

## **ABSTRACT**

### *The Legal Status of Children born Out Of Wedlock After The Constitutional Court*

*Decision Number 46/PUU-VIII/2010 Dated February 17, 2012*

*This Study examines the legal status and rights of children born out of wedlock in Indonesia, focusing on the implications of Constitutional Court Decision Number 46/PUU-VIII/2010 (February 17, 2012). This study examines motivated by persistent injustices and discrimination against such children.*

*This research employs a qualitative method in the form of library research, focusing on context interpretation. The primary objectives of this study are: (1) to examine the legal status of children born out of wedlock following Constitutional Court Decision Number 46/PUU-VIII/2010 (February 17, 2012), (2) to analyze the legal protection of inheritance rights for children born out of wedlock after the same decision, dated February 17, 2012.*

*The Constitutional Court's ruling affirms that children born out of wedlock can establish a civil legal relationship with their biological father if paternity is proven through scientific evidence (e.g., DNA testing) or other valid legal means. However, this provision excludes children born from adultery or incest. Legally, acknowledgement and validation through court processes grant these children formal recognition as legitimate heirs, entitling them to civil rights, maintenance, education funding, and alimony.*

*Regarding inheritance, the Indonesian Civil Code (KUHPerdata) categorizes acknowledgement out-of-wedlock children as first-tier intestate heirs (*ab intestate*). However, their inheritance rights differ from legitimate children: they are entitled to one-third of the share a legitimate child would receive, adjusted based on the number of heirs. Additionally, they may claim a *legitieme portie* (mandatory portion), equaling half of their potential inheritance. For children born from unregistered marriage, court validation ensures a one-third entitlement under Article 863 of the Civil Code (KUHPerdata).*

*The study's findings indicate that children born out of wedlock have the right to obtain legal status and associated rights, including civil relations, maintenance rights, living rights, and educational financing from their biological father, provided that this can be substantiated through scientific evidence or other means. Furthermore, regarding inheritance from their father, the child is entitled to a mandatory will. If an illegitimate child is born from an unregistered marriage (*nikah siri*) between their parents, they have the right to receive one-third of the inheritance share they would have obtained had they been a legitimate child, as stipulated in Article 863 of the Civil Code.*

*Reference : 88 (1990-2023)*

*Key Word : Legal Certainty, Legal protection, Legal Consequences,  
Legal Status and Rights of Children Born Out Of Wedlock.*