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## LEGAL PROTECTION FOR CHILDREN OUTSIDE REGISTERED MARRIAGE

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### ABSTRACT

This research is motivated by the social reality in Indonesia, where many children are born from unregistered marriages and consequently face legal discrimination in exercising their civil rights. The aim of this study is to analyze the provisions of Indonesia's positive law regarding the status and protection of the rights of children born out of unregistered marriages, as well as to examine the legal implications of the Constitutional Court Decision Number 46/PUU-VIII/2010 in ensuring equal legal protection for children born out of wedlock. The method used is normative legal research with statutory and conceptual approaches. Data were collected through literature studies and analyzed descriptively and qualitatively to produce a comprehensive legal argument. The results show that Indonesia's positive law regulates the civil status and rights of children born out of wedlock through various regulations, from the Civil Code to the Marriage Law. Initially, such children only had civil relations with their mother and the maternal family. The Civil Code differentiates between legitimate, illegitimate, and adulterine children, influencing inheritance rights. The Marriage Law affirms that only registered marriages are legally recognized, which causes children from unregistered marriages to be classified as born out of wedlock. However, Constitutional Court Decision No. 46/PUU-VIII/2010 broadened the rights of illegitimate children by allowing civil relationships with their biological father based on scientific evidence. This grants access to inheritance rights and legal identity. The principles of non-discrimination and child protection are also emphasized in the 1945 Constitution and the Child Protection Law. The state is obligated to guarantee justice for all children regardless of their birth status and to ensure the effective and equal implementation of these rights.

**Keywords:** Children Born Out of Wedlock. Legal Protection of Children, Civil Status.

### 1. Introduction

The fabric of Indonesian social life is intricately shaped by longstanding religious, customary, and cultural principles deeply rooted in its communal

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practices. In day-to-day life, it is quite frequent for couples to proceed with religious matrimonial rites without formally registering their marriage with the designated state authorities. For Muslims, this implies bypassing registration at the Office of Religious Affairs (KUA), whereas for adherents of other faiths, the Civil Registry Office serves as the corresponding institution. The motivations behind this decision are diverse and include factors such as administrative hurdles, religious differences, financial limitations, and personal or familial considerations. Despite being religiously valid, such unions are not acknowledged by the state legal system because they are not recorded within the official civil registration framework. Accordingly, any legal implications that stem from these marriages are not automatically recognized by the state, particularly concerning the legal status of children born from these unregistered unions (Muhammad Jazil Rifqi, 2016).

Children resulting from unregistered marriages encounter a range of significant legal difficulties. Chief among these is the denial of recognition of the child's status as a legitimate offspring under prevailing civil law. This legal invisibility directly affects various civil entitlements of the child, including inheritance rights, the ability to record the father's name on the birth certificate, and the right to recognition and support from the biological father. Under Indonesian law, a complete and legally accepted birth registration requires evidence of a state-recognized marriage. Therefore, children born outside of such legally documented marriages often find themselves excluded from civil entitlements that are otherwise guaranteed to all children under the Constitution and statutory laws.

In a legal state that aspires to uphold principles of justice and equality, penalizing a child for decisions made by their parents is inherently unfair. The state holds the responsibility of ensuring equitable protection, especially for children who are in legally vulnerable situations such as these. This systemic disparity reflects a troubling contradiction within Indonesia's legal architecture, as the Constitution unequivocally pledges protection and nondiscrimination for all citizens, including minors. In this context, Article

28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia clearly affirms that "Every child has the right to live, grow and develop, and shall have the right to protection from violence and discrimination." This constitutional mandate offers a robust legal foundation for equal treatment of children's rights, regardless of their parents' marital status (Ahmad Rofiq, 2013).

The principles surrounding the protection of children are comprehensively outlined in Law Number 35 of 2014, which serves as an amendment to Law Number 23 of 2002 on Child Protection. This legislation mandates a joint responsibility among the state, governmental bodies, and society to ensure children are safeguarded in all situations. This includes safeguarding children whose lineage is uncertain or who lack parental care. Fundamentally, national legal instruments have recognized the importance of focused protection for children living in disadvantaged circumstances, including those born from marriages not formally documented by the state.

Despite this legal recognition, the current statutory regulations on marriage continue to pose persistent issues in practical implementation. Law Number 1 of 1974 concerning Marriage, as revised by Law Number 16 of 2019, still upholds a legal framework wherein children born outside of marriage are only acknowledged as having civil relations with their mother and her relatives. This stance is expressly articulated in Article 43 paragraph (1), which states: "A child born outside of marriage only has a civil relationship with his or her mother and the mother's family." This clause effectively denies legal recognition and relationship between the child and their biological father when the marriage is unregistered.

Nonetheless, significant progress has been made through judicial interpretation aimed at expanding the rights of such children. The Constitutional Court of Indonesia, in its landmark ruling Number 46/PUU-VIII/2010, adopted a transformative reading of Article 43 paragraph (1) of the Marriage Law. The Court declared that the interpretation limiting a child's civil ties solely to the mother and her family contradicts the 1945 Constitution

if it precludes a child born out of wedlock from establishing civil relations with their biological father, as long as such paternity can be proven through scientific and legal means. This ruling represents a critical advancement toward upholding the rights of children born outside of officially registered marriages and strengthens the legal doctrine of non-discrimination in child protection.

Even with this constitutional advancement, the practical application of the Court's decision remains problematic. Various administrative bodies still demand the submission of a marriage certificate before a father's name can be included on a child's birth certificate, even when biological paternity has been clearly established. This highlights a disconnection between legal mandates and their enforcement, thereby creating legal ambiguity for the children concerned. Consequently, many children born out of wedlock are deprived of rightful inheritance and experience obstacles in accessing government services. There is an urgent need for a more inclusive, substance-driven, and socially sensitive legal approach that is supported by consistent inter-agency coordination and public legal education to eliminate stigma and ensure equal legal standing for every child.

Drawing from the foregoing introductory discussion, the formulation of the research questions can be expressed as follows: In what ways does Indonesia's prevailing legal framework govern the civil rights and legal status of children born from marriages not formally registered? Furthermore, to what extent does the Constitutional Court's Decision Number 46/PUU-VIII/2010 ensure equal legal protection for children born out of wedlock within the broader national legal structure? The objectives of this study are twofold: to critically examine how Indonesia's positive law regulates the legal position and rights of children from unregistered marriages; and to analyze the juridical consequences of the Constitutional Court's ruling in promoting equality and legal safeguards for such children.

A number of earlier academic investigations have addressed the subject of legal safeguards for children resulting from unregistered marital unions.

One notable work is that of Muhammad Jazil Rifqi, titled “Legal Protection for Children in Unregistered (Siri) Marriages” (Muhammad Jazil Rifqi, 2020). Rifqi’s research gives considerable attention to the religious and cultural dimensions surrounding unregistered marriages (nikah siri), while also elaborating on the adverse legal implications for children, particularly with respect to the denial of essential civil rights such as legal birth documentation and access to nationality. His findings largely center on the legal aftermath of such unions, showing that affected children are only recognized as having civil ties to their mothers, thereby excluding them from key civil entitlements.

Differing from prior works, this study utilizes a normative juridical method with an emphasis on analyzing statutory provisions in Indonesia’s legal system related to the recognition of out-of-wedlock children, while also scrutinizing the legal ramifications of the Constitutional Court’s Decision Number 46/PUU-VIII/2010 in fostering a more equitable and inclusive framework for child protection. This research moves beyond merely identifying the legal disadvantages stemming from unregistered marriages, by engaging with constitutional and jurisprudential developments as mechanisms for achieving justice and eliminating discriminatory legal practices. As such, the current study offers an original scholarly perspective by focusing on the normative reconstruction of legal principles through judicial decisions as a vital part of advancing child welfare protections within the legal system.

## **2. Research Method**

This study adopts a normative legal research method, focusing primarily on the analysis of existing positive legal norms as articulated in both statutory law and judicial rulings. The research utilizes several legal approaches, including the statute approach, the conceptual approach, and the case-based approach (Peter Mahmud Marzuki, 2017). The statute approach is utilized to examine various legal instruments that govern the civil status of children born outside of lawful marriage, such as the 1945 Constitution of the Republic of Indonesia, Law No. 1 of 1974 on Marriage with its subsequent amendments,

and Law No. 35 of 2014 on Child Protection. The conceptual approach is applied to clarify fundamental legal ideas, particularly those related to the protection of children's rights and the principle of equality before the law. The case approach is implemented to evaluate Constitutional Court Decision No. 46/PUU-VIII/2010, which plays a crucial role as a legal precedent in affirming the recognition of children born out of wedlock.

This research is based on secondary data sources, which are categorized into primary, secondary, and tertiary legal materials. Primary materials include binding legal documents such as statutory texts and court decisions that directly inform the analysis. Secondary materials encompass academic legal works, journal articles, doctrinal commentary, and prior studies addressing the protection of children's legal rights. Tertiary materials function as supplementary tools to enhance the comprehensiveness of the analysis, including legal dictionaries and legal encyclopedias. The data are gathered using library research methods, which involve the detailed examination of legal sources and academic publications. The research does not depend on a specific geographical location, as all required data are derived from documented legal materials. The analysis technique employed in this study is descriptive-qualitative, focusing on the interpretation of legal materials using normative reasoning to generate structured and thorough arguments concerning the legal protection framework for children born outside of formal marriage under Indonesian national law (Soerjono Soekanto, 2014).

### **3. Results and Discussion**

#### **3.1. Positive Legal Provisions in Indonesia Governing the Status and Civil Rights of Children Born Out of Unregistered Marriages**

A child is recognized as a legal subject who warrants particular protection from the state. Within the Indonesian legal framework, child-related regulations extend beyond matters of upbringing, education, and healthcare to encompass their civil status and rights under the law. Safeguards for all children, including those originating from unregistered

unions, are a reflection of the state's adherence to the ideals of social equity and the protection of human rights. Legal complexities emerge when a child is born to parents whose union lacks formal legal recognition either due to the absence of official registration with the civil authority or failure to meet statutory criteria for a lawful marriage. This scenario gives rise to several legal concerns, including issues surrounding personal identity, inheritance entitlements, custodial claims, and the recognition of familial bonds, particularly those involving the biological father (Ali Afandi, 2018).

The legal treatment of children born outside marriage in Indonesia is still influenced by doctrines embedded in the Indonesian Civil Code (KUHPerdata). Traditionally, a child born out of wedlock refers to one whose parents are not bound by a legally recognized marriage. The Civil Code distinctly classifies children into legitimate, acknowledged illegitimate, and those conceived through adultery or incestuous relationships. These classifications affect legal relations, particularly in matters such as inheritance rights and the determination of legal status. Article 280 of the Civil Code stipulates that a child born outside of marriage may acquire certain rights if formally acknowledged by both parents, though they remain in a different legal category from legitimate children. Such acknowledgment is only permissible when the relationship between the parents is not legally prohibited. This legal standard reflects a conservative interpretation that does not fully prioritize the child's best interest (Siti Musdah Mulia, 2002).

Law No. 1 of 1974, as amended by Law No. 16 of 2019 on Marriage, constitutes the cornerstone of Indonesian family law. According to Article 2 paragraph (1), a marriage attains legal validity when performed in accordance with the religious norms of the couple. This legitimacy must then be formalized through state registration, as outlined in Article 2 paragraph (2), requiring all marriages to be officially documented under prevailing legal procedures. If a marriage is

unregistered, it is deemed legally invalid by the state despite its religious recognition. As a result, any offspring from such a union is regarded under the law as born out of wedlock. This designation leads to legal vulnerability for the child, who lacks an automatic civil legal bond with the father. In such cases, the law acknowledges only the relationship with the mother and her lineage, as per Article 43 paragraph (1) of the Marriage Law before its revision by the Constitutional Court.

Indonesia's 1945 Constitution explicitly affirms every child's fundamental rights. Under Article 28B paragraph (2), it is stated that every child has the right to life, to grow and develop, and to receive protection from abuse and discrimination. These rights are universally applicable, independent of a child's birth circumstances. The constitutional provision functions as a legal imperative that prohibits the state from applying discriminatory treatment toward children born outside formal marriage, whether in matters of legal recognition or protection of rights. When statutory laws introduce restrictions or neglect children's rights based on the marital status of their parents, a normative conflict arises between such laws and the constitution. In these situations, the constitution being the highest legal authority must prevail over any subordinate legal instruments. Hence, the acknowledgment of civil rights for children born out of wedlock is a constitutional obligation that must be fulfilled without exception.

The Constitutional Court, serving as the custodian of the constitution, holds a crucial function in interpreting and rectifying legal norms that conflict with human rights. Constitutional Court Decision No. 46/PUU-VIII/2010 marks a significant milestone in the legal safeguarding of children born outside formal marriage. The judicial review targeted Article 43 paragraph (1) of the Marriage Law, which was viewed as restricting a child's right to legally connect with their biological father. In its verdict, the Court declared that children born out of wedlock maintain civil ties with their mothers and, under particular



circumstances, with their biological fathers on the condition that the relationship is proven through scientific and technological methods and/or other legal means establishing biological lineage, including ties to the paternal family. This interpretation broadens the legal comprehension of paternal relations, extending beyond the strict boundaries of a legally recognized marriage.

The ruling by the Constitutional Court introduced a transformative legal basis for protecting the rights of children born outside of marriage. Such children are now granted the opportunity to obtain legal acknowledgment from their biological fathers through verification tools such as DNA testing or other judicially admissible proof. This acknowledgment serves not only to establish personal identity but also provides a pathway to rights such as inheritance, financial support, and entitlement to care. From a legal perspective, the civil connection arising from verified biological ties reinforces the legal position of children born out of wedlock. The Court underscored the child protection principle and the child's best interests as central to its reasoning (Siti Zahro, 2014). This viewpoint is consistent with modern legal doctrines that regard children as bearers of autonomous legal rights.

The act of registering a birth is acknowledged as one of the child's inherent rights, as stipulated under Law No. 24 of 2013 on Population Administration. Article 27 paragraph (1) provides that birth registration must be based on data supplied by healthcare professionals or persons attending the birth. The birth certificate serves as an official legal document, recording both the mother's and father's identities. In cases involving children born out of wedlock, the father's name may only be recorded upon the presentation of legal recognition or admissible evidence. Following Constitutional Court Ruling No. 46/PUU-VIII/2010, proving the biological bond between a child and the father enables the inclusion of the father's name in the certificate. The administrative procedures for this inclusion are outlined in the Ministry of Home Affairs

Regulation No. 9 of 2016 on Strategies to Accelerate Birth Certificate Ownership Coverage. This policy ensures that children can claim their rights to identity and legal registration, which are essential for accessing additional legal entitlements.

Non-discrimination stands as a core principle in the legal protection of children. Law No. 35 of 2014 on Child Protection confirms that every child, without exclusion, is entitled to protection from all forms of discriminatory acts. Article 13 paragraph (1) provides that children, while in the custody of parents, guardians, or other caretakers, deserve protection against unequal treatment. Any form of differential treatment based on birth circumstances undermines the essence of this statute. In a society characterized by diversity, acknowledgment of children's rights must override societal or cultural prejudices concerning a child's birth status. The state bears the responsibility to deliver impartial and equal legal protection to all children, including those born from marriages that lack official registration. Upholding the principle of non-discrimination should be a pivotal element in the ongoing development of child protection laws.

Inheritance is recognized as one of the most essential civil entitlements. According to Indonesia's Civil Code, inheritance rights are conferred upon heirs through blood lineage or lawful legal connections, such as those established via a valid marriage. Children born outside of marriage who have not received legal acknowledgment from their biological fathers are traditionally excluded from inheriting (Neng Djubaedah, 2012). Nonetheless, in light of the Constitutional Court's ruling regarding biological relationships, children born out of wedlock now have the possibility to assert inheritance claims over their biological father's estate. The court possesses the jurisdiction to validate such claims by examining the supporting proof presented. This legal evolution paves the way for acknowledging the civil entitlements of children who were formerly disregarded. The resulting recognition addresses not only

economic justice but also confers social legitimacy and emotional affirmation within the wider family structure.

The process of legitimizing a child serves as a legal strategy for attributing lawful status to children born out of wedlock once their parents legally marry. As set out in Article 273 of the Civil Code, a child born outside of marriage can attain legitimate status if both parents recognize the child and subsequently enter into a lawful union (Komarudin Hidayat, 2005). This legitimation grants the child a legal position equivalent to one born within wedlock, encompassing rights to inheritance and parental guardianship. However, this legal route is not always followed in practice, particularly when the parents separate or legal barriers prevent marriage. As a result, the child remains in an out-of-wedlock status without the benefits of legitimation. In such situations, a father's individual acknowledgment or verifiable biological evidence can provide an alternative foundation for establishing a civil legal bond. This condition highlights the importance of adaptive and inclusive legal frameworks that reflect evolving social dynamics.

### **3.2. To What Extent Constitutional Court Decision Number 46/PUU-VIII/2010 Provides Equal Legal Protection for Children Born Out of Wedlock in the National Legal System**

The ruling issued by the Constitutional Court under Decision Number 46/PUU-VIII/2010 marked a pivotal moment in the evolution of civil law, particularly in how it addresses the legal status of children born outside formally registered marriages. Before this judgment, the prevailing interpretation based on Article 43 paragraph (1) of Law Number 1 of 1974 limited the civil affiliation of such children solely to their mothers and maternal relatives. This restrictive view created unjust legal consequences, depriving these children of equal treatment under the law. As a result, basic rights such as inheritance, identity documentation, and parental care were frequently inaccessible, contradicting the child

protection mandates embodied within the 1945 Constitution (Maria Farida Indrati, 2007).

The Constitutional Court's decision responded to evolving societal dynamics, notably the growth in evidentiary methods and an enhanced appreciation for the principle of equality. With advancements in science, particularly genetic and forensic analysis, establishing a biological link between a father and his child is now highly reliable. This scientific progress motivated the Court to reinterpret Article 43 paragraph (1) of the Marriage Law in a way that harmonizes with constitutional values like justice, certainty, and the safeguarding of human rights. As a result, this reinterpretation grants children born outside of marriage an opportunity for legal recognition from their biological fathers.

By declaring that a child born out of wedlock may legally affiliate with their father upon valid scientific and legal proof, the Constitutional Court initiated a significant reform in national jurisprudence. This progressive interpretation affirms the child's status as a subject of law with equal entitlements and protections, similar to those of children born within marriage. In daily life, many children from informal unions face stigma and face bureaucratic barriers, particularly when paternal information is missing from civil documents. The ruling emphasized that recognition must not be tied exclusively to formal marital status but should also reflect biological facts and ethical obligations.

Beyond familial legalities, the decision influences a wider range of legal domains, such as inheritance rights, civil registration systems, and the broader spectrum of children's civil liberties. Now, a child born from an unregistered union who can validate paternity may seek inheritance rights and receive lawful identity status. This affects processes like issuing birth certificates with paternal acknowledgment, managing inheritance claims, and accessing state-provided services like education or social welfare. It compels the state to ensure consistent and effective execution of this ruling through administrative and legal institutions.

However, this broader legal recognition presents practical difficulties. Establishing paternity through DNA verification can be expensive and complex, often deterring its pursuit. Additionally, cultural norms and entrenched societal views still present significant resistance to accepting the full implications of the Court's decision. In more conservative segments of society, there's a prevailing belief that only children from registered marriages should be accorded full legal dignity. This context requires a sustained governmental commitment to public legal education and awareness-building to reshape public opinion.

The Indonesian legal framework is fundamentally anchored in the notion of substantive justice, which guides the formation and interpretation of legal norms. The Court's decision exemplifies this foundation by integrating written statutes with the necessity of protecting vulnerable children's rights. In modern legal thought, individuals should not suffer discrimination due to the circumstances of their birth, especially since a child's legal identity must not reflect penalties for actions beyond their control. Consequently, the legal system must continuously strive to deliver justice solutions that reflect both humanity and the broader ideals of social equity.

The idea of justice in the realm of child protection involves acknowledging a child's legal identity, ensuring access to civil entitlements, and shielding them from institutional bias. The Constitutional Court emphasized that it would be inequitable to disregard the legal recognition of children born outside of formal marriage solely due to the absence of a legally sanctioned union between their parents. As the guardian of fundamental civil liberties, the state has a constitutional responsibility to treat all children equally, regardless of the circumstances of their birth. This landmark judgment acts as a corrective against existing laws that contravene the essential principles of children's rights and equality.

By reinterpreting Article 43 paragraph (1) of the Marriage Law, the Court demonstrates the evolving nature of constitutional understanding that adapts to emerging societal demands. This legal interpretation is both authoritative and directive, creating a binding precedent for judges addressing cases on the civil status of non-marital children. Within this framework, the judiciary's role is instrumental in translating the Court's directive into practice, ensuring that legal decisions uphold the ruling's established principles. Similarly, institutional actors like the Ministry of Religious Affairs and the Office of Civil Registration are expected to revise their administrative procedures to reflect this jurisprudential shift.

Post-ruling legal transformation necessitates cohesive collaboration among governmental bodies. Synchronization between judicial institutions, civil registrars, and child advocacy organizations is essential for fully actualizing the entitlements of children born out of wedlock. Additionally, legal practitioners must possess a thorough understanding of the decision's rationale and scope to prevent divergent interpretations that could obstruct the protection intended by the ruling. Public education campaigns are also vital to communicate that the ruling does not validate immoral behavior but affirms every child's right to legal identity and equal recognition under the law.

The societal reactions to this Constitutional Court ruling highlight the friction between legal progress and cultural norms. While many endorse the Court's aim of establishing substantive equality for non-marital children, others express apprehension about potential moral degradation. This underscores the importance of legal education in helping communities comprehend that upholding children's rights is not an endorsement of parental misconduct, but a commitment to human rights and the universal standard of non-discrimination. This development also broadens the legal discourse on family definition in Indonesia. Historically, legal recognition of families has hinged on formal marriage. However, actual societal dynamics reveal varied family

configurations that do not always align with this norm. Children from non-formal unions continue to play significant roles within familial and community systems. Recognizing them legally serves to legitimize these realities without undermining the institution of marriage.

To ensure consistent application of Constitutional Court Decision Number 46/PUU-VIII/2010, regular review of subordinate regulations is crucial. Many administrative frameworks, including those concerning birth registration and child recognition, still operate under outdated provisions incompatible with the Court's interpretation. Therefore, reform in legal administration should be accompanied by capacity-building initiatives for government officials to ensure fair, accurate implementation of revised norms. The decision also grants a legal platform for children born outside of marriage to assert civil claims, such as legal acknowledgment or inheritance rights. In various cases, judges have started recognizing claims based on scientific proof of biological ties, aligning with the spirit of the Court's ruling. However, progressive interpretations remain uneven across the judiciary. Thus, ongoing training and specialized guidance are necessary to foster consistent application of child-centered justice throughout all judicial proceedings.

From the standpoint of family law, the Constitutional Court's ruling that enhances the legal safeguards for children born outside of formal marriage represents a notable advancement toward reforming the law with a more humane orientation. The legal system must evolve in tandem with societal and technological progress, especially regarding child welfare and the acknowledgment of civil entitlements. A central issue remains the creation of a proof mechanism for biological relationships that is not only accurate and accessible but also economically feasible and considerate of the child's position, as they are merely seeking acknowledgment of their fundamental rights. There needs to be a shared understanding that no child should suffer legal consequences due to the decisions or missteps of their parents. This core belief must guide all

policy frameworks on child protection to ensure justice that is not merely formal but also substantive. Within this context, the Constitutional Court has executed its duty to uphold constitutional rights, particularly for the vulnerable and often overlooked sectors of society. Children born outside of legal marriage often lack leverage in legal arenas, highlighting the need for reinforced protections as an indicator of a justice-based legal framework.

Policies directed at the legal recognition of children born outside of wedlock encompass not only normative considerations but also illustrate the state's broader resolve in upholding children's rights. With the Constitutional Court's judgment now in place, there is a critical moment for the government to reassess and amend laws that still carry discriminatory elements. This development is pivotal to ensure that Indonesia's legal framework complies with the principles outlined in the Convention on the Rights of the Child, which the country has ratified, and to reflect the constitutional mandate stated in the 1945 Constitution to safeguard all its citizens, including children, without discrimination. Recommendations for the practical realization of the Court's ruling involve the revision of Law Number 1 of 1974, along with Law Number 16 of 2019 concerning Marriage, and the drafting of new legislation that better centers children's interests. It is equally necessary to enhance the supporting judicial and administrative tools that allow children born out of wedlock to acquire a recognized legal identity without facing undue procedural difficulties. The government must serve as an engaged enabler, not a passive overseer, in ensuring the implementation of child-related constitutional protections. It is also essential that legal education in Indonesia incorporate the Court's decision so that future members of the legal profession appreciate and adopt a rights-based lens in addressing children's legal issues. Law students, aspiring judges, and legal professionals should be instilled with an understanding of the constitutional dimensions affecting children born outside legal marriages,



including the broader ramifications within the social fabric. In this way, the transformative vision promoted by the Court can become deeply embedded in legal instruction and practice across the nation.

#### **4. Conclusion**

Indonesian positive law governs the legal status and civil entitlements of children born outside of formal marriage through the Civil Code, Marriage Law, and Constitutional Court Decision No. 46/PUU-VIII/2010. Previously, such children were recognized only in relation to their mothers; however, the Court's ruling broadened this to acknowledge the biological father, contingent upon credible scientific proof. This transformation in legal norms secures children's rights to identity, inheritance, and financial provision, reflecting the non-discrimination principle in the 1945 Constitution and the Child Protection Act. Although this represents significant legal progress, practical barriers remain, such as the expense of DNA tests and societal prejudice. Consequently, the government must enhance legal frameworks, increase public education, and improve institutional collaboration to guarantee fair enforcement.

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