

IMPLIKASI HUKUM TERHADAP HAK KEPERDATAAN ANAK LUAR NIKAH PASCA PUTUSAN MAHKAMAH KONSTITUSI NOMOR 46/PUU-VIII/2010

ABSTRAK

Lahirnya Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 menimbulkan perubahan yang signifikan terhadap kedudukan hukum anak luar nikah dalam sistem hukum di Indonesia. Sebelum adanya putusan ini, Secara normatif, Pasal 43 ayat (1) Undang-Undang Nomor 1 Tahun 1974 tentang Perkawinan mengatribusikan hubungan keperdataan anak yang lahir di luar perkawinan secara eksklusif kepada ibu dan garis kekerabatan maternal. Ketentuan tersebut menimbulkan berbagai bentuk diskriminasi terhadap anak luar nikah, khususnya dalam memperoleh hak keperdataan, identitas, nafkah, pemeliharaan, dan hak waris dari ayah biologisnya. Bertolak dari transformasi norma yang lahir melalui Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010, penelitian ini ditujukan untuk menelisik resonansi yuridis putusan tersebut terhadap rekonfigurasi hak keperdataan anak luar nikah serta mengevaluasi spektrum perlindungan hukum yang diberikan kepada anak luar nikah di Indonesia. Jenis penelitian yang digunakan adalah penelitian yuridis normatif dengan pendekatan perundang-undangan (*statute approach*). Teknik pengumpulan data dilakukan melalui studi kepustakaan dengan menelaah berbagai peraturan perundang-undangan, putusan pengadilan, buku, jurnal hukum, dan literatur lain yang berkaitan dengan objek penelitian. Teknik analisis data dilakukan secara kualitatif dan deskriptif guna memperoleh pemahaman yang sistematis mengenai permasalahan hukum yang diteliti. Hasil penelitian berdasarkan Kasus Putusan Perkara Nomor 746/Pdt.G/2021/PN Tangerang yang kemudian berlanjut hingga Putusan Mahkamah Agung Nomor 1055 K/Pdt/2023 menunjukkan bahwa Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010 memberikan perubahan yang sangat penting terhadap kedudukan hukum anak luar nikah karena anak luar nikah v memperoleh afiliasi keperdataan dengan ayah biologisnya sepanjang eksistensi hubungan biologis tersebut dapat diverifikasi melalui instrumen ilmu pengetahuan, teknologi, maupun alat pembuktian lain yang diakui dalam sistem hukum. Putusan tersebut juga memberikan perlindungan hukum kepada hak anak luar nikah guna memperoleh identitas, nafkah, pemeliharaan, pendidikan, perlindungan hukum, serta hak waris sehingga dapat mengurangi diskriminasi terhadap anak luar nikah dan mewujudkan prinsip keadilan serta perlindungan hak asasi anak.

Kata Kunci: Anak Luar Nikah, Hak Keperdataan, Perlindungan Hukum, Putusan Mahkamah Konstitusi Nomor 46/PUU-VIII/2010.

LEGAL IMPLICATIONS FOR THE CIVIL RIGHTS OF CHILDREN BORN OUT OF WEDLOCK FOLLOWING THE CONSTITUTIONAL COURT DECISION NUMBER

ABSTRACT

The issuance of the Constitutional Court Decision Number 46/PUU-VIII/2010 has brought significant changes to the legal status of children born outside marriage within the Indonesian legal system. Prior to the decision, children born outside marriage only had civil relations with their mother and their mother's family as stipulated in Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage. This provision created various forms of discrimination against children born outside marriage, particularly in obtaining civil rights, identity, financial support, care, and inheritance rights from their biological father. Therefore, this study aims to analyze the legal implications of Constitutional Court Decision Number 46/PUU-VIII/2010 on the civil rights of children born outside marriage as well as the forms of legal protection granted to them in Indonesia. This research uses normative juridical research with a statutory approach. Data collection was carried out through library research by examining laws and regulations, court decisions, legal books, journals, and other literature related to the research object. The data analysis technique used was qualitative and descriptive in order to obtain a systematic understanding of the legal issues discussed. The results of this study indicate that Constitutional Court Decision Number 46/PUU-VIII/2010 has significantly changed the legal status of children born outside marriage because such children may have civil relations with their biological father as long as it can be proven through science and technology and/or other legal evidence according to the law. The decision also provides legal protection for the rights of children born outside marriage to obtain identity, financial support, care, education, legal protection, and inheritance rights, thereby reducing discrimination against them and realizing the principles of justice and protection of children's human rights. However, in its implementation, there are still several obstacles arising from social, cultural, and normative differences between positive law and religious norms existing within society.

Keywords: Children Born Outside Marriage, Civil Rights, Legal Protection, Constitutional Court Decision Number 46/PUU-VIII/2010