practice of expanding the recipients of mandatory bequests in Supreme Court decisions shows a close integration between *maqāṣid al-sharī'ah*, legal reform theory, and legal discovery theory. This direction of development confirms the shift of Islamic inheritance law in Indonesia towards a more humanist, inclusive, and justice-oriented paradigm. Welfare and substantive justice as the main orientation not only strengthen legal certainty, but also ensure the function of law as an instrument of protection and public welfare.

The Recipient of the Mandatory Bequest has Contributed to the Heir, has Social Closeness, and Economic Dependence

The criteria for compulsory probate recipients established through Supreme Court decisions indicate an important paradigm shift in Islamic inheritance law in Indonesia, from a normative-formal approach to a substantive approach oriented towards justice and benefit. The emphasis on the recipient's real contribution to the testator, social closeness built during life, and economic dependence reflects the judiciary's efforts to read family relations contextually. Compulsory probate

is positioned as a corrective instrument to the rigidity of classical faraid law in the social context of modern society (Auda, 2008), so that it is not solely understood as a legal instrument, but as a means to bridge the gap between classical faraid norms and the social reality of modern families.

The *maqāṣid al-sharī'ah* perspective provides a strong theoretical foundation for the establishment of such criteria. The main objective of sharia to realise benefit and prevent harm is reflected in the protection of parties who factually have a close relationship and dependence on the heir. The protection of property (*ḥifẓ al-māl*) is not only interpreted as securing the formal distribution of property, but also as an effort to ensure that the heir's property functions to maintain the survival and welfare of those who have been dependent on him. Thus, compulsory probate becomes an instrument of *maqāṣid* actualisation in the context of inheritance.

The contributions of the recipient of the mandatory bequests to the testator, such as devotion, care during illness, and harmonious living together, have a deep *maqāṣid* significance. These relationships indicate a bond of moral and social responsibility that cannot be ignored in the distribution of inheritance. In terms of *maqāṣid*, the recognition of such contributions is in line with the principles of justice (*'adl*) and *ihsān*, as the law not only assesses formal status, but also considers one's actual sacrifices and role in the life of the testator.

The social closeness of the recipient of the compulsory testament to the testator, including relatives who are prevented from inheriting due to religious differences, reflects the orientation of *maqāṣid al-sharī'ah* in the protection of human values. Although classical faraid law stipulates religious differences as a barrier to inheritance, *maqāṣid al-sharī'ah* places the benefit of family and social harmony as a very important goal. In Islamic law, heirs who are no longer Muslims are not entitled to inherit, but in the current development of fiqh in Indonesia, non-Muslim heirs can be placed as parties entitled to receive mandatory bequests (Afdol, 2010). The provision of mandatory bequests to non-Muslim relatives who have strong emotional and social relationships with the testator is a form of protection of human dignity as well as an effort to prevent family conflicts that have the potential to damage social order.

Economic dependency is another criterion that confirms the *maqāṣid* orientation in the expansion of the mandatory bequests. Stepchildren and children from unregistered marriages are often in an economically weak position because they do not have formal inheritance rights. In fact, in the practice of family life, the testator has a moral and social obligation to fulfil their livelihood and needs. The protection of this group reflects efforts to protect the soul (*ḥifẓ al-nafs*) and property (*ḥifẓ al-māl*) simultaneously, so that inheritance law does not become a source of structural injustice.

The theory of legal reform shows that the criteria of contribution, social proximity, and economic dependence are legal responses to changes in the family structure and social relations of modern society. The classical faraid system was built in a particular social context that was relatively homogeneous, whereas contemporary Indonesian society is characterised by religious plurality, complexity of family relationships, and variations in parenting patterns. *Wasiat wajibah* in judicial practice functions as an instrument of reform that allows Islamic law to remain relevant without having to overhaul the basic principles of inheritance.

The theory of legal reform places law as a system that must be adaptive to the needs of society (Kusumaatmadja, 2006). The Supreme Court's decision to expand the criteria for recipients of the mandatory bequests shows institutional courage in interpreting the law in a progressive, yet controlled manner. This reform is evolutive, because it does not negate the faraid provisions, but rather complements them with mechanisms that are more responsive to justice and family welfare.

The role of the theory of law discovery (*rechtsvinding*) is evident in the way the judge formulated the criteria for the recipient of the mandatory bequests. The judge not only applied the norms of Article 209 of the Compilation of Islamic Law textually, but also explored the value of justice that lives in society. The void of norms related to social contribution, emotional closeness, and economic dependency was filled through systematic and teleological interpretations oriented towards legal objectives.

The legal discovery framework shows that judges utilise *istinbāt* methods, such as *maslahah mursalah* and *istihsān*, to respond to social realities that are not fully accommodated by normative texts. The granting of a compulsory bequest to the party who provided intensive care to the testator during his illness reflects the use of *maslahah* as the basis for determining the law. This approach confirms that the law should not stop at formal certainty alone if its application ignores the values of justice and humanity (Tamanaha, 2017).

The synergy between *maqāṣid al-sharī'ah*, legal reform theory, and legal discovery theory results in the construction of mandatory bequests oriented towards relational justice. The law no longer assesses family relationships solely from the legal-formal aspect, but also from the quality of social and economic relations that are built. This approach strengthens the function of law as an instrument of protection against weak and vulnerable parties in the family structure.

The criteria for recipients of compulsory probate based on contribution, social closeness, and economic dependence is a concrete manifestation of the application of *maqāṣid*-orientated Islamic law. This practice confirms that legal reform through the mechanism of legal discovery by judges can be in line with sharia principles while responding to the needs of society. Thus, Islamic inheritance law in Indonesia evolves into a more humanist, adaptive, and just system, while strengthening legal certainty and social harmonisation. This approach also demonstrates the ability of national law to accommodate the complexity of modern family relations without abandoning the normative foundation of sharia.

Providing Mandatory Bequest to Maintain Social Harmony and Prevent Family Rifts

The provision of compulsory probate in Islamic inheritance law has a very important social dimension, especially in maintaining family harmony and preventing conflicts after the death of the testator. In the perspective of *maqāṣid al-sharī'ah* as formulated by al-Syāṭibī, the law is not only understood as a set of normative rules, but as an instrument to realise benefits and prevent harm in human life. Compulsory probate, therefore, can be analysed as a legal mechanism oriented towards social stability and relational justice in the family environment.

Al-Syāṭibī asserted that the main objective of Shari'ah is to safeguard five basic interests (*al-darūriyyāt al-khams*), namely religion, soul, mind, offspring, and property. In the context of compulsory probate, the two most relevant main objectives are the protection of property (*ḥifẓ al-māl*) and the preservation of offspring (*ḥifẓ al-nasl*) in the social sense (Al-Shatibi, 2003). The distribution of inheritance that does not consider the social relationships that have been built during the life of the testator has the potential to cause jealousy, a sense of injustice, and conflict between families, which ultimately undermines the objectives of the Shari'ah.

The granting of mandatory bequests to parties who have emotional and social closeness to the testator, even though they are not included in the *nasab* heirs, serves as a preventive instrument against family conflict. Al-Syāṭibī views that the prevention of harm (*da'fu al-mafṣadah*) must be prioritised when it has the potential to damage the social order. In this context, the neglect of adopted children, stepchildren, or other parties who have played a significant role in the family during life can cause greater conflict than the benefits of maintaining formalistic application of the law.

Family harmony is an integral part of the social good that is the orientation of *maqāṣid al-sharī'ah*. Family relationships that have been harmoniously established during the life of the testator are often based on emotional ties, moral responsibility, and interdependence. Compulsory testament is present as a legal mechanism to maintain the continuity of these relationships after the testator dies, so that the family is not divided due to inheritance disputes stemming from a sense of injustice.

Al-Syāṭibī emphasises that the Shari'ah was not revealed to create difficulties, but to create convenience and benefit (Al-Shatibi, 2003). In this framework, compulsory probate can be understood as a form of legal *takhfif* (relief) that allows flexibility in the distribution of wealth to avoid adverse social impacts. When the distribution of inheritance purely based on *faraid* has the

potential to cause conflict, the mechanism of mandatory testament becomes a legitimate means to reduce the tension.

The prevention of family breakdown is also related to *maqāsid* at the *ḥājīyyāt* level, which is a secondary need that aims to eliminate difficulties in social life. Compulsory probate fulfils this need by ensuring that those who are socially dependent on the testator continue to receive economic protection. The absence of this arrangement can lead to social and economic pressures that lead to prolonged disputes within the family.

The presence of a mandatory bequests also reinforces the value of friendship, which is highly emphasised in Islam. Al-Syāṭibī views that the law should be directed at maintaining social order and strengthening human ties. The granting of rights through compulsory probate is a symbol of recognition of the social relationships that have been built, so that the families left behind can still maintain mutual respect and togetherness.

Based on the *maqāsid* perspective, justice is not only legal-formal, but also substantive and contextual. Compulsory probate allows the realisation of justice by considering the concrete conditions of the testator's family. This approach is in line with al-Syāṭibī's idea that the purpose of the law should take precedence over the literal application of the text if such application would lead to greater *mafsadah*.

The provision of mandatory bequests serves as a means of social reconciliation in the family by ensuring that parties who have a close relationship with the testator still receive legal attention. Such certainty can minimise the potential for conflict and mutual claims between family members. In the *maqāsid* framework, family social stability is seen as part of the public good (*al-maṣlaḥah al-āmmah*) which is the responsibility of the law to maintain and realise (Auda, 2008).

The analysis of *maqāsid al-sharī'ah* shows that compulsory probate is not merely an instrument of wealth distribution, but a normative mechanism to maintain social harmony and prevent family breakdown. The orientation towards benefit, prevention of harm, and protection of family relations makes the mandatory bequests a concrete manifestation of humanist and responsive Islamic law. Thus, the application of mandatory bequests is in line with the main objective of sharia to create a just, harmonious and sustainable family life.

Analysis of the Supreme Court decisions that are the object of the study shows that the expansion of the application of the mandatory bequests is not casuistic or incidental, but is built through a consistent and systematic pattern of legal argumentation. The core findings of this research confirm that the Supreme Court constructs the mandatory bequests as an instrument of corrective justice that serves to bridge the tension between the normative provisions of the Compilation of Islamic Law and the increasingly complex social realities of Indonesian society. The expansion of the subject of compulsory testament recipients to stepchildren, children from unregistered marriages, and non-Muslim heirs is based on three main parameters, namely the real contribution to the testator, social and emotional closeness, and conditions of economic vulnerability and dependence.

The results of this study reinforce and extend the findings of previous studies that have been presented in the introduction. The previous studies generally placed the mandatory bequests in a partial context, such as on non-Muslim heirs, adopted children, or normative analysis of Article 209 of the Compilation of Islamic Law. This research shows that the Supreme Court does not view the categories of recipients of compulsory probate separately, but rather builds a cross- category legal rationality based on the values of substantive justice and benefit. This development indicates that the concept of compulsory probate has undergone a transformation from a limited norm to a legal mechanism that is more inclusive and adaptive to social dynamics. The perspective of *maqāsid al-sharī'ah* theory shows that the legal considerations of the Supreme Court in the decisions studied lead to the *maqāsidīyyah* approach implicitly. The protection of wealth (*ḥifẓ al-māl*), the preservation of offspring in the social sense (*ḥifẓ al-nasl*), and the prevention of harm (*daf' al-mafsadah*) are the main orientations in the determination of mandatory bequests. This approach

confirms that Islamic inheritance law is not understood textually and rigidly, but is directed to realise the goals of justice and benefit as the main substance of sharia.

The theoretical implication of the findings of this research lies in strengthening the concept of mandatory bequests as an instrument of Islamic law reform through jurisprudence. Compulsory probate is no longer positioned solely as a limited exception in the faraid system, but rather as a legitimate normative mechanism to accommodate non-conventional family relations in modern society. This finding also confirms the role of Supreme Court jurisprudence as a functional source of Islamic law reform, which is able to complement the limitations of written arrangements in the Compilation of Islamic Law without negating the basic principles of Islamic inheritance law.

The practical implications of this research relate to the practice of religious courts in handling mandatory bequests cases. The Supreme Court's argumentation pattern that emphasises aspects of contribution, social closeness, and economic dependence can be used as a normative reference for judges in deciding cases more consistently and fairly. The concept of a mandatory bequests in this context functions not only as an instrument of distribution of inheritance, but also as a means of maintaining family harmony and preventing social conflict after the death of the testator.

CONCLUSION

Based on the entire discussion above, two things can be concluded. First, the Supreme Court's considerations in various decisions show a consistent tendency to expand the application of compulsory testament to Article 209 of the Compilation of Islamic Law. The expansion of the *wasiat wajibah* 'mandatory bequests' is given to stepchildren, children from unregistered marriages, and non-Muslim heirs, based on the basis of contribution, social closeness relations, and protection of vulnerable parties. The Supreme Court still maintains the basic principles of Islamic inheritance law, but complements it with a mandatory bequests mechanism as a solution of justice and benefit without shifting the position of nasabiah heirs. Second, the contribution of compulsory testament law reform in the development of national law in Indonesia, namely: flexibility in the application of the adopted child's share; legal protection of non-heirs who have a close relationship with the testator; the recipient of the mandatory bequests has contributed to the testator, has social closeness, and economic dependence; and the granting of mandatory bequests to maintain social harmony and prevent family breakdown. Although this research provides a comprehensive picture of the Supreme Court's consideration in expanding the application of mandatory bequests, this research has several limitations. First, this research only analyses a number of purposively selected Supreme Court decisions, so it does not cover the entire variety of decisions at the *judex facti* and *judex juris* levels within the Religious Courts. Secondly, this research focuses on juridical analysis of the legal considerations of the decision and has not empirically examined the socio-economic impact of the application of compulsory probate on the testator's family. Third, this study has not discussed in depth the potential disparity of decisions at the first and appellate court levels in applying the mandatory bequests before the case reaches the Supreme Court. Based on these limitations, further research is recommended to expand the object of study by analysing religious court decisions at various judicial levels to assess the consistency of the application of mandatory bequests. Further research can also adopt a socio-legal or empirical approach to examine the impact of the application of mandatory bequests on family justice, social harmony, and the protection of vulnerable parties. In addition, future studies need to be directed at formulating more explicit normative parameters regarding compulsory probate, both through strengthening jurisprudence and updating regulations, so that its application so that its application has stronger and more uniform legal certainty

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