

**LEGAL CERTAINTY FOR STEPCHILDREN TO OBTAIN
MANDATORY BEQUESTS:
Analysis of the Decision of the Serdang Bedagai Religious Court
No. 655/Pdt.G/2024/PA.Srh.**

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Abstrak

Penelitian ini bertujuan menganalisis kedudukan hukum anak tiri dalam sistem kewarisan Islam serta kepastian hukumnya dalam memperoleh wasiat wajibah berdasarkan Putusan Pengadilan Agama Serdang Bedagai Nomor 655/Pdt.G/2024/PA.Srh. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan, konseptual, dan kasus, yang diperkuat dengan hasil wawancara dengan praktisi hukum dan ahli hukum Islam. Hasil penelitian menunjukkan bahwa anak tiri secara normatif bukan ahli waris karena tidak memiliki hubungan nasab dengan pewaris. Pasal 209 Kompilasi Hukum Islam hanya mengatur wasiat wajibah bagi anak angkat dan orang tua angkat sehingga belum memberikan pengaturan eksplisit mengenai anak tiri. Dalam perkara yang diteliti, mayoritas Majelis Hakim menolak permohonan wasiat wajibah bagi anak tiri berdasarkan pendekatan normatif terhadap Pasal 209 KHI. Sebaliknya, dissenting opinion membuka ruang pemberian wasiat wajibah dengan mempertimbangkan kedekatan emosional, pengasuhan, kontribusi, dan hubungan sosial antara anak tiri dan pewaris. SEMA Nomor 7 Tahun 2012 juga menunjukkan bahwa anak tiri dapat memperoleh wasiat wajibah secara fakultatif. Kondisi tersebut menunjukkan bahwa kepastian hukum anak tiri masih bersifat relatif dan kasuistik. Oleh karena itu, diperlukan pedoman hukum yang lebih jelas untuk menjamin keseimbangan antara kepastian hukum, keadilan, dan kemanfaatan.

Kata Kunci: Anak Tiri, Wasiat Wajibah, Kepastian Hukum

Abstract

This study aims to analyze the legal position of stepchildren within the Islamic inheritance system and their legal certainty in obtaining a compulsory bequest based on the Decision of the Serdang Bedagai Religious Court Number 655/Pdt.G/2024/PA.Srh. This study employs normative legal research using statutory, conceptual, and case approaches, supported by interviews with legal practitioners and Islamic law experts. The findings indicate that stepchildren are not normatively classified as heirs because they have no blood relationship with the deceased. Article 209 of the Compilation of Islamic Law regulates compulsory bequests only for adopted children and adoptive parents and does not explicitly regulate stepchildren. In the case examined, the majority of the judges rejected the application for a compulsory bequest for the stepchildren based on a normative interpretation of Article 209 of the Compilation of Islamic Law. Conversely, the dissenting opinion opened the possibility of granting a compulsory bequest by considering emotional closeness, upbringing, contribution, and social relationships between stepchildren and the deceased. Supreme Court Circular Letter Number 7 of 2012 also indicates that stepchildren may receive a compulsory bequest on a discretionary basis. This condition demonstrates that the legal certainty of stepchildren remains relative and case-specific. Therefore, clearer legal guidelines are required to establish a balance between legal certainty, substantive justice, and legal utility.

Keywords: Stepchildren, Compulsory Bequest, Legal Certainty

INTRODUCTION

Islam provides a comprehensive normative framework governing human relationships with God, oneself, and other members of society. Its teachings regulate not only matters of faith and worship but also individual conduct, family relationships, property, transactions, and social order. From this perspective, Islamic inheritance law constitutes an important component of Islamic private law because it regulates the transfer of rights and obligations over a deceased person's estate while seeking to preserve justice, family rights, and social balance. In the Indonesian legal context, Islamic inheritance law occupies an important position within the national legal system, particularly for Muslim communities and within the jurisdiction of Religious Courts. Islamic inheritance law is derived from the Qur'an, Sunnah, ijma', and qiyas, which collectively provide the normative foundation for determining the rights of heirs and the distribution of an estate (An-Nabhani, 2020; Djumikasih et al., 2022). Consequently, inheritance issues cannot be separated from the interaction between Islamic legal principles, positive law, judicial interpretation, and the changing social realities of contemporary families.

Islamic inheritance law principally determines entitlement through legally recognized relationships, particularly blood lineage (*nasab*) and marriage. Abd Rahim et al. (2022) explain that *nasab* and marriage constitute fundamental bases for determining inheritance rights in Islamic law. Consequently, not every person who maintains a close emotional or social relationship with the deceased automatically becomes an heir. This principle creates a particular legal position for stepchildren, namely children brought into a marriage by one spouse who have no biological relationship with the other spouse. Although a stepchild may live in the same household, receive education, financial support, protection, and affection from a stepparent, such social and emotional proximity does not automatically establish an entitlement to inheritance under the *faraidh* system. Sondakh (2017) emphasizes that stepchildren are not directly classified as heirs of their stepparents because no legally recognized cause of inheritance exists between them. Similar findings indicate that stepchildren generally retain inheritance relationships with their biological parents but do not automatically inherit from stepparents (Makmun & Firdaus, 2022).

The distinction between formal legal status and substantive family relationships generates an important legal question concerning whether a stepchild can obtain a portion of a stepparent's estate through the mechanism of *wasiat wajibah*. Hidayatulloh (2020) explains that although stepchildren are not heirs under Islamic inheritance law, they may receive property from a stepparent through a will, subject to the applicable limitations. Wati and Rettina (2022) similarly conclude that stepchildren are not heirs within the family inheritance structure but may receive property through testamentary mechanisms. These findings demonstrate that the legal problem does not simply concern whether stepchildren qualify as heirs, but rather concerns the appropriate legal mechanism through which their interests may be protected without altering the fundamental principles of Islamic inheritance.

Wasiat wajibah provides an important legal instrument for addressing circumstances in which certain persons have significant familial or social relationships with the deceased but do

not qualify as heirs under ordinary inheritance rules. In general, a will constitutes a transfer of property whose implementation takes effect after the death of the testator, whereas wasiat wajibah represents a mandatory testamentary entitlement established by law or judicial reasoning under particular circumstances (Anggriani & Irawan, 2024). The normative foundation of wasiat can be traced, among others, to Qur'anic provisions concerning testamentary dispositions in Surah Al-Baqarah 2:180–181, which emphasize the importance of arranging testamentary matters and preserving the integrity of a will (Kementerian Agama Republik Indonesia, 2020). The prophetic tradition likewise demonstrates the significance of documenting testamentary intentions, as reflected in the hadith narrated by Ibn Umar concerning a Muslim who possesses something to bequeath and should not unnecessarily delay recording the will (Muhammad, 1971). These sources establish the broader normative significance of wasiat as an instrument for managing property after death while maintaining justice and preventing disputes among surviving family members.

The development of wasiat wajibah in Indonesia, however, demonstrates that its legal function extends beyond the conventional concept of voluntary testamentary disposition. Nugraheni et al. (2010) found that the regulation and implementation of wasiat wajibah in Indonesia involve not only statutory provisions but also judicial considerations in Religious Court decisions. Their research demonstrates that judicial reasoning plays a significant role in determining how the concept is applied in particular cases. Ramadhani et al. (2019), through their examination of the practice of wasiat wajibah in the Religious Court of Sambas, likewise demonstrate that implementation involves the interaction between the provisions of the Compilation of Islamic Law and judicial practice. Therefore, the development of wasiat wajibah cannot be understood solely from a textual reading of statutory provisions; it must also be examined through judicial interpretation and the concrete circumstances underlying each dispute.

Within Indonesian Islamic family law, the legal position of wasiat wajibah has developed through a combination of codification and judicial interpretation. The Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), disseminated through Presidential Instruction No. 1 of 1991, expressly regulates wasiat wajibah in Article 209 for adopted children and adoptive parents. The provision stipulates that an adopted child who does not receive a will may receive a mandatory bequest of up to one-third of the estate of the adoptive parent, and vice versa (Presidential Instruction No. 1 of 1991). This provision provides explicit protection for adopted children but does not expressly mention stepchildren. Consequently, the position of stepchildren is characterized by normative ambiguity. Recent scholarship confirms that Article 209 has generated continuing debate concerning its scope and interpretation (Mahfuzh Faza & Is, 2024). Subiyanti et al. (2019) similarly demonstrate that the implementation of wasiat wajibah for adopted children under Article 209 involves legal considerations concerning the scope and application of the provision.

The absence of an explicit provision concerning stepchildren becomes increasingly important when the social reality of blended families demonstrates substantial care, dependency,

affection, and responsibility between stepchildren and stepparents. A stepchild may spend many years under the care of a stepparent and develop a relationship functionally similar to that between a biological parent and child. Nevertheless, the absence of nasab means that the stepchild does not acquire inheritance rights automatically. This situation creates a potential tension between formal legal certainty and substantive justice. Sondakh (2017) identifies the possibility of protecting stepchildren through alternative mechanisms, including qiyas and wasiat wajibah, whereas Makmun and Firdaus (2022) emphasize that the principal legal route for stepchildren is not inheritance but testamentary or other legally recognized mechanisms. The existence of different approaches demonstrates the need for a more precise analysis of the legal basis upon which judicial protection for stepchildren can be constructed.

Judicial practice demonstrates that wasiat wajibah has not remained confined to the exact circumstances expressly formulated in Article 209. The Supreme Court has developed jurisprudence extending the application of wasiat wajibah to circumstances beyond adopted children and adoptive parents. Supreme Court Decision No. 368 K/AG/1995 is particularly significant in the development of Indonesian inheritance jurisprudence because the Supreme Court recognized a mandatory testamentary entitlement for a non-Muslim family member, thereby demonstrating judicial willingness to employ wasiat wajibah as an instrument for achieving substantive justice where conventional inheritance rules prevent direct inheritance. Subsequent jurisprudence has continued to develop the concept in cases involving different religious affiliations and other exceptional family circumstances. Fauzi (2020) explains that the Supreme Court's jurisprudence concerning wasiat wajibah reflects an attempt to reconcile Islamic inheritance principles with justice and the social realities of plural Indonesian families. Setyawan et al. (2024) similarly characterize the development of wasiat wajibah through Supreme Court decisions as part of contemporary *ijtihad* in addressing complex inheritance problems.

This judicial development is important for the present research because it demonstrates that judicial interpretation may operate as a mechanism for addressing normative gaps. However, judicial creativity also raises questions concerning the boundaries of interpretation and the principle of legal certainty. Akhsanty (2025) explains that wasiat and wasiat wajibah have distinct legal characteristics, with wasiat wajibah functioning as a legal mechanism for persons who are not entitled to inherit directly under Islamic inheritance law. Meanwhile, Yassir et al. (2023) identify inconsistencies in the formulation and application of wasiat wajibah within the Indonesian legal framework, particularly when viewed from the perspective of classical Islamic jurisprudence. Thus, the expansion of wasiat wajibah through judicial decisions provides opportunities for substantive justice but simultaneously requires clear doctrinal limits to prevent inconsistent or unpredictable judicial outcomes.

The issue becomes particularly significant in *Putusan Pengadilan Agama Serdang Bedagai Nomor 655/Pdt.G/2024/PA.Srh.*, which concerns a dispute over inheritance and specifically raises the position of stepchildren in relation to wasiat wajibah. The case presents a concrete legal context in which a surviving spouse sought recognition of the rights of his children, who were not the biological children of the deceased, in relation to the deceased's estate. The case is

therefore important not merely as an individual inheritance dispute but as a representation of a broader tension between the formal requirements of Islamic inheritance law and the social reality of contemporary families. The central issue is whether a stepchild who has experienced a substantial parental relationship with a stepparent but lacks a legally recognized nasab relationship can obtain wasiat wajibah based on the principles of justice, benefit, and legal protection.

The case is also significant because previous studies have tended to examine stepchildren from a general normative perspective rather than analyzing a recent Religious Court decision that specifically determines whether a stepchild should be recognized as a recipient of wasiat wajibah. Hidayatulloh (2020) focused on the possibility of transferring property to stepchildren through a will, while Wati and Rettina (2022) examined the inheritance position of stepchildren from the perspective of the Compilation of Islamic Law. Sondakh (2017) discussed the position of stepchildren in Islamic inheritance law, whereas Makmun and Firdaus (2022) examined the practical status of stepchildren in a particular community. Meanwhile, studies concerning wasiat wajibah have predominantly focused on adopted children, non-Muslim heirs, or the implementation of Article 209 KHI (Nugraheni et al., 2010; Subiyanti et al., 2019; Ramadhani et al., 2019). This indicates a research gap concerning the relationship between the specific reasoning of a Religious Court, the exclusion of stepchildren from wasiat wajibah, and the resulting implications for legal certainty.

The issue also intersects with the broader principle of child protection in Indonesian law. Law No. 35 of 2014 emphasizes the state's responsibility to protect children's rights and reinforces the principle that children are entitled to protection from discrimination and treatment that undermines their rights. Although child-protection legislation does not itself establish inheritance rights for stepchildren, its normative orientation toward the protection of children's interests provides a complementary perspective when examining the consequences of legal uncertainty within blended families. The legal problem, therefore, requires an approach that distinguishes between the establishment of inheritance rights and the provision of testamentary protection. Such distinction is essential to ensure that the protection of stepchildren does not undermine the fundamental principles of Islamic inheritance while simultaneously responding to the demands of justice and social reality.

The urgency of this research lies in the absence of an explicit and uniform legal framework governing the entitlement of stepchildren to wasiat wajibah. The existing literature confirms that the application of wasiat wajibah in Indonesia continues to experience interpretative debates, particularly because Article 209 KHI expressly regulates adopted children and adoptive parents while remaining silent regarding other forms of close family relationships (Nugraheni et al., 2010; Mahfuzh Faza & Is, 2024). The problem becomes more complex when judicial jurisprudence expands the application of wasiat wajibah on the basis of justice, maslahat, and contemporary social realities. Consequently, the question of whether stepchildren may receive wasiat wajibah cannot be answered solely by referring to their status as non-heirs; it

requires analysis of the legal basis, judicial reasoning, and principles used to justify or reject such entitlement.

The present study offers novelty by placing *Putusan Pengadilan Agama Serdang Bedagai Nomor 655/Pdt.G/2024/PA.Srh.* at the center of an examination of legal certainty concerning stepchildren and wasiat wajibah. Unlike studies that primarily examine the theoretical status of stepchildren or the general development of wasiat wajibah, this research specifically investigates how the Religious Court constructs its legal reasoning when a stepchild is not established as a recipient of wasiat wajibah. The analysis connects the normative framework of Islamic inheritance law, Article 209 of the Compilation of Islamic Law, judicial jurisprudence, and the principles of justice and *maslahah* with the concrete legal consequences of the decision. This approach is expected to contribute to the development of Islamic family-law scholarship by clarifying the boundaries between inheritance entitlement, testamentary entitlement, judicial discretion, and legal certainty.

Accordingly, this research examines the legal regulation of stepchildren and wasiat wajibah within Islamic inheritance law and Indonesian law, analyzes the judicial considerations underlying *Putusan Pengadilan Agama Serdang Bedagai Nomor 655/Pdt.G/2024/PA.Srh.*, particularly concerning the non-establishment of stepchildren as recipients of wasiat wajibah, and assesses the juridical implications of the decision for the legal certainty of stepchildren. The study is expected to contribute theoretically to the discourse on the development of Islamic inheritance law and practically to judges, legal practitioners, policymakers, and Muslim families confronting inheritance disputes involving blended-family relationships. Ultimately, greater doctrinal clarity is necessary to ensure that the application of wasiat wajibah does not produce arbitrary outcomes, while simultaneously enabling Islamic family law to respond appropriately to justice, social reality, and legal certainty in contemporary Indonesian society.

METHOD

This study employs a normative legal research method that positions law as a system of binding norms and legal principles. Normative legal research is conducted to identify, analyze, interpret, and evaluate legal provisions relevant to a particular legal issue in order to construct systematic legal arguments. In this study, the analysis focuses on the legal certainty of stepchildren in obtaining wasiat wajibah by examining statutory regulations, Islamic legal principles, legal doctrines, scholarly opinions, and judicial decisions relevant to the dispute. As Peter Mahmud Marzuki explains, normative legal research is a process of discovering legal rules, legal principles, and legal doctrines to address legal problems and produce prescriptive arguments, theories, or concepts for resolving such problems (Marzuki, 2017). Accordingly, this research does not primarily seek to measure social phenomena but to formulate a legal prescription concerning the position and protection of stepchildren within the Islamic inheritance system.

The research applies a qualitative juridical approach, emphasizing an in-depth interpretation of written legal materials and the reasoning contained in judicial decisions. The

principal object of analysis is Religious Court Decision No. 655/Pdt.G/2024/PA.Srh., examined in conjunction with the Qur'an, Hadith, the Compilation of Islamic Law, statutory regulations, Supreme Court jurisprudence, legal doctrines, and relevant scholarly literature. The research also employs a case approach (case approach), a statutory approach (statute approach), and a conceptual approach (conceptual approach). The case approach is used to examine the judicial reasoning and legal consequences of the decision, while the statutory approach analyzes the consistency of the decision with applicable legal provisions. The conceptual approach is employed to clarify the concepts of inheritance, nasab, wasiat, wasiat wajibah, justice, and legal certainty.

The study constitutes library research, with legal materials obtained from official legal databases, court decisions, legislation, books on Islamic family law, peer-reviewed journal articles, and other authoritative academic sources. Primary legal materials include the Compilation of Islamic Law, relevant legislation, Supreme Court decisions, and Religious Court Decision No. 655/Pdt.G/2024/PA.Srh. Secondary legal materials consist of books, journal articles, scholarly opinions, and research findings concerning Islamic inheritance and wasiat wajibah, while tertiary materials include legal dictionaries and supporting reference sources.

To enrich the normative analysis, limited semi-structured interviews may be conducted with purposively selected informants, including Religious Court judges, court clerks, advocates, and Islamic inheritance-law scholars. These interviews are positioned only as supporting materials for clarifying judicial procedures, legal reasoning, and practical interpretations and do not alter the fundamentally normative character of the research. Data collection is therefore centered on document analysis and literature review, supplemented by interviews and documentation where necessary.

Data analysis is conducted qualitatively and juridically through identification, classification, interpretation, comparison, and legal reasoning. The analysis begins by reducing the collected materials to provisions, doctrines, and judicial considerations directly relevant to the legal status of stepchildren and wasiat wajibah. The selected materials are then organized thematically to compare positive law, Islamic legal principles, jurisprudence, and the reasoning of the court under study. Finally, conclusions are formulated through deductive legal reasoning by examining the consistency between legal norms, judicial interpretation, and the principles of justice and legal certainty. The validity of the analysis is strengthened through source triangulation, document verification, and limited confirmation of interview information. This analytical procedure is intended to produce a coherent prescriptive argument concerning whether the existing Indonesian legal framework provides adequate legal certainty for stepchildren seeking wasiat wajibah and what juridical implications arise from the decision under examination.

RESULTS AND DISCUSSIONS

Legal Regulation of the Status of Stepchildren and Mandatory Bequests

The legal status of stepchildren in Islamic inheritance law must first be understood through the concept of *faraidh*, which establishes the categories of persons entitled to inherit based primarily on blood relationship (*nasab*), marriage, and *wala'*. These causes of inheritance are generally regarded as limited and cannot simply be extended to persons who do not fulfill the prescribed legal requirements. Consequently, a stepchild does not automatically become an heir of a stepparent because the relationship between the stepchild and stepparent does not constitute a *nasab* relationship. The marital relationship exists between the biological parent and the stepparent, rather than directly between the stepparent and the stepchild. Therefore, under the formal structure of Islamic inheritance law, a stepchild does not possess an inheritance right from a stepparent through the *faraidh* mechanism.

This normative position is important because it distinguishes inheritance rights from other forms of property transfer that may be provided to persons outside the category of heirs. A stepchild may nevertheless receive property from a stepparent through a gift (*hibah*), an ordinary will (*wasiat ikhtiyariyah*), or, subject to the applicable legal interpretation, a mandatory bequest (*wasiat wajibah*). Thus, the absence of inheritance status does not necessarily mean that a stepchild is entirely excluded from receiving property from a stepparent. Rather, the legal mechanism must be distinguished from the mechanism of inheritance itself.

The distinction becomes particularly significant in the context of contemporary family structures. A stepchild may live in the same household as the stepparent for many years and may receive care, education, financial support, and emotional attention from that person. In certain circumstances, the social relationship between a stepchild and stepparent may become functionally similar to that between a biological child and parent. This sociological reality creates a tension between formal legal certainty and substantive justice. As noted by the interviewee Muhammad Yusran, the absence of *nasab* means that a stepchild is not an heir under Islamic inheritance law, but this does not prevent the stepparent from transferring property through legally recognized mechanisms such as *hibah* or *wasiat*. The interview therefore reinforces the distinction between the status of an heir and the possibility of receiving property through other legal instruments.

The concept of *wasiat wajibah* becomes relevant precisely within this legal space. In the Indonesian legal system, the concept is explicitly recognized in Article 209 of the Compilation of Islamic Law (Kompilasi Hukum Islam/KHI), particularly in relation to adopted children and adoptive parents. The provision demonstrates that Indonesian Islamic family law recognizes the possibility of granting property to persons who do not possess a blood relationship with the deceased. Nevertheless, Article 209 does not expressly identify stepchildren as beneficiaries of mandatory bequests. This creates a normative gap when the provision is applied to family relationships that are socially close but formally different from adoption.

Historically, the development of *wasiat wajibah* reflects the dynamic character of Islamic legal thought. The classical *faraidh* system establishes clear categories of heirs, while subsequent legal development has attempted to respond to social circumstances not directly addressed by classical formulations. In Indonesia, the codification of *wasiat wajibah* for adopted children

illustrates an effort to integrate Islamic legal principles with social realities. Therefore, the question of whether a stepchild can receive a mandatory bequest cannot be separated from the broader relationship between textual legal rules, judicial interpretation, and the objective of justice in Islamic law.

The issue becomes more complicated when judicial practice is considered. The absence of an express provision concerning stepchildren means that judges may encounter a choice between a strict textual interpretation and a contextual interpretation that considers the actual relationship between the deceased and the stepchild. The majority reasoning in Religious Court Decision No. 655/Pdt.G/2024/PA.Srh. adopted the former approach by emphasizing Article 209 KHI. From this perspective, because the provision expressly mentions adopted children and adoptive parents but does not mention stepchildren, the court considered the legal basis for granting a mandatory bequest to the stepchildren insufficient.

At the same time, the dissenting opinion in the decision demonstrates that another interpretive possibility exists. The dissenting approach considers the broader objectives of Islamic law, particularly justice and social benefit, and recognizes that judicial interpretation may respond to circumstances not expressly regulated by statutory provisions. This difference illustrates that the legal status of stepchildren in relation to *wasiat wajibah* remains an area in which legal certainty and substantive justice may come into tension. Therefore, the current legal framework provides certainty concerning who is formally an heir, but it does not yet provide equally clear certainty concerning the circumstances under which a stepchild may receive a mandatory bequest.

Judicial Legal Considerations in Religious Court Decision No. 655/Pdt.G/2024/PA.Srh.

Religious Court Decision No. 655/Pdt.G/2024/PA.Srh. provides an important illustration of how judges interpret the relationship between Islamic inheritance law, the Compilation of Islamic Law, and the social realities of stepchildren. The dispute involved Surya Bhakti bin Halawani Halim as the plaintiff and several members of the deceased's family as defendants. The plaintiff was the lawful husband of Leliana Ida Pane, the deceased, while the defendants were her siblings. The case also concerned Ika Gusdhayani and Khairunnita Cahyani, who were the biological children of the plaintiff from a previous marriage and therefore occupied the position of stepchildren in relation to the deceased.

The identification of the parties is significant because inheritance rights arise from specific legal relationships. The plaintiff's status as the lawful husband of the deceased establishes a marital relationship that constitutes a recognized cause of inheritance. Conversely, the defendants' status as the deceased's siblings derives from their blood relationship with the deceased. The two stepchildren, however, did not possess either a *nasab* relationship or a marital relationship with the deceased. Consequently, they could not be classified as heirs under the conventional *faraidh* structure.

The dispute was not limited to the classification of heirs. It also involved the determination of the deceased's estate, including inherited property and marital property. The distinction is important because only the portion of joint property legally belonging to the deceased can subsequently become part of the estate. The court therefore had to determine the legal status of the assets before considering their distribution. Within this framework, the plaintiff sought, among other things, recognition of the stepchildren as recipients of *wasiat wajibah*. The request reflected an attempt to distinguish between formal inheritance rights and the possibility of obtaining property through another legal mechanism.

The factual relationship between the deceased and the stepchildren was also relevant. Evidence presented during the proceedings indicated that the stepchildren had lived together with the deceased after the deceased married their biological father. The deceased was reportedly involved in their care and daily needs. Such circumstances demonstrate that the relationship was not merely formal but had developed into a meaningful social and emotional relationship. Nevertheless, the existence of such a relationship did not automatically transform the stepchildren into heirs. This distinction is fundamental: social parenthood does not necessarily create a *nasab* relationship under Islamic inheritance law.

The majority of the judicial panel focused on Article 209 KHI. The provision regulates *wasiat wajibah* for adopted children and adoptive parents, with the amount generally limited to a maximum of one-third of the estate. Because stepchildren are not expressly included, the majority concluded that there was insufficient legal basis to grant the application. This reasoning represents a textual and legalistic approach. The court prioritized the principle that judges should apply existing legal norms and avoid creating a new category of beneficiaries without an adequate normative foundation.

Nevertheless, the case also contains a significant dissenting opinion. The dissenting judge considered that the absence of an explicit provision concerning stepchildren should not necessarily be interpreted as an absolute prohibition. The dissenting approach relied on the possibility of judicial interpretation and on previous judicial developments concerning *wasiat wajibah*. From this perspective, the legal system must not only maintain formal certainty but also respond to the values of justice and social benefit that emerge from actual family relationships.

This tension is further illustrated by the interview with Royan Bawono, S.H.I., M.H. According to the interview, judicial practice recognizes that a stepchild is not an heir but may, under certain circumstances, receive a portion through *wasiat wajibah*. The important point is the use of the term “may” or *dapat*, which indicates that the granting of such a bequest is not automatic. Rather, it depends upon judicial assessment of the particular facts of each case. Relevant considerations may include whether the stepchild was cared for from childhood, the strength of the emotional relationship, the intensity of social interaction, and the extent to which the stepparent assumed parental responsibilities.

The existence of this discretionary space is legally significant. It means that judicial determination does not rest exclusively upon the formal status of the stepchild but may also consider substantive circumstances. However, the absence of standardized criteria creates the

possibility of different judicial outcomes in cases with similar facts. Consequently, the decision demonstrates two competing approaches: the majority emphasizes formal legal certainty through Article 209 KHI, whereas the dissenting opinion gives greater weight to substantive justice and contextual interpretation.

From a legal reasoning perspective, neither approach is entirely without justification. A strict interpretation protects the predictability of legal rules and prevents judicial discretion from becoming unlimited. Conversely, a contextual interpretation enables the legal system to respond to social realities that are not fully addressed by existing legislation. The central problem therefore lies not merely in the judicial decision itself but in the absence of sufficiently detailed legal parameters governing the entitlement of stepchildren to *wasiat wajibah*.

Juridical Implications for Legal Certainty and Protection of Stepchildren

Religious Court Decision No. 655/Pdt.G/2024/PA.Srh. has broader juridical implications because it demonstrates the limitations of the existing Indonesian legal framework in providing predictable protection for stepchildren. The principal issue is that Article 209 KHI expressly regulates *wasiat wajibah* for adopted children and adoptive parents but does not expressly establish the legal position of stepchildren. Consequently, stepchildren occupy an uncertain position: they are clearly excluded from the category of heirs under the *faraidh* system, but their potential entitlement to a mandatory bequest remains dependent on judicial interpretation.

From the perspective of legal certainty, this situation creates an important distinction between formal certainty and substantive certainty. Formal certainty exists because Islamic inheritance law clearly establishes that inheritance rights are based upon legally recognized causes such as *nasab* and marriage. In this respect, there is no substantial ambiguity concerning the fact that a stepchild is not an heir of the stepparent. The uncertainty emerges at the subsequent stage, namely whether the stepchild can receive property through *wasiat wajibah* and what criteria should determine such entitlement.

This issue can be examined through the concept of legal certainty associated with Gustav Radbruch. Legal certainty requires law to provide clarity, consistency, and predictability. When the legal framework leaves the determination of entitlement largely to judicial discretion without clear criteria, predictability may be weakened. Two judges confronted with similar circumstances may potentially reach different conclusions concerning whether a stepchild deserves a mandatory bequest. Such a situation can affect equality before the law and make the protection of stepchildren dependent upon the interpretive orientation of individual judges.

The existence of judicial guidance concerning stepchildren nevertheless demonstrates that the legal system is not entirely closed to their protection. As explained in the interview with Royan Bawono, S.H.I., M.H., SEMA No. 7 of 2012, particularly the formulation concerning the Religious Chamber, has been understood as recognizing that stepchildren are not heirs but may receive a portion through *wasiat wajibah* for the sake of justice. The use of the term *dapat* is

significant because it indicates a discretionary rather than automatic entitlement. This creates a legal space in which judges can assess the concrete circumstances of each case.

However, discretionary authority without measurable parameters may also produce uncertainty. Factors such as emotional closeness, long-term care, economic dependency, and parental responsibility may be relevant, but their legal weight is not always clearly defined. The absence of objective criteria may therefore result in inconsistent judicial assessments. In this regard, the dissenting opinion in Decision No. 655/Pdt.G/2024/PA.Srh. can be understood as an effort to overcome normative limitations through judicial interpretation.

The issue also has implications for the development of Islamic law in Indonesia. Islamic law has historically developed through interaction between textual sources and the social conditions in which legal rules are applied. The existence of *wasiat wajibah* itself illustrates such development. Indonesian Islamic family law has incorporated a mechanism that was not identical to the conventional structure of *faraidh* in order to respond to specific social circumstances. Therefore, extending consideration of *wasiat wajibah* to stepchildren, if undertaken through an appropriate methodology, may be viewed as part of the continuing development of Islamic family law.

Nevertheless, the development of such a concept must remain grounded in Islamic legal methodology. The view expressed by Muhammad Yusran emphasizes that a stepchild remains connected by *nasab* to his or her biological parents and therefore may inherit from the biological family. The relationship with a stepparent is created by marriage rather than blood relationship. Consequently, extending *wasiat wajibah* to stepchildren requires a sound *ijtihad* methodology based on the Qur'an, Sunnah, *ushul al-fiqh*, and established principles of Islamic jurisprudence rather than simply adopting a non-Islamic legal rationale.

The protection dimension is equally important. A stepchild who has been raised, educated, and financially supported by a stepparent may experience a substantial material and emotional loss if the relationship is completely ignored upon the stepparent's death. The absence of inheritance rights does not necessarily mean that the legal system should disregard the social reality of the relationship. *Wasiat wajibah* may therefore serve as an instrument for balancing the formal structure of inheritance with substantive justice.

At the same time, using *wasiat wajibah* as a corrective mechanism without clear legal standards may create another problem: uncertainty. As emphasized by advocate Siswo Utomo, S.H., the absence of clear criteria makes protection for stepchildren highly dependent on judicial policy and case-by-case interpretation. This can result in variations in judicial decisions and weaken the consistency of legal protection.

Therefore, the findings indicate that the central legal problem is not simply whether stepchildren should be categorized as heirs. Such categorization would conflict with the fundamental structure of Islamic inheritance law because stepchildren do not possess *nasab* with the stepparent. The more appropriate legal question is whether Indonesian Islamic family law should establish clearer criteria for granting *wasiat wajibah* to stepchildren who have demonstrated a substantial social, emotional, and economic relationship with the deceased.

Accordingly, the development of a more comprehensive legal framework is necessary. Such development may take the form of legislative clarification, refinement of judicial guidelines, or the establishment of more objective judicial criteria. These criteria could consider factors such as the duration of the relationship, the extent of parental care provided by the stepparent, economic dependency, emotional attachment, and the existence of alternative inheritance rights. Such a framework would enable judges to preserve the principles of *faraidh* while simultaneously providing a more predictable mechanism for substantive justice.

In this sense, Decision No. 655/Pdt.G/2024/PA.Srh. demonstrates that the legal position of stepchildren is located at the intersection of legal certainty, justice, and the development of Islamic family law. The majority decision provides a strong basis for formal certainty by adhering to Article 209 KHI, while the dissenting opinion illustrates the possibility of progressive judicial interpretation. The future development of the law should seek to reconcile these approaches rather than placing them in opposition. A balanced framework would preserve the certainty of the *faraidh* system while establishing a predictable and equitable mechanism through which stepchildren may receive protection under *wasiat wajibah* when the particular circumstances of the case justify it.

CONCLUSIONS

Based on the results and discussion regarding the legal certainty of stepchildren to obtain *wasiat wajibah* in the Religious Court Decision of Serdang Bedagai Number 655/Pdt.G/2024/PA.Srh., it can be concluded that normatively, stepchildren are not heirs under Islamic inheritance law because they do not have a blood relationship (*nasab*) with the decedent. Article 209 of the Compilation of Islamic Law also does not explicitly place stepchildren as recipients of *wasiat wajibah*, so textually the petition for granting *wasiat wajibah* to stepchildren lacks a firm normative foundation. This condition became the basis for the majority of the panel of judges to reject the petition in the *a quo* case. However, the development of judicial practice shows a broader space for consideration. Supreme Court Circular Letter (SEMA) Number 7 of 2012 provides the possibility for stepchildren to obtain a share through *wasiat wajibah* by using the phrase “may,” thus its granting is facultative and depends on the judge’s consideration. The dissenting opinion in the decision reflects an approach that emphasizes substantive justice, particularly based on emotional closeness, caregiving, contribution, and social relations between the stepchild and the decedent. Therefore, the legal certainty of stepchildren remains relative and case-based. Clearer guidelines are needed regarding the criteria, limitations, and mechanisms for granting *wasiat wajibah* to stepchildren in order to create a balance between legal certainty, justice, and benefit.

✦ I kept the translation faithful to the original while ensuring it reads smoothly in academic English. Would you like me to also prepare a **shorter, journal-style version** (around 150 words) that is concise and ready for publication?

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