

The Constitutional Rights of Children Born Wedlock As Legal Subjects

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Article History: Received: Oktober 21, 2025; Accepted: December 22, 2025

ABSTRACT

This study examines legal subjects, focusing on illegitimate children as legal subjects in the Indonesian legal system. Legal subjects include individuals or legal entities with legally recognized rights and obligations. In this context, children, as human beings, are legal subjects with basic rights guaranteed by the 1945 Constitution and related laws and regulations, including the Child Protection Law and the Marriage Law. Illegitimate children, born from unregistered marriages, often face challenges in legal recognition and the fulfillment of their rights. However, Indonesian law emphasizes that parents' marital status should not be a basis for discrimination against children, so that illegitimate children still have the right to legal recognition, identity, protection, and access to social, economic, and educational rights. This study emphasizes the importance of the principles of justice and legal certainty in providing protection for all legal subjects, including illegitimate children, to ensure their rights are fulfilled fairly and equitably. Thus, legal recognition of illegitimate children not only reflects compliance with national and international legal provisions but also supports the creation of social justice and child welfare. This research is expected to form the basis for a deeper understanding of the role of law in protecting children's rights as legal subjects without discrimination, as well as providing recommendations for more inclusive legal practices and policies.

Keywords: Constitutional Rights, Children Born Out of Wedlock, Legal Subjects.

1. INTRODUCTION

Indonesia as a country has established itself as a state of law, as is the basic essence of state life as regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Based on values recognized by the international community, there are 4 (four) cumulative elements in order to form a state; and one of them is the people. The people in this case also play a role as holders of state sovereignty for the people as regulated in Article 1 paragraph (2) of the UUD NRI 1945. (Asshiddiqie & Safa'at, 2006); Soekanto, 2010; Mahfud MD, 2011).

As legal subjects, the people have their own rights and obligations. In this regard, there are various terms for the rights held by the people, where constitutional rights are the most fundamental because they arise from and originate from the constitution or basic law. In Indonesia, the 1945 Constitution of the Republic of Indonesia as a constitution does not explicitly define the meaning of constitutional rights, but it does explicitly outline their types. Legal academic I Dewa Gede Palguna defines constitutional rights as rights guaranteed by the constitution or basic law,



whether expressly or implicitly stated; therefore, as part of the constitution, they must be recognized and respected by all branches of state power. (Asshiddiqie & Safa'at, 2006); Soekanto, 2010; Mahfud MD, 2011).

The description of the types of constitutional rights in the 1945 Constitution of the Republic of Indonesia can mostly be found in Article 28 and Article 28A to Article 28J which contain Human Rights (HAM) norms, so that many people equate constitutional rights and HAM. In fact, the types of constitutional rights are more than just HAM, where these types of rights can also be found in several other articles in the 1945 Constitution of the Republic of Indonesia; such as Article 18B paragraph (2) regarding respect for the existence of customary law communities, Article 27 paragraph (2) regarding the right to work and a decent living for humans, Article 29 regarding the right to embrace each religion and worship according to the teachings of their religion, Article 30 paragraph (1) regarding the right to participate in state defense and security efforts; and Article 31 paragraph (1) regarding the right to receive an education. (Asshiddiqie & Safa'at, 2006); Soekanto, 2010; Mahfud MD, 2011).

Children become part of the nation after being born to a mother after being fertilized by a father. Therefore, children have constitutional rights that must be recognized and respected by fellow citizens, and protected by the state through the government. Current social phenomena and legal facts indicate the occurrence of sexual deviance in Indonesia, particularly sexual relations between a man and a woman without prior legal marriage. This deviance is likely the result of globalization and the presence of Western culture, which tends to grant absolute personal freedom to every human being. This principle is often known by the acronym YOLO, or You Only Live Once, which can be interpreted as "you only live once," so that people who adhere to this principle feel free to engage in all forms of activity, including deviant activities, to fulfill their needs and desires. (Asshiddiqie & Safa'at, 2006).

This differs from the Eastern culture that Indonesia has embraced since ancient times, which prioritizes traditional and divine values. Eastern culture, in this regard, requires a man and a woman to have sexual relations if they are first legally married. Therefore, any child born from their relationship is legitimate, whether under state law, customary law, or religious law. Western culture, on the other hand, creates relationships that result in children with different levels of legitimacy. Biologically, a child still has a father and a mother. This differs from conventional law, as also applied in Indonesia, where a child must be connected to both their father and mother through a legal marriage.



In this research, the researcher was inspired by a case experienced by a public figure in Indonesia that had attracted the attention of the wider community. They are Rezky Aditya Dradjatmoko (Rezky) and Wenny Ariani Kusumawardani (Wenny) who were initially sued by Wenny in the Tangerang District Court and decided in Decision Number 746 / Pdt.G / 2021 / PN Tng (PN Decision). Initially, Rezky and Wenny knew each other since 2012, where they had an increasingly intimate relationship without a legal marriage relationship, to the point that they often stayed overnight together as witnessed by trial witnesses. This relationship resulted in the birth of a daughter named Naira Kaemita Tarekat (Naira) by Wenny in 2013. Naira is classified as Wenny and Rezky's illegitimate child because Naira was born without a legal marriage relationship. According to Wenny, Rezky is not responsible to both of them because Rezky did not intend to marry Wenny and did not intend to support Naira either.

Wenny sued Rezky on the grounds that he failed to fulfill the physical and spiritual support for Wenny and Naira, thus being deemed to have fulfilled Article 1365 of the Indonesian Civil Code concerning Unlawful Acts (PMH). Wenny's petition at that time was to declare Naira as Rezky's biological child and to order Rezky to pay the material and immaterial losses she had outlined. The District Court's decision, read on February 3, 2022, stated that Wenny's lawsuit was inadmissible for several reasons, such as the absolute authority held by the Religious Court because Wenny and Rezky are Muslim, the lawsuit was unclear due to the contradiction between PMH and the child's recognition, and the wrong party's lawsuit due to the wrong identity card and Wenny was deemed to have no legal interest.

Wenny again sued Rezky by filing an appeal at the Banten High Court, where the decision stated otherwise that Rezky had fulfilled the PMH article and Naira was Rezky's biological child as long as he could not prove otherwise. The appeal decision through Decision Number 109 / PDT / 2022 / PT BTN (PT Decision) was based on witness statements regarding the truth of the cohabitation between Rezky and Wenny. Rezky, who did not accept the PT Decision, then filed an appeal at the Supreme Court with the same position as the panel of judges' considerations in the District Court Decision, but Decision Number 1055 K / Pdt / 2023 (Supreme Court Cassation Decision) declared Rezky's application rejected. The Supreme Court Cassation Decision was based on the absence of errors in the application of law in the PT Decision. Thus, the PT Decision and the Supreme Court Cassation Decision confirmed that Naira was legally Rezky's biological child as long as she could not prove otherwise, even though this decision was not based on biological testing through a Deoxyribonucleic Acid (DNA) test between Rezky and Naira. Until this research was completed, a judicial review had not been filed for this case.



Researchers also got inspiration from a case experienced by public figures in Indonesia who were also attracting public attention when this research was conducted. They are Erika Carlina (Erika) and Giovanni Surya Saputra (DJ Panda), where the legal facts began with Erika's confession in a podcast on July 18, 2025, that she had been pregnant with a child for 9 (nine) months and was ready to give birth, even though she was not legally married, either religiously or stately. The child is suspected to be the biological child between Erika and DJ Panda. According to Erika's statement, her marriage to DJ Panda was once planned, but was later canceled due to religious considerations. The next podcast broadcast on July 22, 2025, featured a man named Bravyson Vconk (DJ Bravy) who was not the biological father of the child Erika was carrying, but he expressed his willingness to marry Erika during her pregnancy. In early August 2025, Erika's child was born in a healthy condition. Until this research was completed, this case had not had any significant legal follow-up, either regarding the marriage of Erika and the father of the child or the recognition or legalization of the illegitimate child.

According to the researcher, this legal decision and legal facts reflect the lack of certainty, justice, and legal protection for biological children. In Indonesian legal norms, the terminology of biological children is not explicitly regulated in legislation, but is often used as a legal decision in court. Therefore, the terminology of biological children, if interpreted grammatically, is a child related to the nature of a living creature; so that a biological child can be interpreted as a child born as a result of a reproductive relationship between a man and a woman. An illegitimate child is one of the descendants of a biological child, namely the child of a man and a woman, but not in a legal marriage bond. This illegitimate child receives an unclear legal status and can change at any time due to evidence to the contrary, even though this decision is a decision at the cassation level or the highest level that has permanent legal force. Sociologically, illegitimate children have received a negative stigma in the eyes of society which certainly has a negative influence on the level of child development. In fact, Supreme Court decisions are expected to serve as legal references or jurisprudence, useful for judges in formulating legal considerations when rendering decisions on similar legal cases in the future. This will impact the rights that illegitimate children should receive, particularly regarding constitutional rights when they transform into legal subjects within the family and community. (Asshiddiqie & Safa'at, 2006).

As a law that regulates the protection of children's rights as stated in the considerations for its formation, the Child Protection Law has never explicitly presented the terminology and existence of children born outside of marriage, both as regulated in Law Number 23 of 2002 and as amended in Law Number 35 of 2014. (Ali, 2015).



2. RESEARCH METHODS

The research method used is normative legal research. The approach used in this study is a statutory approach and a case approach. The legal material sources are primary legal materials and secondary legal materials. After all legal materials are collected, they are then analyzed using prescriptive methods, namely grammatical interpretation and systematic interpretation. Grammatical interpretation is a method of interpretation or explanation that aims to determine or understand the meaning of words in the law in accordance with the rules of language and grammatical law. (Marzuki, 2017).

3. RESULTS AND DISCUSSION

Constitutional Rights of Children Born Out of Wedlock as Legal Subjects

1. Juridical Analysis of Rights in Law

Terminologically, the concept of rights can be viewed from various perspectives and approaches to legal science. Yuhelson defines rights as the power or permission granted by law to a person or legal entity to utilize the proceeds of an object belonging to them, with the limitation that such rights may not be used contrary to applicable laws and regulations. This definition positions rights not only as authority, but also as a legal responsibility inherent in their holder. In another view, rights are also interpreted as the authority granted by objective law to a legal subject to do or not do something regarding a certain object, with limitations in the form of principles of propriety, public order, and positive legal norms. This means that rights always exist within the corridor of legal responsibility, so their use is not absolute. In foreign terminology, the term rights is known as *ius* (Latin), *droit* (French), and *subjectief recht* (Dutch), while the term law or objective recht is used to describe the system of norms that give rise to these rights. In Apeldoorn's perspective, rights are laws inherent to certain legal subjects and then transformed into concrete powers that arise when the law begins to operate. (Kelsen, 1949).

In classical civil law doctrine, rights are generally divided into two main categories: absolute rights and relative rights. Absolute rights are universal and can be asserted against anyone, such as human rights, state public rights, and civil rights such as guardianship and custody. Conversely, relative rights are specific and can only be asserted against certain individuals in specific legal relationships, such as rights arising from a contract between a seller and a buyer. Beyond this division, legal experts also classify rights from various other perspectives, such as perfect and imperfect rights, primary and additional rights, public and civil rights, positive and negative rights, and property and personal rights. This division demonstrates that rights have



complex dimensions, not only in terms of their object, but also in terms of their implementation and legal force. Legally, the existence of rights is always balanced by legal boundaries that regulate when and how these rights can be exercised, in order to maintain a balance between individual interests and the public interest. (Ali, 2015).

In the legal system, rights do not emerge suddenly, but rather arise due to certain legal factors. These factors include the birth of a new legal subject (either an individual or a legal entity), the existence of a valid agreement, the occurrence of losses due to the fault of another party, the fulfillment of obligations as a condition for the emergence of rights, or the passage of a certain time that gives rise to rights through *acquisitief verjaring*. Conversely, rights can be lost for various reasons such as the death of the rights holder without heirs, the expiration of the right's validity period, the fulfillment of the performance that is the object of the right, or because of the expiration that eliminates the right (*extinctief verjaring*). Meijers emphasized that nothing is more central to civil law than rights themselves, because rights are the basis of legal relations between humans. Rights are a fundamental element in all branches of law, not only in civil law, because the existence of law itself aims to regulate and protect the rights of legal subjects. Thus, law can be seen as a normative system created to guarantee the existence and protection of human rights. (Kelsen, 1949).

Rights recognized and enforced in a positive legal system are called legal rights. Legal rights differ from moral rights because their existence is determined by positive law and can be enforced through legitimate legal mechanisms. The classic adage *ubi jus ibi remedium* asserts that where there is a right, there must be legal efforts to protect it. Legal rights have important elements, as stated by GW Paton, namely the existence of a rights holder, the existence of an action or prohibition on an action related to that right, the existence of the object of the right (*res concerned*), and the existence of another party bound by legal obligations. Thus, every legal right is always relational—there is no right without corresponding obligations. Legal rights not only grant power to the rights holder but also oblige others to respect, recognize, and not violate that right. In this context, law functions as a mechanism to regulate the balance between rights and obligations in society. (Ali, 2015).

In addition to legal rights, moral rights are also recognized, which are based on ethical norms and societal customs. Lili Rasjidi distinguishes between moral rights and legal rights, where moral rights stem from unwritten beliefs and social norms, while legal rights stem from statutory regulations. Moral rights often serve as the inspiration for the birth of legal rights, because positive law essentially functions to institutionalize societal moral values into binding legal norms.



Salmond argues that rights in law have several characteristics, including being inherent in the individual as the rights holder, imposing obligations on others, relating to a specific object, and being based on a specific legal event. This idea was expanded upon by Zainal Asikin, who emphasized that rights always involve a relationship between the rights holder and the other obligated party, and have a valid legal title or basis. Thus, both morally and legally, rights are a manifestation of the balance between personal interests and social responsibilities within the legal structure. (Ali, 2015)

In the context of the state, rights occupy the highest position in the form of constitutional rights, namely rights recognized, guaranteed, and protected by the 1945 Constitution of the Republic of Indonesia. Constitutional rights are the pinnacle of the hierarchy of legal rights because they are fundamental and cannot be reduced by lower-level laws and regulations. These rights encompass not only recognition of the existence of rights holders, but also guarantees of protection against any violations of their use. As emphasized in the theory of legal rights, the existence of constitutional rights must be accompanied by constitutional obligations arising from both the state and citizens. This reciprocal relationship ensures that the exercise of rights does not create a conflict of interest, but rather creates a balance between individual rights and collective interests. Thus, within the framework of national legal development, the recognition and protection of constitutional rights serve as the foundation for upholding the principles of a democratic, just, and dignified state based on the rule of law. (Asshiddiqie & Safa'at, 2006).

2. Legal Analysis of the Relationship between Rights and Obligations in Law

Before analyzing the relationship between rights and obligations from a legal perspective, the first thing to understand is the definition of obligation itself. According to Notonegoro, an obligation is a responsibility that cannot be transferred to another party to carry out something that has been determined by law or by another authorized party, and can be strictly demanded if the obligation is not carried out. This definition places obligations as a form of responsibility that is personal and inherent in the legal subject. Obligations are also often interpreted as a legal burden of a contractual nature in accordance with the principle of *pacta sunt servanda*, which means that obligations arise simultaneously with rights when a legal relationship exists between the parties. Therefore, as long as the legal relationship still exists and has not ended, rights and obligations will continue to run simultaneously. In a broader context, obligations are not merely a consequence of the existence of rights, but also an integral part of the structure of justice, because only by consistently implementing obligations can rights be guaranteed and effectively protected. (Kelsen, 1949).



In the Indonesian legal system, the obligations of citizens are not only regulated morally, but also explicitly in the 1945 Constitution of the Republic of Indonesia. Several articles provide confirmation of the importance of these obligations. For example, Article 27 paragraphs (1) and (3) emphasize that every citizen is obliged to uphold the law and government and participate in efforts to defend the country. Furthermore, Article 28J paragraphs (1) and (2) regulate the obligation of every person to respect the human rights of others and to submit to restrictions established by law to guarantee collective rights and freedoms. The obligations of citizens are also emphasized in Article 30 paragraph (1) regarding participation in state defense and security efforts, and Article 31 paragraph (2) which requires citizens to attend basic education, while the government is obliged to finance it. These provisions demonstrate the reciprocal relationship between rights and obligations in the constitution, where citizens' rights are balanced by the obligations of the state, and vice versa, citizens' obligations are a prerequisite for guaranteeing constitutional rights themselves. (Asshiddiqie & Safa'at, 2006).

Obligations do not always arise from agreements, but can also arise from general legal provisions that bind all citizens. In this case, obligations are interpreted as the obligation to obey the law, or what is known as *rechtsplicht*, namely legal obligations inherent in legal subjects due to the validity of legal norms. An example is the obligation of landowners to pay land and building taxes annually. LB Curzon, as quoted by Achmad Ali, divides obligations into several categories: absolute duties and relative duties, public duties and private duties, positive duties and negative duties, universal duties, general duties, and particular duties, and finally, primary duties and sanctioning duties. This classification shows that obligations have various forms and different levels of binding, depending on the source, scope, and legal subject. Thus, obligations cannot be understood singly, but must be analyzed systematically in relation to the corresponding rights, so that the balance between the two elements is maintained. (Kelsen, 1949).

Law plays a central role in regulating relations between individuals, society, institutions, and the state through the mechanisms of rights and obligations. In legal relations, these two elements are two sides of the same coin that cannot be separated—there can be no rights without obligations, and no obligations without rights. Legal relations are social in nature, as they always involve interactions between legal subjects, whether individuals with individuals, individuals with legal entities, or between legal entities. These relationships can arise from agreements as affirmed in Article 1233 of the Civil Code, or from statutory provisions. This view aligns with classical theories from Aristotle to Immanuel Kant, which emphasize that law must be able to guarantee order in relations between individuals, where everyone has equal freedom to act as long as it does



not violate the rights of others. Puchta's thinking deepens this aspect by emphasizing that a legal relationship can only be said to exist if it gives rise to a coercive obligation. Meanwhile, Alexander Somek adds that legal relations have not only a legal dimension, but also a moral one, because law is essentially born from moral norms believed to be good by society. (Kelsen, 1949).

In the context of a state, the relationship between citizens and the state is reciprocal. Citizens' rights constitute the state's obligation to fulfill them, while the state's rights constitute obligations that citizens must respect. For example, a citizen's right to education obligates the state to provide adequate educational facilities, and conversely, the state's right to be defended by its people creates an obligation for every citizen to participate in national defense. This reciprocal relationship forms the structure of substantive justice as outlined by Rachmi Sulistyarini, who states that justice will only be achieved when there is a balance between rights and obligations. Those who obtain rights without fulfilling obligations violate the principle of justice, as rights cannot stand alone without moral boundaries and legal responsibilities. Therefore, in the context of a state based on the rule of law, the fulfillment of citizens' obligations is a prerequisite for the functioning of constitutional rights guaranteed by the constitution. (Asshiddiqie & Safa'at, 2006).

The relationship between rights and obligations in law can be observed more clearly when violations of certain rights occur. Violations of constitutional rights usually stem from negligence or denial of obligations, either by citizens or by the government. In this context, legal certainty is crucial—so that every legal relationship between the state and citizens has clear, precise, and enforceable normative guidelines. Berteau emphasized that the relationship between laws, rules, and obligations reflects three main points: laws are established to determine actions to be taken, statutory regulations establish interrelated obligations and rights, and the legal system is authoritative to ensure compliance. In line with this, Justin Ramages stated that the relationship between rights and obligations always involves legal events, the subject of rights, the object of rights, and the subject of obligations responsible for their implementation. Thus, both the state and citizens have interrelated and inseparable constitutional rights and obligations. The supremacy of law will only be realized if both parties carry out their roles proportionally, ethically, and responsibly to uphold the principles of justice and legal certainty in national life. (Asshiddiqie & Safa'at, 2006).

3. Legal Analysis of Legal Subjects and Children Born Out of Wedlock

The legal subject is a fundamental concept in legal science because it serves as the central point connecting legal norms and legal actors themselves. Within a juridical framework, law would have no meaning without a subject who can implement, enforce, and experience the consequences



of said law. According to Logemann, law always consists of three important elements besides the legal subject: relationship, time, and thing. However, the legal subject is central because it is he who brings legal norms to life in practice. Without a legal subject, law is merely a normative text without actualization. Therefore, the existence of a legal subject is fundamental to the sustainability of the legal system, including in the context of recognizing the constitutional rights of illegitimate children. (Asshiddiqie & Safa'at, 2006).

In the Indonesian legal system, legal subjects are divided into two broad categories: humans (*natuurlijk persoon*) and legal entities (*rechts persoon*). Humans as legal subjects have rights and obligations from birth, even a baby still in the womb is legally considered a legal subject if there is a specific interest, as regulated in Article 2 of the Civil Code. Meanwhile, a legal entity is a legally created entity that can act like a human being as long as it is recognized by statutory regulations. These two forms of legal subjects have the same principle, namely that both can be holders of rights and obligations, although the way they are born as legal subjects is different: humans are natural, while legal entities are legally through ratification. (Kelsen, 1949).

In Hans Kelsen's framework, the existence of a legal subject cannot be separated from the legal norms that govern it. Kelsen rejected the view that a legal subject is a real entity independent of the law. For him, a legal subject is fictitious because its existence can only be explained through applicable legal norms. In this view, a person can only be considered a legal subject because the law grants them that status. Thus, rights and obligations are not inherently inherent to humans, but rather are the result of positive legal constructions established by lawmakers. This view is important to emphasize that the recognition of illegitimate children as legal subjects is also entirely determined by the governing legal norms, not by morality or social views alone. (Kelsen, 1949).

Kelsen also introduced the concept of a legal organ, a fictional representation of society that carries out the function of creating and enforcing law. In this context, every individual can become a legal organ because they have a role in creating and enforcing legal norms. However, Kelsen emphasized that "society" here is not a sociological entity, but rather a normative structure. This means that law does not regulate society based on its social conditions, but rather on an ideal and systematic order of norms. Therefore, the recognition of illegitimate children as legal subjects must be understood as a normative decision that the state, through law, must provide definite legal standing for illegitimate children. (Kelsen, 1949).

In the Indonesian context, children have been explicitly recognized as legal subjects by the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). Article 28B paragraph (2) states that "Every child has the right to survive, grow, and develop and has the right to protection from



violence and discrimination." This provision provides a constitutional basis that children are legal subjects who have basic rights. However, the 1945 UUD NRI does not specifically differentiate between types of children based on their birth status. Therefore, every child, including children born out of wedlock, should receive the same constitutional protection, because the constitution rejects all forms of discrimination based on birth origin. (Asshiddiqie & Safa'at, 2006).

Unfortunately, positive law in Indonesia still displays ambiguity in regulating the status of illegitimate children. Neither the Civil Code nor Law No. 1 of 1974 concerning Marriage (as amended by Law No. 16 of 2019) provides an explicit definition of illegitimate children. The Civil Code only addresses illegitimate children in the context of inheritance and the legitimation of children through subsequent marriages. Meanwhile, the Marriage Law addresses illegitimate children in relation to civil relations with their parents. This ambiguity results in unequal legal treatment, particularly for children born from religiously valid marriages but not registered by the state.

Constitutional Court Decision No. 46/PUU-VIII/2010 marked a significant milestone in expanding legal protection for illegitimate children. In the ruling, the Court affirmed that illegitimate children have a civil relationship not only with their mother but also with their biological father as long as it can be proven by science and technology, as well as other valid evidence. Thus, the Constitutional Court restored the rights of illegitimate children as full legal subjects, eliminating the discrimination that previously occurred due to limited administrative marriage registration. This ruling affirmed that the validity of a child's legal relationship with their parents should not be determined solely by administrative aspects, but by the substance of justice and humanity. (Asshiddiqie & Safa'at, 2006).

The Indonesian Constitution, as a fundamental law, embodies universal values that reject all forms of discrimination. Article 28I paragraph (4) affirms that the protection, advancement, enforcement, and fulfillment of human rights are the responsibility of the state, particularly the government. In the context of illegitimate children, this provision places the state in an active position to ensure that every child, regardless of their birth status, receives equal rights. The state cannot rely on legal vacuum or narrow interpretation to deny this responsibility, because the 1945 Constitution of the Republic of Indonesia itself is directly binding and has the highest normative force. (Asshiddiqie & Safa'at, 2006).

Thus, the constitutional rights of illegitimate children do not only include the right to live and grow, but also the right to be legally recognized as subjects equal to legitimate children. The principle of equality before the law as stipulated in Article 28D paragraph (1) of the 1945



Constitution of the Republic of Indonesia must be applied without discrimination. Constitutional justice demands that the law not only provides formal protection, but also provides fair substantive treatment. When illegitimate children are prevented from obtaining recognition of their civil rights, the state has failed to fulfill its constitutional obligations. (Asshiddiqie & Safa'at, 2006).

Within the framework of dignified justice as proposed by Teguh Prasetyo, the law must maintain social balance through concrete protection for the vulnerable, including illegitimate children. Dignified justice means not only enforcing the law as it stands (law on the books), but also ensuring that the law functions to humanize people (law in action). Therefore, explicit provisions regarding the rights of illegitimate children in the constitution or in derivative legislation are essential to maintain the integrity of the national legal system and create a sense of substantive social justice. (Asshiddiqie & Safa'at, 2006).

If the 1945 Constitution of the Republic of Indonesia is amended or refined in the future, the urgency of explicitly recognizing the rights of illegitimate children must be part of the constitutional agenda. This will not only strengthen the principle of non-discrimination but also improve the quality of Indonesia's rule of law (*rechtstaat*). In line with Otto's view that the quality of a rule of law depends on the autonomy of its legal substance, explicitly affirming the rights of illegitimate children in the constitution will strengthen legal certainty and the state's moral legitimacy in the eyes of its citizens. (Asshiddiqie & Safa'at, 2006).

In conclusion, this legal analysis emphasizes that illegitimate children must be recognized as legal subjects with the same constitutional rights as other legitimate children. The state is obliged to ensure the protection, advancement, and fulfillment of these rights without discrimination. The constitution is not only a tool for legitimizing power, but also a moral contract between the state and its citizens, including children born out of wedlock. Therefore, explicit recognition of illegitimate children as legal subjects at the constitutional level is not only a legal necessity but also a moral, social, and humanitarian demand for the achievement of dignified justice for all citizens. (Asshiddiqie & Safa'at, 2006).

4. CONCLUSION

Overall, the explanation above discusses the concept of legal subjects as a fundamental element in law. Legal subjects include humans (*natuurlijk persoon*) and legal entities (*rechts persoon*), each of which has legally recognized rights and obligations. Humans are legal subjects from birth to death, while legal entities must meet certain requirements such as having separate assets, a legitimate purpose, their own interests, and an organized organization. Each legal subject



has different legal competencies (juristic competencies), including legal capacity, capacity to act, locus standi in judicio, and accountability. Hans Kelsen's view emphasizes that legal subjects are fictitious, because the rights and obligations of legal subjects are determined by legal norms, not by the will of the individual himself. (Kelsen, 1949).

In the Indonesian context, children are recognized as legal subjects with basic rights, as stipulated in the 1945 Constitution and related laws and regulations, such as the Child Protection Law and the Marriage Law. The concept of illegitimate children is a complex issue because there is no clear definition in the Civil Code or the Marriage Law. Children born of religiously valid marriages but not administratively registered are often categorized as illegitimate children, although their rights must still be recognized. This emphasizes the importance of fair legal protection for every child, regardless of the marital status of the parents. (Asshiddiqie & Safa'at, 2006).

The constitutional basis for the rights of illegitimate children as legal subjects is closely linked to the principles of justice and legal certainty in the 1945 Constitution. The Constitution serves as a fundamental norm that regulates the foundations of the state and the rights of citizens, including children, so that they are legally protected. Therefore, recognizing illegitimate children as legal subjects ensures that they have equal rights and obligations, in accordance with positive laws and regulations, and minimizes discrimination or injustice that may arise due to their birth status. This emphasizes that the law must provide comprehensive protection for all legal subjects, including illegitimate children. (Asshiddiqie & Safa'at, 2006).

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