

ABSTRACT

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Title : **A YURIDICAL REVIEW OF THE POSITION OF AN
ILLEGITIMATE CHILD BY ISLAMIC LAW AND
ACT NO. 1 OF 1974 ABOUT MARRIAGE**

In Indonesia, many cases are found about pregnant outside of the legitimate marriage. That such acts must have violated the signs of religion, morals and norms that exist. Which is where that act in the future will born an innocent child, and from the actions of his/her parents the child will have a nasab that is considered to be defective. In fact, the determination of nasab is one of the most important rights of a child and that's something has much impact on the personality and future of the child will be. Islamic law says a legitimate child is a child born as a result of a legitimate marriage and the duration of pregnancy and marriage are at least 6 months old. In Indonesia law, the problem of the position or the status of the child, there are several different provision. On Act No. 1 of 1974 about Marriage the position or status of the child is discussed in Articles 42 and 43. In Article 42 states the legitimate child is the one who was born in or as result of legitimate marriage. Article 43 states that illegitimate child only have a civil relationship with their mother and mother's family, but an illegitimate child can become a legitimate child if he/she is recognized by his/her biological father and can be proved by science and technology, the provision is in accordance with Decision of the Constitutional Court No. 46/PUU-VII/2010. Meanwhile, in the Compilation of Islamic Law the position or status of children is discussed in Article 99 and Article 100. Article 99 states that a legitimate child is a child born in or as a result of a legitimate marriage and also from the conception of a legal husband and wife outside the womb and born by the wife. Article 100 states that a child born out of marriage has only a nasab relationship with his mother and his mother's family, Therefore, if a child is born out of wedlock, the rights he/she owns are not the same as the legal rights of the legitimate child.

Key Words: Illegitimate Children, Pregnant Outside Of The Legitimate Marriage, Civil Relationships, Nasab

Reference: 1984 - 2017