

ABSTRACT

Bachtiar, Yafis, 2012, *An Analysis of Judicial Review Decision of Constitutional Court No. 46/PUU-VIII/2010 on Section 43 Verse (1) Law No.1 1974 About A Child Civil Right on Islamic Law Principle*, Thesis Al-Ahwal Al-Syakhshiyah, Faculty of Sharia, The State Islamic University of Maulana Malik Ibrahim Malang, Advisor: H. Mujaid Kumkelo, M.H.

Key Words: *Constitutional Court, Child Civil Right, Islamic Law Principle.*

One of the authorities of the constitutional court is testing the law (judicial review), Precisely on Friday February 17, 2012 the Constitutional Court read out its decision on case No. 46/PUU-VIII/2010 on the matter of suit petition on section 48 (1) constitution No. 1 1974 on marriage to the constitution, section 28 B and 28 D proposed by Hj. Aisha Mochtar or Machica, the daughter of H. Ibrahim Mochtar and Muhammad Iqbal Ramadan, the son of Moerdiono with a verdict "*A child born out of wedlock has a civil relationship with his mother and her family, and with a man who becomes his father as can be proven by science and technology, and / or other evidences by having blood relations, including civil relationship with his father's family.* Constitutional Court's decision will have legal consequences for the unregistered marriage child and how Islamic law notices this.

This study is normative legal research with legislative, case, conceptual approaches. Legal materials from this study collected from the secondary legal materials, such as books of constitutional court, civil law, and books that discuss child.

From the research, it is concluded that the consequences of the Constitutional Court Decision, A child born unregistered marriage has civil rights to be recognized by his father, which are right of livelihood, right to get inheritance, custody and rights of *hadhanah* etc, proven by science or evidences. Islamic legal principle believes that Constitutional Court Decision is proper with justice principle, certainty of law, and expediency principle which states that every children born legally or not are entitled to the rights to a man as his father but in the case of inheritance, the children are identified adultery-born child could not inherit from his father for a lack of biological relation to his father but he can get the treasure of relics of biological father which is not named inheritance, but as grants, gifts, or will.