

ABSTRACT

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**JUDICIAL REVIEW ON CHILDREN BORN OUT OF WEDLOCK AS
THE IMPLICATION OF CONSTITUTIONAL COURT VERDICT NUMBER
46/PUU-VIII/2010 (CASE STUDY ON VERDICT NUMBER
0156/PDT.P/2013/PA JS.)**

(xiv+109 pages: 4 attachments)

Constitutional court verdict number 46/PUU-VII/2010 has made a difference to Article 43 paragraph (1) of Marriage Law. Therefore, children out of wedlock are not only have a civil relationship with their biological mother and family, but also have civil relationship with their biological father if it can be proven by science and technology. However, this Constitutional Court Verdict has no implementing regulations yet, thus causing legal vacuum. The author wants to illustrate the acknowledgement of children born out of wedlock according to KUHPerdata (Civil Code), Marriage law, The Population Administration Law and Islamic Law. Moreover, the author wants to analyze the Constitutional Court Verdict's implications on the civil relationship between children of adultery and their biological fathers in accordance with the Religious Court Verdict Number 0156.Pdt.P/2013/PA. JS. Based on the verdict of religious court, The Applicants were a couple of husband and wife who was married on 31st March 2013 and the marriage was recorded in the office of religious affair on Kebayoran Lama sub-district. It's known that The Applicant II has given birth to a daughter as a result of her relationship with The Applicant I before the marriage took place, both through religious ceremony or state ceremony. The Applicants intended to acknowledge the child and obtain a legal certainty so that the child would have a civil relationship with The Applicants. Based on the author's research, it can be concluded that the implication of The Constitutional Court Verdict on the children out of wedlock in accordance to the Religious Court Verdict Number 0156.Pdt.P/2013/PA. JS. is that the Constitutional Court Verdict is difficult to be implemented on Islamic law. This prompts the Indonesia Council of Ulama (MUI) to issue a Fatwa Number 11 Year 2012 about The Position of Children of Adultery and The Treatment of Them. So that this Fatwa becomes the institute on the Religious Court Verdict Number 0156.Pdt.P/2013/PA JS. Therefore the children out of wedlock in that Religious Court Verdict have a civil relationship with their biological father limited to the father's obligation to give a living and to give a 1/3 part of inheritance through wasiat wajibah.

Keywords : Children Out of Wedlock, Children of Adultery, Acknowledgement.

References : 47 (1975-2017)