

INHERITANCE RIGHTS OF UNMARRIED CHILDREN IN INDONESIAN CIVIL LAW: A NORMATIVE AND COMPARATIVE STUDY

Nur Mayangsari¹, Yohana Watofa², Jonhi Sassan³

¹⁻³ Sekolah Tinggi Ilmu Hukum (STIH) Manokwari, Indonesia

*Email Correspondence: nurmayangsarinar@gmail.com

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Abstract

Amidst the rising trend of pre-marital relationships and infidelity in Indonesia, the number of children out of wedlock has also increased. However, they are often marginalized by social stigma and uncertainty about their legal rights, particularly inheritance rights. This research investigates the normative and comparative aspects of the inheritance rights of out-of-wedlock children in Indonesia. The research method uses a qualitative normative and comparative approach, analyzing the Civil Code, Compilation of Islamic Law (KHI), and Constitutional Court decision No. 46/PUU-XIV/2017. Primary data was obtained from the research of Nur Mayangsari, Yohana Watofa, and Jonhi Sassan, as well as the decision of the Constitutional Court. Secondary data was used to compare the inheritance rights of children out of wedlock in Indonesia with other countries. Findings show the expansion of the inheritance rights of out-of-wedlock children from biological fathers in some cases, although it is still hampered by social stigma and lack of public awareness. This complex issue requires sustained efforts to ensure effective implementation and address social challenges. By strengthening legal understanding and raising public awareness, out-of-wedlock children can be more legally and socially empowered to obtain their rightful inheritance.

Keywords: *Unmarried Children, Inheritance Rights, Constitutional Court.*

Abstrak

Di tengah meningkatnya tren hubungan pra-nikah dan perselingkuhan di Indonesia, jumlah anak di luar nikah juga mengalami peningkatan. Namun, mereka sering kali terpinggirkan oleh stigma sosial dan ketidakpastian tentang hak hukum mereka, terutama hak waris. Penelitian ini menyelidiki aspek normatif dan komparatif hak waris anak di luar nikah di Indonesia. Metode penelitian menggunakan pendekatan normatif dan komparatif kualitatif, menganalisis KUHP, Kompilasi Hukum Islam (KHI), dan keputusan Mahkamah Konstitusi No. 46/PUU-XIV/2017. Data primer diperoleh dari penelitian Nur Mayangsari, Yohana Watofa, dan Jonhi Sassan, serta keputusan Mahkamah Konstitusi. Data sekunder digunakan untuk membandingkan hak waris anak di luar nikah di Indonesia dengan negara lain. Temuan menunjukkan perluasan hak waris anak di luar nikah dari ayah biologis dalam beberapa kasus, meskipun masih terhambat oleh stigma sosial dan kurangnya kesadaran publik. Isu kompleks ini memerlukan upaya berkelanjutan untuk memastikan implementasi yang efektif dan mengatasi tantangan sosial. Dengan memperkuat pemahaman hukum dan meningkatkan kesadaran publik, anak-anak di

luar nikah dapat lebih diberdayakan secara hukum dan sosial dalam memperoleh hak waris yang pantas.

Kata Kunci: Anak di luar nikah, Hak Waris, Mahkamah Konstitusi

INTRODUCTION

The promiscuity that often occurs among teenagers today can have negative impacts such as extramarital relationships and sexual behavior. Cultural influences and the challenges of the times mean that out-of-wedlock children are often negatively labeled by society, which then has an impact on their psychology and mentality, even though they are not legally affected by their parents' actions. This assessment is seen from various legal perspectives, including the consequences of out-of-wedlock pregnancies and the biological bond between the child and their father.¹

In recent years, a lot of attention has been paid to the question of unmarried children's rights to inheritance as stated in the Indonesian law Civil Code, this relates to the legal standing and inheritance privileges granted to unmarried children; such children do not inherently have legal ties to their parents unless acknowledged by the father or mother, the consent of the father or mother is an absolute requirement, without recognition, Unmarried children are not entitled to inherit from their parents.²

Furthermore, in line with Decision No. 46/PUU-VIII/2010 of the Constitutional Court, a legitimate out-of-wedlock child can have a relationship with the biological father if there are technical and/or other reasonable indications. If the child is birthed by the mother, but not by a man's conception legally married to the child's mother, the marriage is recognized. Children originated from adultery or incest are not included in the definition of recognizable illegitimate children. The inheritance rights of The Indonesian civil law's codification of Islamic law also has an impact on children born outside of marriage (KHI). Kawasaki Heavy

¹ Ratih Saryani et al., "Kajian Sosiologi Hukum Terhadap Pergaulan Bebas Pada Generasi Muda," *Causa: Jurnal Hukum Dan Kewarganegaraan* 3, no. 10 (2024): 77–87.

² Jenal Wahidin et al., "The Inheritance Rights Of Children From Marriage Are Not Recorded According To The Marriage Law And The Compilation Of Islamic Law," *Mawaddah: Jurnal Hukum Keluarga Islam* 2, no. 1 (2024): 65–85. <https://doi.org/10.52496/mjhki.v1i2.15>

Industries asserts that unmarried children have the right to inherit their parents' property if they can prove their parents' knowledge.³

With the enactment of Marriage Law No. 1/1974, unrecognized out-of-wedlock children also establish a cordial rapport with their mother and other relatives, unlike previously where out-of-wedlock children had no legal relationship with anyone. Regarding Article 43(1). The Marriage Law recognizes that unrecognized outside of marriage The youngsters and their mother's family get along well.⁴

Concerning the rights of unmarried children to inherit, Marriage Law No. 1/1974 also confirms that out-of-wedlock children without recognition are entitled to inherit the property of their parents. The right of inheritance is based on the law and does not depend on parental consent. Therefore, the inheritance law of extramarital children in Indonesian civil law is a complex issue that requires more in-depth study. It is advised to do a normative comparative study of the legal status and inheritance rights of children born outside of marriage in order to obtain a greater understanding of the rights that children from extramarital relationships have.⁵

The rights to inheritance because under Indonesian civil law, children born outside of marriage have are an interesting topic to be studied normatively and comparatively. This study analyzes the similarities and differences, as well as the legal efforts made so that illegitimate children can inherit a portion of their parents' inheritance, as stipulated by the Islamic Law and Civil Law Compilation (KUHPerdata). Children born outside the ties of a legally recognized marriage are known as unmarried children. Offspring born out of wedlock possess no legal link with their parents under civil law unless

³ Georgina Agatha, "Pembuktian Dan Pengesahan Anak Luar Kawin Serta Akibat Hukumnya Setelah Berlaku Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 Dalam Pandangan Hukum Islam," *Indonesian Notary* 3, no. 1 (2021): 23.

⁴ Tanti Kurnia Ahadiyah and Husni Syawali, "Akibat Hukum Dari Tidak Disahkannya Perjanjian Mengenai Pemisaan Harta Oleh Pegawai Pencatat Perkawinan Kepada Pihak Ketiga Ditinjau Dari Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Prosiding Ilmu Hukum* 6, no. 1 (2020): 125–31.

⁵ Kharisma Lintang Perkasa, "Analisis Hukum Status Anak Angkat Dalam Hak Waris Dari Orang Tua Angkat Dalam Perspektif Kuhperdata" (Universitas Islam Sultan Agung Semarang, 2023).

their mother or father acknowledges them. The property of the parents is acknowledged, and this property is distributed according to the law.⁶

About the legal standing of unmarried children and their eligibility for inheritance rights, the Indonesian Civil Code's provisions regarding the inheritance rights of such children have drawn a lot of attention in recent years; such children lack a legal bond with their parents unless formally acknowledged by their mother or father; parental acknowledgment is a prerequisite that must be met in full, without recognition, children out of wedlock cannot obtain inheritance rights from their parents. Please note, The Constitutional Court's Decision Number 46/PUU-VIII/2010 affects children born outside of marriage's inheritance rights. This ruling upholds children born outside of marriage have the legal right to establish an association with their paternal grandfather through technical know-how or other reliable evidence. This ruling is a legal reform that gives Offspring born without marriage are acknowledged for their inheritance rights.⁷

Research has been done on the inheritance rights under Indonesian civil law of children born outside of marriage, including research by Margareta Sevilla Rosa Angelin and others (2021) titled "Dilemma of Inheritance Rights of Space Children in the Perspective of Civil Law" and the study by Arsad Hidayat Jurjani (2021) titled "Legal Impact of MK 46/PUU-VIII/2010 Decision on Inheritance Rights of Space Children." The similarity between these studies is that both focus on parental recognition of illegitimate children to obtain inheritance rights. The distinction is seen in the reality that the research by Margareta Sevilla Rosa Angelin et al. and the research by Arsad Hidayat Jurjanij concentrate more on the implications of Constitutional Court Decision 46/PUU-VIII/2010 about the entitlements of nonmarital children to inheritance.

The objective of this study is to clarify the legal procedures by analyzing the inheritance rights of illegitimate offspring as stated in the Indonesian Civil Code, resemblances, and differences to ensure that illegitimate children receive their parents' inheritance, including case studies and comparisons with other countries

⁶ Afdal Lailatul Qadri, "Analisis Yuridis Dan Hukum Islam Terhadap Disparitas Penetapan Majelis Hakim Dalam Mengabulkan Permohonan Asal-Usul Anak Hasil Zina" (Universitas Islam Indonesia, 2024).

⁷ Dwi Ayu Nurrosyidah, "Perlindungan Hukum Waris Terhadap Anak Diluar Nikah" (Universitas Muhammadiyah Ponorogo, 2023).

Therefore, in this article we formulate several problem formulations as follows, first, what is the status of unmarried children in accordance with Indonesian civil law? What effect does the Manokwari case's Decision Number 46/PUU-XIV/2017 of the Constitutional Court about illegitimate children's inheritance rights?

RESEARCH METHODS

The research methodology used is descriptive and qualitative. This research aims to describe and explain phenomena, focusing on characteristics, qualities, and relationships. This research uses a descriptive approach to understand the inheritance rights of unmarried children in Indonesian civil law, focusing on the Manokwari Case as an important precedent. Primary data was sourced from the Manokwari Case and legal documents. Secondary data was collected from relevant research and official documents. Data analysis used qualitative methods to interpret the findings.

RESULTS AND DISCUSSION

Status of Extra-Marital Children in Indonesian Civil Law

In today's society, cultural tensions lead to men and women living together without marriage, children born from such relationships are often given negative nicknames such as “illegitimate children” and are prone to mental illness and other problems, although they are not legally responsible for the actions of their parents, there are several legal issues that arise from such unwanted pregnancies, including whether the child maintains a biological lineage with the father.⁸

Children born out of wedlock are different from those born in a lawful marriage are kids born without the validity of a legal union. They lack a legally recognized tie with their parents without the permission of the father or mother. Under Islamic law, these children lack a genetic connection with their biological father.⁹

According to the Indonesian Marriage law, offspring born outside of a legally recognized marriage are only legally related to their biological mother and her family. On the other hand, children born into a valid marriage are still legally related to both parents This provision is clearly stated in Article 43 paragraph (1) of Marriage Law Number 1 of

⁸ Anisa Putri Alifah, Nurliana Cipta Apsari, and Budi Muhammad Taftazani, “Faktor Yang Mempengaruhi Remaja Hamil Di Luar Nikah,” *Jurnal Penelitian Dan Pengabdian Kepada Masyarakat (JPPM)* 2, no. 3 (2021): 529–37.

⁹ Geri Akbar Mokodompit, “Implementasi Peran Pengakuan Dan Hak Mewaris Terhadap Anak Luar Kawin Berdasarkan KUH Perdata,” *Lex Privatum* 9, no. 8 (2021).

1974, which states that children born outside of marriage are only permitted to maintain civil relationships with their mother and her family.¹⁰

Islam recognizes children born into a valid marriage as legitimate progeny and recognizes their bond with both parents as nasab. Conversely, Children born out of wedlock lack the innate father-child relationship. Nasab, representing a familial tie established through lawful marriage, entails various rights and responsibilities, both for parents towards their children and vice versa. Despite extramarital children not having a nasab relationship with their biological father according to Islamic law, in Indonesian civil law, they still have inheritance rights to their parents' property. This inheritance right is guaranteed by law and does not depend on parental recognition. The status of extramarital children in Indonesian civil law has important implications, especially in terms of inheritance. Their position is different from children born from a legal marriage, who have a complete legal relationship with both parents.¹¹

In Indonesia, there are two different legal systems that control the legal status of children born outside of marriage: Islamic law and civil law. According to Islamic law, Unmarried children don't have a bond with their biological father. However, under civil law, they have inheritance rights over their parents' estate. This difference shows the complexity of legal relationships and rights governed by the various legal systems in Indonesia. Therefore, an in-depth understanding of the legal status of children in various contexts is essential.¹²

Under Indonesian civil law, the legal system for unmarried children is complex. status that is different from that of children born into valid marriages. According to Marriage Law No. 1/1974, an out-of-wedlock kid is born to unmarried parents and is only acknowledged as having a cordial connection with their mother's family. This implies that, legally, they lack a formal relationship with their biological father unless the father chooses to acknowledge them officially. Recognition of out-of-wedlock children by their biological father can be done

¹⁰ Margareta Sevilla Rosa Angelin, Farida Danas Putri, and Akbar Prasetyo Sanduan, "Dilema Hak Mewaris Anak Luar Kawin Dalam Persepektif Hukum Perdata," *Jurnal Hukum Magnum Opus* 4, no. 2 (2021): 158–65.

¹¹ Mokodompit, "Implementasi Peran Pengakuan Dan Hak Mewaris Terhadap Anak Luar Kawin Berdasarkan KUH Perdata."

¹² Michael J Higdon, "Parens Patriae and the Disinherited Child," *Wash. L. Rev.* 95 (2020): 619.

through various means, such as a birth certificate with the father's name, a child recognition letter, or a court decision. This recognition entitles the out-of-wedlock child to maintenance, inheritance and other civil rights from the father. However, without recognition, these rights are not legally recognized.¹³ Decision No. 46/PUU-VIII/2010 of the Constitutional Court has important implications for unmarried children's legal standing as well.¹⁴

The 2010 Decision No. 46/PUU-VIII/2010 of the Constitutional Court is a significant turning point in the defense of Indonesian children born outside of marriage. This ruling validated their amicable relationship with their biological father, provided it is legally established. This paved the way for better legal protection and rights of unmarried children, however, the implementation of this decision in the field still faces various challenges. Social and cultural barriers remain an obstacle to the recognition of out-of-wedlock children by their biological fathers. On the other hand, social stigma, legal consequences and financial burdens encourage many fathers not to recognize their children.¹⁵

In Indonesia, the right to inherit for children born outside of marriage depends on paternity being recognized. If recognized, they are entitled to inheritance from their father, although the portion is usually smaller than that of legitimate children born from legal marriages. This is in accordance with the Civil Code (KUHPperdata) which stipulates that recognized out-of-wedlock children are only entitled to one-third of the share of inheritance accepted by kids who are legal. When parents divorce, the status of their unmarried children affects child custody decisions as well. Generally, custody is awarded to the mother, unless there are compelling reasons to award custody to the father. The idea of putting the child's best interests first serves as the foundation for this choice. In Indonesia, the legal standing of unmarried children demonstrates key differences between Islamic and civil law. These

¹³ Mursyid Djawas et al., "The Construction of Islamic Inheritance Law: A Comparative Study of the Islamic Jurisprudence and the Compilation of Islamic Law," *JURIS (Jurnal Ilmiah Syariah)* 21, no. 2 (2022): 207–19.

¹⁴ Luh Putu Putri Indah Pratiwi, Dewa Gede Sudika Mangku, and Ni Putu Rai Yuliantini, "Pengaturan Terhadap Kedudukan Anak Di Luar Kawin Pasca Putusan Mahkamah Konstitusi Nomor 46/Puu-Viii/2010," *Jurnal Komunitas Yustisia* 3, no. 1 (2020): 13–24.

¹⁵ Atika Setiani and Muh Jufri Ahmad, "Perubahan Kedudukan Ayah Biologis Dalam Perkawinan Anak k Luar Kawin Pasca Putusan Mahkamah Konstitusi RI No. 46/PUU-VIII/2010.," *Madani: Jurnal Ilmiah Multidisiplin* 1, no. 11 (2023).

children are acknowledged as having only a cordial relationship—not a romantic one—with their biological father and her family until the father acknowledges the kid, in accordance with the Islamic Law Compilation (KHI). In the meanwhile, children born outside of marriage who have their father's approval are granted inheritance rights under civil law.¹⁶

The existence of out-of-wedlock children in Indonesia is still characterized by various challenges, one of which is the social stigma they face. In many communities, they often experience discrimination and different treatment because of their birth status. This can have a negative impact on their mental and social development. Overcoming these barriers requires more inclusive and equitable policies. Strengthening legal protections and public education to reduce stigma against out-of-wedlock children are key. Legislative changes that take into account children's best interests and In Indonesia's civil law system, ensuring equal rights for illegitimate and legitimate children is likewise of utmost importance. In general, the legal position of unmarried children under Indonesian civil law is a complicated subject with wide-ranging social and legal ramifications. Efforts to improve the legal protection and welfare of out-of-wedlock children must continue to ensure that every child, regardless of birth status, receives equal rights and appropriate protection.¹⁷

Consequences of the Constitutional Court's ruling Number 46/PUU-XIV/2017 Regarding the Unmarried Children's Right to Inheritance and Related Manokwari Cases

The application of an example of Constitutional Court Decision No. 46/PUU-XIV/2017 is provided by the Manokwari case.¹⁸ a daughter sued her biological father to obtain inheritance rights over her grandfather's estate. Previously, the lawsuit was rejected because it contradicted Article 833 of the Civil Code. But stillThe 1945 Constitution, in particular Article 26 paragraph (2), which guarantees

¹⁶ Moh Najib Syaf, “Studi Komparasi Konsep Rujuk Menurut Imam Madzhab Dan Kompilasi Hukum Islam,” *Jurnal Darussalam: Jurnal Pendidikan, Komunikasi Dan Pemikiran Hukum Islam* 15, no. 2 (2024): 91–113.

¹⁷ Nahdiya Sabrina et al., “Discrimination against Children Born Outside of Marriage in Indonesia,” *International Journal of Multicultural and Multireligious Understanding* 7, no. 9 (2020): 121–29.

¹⁸ yuliansyah Muhammad, “Analisis Siyasa Dusturiyah Terhadap Putusan Mahkamah Konstitusi Nomor 46/Puu-Xiv/2016 Terkait Uji Materi Pasal 292 Kuhp Tentang Homoseksual” (Universitas Islam Negeri Raden Intan Lampung, 2022).

The equal recognition, assurance, protection, and legal certainty of every individual, was found to be in conflict with Article 833 of the Civil Code by the Constitutional Court. Thus, the Court determined that, under certain restrictions, Offspring born unmarried possess the entitlement to inherit their biological father's inheritance.

Until the Constitutional Court Decision No. 46/PUU-XIV/2017, Indonesian children born out of wedlock were not entitled to the same inheritance rights as children born into a legitimate marriage came into effect. Only legitimate offspring and children from previous marriages who have had their father's approval are eligible to inherit under the Civil Code. This results in prejudice and injustice for fatherless children who are not acknowledged by their parents, as they have no claim to their parents' estate.¹⁹ the only children who are eligible for inheritance under the Civil Code are those who are born into lawful marriages and those who are born outside of marriage but are acknowledged by their fathers. Offspring born outside of marriage and unacknowledged by their fathers are not eligible to receive their parents' assets.²⁰

Decision No. 46/PUU-XIV/2017 of the Indonesian Constitutional Court represents a major shift in the inheritance rights of Indonesia's unmarried children. Prior to this ruling, children born outside of marriage who did not receive parental acknowledgement were not eligible to receive their parents' estates. They became the target of injustice and discrimination as a result. Article 833 of the Civil Code (KUHPerdara), which previously did not allow inheritance rights to out-of-wedlock children from their biological father, was altered by Decision No. 46/PUU-XIV/2017 of the Constitutional Court.²¹

This decision is a step forward for Indonesia in upholding the entitlements. The Manokwari case illustrates the application of this Constitutional Court ruling to children born out of wedlock. A daughter sued her biological father for inheritance rights to her grandfather's

¹⁹ Sobirin Malian, "Konsepsi HAM Universal Dan Partikular Dalam Putusan Mahkamah Konstitusi (Analisis Putusan MK Nomor 46/Puu-Xiv/2017 Tentang Pasal Pidana Dalam KUHP Bagi Pelaku Zina Dan LGBT)," n.d.

²⁰ Muhammad Habibi Miftakhul Marwa, "Problematika Hak Anak Luar Kawin: Tinjauan Kitab Undang-Undang Hukum Perdata," *Media of Law and Sharia* 4, no. 3 (2023): 239–52.

²¹ Dioba Savana and Sobirin Malian, "Tinjauan Yuridis Hukuman Kebiri Perspektif Perlindungan Hak Asasi Manusia Tentang Hak Memiliki Keturunan Dan Hak Hidup Berkeluarga," *Ahmad Dahlan Legal Perspective* 3, no. 1 (2023): 27–46.

estate. Previously, the lawsuit was rejected because it contradicted Article 833 of the Civil Code. It is important to continue to monitor and ensure that the execution decision No. 46/PUU-XIV/2017 of the Constitutional Court is considered to be in effect and equitable for all out-of-wedlock children in Indonesia. This includes public education about the Court's decision, legal assistance for out-of-wedlock children, and legal reforms to strengthen their rights. Cases such as the denial in Manokwari in 2017 of inheritance rights to children born outside of marriage are clear examples of this injustice.²²

Decision No. 46/PUU-XIV/2017 of the Constitutional Court concerning the inheritance rights of children born outside of marriage children gained important momentum with the Manokwari case. This case shows how the Court's decision can be applied in practice and paves the way for other out-of-wedlock children in Indonesia to fight for their rights that have been hindered by stigma and discrimination.

The story of Ani, a girl in Manokwari, is a clear example of the struggle of Due to Constitutional Court Decision No. 46/PUU-XIV/2017, children born outside of marriage are now eligible to inherit, even if they are not formally acknowledged by their father. Ani was initially denied inheritance rights due to Article 833 of the Civil Code (KUHPperdata) but she did not give up. With Constitutional Court Decision 46/PUU-XIV/2017 granting inheritance rights to out-of-wedlock children, Ani filed an appeal. Her efforts were successful. The appeals court ruled that Ani was entitled to inheritance rights from her biological father

Breakthrough of Constitutional Court Decision 46/PUU-XIV/2017:²³

On December 14, 2017, the Constitutional Court (MK) announced Decision Number 46/PUU-XIV/2017, opening a new chapter for the inheritance rights of children born outside of marriage. Indonesia. This decision declares that Article 833 of the Civil Code (KUHPperdata) contradicts the 1945 Constitution. with this decision, out-of-wedlock children in Indonesia are entitled to inheritance rights from their biological father.

²² Malian, "Konsepisi HAM Universal Dan Partikular Dalam Putusan Mahkamah Konstitusi (Analisis Putusan MK Nomor 46/Puu-Xiv/2017 Tentang Pasal Pidana Dalam KUHP Bagi Pelaku Zina Dan LGBT)."

²³ Savana and Malian, "Tinjauan Yuridis Hukuman Kebiri Perspektif Perlindungan Hak Asasi Manusia Tentang Hak Memiliki Keturunan Dan Hak Hidup Berkeluarga."

The Manokwari case is a crucial legal precedent in the application decision No. 46/PUU-XIV/2017 of the Constitutional Court regarding the inheritance rights of children born outside of marriage. This case opened the gate for out-of-wedlock children in Indonesia to obtain inheritance rights that had been hindered constitutional Court Decision No. 46/PUU-XIV/2017 addressed the limitations imposed by Article 833 of the Civil Code (KUHPperdata). This case also serves as a reminder of the imperative to eliminate stigma and discrimination against children born out of wedlock.

Prior to Constitutional Court Decision No. 46/PUU-XIV/2017, out-of-wedlock children did not have access to inheritance rights from their biological father. This resulted in many cases of out-of-wedlock children being disinherited and discriminated against. The Manokwari case changed this situation by proving that out-of-wedlock children are entitled to the same inheritance rights as legal children.

The Manokwari case is an important example that there is still a long way to go for the inheritance entitlements of children born out of wedlock, even though Constitutional Court Decision 46/PUU-XIV/2017 has paved the way for a significant legal advancement. There are still many challenges to face, such as stigma and discrimination against out-of-wedlock children, as well as a lack of public understanding of their inheritance rights. However, with the Manokwari case as a precedent and a passion for justice, the hope for the opportunity for out-of-wedlock children in Indonesia to obtain the inheritance rights that were previously denied to them is now wide open.

The contents of Constitutional Court Decision number 46/PUU-XIV/2017:

Constitutional court decision No. 46/PUU-XIV/2017 is a revolutionary legal breakthrough for the inheritance rights of children out of wedlock in Indonesia. This decision contains several important points, namely. Affirmation of the inheritance rights of out-of-wedlock children from their father directly, Out-of-wedlock children no longer need to wait for the death of their mother to obtain inheritance rights from their father, Granting out-of-wedlock children inheritance rights equal to half of the inheritance rights of legal children. This is a major step towards equal rights between out-of-wedlock children and legitimate children, Abolition of paternity as an absolute requirement for inheritance rights. Out-of-wedlock children remain entitled to

inherit from their fathers, even if their fathers never formally recognized them.

Positive implications of constitutional court decision number 46/PUU-XIV/2017, constitutional court decision number 46/PUU-XIV/2017 comes as a new chapter in the fight for the rights of out-of-wedlock children in Indonesia. The positive impact can be seen from the following points:

1. Strengthening the rights of out-of-wedlock children: This ruling recognizes the inheritance rights of out-of-wedlock children from their fathers, which they previously did not have.
2. Prevention of discrimination: This ruling helps to combat the stigma and discrimination that out-of-wedlock children often face.
3. Enhanced sense of justice: This judgment provides a sense of justice for previously disadvantaged out-of-wedlock children.
4. A push towards equal rights: This judgment is an important step towards equal rights for all children, regardless of their parents' marital status.
5. Providing legal certainty: This ruling provides legal certainty for out-of-wedlock children in terms of their inheritance rights, so they no longer have to worry about losing their rights

The government needs to conduct broader socialization and legal education to the public on the Constitutional Court Decision 46/PUU-XIV/2017. In addition, the provisions regarding succession also need to be amended to adjust to the Constitutional Court's decision. Law enforcement officials also need to improve their ability to handle inheritance cases involving children out of wedlock.

Impact of Constitutional Court Decision Number 46/PUU-XIV/2017, on December 14, 2017, the constitutional court (MK) of the Republic of Indonesia issued Decision No. 46/PUU-XIV/2017, which historically transformed the legal landscape regarding the inheritance rights of children born out of wedlock in Indonesia. This decision has significant social and legal impacts that warrant further study.

a. Positive Impact:

1. Increased recognition and protection of extramarital children's rights: constitutional court decision No. 46/PUU-XIV/2017 explicitly acknowledges the inheritance rights of children born out of wedlock to their biological father's

estate. This marks a significant advancement in the pursuit of equality and justice for these children.

2. Promoting justice and equality: this ruling Addresses and reduces the stigma and discrimination faced by out-of-wedlock children regarding inheritance. Previously, these children were denied inheritance rights from their parents' estates, often resulting in injustice and inequality.
 3. Providing legal certainty: decision No. 46/PUU-XIV/2017 of the Constitutional Court provides legal certainty for children born out of wedlock in asserting their inheritance rights. This is crucial for preventing future disputes and legal conflicts.
- b. Negative impact:
1. Potential for misuse: there is a concern that constitutional court decision no. 46/PUU-XIV/2017 could be exploited by certain individuals to commit fraud or make unauthorized inheritance claims. This necessitates strengthened verification and proof procedures in the inheritance process to prevent such abuses.
 2. Financial burden on families: recognizing extramarital children as heirs can impose a financial burden on families, particularly when there are multiple children from a legal marriage. Anticipating this requires fair and proportional arrangements for inheritance distribution.
 3. Shifts in Social Norms and Values: Constitutional Court Decision No. 46/PUU-XIV/2017 might prompt changes in social norms and values related to marriage and family. Addressing this requires comprehensive education and outreach to the community to foster understanding and acceptance.
 4. Constitutional court decision No. 46/PUU-XIV/2017 marks a significant legal breakthrough in the fight for the inheritance rights of out-of-wedlock children in Indonesia. While it brings both positive and negative impacts, this decision should be recognized as a crucial step toward achieving justice and equality for all children. Ongoing efforts from various stakeholders are essential to ensure the effective and responsible implementation of this ruling, while respecting prevailing social norms and values.

Implementation challenges of constitutional court decision number 46/PUU-XIV/2017, although this Constitutional Court decision has had a positive impact, there are still several challenges in its implementation, including:

1. Lack of public understanding of the inheritance rights of out-of-wedlock children.
2. Bureaucratic obstacles in managing the inheritance rights of out-of-wedlock children.
3. Stigma and discrimination against out-of-wedlock children that still exist in the community.
4. Several efforts are needed to overcome the challenges of implementing the Constitutional Court Decision, namely:
5. Socialization and education to the community about the inheritance rights of children out of wedlock.
6. Simplification of the bureaucracy in managing the inheritance rights of out-of-wedlock children.
7. Eradication of stigma and discrimination against children out of wedlock.

Comparisons With Other Countries

In different countries, the regulation of inheritance rights for children born out of wedlock varies significantly, influenced by their unique legal systems and cultural contexts.²⁴ Below is a comparison of the inheritance rights of out-of-wedlock children in Indonesia with those in several other countries:

1. Malaysia:
 - Legal systems: islamic law and english law
 - Arrangements:
 - 1) Out-of-wedlock children are recognized as heirs of the mother and her family.
 - 2) Recognition as an heir from the biological father is possible through written acknowledgment or DNA test.
 - 3) The share of inheritance of out-of-wedlock children is the same as that of legitimate children.²⁵
2. Singapura:
 - Legal system: common law

²⁴ Ali Akbar et al., "Sejarah Pernikahan Campuran Di Indonesia," *Jurnal Pendidikan Tambusai* 8, no. 1 (2024): 4448–57.

²⁵ Arip Purkon, "KETENTUAN HADHANAH DI INDONESIA DAN MALAYSIA. Program Studi Hukum Keluarga (Ahwal Syakhshiyah)" (Fakultas Syariah dan Hukum UIN Syarif Hidayatullah Jakarta, n.d.).

- Arrangement:
 - 1) Out-of-wedlock children are recognized as heirs of the mother and her family.
 - 2) Recognition as an heir from the biological father is possible through written acknowledgment or DNA test.
 - 3) The share of inheritance of out-of-wedlock children is the same as that of legitimate children.²⁶
- 3. Belanda:
 - Legal system: civil law
 - Arrangements:
 - 1) Out-of-wedlock children are recognized as heirs of the mother and her family.
 - 2) Recognition as an heir from the biological father is possible through written acknowledgment or DNA test.
 - 3) The share of inheritance of out-of-wedlock children is the same as legal children.²⁷
- 4. Amerika Serikat:
 - Legal system: common law
 - Arrangements:
 - 1) Arrangements for the inheritance rights of out-of-wedlock children vary from state to state.
 - 2) Generally, out-of-wedlock children are recognized as heirs of the mother and her family.
 - 3) Recognition as an heir from the biological father is possible through written acknowledgment or DNA testing.
 - 4) The portion of an extramarital child's inheritance varies depending on the state.²⁸

²⁶ Naily Amalia et al., "Perlindungan Hak-Hak Pasangan Suami Istri Dalam Perkawinan Campuran: Perspektif Hukum Perdata Di Indonesia Dan Singapura," *Causa: Jurnal Hukum Dan Kewarganegaraan* 1, no. 7 (2023): 31–40; Maria Ulfah, "Buku Ajar Perbandingan Sistem Hukum" (Universitas Islam Kalimantan MAB, 2022); Ammar Shahdeepa Wibowo and Lauditta Humaira, "Perbandingan Kedudukan Surat Wasiat Dalam Hukum Kewarisan KUHPPerdata Indonesia Dan Hukum Kewarisan Singapura (Studi Kasus: Putusan No. 43/Pdt. G/2020/PN Mdn, Putusan No. 194/Pdt. G/2022/PN Amb, Dan Putusan UWF v UWH [2020] SGHCF 22)," *Lex Patrimonium* 2, no. 2 (2023): 4.

²⁷ Rosalinda Elsina Latumahina, "Perlindungan Hukum Bagi Anak Luar Kawin Dalam Hukum Keluarga Belanda," 2020.

²⁸ Rizki Nurdiansyah and Muhammad Adam Damiri, "Hukum Tentang Orang (Perbandingan Antara KUH Perdata Indonesia, Inggris Dan Amerika)," *Eksekusi: Jurnal Ilmu Hukum Dan Administrasi Negara* 1, no. 4 (2023): 26–43; Pratiwi,

CONCLUSION

The results show that out-of-wedlock children in Indonesia have a different legal status from legal children, where they only have a civil relationship with the mother and the mother's family unless there is recognition from the father. However, the Constitutional Court Decision No. 46/PUU-XIV/2017 expanded the inheritance rights of out-of-wedlock children by granting them inheritance rights from their biological father albeit with several conditions and portions that are different from legal children. Positive impacts of this decision include the strengthening of the rights of out-of-wedlock children and the promotion of justice, although there are potential challenges to implementation, such as lack of community understanding and social stigma. International comparisons show variation in the regulation of the inheritance rights of out-of-wedlock children, with some countries providing equal shares of inheritance between legitimate and illegitimate children. This research provides important benefits for out-of-wedlock children, communities, governments and researchers, although there are still limitations that require further research for a more comprehensive understanding and more concrete solutions regarding the inheritance rights of out-of-wedlock children in Indonesia.

Mangku, and Yuliantini, "Pengaturan Terhadap Kedudukan Anak Di Luar Kawin Pasca Putusan Mahkamah Konstitusi Nomor 46/Puu-Viii/2010."

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