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The Position of Deoxyribo Acid Nucleid Results as Digitization Evidence in Realizing Child Rights Reform in Indonesia

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Abstract: Technological progress continues along with changing times. The application of technology has penetrated various aspects of daily life, making it more practical. Often, problems arise when the father does not recognize his child, which results in the child losing his rights, including the right to receive love from his own father. To overcome this, MK Decision no. 46/PUU-VIII/2010 concerning Review of Article 43 paragraph (1) of Law no. 1 of 1974 concerning Marriage changed the paradigm of evidence by allowing the use of DNA testing technology to determine the lineage of children outside of marriage. The formulation of the problem raised in this research is 1) how is the role of digitalization in realizing children's rights, studying the decision of the Supreme Court of the Republic of Indonesia; and 2) how to reform children's rights in Indonesia in the era of digitalization 4.0. The research method uses normative juridical with a statutory regulatory approach and conceptual approach. The research results show that several existing decisions often refer to digital evidence in the form of DNA (Deoxyribo Nucleid Acid) and decisions that mostly use this evidence will protect children's rights and end up maximizing the protection of children's rights when the parents deny the status of their child in front of the judge. Then the process of proving children's rights using digitized evidence can be carried out by adopting this evidence in Law no. 7 of 1989 concerning Religious Courts to create legal certainty for families, especially for children themselves.

Keyword: Digitalization, Children's Right, Evidence, Dexyribo Nucleid Acid, Position.

INTRODUCTION

The development of the times requires the adoption of digitalization which is increasingly spreading to all levels of society. Society's needs are to keep up with developments occurring in the world, including in terms of digitalization. Digitization is the process of changing document archives into digital form, which requires equipment such as computers, scanners, operator power and supporting software. Apart from that, the industrial

revolution 4.0 also encourages the acceleration of digitalization, including in the context of legal developments which are closely related to certainty, usefulness and legal justice in society.

The legal structure in Indonesia is based on legal objectives which emphasize certainty, expediency and justice (Rahim et al., 2023; F. Rahman, 2020). These three aspects are used as the basis for ensuring that the law has a positive impact on society (Muslih, 2017). These principles are officially regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that Indonesia is a rule of law state that firmly emphasizes the supremacy of law and limitations on power based on the constitution (Herdiana, 2020; Usman, 2015). The impact of these principles is that the supremacy of law is the main focus in Indonesia, and there are clear limits to the powers granted by the constitution. In addition, in the context of the Indonesian rule of law, every step taken by officials or events and legal relationships is based on law, so that these three goals can be achieved simultaneously (Ridwan et al., 2020).

The Indonesian legal system, especially marriage law, is regulated in Law no. 1 of 1974 concerning Marriage, which was last amended in Law Number 16 of 2019 concerning Amendments to Law No. 1 of 1974 concerning Marriage. The legal concept in this law is closely related to protecting and requiring a systematic regulation regarding marriage so as to create a good and structured concept (Rahmi & Sakdul, 2016). The regulations in the law include registration of marriages, marital status and the position of children and inheritance (Asyatama et al., 2021).

Legal certainty in Islamic law is highly respected, especially in terms of recognition of entities in the womb. The concept of legal certainty in the context of modern legal theory initiated by Gustav Radbruch underlines the importance of having clear rules in law to prevent arbitrary actions (Asyatama et al., 2021). In this framework, every legal action must be based on the law itself so as not to create uncertainty (Syafrida & Hartati, 2020). This principle is also confirmed in Islamic law by recognizing the validity of the rules of Allah Subhanahu Wa Ta'ala as the highest law as stated in Surah Al An'am (6): 57 which reads that:

الْفَصْلَيْنِ خَيْرٌ وَهُوَ الْحَقُّ بِفَضْلِ اللَّهِ إِلَّا الْحُكْمُ إِنَّ بِهِ تَسْتَعْجِلُونَ مَا عِنْدِي مَا بِهِ وَكَذَّبْتُمْ رَبِّي مَنْ بَيِّنَةٌ لِيَ عِائِي قُلْ

Meanings: "Say (Muhammad), "I (am) on the real information (the Koran) from my Lord while you deny it. It is not in my authority (to bring down the punishment) that you demand that its arrival be hastened. Establishing (the law) is only the right of Allah. He explains the truth and He is the Giver of the best decisions." (Surah Al-An'am (6): 57)

Apart from that, the letter Al Qasas (28): 59 also explains legal certainty and the nature of laws that do not apply retroactively. This concept requires that mistakes that occurred in the past before a law was revealed will not be punished based on laws that were passed down later. When drawn on the a quo concept, it is very identical to the concept of the principle of legality which requires prior regulation of an act before finally a person can be punished on criminal grounds if the act is regulated as a criminal act in law. The verse reads that:

الْوَرِثِينَ نَحْنُ وَكُنَّا قَلِيلًا إِلَّا بَعْدَهُمْ مَنْ تُسَكَّنُ لَمْ مَسْكِنُهُمْ ۖ قَاتِلُكَ مَعِيثَتَهَا بَطَرْتُ ۖ قَرِيَّةٍ مِنْ أَهْلِكَ وَأَكْم

Artinya: "And your Lord will not destroy countries, until He sends a messenger in their capitals who recites Our verses to them; and never (nor) did We destroy (the inhabitants of) the land; unless the people commit injustice." (Surat Al-Qasas (28): 58).

The concept of a child's status in marriage law is closely related to the validity of a marriage. According to Article 2 paragraphs (1) and (2) of Law no. 1 of 1974, a marriage is considered valid if it is carried out in accordance with the laws of each religion and belief, and is registered in accordance with applicable laws and regulations (Burlian, 2019). This is important because it determines the legitimacy of a person's birth or the status of a child firmly (Martiono, 2020). On the other hand, if the marriage is invalid, then the legal status of the child becomes uncertain (R. Rahman et al., 2021).

The importance of children in human life is reflected in the Shari'a of Allah SWT which requires marriage (Parsid, 2016). Marriage is considered a sacred bond in forming a stable family and offspring (Bariah, 2014). However, if a marriage is not carried out in accordance with applicable legal regulations, it is not considered legally valid, which has legal implications for the husband, wife and children born from the marriage (Hamid & Fakhyadi, 2022). The objectives of the Shari'a regarding marriage include, among other things, to continue good offspring, maintain one's lineage, prevent disease, and create a harmonious family. In Islam, offspring is considered legitimate if the pregnancy occurs in a legally valid marriage (Wibowo & Luth, 2020).

According to positive law in Indonesia, the status of children is differentiated into legitimate descendants and illegitimate descendants. Legal descendants are based on a valid marriage, meaning that other descendants are based on birth or as a result of a valid marriage, the child is called a legitimate child. Meanwhile, illegitimate offspring are not based on a valid marriage, so children born are called illegitimate children (Bari, 2023). Meanwhile, the position of children is regulated in Article 43 paragraph (1) based on Law Number 1 of 1974 concerning Marriage, it is explained that children born outside of marriage only have a family relationship with their mother and their mother's family. Islamic law which regulates that illegitimate children are only related to their mother is also contained in the Legal Compilation (KHI) (Prabowo, 2013). Article 100 KHI determines that "children born outside of marriage only have a civil relationship with their mother and their mother's family" (Harahap & Omara, 2010). Therefore, KHI can be said to be an embodiment of law that is unique to Indonesia.

After the issuance of Constitutional Court Decision Number 46/PUU-VIII/2010, namely the meaning of Article 43 paragraph (1) of Law Number 16 of 2019, Second Amendment to Law Number 1 of 1974 concerning Marriage, which states that children born outside of marriage only have civil relationship with the mother and her mother's family as well as with a man as the father who can be proven based on science and technology and/or other evidence according to law to have a blood relationship including a civil relationship with the father's family (Pratiwi et al., 2020). With the issuance of the Constitutional Court's decision, it became a polemic that has not yet ended among Islamic legal figures and Indonesian society (Ghozali & Fahrazi, 2020). The main factors are related to the decision material itself. The material is Islamic law which is very applicable, practical, and is rooted in the lower levels of society, because it concerns marriage and marriage institutions and even civil registration institutions. The context of the Constitutional Court's decision shifts the paradigm in national marriage law, which starts from a child having an extramarital relationship only having a blood relationship with the mother, to being permitted with the father with the obligation to be proven by science and technology and/or other evidence according to the law of having a blood relationship, including civil relations with his father's family.

Cases of non-recognition of a child out of wedlock were found in the RAD and WAK cases where RAD avoided recognizing their biological children. Conditions in Banten High Court Decision No. 109/PDT/2022/PT BTN granted the appellant, namely the plaintiff (in this case WAK) by basing it on one of the Constitutional Court Decisions No. 46/PUU-VIII/2010 and Birth Certificate Excerpt Number. 3174 LT-15032016-0133. Apart from that, the concept of digital evidence can also strengthen the plaintiff's argument even though it is not used, only on the judge's basis in his legal considerations. Apart from that, it is contained in the Indramayu District Court Determination No. 394/Pdt/P/2022/Pn IDM. The determination of illegitimate children was requested by Lina Wati Dewi and HSU Hsin Jan who also referred to Constitutional Court Decision No. 46/PUUVIII/2010 with reference to DNA evidence which strengthens the evidence of the amendment to Article 43 paragraph (1) of Law no. 1 of 1974 by allowing technological evidence to strengthen evidence for the judge

to strengthen the applicant's arguments. The judge granted this decision based on Article 43 paragraph (1) of Law no. 1 of 1974 which was affected by the a quo Constitutional Court decision (Pengadilan Negeri Indramayu, 2022).

The concept of digitalization has consequences for existing restrictions in Islamic family law, which basically strengthens the legal position of legal subjects. This has an impact on the recognition of children born outside of marriage, which will then be legally supported through the courts (Suherman, 2019). Apart from that, digitalization also affects the evidentiary aspect in terms of recognizing illegitimate children, especially when the child is born when both parents are still outside of an official marriage (Rohana et al., 2023). Apart from that, differences in understanding about extramarital marriage can create differences in perception which can lead to misinterpretations of Constitutional Court Decision No. 46/PUU-VIII/2010.

Children in the context of the Islamic religion are cared for in accordance with maqashid sharia which also respects the dignity and honor of children as individuals born to parents (Sabiq, 1983). However, in the view of Islamic law, children outside of marriage only have a family relationship with their mother, not with their father. However, there is a Constitutional Court decision that requires recognition of paternity for children outside of marriage, as long as it can be proven with technology such as DNA testing or other evidence that can be taken into consideration by judges in determining the relationship. Researchers' attention is focused on DNA technology which can be used as evidence to strengthen arguments in applications for determining a child when the biological father denies or does not acknowledge the relationship. This is the impact of digitalization on the use of evidence to support a child's status.

Therefore, based on a number of problems above, this article aims to answer the position of DNA results as evidence of digitalization in realizing children's rights in Indonesia, and how will children's rights be reformed in Indonesia in the era of digitalization 4.0?

METHOD

The research method used is normative juridical with a statutory regulatory approach, conceptual approach and case approach (Mamudji & Soekanto, 2003). Normative juridical research is defined as research that is based on literature study or relies solely on secondary data. The statutory regulatory approach is an approach that focuses on the use of rules or positive law as a tool to solve problems raised in research (B. J. Nasution, 2008). In this case, researchers use Law no. 1 of 1974 concerning Marriage, Law no. 7 of 1989 concerning Religious Courts, and Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law. Then the conceptual approach is an approach that focuses on the use of doctrine and/or theory as a problem solving tool. In this case, researchers use legal objective theory, sharia maqashid theory and digitalization theory. Furthermore, the data analysis technique uses prescriptive descriptive. Then the data collection technique uses the library study method.

RESULTS AND DISCUSSION

The Position of DNA Results as Digitized Evidence in Realizing Children's Rights in Indonesia

The use of DNA evidence became common after Constitutional Court Decision No. 46/PUU-VIII/2010 concerning Review of Article 43 paragraph (1) of Law no. 1 of 1974 concerning Marriage. This evidence tool is often used in cases where parents, especially fathers, do not recognize their children in the divorce trial process. Then the use of DNA evidence is also often used in cases of recognizing children born out of wedlock to safeguard the child's civil rights through court decisions, both district courts and religious courts in

accordance with their jurisdiction and authority. As stated in the Surabaya High Court Decision No. 0114/Pdt.G/2015/PTA.Sby which discusses child neglect. In their lawsuit, the plaintiff stated that they wanted to force the defendant to carry out a DNA test, which in this case was for the purpose of proving their child at trial. Then in its decision, the panel of judges granted all of the claims and ordered the parties to carry out DNA testing for the purposes of the trial, resulting in the fulfillment of children's rights (Pengadilan Tinggi Surabaya, 2015).

Then in the Decision of the Semarang High Religious Court No. 147/Pdt.G/2018/PTA.Smg which strengthens the previous court decision, namely the Cilacap Religious Court Decision Number 1800/Pdt.G/2017/PA Cip which in the previous decision the panel of judges rejected the plaintiffs' lawsuit which the plaintiff asked the panel to judge to order the plaintiff, defendant and their first child to undergo DNA testing. Meanwhile, according to the panel of judges in the Banyuman PA Decision No. 1484/Pdt.G/2012/PA.Bms which in the interim decision ordered the plaintiff and the defendant's child to carry out a DNA test. This interim decision was imposed not because of a provisional demand from the Plaintiff, but for the sake of the burden of proof on both parties who have a central function in strengthening the existing evidence. Moreover, because both parties also requested it, the panel of judges granted it. This is different from this decision because in this decision, the plaintiff only asked for a provision claim which according to several jurisprudence such as the Republic of Indonesia Supreme Court Jurisprudence No. 1070/K/Sip/1972 dated 7 May 1973 states the rules of jurisprudence, one of which is that in the decision, provisional claims do not touch the core of the case and do not examine the main material of the case (Mahkamah Agung RI, 1973). Thus, according to this panel of judges, the context of the decision does not require DNA testing because it touches on the essence of the case.

The forced DNA test is also contained in the Selayar Religious Court Decision Number 031/Pdt.G/2013/PA Sly where according to the defendant or reconvention plaintiff, the convention plaintiff is denying the child so according to him, it is necessary to carry out a DNA test to prove that there is no excuse for denying the child's rights. . This DNA test was used to prove his denial of the DNA test, whether the child was not the defendant's legitimate child or not. However, as time went by, the convention plaintiff actually strengthened the argument that the child was the legitimate child of the plaintiff and defendant so that in its legal considerations, the panel of judges considered that it was no longer relevant to insist on a DNA examination because the plaintiff had already admitted that the child was the legitimate child of the plaintiff and defendant. The judge has no authority to assess matters that arise outside of court because the judge is only bound by the evidence presented by the parties at the trial (Pengadilan Agama Selayar, 2013).

Apart from decisions, the use of DNA testing is also used to recognize children born when a couple is not married. This is stated in the Indramayu District Court Determination No. 394/Pdt.P/2022/PN Idm in which the applicant argued that the applicant's marriage using Buddhist rituals was carried out on January 15 2019. However, from the marriage the applicant was blessed with 1 (one) child, which child was born before the the applicant is legally married according to the provisions of positive law (Pengadilan Negeri Indramayu, 2022). The applicants ultimately requested a determination regarding the recognition of their biological children from the Indramayu District Court as the legitimate biological children of the applicants. In the attached evidence, the applicants attached evidence in the form of a photocopy of the DNA Laboratory Results Letter which stated that the child was indeed the legitimate child of the applicants. Thus, the panel of judges in this case granted the petition of the petitioners, who in their ruling legally acknowledged that the biological child was legally the child of the petitioners.

Based on several decisions and determinations that have been described above, DNA evidence is often used and becomes the basis for judges to decide whether an illegitimate child is worthy of being a legitimate child according to the law or not based on the digitized evidence. DNA is definite evidence of progress because it is clear that DNA can perfectly prove the DNA relationship between a husband, wife and a child so that when there is a denial of a child as stated in several of the decisions above, it can be dismissed because of the DNA evidence (Ulum, 2009). DNA evidence can also be seen from the perspective of the Qur'an in Q.S al-Qiyamah (75) verses (37)-(39) regarding the relationship between human DNA in the Qur'an, which reads:

وَالْأُنثَىٰ الذَّكَرَ وَجَعِلَ الرَّءْمُ مِنْهُ فَجَعَلَ فَسَوَّىٰ فَخَلَقَ عَلَقَةً كَانَ ثُمَّ يُمْلَىٰ مَزِيٍّ مِنْ نُطْفَةٍ بِكَ أَلَمْ

Meaning: "Wasn't he a drop of semen that was shed (into the womb)? Then, (the semen) became something that adhered, then He created and perfected it. Then He made from it a male and female pair."

The interpretation related to this verse according to Jawahir's interpretation explains that in these verses, Allah reminds us of the origin of human creation, namely that he was created from a drop of semen that was shed (into the womb). Then the semen became a clot of blood, then Allah created and perfected it. Allah also made from him a pair of men and women (Heryani, 2019). Male sperm and female egg cells mix together to create a perfect human, complete with sight and hearing, both male and female. So have humans never thought that the Creator of all processes of events is also capable of destroying this world and then creating the Day of Judgment and humans who have died being raised back to life. (Redaksi, 2021). Thus, DNA itself is the embodiment of early humans which is the forerunner of babies. DNA itself is contained in sperm, which is also a condition for fertilization to occur when it meets an egg cell.

There are several theoretical approaches that can be used by judges in passing judgment on a case, one of which is the Balance Theory (Ardiansyah et al., 2023). The purpose of this balance theory is a balance between the conditions determined by law and the interests of the parties involved or related to the case, namely, among other things, a balance relating to the interests of society, the interests of the plaintiff and the defendant (Indrawati, 2017). The balance in civil cases can be seen from the provisions of Article 163 HIR / Article 283 Rbg / Article 1865 of the Civil Code which regulates the principles of evidence in civil cases, where the party who claims to have certain rights or mentions an action to strengthen his or her rights or to dispute the rights of another person, then the person must prove the existence of the right or event (Kaligis, 2017). In judicial practice, each party, both plaintiff and defendant, must prove their arguments or rebuttal.

In the context of recognizing illegitimate children, the judge must consider in a balanced manner the normative provisions with the interests of the parties concerned in relation to the case, in this case the judge must pay attention to the provisions of Constitutional Court Decision No. 46/PUU-VIII/2010 and Law no. 1 of 1974 jo. KHI is the rule of thumb in deciding cases regarding the recognition of illegitimate children, as well as taking into account the interests of the parties in a casuistry manner (Sofiana, 2022). As stated in several of the decisions above, in this case the judge has laid down the principle of balance in which the judge has relied on existing normative provisions (Sadri et al., 2023), but the judge has also considered several interests of the existing parties by relying on the evidence that has been submitted. Judges are bound by evidence and normative provisions in the Indonesian legal system because judges are still bound by the provisions of judges as mouthpieces of the law (Ariana & Setyadi, 2023). Although in Article 5 paragraph (1) Law no. 48 of 2009 concerning Judicial Power, judges are obliged to explore and understand legal values and the sense of justice that lives in society. This is ironic because judges are now more oriented towards positivist values or rigid provisions in the law.

The provisions of positivism cannot be separated from judges in the realm of religious courts (Zahra et al., 2023). The term positivism was first used by Saint Simon (around 1825). Positivism has its roots in empiricism, the philosophical principle of positivism first developed by the English empiricist Francis Bacon (around 1600). The thesis of positivism is: that science is the only valid knowledge, and possible historical facts can be the object of knowledge (Sebastian, 2023). Thus, positivism rejects the existence of any force or subject behind the facts, rejects all use of methods other than those used to examine the facts (Julyano & Sulistyawan, 2019).

Religious courts cannot be separated from the provisions of the theory of legal positivism which requires the existence of rigid rules. The rules of the game in religious courts are regulated in Law Number 7 of 1989 concerning Religious Courts which requires the procedural rules of religious courts to be subject to the provisions of civil proceedings. Procedural law is also regulated precisely in statutory regulations, in this case HIR and Rbg. Thus, the proof process using digital evidence is also a flow of the procedural legal process which is believed to be in civil procedural law and is positivist in nature.

The current judicial process, apart from following positive law, in finding the truth, parties can submit evidence that is in accordance with the interests of the parties as long as it is obtained legally as explained in Article 5 paragraph (3) of Law no. 11 of 2008 concerning ITE which explains that "Electronic Information and/or Electronic Documents are declared valid if they use an Electronic System in accordance with the provisions regulated in this Law." Evidence is an important thing to do in the judicial process which can build the judge's confidence in the criminal justice system, and can build the judge's suspicion when looking at the perspective of civil and religious procedural law. Then in the PTUN procedural law, there is the judge's knowledge which is used to build arguments related to the evidence presented by the parties. Thus, the evidence presented has a very central position in the trial process and its effect on the final decision of the judge himself.

The concept of proof from DNA itself is also recognized as documentary evidence as regulated in Article 1866 of the Civil Code which states that there are 5 (five) pieces of evidence in civil trials, namely 1) letters; 2) witness; 3) estimate; 4) recognition; and 5) oath. The concept of DNA evidence is also included in authentic evidence, where one of the requirements for authentic evidence is that it be issued by an authorized official. The contextualization with DNA evidence is that DNA evidence is issued by a doctor who comes from the hospital and has full authority in issuing the DNA results so that when it is presented as evidence in court, it can be ensured that the evidence in the form of a DNA test cannot be rejected by the opposing party and becomes authentic evidence tool in strengthening pretexts, especially regarding children's denial of protecting children's rights when there is a violation in court.

Child Rights Reform in Indonesia in the Era of Digitalization 4.0

The renewal of children's rights can be linked to the concept of family law reform. Family law reform can be said to be the maximum effort made to create a family law formulation that is adaptive to current developments and of course must fulfill the "rukun" of reform, namely objectives, *ijtihad*, "actors" of reform, areas of *ijtihad*, factors causing legal reform and legal functions (Mustofa et al., 2022). From this it can be concluded that legal formulation efforts that are not based on the correct *istinbāt* method, including if carried out by those who are not competent (do not fulfill the pillars of reform) cannot be called a reform of the law.

Proof that is based on digitalization when looking at the recognition of illegitimate children provides legal certainty to these illegitimate children. This concept will also protect the rights of children in getting their inheritance rights back because they have a civil lineage from their father (Muis, 2020). Apart from that, children are also given more attention in

terms of their rights because in essence, children born out of wedlock are not the wishes of the child himself, so it is unfair when the child's lineage is not recognized by its biological father. The concept of proof recognized in Constitutional Court Decision No. 46/PUU-VIII/2010 is something that is revolutionary in addition to current developments which finally recognize the existence of digitalization in the process of proving the position of children born out of wedlock.

Regarding electronic evidence contained in the Constitutional Court Decision, it must be linked to the principle of a passive judge in order to strengthen the arguments presented by the parties. Moreover, in this case, the a quo Constitutional Court decision refers directly to DNA evidence. DNA is an abbreviation of Deoxyribo Nucleid Acid (Nucleic Acid), which is a chemical compound entity that carries genetic information and special cells of a creature as a whole from one generation to the next (Yanuhar & Caesar, 2023). In DNA, hereditary information is contained in a living creature which will regulate the next offspring program. So, DNA is responsible for storing and transferring genetic information and then translating this information correctly (Lestari & Citrawati, 2023). With such characteristics, DNA basically has the potential to be used to trace the origins of a person's descendants (Afifah, 2020). Related to this, if there is a criminal act involving a person's hereditary origin, such as rape, forgery of a guardian, forgery of an heir and so on, this is different from murder where DNA is used as identification for either the corpse or the object, then the genetic information in the DNA can very useful for efforts to prove in court. But the problem is, evidence in court is within the formal juridical area, so whether or not something is valid to be used as evidence really depends on the formal provisions that regulate it.

When drawn from the concept of family law, the concept of proof in the position of illegitimate children when compared in this paper, is in the correspondence of Constitutional Court Decision No. 46/PUU-VIII/2010 which is very closely related to DNA evidence itself. In the decision of the Constitutional Court a quo, it states that:

“Article 43 paragraph (1) of Law Number 1 of 1974 concerning Marriage (State Gazette of the Republic of Indonesia of 1974 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 3019) which states, “Children born outside of marriage only have a civil relationship with their mother and his mother's family”, is contrary to the 1945 Constitution of the Republic of Indonesia as long as it is interpreted as eliminating civil relations with men who can be proven based on science and technology and/or other evidence according to the law to be blood related to their father.”

The concept of proof mentioned in the article is recognized through the use of technology that is closely related to DNA proof. DNA has characteristics that make it easier to read and identify matches between individuals such as couples and children born out of wedlock, which are then legally recognized through court processes. In the context of Islamic law, an important aspect is providing guarantees and social responsibility to protect individuals who are weak and need legal protection. Therefore, Islamic law does not recognize discrimination against certain groups or ethnicities, but rather aims at protecting all humans by making it easier to apply the law. From the perspective of Islamic law, DNA testing as evidence in a criminal murder case can be considered as a clue or *qarinah*, but DNA testing cannot be used as the only evidence in revealing a criminal murder case (Rahayu et al., 2022). This is because DNA testing functions as supporting evidence which must be supported by other main evidence, as well as the opinion of experts who have expertise in that field.

The implementation of all of the above requires strengthening of institutions and the participation of other stakeholders so that the use of digitized evidence can be widely used as a defense and strengthening the pretext for the position of illegitimate children. In institutional terms, the Supreme Court as an institution of judicial authority needs further regulations regarding the use of digitized evidence so that the protection of applicants and/or

plaintiffs regarding the position of illegitimate children can be accommodated in procedural law and when registering cases in court (R. Nasution et al., 2023). The Supreme Court is one of the 2 (two) institutions implementing judicial power as mandated in Article 24 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which states that "Judicial power is exercised by a Supreme Court and judicial bodies subordinate to it in the general judicial environment, the religious court environment, the military court environment, the state administrative court environment, and by a Constitutional Court." Apart from that, the Supreme Court also oversees all lines of justice in Indonesia, such as general court, religious court, military court, and state administrative court (Muiny, n.d.).

In many jurisdictions, the rights of children outside of marriage have been reformed to provide broader protection and recognize the rights of children regardless of the marital status of their parents (Prawati et al., 2015). Some examples of these reforms might include: 1) Citizenship Rights: Many countries have changed their laws to grant citizenship rights to children born out of wedlock to one parent who is a citizen; 2) Inheritance Rights: Changes in inheritance laws in some jurisdictions ensure that illegitimate children have inheritance rights from their biological parents, whether with or without formal recognition; 3) Financial Support: Several changes in the law have been made to ensure illegitimate children have the right to receive financial support from their parents, whether in the form of direct financial support or in the form of insurance policies or other benefits; 4) Access and Care Rights: Legal changes in some jurisdictions have been made to grant nonmarital children of their parents access and care rights, including the right to health care, education, and other social benefits; and 5) Recognition of Parent-Child Relationships: The law has been adapted to facilitate the process of recognizing relationships between parents and children outside of marriage, including procedures for recognition, status determination, and related rights.

From the perspective of Islamic law, the legal consequence of illegitimate children is that they do not receive family relations, support, inheritance rights, child care, guardianship, but only receive all of this from their mother. Civil relations arise from the existence of lineage relationships. As previously explained, lineage is the relationship or connection that determines the origins of a human being in terms of blood ties. One of the purposes of marriage in Islam is to obtain legal offspring from the marriage, so that the child who will be born will have a clear lineage. This means that a legitimate child has a father and a mother, while a child born out of wedlock, the status of the child only has a lineage with the mother and the mother's family, while he (a child born outside of marriage) does not have a lineage with the father or the father's family.

It is important to note that the rights of children outside of marriage can vary significantly between jurisdictions. Changes in the law are often driven by efforts to correct injustice and provide better protection to children born outside of wedlock, although in this case it is already in Constitutional Court Decision No. 46/PUU-VIII/2010 concerning review of Article 43 paragraph (1) of Law no. 1 of 1974 concerning Marriage which gave rise to digital evidence in the context of proving the father's lineage of illegitimate children. Seeking assistance from a family law professional or government official who is familiar with the relevant laws in a particular area can be helpful in understanding the specific rights that exist. Thus, there needs to be changes to Law no. 1 of 1974 concerning Marriage and Law no. 7 of 1989 concerning Religious Courts.

CONCLUSION

Based on several decisions from the Directory of Decisions of the Supreme Court of the Republic of Indonesia, digital evidence contained in several of these decisions is often submitted by the parties to be able to prove the status of illegitimate children as legitimate children. Concept of Constitutional Court decision no. 46/PUU-VIII/2010 is also applied with proof based on scientific evidence to make a judge's suspicion that supports the party who

submitted the evidence so that the judge can be of the opinion that the child being proposed is clearly a legitimate blood relationship between mother and child. his biological father. Apart from that, in several decisions relating to child abandonment, DNA evidence is also useful in silencing biological fathers who do not want to consider their children as their legitimate children. This provides special protection for unrecognized children, whether those born outside of marriage or those born within marriage. Apart from that, the context of DNA evidence is also recognized as documentary evidence in Article 1866 of the Civil Code. Thus, the use of evidence in several of these decisions can provide legal protection for children, whether from outside marriage or from a valid marriage when it is not recognized, to avoid the responsibility of the father in certain cases.

The position of DNA results in the judicial process which recognizes the existence of digital evidence in Article 5 paragraph (2) of Law no. 11 of 2008 concerning Information and Electronic Transactions. This gives the parties freedom to argue and strengthen their claims in court through this evidence. In the context of recognizing children out of wedlock, the expansion of evidence in proving that a child is said to be a legitimate child in a religiously valid marriage, even though it is not legal according to state law, is carried out through digitized evidence, especially Deoxyribo Neucnid Acid evidence or DNA for short. This evidence can be a guarantee for the child to be recognized in the trial process because it is authentic and issued by an authorized official, in this case a doctor. Thus, it is necessary to confirm the regulations in Law no. 1 of 1974 concerning Marriage and Law Number 7 of 1989 concerning Religious Courts regarding the use of evidence to ensure legal certainty at the level of statutory regulations. Apart from that, the Supreme Court also needs to issue a circular regarding the use of special digital evidence to guarantee children's rights in court, especially for children whose fathers do not recognize them.

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