

Reconceptualizing Mandatory Bequests for Children of Unregistered Marriages: Islamic Family Law Responses to Supreme Court Circular Letter No. 3 of 2023

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Abstract: This study examines the application of the mandatory will (*wasiat wajibah*) as regulated in Supreme Court Circular Letter (SEMA) No. 3 of 2023, particularly in relation to children born from valid but legally unregistered marriages. The research aims to analyze the legal construction and implications of SEMA No. 3 of 2023 concerning inheritance rights through mandatory wills within the framework of Islamic inheritance law in Indonesia.

This research adopts a library-based methodology using a normative juridical approach, focusing on statutory analysis of SEMA No. 3 of 2023 as the primary legal source. Secondary data are derived from books, scholarly articles, and relevant scientific works. Data analysis is conducted through deductive reasoning, while data validity is ensured through source triangulation. The findings indicate that *wasiat wajibah* under SEMA No. 3 of 2023 serves as an alternative legal instrument to provide inheritance shares to children who are not formally recognized as heirs under classical Islamic inheritance law.

This provision extends the earlier application of mandatory wills, previously limited to adopted children under Article 209 of the Compilation of Islamic Law. Although the inheritance portion through *wasiat wajibah* is limited to one-third of the estate, this policy reflects the principle of *maṣlaḥah* and the best interests of the child by ensuring minimum economic protection and legal certainty for children born from unregistered marriages.

Abstrak: Penelitian ini membahas penerapan *wasiat wajibah* sebagaimana diatur dalam Surat Edaran Mahkamah Agung (SEMA) Nomor 3 Tahun 2023 terhadap anak yang lahir dari perkawinan yang sah secara agama tetapi tidak tercatat secara hukum. Tujuan penelitian ini adalah untuk menganalisis kedudukan dan implikasi hukum *wasiat wajibah* sebagai instrumen alternatif dalam pemberian hak waris bagi anak dari perkawinan tidak tercatat dalam perspektif hukum Islam. Penelitian ini merupakan penelitian kepustakaan dengan metode yuridis normatif dan pendekatan peraturan perundang-undangan, khususnya SEMA Nomor 3 Tahun 2023. Data primer berupa SEMA Nomor 3 Tahun 2023, sedangkan data sekunder diperoleh dari literatur hukum Islam, jurnal ilmiah, dan sumber akademik yang relevan. Analisis data dilakukan secara deduktif dengan teknik triangulasi sumber untuk menjamin keabsahan data. Hasil penelitian menunjukkan bahwa *wasiat wajibah* dalam SEMA Nomor 3 Tahun 2023 berfungsi sebagai instrumen hukum progresif untuk menjamin perlindungan hak anak yang secara normatif tidak diakui sebagai ahli waris dalam hukum waris Islam klasik. Meskipun porsi *wasiat wajibah* terbatas maksimal sepertiga harta warisan, ketentuan ini mencerminkan prinsip kemaslahatan dan perlindungan kepentingan terbaik bagi anak. Dengan demikian, pengaturan ini merepresentasikan

upaya harmonisasi antara hukum Islam, praktik peradilan, dan kebutuhan keadilan sosial dalam konteks hukum keluarga Islam di Indonesia.

Keywords: *Mandatory Will (Wasiat Wajibah); Unregistered Marriage; Islamic Inheritance Law*

Introduction

Every marriage aspires to the presence of children as successors who will carry forward and safeguard the family's dignity and reputation. Although every child is born in a state of purity, the legal status of a child is significantly influenced by the marital status of their parents. Whether a marriage is legally recognized or not has direct implications for the child's legal position. In Islamic law, a marriage is considered valid if it fulfills the essential pillars and conditions prescribed by the Sharia, namely the presence of a prospective husband and wife, a lawful guardian, two witnesses, and the *ijab qabul* (offer and acceptance) (Laila Nadia, 2024, p. 104).

Indonesia regulates marriage comprehensively through Law Number 1 of 1974 on Marriage, as amended by Law Number 16 of 2019, as well as the Compilation of Islamic Law (KHI), which serves as a specific reference for Muslims in resolving marital disputes before the Religious Courts. From an Islamic perspective, marriage is not merely a civil contract but a sacred covenant (*mitsaqan ghalidzan*) that carries an element of worship to Allah SWT. The Qur'an and Hadith, as the primary sources of Islamic law, clearly stipulate the pillars and conditions that must be met for a marriage to be considered valid under Sharia.

As a consequence of the obligation to register marriages before authorized officials, a legal distinction arises between registered and unregistered marriages. Within the Indonesian legal system, children born from unregistered marriages are categorized as children born outside of marriage, as regulated by Law Number 1 of 1974 and the Compilation of Islamic Law. Such children only have a legal relationship with their mother and the mother's family, and therefore do not automatically obtain rights to maintenance, living expenses, education, or inheritance from their father. Despite the legal requirement for marriage registration, unregistered marriages – commonly referred to as *nikah sirri* or underhand marriages – remain prevalent in Indonesian society (Virahmawaty Mahera, 2022, p. 100).

Islamic inheritance law is comprehensively regulated in the Qur'an and Hadith, detailing eligible heirs, inheritance portions, and distribution mechanisms. One of the principal foundations is found in Qur'an Surah An-Nisa (4):7, which affirms that both men and women have predetermined rights to inheritance from their parents and relatives. This verse reflects Islam's commitment to social and economic justice, even though the specific portions may differ based on social responsibilities. Nonetheless, certain legal impediments – such as differences in religion, slavery, or homicide – may prevent individuals from inheriting (Syarifuddin, 2008; Muhajir, 2021).

A significant legal development emerged with the issuance of Supreme Court Circular Letter (SEMA) Number 3 of 2023. In the formulation of Islamic inheritance law, point (c) explicitly states that, in order to protect the best interests of the child, a biological child born from a marriage conducted in accordance with Islamic law but not legally registered may be designated as a recipient of a *mandatory will (wasiat wajibah)* from the deceased parent. This

provision introduces a legal reform that addresses the inheritance rights of children from unregistered marriages by granting them access to parental assets through the mechanism of *wasiat wajibah*. The concept of *wasiat wajibah* in Islamic law allows certain parties – who are not recognized as heirs under classical *faraid* rules – to receive a portion of the estate based on considerations of justice and public benefit (*maslahah*).

In Indonesia, the concept of *wasiat wajibah* has previously been regulated in the Compilation of Islamic Law, particularly under Article 209, which limits its application to adopted children or adoptive parents, with a maximum allocation of one-third of the estate (Nginggar Ajeng Radindi, 2023). Meanwhile, biological children born outside of legally recognized marriages traditionally maintain civil relations only with their mothers and maternal families (Article 186 KHI). The introduction of SEMA Number 3 of 2023 therefore represents a significant expansion of the application of *wasiat wajibah*, reflecting a progressive effort to reconcile Islamic inheritance principles with contemporary demands for child protection and social justice.

Method

This study employs library research using a normative juridical approach, with data analyzed qualitatively. Normative legal research focuses on examining and interpreting legal norms through the analysis of authoritative documents, including statutory regulations, judicial decisions, legal doctrines, and scholarly opinions. In this study, primary legal materials consist of relevant laws and regulations, particularly statutory provisions and formal legal instruments related to the research topic. These primary sources are further supported by secondary materials such as textbooks, peer-reviewed journal articles, scientific publications, and other official documents relevant to Islamic inheritance law and family law discourse. Through systematic qualitative analysis, this research aims to construct a comprehensive understanding of the legal framework and normative principles governing the application of the mandatory will (*wasiat wajibah*).

Results and Discussion

The Concept of Mandatory Will (*Wasiat Wajibah*) in Islamic Law

The concept of *wasiat wajibah* is not explicitly formulated in classical Islamic jurisprudence. Etymologically, *wasiat* refers to a testamentary disposition, while *wajibah* derives from the term *wājib*, denoting an obligation imposed by law. In Islamic legal theory, an obligation (*wājib*) refers to an act that must be performed, the neglect of which carries legal consequences. As articulated by Abdul Wahab Khalaf, legal obligations in Islamic law are intrinsically connected to the realization of justice and public welfare. (Rohana, 2021).

Normatively, *wasiat wajibah* emerged through *ijtihad* as a legal mechanism designed to address situations where strict application of classical inheritance rules (*farā'id*) resulted in perceived injustice. It allows certain individuals – who are not legally recognized as heirs under classical doctrine – to receive a portion of the deceased's estate based on considerations of equity, kinship, and social responsibility. In contemporary Muslim legal systems, this concept has been adopted to accommodate evolving family structures and legal realities.

Islamic inheritance law (*ilm al-farā'id*) regulates the distribution of a deceased person's estate by defining eligible heirs, exclusionary rules (*ḥajb*), and predetermined shares. These rules are divinely prescribed and generally immutable. However, Islamic law also recognizes the institution of the will (*wasiat*) as a complementary mechanism that provides flexibility

within the inheritance system. A will enables a testator to allocate up to one-third of their estate to non-heirs, provided that it does not infringe upon the rights of legitimate heirs. (Nofiard, 2023, p. 3).

In Indonesia, this flexibility has been institutionalized through the Compilation of Islamic Law (KHI), particularly Article 209, which introduces *wasiat wajibah* for adopted children and adoptive parents. This provision reflects the adaptation of Islamic inheritance law to social realities while maintaining doctrinal integrity. The extension of this concept to biological children born from unregistered marriages under SEMA No. 3 of 2023 represents a further development of this adaptive legal approach.

SEMA No. 3 of 2023 and the Limits of Mandatory Will in Islamic Inheritance Law

A Circular Letter of the Supreme Court (Surat Edaran Mahkamah Agung/SEMA) is an administrative legal instrument that serves as practical guidance for judges in handling cases before the courts. Although it does not hold the same legal status as statutes or other formal regulations, SEMA plays a significant role in shaping judicial practice within the Indonesian court system. In a legal system that prioritizes written law, SEMA functions as a complementary instrument to clarify, harmonize, and fill regulatory gaps where legislation does not provide explicit guidance. Through this role, SEMA helps ensure consistency and direction in judicial decision-making, particularly in cases involving legal ambiguity.

Nevertheless, binding legal authority must ultimately derive from formally enacted legislation that possesses direct legal force. If a judge does not refer to or apply a SEMA in their legal reasoning, such omission does not automatically invalidate the court's decision. A judicial ruling can only be annulled if its substance clearly contradicts higher-ranking laws that are legally binding. Therefore, while SEMA does not create binding legal norms in the same way as statutes, it remains an important normative reference that influences judicial interpretation and promotes uniformity in the application of law within the judiciary. (Transparansi Hukum & Afif Gusti Fatah, n.d.).

Based on an analysis of legal documents, Circular Letter of the Supreme Court (Surat Edaran Mahkamah Agung/SEMA) Number 3 of 2023, particularly the Formulation of Law of the Religious Chamber in the section on Inheritance Law, point (c), states that: "In order to protect the best interests of the child, a biological child resulting from a marriage conducted according to Islamic law but not administratively registered may be designated as a recipient of a mandatory will (*wasiat wajibah*) from the deceased." This SEMA constitutes a legal product issued by the Supreme Court of the Republic of Indonesia and serves as a guideline for resolving cases within the jurisdiction of the religious courts. (Raihan Andhiko Santoso, 2023, p. 10).

SEMA Number 3 of 2023 functions as a guiding instrument rather than an imperative, legally binding regulation. In accordance with SEMA Number 7 of 2014, such circular letters remain applicable and influential for judges in rendering decisions. This demonstrates that, although SEMA occupies a hierarchical position below statutory laws, it has a significant legal impact in shaping judicial practice within the Indonesian legal system.

Benefits of SEMA Number 3 of 2023

1. Child Legal Protection Context

SEMA Number 3 of 2023 places the concept of mandatory wills within the broader framework of child protection, particularly for children born from marriages that are religiously valid under Islamic law but not formally registered. Existing provisions in the Civil Code (Articles 832 and 863–873) limit inheritance rights to children with legally recognized familial ties, which often excludes children from unregistered marriages. In line with the Child Protection Law (Law No. 23 of 2002 as amended by Law No. 35 of 2014), this SEMA reflects a progressive judicial approach aimed at safeguarding children who are structurally vulnerable within the formal legal system. (Ni Luh Putu Ayu Lestari, 2021, p. 52).

This orientation is further confirmed by an interview with the Chair of the Religious Chamber of the Supreme Court, Prof. Amran Suadi, who emphasized that the formulation of SEMA No. 3 of 2023 is grounded in the principle of *the best interests of the child*. Children, who bear no responsibility for their parents' administrative omissions, should not suffer the legal consequences of such circumstances. The mandatory will mechanism is therefore introduced as a pathway to justice for children who would otherwise be excluded from inheritance.

2. Legal Certainty

SEMA Number 3 of 2023 provides legal certainty for children from unregistered marriages to obtain a portion of their parents' estate. This certainty helps prevent potential family disputes and ensures a more secure livelihood for affected children. The mandatory will operates as an alternative legal instrument to grant inheritance rights to individuals who are technically excluded under classical Islamic inheritance law. (Hamdani, 2022, p. 168).

3. Harmonization of Law in Judicial Practice

This SEMA contributes to harmonizing Islamic law, customary law, and Indonesian positive law in protecting children's rights. It demonstrates the capacity of Indonesia's legal system to accommodate multiple legal traditions. In practice, judges may determine the granting of a mandatory will through a court ruling, exercising judicial discretion while prioritizing the child's best interests.

4. Revitalization of the Mandatory Will Concept

SEMA No. 3 of 2023 revitalizes the concept of *wasiat wajibah* within Islamic family law. Traditionally applied in classical fiqh to orphaned grandchildren, its scope is now expanded to include biological children from unregistered marriages. This expansion illustrates the adaptability of Islamic law in responding to contemporary social issues while maintaining its foundational principles of justice (*'adl*) and public welfare (*maslahah*).

5. Strengthening Family Cohesion

Another important benefit of SEMA No. 3 of 2023 is the strengthening of family cohesion. Inheritance disputes often trigger familial conflict, particularly when a child's rights are unrecognized. By providing legal clarity, this SEMA reduces the potential for conflict and reinforces the moral responsibility of biological fathers to acknowledge and fulfill their obligations toward their children.

6. Reduction of Social Inequality

Finally, SEMA No. 3 of 2023 contributes to reducing social and economic disparities between children born from registered and unregistered marriages. Previously, children from unregistered marriages were frequently subjected to economic discrimination due to their exclusion from inheritance rights. By granting access to mandatory wills, this policy helps narrow social inequality and promotes a more inclusive and equitable inheritance system.

The term *wasiat wajibah* (mandatory will) is not explicitly found in classical Islamic legal texts. Consequently, when the term is used, it is generally understood as a will whose execution is legally obligatory. Conceptually, *wasiat wajibah* constitutes a distinct legal notion referring to a will that must be implemented by law. Linguistically, the word *wasiat* derives from Arabic and may mean “to make a will” or “to bequeath,” and it is sometimes used to refer to the object of the bequest itself. Meanwhile, the term *wajibah* originates from the word *wajib* (obligatory), which has been modified with a feminine grammatical form (*ta’nis*). According to Abdul Wahab Khalaf, an act is considered *wajib* when it is commanded by Islamic law in a binding manner, such that its performance is required in accordance with the legal directive mandating it. (Rohana, 2021).

From a normative perspective, the concept of *wasiat wajibah* is not explicitly articulated in either the Qur’an or the Hadith. Rather, it has been developed through the process of *ijtihad* by Muslim jurists, employing various methodological tools such as *istihsan* (juristic preference), *qiyas* (analogical reasoning), and *maslahah mursalah* (considerations of public interest). Nevertheless, several Qur’anic verses and prophetic traditions are frequently cited as foundational references for this concept. Among them is Qur’an Surah al-Baqarah (2): 180, which mandates the making of a bequest for parents and close relatives in a fair and proper manner, emphasizing its obligatory nature for the pious. At the same time, a well-known Hadith states that “Allah has given each rightful person their due; therefore, there is no bequest for an heir,” which has traditionally been understood to limit the scope of wills in Islamic inheritance law. (Syarifuddin, 2015)

In analyzing the granting of *wasiat wajibah* to biological children born from marriages conducted according to Islamic law but not officially registered, it is necessary to systematically map the points of contention that, at first glance (*dzahiriyyah*), appear to contradict established theories of wills as derived from prophetic traditions and the consensus (*ijma’*) of the majority of classical jurists. This apparent contradiction presents an important area of inquiry, particularly when examined through the lens of *maqasid al-shari’ah* (the objectives of Islamic law). Such an analysis aims to uncover the underlying intent and purpose of the legal provisions set forth in the relevant SEMA, as well as to assess whether these provisions align with the overarching objective of Islamic law, namely the realization of *maslahah* (public welfare).

Upon closer examination, every legal ruling established by Allah through His commands in the Qur’an is fundamentally intended to bring goodness and benefit to humanity. This principle is grounded in the divine statement found in Qur’an Surah al-Anbiya (21): 107: “And We have not sent you, [O Muhammad], except as a mercy to all creation.” This verse affirms that Islamic law is intrinsically oriented toward mercy and benefit for all.

Accordingly, *maslahah*, as analyzed through the framework of *maqasid al-shari’ah*, should not be understood merely in technical or procedural terms. Rather, it represents a dynamic and developmental approach to law, one that embodies the philosophical values

underlying the legal norms ordained by Allah for humankind. In this sense, the concept of *wasiat wajibah* reflects an evolving legal mechanism designed to uphold justice, compassion, and social welfare within the broader objectives of Islamic law.

Mandatory Bequest for Children of Unregistered Marriages: Legal Reform and Islamic Law Perspectives under Supreme Court Circular Letter No. 3 of 2023

The introduction of a provision allowing biological children born from unregistered marriages to be designated as recipients of a *wasiat wajibah* (mandatory bequest) under Supreme Court Circular Letter (SEMA) No. 3 of 2023—concerning the enforcement of legal formulations resulting from the 2023 Plenary Meeting of the Chambers of the Supreme Court as guidelines for judicial practice—represents a concrete response to the longstanding weakness of the inheritance rights of such children vis-à-vis their biological fathers under Indonesian law.

This provision is explicitly contained in the formulation of the Religious Chamber on inheritance law, which states in full: *“In order to protect the best interests of the child, a biological child born from a marriage conducted according to Islamic law but not officially registered may be designated as a recipient of a mandatory bequest from the deceased.”*

Juridical Analysis of Wasiat Wajibah in SEMA No. 3 of 2023

From a philosophical perspective, the regulation of *wasiat wajibah* in SEMA No. 3 of 2023 rests upon a strong foundation in the principle of the best interests of the child. This principle aligns with the Convention on the Rights of the Child, which has been ratified by Indonesia and incorporated into its national legal system. Through this circular letter, the Supreme Court seeks to address a legal vacuum that has historically disadvantaged children born from unregistered marriages.

Sociologically, the provision responds to the social reality of Indonesian society, where a significant number of marriages are conducted in accordance with religious law but are not officially recorded by the state. This situation has generated legal uncertainty for children born from such marriages, particularly in relation to inheritance rights. The introduction of *wasiat wajibah* thus functions as a corrective legal mechanism to mitigate the adverse consequences of this social phenomenon.

Comparison of Wasiat Wajibah with Previous Legal Provisions

SEMA No. 3 of 2023 demonstrates continuity with prior legal instruments regulating *wasiat wajibah*. Prior to this circular, Article 209 of the Compilation of Islamic Law (KHI) limited mandatory bequests exclusively to adopted children and adoptive parents, with a maximum allocation of one-third of the estate, and provided no specific regulation for children born from unregistered marriages (Gafur, 2022).

At the same time, SEMA No. 3 of 2023 reflects a **progressive development** in Islamic legal thought in Indonesia. The Supreme Court no longer adheres rigidly to classical Islamic inheritance doctrines, but instead advances a contextual and responsive interpretation that addresses contemporary legal and social needs. In practice, the Court has consistently applied *wasiat wajibah* beyond adopted children and adoptive parents, including to non-Muslim heirs, over several years. This circular letter therefore strengthens and expands existing jurisprudence.

Wasiat Wajibah in SEMA No. 3 of 2023 from the Perspective of Islamic Law

The application of *wasiat wajibah* may, however, generate uncertainty in the distribution of inheritance. Questions may arise regarding the execution of the bequest, responsibility for its implementation, and the respective shares of heirs. Such ambiguity can potentially trigger disputes among heirs and necessitate additional legal proceedings.

Moreover, the use of *wasiat wajibah* may be perceived as diminishing distributive justice, particularly if the bequest fails to adequately consider the needs and contributions of each heir. This may result in dissatisfaction among heirs who feel that their roles or entitlements within the family structure are insufficiently recognized.

A central issue in this context concerns the limitation imposed by Islamic law on bequests, which in Indonesia is restricted to a maximum of one-third of the estate, unless otherwise agreed upon by the legitimate heirs. This principle is widely applied in many Muslim jurisdictions. According to Islamic inheritance principles, a bequest is permissible for beneficiaries who are not legitimate heirs, provided it does not exceed one-third of the estate, unless the legitimate heirs consent to a greater portion. With such consent, the beneficiary may effectively receive a share equivalent to that of a lawful heir.

Islamic law clearly stipulates the inheritance shares of male and female children, as articulated in Qur'an Surah An-Nisa (4):11. This verse establishes definitive portions for heirs, reflecting divine determination and wisdom.

Nevertheless, every legal rule in Islamic law, including *wasiat wajibah*, is the result of careful deliberation through *ijtihad*. The formulation of a mandatory bequest for biological children born from unregistered marriages was not adopted arbitrarily, but rather through consideration of specific and complex circumstances. A key factor is the legal status of such children, who are often not formally recognized as having a legal relationship with their biological fathers, particularly in matters of lineage (*nasab*) and inheritance.

In order to ensure the best interests of the child – especially with regard to inheritance rights – it is essential to establish legal mechanisms that provide protection and certainty. The regulation of *wasiat wajibah* for children born from unregistered marriages is therefore intended to realize *maslahah* (public benefit). This approach aligns with the objectives of Islamic law, as articulated by Hisham ibn Sa'd:

“Indeed, the Lawgiver intended through legislation to establish benefits for both the hereafter and worldly life.”

Thus, while the introduction of *wasiat wajibah* may initially raise concerns regarding proportional justice among heirs, the regulation ultimately embodies substantive justice and significant benefit. Prior to this regulation, children born from unregistered marriages received no inheritance at all. The mandatory bequest therefore constitutes an important legal safeguard for their rights.

Insofar as the Religious Courts are able to realize the objectives of Islamic law, *maslahah* remains the ultimate goal. Based on the author's analysis, however, the provision granting *wasiat wajibah* to biological children born from unregistered marriages under SEMA No. 3 of 2023 still presents limitations, particularly regarding the size of the allocated share. As biological children ordinarily possess clearly defined and substantial inheritance portions, the restriction of *wasiat wajibah* to one-third of the estate may be insufficient.

Nevertheless, SEMA No. 3 of 2023 concerning *wasiat wajibah* for children born from unregistered marriages remains consistent with the principles of Islamic law, particularly those related to *maqasid al-shariah*, justice, and child protection.

Conclusion

This study concludes that Supreme Court Circular Letter (SEMA) No. 3 of 2023 constitutes a significant normative development in the field of Islamic inheritance law in Indonesia. Although SEMA does not occupy a formal position within the hierarchy of legislation, its practical function as a judicial guideline plays a crucial role in shaping inheritance adjudication, particularly in relation to the provision of *wasiat wajibah* to children, including those born outside of legally registered marriages. Through this mechanism, SEMA ensures the protection of children's rights independent of their parents' marital status, reflecting a shift from a rigidly formalistic legal approach toward a more substantive and rights-based orientation.

SEMA No. 3 of 2023 represents a legal breakthrough by expanding the category of beneficiaries entitled to *wasiat wajibah*, an issue that was not explicitly regulated in the Marriage Law or the Compilation of Islamic Law. In this respect, SEMA functions as an instrument to fill a legal vacuum (*rechtvacuum*) while simultaneously providing legal certainty and guidance for judges in resolving inheritance disputes. Its presence demonstrates the judiciary's responsiveness to evolving social realities and the need for equitable legal outcomes.

Nevertheless, the implementation of SEMA No. 3 of 2023 is not without challenges. Ongoing debates persist regarding its legal standing, as SEMA is formally an internal administrative guideline rather than a regulation with general binding force. This condition opens the possibility of divergent interpretations and inconsistent applications among Religious Courts. Furthermore, the absence of strong normative synchronization between SEMA and higher-level legal instruments—such as the Marriage Law, the Compilation of Islamic Law, and Constitutional Court decisions concerning the status of children born outside of marriage—may create uncertainty in its practical enforcement.

From the perspective of Islamic law, the concept of *wasiat wajibah* as regulated in SEMA No. 3 of 2023 is consistent with the objectives of Islamic law (*maqāṣid al-sharī'ah*), particularly the protection of lineage (*ḥifẓ al-nasl*) and property (*ḥifẓ al-māl*). Although *wasiat wajibah* is not explicitly articulated in classical *fiqh*, its contemporary application reflects a form of modern *ijtihad* grounded in the principle of public interest (*maṣlaḥah mursalah*). Accordingly, the implementation of SEMA No. 3 of 2023 may be understood as an effort to actualize substantive Islamic values that prioritize justice, welfare, and the protection of vulnerable parties over mere formal legal classifications.

In conclusion, SEMA No. 3 of 2023 occupies an important strategic position in the development of Islamic inheritance law in Indonesia. While its normative status remains limited, its substantive contribution to legal protection and judicial practice underscores the need for further harmonization with higher-level legislation to ensure consistency, legal certainty, and the realization of equitable inheritance outcomes in accordance with both national law and Islamic legal principles.

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