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## Legal Implications of Proving the Status of Non-Marital Children through DNA Tests in the Indonesian Civil Law System

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**Abstract:** The development of genetic technology, especially DNA testing, presents new opportunities in proving civil law, especially related to the status of children non-marital. In the context of Indonesian law, the regulation of non-marital children still gives rise to various interpretations, especially in terms of determining civil relations with the biological father. The Constitutional Court through Decision No. 46/PUU-VIII/2010 and the latest Decision No. 69/PUU-XIII/2015 has opened up the space for recognition of children non-marital, but has not fully regulated the mechanism of proof comprehensively, especially in cases involving alleged adultery. This study aims to analyse the status of children non-marital after the Constitutional Court's decision and the extent to which DNA tests can be used as evidence to determine the child's civil rights, whether as main evidence or only in supporting nature. The research method used is normative juridical with a legislative approach and a study of court decisions. The results show that DNA tests have high scientific validity, but are still legally positioned as supporting evidence, not single stand-alone evidence. This is in line with Article 1865 of the Civil Code and Article 164 of the Civil Code which places evidence in a certain hierarchy. In conclusion, although DNA tests have the potential to strengthen the civil claims of non-marital children against their biological fathers, there is still a need for voluntary recognition or through a court order that comprehensively assesses the entire set of evidence. Therefore, further regulation is urgently needed to ensure legal certainty and protection of the rights of children non-marital in Indonesia.

**Keyword:** Civil Rights, DNA Test, Non-Marital Children

**Abstrak:** Perkembangan teknologi genetika, khususnya pengujian DNA, memberikan peluang baru dalam pembuktian hukum perdata, khususnya terkait dengan status anak luar kawin. Dalam konteks hukum Indonesia, pengaturan anak luar kawin masih menimbulkan berbagai penafsiran, khususnya dalam hal menentukan hubungan perdata dengan ayah kandung. Mahkamah Konstitusi melalui Putusan Nomor 46/PUU-VIII/2010 dan terakhir Putusan Nomor 69/PUU-XIII/2015 telah membuka ruang pengakuan anak luar kawin, namun belum mengatur secara menyeluruh mekanisme pembuktian secara komprehensif, khususnya dalam perkara dugaan perzinahan. Penelitian ini bertujuan untuk menganalisis status anak luar

kawin pasca putusan Mahkamah Konstitusi dan sejauh mana pengujian DNA dapat digunakan sebagai alat bukti untuk menentukan hak keperdataan anak, baik sebagai alat bukti utama maupun hanya bersifat pendukung. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan kajian putusan pengadilan. Hasil penelitian menunjukkan bahwa tes DNA memiliki validitas ilmiah yang tinggi, namun secara hukum masih diposisikan sebagai alat bukti pendukung, bukan sebagai alat bukti tunggal yang berdiri sendiri. Hal ini sejalan dengan Pasal 1865 KUH Perdata dan Pasal 164 KUH Perdata yang menempatkan alat bukti dalam hierarki tertentu. Sebagai kesimpulan, meskipun tes DNA berpotensi untuk memperkuat gugatan perdata anak luar kawin terhadap ayah kandungnya, namun tetap diperlukan pengakuan secara sukarela atau melalui penetapan pengadilan yang menilai secara komprehensif seluruh alat bukti. Oleh karena itu, pengaturan lebih lanjut sangat dibutuhkan untuk menjamin kepastian hukum dan perlindungan hak anak luar kawin di Indonesia.

**Kata Kunci:** Hak Sipil, Tes DNA, Anak Luar Kawin

## INTRODUCTION

The legal status of children non-marital is one of the most complex and sensitive issues in the family law system in Indonesia. This issue not only concerns formal legal aspects, but is also closely related to social, cultural, and religious values that develop in society. Children non-marital, i.e. children born out of a valid legal legal bond, often face challenges in obtaining legal recognition of their civil status, particularly in relation to their legal relationship with their biological father. In fact, the legal status of children is directly related to their civil rights, including the right to inheritance, alimony, and the recognition of their legal identity intact.

Law No. 23 of 2002 on Child Protection affirms that every child has the right to know his or her parents, be raised and cared for by their own parents. The right of children to know who their parents are (their origin) aims to avoid the severance of the genealogy and blood relationship between the child and his or her biological parents. Meanwhile, the right of children to be raised and cared for by their parents is intended so that children can obey and respect their parents. Non-marital children who are often not recognized by their biological fathers, often cause problems in society in terms of accountability where who finances, raises and provides education for the non-marital child because the biological father does not recognize that the child is his child. In article 280 of the Civil Code, a non-marital child will have a civil relationship with his parents if it has been legally recognized. Thus, if a non-marital child is not recognized by his parents, then he will not have a civil relationship with either his biological father or mother.

In theory, legitimate offspring are born as a result of the law of causality (the law of causality). Causality is based on the idea that true marriage exists because of the presence of legitimate children in a marital issue. This will have logical consequences for the laws followed in marriage. The formation of the family bond between father and son is the most fundamental of these actions. The determination of the origin of a child has a very important value in the context of Islamic law, because it reveals the relationship between the child and his father, the mahram. Then in essence every child born of male semen, and indeed the bloodline, returns to his father.

The rise of promiscuity, especially at the age of adolescence, is desired, so from the wrong association will cause unwanted things such as getting pregnant before carrying out a marriage contract legally in the eyes of religion and the law. Many problems like this occur in the environment around us, even the party concerned must weigh the shame due to the words

in the surrounding environment. This is due to the cultural touch, and it is now a symptom in society with the existence of a cohabitation between a man and a woman without marriage. Children born non-marital are considered illegitimate by society, which can cause psychological problems in children. Although there are no legal sanctions for parental behavior, there are other problems that occur as a result of the marriage, such as the relationship between children. From a legal point of view, he is the biological father, and so on.

One of the legal issues that is actually very classic but seems to have escaped the attention and concern of the rulers (government) in this country is the issue of legal protection for children non-marital. It is naïve for a legal state that has the character of Pancasila and upholds human rights, but has not been able to provide true protection and justice to children born non-marital. How heavy the psychological burden that a child must bear outside of marriage because they have to bear the status of an illegitimate child, even by the surrounding community is often stigmatized with the label of illegitimate children, adulterous children and others, a stigma that is really inhuman. In fact, as Godly people, we believe that all children, both married children and children outside of marriage, have the same position before God the Creator.

Every child born should not receive losses due to the actions of his parents. Both legal children and non-marital children should have the same rights, without being affected by the legality or not of the marriage of the parents. This principle is called equality before the law mentioned in Article 7 of the Universal Charter. Declaration of Human Rights (UDHR), Article 26 International Covenant on Civil and Political Rights (ICCPR), Article 27 paragraph (1), Article 28D of the 1945 Constitution of the Republic of Indonesia.

Historically, Indonesia's civil law system, rooted in the Dutch colonial heritage's Burgerlijk Wetboek (BW), only recognizes a civil relationship between a non-marital child and his or her mother, while recognition of a relationship with a biological father must go through a strict and limited legal process. This provision is considered discriminatory and not in line with the development of human rights principles, especially the child's right to identity and origin as guaranteed in the Convention on the Rights of the Child which has been ratified by Indonesia through Presidential Decree No. 36 of 1990.

In the case of the recognition of children resulting from extramarital relationships, it has been clearly explained that the Constitutional Court decision Number 46/PUU-VIII/2010 has an important role, because it is the basis for the judge's reference in determining the verdict, which explains that the DNA test is an important instrument in determining the origin of the child.[10] In Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage. The Court stated that a child born non-marital not only has a civil relationship with his mother, but also with his biological father, as long as it can be proven that there is a blood relationship and/or civil relationship between the two. This decision was reinstated through the Constitutional Court Decision Number 69/PUU-XIII/2015. However, in judicial practice, proving the relationship is often constrained by the absence of a rule that explicitly regulates the use of DNA tests as the main evidence in cases of determining the status of non-marital children.

The imbalance between technological advances and the rigidity of the evidentiary legal system poses serious problems in ensuring justice and legal certainty, especially for children non-marital who demand recognition of their identity and civil rights. This creates a legal vacuum that has the potential to harm children's rights, especially when DNA tests have proven a definite biological relationship, but are not followed by adequate juridical recognition.

Therefore, the study of the legal implications of proving the status of non-marital children through DNA tests is very important and relevant. This study aims to analyze the

position and evidentiary strength of DNA test results in the Indonesian civil legal system, as well as to examine the need for regulatory reform that is more adaptive to the development of science and technology. This study is also expected to contribute to efforts to develop more progressive legal policies and in favor of the protection of the rights of children, especially children non-marital, in order to obtain equal legal status and substantive justice in the eyes of the law.

## **METHOD**

In the midst of the development of science and technology, the DNA (Deoxyribonucleic Acid) test is now a very reliable scientific method in proving a person's biological relationship. The accuracy of DNA test results that can reach more than 99.9% makes it a very potential evidence in civil law cases, especially in proving the status of non-marital children. It is not new in the law enforcement process to use the role of other scientific fields, so in relation to the origin of the offspring people can use genetic experts to match the DNA of the child with the man appointed as the biological father, if the results of the examination show suitability, then the origin of the offspring can be proven before the law. However, the Indonesian legal system is still based on the principles and mechanisms of conventional evidence as stipulated in Article 1865 of the Civil Code, Article 164 of the Civil Code, and other laws and regulations, which classify evidence in a certain order such as confessions, witnesses, writings, oaths, and suspicions. The position of DNA tests does not yet have a strong and explicit normative basis, so in practice it is often only considered as complementary evidence (secondary evidence), rather than as primary evidence that stands alone.

## **RESULT AND DISCUSSION**

### **Position of Non-Marital Children After the Constitutional Court's Decision**

The position of non-marital children is one of the essence of the application submitted by Aisyah Mochtar through judicial review of Article 2 Paragraph (2) and Article 43 of the Marriage Law. Based on the decision of this case, the applicant and his child have the constitutional right to obtain ratification of the marriage and the legal status of the child.[14] The provisions of Article 99 of the Compilation of Islamic Law state that: "a legitimate child is (1) a child born in or as a result of a legal marriage. (2) the result of a legal conjugal conception outside the womb that was born by the wife." The Constitutional Court granted the application against Article 43 of the Marriage Law. The content of the decision is: "A child born non-marital has a civil relationship with his mother and his mother's family as well as with a man as his father which can be proven based on science and technology or other evidence according to the law that shows a blood relationship, including a civil relationship with his father's family." With regard to the provisions of Article 43 Paragraph (1) of the Marriage Law, the Constitutional Court Judge interpreted that "The law must provide fair legal protection and certainty for the status of a child born and the rights that exist to him, including for the child born even though the validity of the marriage is still in dispute."

In deciding case No. 46/PUU-VIII/2010 concerning the status of children non-marital, the Constitutional Court took a policy and consideration stating that Article 43 Paragraph (1) of the Marriage Law which reads: "Children born non-marital only have a civil relationship with their mother and her mother's family." This paragraph is contrary to the 1945 Constitution. The Constitutional Court stated that the provision does not have binding legal force as long as it is interpreted as eliminating a civil relationship with a man that can be proven based on science and technology or other evidence according to the law that shows the existence of a blood relationship as the father. For marriages that have been carried out according to their religious teachings, even though they are not recorded and carried out after

the enactment of the Marriage Law of 1974, state law must provide itsbat nikah as a form of fulfillment of civil rights of its citizens. In addition to humanist treatment of the perpetrators, the state should also seek a mechanism for giving heritage property, however methodical, for children resulting from serial marriage.

The Constitutional Court in its decision emphasized the importance of applying the principle of equality before the law or equality before the law as stated in Article 28B paragraphs (1) and (2) and Article 28D paragraph (1) of the Constitution of the Republic of Indonesia in 1945. These articles guarantee that everyone is entitled to fair legal recognition, guarantee, protection, and certainty and equal treatment before the law. This principle is the main foothold in the establishment of a democratic state of law, where the state must not treat its citizens discriminatory. In this context, the Court is of the view that the legal treatment of children non-marital and women in serial marriages should not be contrary to the principle of equality. The impact is felt by women in serial marriages, who are often denied their legal status as wives because the marriage is considered legally invalid. As a result, they lose legal certainty and do not acquire basic rights in the household, such as the right to alimony, inheritance rights, and the right to common property. This inequality not only causes juridical injustice, but also has a social impact, where women often face stigma and slander from the community. In addition, marital status that is not legally documented can make it difficult for the community to give legal testimony in the future, both in family cases and other related cases. The Constitutional Court (MK) in deciding cases regarding the status of non-marital children not only bases its considerations on normative juridical aspects, but also explicitly pays attention to sociological aspects. The Constitutional Court recognizes that law cannot be separated from the social reality that surrounds it, so in making decisions, it is important to consider the reciprocal relationship between legal norms and social phenomena that develop in society. In this case, the Constitutional Court sees that discrimination against children non-marital and the unclarity of their legal status not only causes individual injustice, but also creates social tensions and stigma that are inherent in generations.

The Constitutional Court (MK) Decision on the Recognition of Civil Relations of Non-marital Children, if analyzed from the perspective of Maqashid as-Shari'ah, shows close alignment with the main objectives of Islamic law. The Constitutional Court in its consideration not only uses a formal juridical approach, but also considers the principles of benefit (maslahat) which are the core of the theory Maqashid as-Shari'ah. This theory emphasizes that the purpose of the establishment of the law is to realize the good, protect rights, and prevent harm, including in this case the social and psychological harm experienced by children born outside the legal bonds of marriage. By recognizing the rights of children non-marital, the Constitutional Court seeks to fulfill the principle of protection of the soul (HUFZ al-NAFS), descendants (HUFZ al-Nasl), and human honor (Hifz al-'IRD) as mandated in maqashid. This approach reflects the spirit of progressive law, which holds the view that law should not be an instrument that harms human beings, but should be a tool that liberates and prospers. In this context, the Constitutional Court has applied the principle that the law must serve human values and substantive justice, not simply enforce rigid legal formalities. This means that a child born as a result of sexual relations (coitus) between a woman and a man cannot be treated unfairly by leaving the burden of his civil rights only to the woman who gave birth to him, while the man is free from his responsibilities as a father. At the same time, laws that negate the rights of the child to the man as his father are considered unfair, especially when technological developments make it possible to prove that a child is really the man's biological child. Justice, welfare, and happiness as legal goals are the views put forward by followers of ethical and utilitarian schools. In the ethical school, one of which is supported by Geny, it is stated that law solely aims to realize justice. Meanwhile, in the utilitarian school, it is stated that the purpose of law is to provide the

benefits that produce the greatest happiness for the greatest number of people. which is embodied in legal certainty.

### **The Power of DNA Tests as Evidence to Determine Children's Civil Rights**

Marriages that are carried out in accordance with the applicable legal provisions in the field of marriage as a result of the law are that the marriage has legality, validity and legal force and obtains legal protection from the applicable legal institutions. In addition, a valid marriage results in the legal status of the husband and wife and the children born from the marriage are valid and protected by the applicable marriage law. In reality, in society there is the birth of a child without a valid marriage between the parents. The child born is not in a valid marriage, but without a valid marriage or is outside the marriage. This non-marital child is often not recognized by his biological father and causes polemics in society in terms of accountability for who finances the cost of care, upbringing and education for the non-marital child because his biological father does not recognize that the child is his child. One of the main causes of children born without recognition by their biological father is that the child is born as a result of a biological relationship between a man and a woman outside of a valid marriage or carried out without a marital bond, so that the biological father denies the child and absolves himself of the responsibility of raising and raising the child.

Family law is known to several types of children, namely legal children, adopted children, recognized children, unrecognized children non-marital, adulterous children, incestuous children, and stepchildren. The enforcement of the status and inheritance rights of non-marital children that are not recognized according to the Civil Code, that non-marital children are not recognized at all and have no inheritance rights at all, including inheritance rights from their biological fathers. The Compilation of Islamic Law does not specifically and definitively determine the grouping of types of children, as the grouping contained in the General Civil Law.

In the Compilation of Islamic Law (KHI), the provisions regarding the status of children are not systematically arranged in one special chapter as in Law Number 1 of 1974 concerning Marriage but are spread across several articles that explain the various conditions of the child's birth and their impact on the legal status of the child. Article 99 of the KHI states that a legitimate child is a child born in or as a result of a valid marriage, as well as a child from the conception of a husband and wife outside the womb born by the wife. However, Article 100 emphasizes that children born non-marital only have a nasab relationship with their mother and mother's family, so they do not have a civil relationship with their biological father unless legally recognized. In addition, KHI also regulates the status of children conceived before marriage as contained in Article 53 paragraph (3), which states that if the marriage takes place while the woman is pregnant, then it does not need to be repeated after the child is born, and the child is still considered a legitimate child. In Article 75 letter (b), it is explained that the annulment of marriage does not abolish the status of children who have been born from the marriage. Furthermore, Article 162 discusses the status of a li'an child, that is, a child born to a wife who is accused of adultery by her husband and the husband takes the li'an oath, where the child loses his nasab relationship with his father. From these provisions, it can be seen that although the KHI contains various types of child status, there is no systematic classification or grouping as explicitly stipulated in Article 42 of Law Number 1 of 1974, which briefly states that a legitimate child is a child born in or as a result of a valid marriage. This shows that the regulation of the status of children in the KHI is more casuistic and not arranged in one systematic structure that facilitates a thorough understanding of the law.

Those included in the category of this Article are:

1. A child born to a woman as a result of a legal marriage.

2. Children born to women in a marriage bond with a minimum grace period of 6 (six) months between the marriage and the birth of a baby.
3. A child born to a woman in a marriage bond whose time is less than the custom of pregnancy but whose birth is not denied by the husband.

Article 186 of the Compilation of Islamic Law expressly states that a child born non-marital only has a relationship of mutual inheritance with his mother and his mother's family. This provision reflects an approach to Islamic law that still limits the legal consequences between a non-marital child and his or her biological father, unless there is a valid legal recognition. In this context, children born as a result of extramarital relationships, either because of adultery or because of non-attachment in a valid marital bond, are often categorized as "adulterous children". This term refers to a child whose fetus is formed from the act of adultery, which is sexual relations outside of marriage that are prohibited according to Islamic law. Therefore, in the Islamic legal system, the child only has a nasab relationship and inheritance rights with his mother, not with the man who is his biological father, because there is no legal marriage bond by religious and state law. This consequence also has an impact on the child's civil rights, including in terms of inheritance, recognition of status, and other legal protections. Such an approach suggests that there are strong theological and juridical limitations in the Compilation of Islamic Law on the results of acts that are considered morally deviant, although from the perspective of modern human rights, the treatment of children resulting from adultery should focus more on the principles of non-discrimination and the protection of innocent children of the origin of their birth.

The difference between adulterous children and non-marital children according to Civil Law is that there is a fundamental difference between adulterous children and non-marital children based on the marital status of their parents at the time of sexual intercourse that results in the birth of a child. An adulterous child is a child born from a sexual relationship between two people who are still bound in marriage with the other party, so the relationship is considered adultery according to law and morals. On the other hand, a non-marital child is a child born from a relationship between two people who are not bound by a valid marriage, for example between a man and a virgin, or a widower and a widower, which is not legally classified as adultery, but is still not protected by a legally valid marriage bond. This distinction is important because it affects the recognition of the child's legal status, especially in terms of nasab, inheritance rights, and other civil relationships with the biological father. In practice, adulterous children have heavier legal consequences because they are not recognized as having a legal relationship with their biological father unless through a special recognition or court order, while non-marital children can still obtain such recognition if it is proven that there is a biological relationship and is legally recognized.

Thus, the provisions of Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage which has the same formulation as Article 100 of the Compilation of Islamic Law, expressly states that children born non-marital only have a nasab relationship with their mother and their mother's family. The implication of this provision is that the legal responsibility for the upkeep, upbringing, and maintenance of the child is formally vested only in the mother and the mother's family. Although biologically the child is the result of a relationship with a man, which in most cases can be proven through DNA testing, but in a formal juridical perspective, the man has no legal obligation to provide for or provide for the child's living needs, unless there is a recognition or court order to the contrary. This is different from a legitimate child born in a legal marriage bond, where the father is legally obliged to meet all the needs of the child, including daily maintenance, education, and health as stipulated in Article 80 paragraph (4) of the Compilation of Islamic Law. However, this paradigm has begun to shift since the issuance of the Constitutional Court Decision Number 46/PUU-VIII/2010, which states that children non-marital can have a civil relationship not

only with the mother, but also with their biological father, as long as it can be proven that there is a blood relationship or civil bond. This decision has received a wide response from the public, including pros and cons from legal practitioners, academics, non-governmental organizations, the Indonesian Ulema Council (MUI), and the general public. For some, the ruling is considered a progressive step in ensuring the protection of children's rights and equality, but for others, it is considered contrary to religious norms and established family law traditions.

The Constitutional Court Decision No. 46/PUU-VIII/2010 is an important milestone in the protection of the rights of children non-marital in Indonesia. In this decision, the Court reinterpreted the provisions of Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage which previously stated that "a child born non-marital only has a civil relationship with his mother and his mother's family." According to the Court, the formulation is contrary to the principles guaranteed in the 1945 Constitution of the Republic of Indonesia, especially the right to equal recognition and treatment before the law as stated in Article 28B and Article 28D. Therefore, the Court emphasized that Article 43 paragraph (1) of the UUP must be interpreted in a more inclusive manner, namely that children born non-marital also have a civil relationship with their biological father if it can be proven through science and technology, such as DNA tests, or other legal evidence that shows a blood relationship. This interpretation includes not only a civil relationship with the father, but also with the paternal family. Thus, this ruling expands the scope of legal protection for children non-marital and strengthens the principle of substantive justice in the Indonesian family law system, where children are no longer burdened with legal stigma due to their birth status and can obtain the civil rights that should be attached to their biological relationship in a fair and proportionate manner.

From the description of the Constitutional Court Decision Number 46/PUU-VIII/2010, it can be concluded that as long as the blood relationship between the child non-marital and his biological father can be scientifically proven through the development of science and technology, then the biological father has a legal responsibility to provide support, care, nurturing, upbringing, and education for the child. This decision expands the meaning of civil relations, which is not only limited to the mother and her mother's family as originally formulated in Article 43 paragraph (1) of the Marriage Law but also includes the legal relationship with the father and her father's family, as long as it is proven by valid evidence according to the law. One of the most common and very reliable scientific methods to prove this biological relationship is the DNA (Deoxyribo Nucleic Acid) test, which is a test of nucleic acids in the human body that stores genetic information and is unique to each individual. With a very high degree of accuracy, DNA tests have become an effective modern evidence tool for scientifically determining blood relationships between two people. Therefore, in the context of civil law, DNA test results can be used as a basis for demanding the accountability of the biological father for the non-marital child, in line with the principles of substantive justice and the protection of children's rights mandated in the constitution. This DNA determines the hair type, skin colour and special traits of a human. The way to do this DNA test is to identify fragments of the DNA itself, or in simple language is a method to collect, identify and inventory the typical files of the character of a human body to be matched with another person who is strongly suspected of having the same DNA in common.

The implementation of DNA tests in the context of the status of non-marital children has the main purpose of providing certainty regarding the identity of the biological father, especially in situations where the father does not recognize the child. This certainty is important because it has direct implications for the father's legal responsibility, as affirmed in the Constitutional Court Decision Number 46/PUU-VIII/2010, which states that a non-marital child can have a civil relationship with his father if it can be scientifically and legally

proven that there is a blood relationship. Thus, the biological father who is proven through DNA tests has an obligation to care, raise, and provide proper education and maintenance to the child. However, the implementation of DNA tests is not only a technical issue but also concerns juridical and ethical dimensions. The accuracy of the test must be studied in depth because inaccurate results have the potential to give birth to injustice and create legal uncertainty. On the other hand, accurate test results will strengthen the evidentiary process and assist the judge in obtaining an objective picture of the disputed legal event, especially in the case of determining the biological father of a non-marital child. Therefore, the use of DNA tests as evidence not only reflects technological advances in the field of law, but also an important means of upholding substantive justice for children who have been marginalized due to their birth status. In its legal considerations, the Constitutional Court opined and concluded that Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage is contrary to the 1945 Constitution, so that Article 43 paragraph (1) becomes "a child born non-marital has a civil relationship with his mother and his mother's family and with a man as his father which can be proven based on science and technology and/or other evidence according to the law, who is related by blood, including civil relations with his father's family".

The implications of using DNA tests as evidence in court in cases of the origin of non-marital children are very significant, especially in determining who is the biological father of the child. With the results of the DNA test that has a high level of accuracy, the panel of judges can obtain a stronger and more objective evidentiary basis in assessing the biological link between the child and the man suspected of being the father. This clarifies the sitting of the case and minimizes judgments that are speculative or only based on one-sided confessions. In the context of civil law, the determination of biological father is an important basis for recognizing the civil relationship between the child non-marital and his father, which includes the right to maintenance, inheritance, and legal identity. Thus, DNA tests not only serve as scientific evidence, but also as a means of upholding justice for children who may have lost their rights due to not being legally recognized. This clarity assists judges in making fair and proportionate decisions, as well as ensuring that the civil rights of non-marital children can be restored in accordance with the principles of justice and child protection.

The results of the DNA test submitted as evidence will assist the panel of judges in determining the biological father of the non-marital child to fulfil his responsibility in providing civil rights of the non-marital child. If the results of the DNA test submitted as evidence in court succeed in proving accurately the origin of clarity or legal status of a non-marital child against his biological father, then the legal consequence is that the non-marital child must be financed by his biological father and obtain basic rights from his biological father in his life until the non-marital child reaches adulthood or can stand on his own. The legal consequences of using DNA test results as legal evidence that can accurately prove the origin of a child to his biological father will result in the biological father of the non-marital child being obliged to be responsible for living expenses, education expenses and other living expenses, even though in the case of a civil relationship the non-marital child does not have a civil relationship with his father and his father's family due to the provisions of the line descendants (nasab) that the non-marital child does not have against his biological father or his biological father's family. However, the biological father cannot avoid the responsibility of providing compensation or assistance for living expenses or educational expenses and other expenses needed by the non-marital child in living his life.

The Constitutional Court Decision No. 46/PUU-VIII/2010 was issued on the basis of legal considerations because non-marital children always lose civil rights and cannot use the surname of their biological father and can only use civil rights with their mother and mother's

family. Even the status of children non-marital can also bring psychological consequences for the child for his future because of the unfair treatment he receives. In addition, the position of the illegitimate child can also result in the right to inherit the biological father being calculated that the illegitimate child will not be obtained by the biological father against the biological father's property and the biological father's family property. The position of this non-marital child is not on the basis of discrimination, but because before the Constitutional Court decision was issued, the legal provisions on the status of non-marital children did state that non-marital children only have a civil relationship with their mother and their mother's family. However, since the issuance of the Constitutional Court Decision No. 46/PUU-VIII/2010, the non-marital child has also acquired civil rights with his biological father who is obliged to be responsible for the financing of the non-marital child until he reaches adulthood and can stand on his own.

The Constitutional Court Decision Number 46/PUU-VIII/2010 brought fundamental changes in Indonesian civil law, especially regarding the status of children non-marital. One of the important consequences of this ruling is the recognition of the possibility of a nasab relationship between a non-marital child and his biological father, as long as it can be proven through legal scientific methods, such as DNA tests. Thus, if it is scientifically proven that a man is the biological father of a child non-marital, then rights and obligations arise between the two, including the father's obligation to provide for maintenance and other responsibilities in the care and education of the child.

The use of DNA tests as evidence in civil cases involving the determination of the origin of non-marital children has become very important in judicial practice. This test offers high accuracy in proving a biological relationship, making it effective and efficient in clarifying the status of a previously unrecognized child. Thus, the application of DNA test results in court helps the panel of judges obtain an objective basis in determining who is the biological father of the non-marital child concerned. This is an important step to uphold justice, provide legal certainty, and restore children's civil rights that have been neglected due to the unclear status of their birth.

As a legal consequence, the Constitutional Court's decision requires both the District Court and the Religious Court to adjust their approach in examining cases related to the origin of non-marital children. These two judicial institutions can ask the parties to the dispute to conduct a DNA test and submit the results as valid evidence. With this mechanism, judges are assisted in determining legal facts more accurately and not only relying on unilateral confessions or indirect evidence. DNA testing is also a form of valid scientific proof, which is recognized for its power in supporting fair legal decisions based on substantial truth.

Through this approach, the court not only carries out a purely juridical function but also becomes an institution that is adaptive to technological and scientific developments in order to realize maximum protection of children's rights. Therefore, the application of DNA test results as valid evidence after the Constitutional Court Decision No. 46/PUU-VIII/2010 not only represents legal reform but also reflects the state's commitment to ensuring the equality of children's rights without discrimination based on their birth status.

Thus, it can be said that the legal consequence of the Constitutional Court's decision No. 46/PUU-VIII/2010 on the use of DNA test results that can be submitted as valid evidence in handling the case of determining the origin of a non-marital child and determining the biological father of the non-marital child is that the decision of the Constitutional Court No. 46/PUU-VIII/2010 must be followed by the District Court and the Religious Court in examining and deciding the case of determining the origin or the legal status of a non-marital child against his biological father. The panel of judges of the Religious Court and the District Court is obliged to ask the litigants to carry out a DNA test first and submit the results of the

DNA test as valid evidence to the court so that they can carry out an examination in the case of the origin of the non-marital child to determine the biological father. The use of DNA test results as evidence in court must be carried out by religious courts and district courts in every case of determining the origin of a non-marital child to determine his biological father as a tool that can make it easier for the panel of judges to determine the biological father of a non-marital child. This is because the accuracy level of the DNA test results is close to 100% (one hundred percent) of the truth as proven in the use of DNA test results during the examination of the origin of a non-marital child in determining his biological father at the trial of the court, both religious courts and district courts today. Based on the description above, it can be said that the submission of DNA test results as evidence in court in the case of the determination of biological father for a non-marital child requested by the court, then the results of the DNA test can be used as supporting evidence that corroborates the origin of the non-marital child, in addition to other authentic evidence submitted by the party requesting the decision to determine the biological father of the non-marital child.

Therefore, the results of the DNA test submitted as evidence in court cannot basically stand alone and must be supporting evidence from the evidence also submitted by the party who filed the lawsuit to determine the biological father of the illegitimate child. Other authentic evidence that can be submitted by the party filing a lawsuit for the determination of the biological father of the non-marital child can be in the form of letters, documents that can prove the origin of the non-marital child, so that in issuing the decision the panel of judges can be guided by the matching of the main evidence and supporting evidence in the form of the results of the DNA test so that the determination of the biological father can be carried out correctly so that the origin of the child It can be clearly known and the biological father can no longer dispute and is obliged to be responsible for the non-marital child in fulfilling the basic rights and daily living needs of the non-marital child until the child grows up or can stand on his own. The legal status of a non-marital child who is not recognized by his biological father based on the decision of the Constitutional Court No.46/PUU-VIII/2010 is that the non-marital child does not have a civil relationship with his biological father or his biological father's family, but the biological father of the non-marital child is obliged to provide compensation in the form of basic living expenses in the form of living expenses, education fees, hospital fees and other living expenses for the non-marital child until the child is an adult (18 years old) or can stand on his own, so that the non-marital child can live his life properly based on the principles of human rights and can meet his life needs.

## CONCLUSION

The Constitutional Court Decision No. 46/PUU-VIII/2010 expands the legal recognition of non-marital children by stipulating that the child can have a civil relationship with his biological father if it is proven that there is a blood relationship through scientific evidence such as DNA tests. This ruling affirms that biological fathers are obligated to be responsible for the maintenance, education, and upbringing of children, but in practice, DNA tests are still positioned as supporting evidence, not stand-alone primary evidence. Therefore, although DNA tests have high accuracy and important relevance in cases of child origin, regulatory updates are still needed so that this scientific evidence is explicitly recognized in the civil evidentiary system, in order to ensure justice and protection of the rights of non-marital children as a whole.

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