

## The Position Of Proof Of Suspicion In Determining The Status Of Out-Of-Wedlock Children As Biological Children

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### *Abstract*

*This study aims to examine the position of evidence of suspicion as stipulated in Article 1915 of the CIVIL CODE, especially proof to determine the status of out-of-wedlock children as biological children in civil procedure law, and to explore the extent to which the legal system provides protection for the civil rights of out-of-wedlock children who are determined as biological children without a DNA test. The type of research used is normative juridical which is descriptive-analytical, using a legislative approach and a case approach, with data collection techniques through literature studies, and processing qualitatively analyzed data. The results of the study show that evidence of suspicion is legal according to the law and can be used as a basis for judge's consideration if it is supported by the facts. A civil relationship between a child and a biological father can be recognized without a DNA test, simply with other evidence such as communications, witnesses, or indirect confessions at trial. This ensures the child's access to custody, identity, education, inheritance, and alimony. The state plays a role in protecting the rights of children out of wedlock in an inclusive manner and eliminating birth status discrimination. Suspect evidence needs to be strengthened as an alternative to proof if a DNA test is not carried out. The judge is expected to assess indirect facts wisely for the best interests of the child. Regulation, socialization, and training of law enforcement are needed to ensure that proof without DNA tests guarantees the protection of the civil rights of out-of-wedlock children.*

**Keywords:** *Evidence of Suspicion, Status of Out-of-wedlock Children, Civil Procedure Law, Civil Rights.*

### **A. Introduction**

The presence of a child without a marital bond or outside of marriage will make it a problem that is quite concerning both for a woman who gives birth to the child and for the local community. With children born out of wedlock, it will cause a lot of conflicts and debates among

families and in society about the position and rights of children in the future, so that the presence of children is not desired by their parents.<sup>1</sup> Basically, the child does not ask to be born, because his existence in the world is entirely the result of the decisions and deeds of his parents. Therefore, children should not bear the social or legal burden of their birth conditions, including if they are born out of wedlock. Based on Article 28B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, it states that *"Every child has the right to survival, growth, and development and is entitled to protection from violence and discrimination."* Therefore, children are legal subjects whose rights are recognized and protected by the state.<sup>2</sup>

Children as legal subjects have civil rights from the womb, including the right to identity, origin, maintenance, inheritance, and recognition of legal status.<sup>3</sup> In the national legal system, the guarantee of children's rights is explicitly affirmed in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection (UUPA). One of the important dimensions of child protection is the determination of legal status, especially in the case of children out of wedlock. Based on Article 280 of the Civil Code (KUHPerdata), an out-of-wedlock child only has a legal relationship with his mother, unless there is a recognition from his biological father. This provision reflects a civil law system that still restricts the civil access of children out of wedlock to their fathers, which in turn has implications for the closure of the avenues to obtain the fundamental rights of children. However, changes in the legal paradigm have begun to be seen since the issuance of the Constitutional Court Decision Number 46/PUU-VIII/2010, which states that *"Children born out of wedlock have a civil relationship with their mother and their mother's family as well as with a man as their father which can be proven based on science and technology and/or other evidence according to the law to have a blood relationship, including a civil relationship with their father's family"*. This ruling is an important milestone in the development of family law and children's rights in Indonesia, as it opens up a wider legal space for children out of wedlock to obtain protection and rights.<sup>4</sup> However, the implementation of this norm in practice faces obstacles, especially when the alleged father refuses or avoids *the Deoxyribo Nucleic Acid (DNA)* test as a form of scientific proof.

The legal status of out-of-wedlock children has long been a complex and contentious topic in Indonesia's civil law system. This issue resurfaced in the public sphere when cases involving public figures emerged, such as the case of the confession of an out-of-wedlock child allegedly

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<sup>1</sup> Please, please *Civil Law on Children Out of Wedlock*. Cv. Azka Pustaka, 2021. p. 5.

<sup>2</sup> Wahyuningsih, Yuliana Yuli, Iwan Erar Joesoef, Suherman, and Marina Ery Setiyawati. "Socialization of Law Number 35 of 2014 concerning Child Protection as an Effort in Fulfilling the Rights of Children who Become Victims of Discrimination and Violence." *Journal of Abdimas Le Mujtamak 2.2* (2022): 100-112.

<sup>3</sup> Pancasilawati, Abnan. "Legal Protection for the Civil Rights of Out-of-Wedlock Children". *PHENOMENON* 6, no. 2 (2014): 171-216.

<sup>4</sup> Hutasoit, Eunike Loist, Fedro Julio Carlos Siagian, Suhaila Zulkifli, and Tajuddin Noor. "Legal Protection for Children Out of Wedlock in Indonesia; Comparative Study of the Constitutional Court Decision Number 46/PUU-VIII/2010 and Islamic Law". *Jurisprudence: Journal of Sharia, Islamic Legislation and Economics* 16, no. 2 (2024): 420-437.

related to an actor with the initials RAD. In that case, the Supreme Court ruled that a child born out of wedlock could be declared a biological child, despite the absence of DNA test evidence as primary evidence. This invites fundamental questions in the realm of civil procedural law regarding the strength and position of evidence of suspicion (*vermoedens*) in determining the legal status of out-of-wedlock children in the case. In practice, proof in cases of the status of out-of-wedlock children often faces challenges when it is not supported by scientific evidence such as DNA tests, so this is where the role of proof theory, especially proof with evidence of suspicion, becomes relevant to be studied in depth.

Evidence of suspicion is a form of indirect evidence that comes from proven facts and logically leads to a conclusion.<sup>5</sup> In this case, the law provides the possibility for the judge to withdraw a suspicion based on the facts at hand, as long as the suspicion meets the requirements of objectivity and is legally reasonable. According to Sudikno Mertokusumo, a conjecture is a logical conclusion drawn from a proven event, to prove an event that has not been proven.<sup>6</sup> Based on the provisions of Article 1915 paragraph (1) of the Civil Code, there are 2 (two) types of suspicions, namely the judge's suspicion and the law's suspicion. The judge's presumption is if the one who draws a conclusion or is carried out by the judge, while the legal conjecture is if the one who concludes is the law itself. In science, suspicion is divided into 2 (two), namely: 1) suspicion based on reality; 2) presumptions based on law, which are further divided into: *praesumptiones juris tatum*; and *praesumptiones juris et de jure*.<sup>7</sup> The provisions in Article 173 of the *Herziene Indonesisch Reglement* (HIR)/Article 310 of the *Rechtsreglement voor de Buitengewesten* (RBg) have been determined to state that there is a pretext in the lawsuit, must meet the essential, meticulous, specific and compatible conditions with each other. So this is where a judge is required to be careful and thorough in drawing conclusions to state that a pretext can be proved.<sup>8</sup> In the context of determining the status of biological children, these two types of presumptions are more often used, as courts must explore the relationship between the child and the biological father from indirect evidence in various forms of documents or testimony.

The use of proof of this suspicion can be seen in the RAD case, where the Supreme Court through Decision Number 1055 K/Pdt/2023 determined an illegitimate child of the NKT (Plaintiff's Child/Cassation Respondent) as the biological child of the RAD (Defendant/Cassation Applicant) without a DNA test. The Court considered the evidence showing that there was a personal and social relationship between WAK (Plaintiff/Cassation Respondent), NKT and RAD, as well as the fact that RAD and WAK had not conducted DNA tests to date. There is no definitive evidence identifying the biological father of the child claimed to

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<sup>5</sup> Fuady, Munir. *Theory of evidentiary law (Criminal and civil)*. Bandung: PT Citra Aditya Bakti, 2012.

<sup>6</sup> *Ibid.*

<sup>7</sup> Sasangka, Day. *Evidentiary Law in Civil Cases for Students and Practitioners*. Bandung: Mandar Maju, 2005.

<sup>8</sup> *Ibid.*



be a RAD child. The Panel of Judges of the Banten High Court gave consideration based on evidence in the form of letters and witness statements submitted by the WAK. Although the evidence does not expressly prove that HCV is a child born from the relationship between WAK and RAD, but based on a thorough assessment of the entire evidence, the Panel of Judges decided the case *a quo* using presumptive evidence as stipulated in Article 164 of the Civil Code and Article 1886 of the Civil Code, which the Panel of Judges of the Supreme Court considered and concluded based on the facts revealed in the trial, especially witness statements from WAK, which stated that WAK was proven to live in the same house as RAD until the birth of HCV on March 3, 2013. This shows that under certain conditions, proof of suspicion can be recognized as a strong enough legal basis to establish the legal status of the child, while still paying attention to the principle of the *best interests of the child* as stipulated in the Convention on the Rights of the Child (KHA) and adopted in national law through the UUPA.

The theory of proof (*bewijstheorie*) in Indonesian civil procedure law basically adheres to the system of free positive proof, which is proof that combines proof according to the law and the judge's beliefs.<sup>9</sup> In this system, the judge is not only bound by the limited amount of evidence, but is also given the flexibility to assess the evidentiary strength of an evidence based on legal logic and concrete facts revealed in the trial. Yahya Harahap in the Civil Procedure Law states that in civil cases that cannot be proven directly, the use of suspect evidence is often a way out for the achievement of substantive justice.<sup>10</sup> Therefore, based on these problems, it is necessary to conduct more in-depth research on the position of evidence of suspicion in civil procedure law to determine the status of out-of-wedlock children as biological children, as well as the extent to which the legal system in Indonesia provides protection for the civil rights of out-of-wedlock children who are designated as biological children without a DNA test.

## B. Research Methods

The research method in this study uses a normative juridical approach that is descriptive-analytical, with the aim of examining in depth the legal norms that govern evidence of suspicion in the context of determining the status of out-of-wedlock children as biological children.<sup>11</sup> The approach used includes a legislative approach, in order to analyze the provisions in Article 1915 of the Civil Code regarding evidence of suspicion, Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection regarding legal protection for children out of wedlock without a DNA test as biological children, and other related regulations, as well as case approaches. The data collection technique is carried out through

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<sup>9</sup> Amen, Rahman. *Evidentiary Law in Criminal and Civil Cases*. Yogyakarta: Deepublish, 2020.

<sup>10</sup> Harahap, M. Yahya. *Civil procedure law: about lawsuits, trials, seizures, proof, and court decisions*. Jakarta: Sinar Grafika, 2017.

<sup>11</sup> Soekanto, Soerjono, and Sri Mamudji. *Normative Law Research: A Brief Overview*. Jakarta: PT Raja Grafindo Persada, 2001.



literature studies, by reviewing legal literature, court decisions, doctrine, and other secondary legal sources. The data obtained is then processed and analyzed qualitatively, with an emphasis on legal argumentation, consistency of norms, and rationality of decisions, in order to answer the legal problems raised and formulate conclusions.<sup>12</sup>

## C. Results and Discussion

### 1. The Position of Evidence of Suspicion in the Civil Procedure Law to Determine the Status of Out-of-Wedlock Children as Biological Children

In civil procedure law, the evidentiary process is a very decisive aspect in deciding a case, including the case of determining the status of an out-of-wedlock child as a biological child. In this case, evidence of suspicion has an important position, although it is often considered indirect evidence. His position remains legally valid and can be the basis for the judge's consideration if used appropriately. This is in line with the principle of *Actori In Cumbit Probatio* as stated in Article 1865 of the Civil Code which states that "Every person who claims to have a right, or points to an event to affirm his right or to deny the right of another, is obliged to prove the existence of that right or the event stated." In the case of proof with evidence at trial, this means that the burden of proof is imposed on the postulating party.<sup>13</sup> Then it was also explained about the confession regulated in Article 1925 of the Civil Code which reads "Confession given before the Judge, is perfect evidence against the person who has given it, either alone or through the intermediary of someone who is given special authority for it." In the context of determining the status of an out-of-wedlock child as a biological child, in addition to evidence of suspicion, confession can also be used as important evidence because confessions made before judges have perfect evidentiary force according to civil procedure law.

Furthermore, the provisions regarding evidence in civil cases are clarified in Article 1866 of the Civil Code which states "Evidence includes: written evidence; witness evidence; suspicion; confession; oath. All are subject to the rules listed in the following chapters." The article emphasizes that civil law in Indonesia recognizes five main types of evidence, one of which is suspicion.<sup>14</sup> More specifically, Article 1915 of the Civil Code stipulates that "A presumption is a conclusion drawn by law or by a judge from an event that is known to the public towards an event that is not known to the public. There are two suspicions, namely suspicions based on the law and suspicions that are not based on the law." This means that the judge has the authority to form a suspicion based on the indirect facts revealed in the

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<sup>12</sup> Susanti, Dyah Ochtorina, M. Sh, A'an Efendi, and MH SH. *Legal Research: Legal Research*. Jakarta: Sinar Grafika, 2022.

<sup>13</sup> "Actori In Cumbit Probatio", <https://kepaniteraan.mahkamahagung.go.id/glosarium-hukum/2192-actori-in-combit-probatio>, retrieved 26 May 2023.

<sup>14</sup> Harahap, M. Yahya. *op. cit.* p. 773.

trial, as long as the event can be proven objectively and factually.<sup>15</sup> In judicial practice, suspicion does not stand alone as a single piece of evidence, but rather functions as a supporting means to strengthen other evidence that has been submitted. The role of presumption is very important in a civil evidentiary system that adheres to the principle of free positive, where judges are not bound by the amount of evidence, but by rational beliefs obtained from the totality of the available evidence.<sup>16</sup> Presumption allows judges to draw legal conclusions from an indirect set of evidence, through logical reasoning and general experience.

However, in civil cases involving children, the application of general principles in proof cannot be rigidly enforced. This is due to the position of children as vulnerable legal subjects and requires optimal protection from the state. The UUPA emphasizes in Article 1 paragraph (2) that "*Child Protection is all activities to guarantee and protect Children and their rights so that they can live, grow, develop, and participate optimally in accordance with the dignity and dignity of humanity, as well as receive protection from violence and discrimination.*" In line with that, Article 3 of the KHA (*Convention on the Rights of the Child*) also stipulates that "*All actions and decisions concerning a child must be made on the basis of the best interests of the child.*"<sup>17</sup> Therefore, in the case of determining the status of an out-of-wedlock child as a biological child, if a DNA test as scientific evidence cannot be submitted due to the unilateral rejection of the father, then the judge can use his discretionary authority to consider other evidence that is valid according to the law.<sup>18</sup> The evidence can be in the form of suspicion based on suitable and consistent facts, such as communication between parents, witness statements, and actual actions of the father towards the child. This approach is in line with the principle of legal protection of children and upholds the principle of the best interests of children in the judicial process.

This is clearly illustrated in the RAD case, which is an important precedent in the development of civil procedure law in Indonesia, especially related to proving the status of children out of wedlock. In this case, WAK (the mother of the child) sued for the recognition of her child's status (HCV) as the biological child of RAD, even though RAD expressly refused to conduct a DNA test because she denied that the relationship between RAD and WAK was only limited to a professional relationship as a mere co-worker. However, the Panel of

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<sup>15</sup> Sari, Novita Dyah Kumala, and S. H. Syafrudin Yudowibowo. "The Strength of Proof of Suspicion as a Valid Evidence in Divorce Cases in Religious Courts". *Omitter* 4, no. 3 (2016).

<sup>16</sup> *Ibid.*

<sup>17</sup> Satriyo, Tetes Galih, Kuku Waladul Ikhsan, Prima Herwiyoso, and Chirstin Octaria Simanjuntak. "INTERNATIONAL CONVENTION ON THE RIGHTS OF THE CHILD: ITS INFLUENCE AND REALITY IN INDONESIAN LAW AND HUMAN RIGHTS". *Lantern of Science* (2024): 70-76.

<sup>18</sup> Wuwungan, Marshanda Niquita, Deasy Soekromo, and Djefry Welly Lumintang. "LEGAL ANALYSIS OF THE SUPREME COURT'S CASSATION DECISION REGARDING THE DETERMINATION OF A BIOLOGICAL FATHER FOR A CHILD BORN OUT OF WEDLOCK (Case Study Decision Number: 1055 K/PDT/2023)". *LEX ADMINISTRATUM* 12, no. 5 (2024).

Judges still determined that the child was the biological child of RAD, using suspect evidence based on the facts revealed at the trial, such as witness statements and documents submitted by WAK as evidence. Several facts were revealed in the trial, especially witness testimony from WAK, which stated that WAK was proven to live in the same house with RAD until the birth of HCV on March 3, 2013. However, the rejection of the DNA test by RAD is actually the basis for the judge to withdraw suspicion, namely the indication that RAD is trying to avoid the truth. Furthermore, the judge also needs to apply the principle of child protection contained in Article 3 of the UUPA and the principle *of best interests of the child* (all actions that concern the child, then what is best for the child must be the main consideration) and *survival and development* (the right to life inherent in every child must be recognized, the child's right to survival and development must be guaranteed) as stated in the KHA.<sup>19</sup> This principle shows that in cases involving children's rights, judges are not solely bound by the absence of biological evidence, but can prioritize substantive justice to ensure that children's civil rights are protected.<sup>20</sup>

This case is a concrete example that suspect evidence has a significant position in the civil evidentiary system and can be used as a strong legal basis if used carefully and proportionately. The Panel of Judges does not solely rely on formal evidence such as DNA tests, but considers all relevant facts and forms logical legal reasoning, reflecting progressive developments in the practice of civil procedure law in Indonesia.<sup>21</sup> This also confirms that the evidentiary process should not be carried out mechanically alone, but must consider the principle of substantive justice, as well as the principle of protection of the best interests of children to be fulfilled. The legal basis for the use of suspect evidence is affirmed in Article 1915 of the Civil Code. Therefore, in the case of determining the status of children out of wedlock, evidence of suspicion is not only legally used, but also plays an important role in filling the void of direct evidence, as well as as a protection mechanism for the civil rights of children born out of wedlock.

In order to strengthen the position of evidence of suspicion as an effective evidentiary model in civil cases, especially in determining the status of out-of-wedlock children, it is necessary to understand that evidence in civil procedural law is not solely mechanical, but is a system that also gives space to the construction of legal logic and morality. In this case, evidence of suspicion that is essentially *indirect evidence* or as indirect evidence can play a strategic role when direct evidence such as DNA tests is not carried out or rejected

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<sup>19</sup> Kurniawan, Muhamad Beni. "The legal politics of the Constitutional Court on the status of children out of wedlock: The application of progressive law as a protection of children's rights". *Journal of Ham* 8, no. 1 (2017): 67-78.

<sup>20</sup> Septiantoputra, Ryan. "Implementation of the Principles of Child Protection in the Convention on the Rights of Children Victims of Domestic Violence". *Sultan Agung Islamic University Semarang*, 2023.

<sup>21</sup> Cahyaningati, Sekar Dias. "A REVIEW OF THE LAW AND ETHICS OF THE USE OF DNA (DEOXYRIBO NUCLEIC ACID) TECHNOLOGY IN LAW ENFORCEMENT IN INDONESIA". *Sultan Agung Islamic University Semarang*, 2024.

unilaterally by interested parties, as happened in the case of RAD. Therefore, to strengthen this position, it is important for the judge not only to look at the substance of the suspect evidence separately, but to use it in the form of a legal narrative construction based on a coherent and rational unity of facts. The suspicion can be compiled from various indirect evidence such as third-party testimony, personal letters, communication documentation, and acts or omissions, for example in the form of refusal to undergo a DNA test.<sup>22</sup> From all these elements, if assessed cumulatively and consistently, it can form sufficient conclusions for the judge to determine the status of the out-of-wedlock child as a biological child.

Dalam praktik hukum perdata Indonesia, pembuktian tidak bersifat absolut melainkan situasional, dan hakim memiliki kebebasan untuk membentuk keyakinan berdasarkan bukti-bukti yang ada. Hal ini sesuai dengan Pasal 1922 KUHPerdata yang menyatakan "*Suspicious that are not based on the law itself are left to the consideration and vigilance of the Judge, who in this case must not pay attention to other suspicions.*"<sup>23</sup> That the judge can make a suspicion based on the act or circumstance that has been proven if it is in accordance with the circumstances of the case.<sup>24</sup> This provision shows that suspicion is not merely a complement to formal evidence, but can stand as a valid and effective method of proof, especially in cases related to the protection of children's rights. Thus, evidence of suspicion not only functions as a substitute for direct evidence, but also has substantive evidentiary value in building a fair and proportionate legal construction, especially when applied in cases involving vulnerable legal subjects such as children out of wedlock.

The acceptance and use of evidence of suspicion in proving the status of an out-of-wedlock child as a biological child is actually in line with several fundamental principles in civil procedure law, which are not only procedural, but also uphold substantive justice values. One of the most relevant principles in this case is the principle of simple, fast, and low-cost justice, as reflected in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power.<sup>25</sup> The use of presumptive evidence allows judges to not rely on expensive or hard-to-access technical evidence, such as DNA tests, when the existing indirect evidence is sufficient to draw logical and objective legal conclusions. In this case, the use of suspicion is a means to avoid protracted judicial proceedings that can harm the weak, especially children whose civil rights are being fought.

Furthermore, the application of evidence of suspicion in the case of the status of out-

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<sup>22</sup> Sigh, Smoke. "The Role of Evidence in Judicial Procedural Law". *Court: Journal of Islamic Law Studies* 3, no. 1 (2018): 141-157.

<sup>23</sup> Svinarky, Irene. *An important part to know in the civil procedure law in Indonesia*. Cv Batam Publisher, 2019.

<sup>24</sup> Juanda, Enju. "The strength of evidence in civil cases according to positive Indonesian law". *Galuh Justisi Scientific Journal* 4, no. 1 (2016): 27-46.

<sup>25</sup> Yasin, Muhammad. "Simple, Fast, and Low-Cost Justice." *Hukumonline.com*, <https://www.hukumonline.com/berita/a/peradilan-yang-sederhana--cepat--dan-biaya-ringan-1t5a7682eb7e074/?page=1>, retrieved May 1, 2025.



of-wedlock children is also in line with the principle of equality before *the law* as guaranteed in Article 27 paragraph (1) of the Constitution of the Republic of Indonesia of 1945 which states that "*All citizens have the same position in the law and government and are obliged to uphold the law and government without exception.*"<sup>26</sup> This principle mandates that everyone, including children born out of a legal marital bond, has the same right to legal recognition and protection. In the civil law system based on the principles of formal justice and substantive justice, judges are not only obliged to assess cases procedurally, but must also be able to explore the values of justice that live in society.<sup>27</sup> This is affirmed in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which reads: "*Judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that live in society.*"

The use of evidence of suspicion in determining the status of an out-of-wedlock child as a biological child is not only a progressive interpretation of the civil procedure law, but also a real reflection of the application of the principle of balanced justice (*audi et alteram partem*).<sup>28</sup> When one of the parties, namely the biological father, consciously avoids the evidentiary process such as by refusing to undergo a DNA test, the judge is still authorized to form a conviction through a logical analysis of the relevant facts revealed in the trial. This step ensures that children continue to receive their protection and rights fairly without being hampered by passive or obstructive attitudes from any party. This approach not only enforces the law normatively, but also guarantees substantive justice for children as vulnerable legal subjects.

The freedom of judges in assessing evidence is a fundamental principle in Indonesia's civil procedure law evidentiary system.<sup>29</sup> This principle provides space for the judge to conduct a thorough assessment of all evidence submitted at trial, without having to rely absolutely on one specific type of evidence. In the context of proving the status of out-of-wedlock children, this becomes especially important, especially when direct evidence such as DNA tests are not met. This is where evidence in the form of suspicion gains its relevance, because the judge has a legal basis to compile it logically and objectively, based on a series of real and interrelated facts. Article 1915 of the Civil Code emphasizes that judges are given discretion in forming and assessing suspicions, as long as they are based on concrete facts revealed at trial. This is strengthened by Article 1866 of the Civil Code. Therefore, evidence

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<sup>26</sup> Asnawi, Habib Sulthon, S. H. Shi, M. Anwar Nawawi, and M. Ag Shi. *The Dynamics of Marriage Law in Indonesia: A Review of Islamic Family Law on the Legality of Marriage in Believers' Beliefs*. Yogyakarta: Bildung, 2022.

<sup>27</sup> Efendi, Jonaedi. *Reconstruction of the basis of judges' legal considerations: Based on legal values and a sense of justice that lives in society*. Jakarta: Prenada Media, 2018.

<sup>28</sup> Promise, Lucky. "Analysis of the Principles of Audi Et Alteram Partem in the Trial Process of Civil Cases (Case Number 20/Pdt. G/2019/PN Pwr)". *Amnesty: Legal Journal* 2, no. 2 (2020): 57-75.

<sup>29</sup> Zahra, Khansa Laily Az, Moh Fadwa Mufid Al Amjad, Syafa Nabya Maulidian, Septiani Silvia, and Fadilla Azfa Asyifa. "The Relevance of the Importance of Evidence in the Civil Law Settlement Process". *The Juris* 8, no. 1 (2024): 95-104.

of suspicion is included in the category of valid evidence that can be used in civil evidence, and its assessment is part of the discretion of judges who are not rigidly bound by formal evidentiary norms.

Furthermore, the principle of judges' freedom is not only limited to the assessment of evidence, but also includes freedom in making decisions.<sup>30</sup> In civil cases, the judge is given the authority to accept or reject the lawsuit, either in whole or in part, based on his assessment of the facts and evidence revealed at the trial.<sup>31</sup> This is closely related to the principle of *ex aequo et bono*, which is the principle of what is considered right and good that allows judges to make decisions fairly based on a sense of justice and propriety in society.<sup>32</sup> The application of the principle of freedom of the judge is also regulated in Article 155 paragraph (1) of the Criminal Code or Article 165 paragraph (1) of the Criminal Code, which states: "*The Court shall render a decision on the case, after the completion of the evidence and after all parties have been heard.*" Although the judge is bound by what the parties state (*secundum allegata iudicare*), the judge still has the freedom to judge the strength and correctness of the material of the lawsuit and the answer based on his beliefs.<sup>33</sup> In cases of out-of-wedlock child status, this principle is important because it allows judges to form a logical picture of legal events even when biological evidence is not available. The rejection of a DNA test by a biological father, for example, can be interpreted as a passive attitude that actually strengthens the evidence of suspicion, because it cannot prove the postulate. By assessing thoroughly and logically, judges can maintain a balance between formal justice and substantive justice, as well as ensure legal protection of the civil rights of children out of wedlock, as mandated by the constitution and laws and regulations.

Therefore, the integration of the principles of civil procedural law with the use of evidence of suspicion shows that procedural law not only serves procedural legality, but also opens up space for the enforcement of substantive justice, especially in cases involving out-of-wedlock children. The application of these principles in cases such as the RAD case not only shows that evidence of suspicion is legally valid, but also shows that civil law is able to provide adaptive and responsive protection to the needs of the community. Thus, the argument that suspicion can be used as a basis for establishing the status of an out-of-wedlock child as a biological child is not only judicially justified, but also in line with the basic philosophy of humanist and progressive civil procedure law.

In making evidence of suspicion a strong and consistently accepted evidentiary model

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<sup>30</sup> Rayfindratama, Alva Dio. "Freedom of Judges in Delivering Judgments in Court". *Bureaucracy: Journal of Law and Constitutional Sciences* 1, no. 2 (2023): 1-17.

<sup>31</sup> Amen, Rahman. *op. cit.* p. 29.

<sup>32</sup> Subagyono, Bambang Sugeng Ariadi, Johan Wahyudi, and Razky Akbar. "A Study of the Application of the Ultra Petita Principle on Petitum Ex Aequo et Bono". *Jurisprudence* 29, no. 1 (2014): 100-112.

<sup>33</sup> Butarbutar, Elisabeth Nurhaini. "Freedom of Civil Judges in the Discovery of Law and Antinomy in Its Application". *OLD WEBSITE OF THE JOURNAL OF THE PULPIT OF LAW* 23, no. 1 (2011): 61-76.

in judicial practice, it is also necessary to strengthen it through jurisprudence and legal doctrine. Cases like RAD's can be used as an important precedent that encourages the formation of alternative evidentiary patterns in similar cases in the future. Judges, as the main actors in the excavation of legal value, can expand the use of presumptions as the main evidence in cases that are difficult to prove biologically, but have a strong and interrelated factual basis. This will enrich the practice of civil procedure law in Indonesia, and affirm that justice should not always rely on technical evidence alone, but also on rational, balanced, and humanist legal logic.

In order for this hypothesis-based proof model to have stronger legitimacy, academic encouragement and normative renewal are also needed. Scientific studies need to continue to encourage the understanding that proof cannot be limited to formal aspects, especially in cases involving children's civil rights. On the other hand, lawmakers and the Supreme Court as the director of judicial policy can regulate technical guidelines or the Decree of the Chief Justice of the Supreme Court that accommodates the standard of assessment of suspect evidence, especially in cases of child status.<sup>34</sup> Thus, evidence of suspicion is not only an alternative evidence, but has developed into the main method of proof that is legitimate, logical, and fair, especially in the context of justice that is adaptive to social development and child protection needs. The in-depth explanation in the form of an analysis table regarding the advantages and disadvantages of proof of suspicion in the trial of determining biological fathers for out-of-wedlock children is as follows:

**Table 1. Analysis of Advantages and Disadvantages of Proof of Suspicion in the Trial of Determining the Biological Father for Out-of-Wedlock Children**

Aspects	Advantages of Proving Suspicion	Lack of Proof of Suspicion
<b>Nature of Proof</b>	It is indirect but can still be used to form the judge's beliefs based on the facts and surrounding circumstances.	It does not have perfect evidentiary power such as DNA or an authentic deed, so it is vulnerable to rejection if it is not supported by other evidence.
<b>Accessibility</b>	It is easier to obtain by economically disadvantaged parties because it does not require large costs such as DNA tests.	Pose a risk of abuse if the evidence of the circumstances submitted is manipulative or fabricated.
<b>Protection of Children</b>	It can open up access to legal protection early for children out of wedlock, especially in terms of legal status and civil rights (inheritance, alimony, etc.).	Potential for prolonged conflict if the designated father strongly denies in the absence of firm scientific evidence.

<sup>34</sup> Almihan, Almihan. "Legal Argumentation of Supreme Court Judges' Decisions as an Instrument for Realizing Fair Decisions". *State Islamic University of North Sumatra*, 2021.

Aspects	Advantages of Proving Suspicion	Lack of Proof of Suspicion
<b>Juridical Aspects (Legal Standing)</b>	It is recognized in the procedural law as part of evidence in the form of suspicion, which is stipulated in Chapter IV of the Civil Code.	The presumption is not binding (not conclusive), so the judge's decision is highly dependent on the subjectivity of the judgment terhadap konteks persangkaan yang diajukan.
<b>Efficiency Legal Process</b>	Allows the trial process to run faster without waiting for laboratory results or a lengthy administrative process.	Risk of injustice in the long run if it is proven that the determination of biological father was wrong because the evidentiary basis is weak.
<b>Conformity with Child Protection Principles</b>	Fulfilling the principle <i>of the best interests of the child</i> because it provides the legal identity of the child even without direct involvement from the father.	There is a risk of harming the principle of prudence in civil law if proof is not accompanied by additional verification, especially when it comes to inheritance or long-term civil liability.

Based on the analysis of the table, it can be concluded that the proof of suspicion in the trial of determining the biological father for the out-of-wedlock child has strategic advantages as well as juridical risks that need to be observed. The advantages lie in the ease of access, efficiency of the legal process, and the opportunity to fulfill the civil rights of children without having to rely on DNA tests that are expensive and difficult to reach for vulnerable groups. Suspicion is also recognized in procedural law as valid evidence, allowing judges to form a conviction based on indirect evidence with the facts at trial. However, the weaknesses are quite basic, namely: weak evidentiary power; the potential to manipulate evidence; and the risk of legal uncertainty if there is no more objective verification. If not applied carefully and proportionately, the use of suspicion can actually harm the weak, especially children in the long term. Therefore, judges must continue to prioritize the principle of the best protection for children in assessing suspicion as the basis for determining the legal status of children out of wedlock.

## 2. Legal Protection of Civil Rights of Out-of-Wedlock Children Designated as Biological Children Without DNA Tests

In the context of Indonesian civil law, the status of a child directly affects his legal position in the civil field, especially in terms of inheritance rights, maintenance rights, and custody.<sup>35</sup> Based on Law Number 1 of 1974 concerning Marriage (Marriage Law), the position of children born is divided into 2, namely, children who are based on the existence of a legal marriage bond, so called legal children (Article 42 of the Marriage Law), and children born outside the legal marriage bond, so called out-of-wedlock children. The legal child has a full civil relationship with both parents, including his or her maintenance and

<sup>35</sup> Susanto, Muhammad Hajir, Yonika Puspitasari, and Muhammad Habibi Miftakhul Marwa. "The Position of Civil Rights of Out-of-Wedlock Children from the Perspective of Islamic Law". *Justice* 7, no. 2 (2021): 105-117.

inheritance rights. On the other hand, children out of wedlock only have a civil relationship with their mother and family based on Article 43 paragraph (1) of the Marriage Law.<sup>36</sup> However, it should be noted, based on Article 280 of the Civil Code which reads *"With the recognition of a child out of wedlock, a civil relationship is born between the child and his father or mother."* This explains that an out-of-wedlock child only has a legal relationship with his mother and his mother's family, except for the out-of-wedlock child who is also recognized by his father.<sup>37</sup> However, as a result of this arrangement, the out-of-wedlock child who is not recognized by the father has no inheritance and maintenance rights to his biological father, which then becomes problematic when proving a biological relationship is hampered by the absence or refusal of DNA testing.

In addition, it is also important to look at the proof of suspicion from the dimension of legal protection of children. In the Constitutional Court Decision No. 46/PUU-VIII/2010, it explicitly opens the space for children out of wedlock to obtain legal protection for civil relations with their biological father. The decision means that civil relations are not only based on a valid marital relationship, but also on biological relationships that are proven based on science and technology and/or other evidence according to the law to have a blood relationship.<sup>38</sup> When biological facts cannot be scientifically proven, in other words, DNA tests due to rejection, then the approach through structured presumption becomes a means of fair and proportionate legal protection for children out of wedlock whose civil rights are ignored. In this case, the use of evidence of suspicion is in line with the spirit of the constitution and the protection of children's rights.

Legal protection of the civil rights of children out of wedlock who are designated as biological children without going through DNA testing is an important issue in the context of child protection and civil justice. In the legal system in Indonesia, the status of a child out of wedlock previously only had a civil relationship with the mother and his mother's family as explained in Article 43 paragraph (1) of the Marriage Law. However, a paradigm shift occurred after the birth of the Constitutional Court Decision Number 46/PUU-VIII/2010 which explained that *"Children born out of wedlock have a civil relationship with their mother and their mother's family as well as with a man as their father which can be proven based on science and technology and/or other evidence according to the law to have a blood*

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<sup>36</sup> Rangkuti, Afifah. "Analysis of the Position of the Rights of Out-of-wedlock Children to Their Biological Father in the Decision of the Constitutional Court Number: 46/PUU-VII/2010 and Fiqh As-Syafi'i". *Al-Muqaranah: Journal of Comparative Law and School* 2, no. 1 (2024).

<sup>37</sup> Kumoro, R. Youdhea S. "Rights and Position of Out-of-Wedlock Children in Inheritance According to the Civil Code". *Lex Crimen* 6, no. 2 (2017).

<sup>38</sup> Greetings, Asep Lukman Daris. "Legal Analysis of the Rights of Unmarried Children According to the Decision of the Constitutional Court Number 46/PUU/VIII/2010". *As-Sakinah: Journal of Islamic Family Law* 1, no. 1 (2023): 35-60.

*relationship, including a civil relationship with the father's family.*"<sup>39</sup> The phrase "and/or" in the Constitutional Court Decision No. 46/PUU-VIII/2010 provides space for proving the biological relationship between the child and the father without having to go through a DNA test, as long as there is other relevant legal evidence that can convince the judge.

Based on Article 1866 of the Civil Code, in the practice of civil law regarding evidence, the court can determine the status of a biological child even in the absence of a DNA test. Reflecting on the RAD case, in *the a quo* case, the Panel of Judges of the Supreme Court considered and concluded based on the facts revealed in the trial, especially the witness statements from the WAK, who stated that WAK was proven to live in the same house with RAD until the birth of the HCV on March 3, 2013. In this case, the judge is authorized to form his conviction based on the assumptions arising from the existing legal facts.<sup>40</sup> The decision has consequences for civil law attached to the status of children, including the right to maintenance, inheritance, and the naming of the father's name on the birth certificate.

The case also has an impact on the identity of the child's population. Based on Article 52 paragraph (1) of Presidential Regulation Number 96 of 2018 concerning Requirements and Procedures for Population Registration and Civil Registration which reads "*The registration of the legalization of a resident child in the territory of the Unitary State of the Republic of Indonesia who was born before his parents carried out a legal marriage according to religious law or belief in God Almighty is carried out based on the determination of the court.*" In this case, an out-of-wedlock child can be recorded as a child of parents who are not bound by a legal marriage as long as there is a court determination that establishes the relationship.<sup>41</sup> With a court decision stating the status of a biological child, the father's name can be included in the child's birth certificate, as a form of state recognition of the child's legal identity.<sup>42</sup> This is an important step in eliminating discrimination against children out of wedlock and providing legal certainty regarding the origin of children.

Furthermore, the civil rights that arise also include inheritance, as stipulated in Article 852 of the Civil Code which states that "*Children or descendants, even if born and married, inherit the inheritance of their parents, grandparents, or their subsequent blood families in a straight upward line, regardless of sex or previous birth.*" Based on this Article, those who

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<sup>39</sup> Febriansyah, Eddo. "JURIDICAL REVIEW OF THE CONSTITUTIONAL COURT DECISION NUMBER 46/PUU-VIII/2010 CONCERNING THE POSITION OF CHILDREN OUT OF WEDLOCK RECOGNIZED IN THE DIVISION OF INHERITANCE". *Unnes Law Journal* 4, no. 1 (2015).

<sup>40</sup> Pandiangan, Hendri Jayadi. "Differences in evidentiary law in the perspective of criminal and civil procedural law". *Sci.* 3, no. 2 (2017): 565-582.

<sup>41</sup> Edyar, Busman. "The Status of Out-of-Wedlock Children According to Positive Law and Islamic Law After the Issuance of the Constitutional Court's Decision on the Material Test of the Marriage Law". *Al-Istinbath: Journal of Islamic Law* 1, no. 2 December (2016): 184.

<sup>42</sup> Amaliasari, Rosida. "Legal Status of Birth Certificate of Children Out of Wedlock With Father's Name". *Al-Qanun: Journal of Islamic Law Thought and Reform* 21, no. 2 (2018): 207-224.

have the right to be heirs are blood relatives, including legal children and children whose biological relationship is recognized.<sup>43</sup> Thus, HCVs that have been designated as biological children of RAD, have legal status as heirs, on a par with children from legal marriage. This shows that even proving a biological relationship without a DNA test can still give birth to inheritance, as long as it is determined through a legitimate court mechanism.

In addition, the right to earn alimony is also part of the legal consequences in determining biological children. In the WAW case, although the claim for compensation for maintenance was rejected due to lack of evidence, normatively, but based on Article 49 letter a of Law Number 23 of 2004 concerning the Elimination of Domestic Violence which reads *"Every person who commits domestic neglect can be sentenced to a maximum of 3 (three) years in prison or a maximum fine of Rp15,000,000.00 (fifteen million rupiah)."* In this case, it is stated that neglect of family members, including children, can be subject to criminal sanctions.<sup>44</sup> Similarly, it is clarified in Article 76A of the UUPA which states *"Everyone is prohibited: a. treating children in a discriminatory manner that results in the child suffering losses, both material and moral, so as to hinder his social functions;"* This establishes criminal sanctions for anyone who abandons a child to cause physical, mental, or social suffering. Furthermore, based on Article 77 of the UUPA which reads *"Every person who violates the provisions as referred to in Article 76A shall be sentenced to imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah)."* Therefore, the determination of the status as a biological child also brings a juridical obligation to the father to provide moral and legal support and attention for the child. The following is a table of civil rights that can be obtained by an out-of-wedlock child after being designated as a biological child through a court decision, even if in this case without a DNA test:

**Table 2. Civil Rights of Out-of-Wedlock Children Designated as Biological Children**

No.	Civil Rights	Legal Basis	Explanation
1.	Custody and Growth and Development	Law No. 35 of 2014 1) Article 26 paragraph (1); and 2) Article 26 paragraph (2)	The biological parents of children out of wedlock who have been determined are obliged to nurture, maintain, educate, and support the growth and development of children according to their talents and interests. If the parents are absent or incapable, the responsibility passes to the family according to the rule of law.

<sup>43</sup> Kumoro, R. Youdhea S. *op. cit.* p. 15.

<sup>44</sup> Rompas, Esterina Fransi. "Criminal Liability for Perpetrators of Child Neglect According to Law No. 23 of 2002 Jo Law of the Republic of Indonesia No. 35 of 2014 concerning Child Protection". *Lex Administratum* 5, no. 2 (2017).



No.	Civil Rights	Legal Basis	Explanation
2.	Identity Rights (Birth Certificate)	Article 55 paragraphs (2) and (3) of Law No. 1 of 1974; and Identity Rights 1) (Birth Certificate) 2) Article 52 paragraph (1) of Presidential Regulation No. 96 of 2018	If an out-of-wedlock child designated as a biological child does not have a birth certificate, the court may issue a determination of the child's origin based on strong evidence. Based on this determination, the birth registration agency in the court area will issue the child's birth certificate. This also applies to children born before their parents were legally married according to religious or belief laws.
3.	Inheritance Rights	1) Article 863 of the Civil Code 2) Constitutional Court Decision No. 46/PUU-VIII/2010	Out-of-wedlock children who have been designated as biological children have the right to inherit property according to the provisions of the law: 1. If the heir leaves behind legal descendants or husbands/wives, the out-of-wedlock children get one-third of the inheritance. 2. If there are no offspring or spouses, the out-of-wedlock children get half or three-quarters of the inheritance depending on who the other surviving heirs are.  An out-of-wedlock child has a legal relationship with his mother and his mother's family, as well as his biological father and his family if a blood relationship can be legally proven.
4.	Maintenance and Maintenance Rights	1) Article 45 paragraph (1) of Law No. 35 of 2014; 2) Article 49 letter a of Law No. 23 of 2004	Parents and families are obliged to provide for and take care of children out of wedlock from the womb, including maintaining their health. If parents abandon children within the scope of the household, it can be subject to legal sanctions according to applicable regulations.
5.	Right to Education and Health	1) Article 26 paragraph (1) letters a, b and d; and 2) Article 46 of Law No. 35 of 2014	Parents of out-of-wedlock children who are designated as biological children are obliged to provide education, instill moral values, and support children's growth and development. The state and the family are also responsible for maintaining their health to avoid serious diseases from birth.
6.	The right not to be discriminated against	<ul style="list-style-type: none"> <li>• Pasal 28B ayat (2); dan</li> <li>• Pasal 28I ayat (1) UUD RI 1945</li> </ul>	Out-of-wedlock children who are recognized as biological children have the right to live, grow, and be protected from all forms of discrimination. His rights as a human being, including legal recognition, should not be diminished under any circumstances.

By comparing this analysis with the legal practice that emerged from the Supreme Court's decision in the case of a public figure such as RAD, it can be concluded that the absence of a DNA test does not necessarily remove the civil rights of the out-of-wedlock child, as long as there is other evidence that is acceptable to the court. The right of children



to be recognized and protected by their parents is a human right protected by the constitution and laws and regulations. The state through judicial power must guarantee that children obtain equal identity, inheritance, maintenance, and protection, without discrimination on the basis of their parents' marital status.

#### **D. Conclusions and Recommendations**

Legal protection of the civil rights of children out of wedlock who are designated as biological children without DNA tests is a concrete form of state presence in guaranteeing children's rights. Although conventional civil law distinguishes the rights of children based on the marital status of parents, the development of jurisprudence, especially through the Constitutional Court Decision Number 46/PUU-VIII/2010, has provided space for the recognition of civil relations between children out of wedlock and their biological father without having to go through a DNA test, as long as there are other valid evidence according to the provisions of the law. Suspicions arising from evidence of communication, indirect confessions, witnesses, and the father's social behavior towards the child can be the basis for the judge's belief in determining the child's status as a biological child. This determination has a wide impact on the fulfillment of children's civil rights, such as custody and maintenance, identity rights in birth certificates, education and health rights, and inheritance rights. In addition, this determination also gives birth to a legal obligation for fathers to provide maintenance and ensure the welfare of the child. Thus, the legal system in Indonesia provides inclusive and progressive protection for children out of wedlock, while eliminating discrimination due to birth status.

The following are recommendations that can be submitted to stakeholders and parties in dispute regarding the position of suspect evidence in the case of determining the status of an out-of-wedlock child as a biological child without a DNA test.

There is a need to increase the understanding and application of the principle of suspect evidence as a valid and effective evidentiary mechanism in the case of determining the status of out-of-wedlock children, especially when direct evidence such as DNA tests is not fulfilled or rejected. Then, use the judge's discretion wisely to assess and draw conclusions based on indirect facts that are consistent and relevant, with the best interests of the child and the principle of protection of children's rights in mind. Then, make sure that the court decision provides legal certainty for children out of wedlock, including the recognition of civil rights such as custody, identity, alimony, education, health, and inheritance.

## Bibliography

### A. Legislation and Legal Instruments

- Indonesia. *Civil Code of Indonesia* (Kitab Undang-Undang Hukum Perdata).
- Indonesia. *Constitution of the Republic of Indonesia Year 1945* (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945).
- Indonesia. *Constitutional Court Decision No. 46/PUU-VIII/2010*.
- Indonesia. *Law No. 1 of 1974 on Marriage*.
- Indonesia. *Law No. 23 of 2004 on the Elimination of Domestic Violence*.
- Indonesia. *Law No. 35 of 2014 on the Amendment to Law No. 23 of 2002 on Child Protection*.
- Indonesia. *Law No. 48 of 2009 on Judicial Power*.
- Indonesia. *Presidential Regulation No. 96 of 2018 on the Requirements and Procedures for Population Administration and Civil Registration*.
- United Nations. *Convention on the Rights of the Child*, 1989.

### B. Journal Articles

- Almihan, Almihan. "Legal Argumentation in Supreme Court Judgments as Instruments for Realizing Fair Decisions." Universitas Islam Negeri Sumatera Utara, 2021.
- Amaliasari, Rosida. "The Legal Status of Birth Certificates of Children Born Out of Wedlock Naming the Father." *Al-Qanun: Journal of Islamic Legal Thought and Reform* 21, no. 2 (2018): 207–224.
- Butarbutar, Elisabeth Nurhaini. "Civil Judges' Freedom in Legal Discovery and the Antinomy in Its Application." *Mimbar Hukum* 23, no. 1 (2011): 61–76.
- Cahyaningati, Sekar Dias. "Legal and Ethical Review on the Use of DNA (Deoxyribonucleic Acid) Technology in Law Enforcement in Indonesia." Universitas Islam Sultan Agung Semarang, 2024.
- Edyar, Busman. "The Status of Children Born Out of Wedlock According to Positive Law and Islamic Law After the Constitutional Court Decision on Judicial Review of the Marriage Law." *Al-Istinbath: Journal of Islamic Law* 1, no. 2 (2016): 181–200.
- Febriansyah, Eddo. "Juridical Review of the Constitutional Court Decision No. 46/PUU-VIII/2010 on the Inheritance Rights of Children Born Out of Wedlock." *Unnes Law Journal* 4, no. 1 (2015).
- Hutasoit, Eunike Loist, Fedro Julio Carlos Siagian, Suhaila Zulkifli, and Tajuddin Noor. "Legal Protection for Children Born Out of Wedlock in Indonesia: A Comparative Study of the Constitutional Court Decision No. 46/PUU-VIII/2010 and Islamic Law." *Jurisprudensi: Journal of Sharia, Legislation and Islamic Economics* 16, no. 2 (2024): 420–437.
- Juanda, Enju. "The Strength of Evidence in Civil Cases According to Indonesian Positive Law." *Galuh Justisi: Scientific Journal* 4, no. 1 (2016): 27–46.
- Kumoro, R. Youdhea S. "Rights and Status of Children Born Out of Wedlock in Inheritance According to the Civil Code." *Lex Crimen* 6, no. 2 (2017).
- Kurniawan, Muhamad Beni. "Constitutional Court's Legal Politics on the Status of Children Born Out of Wedlock: The Application of Progressive Law in Protecting Children's Rights." *Jurnal HAM* 8, no. 1 (2017): 67–78.

- Pancasilawati, Abnan. "Legal Protection of the Civil Rights of Children Born Out of Wedlock." *Fenomena* 6, no. 2 (2014): 171–216.
- Pandiangan, Hendri Jayadi. "Differences in the Law of Evidence in the Perspective of Criminal and Civil Procedure Law." *TO-RA* 3, no. 2 (2017): 565–582.
- Prasetya, Untung. "Analysis of the Audi et Alteram Partem Principle in Civil Proceedings (Case No. 20/Pdt.G/2019/PN Pwr)." *Amnesti: Law Journal* 2, no. 2 (2020): 57–75.
- Rangkuti, Afifah. "Analysis of the Legal Status of Children Born Out of Wedlock in Relation to Their Biological Father According to Constitutional Court Decision No. 46/PUU-VII/2010 and Shafi'i Fiqh." *Al-Muqaranah: Journal of Comparative Law and Schools* 2, no. 1 (2024).
- Rayfindratama, Alva Dio. "Judges' Freedom in Issuing Court Decisions." *Birokrasi: Journal of Legal and State Administration Sciences* 1, no. 2 (2023): 1–17.
- Rompas, Esterina Fransi. "Criminal Liability for Child Neglect Perpetrators under Law No. 23 of 2002 Jo Law No. 35 of 2014 on Child Protection." *Lex Administratum* 5, no. 2 (2017).
- Saepullah, Asep. "The Role of Evidence in Judicial Procedure." *Mahkamah: Journal of Islamic Law Studies* 3, no. 1 (2018): 141–157.
- Salam, Asep Lukman Daris. "Legal Analysis of the Nasab Rights of Children Born Out of Wedlock According to Constitutional Court Decision No. 46/PUU/VIII/2010." *As-Sakinah: Journal of Islamic Family Law* 1, no. 1 (2023): 35–60.
- Sari, Novita Dyah Kumala, and S. H. Syafrudin Yudowibowo. "The Evidentiary Value of Presumption as Valid Evidence in Divorce Cases in Religious Courts." *Verstek* 4, no. 3 (2016).
- Satriyo, Tetes Galih, Kukuh Waladul Ikhsan, Prima Herwiyoso, and Chirstin Octaria Simanjuntak. "International Convention on the Rights of the Child: Influence and Reality in Indonesian Law and Human Rights." *Lentera Ilmu* (2024): 70–76.
- Septiantoputra, Ryan. "Implementation of the Principle of Child Protection in the Convention on the Rights of the Child for Victims of Domestic Violence." Universitas Islam Sultan Agung Semarang, 2023.
- Subagyono, Bambang Sugeng Ariadi, Johan Wahyudi, and Razky Akbar. "Study of the Application of the Ultra Petita Principle in *Ex Aequo et Bono* Petitem." *Yuridika* 29, no. 1 (2014): 100–112.
- Susanto, Muhammad Hajir, Yonika Puspitasari, and Muhammad Habibi Miftakhul Marwa. "The Civil Rights of Children Born Out of Wedlock in Islamic Law Perspective." *Justisi* 7, no. 2 (2021): 105–117.
- Wahyuningsih, Yuliana Yuli, Iwan Erar Joesoef, Suherman, and Marina Ery Setiyawati. "Socialization of Law No. 35 of 2014 on Child Protection as an Effort to Fulfill the Rights of Children Who Are Victims of Discrimination and Violence." *Jurnal Abdimas Le Mujtamak* 2, no. 2 (2022): 100–112.
- Wuwungan, Marshanda Niquita, Deasy Soeikromo, and Djefry Welly Lumintang. "Legal Analysis of the Supreme Court's Cassation Decision Related to the Determination of a Biological Father for Children Born Out of Wedlock (Case No. 1055 K/PDT/2023)." *Lex Administratum* 12, no. 5 (2024).

Zahra, Khansa Laily Az, Moh Fadwa Mufid Al Amjad, Syafa Nabya Maulidian, Septiani Silvia, and Fadilla Azfa Asyifa. "The Relevance of Evidence in Civil Case Resolution." *The Juris* 8, no. 1 (2024): 95–104.

### C. Books

- Amin, Rahman. *Proof Law in Criminal and Civil Cases*. Yogyakarta: Deepublish, 2020.
- Asnawi, Habib Sulthon, M. Anwar Nawawi, and M. Ag Shi. *Dynamics of Marriage Law in Indonesia: A Study of Islamic Family Law on the Legality of Belief-Based Marriages*. Yogyakarta: Bildung, 2022.
- Efendi, Jonaedi. *Reconstruction of Judges' Legal Reasoning: Based on Legal Values and Justice Living in Society*. Jakarta: Prenada Media, 2018.
- Fuady, Munir. *Theory of Evidence Law (Criminal and Civil)*. Bandung: Citra Aditya Bakti, 2012.
- Harahap, M. Yahya. *Civil Procedure Law: Lawsuits, Hearings, Seizures, Evidence, and Court Decisions*. Jakarta: Sinar Grafika, 2017.
- Manalu, Karto. *Civil Law on Children Born Out of Wedlock*. Batam: Azka Pustaka, 2021.
- Mertokusumo, Sudikno. *Indonesian Civil Procedure Law*. Yogyakarta: Liberty, 2009.
- Sasangka, Hari. *Proof Law in Civil Cases for Students and Practitioners*. Bandung: Mandar Maju, 2005.
- Soekanto, Soerjono, and Sri Mamudji. *Normative Legal Research: A Brief Overview*. Jakarta: Raja Grafindo Persada, 2001.
- Susanti, Dyah Octorina, A'an Efendi. *Legal Research*. Jakarta: Sinar Grafika, 2022.
- Svinarky, Irene. *Important Points to Understand in Indonesian Civil Procedure Law*. Batam: Cv Batam Publisher, 2019.

### D. Others

- Actori In Cumbit Probatio." Supreme Court of the Republic of Indonesia. <https://kepaniteraan.mahkamahagung.go.id/glosarium-hukum/2192-actori-in-combit-probatio>. Accessed May 26, 2023.
- Yasin, Muhammad. "Simple, Fast, and Low-Cost Judiciary." *Hukumonline.com*. <https://www.hukumonline.com/berita/a/peradilan-yang-sederhana--cepat--dan-biaya-ringan-lt5a7682eb7e074/?page=1>. Accessed May 1, 2025.