

## Inheritance Rights of Extramarital-Children after the Constitutional Court Decision of 2010

Putri Wartina Lestari<sup>1</sup>, Sonny Dewi Judiasih<sup>2\*</sup>, Bambang Daru Nugroho<sup>3</sup>

<sup>123</sup>Faculty of Law Universitas Padjadjaran, Indonesia

\*Corresponding Author: sonny@unpad.ac.id

DOI: <http://dx.doi.org/10.18196/iclr.v6i1.19655>

### Abstract

Extramarital-children refer to children who are born outside the marriage. The position extramarital-children are legally vulnerable and therefore needs attention. The Constitutional Court Decision No. 46/PUU-VIII/2010 recognizes the legal status of extramarital children against their biological fathers as long as their genetic relationship can be proven by way of DNA testing and supported with other evidence. This study aims to examine the inheritance right of the extramarital-children, especially after the issuance of the mentioned Constitutional Court Decision. This normative legal research employs statutory, case and comparative approaches. Although the focus of this study is more on the legal development in Indonesia, however, this paper also provides a comparative analysis with some other countries, especially with regard to the utilization of the DNA Testing for legal purposes. The results show that the Constitutional Court Decision No. 46/PUU-VII/2020 does not address the inheritance right of extramarital-children and therefore they cannot inherit each other from their biological fathers. In regard to inheritance, this issue will be referred to the existing law of inheritance.

**Keywords:** Biological Father, Extramarital Children, Human Right, Inheritance Right.

### 1. Introduction

The utilization of DNA technology has increased in recent decades. DNA tests have been used in various fields of study such as health science, forensic science, and legal science.<sup>1</sup> DNA samples are generally used in health sciences to develop genetic-related diseases, which are then used in criminal law studies to solve cases that require DNA samples to find suspects. This knowledge has then be adopted in family law to answer the question on person's identity towards his family.<sup>2</sup>

The use of DNA testing to determine a father-child bond is a controversial issue in Islamic law but it is allowed to help protect women and children.<sup>3</sup> Testing through the mechanism of biological paternal DNA testing of extramarital children is the most famous achievement in the field of forensic technology to solve problems related to biological

<sup>1</sup> C Guest, 'DNA and Law Enforcement: How the Use of Open Source DNA Databases Violates Privacy Rights', *American University Law Review*, 68.3 (2019), 1015.

<sup>2</sup> Catherine Agnes Theunissen, 'The Effects of DNA Test Results on Biological and Family Identities', *Genealogy*, 6.1 (2022), 7 <https://doi.org/10.3390/genealogy6010017>.

<sup>3</sup> Sayed Sikandar Shah Hanif, 'The Status of an Illegitimate Child in Islamic Law: A Critical Analysis of DNA Paternity Test', *Global Jurist*, 2016.

relationships between them.<sup>4</sup> DNA testing is a new evidence that aims to help solve legal problems by utilizing technology that continues to develop.<sup>5</sup> Its implementation is even recognized and included in one of the regulations related to the determination of adultery as contained in the *Qanun Jinayat*, where the result of DNA test becomes evidence instead of four witnesses in Court.<sup>6</sup>

DNA testing and its legal consequence has been addressed by the Indonesian Constitutional Court through the Decision Number 46/PUU-VIII/2010. It was made in response to a judicial review submitted by a woman, named Machicha Mochtar, who fought for the legal status of her son toward his biological father. By virtue of the Constitutional Court Decision Number 46/PUU-VII/2010, extramarital-children have legal relationship with their biological fathers as long as such a relationship can be proven by utilization of relevant science and technology and other admissible evidences. In this regard, DNA testing constitutes a scientific development that can provide more accurate results.<sup>7</sup>

The recognition of the legal status of extramarital children through the DNA testing as highlighted by the Constitutional Court decision has significant legal consequences. Even the Decision has changed the national family law order.<sup>8</sup> Children born outside of the valid marriage have the opportunity to seek legal relationship with their biological fathers. Supposed, the extramarital-children may obtain some other legal rights. However, what kind of rights they may obtain it is still unclear since there is no legal rule that further regulates the mentioned court decision.

Inheritance is one of right a child has over the property left by his parents. Inheritance right is established based on lineage relationship. Indonesia does not apply single law of inheritance.<sup>9</sup> Inheritance issues are governed under several laws namely civil law, Islamic, and customary law.<sup>10</sup> According to the Civil Inheritance Law, an extramarital-child can have inheritance rights over his biological father if the father recognizes his child. In contrast, under Islamic law, extramarital child does not have a civil relationship with his father, since there is

---

<sup>4</sup> Haneef S, 'DNA Test of Paternity in Islamic Law Implications for Illegitimate Children Born Less than Minimum Gestation Period in Malaysia', *Hamdard Islamicus*, 39.2 (2016), 7-35.

<sup>5</sup> Yahaya Ibrahim Abikan, 'Examining the Admissibility or Otherwise of Evidence Generated from Closed-Circuit Television (CCTV) and Deoxyribonucleic Acid (DNA) Test as Means of Proof of Zina Under Islamic Law', *Al-Manahij: Jurnal Kajian Hukum Islam*, 17.1 (2023), 85 <  
<https://doi.org/10.24090/mnh.v17i1.8172>.

<sup>6</sup> Era Fadli, Mursyid Djawas, and Syarifah Rahmatillah, 'Tes DNA Sebagai Alat Bukti Pengganti Empat Orang Saksi (Analisis Qanun Aceh Nomor 6 Tahun 2014 Tentang Hukum Jinayah)', *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 3.1 (2018), 2.

<sup>7</sup> Yann Joly and others, 'DNA Testing for Family Reunification in Canada: Pointsto Consider', *Journal of International Migration & Integration*, 18 (2017), 2 <https://doi.org/10.1007/s12134-016-0496-7>.

<sup>8</sup> Azka Aulia Abdillah, Siti Hamidah, and Endang Sri Kawuryan, 'Prosedur Ideal Pengakuan Bagi Anak Luar Hasil Perkawinan Siri Pasca Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010', *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan*, 6.1 (2021), 3 <https://doi.org/10.17977/um019v6i1p1-10>.

<sup>9</sup> Bambang Daru Nugroho, Hazar Kusmayanti, and Dede Mulyanto, 'The Division of Inheritance of Adopted Children in the Indigenous People of Kampung Naga Associated with Islamic Law', *Jurnal Bina Mulia Hukum*, 7.1 (2022), 103 <https://doi.org/10.23920/jbmh.v7i1.985>.

<sup>10</sup> Sonny Dewi Judiasih and Efa Laela Fakhriah, 'Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia', *Padjadjaran Jurnal Ilmu Hukum*, 5.2 (2018), 316.

no relationship between lineage (*nasab*), inheritance, and guardian of marriage.<sup>11</sup> In regard to this, the customary law is on the same stand.

As comparison, Malaysia also experiences the same problem regarding the determination of extramarital children. Based on the Islamic Law Enactment Number 17 of 2003 Johor State, a child can be consecrated to his father within at least 6 (six) *Qamariah* births from the marriage period of his parents. Furthermore, the State Registration Department determines invalid child registration by considering Section 13A paragraph (2) of the Birth and Death Registration Act (BDRA) 1957. However, there is no legislation used by Malaysia in determining the fate of extramarital children with their biological fathers using the DNA test mechanism like what stated in the Constitutional Court Decision No. 46/PUU-VIII/2010.

Morocco in 2017, through the Family Court of First Instance in Tangier, ruled on the recognition of familial relationship between a father and his biological daughter through DNA testing and ordered the father to pay financial support for her.<sup>12</sup> The case began with a lawsuit by the child's mother, who wanted to prove the paternal line and the fate of her daughter, who was born out of wedlock. A panel of judges of the Family Court of First Instance in Tangier allowed him to conduct a DNA test as evidence in a family law case, which had never happened in a judicial process before. The DNA test was approved to illustrate the synergy of rules in domestic law, Islamic law, and the Constitution towards advances in medical science, law, and international conventions. However, this decision was revoked by the Court of Appeal and overturned the use of international conventions in lower courts.

The use of DNA testing to prove the civil relationship of extramarital children to their biological fathers is a momentum that is not entirely accepted. Despite the truth, the massive development in technology that produces DNA testing mechanisms cannot necessarily justify all forms of human activity that have implications for the birth of a new relationship. Still, above the laws created by humans, other legal rules have a higher position to be implemented considering the legal consequences of the recognition of extramarital children related to the birth of extramarital children's rights against His father belongs to the inheritance field.

The above discussion then became interesting after the issuance of Constitutional Court Decision No. 46/PUU-VIII/2010, which gave room for the recognition of extramarital children by biological fathers as long as they were proven to be fathers. The legal consequence of recognition of extramarital children is to change their status as biological children, and the child is entitled to civil rights, one of which is inheritance. The question is whether the constitutional court decision can be used as a reference for granting inheritance rights for extramarital children.

## 2. Method

The type of research is that of normative legal research that examines primary, secondary, and tertiary legal materials through library-based study. This normative legal research employs statutory, case and comparative approaches. The researchers have studied

---

<sup>11</sup> Muhammad Habibi and Miftakhul Marwa, 'Problematika Hak Anak Luar Kawin: Tinjauan Kitab Undang-Undang', *Media of Law and Sharia*, 4.3 (2023), 24.

<sup>12</sup> Zaynab El Bernoussi, 'DNA Testing and Paternity Lawsuits in Morocco: The Tangier's Court Case', *Yearbook of Islamic and Middle Eastern Law Online*, 2022.

the relevant legislations and court decision. Special discussion was made upon the Constitutional Court Decision No. 46/PUU-VIII/2010. Comparative study has been made especially to look at the utilization of the DNA Testing in regard to the determination of the legal status of extramarital-children in some other countries.

### 3. Discussion and Analysis

#### 3.1. DNA Test Practices in Different Countries

Proving the biological relationship of an extramarital child with his father using a DNA test mechanism does not only occur in Indonesia. Some Islamic countries and secular countries have, in practice, used DNA testing as a step to help prove the legitimacy of a child's biological relationship to his father. Some countries do not use DNA testing to test paternal lineage.

Lebanon is one of the countries that also recognizes and uses DNA Paternity testing. Genetic testing is regulated in Law Number 625, drafted by the Lebanese National Consultative Committee of Ethics (LNCCE), and approved by the Ministry of Health, the Council of State, and the Council of Ministers.<sup>13</sup> Although the state recognizes the application of DNA testing, testing is not allowed to be carried out on all aspects, one of which is the submission of lineage through paternal DNA. Unlike other countries, Lebanon provides convenience by conducting paternity tests without involving doctors and approval from interested parties (father, son, and so on). This has an impact on various issues involving ethics in terms of the privacy of the person. Things are even more complicated when Lebanon does not yet have a law governing DNA theft that allows anyone to access another person's genetic material without that person's knowledge and permission.

Germany is one of the other countries that implements DNA testing as one of the permissible mechanisms. The use of DNA testing in Germany has also been formulated in legislation, which is still being revised by revising the Code of Criminal Procedure (StPO) in November 2019. The use of DNA testing in Germany is also allocated for the needs of investigations and investigations related to criminal acts in revealing a case that requires fingerprints to disclose the identity of the perpetrator of the crime. Other European states, such as Austria, have been using DNA testing for personal data protection since 2018, and the Netherlands allowed DNA testing in 2003 after a ruling by the lower house of parliament and a royal decree.

Although some of the countries above make DNA testing one of the mechanisms in proving one's relationship and other interests, the implementation of DNA testing is not always the first step chosen, as evidenced by the provisions of the legislation in force in the country which still limits the implementation of DNA tests and can only be carried out in specific sectors in certain circumstances as well.

#### 3.2. Cases of Extramarital Children in Indonesia

The term child born out of wedlock or extramarital child is an inseparable element of marriage law in Indonesia. A child categorized as an out-of-wedlock child is born from the womb of a woman who has no marital ties with the man who has sex with her and has no marital ties with other men or women. Children born out of wedlock also include children

---

<sup>13</sup> M Azoury and others, 'Perception of the General Public towards the Ethical and Legal Issues Surrounding DNA Paternity Testing in Lebanon', *Ethnics, Medicine, and Public Health*, 17 (2021).

born to a woman during the *iddah* of divorce, but children born are the result of relationships with men who are not her husbands. It is also said that a child born from an unregistered marriage is categorized as an extramarital child.<sup>14</sup>

The problem of extramarital children is closely related to the validity of their parents' marriage. Law Number 16 of 2019 jo Law Number 1 of 1974 concerning Marriage in Article 2 paragraphs (1) and (2) states that marriage is valid if it is carried out based on the provisions of religious law and applicable state law. Islamic law states that a marriage is valid if it has fulfilled the conditions and pillars of marriage. The legal requirements for marriage are the presence of a prospective groom, marriage guardians, witnesses, and the existence of *ijab* and *qabul*.<sup>15</sup> The marriage will not be valid under Islamic law if one is not fulfilled.

In addition to meeting the requirements of religious law, a marriage must also be valid under state law, which stipulates that it must be recorded before an official with the necessary power. The legal status of marriage is weak if, in reality, a marriage satisfies the requirements of a particular religion. This is because the state needs to recognize marriage's legitimacy as a means of safeguarding and ensuring that the rights and responsibilities placed on each member of the sacred union are carried out.

In Indonesia, marital customs frequently disregard the legal requirements outlined in the legislation. The image of promiscuity that is brought down by liberal habits and lifestyles that are at odds with Eastern culture exacerbates this predicament. The escalation in unwed pregnancies, the growing quantity of young marriages, and adultery are instances of persistent issues. Several problems above are frequently cited in supporting applications filed with the Indonesian Religious Court for marriage permission. Numerous requests for marriage dispensation are filed for a variety of reasons, such as unregistered marriages and extramarital pregnancies.

Disputes over the birth of children outside marriage due to unregistered marriages and pregnancy in relationship status without marriage are other problems that must be considered. One of the reasons is that extramarital children continue to receive discriminatory treatment both from the family environment and the community. The existence of an extramarital child seems to be seen as the most sinful party for the mistakes he did not commit and wanted. The position of children born out of wedlock is also fragile because of the legal vacuum that regulates the position and status of extramarital children and the rights they can have. This also makes the case of extramarital children cannot be resolved optimally.

The regulation of extramarital children in the National Marriage Law is not comprehensively regulated. Article 43, paragraph (1) of the Marriage Law states that a child born out of wedlock only has a civil relationship with the mother and the mother's family. The clause contained in the provisions of Article 43 paragraph (1) as above confirms that the father does not have any responsibility for extramarital children in the form of providing bread, guardianship, inclusion of the father's name on the birth certificate, inheritance, and other civil rights. The role of the father towards the extramarital child is considered non-existent and

---

<sup>14</sup> D.Y. Witanto, *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin Pasca Keluarnya Putusan MK Tentang Uji Materiil UU Perkawinan* (Jakarta: Prestasi Pustakaraya, 2012).

<sup>15</sup> Khairani Amalia Tambunan, Sriono Sriono, and Risdalina Siregar, 'Legal Respect for Children from Sirri's Marriage in the Perspective of Islamic Marriage Law and Regulations Indonesian Law in the District Labuhanbatu', *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4.2 (2021), 2044 <https://doi.org/10.33258/birci.v4i2.1892>.

never has been. This situation further worsened the position of extramarital children legally and socially.

The weak position of extramarital children in the eyes of the law then invites various reactions from the woman as the mother to fight for the rights that should be given to her child because the child cannot be blamed for the mistakes of her parents. In 2013, Machicha Mochtar filed a *request for judicial review* of the provisions of Article 2 paragraph (2) and Article 43 paragraph (1), which were considered discrediting and detrimental to women and children born from unregistered marriages. Machicha is known to be married serially to a man named Moerdiono. The marriage, which was not registered with the competent institution, gave birth to a son named Muhammad Iqbal Ramadhan, whose existence was not recognized by Moerdiono and his family, who incidentally had a legal wife.

The Constitutional Court, as the institution, requested to resolve this problem then through Constitutional Court Decision Number 46/PUU-VIII/2010, provides additional norms to Article 43 paragraph (1) of the Marriage Law where extramarital children can have a civil relationship with their father as long as they are proven to have blood relations through the assistance of science and technology as well as other evidence and civil relations with their father's family. This ruling gives a new color to Indonesian family law amid its controversy. However, law enforcement in solving the problem of extramarital children continues to encounter obstacles because no special regulations are made regarding extramarital children. The disputes over extramarital children are reflected in the following cases:

### 3.2.1. Rezky Aditya Dradjamoko with Wenny Ariani Kusumawardani

The dispute over extramarital children involving Rezky Aditya and Wenny Ariani began with a lawsuit filed by Wenny Ariani to the Tangerang District Court through a lawsuit letter dated June 25, 2021, which was received and registered at the Registrar of the Tangerang District Court on June 30, 2021, in Register Number 746/Pdt.G/2021/PN.Tng. The lawsuit filed by Wenny Ariani as Plaintiff to Rezky Aditya as Defendant is based on the proposition of the liability mechanism in civil terms, which states that whoever commits an act that causes harm to others can be sued civilly as contained in Article 1365 of the Civil Code. This case began with a love affair between the Plaintiff and the Defendant, which resulted in the birth of a daughter named Naira Kaemita Tarekat.

The birth of Naira Kaemita Tarekat in the relationship status of the Plaintiff and the Defendant, who is not bound by marriage, harms the Plaintiff and the Plaintiff's child before the law and society. Naira Kaemita Tarekat is an out-of-wedlock child who does not have any rights to her father even though her birth certificate only contains her mother's name. Meanwhile, the Defendant did not intend to marry and acknowledge the child's existence, which resulted in the Defendant's lawsuit to the competent Court. The argument of the lawsuit filed by Plaintiff states that Defendant's actions follow the formulation of Unlawful Acts (*Onrechmatige daad*) in Article 1365 of the Civil Code, where a person, due to his actions, causes harm to others.

An act is against the law if its behavior violates the laws in writing and acts of decency in the association of people's chronic life based on the *principle of legal maxim*, which means that no one can benefit from the unlawful acts committed and neither can he bear losses due to illegal actions caused by others. In addition, Plaintiff also filed a separate application to place a security confiscation (*Conservatoire Berslag*) on Defendant's property in the form of a

residence in the South Tangerang Area and a unit of a black Range Rover brand car Nopol B 606 GLE.

The judicial process that was carried out from the entry of the lawsuit to the evidence then resulted in Decision Number 746/Pdt.G/2021/PN–Tng, which rejected the Plaintiff's claim entirely. The basis for the Judge's consideration was that the relationship between Plaintiff and Defendant began with a business relationship. There was no evidence of a romantic relationship that resulted in the birth of Plaintiff's child. Furthermore, the Plaintiff was still married to another person at that time, so DNA testing was also impossible. Although the Court of First Instance rejected his lawsuit, the Plaintiff appealed to the Banten District Court. Based on Decision Number 109/PDT/2022/PT. BTN, the Judge of the High Court disagrees with the Tangerang District Court Decision based on consideration of the status quo of the Comparator who is in a weak position to be able to prove by the provisions of Article 163 HIR or Article 1865 of the Civil Code so that evidence should be charged to the Appellant to prove his refutation following the *principle of negative non-sunt probanda*.

The Judgment on appeal also declared Naira Kaemita Tarekat as the biological daughter of the Defendant despite the lack of proof through DNA testing. As a result, the Appellate took a Cassation legal remedy to the Supreme Court on July 27, 2022, as stated in the Deed of Cassation Application Number 746/Pdt.G/2021/PN.TNG requesting the annulment of the Court of Appeal's decision. However, the court judge considered that the *judex fact* decision, in this case, did not contradict the norms and applicable law, so the Petitioner's Cassation application was rejected.

The Cassation Petitioner responded that the Supreme Court's decision had injured the sense of justice and the irregularities of the legal process. The reason was conveyed through the Cassation applicant's personal YouTube channel because the supreme court judge confirmed the cassation applicant as the biological father of the respondent's child without any DNA test first.

### 3.2.2. Bambang Pamungkas with Amalia Fujiawati

The case involving Bambang Pamungkas and Amalia Fujiawati differs from the previous case. The fundamental difference lies in the status of the relationship between the two. Bambang Pamungkas and Amalia Fujiawati are known to have married under their hands in mid-2018. The marriage of Bambang Pamungkas and Amalia Fujiawati gave birth to two children, each named Raneysya Ayu Anjani, who was born on February 24, 2019, and Muhammad Al Barra, who was born on June 10, 2021. Even though the status of husband and wife is valid religiously, children born are still categorized as extramarital children because their marriage is not legally recognized.

The home lives of Bambang Pamungkas and Amalia Fujiawati were exemplary at first. Conflict arose when the two decided to separate. Bambang Pamungkas did not provide a living and meet his children from this serial marriage even though he did not acknowledge the existence of the marriage and children. This then prompted Amalia Fujiawati to file a lawsuit to legalize the origin of the child and child support, which was registered at the Registrar of the South Jakarta Religious Court and decided through the South Jakarta Religious Court Decision Number 1233/Pdt.G/2021/PA.JS dated September 23, 2021. The ruling stated that the Court rejected Amalia Fujiawati's lawsuit as the Plaintiff.

The plaintiff filed an appeal as stated in the Bandung Application Deed Number 1233/Pdt.G/2021/PA.JS dated October 4, 2021. The panel of judges of the Jakarta High Religious Court considered that the Comparator was a conscious adult with whom he was married. The marriage undertaken by the Appellant and the Appellant is valid because it has fulfilled the legal provisions and conditions of marriage according to Islamic law. Still, it has not been registered with the competent Office of Religious Affairs. The Appellant in the first suit applied for a DNA test but was rejected by the previous Judge. Thus, he initiated the Comparator to conduct an independent DNA test between his children, the Appellant's first child, and the Appellant's late first wife, Jane Abel. DNA test results showed that the Comparison and Jane Abel children had identical blood types.

Based on this evidence, the Jakarta High Court of Religious Judges ruled that the Appellant was the biological father of the Appellant's children and ordered the Appellant to fulfill his paternal obligations by providing affection, subsistence, and other rights because the two were related by blood and legal relations with the Appellant. The appellate Judge postulated his decision by referring to the Word of Allah Almighty in Sura Al-Baqarah verse 233, which means that a father should provide for and properly clothe his children. No one is burdened with more than he can afford. Let not a mother suffer for her child, nor does his father.

### 3.3. Inheritance of Extramarital Children to Biological Fathers After the Constitutional Court Decision No. 46/PUU-VIII/2010 in the Perspective of Human Rights

A marriage is lawful if it follows the rules of each partner's faith or belief system, according to Article 2, paragraph (1) of the Marriage Law. When the Article above 2 paragraph (1) is interpreted systematically, it becomes clear that a marriage is deemed lawful if it satisfies all conditions and promotes harmony according to the bride and groom's respective religions.<sup>16</sup> The provisions in Article 2, paragraph (1) are absolute conditions that each party must fulfill because this requirement determines whether a person is legally married.

Every marriage must be recorded with the authorized institution in front of the authorized official, according to Article 2 Paragraph 2 of the Marriage Law. According to the provisions of Article 5, paragraph (1) of the Compilation of Islamic Law, all marriages must be registered to maintain the Islamic community's marriage order.<sup>17</sup> Marriage registration is carried out to provide legal legality for the parties involved in marriage and carry out the mandate of Law No. 24 of 2013 concerning Amendments to Law No. 23 of 2006 concerning Administration and Population.<sup>18</sup>

*Shari'a* allows for the implementation of marriage that satisfies the fundamentals and legal conditions of marriage under religious law. Still, the government does not recognize marriage, regarded as never having happened.<sup>19</sup> Government Regulation Number 9 of 1975,

---

<sup>16</sup> Bambang Daru Nugroho, *Hukum Perdata Indonesia Integrasi Hukum Eropa Kontinental Ke Dalam Sistem Hukum Adat Dan Nasional* (Bandung: Refika Aditama, 2020).

<sup>17</sup> Dinda Ediningsih Dwi Utami and Yahya Taufik, 'Akibat Hukum Nikah Siri Terhadap Hak Anak Dan Isteri Ditinjau Dari Kompilasi Hukum Islam', *Zaaken: Journal of Civil and Business Law*, 3.2 (2022), 240.

<sup>18</sup> Bernadeta Resti Nurhayati, 'Harmonisasi Norma Hukum Bagi Perlindungan Hak Keperdataan Anak Luar Kawin Dalam Sistem Hukum Indonesia', *Ganesha Law Review*, 1.1 (2019), 57.

<sup>19</sup> Ni Luh Putu Ayu Lestari, Ni Luh Made Mahendrawati, and I Ketut Sukadana, 'Perlindungan Hukum Terhadap Hak Waris Anak Yang Lahir Dari Perkawinan Tidak Dicatatkan', *Jurnal Preferensi Hukum*, 2.1 (2021), 54 <https://doi.org/10.22225/jph.2.1.3050.51-55>.



which governs the Implementation Regulations of the Marriage Law, states in Article 45 that failing to document a marriage will only lead to penalties and null marriages.<sup>20</sup> If the marriage gives birth to a child, then the child is categorized as an extramarital child.<sup>21</sup>

Article 100 of the Compilation of Islamic Law expressly grants the position of an extramarital child to the mother and the mother's family only.<sup>22</sup> As also stipulated in Article 43, paragraph (1) of the Marriage Law.<sup>23</sup> D.Y. Witanto, in his book entitled Family Law and the Position of Extramarital Children After the Issue of the Constitutional Court Decision on the Material Test of the Marriage Law, states that the subject matter in Article 43 paragraph (1) is that the law negates the civil relationship of children with their biological fathers.<sup>24</sup> The Constitution requires that every child born, legally or not, must receive protection and legal status.

This arrangement then underwent a shift after the issuance of Constitutional Court Decision No. 46/PUU-VIII/2010 concerning the position of extramarital children who can have a position like legal children against their fathers as long as there are proven biological and civil relations between the two. The additional norm by the Constitutional Court is based on the fact that a child is born pure without sin. A child cannot choose which parent to give birth to, nor can he choose to be born from a parent's marriage. Therefore, a child must be protected from human rights and other rights.<sup>25</sup>

The Constitutional Court's expert assistant, Lutfi Widagdo, stated that the ruling was directed at all children born outside of marriage, except for discordant ones. Decision No. 46/PUU-VIII/2010 of the Constitutional Court is significant because it provides identity protection; it does not address the legalization of adultery in society.<sup>26</sup> And protect the rights of the child as a victim of the actions of the parents that resulted in his birth because the crimes and sins of parents cannot be passed on to the child. This is consistent with Qur'an verse 164 of QS. Al-An'am states that no one sins; instead, righteousness returns to the individual, and a sinner will not carry the sins of others. When you return to your Lord, he will tell you what is in dispute."

Children have constitutional rights under the Human Rights as fundamental human rights representing their dignity. These rights must be backed by legal guarantees to be

---

<sup>20</sup> Shania Dwi Hidayati, Sonny Dewi Judiasih, and Fatmi Utarie, 'Legal Protection of the Rights of Children Born in Unregistered Marriage Based on the Constitutional Court Decision Number 46/PUU-VIII/2010', *Jurnal Poros Hukum Padjajaran*, 4.1 (2022), 41 <https://doi.org/https://doi.org/10.23920/jphp.v4i1.961>.

<sup>21</sup> Ahmad Nurozi and others, 'Establish Family Card Towards Unregistered Marriage Couple (Implications of Law No. 1 Of 1974 And Compilation of Islamic Law)', *KnE Social Sciences*, 2022.1 (2022), 224–25 <https://doi.org/10.18502/kss.v7i10.11360>.

<sup>22</sup> Annisa Abdullah, Kasuwi Saiban, and Kadek Indrayanti, 'Status of Children Out of Marriage: A Review of the Law Regarding Marriage and Civil Law', *East African Scholars Journal of Education, Humanities and Literature*, 6.02 (2023), 63 <https://doi.org/10.36349/easjehl.2023.v06i02.005>.

<sup>23</sup> Indira Hastuti, Edy Sanjaya, and Budi Prasetyo, 'Interfaith Marriage And Its Legal Consequences For Children Born According To Islamic Law', *International Journal of Educational Research & Social Sciences*, 3.1 (2022), 516 <https://doi.org/10.51601/ijersc.v3i1.303>.

<sup>24</sup> Witanto.

<sup>25</sup> Setiawan P and Haryadi W, 'The Child Custody Status from Unregistered Marriage: An Islamic Law on The Basis of Constitutional Court Decision', *YURIS (Journal of Court and Justice)*, 1.3 (2022), 1–9.

<sup>26</sup> Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistim Peradilan Pidana Anak Di Indonesia* (Jakarta: PT Refika Aditama, 2010).

effective and can only be safeguarded by the law. The Convention on the Rights of the Child, ratified by the UN in 1989 and contains human rights treaties that protect children's rights in civil, political, economic, social, health, and cultural expression, outlines children's rights and their regulations. This arrangement was adopted by Indonesia in 1990 into Law Number 23 of 2002 concerning Child Protection, which was later revised into Law Number 35 of 2014 (Child Protection Law).

The provisions of Article 4 to Article 18 of the Child Protection Law regulate the protection of children, including the right to live, grow, develop, protection from all forms of violence and discrimination, the right to worship according to their religion, the right to participate reasonably per human dignity and dignity, the right to obtain self-identity, the right to know their parents, be raised and cared for by their parents, the right to education and teaching, the right to be cared for by his parents, the right to humane treatment, and the right to legal assistance.<sup>27</sup> From a legal perspective, children's rights have a universal aspect to the interests of children. The right of the child illustrates that the primary purpose of human life is to build people who uphold religious teachings, including legal aspects in one's environment.<sup>28</sup>

An extramarital child in Constitutional Court Decision No. 46/PUU-VIII/2010 can become a legitimate child if proven through science and technology as the child of his father. Proof through the use of this technology is usually done by conducting a DNA test.<sup>29</sup> To find out whether there is a similarity in the child's blood type with his father and father's family.<sup>30</sup> If examined, the legal logic of this ruling has consequences for the sexual relationship of an extramarital child with his biological father. There are rights and obligations between extramarital children and their biological fathers, both in the form of bread, guardianship, inheritance, and so on.<sup>31</sup> However, DNA testing for children born out of legal wedlock has the disadvantage that DNA testing can only measure a child's biological rights to his biological father.<sup>32</sup> The proof of extramarital children as legal children is also not given a limit on extramarital children in what categories can be applied to carry out constitutional court decisions. As a result, the problem of extramarital children continues to face various challenges.

---

<sup>27</sup> Ahmad Muqaffi, Rusdiyah Rusdiyah, and Diana Rahmi, 'Menilik Problematika Dispensasi Nikah Dalam Upaya Pencegahan Pernikahan Anak Pasca Revisi UU Perkawinan', *Journal of Islamic and Law Studies*, 5.3 (2022), 370 <https://doi.org/10.18592/jils.v5i3.5914>.

<sup>28</sup> Bening Permata Damarsari, Widhi Handoko, and Anggita Doramia Lumbanraja, 'Penerapan Nilai-Nilai Hukum Progresif Terhadap Pandangan Hakim Pada Hak Anak Hasil Poligami Tanpa Izin', *Notarius*, 14.1 (2021), 201 <https://doi.org/10.14710/nts.v14i1.38862>.

<sup>29</sup> Nguyen Thi and others, 'Analyzing "Child Born Out Of Wedlock" ("Illegitimate Child") in the Law on Marriage and Family', *Journal of Population Therapeutics and Clinical Pharmacology*, 30.9 (2023), 95 <https://doi.org/10.47750/jptcp.2023.30.09.011>.

<sup>30</sup> Achmad Irwan Hamzani, 'Nasab Anak Luar Kawin Pasca Putusan Mahkamah Konstitusi', *Jurnal Konstitusi*, 12.1 (2015), 66.

<sup>31</sup> Agung Sahbana Nasution, Sutrisna Sutrisna, and Syarifah Gustiawati, 'Kewenangan Ayah Biologis Menjadi Wali Nikah Bagi Anak Hasil Zina Menurut Pandangan Imam Syafi'i Dan Putusan Mahkamah Konstitusi (MK) No. 16/PUU-VIII/2010', *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga*, 4.2 (2021), 134 <https://doi.org/10.47467/as.v4i2.819>.

<sup>32</sup> Umar M and Hafidzi A, "Examination by Deoxyribonucleic Acid (DNA) Test of Children Privileges as Legitimate Evidence in Indonesia Marriage Law," *Revista Argentina de Clinica Psicologica* 3, No. 8 (2020).

The inheritance rights of extramarital children after the issuance of Constitutional Court Decision No. 46/PUU-VIII/2010 are guaranteed by law. Extramarital children who have been recognized and legalized by their biological father are also entitled to receive inheritance according to the Civil Code.<sup>33</sup> Inheritance is passing the property from the heir to the heir.<sup>34</sup> Inheritance can be given when an heir dies and has heirs.

After the Constitutional Court Decision No. 46/PUU-VIII/2010 issuance, the Indonesian Ulema Council responded by issuing Fatwa Number 11 of 2012 concerning the Status of Children Resulting from Zina and Their Treatment on March 10, 2012. The fatwa states that the Indonesian Ulema Council says the government has the authority to impose ta'zir punishment on an adulterer, resulting in the birth of a child.<sup>35</sup> The punishment of ta'zir ordered the man to provide for the child and give away property after he died through a will.<sup>36</sup>

According to Islamic tradition, children inherit from their parents first in line of succession. When it comes to adulterous offspring, they are considered illegitimate as they have no legal tie with the father or his family and only a civil law relationship with the mother and her family. Since male and female children born outside of marriage are not acknowledged as having a biological relationship with their father, neither the kid nor a relative of the father may inherit anything from the other since there is no inheritance—that is, no blood relationship—between the two.<sup>37</sup>

The determination of the inheritance of extramarital children can be seen in its implementation in the Malaysian state as another reference material. According to the Enactment of the Islamic Family Law (Negeri Selangor) 2003 and the Enactment of the Islamic Family Law (Federal Territories) 1984, child adultery is a term used for children who do not have a legal relationship or blood relationship. The Muzakarah of the National Council Fatwa Authority Committee on Malaysian Islamic Affairs, at its 57th meeting convened on June 10, 2003, discussed the child of adultery. Illegitimate children are not allowed to be given to the man who caused their birth or to anyone who claims to be the father of the child, and they are not entitled to heirlooms, not to be mahram, and not to be guardians.<sup>38</sup>

An illegitimate kid may use his mother's name as a surname under Section 13A paragraph (2) of the 1957 Birth and Death Registration Act as long as the person claiming to be the child's father complies with Section 13. According to the National Fatwa Council of Malaysia, an unmarried kid cannot be declared to the man who gave birth to him or to whom he claims to be his father. This conflicts with Section 13A of the 1957 Birth and Death Registration Act. "Abdullah" was given to an unmarried child instead of his father.

---

<sup>33</sup> J. Satrio, *Hukum Waris* (Bandung: Citra Aditya Bakti, 1990).

<sup>34</sup> Sonny Dewi Judiasih, *Harta Benda Perkawinan* (Bandung: Refika Aditama, 2019).

<sup>35</sup> Neng Djubaedah, 'Child Marriage and Zina in Indonesian Legislation in Islamic Law', *Jurnal Hukum & Pembangunan*, 49.1 (2019), 213 <https://doi.org/10.21143/jhp.vol49.no1.1917>.

<sup>36</sup> Edi Hudiata, 'Juridic Consideration of The Judgment's Decision Concerning the Post-Born of Children Born Out of Marriage After Decision of The Constitutional Court Number 46 / PUU-VIII/ 2010', *International Journal of Nusantara Islam*, 9.1 (2021), 125 <https://doi.org/10.15575/ijni.v9i1.12118>.

<sup>37</sup> Tri Khartika Nurry Wiranty, Emmi Rahmiwita Nasution, and Irda Pratiwi, 'Kedudukan Anak Yang Lahir Di Luar Pernikahan Ditinjau Dari Kompilasi Hukum Islam', *DE LEGA LATA: Jurnal Ilmu Hukum*, 5.2 (2020), 211 <https://doi.org/10.30596/dll.v5i2.3576>.

<sup>38</sup> Muhammad Yahya, Bin Hakim, Luqman, 'Pertimbangan Hakim Dalam Penetapan Nasab Anak Zina (Studi Terhadap Putusan Mahkamah Rayuan Putrajaya Kasus No. W-01(A)-365-09/2016)' (Universitas Islam Negeri Ar-Raniry Darussalam Banda Aceh, 2019).

A request was made to the Kuala Lumpur High Court on September 3, 2015, to change the surname "Abdullah" to one of the plaintiffs' names in the birth registration. The High Court had denied the petitioner's application on August 4, 2016. On September 3, 2017, the aggrieved plaintiffs filed an appeal with the Court of Appeal, which upheld their request to have their name substituted with the surname "Abdullah." The Registration and Birth Act 1957, which permits an out-of-wedlock child to have his father's name added provided the mother voluntarily gives information, served as the foundation for the Judge's consideration. However, this clause is still up for question as two court systems end the relationship between children of married couples on different legal grounds.

The provisions above make it evident that the Constitutional Court Decision No. 46/PUU-VIII/2010 will be extremely challenging to apply when assessing the civil relationship—particularly concerning inheritance—between adulterous children and their fathers. It is challenging to administer the inheritance of children born outside of marriage in Indonesia because of the country's pluralistic inheritance laws. An adulterous child who has been acknowledged as a legal child by his father is entitled to civil rights, including inheritance, according to the norms of civil inheritance law. However, Islamic inheritance law is exempt from this clause.

Islam is a strict religion based on the unquestionable hadiths and the Qur'an, which contain direct revelations from God Almighty concerning human life. But Islam is also a very flexible faith, willing to adapt its precepts to suit the advancement of humankind so long as it does not go too far and supplant Allah's law. For example, in Islamic law, an adulterous child who does not fulfill the standards of *Shari'a* at the time of his birth is not entitled to inherit. The Indonesian Ulema Council (MUI) responded to the Constitutional Court Decision No. 46/PUU-VIII/2010 by addressing its relevance from a religious standpoint. This is because Islam rejects any activities that discriminate against and judge others.

Indonesia is in a dilemma as a country that upholds the implementation of human rights. The desire of the state to fulfill and realize every right possessed by its citizens without exception must be faced with circumstances where such realization becomes challenging to achieve given the tangent rules that exist. The author agrees that the constitutional Court seeks to realize the protection of the rights of extramarital children in the absence of recognition from their biological father, which is very detrimental to their position as children who are not entitled to their biological father. This situation is even more concerning when existing laws do not accommodate protection against the inheritance of extramarital children, unlike the case with the determination of illegitimate child sex in Malaysia, which has a relatively complete legal rule. This rule of law is used as a basis for judges' consideration in deciding cases of extramarital children, whether subject to these provisions or vice versa. This is one form of embodiment given by the state to ensure that an extramarital child, regardless of how he comes into this world, remains a human being who must be protected and fulfill his rights as a human being in his position as a child and a supposed father.

Fatwa of the Indonesian Ulema Council No. 11 of 2012 concerning the Position of Children Resulting from Adultery and their Treatment underlines that the Constitutional Court's decision is issued based on the best interests of children who must be protected so that through the Fatwa, MUI states that extramarital children recognized through the DNA test mechanism are only entitled to rights in the form of bread, maintenance rights, education, affection, and others except inheritance rights. However, to ensure the implementation of the life of extramarital children legally in the future, extramarital children who are not entitled to

the inheritance of their biological father can be given a gift in the form of a mandatory will provided that there is no more than 1/3 share.

#### 4. Conclusion

Inheritance rights are human rights that humans have as heirs and heirs. Similarly, children are legally the principal heir if their parents die. Constitutional Court Decision No. 46/PUU-VIII/2010 provides space for the recognition of extramarital children as legitimate children against their biological fathers through DNA testing. The Constitutional Court's ruling aims to protect the rights of extramarital children who are often victims of their parent's mistakes and get inappropriate treatment from society when they are victims. Protection of the rights of extramarital children includes income, education, guardianship, affection, as well as inheritance rights. Still, unfortunately, the Constitutional Court decision was not followed up, so no regulations were produced to strengthen the position of the decision, in contrast to the Malaysian state, which has special arrangements regarding illegitimate children contained in Enactment Number 17 of 2003 Enactment of the Islamic Family Law (Negeri Johor) 2003 which was later also contained Section 13A subsection (2) of the Birth and Death Registration Act (BDRA) 1957. The existence of this legislation becomes a legal force in resolving disputes over extramarital children against their biological fathers, including their rights. Indonesia has three rules of inheritance law, but from these provisions, there are very few regulations regarding the inheritance of extramarital children; even the Fatwa of the Indonesian Ulema Council only came out after the decision of the Constitutional Court Decision No. 46/PUU-VIII/2010 after going through a long debate that contradicted each other but had one goal on humanitarian grounds. This is shown by the birth of MUI Fatwa No. 11 of 2012, which gives inheritance rights to extramarital children through a mandatory will of 1/3 part.

#### References

- Abdillah, Azka Aulia, Siti Hamidah, and Endang Sri Kawuryan, 'Prosedur Ideal Pengakuan Bagi Anak Luar Hasil Perkawinan Siri Pasca Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010', *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan*, 6.1 (2021), 3 <https://doi.org/10.17977/um019v6i1p1-10>.
- Abdullah, Annisa, Kasuwi Saiban, and Kadek Indrayanti, 'Status of Children Out of Marriage: A Review of the Law Regarding Marriage and Civil Law', *East African Scholars Journal of Education, Humanities and Literature*, 6.02 (2023), 63 <https://doi.org/10.36349/easjehl.2023.v06i02.005>.
- Abikan, Yahaya Ibrahim, 'Examining the Admissibility or Otherwise of Evidence Generated from Closed-Circuit Television (CCTV) and Deoxyribonucleic Acid (DNA) Test as Means of Proof of Zina Under Islamic Law', *Al-Manahij: Jurnal Kajian Hukum Islam*, 17.1 (2023), 85 <https://doi.org/10.24090/mnh.v17i1.8172>.
- Azoury, M, F. A. Mrad, I Mansour, J. N. Ibrahim, Z.A. Erjeily, and G. Schmit, 'Perception of the General Public towards the Ethical and Legal Issues Surrounding DNA Paternity Testing in Lebanon', *Ethnics, Medicine, and Public Health*, 17 (2021)
- Bernoussi, Zaynab El, 'DNA Testing and Paternity Lawsuits in Morocco: The Tangier's Court Case', *Yearbook of Islamic and Middle Eastern Law Online*, 2022
- Damarsari, Bening Permata, Widhi Handoko, and Anggita Doramia Lumbanraja, 'Penerapan

- Nilai-Nilai Hukum Progresif Terhadap Pandangan Hakim Pada Hak Anak Hasil Poligami Tanpa Izin', *Notarius*, 14.1 (2021), 201  
<https://doi.org/10.14710/nts.v14i1.38862>.
- Dewi Judiasih, Sonny, and Efa Laela Fakhriah, 'Inheritance Law System: Considering the Pluralism of Customary Law in Indonesia', *PADJADJARAN Jurnal Ilmu Hukum*, 5.2 (2018), 316
- Djubaedah, Neng, 'Child Marriage and Zina in Indonesian Legislation in Islamic Law', *Jurnal Hukum & Pembangunan*, 49.1 (2019), 213 <https://doi.org/10.21143/jhp.vol49.no1.1917>.
- Fadli, Era, Mursyid Djawas, and Syarifah Rahmatillah, 'Tes DNA Sebagai Alat Bukti Pengganti Empat Orang Saksi (Analisis Qanun Aceh Nomor 6 Tahun 2014 Tentang Hukum Jinayah)', *PETITA: Jurnal Kajian Ilmu Hukum Dan Syariah*, 3.1 (2018), 2
- Guest, C, 'DNA and Law Enforcement: How the Use of Open Source DNA Databases Violates Privacy Rights', *American University Law Review*, 68.3 (2019), 1015
- Gultom, Maidin, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak Di Indonesia* (Jakarta: PT Refika Aditama, 2010)
- Habibi, Muhammad, and Miftakhul Marwa, 'Problematika Hak Anak Luar Kawin: Tinjauan Kitab Undang-Undang', *Media of Law and Sharia*, 4.3 (2023), 24
- Hamzani, Achmad Irwan, 'Nasab Anak Luar Kawin Pasca Putusan Mahkamah Konstitusi', *Jurnal Konstitusi*, 12.1 (2015), 66
- Hanif, Sayed Sikandar Shah, 'The Status of an Illegitimate Child in Islamic Law: A Critical Analysis of DNA Paternity Test', *Global Jurist*, 2016
- Hastuti, Indira, Edy Sanjaya, and Budi Prasetyo, 'Interfaith Marriage And Its Legal Consequences For Children Born According To Islamic Law', *International Journal of Educational Research & Social Sciences*, 3.1 (2022), 516  
<https://doi.org/10.51601/ijersc.v3i1.303>.
- Hidayati, Shania Dwi, Sonny Dewi Judiasih, and Fatmi Utarie, 'Legal Protection of the Rights of Children Born in Unregistered Marriage Based on the Constitutional Court Decision Number 46/PUU-VIII/2010', *Jurnal Poros Hukum Padjajaran*, 4.1 (2022), 41  
<https://doi.org/https://doi.org/10.23920/jphp.v4i1.961>.
- Hudiata, Edi, 'Juridic Consideration of The Judgment's Decision Concerning the Post-Born of Children Born Out of Marriage After Decision of The Constitutional Court Number 46 / PUU-VIII/ 2010', *International Journal of Nusantara Islam*, 9.1 (2021), 125  
<https://doi.org/10.15575/ijni.v9i1.12118>.
- Joly, Yann, Shahad Salman, Ida Ngueng Feze, Palmira Granados Moreno, Michele Stantin-Jean, Jacqueline Lacey, and others, 'DNA Testing for Family Reunification in Canada: Pointsto Consider', *Journal of International Migration & Integration*, 18 (2017), 2  
<https://doi.org/10.1007/s12134-016-0496-7>.
- Judiasih, Sonny Dewi, *Harta Benda Perkawinan* (Bandung: Refika Aditama, 2019)
- Lestari, Ni Luh Putu Ayu, Ni Luh Made Mahendrawati, and I Ketut Sukadana, 'Perlindungan Hukum Terhadap Hak Waris Anak Yang Lahir Dari Perkawinan Tidak Dicatatkan', *Jurnal Preferensi Hukum*, 2.1 (2021), 54 <https://doi.org/10.22225/jph.2.1.3050.51-55>.
- M, Umar, and Hafidzi A, 'Examination by Deoxyribonucleic Acid (DNA) Test of Children

- Privileges as Legitimate Evidence in Indonesia Marriage Law', *Revista Aacrgentina de Clinica Psicologica*, 3.8 (2020)
- Muqaffi, Ahmad, Rusdiyah Rusdiyah, and Diana Rahmi, 'Menilik Problematika Dispensasi Nikah Dalam Upaya Pencegahan Pernikahan Anak Pasca Revisi UU Perkawinan', *Journal of Islamic and Law Studies*, 5.3 (2022), 370 <https://doi.org/10.18592/jils.v5i3.5914>.
- Nasution, Agung Sahbana, Sutrisna Sutrisna, and Syarifah Gustiawati, 'Kewenangan Ayah Biologis Menjadi Wali Nikah Bagi Anak Hasil Zina Menurut Pandangan Imam Syafi'i Dan Putusan Mahkamah Konstitusi (MK) No. 16/PUU-VIII/2010', *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga*, 4.2 (2021), 134 <https://doi.org/10.47467/as.v4i2.819>.
- Nugroho, Bambang Daru, *Hukum Perdata Indonesia Integrasi Hukum Eropa Konstitental Ke Dalam Sistem Hukum Adat Dan Nasional* (Bandung: Refika Aditama, 2020)
- Nugroho, Bambang Daru, Hazar Kusmayanti, and Dede Mulyanto, 'The Division of Inheritance of Adopted Children in the Indigenous People of Kampung Naga Associated with Islamic Law', *Jurnal Bina Mulia Hukum*, 7.1 (2022), 103 <https://doi.org/10.23920/jbmh.v7i1.985>.
- Nurhayati, Bernadeta Resti, 'Harmonisasi Norma Hukum Bagi Perlindungan Hak Keperdataan Anak Luar Kawin Dalam Sistem Hukum Indonesia', *Ganesha Law Review*, 1.1 (2019), 57
- Nurozi, Ahmad, Bella Munita Sary, Masayu Fatiyyah Nuraziimah, Nurhasanah Walijah, and Mukhsin Achmad, 'Establish Family Card Towards Unregistered Marriage Couple (Implications of Law No. 1 Of 1974 And Compilation of Islamic Law)', *KnE Social Sciences*, 2022.1 (2022), 224–25 <https://doi.org/10.18502/kss.v7i10.11360>.
- P, Setiawan, and Haryadi W, 'The Child Custody Status from Unregistered Marriage: An Islamic Law on The Basis of Constitutional Court Decision', *YURIS (Journal of Court and Justice)*, 1.3 (2022), 1–9
- S, Haneef, 'DNA Test of Paternity in Islamic Law Implications for Illegitimate Children Born Less than Minimum Gestation Period in Malaysia', *Hamdard Islamicus*, 39.2 (2016), 7–35
- Satrio, J., *Hukum Waris* (Bandung: Citra Aditya Bakti, 1990)
- Tambunan, Khairani Amalia, Sriono Sriono, and Risdalina Siregar, 'Legal Respect for Children from Sirri's Marriage in the Perspective of Islamic Marriage Law and Regulations Indonesian Law in the District Labuhanbatu', *Budapest International Research and Critics Institute (BIRCI-Journal): Humanities and Social Sciences*, 4.2 (2021), 2044 <https://doi.org/10.33258/birci.v4i2.1892>.
- Theunissen, Catherine Agnes, 'The Effects of DNA Test Results on Biological and Family Identities', *Genealogy*, 6.1 (2022), 7 <https://doi.org/10.3390/genealogy6010017>.
- Thi, Nguyen, Bao Anh, Nguyen Phuc, Gia Nguyen, Khanh An, Legal Company, and others, 'Analyzing "Child Born Out Of Wedlock" ("Illegitimate Child") in the Law on Marriage and Family', *Journal of Population Therapeutics and Clinical Pharmacology*, 30.9 (2023), 95 <https://doi.org/10.47750/jptcp.2023.30.09.011>.
- Utami, Dinda Ediningsih Dwi, and Yahya Taufik, 'Akibat Hukum Nikah Siri Terhadap Hak Anak Dan Isteri Ditinjau Dari Kompilasi Hukum Islam', *Zaaken: Journal of Civil and Bussiness Law*, 3.2 (2022), 240
- Wiranty, Tri Khartika Nurry, Emmi Rahmiwita Nasution, and Irda Pratiwi, 'Kedudukan Anak

Yang Lahir Di Luar Pernikahan Ditinjau Dari Kompilasi Hukum Islam', *DE LEGA LATA: Jurnal Ilmu Hukum*, 5.2 (2020), 211 <https://doi.org/10.30596/dll.v5i2.3576>.

Witanto, D.Y., *Hukum Keluarga Hak Dan Kedudukan Anak Luar Kawin Pasca Keluarnya Putusan MK Tentang Uji Materiil UUU Perkawinan* (Jakarta: Prestasi Pustakaraya, 2012)

Yahya, Bin Hakim, Luqman, Muhammad, 'Pertimbangan Hakim Dalam Penetapan Nasab Anak Zina (Studi Terhadap Putusan Mahkamah Rayuan Putrajaya Kasus No. W-01(A)-365-09/2016)' (Universitas Islam Negeri Ar-Raniry Darussalam Banda Aceh, 2019)