

Wasiat wajibah sebagai salah satu cara memperoleh warisan = Wajibah testament as one of the methods to obtain inheritance

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Abstrak

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Mahkamah Agung Republik Indonesia dalam perkara Reg. No. 368 K/AG/1995 memberikan bagian dari harta peninggalan untuk anak kandung yang non muslim berdasarkan wasiat wajibah. Padahal wasiat wajibah dalam Kompilasi Hukum Islam dianalogikan kepada anak angkat dan orang tua angkat. Sedangkan perbedaan agama tetap merupakan salah satu penghalang untuk dapat saling mewarisi. Pemberian wasiat wajibah kepada anak kandung yang non muslim ini telah memberikan sumbangan yang baru dalam pembaharuan hukum kewarisan Islam di Indonesia, tapi bersifat terbatas. Artinya, ahli waris non muslim tetap sebagai orang yang terhalang untuk mendapatkan bagian dari harta peninggalan orang tuanya yang muslim. Upaya ini sebagai langkah positif bahwa hukum kewarisan Islam tidaklah eksklusif dan diskriminatif terhadap pemeluk agama yang lain, tapi hukum kewarisan Islam dapat memberikan perlindungan dan rasa keadilan kepada non muslim.

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ABSTRACT

The Supreme Court of Republic of Indonesia in trial with register No. 368 K/AG/1995 had decided to give part of the inheritance to non-moslem biological child based on wajibah testament. However, wajibah testament in the Islamic Law Compilation has been analogized for the foster children and foster parents. While the different of religion still remains as one of the obstacles to obtain inheritance. Such wajibah testament which is provided to the non-moslem biological child has given a new contribution to the renewal of the inheritance law in Indonesia, but with limitation. It means that the non-moslem heirs remain as persons who obstructed to obtain part of the inheritance from their moslem parents. This attempt shall be considered as a positive movement to show that the Islamic inheritance law is not exclusive and discriminative for adherent of other religions. Instead, the Islamic inheritance law can provide protection and justice to the nonmoslems., The Supreme Court of Republic of Indonesia in trial with register No. 368 K/AG/1995 had decided to give part of the inheritance to non-moslem biological child based on wajibah testament. However, wajibah testament in the Islamic Law Compilation has been analogized for the foster children and foster parents. While the different of religion still remains as one of the obstacles to obtain inheritance. Such wajibah testament which is provided to the non-moslem biological child has

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