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Juridical Analysis of the Application of the Constitutional Court Verdict No. 46/PUU-VII/2010 regarding the Civil Relations of Natural Children with Their Biological Fathers in Notary Deeds

Benny Djaja[1] ,Joshua Yohanes[2]

[1]Faculty of Law, Universitas Tarumanagara, West Jakarta - 11440, Indonesia
[2]Faculty of Law, Universitas Tarumanagara, West Jakarta - 11440, Indonesia
Email:bennydjaja.bd@gmail.com

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ABSTRACT

Constitutional Court Verdict No. 46/PUU-VIII/2010 has had an impact on the position of natural children. With the enactment of the verdict, a legitimate relationship arises between the natural children and the biological father. This journal discusses how the position of the natural children is after the verdict and how the application of the verdict is in a notarial deed, in this case, a Certificate of Inheritance. The research method that will be utilized in this research is a normative legal research method, namely research conducted by examining norms, legislation, and legal theory related to the application of the verdict above regarding the civil relationship of natural children with their biological father in a notarial deed. The results of the research are that the Constitutional Court Verdict No. 46/PUU-VIII/2010 is not immediately applicable and becomes the basis of the blood relationship between a natural child and one's biological father, but can be enforceable by a decree of the court. demonstrate kinship based on technology and science and/or other evidence.

Keywords: *Constitutional Court Verdict, Natural Child, Certificate of Inheritance, Notary.*

1. PREFACE

One of the most objectives of marriage is to produce offspring, fulfill human instincts, form and manage a household based on love and affection, protect humans from evil, and foster sincerity in seeking lawful fortune and enlarging responsibilities.[1] Agreeing to Marriage Act No. 1, 1974 (hereinafter too alluded to as the Marriage Act) precisely in Section 2 (1) and (2) explains the criteria for a marriage to be categorized as a legal marriage, namely:

"(1) A marriage is legitimate, if it has been performed according to the laws of the respective religions and beliefs of the parties concerned (2) Every marriage shall be registered according to the regulations of the legislation in force."

The category of a child as a legitimate child is not only regulated in the Marriage Act but there are 2 categories formulated by law to designate the legitimacy of a child.[2]

The categories referred, among other things, to designating the time of her birth and the causes that result in the growth of a child in a woman's womb as a result of a legitimate marriage. The regulation regarding this matter is contained in Section 250 of the Civil Code: "Children who are born or raised during the marriage, get a husband as their father." Section 42 of the Marriage Act also regulates this matter, namely: "A legitimate child is a child born in or as a result of a legitimate marriage." While Section 43 regulates:

"(1) Children born out of wedlock only have a civil relationship with their mother and their mother's family. (2) The position of the child referred to in paragraph (1) above will then be regulated in a Government Regulation." Meanwhile, there are other regulations regarding the legality of illegitimate children regulated in 272 of the Civil Code, namely: "Children conceived outside marriage, except for those who have been conceived in an adulterous or incestuous relationship, shall be legitimized by the ensuing marriage of their father and mother, if the latter-mentioned have acknowledged them legally before the conclusion of the marriage, or if the acknowledgment took place at the time of execution of the marriage certificate." An illegitimate

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child is a child born to a woman who is not legally married to the man who planted the child in her womb, and the child is generally not in the ideal position in the eyes of the law as a legal child. [3] While the notion of extramarital affairs is the relationship of a man with a woman who can deliver birth to a descendant whereas their relationship isn't in a legal marriage bond according to positive laws and regulations in the religion he believes in.[2] Regarding the civil rights of natural children, there is a case in the community, namely the case of Hj. Aisyah Mochtar alias Machica Binti H. Mochtar Ibrahim in the case of the Constitutional Court Verdict which granted the judicial review of the Marriage Act proposed by Hj. Aisyah Mochtar also known as Machica Binti H. Mochtar Ibrahim proposed her son, Muhammad Iqbal Ramadhan bin Moerdiono to be recognized as the child of the late Moerdiono, the previous Serve of State Secretary within the Suharto era. The verdict of the Constitutional Court No. 46/PUU-VIII/2010 (hereinafter also referred to as the Constitutional Court Verdict 46/2010) which settled constitutional cases at the primary and last level, handed down a choice within the case of an appeal for judicial review of the Marriage Act against the 1945 Constitution of the Republic of Indonesia (hereinafter alluded to as the 1945 Constitution) proposed by Machica.

One of the verdicts of the Constitutional Court is to amend Section 43 (1) Marriage Act which originally reads: “Children born outside of marriage only have a civil relationship with their mother and their mother's family” must be read as follows*:* “Children born outside of marriage have a civil relationship with his mother and his mother's family as well as with a man as his father who can be proven based on science and technology and/or other evidence according to the law having blood relations, including civil relations with his father's family.”

This verdict has consequences in the heredity relationship of a natural child with his natural father; the presence of rights and commitments between a natural child and their biological fathers, both within the frame of a living, legacy, and so on. Of course, this applies when the proof is first provided by science and technology, such as the deoxyribonucleic acid test (hereinafter referred to as the DNA test), which states that the natural child has blood relations with the man as the biological father.[4]

These civil rights are the basis for determining the legal subjects of an inheritance who are the heirs and heirs which are then stated in the Inheritance Certificate when the testator has died. Certificate of Inheritance as evidence for parties who claim to be heirs, and in turn serves as the basis for claiming certain rights to objects or material rights as objects of inheritance. Arrangements regarding the issuance of a Certificate of Inheritance are directed within the Regulation of the State Minister of Agrarian Undertakings No. 3 of 1997 concerning Regulation for the Execution of Government Regulation No. 24 of 1997 concerning Land Enlistment (hereinafter referred to as PMA 3/1997), which mandates a Notary to issue a Certificate of Inheritance for Indonesian Citizens of Chinese Decent. In the development of PMA 3/1997, Section 111 paragraph (1) letter c is considered to still contain the principle of population classification, which is contrary to Section 106 of Act No. 26 of 2013 amending Act No. 23 of 2006 on population management, which states that the rules related to population classification have been revoked and declared invalid. Therefore, the power of a notary public to prepare a certificate of inheritance for all Indonesian nationals is the attribution power based on Section 15 (1) of Act No. 2 2014 amending Act No. 30 of 2004 on Regulations on Notary Offices (hereinafter referred to as UUJN).[5] The arrangements for making a Certificate of Inheritance within the State of Indonesia are still based on the division of populace bunches, as portrayed in Section 42 paragraph (1) Government Regulation No. 24 of 1997 concerning Land Enlistment in conjunction with the arrangements of Section 111 passage (1) letter c Regulation of the Head of the National Land Organization No. 8 of 2012 concerning Revisions to the Regulation of the Serve of State for Agrarian Affairs/Head of the National Land Office No. 3 of 1997 concerning

Provisions for the Execution of Government Regulation No. 24 of 1997 concerning Land Registration.

A notary as a public official who has gotten the authority from the state to create a true deed as said over, in carrying out his obligations and specialists must continuously be guided by the laws and regulations, the oath/promise of the notary office, and the code of ethics for the position of a notary. This is often done to maintain a strategic distance from legitimate issues against the notary himself or the deed he made. UUJN states that "a notary is a public official who is authorized to create true deeds and has other authorities as alluded to within the UUJN or based on other laws."[6]

An act performed by a notary public can serve as a legal basis for determining the condition of the property, the rights, and obligations of a person. In case of negligence in the notary deed, human rights waivers or personal burdens or obligations may be revoked. [7] The notary public's notary position is an honorary title accorded by the state to a trustee by law. The powers specified in Section 1 of the UUJN refer to "make an authentic deed regarding all actions, agreements, and provisions required by laws and/or desired by the interested parties to be stated in an authentic deed, to guarantee the certainty of the date of making the deed, to keep the deed, to provide Grosse, copies, and quotations of a deed." This research review was motivated by the existence of a Certificate of Inheritance made by a Notary in Tangerang Regency, the contents of which contradicted the existing supporting data, namely the child's birth certificate and the heir's marriage certificate. Where in the supporting data, one of the children of the heir does not receive recognition from the heir, but the Notary consciously and deliberately makes a Certificate of Inheritance which includes the child as the legal heir of the testator. This is done based on the Constitutional Court's Verdict 46/2010 because according to the Notary's statement, the existence of this Constitutional Court Verdict will directly lead to a lineage relationship between a natural child and his natural father.

2. RESEARCH METHOD

The research method used in this study is a study conducted by studying the norms, legal and legal theory associated with the use of sentences of the Constitutional Court related to the civil relations with the biological Father in a notarial deed. The method of study method used is a common approach and a conceptual approach. The data types used in this study are additional data. The legal data or sources used in this book are the main legal data, secondary legal materials, and third-rate legal data. Methodology to collect data in the form of workflow or literature, especially about legal trust for the use of sentences of the Constitutional Court 46/2010. The analysis method used in this study is qualitative.

3. FINDINGS AND DISCUSSIONS

Legal Position of Natural Children in the Marriage Act after the Constitutional Court Verdict No. 46/PUU-VIII/2010

The Constitutional Court's Verdict 46/2010 which granted the judicial review of Section 43 (1) of the Marriage Act broke the legal standard and became a solution to these problems and was considered a progressive step by the state in responding to discriminatory treatment of children born outside of legal marriages. Children cannot be involved in risk-taking for sins committed by their parents so that children's rights should not be harmed. [9]

Effect of Constitutional Court Verdict No. 46/PUU-VIII/2010 on the Legal Position of Natural Children.

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Before this verdict, a natural child only had a civil relationship with the mother and mother's family, as regulated in Section 43 of the Marriage Act which states: "Children born out of wedlock only have a civil relationship with their mother and their mother's family."
After the issuance of the Constitutional Court Verdict 46/2010, a legal relationship arising between a natural child and his natural father, which is real, and it is proven that between the natural child and the father who is related by blood or the father is the person who has seeded the child in his mother's womb, so that the disclosure of the civil relationship, then the right of alimentation between the child out of wedlock and his natural father is established.[2] Section 43 (1) of the Marriage Act which states, "Children born out of wedlock only have a civil relationship with his mother and his mother's family, do not have binding legal force as long as it is interpreted as eliminating civil relations with men which can be proven based on science and technology and/or other evidence according to the law turns out to have a blood relationship as the father" so that the verse must read, "Children born out of wedlock have a civil relationship with their mother and 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 have blood relations, including civil relations with his father's family." [10]
Based on the Constitutional Court's Verdict 46/2010, indirectly natural children are entitled to receive costs of living and education costs from their biological fathers just as they should care for their legitimate children. As stated in the Constitutional Court's Verdict 46/2010, the law must give reasonable legitimate assurance and certainty to the status of a child who is born and the rights that exist in it, barring children who are born indeed in spite of the fact that the legitimacy of the marriage is still disputed. If we look closely, even though the background of the issuance of the Constitutional Court Verdict 46/2010 relates to the consequences of an unregistered marriage, in the description of the Constitutional Court's Verdict, the purpose of consideration of the verdict does not only apply to children born out of wedlock but also applies to all illegitimate children, including adulterous children and discordant children.[2] Regarding the above, it can be observed from the contents of the following considerations of the Constitutional Court Verdict 46/2010 [10]:

"Thus, regardless of the procedure/administration of the marriage, the child born must receive legal protection. If this is not the case, then the child who is born out of wedlock will be harmed, even though the child is innocent because his birth was against his will. Children who are born without a clear father status often get unfair treatment and stigma in society. The law must provide fair legal protection and certainty for the status of a child who is born and the rights that exist in him, including for children who are born even though the validity of the marriage is still disputed";

[3.14] Considering whereas based on the description above, Section 43 paragraph (1) of Law 1/1974 which states, "Children born outside of marriage only have a civil relationship with their mother and their mother's family" must be read, "Children born outside marriage 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 and/or other evidence according to the law having blood relations, including civil relations with his father's family";
Based on the content of the considerations of the Constitutional Court Verdict 46/2010 mentioned above, there are no statements or words that can be interpreted that the Constitutional Court's verdict only applies to children outside of wedlock originating from unregistered marriages. Thus this creates a conflict regarding the position of natural children who are adulterous children and discordant children, because in the Civil Code for discordant children and adulterous children are not allowed to receive recognition from their biological fathers. This is regulated in Section 283 of the Civil Code, namely:

"Children born because of adultery or incest, may not be recognized, without prejudice to the provisions of Section 273 concerning discordant children ."
In any case of the clashing position of the natural child who is an adulterous child or an unaccompanied child, everybody ought to accept that each child has the right to grow, survive develop, and participate in, additionally has the right to protection from acts of viciousness and segregation as well as respective rights and opportunities.[11] A child does not have the freedom to choose to be born in a legal marriage, therefore he must get legal protection for the rights of the child as if he were a legitimate child. Thus, the existence of the Constitutional Court Verdict 46/2010 is expected to protect the interests of all children without distinguishing between natural children in a narrow sense or a broad sense.

Legal Efforts That Can Be Taken by Natural Children Based on the Verdict of the Constitutional Court No. 46/PUU-VIII/2010

The origin of a child is regulated in the Marriage Act, namely in Section 55 of the Marriage Act:

"(1) The origin of a child can only be proven by an authentic birth certificate, which is issued by an authorized official. (2) If the birth certificate referred to in paragraph (1) of this Section is not available, the Court may issue a determination regarding the origin of a child after a thorough examination is conducted based on evidence that meets the requirements. (3) Based on the provisions of the Court in paragraph (2) of this Section, the birth registration agency in the jurisdiction of the Court concerned shall issue a birth certificate for the child concerned."

Based on Section 55 above, a natural child can get confirmation as a natural child from a man suspected of being his biological father first through proof of a birth certificate. If there is no birth certificate, it can be asked to determine the origin of the child through the Court.

After the Constitutional Court Verdict 46/2010, Rehngena Purba said that there are at least 2 (two) paths that can be taken by a natural child and his mother, namely "First, the child applies for a court order for the child to file a civil lawsuit against the father in court. This lawsuit is to ask for the civil rights of the child to the biological father or his father's family, and second, the child can directly file a civil suit in court. Then, the court was asked in an interim verdict to order Crime Lab to conduct a DNA test."[12]

Next, enter into the main case for the confirmation of the child who has a civil relationship with the father and the father's family and whether he has the right to maintenance, inheritance, and so on. Still, according to Rehngena Purba, this needs to be further regulated in a Government Regulation (PP) and a Supreme Court Regulation (Perma) regarding natural children so that the procedural law becomes clearer.[12] For natural children who are not subject to Islamic law (non-Muslims), they can be treated like natural children recognized by their parents as regulated in Section 280 of the Civil Code, namely:

"The acknowledgment of a natural child shall create a civil relationship between that child and his father or mother."

With the issuance of the Constitutional Court Verdict 46/2010, it is possible to recognize a father to an illegitimate child, among others through a confession imposed by law through the courts, meaning that a child and his mother have the right to prove that a man is the biological father of the natural child by examining or do a DNA test.

The Constitutional Court's Verdict 46/2010 confirms natural children and their mothers if the biological father does not want to voluntarily admit the natural child.

With the recognition made by the biological father to the natural child, either voluntarily or forced, then the legal consequences of voluntary recognition and forced confession are the same.[13]

Thus, if a natural child has received recognition from his natural father, then he is entitled to 1/3 of the share if he is a legitimate child as regulated in Section 863 of the Civil Code:

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"If the testator dies leaving a legal descendant and/or husband and wife, the natural children who are recognized as inheriting 1/3 of the share, from those who should have received it, if they are legitimate children."

Likewise, if the deceased does not leave a legal heir according to the law, then the natural child inherits the inheritance entirely as regulated in Section 865 of the Civil Code. So that the position of a natural child is the same as a legitimate child if the heir only leaves a natural child as the only heir. In the event that a natural child is recognized and ratified as a legitimate child, as stated in Section 272 of the Civil Code:

"Natural children, except for those born from adultery or bloodstains, are legalized by a subsequent marriage from their father and mother, if before marriage they have made legal recognition of the child, or if the acknowledgment occurs in their marriage certificate." then the position and share of inheritance is the same as a legitimate child as regulated in Section 852 of the Civil Code.

Apart from the conflict regarding the inheritance rights of natural children after the Constitutional Court Verdict 46/2010, Witanto in his book also argues that apart from religious law, it is never possible to change the position of an adulterous child who only has a relationship with his mother, but that does not mean that his biological father has absolutely no obligation to provide costs of living for his child. [2] Thus, based on the Constitutional Court's Verdict 46/2010, the verdict implies that if a man is declared proven to be the biological father of a child in a court verdict since the issuance of the court's verdict, the biological father is obliged to provide maintenance to his biological child in the form of education fees and expenses.

1. The child's subsistence is the father's obligation, if the father is unable, the mother is obliged to provide for the child.
2.. Child care is basically for the benefit of the child, both for his physical, spiritual, intellectual, and religious growth. Therefore, mothers are more eligible and do not have the right to care for children under 12 years old.
3. The care of a child who is not yet 12 years old can be transferred to the father, if the mother is considered incompetent, neglects, or has bad behavior that will hinder the child's physical, spiritual, intellectual, and religious growth.
4. The transfer of custody of the child referred to in point 3 above must be based on the verdict of the religious court by submitting a request for revocation of parental authority if the child has been determined by the religious court to be under the care of his wife.
5. The revocation of parental power can be proposed by other parents, children, family, in a straight line, siblings, and authorized officials (prosecutors).

Implementation of the Constitutional Court Verdict No. 46/PUU-VIII/2010 regarding the Civil Relations of Natural Children with Their Biological Fathers in a Notary Deed

This research is motivated by the existence of a Declaration Deed and Inheritance Certificate made by a Notary in Tangerang Regency, where the deceased had a wife and 3 (three) children as evidenced by the birth certificates of the three children and marriage certificates. However, because the marriage between the deceased and his wife was not directly registered, the three children were listed on the birth certificate as natural children. This is presumably because at that time the religion and beliefs of the deceased and his wife had not been recognized in Indonesia. Then after the religion and beliefs of the deceased and his wife were recognized in Indonesia, they registered their marriage in the Marriage Deed which simultaneously acknowledged and ratified 2 (two) of the 3 (three) children, namely the son number one could be called "A" and the son number three could be called "C", while the daughter number two could be called "B" is not included in the marriage certificate. After the deceased passed away, his wife and three children

came to a Notary in Tangerang Regency to make a Deed of Statement and Certificate of Inheritance. The two deeds that were made contained the name of B, who was the daughter of the deceased number 2 as a legal child and legal heir. When this was confirmed to the Notary, he confirmed this is based on the Constitutional Court Verdict No. 46/PUU-VIII/2010, which was then added with statements from the wife and other children of the deceased.

Certificate of Inheritance

The legal basis for making the Inheritance Certificate which has been made by a Notary is not found in the Notary Position Regulations (PJN) or the UUJN. The Certificate of Inheritance that has been made by a notary is a translation of *Verklaring Van Erfrecht*. In *Wet op het Notarisambt* (1842) Section 38 (2) includes a provision that a notary has the authority to make *Verklaring Van Erfrecht*. When *Wet op het Notarisambt* (1842) was enforced in Indonesia (Dutch East Indies) into *Het Reglement op Het Notarisambt in Indonesie* (Nederlands Indie) *Staatsblad* 1860 (later translated into PJN) the provisions of the notary authorized to make *Verklaring Van Erfrecht* only a habit (a habit that came from Dutch notaries who had practiced in Indonesia which were then followed by Indonesian notaries).[15] According to Tan Thong Kie, the making of an inheritance statement by a notary in Indonesia has no legal basis in Indonesian law.[15] The legal basis for making a Certificate of Inheritance that currently exists is based on the Letter from the Ministry of Home Affairs, General Department of Agriculture, General Department of Land Registry (Cadaster), dated December 20, 1969, No. Dpt/12/63/12/69 on certification of inheritance rights and proof of rights citizens and Section 111 (1) letter c Regulation of the Minister of Agriculture / Head of the National Land Organization No. 8, 2012 regarding the amendment of the Regulation of the State Agency for Agriculture / Head of State National Cadastral Office No. 3 of 1997 regarding provisions for the implementation of Government Regulation No. 24 of 1997 relating to land registration. In the regulation mentioned above, there are 3 (three) forms of (formal) proof of inheritance and also 3 (three) institutions that can make evidence as an heir that is adjusted to the group or ethnicity of the population or Indonesian citizens. The three forms of formal proof of heirs and institutions, namely:

"(1) European, Chinese, Foreign Eastern groups (except Arabs who are Muslim) based on a Certificate of Inheritance made by a Notary, in the form of a Certificate. (2) Foreign Eastern Group (not Chinese), based on the Certificate of Inheritance made by the Heritage Hall (BHP). (3) The Indigenous Group (*Bumi Putera*) is based on a Certificate of Inheritance made underhand, stamped, by the heirs themselves, and known or confirmed by the Lurah and Camat according to the last place of residence of the heir."

However, the above regulations are contrary to the laws and regulations governing the elimination of population classification, as set forth in Act No. 26 of 2013 amending Act No. 23 of 2006 on population management, where Section 106 provides that:

"(1) Book One, Second Chapter, Second Part and Third Chapter of the Civil Code (Burgerlijk Wetboek voor Indonesie, Staatsblad 1847:23); (2) Civil Registration Regulations for the European Class (Reglement op het Holden der Registers van den Burgerlijken Stand voor Europeanen, Staatsblad 1849:25 as last amended by Staatsblad 1946:136); (3) Civil Registration Regulations for the Chinese Group (Bepalingen voor Geheel Indonesie Betreffende het Burgerlijken Handelsrecht van de Chinezean, Staatsblad 1917:129 jo. Staatsblad 1939:288 as last modified by Staatsblad 1946:136); (4) Civil Registration Regulations for the Indonesian Group (Reglement op het Holden van de Registers van den Burgerlijeken Stand voor Eenigle Groepen vd nit tot de Onderhoringer van een Zelfbestuur, behoorende Ind. Bevolking van Java en Madura, Staatsblad 1920:751 jo. Staatsblad 1927:564); (5) Civil Registration Regulations for Indonesian Christians (Huwelijksordonantie voor Christenen Indonesiers Java, Minahasa en Amboiena, Staatsblad 1933:74 jo. Staatsblad 1936:607 as last modified by Staatsblad 1939:288);

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(6) Act No. 4 of 1961 concerning Change or Addition of Family Names (State Gazette of 1961 No. 15, Supplement to State Gazette No. 2154); has been revoked and declared invalid."
Therefore, based on the hierarchy of laws and regulations, implementing regulations or provisions that divide the classification of the population can be declared invalid.

Authority of Notary to Issue Certificate of Inheritance
Based on Section 15 (1) UUJN which states: "Notaries have the authority to make authentic deeds regarding all acts, agreements, and provisions required by legislation and/or desired by the interested parties to be stated in authentic deeds, guaranteeing the certainty of the date of manufacture. deed, keeping the deed, providing Grosse, copies, and excerpts of the deed, all of this as long as the making of the deed is not assigned or excluded to other officials or other people stipulated by law." Based on Section 15 above, the Section can be used as a legal basis that a notary can be the only official/institution authorized to make proof of heir for all Indonesian people.
The position of a notary can also be held by everyone without discriminating against ethnicity/religion. With the presence of the current UUJN, it can be concluded that there has been a legal unification in the field of notary regulation. Thus, based on the authority that has been given to a notary, it is time for a notary to contribute to participate in building legal unification, especially in inheritance law, there is no longer any discrimination and distinction in inheritance law for all levels of Indonesian society. This is in line with what was conveyed by Winanto Wiryoamartani, who concluded that thus, henceforth, making a Certificate of Inheritance is the authority of a notary, and its form is in the form of a party deed.[17]

Issuing a Certificate of Inheritance for Natural Children after the Constitutional Court Verdict No. 46/PUU-VIII/2010
The Constitutional Court's verdict 46/2010 has changed the paradigm of the relationship between a natural child and his biological father, as evidenced by the following verdict [10]:

- Section 43 (1) of the Marriage Act No. 1, 1974 (The Official Gazette of the Republic of Indonesia No. 1, 1974, Supplement to the Official Gazette of the Republic of Indonesia No. 3019) states that: "Children born outside of marriage only have a civil relationship with their mother and his mother's family", It is contrary to the Constitution of the Republic of Indonesia of 1945 if construed as the removal of a civil relationship with a man which can be proved on the basis of other evidence according to science and technology and/or the law, it is related to the father;
- Section 43 (1) of the Marriage Act No. 1, 1974 (The Official Gazette of the Republic of Indonesia No. 1, 1974, Supplement to the Official Gazette of the Republic of Indonesia No. 3019) states that "Children born outside of marriage only have a civil relationship with their mother and his mother's family", it is not legally binding insofar as it is construed as eliminating a civil relationship with a man who can prove it on the basis of scientific and technological and/or other evidence under the law, which turns out to be similar to his father's, so that verse must be read, "A child born out of wedlock 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 and/or other evidence according to the law to have blood relations, including civil relations with his father's family";

Based on the verdict above, according to the author, a notary can issue a Certificate of Inheritance for a natural child who demands civil rights from his biological father using the basis of an acknowledgment letter from the biological father, either voluntarily or by force through a court verdict. If the acknowledgment letter is made through a verdict from the court, it must be

done by submitting evidence based on science and technology and/or other evidence that can show the relationship between the natural child and his biological father. The evidence-based science and technology referred to in the verdict can be carried out using a DNA test.
DNA testing is a legal effort carried out by utilizing technological advances in the field of medicine to ascertain the origin of a person to his family which was previously unknown. Therefore, DNA testing can be said to be evidence-based on technological advances in the field of medicine which can currently be used in a civil case trial, especially regarding cases of proving the origin of a child out of wedlock to his biological father.[16] The evidence in the form of a DNA test is submitted to a court trial to create clarity, legal certainty on the status of natural children to realize justice in every law enforcement effort, on the rights of natural children based on legal provisions.[16] Then for other evidence, when referring to Section 1866 of the Civil Code, there are 5 (five) pieces of evidence, namely "(1) written evidence; (2) evidence presented by witnesses; (3) the inference; (4) the confession; (5) the oath."
Concerning witness evidence, there are provisions in Section 145 (1) HIR that explain witnesses whose statements cannot be heard, namely: "(1) Blood relatives and marital families of one party in a straight lineage; (2) Husband or wife even though they are divorced; (3) The child is not yet aged or not yet known for certain whether 15 years; and (4) People with insanity even though they can use their sound mind once in a while."

4. CONCLUSIONS AND RECOMMENDATIONS

Conclusion

1. After the conclusion of the Constitutional Court Verdict 46/2010 came into force, an illegitimate child could claim citizenship from his or her biological father, which can be substantiated on the basis of scientific and technological or other evidence, and the illegitimate child's right to receive living expenses and the right to inherit from his or her father, and his or her right to Because they have a duty to support their legitimate children.
2. The Constitutional Court Verdict 46/2010, confirms for a notary to be able to issue a Certificate of Inheritance for natural children who demand civil rights from their biological fathers. The Constitutional Court's verdict does not automatically apply and becomes the basis for the lineage relationship between a natural child and his father, even though there is information or a statement given by other people regarding the kinship relationship. The verdict of the Constitutional Court 46/2010 can be carried out by a notary in making a Certificate of Inheritance, preceded by an acknowledgment letter which is carried out by force through a verdict from the Court. The notary does not have to worry about being blamed for making the Certificate of Inheritance because the notary does not responsible for the contents of the stipulation made by the court.

Suggestion

For the government to immediately draw up and issue a Government Regulation on Natural Children as a mandate from Section 43 (2) of the Marriage Act as a follow-up to the Constitutional Court Verdict 46/2010 so that it is hoped that it can provide legal certainty for the community, especially for Natural children.
The author also provides suggestions for notaries as public officials who serve the community not to immediately apply the Constitutional Court Verdict 46/2010 directly in the deed, without going through a Court Verdict.

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