

ABSTRACT

This research entitled "The Principle of The Best Interest Of The Child in Legal Protection For Illegitimate Child" aims to find the philosophy that underlies the importance of legal protection for illegitimate children, to analyze the recent development of legal protection for children as such, in order to find the concept of future law that can be applied to strengthen legal protection for illegitimate child in Indonesia., and to analyze and find the ratio decidendi that underlies various court decisions related to illegitimate children in Indonesia. This research is a normative legal research that uses a statutory approach, conceptual approach, comparative approach and case approach.

The results of the research found that the philosophy of legal protection for illegitimate children consisted of three aspects, namely ontology, epistemology and axiology aspects. The ontology aspect is related to the nature of children as the next generation of the nation who must get protection from the state and society in order to fulfill their rights. The epistemological aspect is related to the validation of norms on legal protection for illegitimate children, which must be based on the philosophy of the Pancasila and the 1945 Constitution. The axiology aspect is related to values as a legal objective. Regulations concerning illegitimate children must aim to achieve justice, legal certainty and welfare for them.

This research also found that there is still a vagueness of norm after the Constitutional Court Decision Number 46/PUU-VIII/2010 was issued, which is indicated by the conflicting court decisions. In the concept of upcoming law must contain things that have not been regulated, including the clarity of what is meant by 'civil relations' that can be made between the illegitimate child and the father, procedure of DNA testing and the binding force of court orders. The upcoming law must prioritize the principle of the best interests of the child, so that the welfare of illegitimate children can truly be materialized.

Keywords: the best interests of the child, illegitimate child, legal protection.