



# A Comparative Study on the Civil Relationship Between Fathers and Their Biological Children in Southeast Asia and the Middle East

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**Abstract:** Legally, every citizen possesses civil rights that must be protected. However, not all children are born into favorable circumstances. Some are born within lawful marriages, while others are born outside marital bonds. This study examines the civil relationship between fathers and their biological children in selected Southeast Asian countries, namely Indonesia and Malaysia, as well as Middle Eastern countries such as Kuwait and Morocco. The objective is to analyze the legal framework governing the status, rights, and obligations of fathers toward their biological children in these four jurisdictions. The research employs a normative juridical method with a qualitative and comparative approach. Findings reveal that in Indonesia, dualism exists among the Civil Code, the Marriage Law, and the Compilation of Islamic Law. In Malaysia, the civil relationship between a biological father and a child born out of wedlock is strictly limited under the National Fatwa Council and the Islamic Family Law Act, denying nasab, maintenance, and inheritance rights from the biological father. Similarly, Kuwaiti family law recognizes civil relations only through valid marriage. In Morocco, paternal civil relations are legally acknowledged solely when the child is born within a lawful marriage.

**Keywords:** Biological Children; Civil Partnership; Family Law

## 1. Introduction

The civil relationship between a father and his biological child constitutes a crucial topic in both Islamic family law and positive law across various countries. This relationship encompasses the father's rights and obligations toward his biological child, including financial support (nafkah), custody, inheritance, and the child's legal status. Differences in culture, legal traditions, and interpretations of Sharia principles across nations have led to variations in the regulation of this relationship.

In Southeast Asia and the Middle East, countries such as Indonesia, Malaysia, Kuwait, and Morocco apply different legal frameworks in regulating the relationship between fathers and their biological children. Indonesia and Malaysia, as Muslim-majority nations, implement family law influenced by Islamic Sharia while adapting it to their respective national legal systems (Joni, 2024). By contrast, Kuwait and Morocco, as part of the Middle East, adopt more conservative legal systems with stricter applications of Sharia law.

In the Indonesian context, the regulation of the father-child relationship is stipulated in the Civil Code (KUH Perdata), the Marriage Law, and the Compilation of Islamic Law (KHI). A father's rights and obligations toward a child are primarily based on the existence of a legally valid marriage (Salihin et al., 2022). This raises significant debates in cases involving children born outside of marriage or biological children unacknowledged by their fathers. Malaysia adopts a similar framework through the implementation of Islamic law, with family matters specifically adjudicated by the Syariah Court (Rahajaan & Niapele, 2021).

In Kuwait and Morocco, the relationship between a father and his biological child is also regulated under Islamic law, albeit with differing legal characteristics. In Kuwait,

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Received: Aug 30, 2025;

Revised: Sep 11 2025;

Accepted: Sep 26, 2025;

Published : Oct 30, 2025;



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the application of family law is primarily grounded in the conservative Sunni Hanafi school, whereas in Morocco, family law has undergone reform through the *Mudawwanah al-Ussrah*, which accommodates adjustments in line with human rights principles and gender equality.

There are several studies relevant to this article. First, a study conducted by Rosalinda Elsin Latumahina entitled “Hubungan Antara Anak Luar Kawin Dan Orangnya: Studi Perbandingan Dengan Hukum Keluarga Di Belanda.” The findings of this study reveal that the Netherlands provides more comprehensive protection and legal certainty regarding the civil relationship between children born out of wedlock and their parents compared to the legal provisions in force in Indonesia. This comparison underscores a fundamental philosophical distinction: Western civil law is oriented toward individual rights and the principle of equality, whereas Islamic family law in Muslim-majority countries continues to base lineage recognition and civil relations on the institution of a valid marriage. This contrast highlights that Western legal systems tend to be secular positivistic, while Islamic family law is normative-religious in nature. (Latumahina, 2021). Second, the study conducted by Taufid Hidayat Nazar and Nita Rismawati, entitled “Hak Keperdataan Bagi Anak Diluar Kawin Dalam Sistem Hukum Di Indonesia.” Reveals that the Constitutional Court Decision No. 46/PUU-VIII/2010 provides a legal opportunity to determine the legal subject responsible as the father of a child born out of wedlock through legal procedures by presenting evidence in accordance with science and technology. However, in Yogyakarta, there remains a lack of public understanding regarding this matter (Nazar & Rismawati, 2022). The third study, conducted by Nur Azizah, is entitled “Putusan MK No. 46/2010 Tentang Hubungan Keperdataan Antara Anak Luar Nikah Dengan Ayah Biologis (Analisis Dalam Perspektif Hukum Islam, Hukum Positif UIDHR, Dan UDHR).” This research demonstrates that although not all legal claims were granted by the Constitutional Court judges, the resulting decision still generated considerable polemics. Therefore, interpretations derived from the UDHR, UIDHR, Islamic Law, Positive Law, the Child Protection Law, as well as the MUI Fatwa, play a crucial role in providing a comprehensive understanding of the Constitutional Court’s decision, particularly concerning the concept of civil relations between a child and their biological father (Azizah, 2018).

Previous studies have also highlighted the civil relationship between fathers and their biological children. However, no research has yet provided a systematic comparison of how family law in these four countries regulates the rights and obligations of fathers toward their biological children, particularly in the context of children born outside of marriage, lineage recognition (*nasab*), and its implications for inheritance and financial support.

This article offers a scientific contribution in the form of a systematic comparative analysis of the regulation of civil relations between fathers and their biological children in four countries, namely Indonesia, Malaysia, Kuwait, and Morocco. The novelty of this study lies in its cross-country comparison between Southeast Asia and the Middle East, a perspective that has rarely been examined. In addition, this article provides an in-depth analysis of lineage recognition, financial support, and inheritance rights of biological children born outside of marriage, as well as an understanding of how Islamic law is shaped by the cultural and legal systems of each country.

The findings of this study are expected to contribute academically to the development of Islamic family law, particularly in formulating policies that are more inclusive and relevant to the dynamics of modern society. Furthermore, this article may serve as a valuable reference for scholars, legal practitioners, and policymakers in understanding both the similarities and differences in family law regulations across countries.

## 2. Materials and Methods

This study employs a normative juridical method, namely legal research that focuses on literature study by analyzing library sources or secondary data (Muhaimin, 2020). The research is qualitative in nature, using both comparative and descriptive-analytical approaches. The comparative approach is applied to examine the legal regulations concerning the civil relationship between fathers and their biological children in four countries: Indonesia, Malaysia, Kuwait, and Morocco. Meanwhile, the descriptive-analytical approach aims to describe and thoroughly analyze these legal provisions.

The primary data sources in this research are derived from various regulations applicable in each country, such as the Indonesian Civil Code (KUH Perdata), the Marriage Law, and the Compilation of Islamic Law in Indonesia; the Islamic Family Law Act in Malaysia; as well as the Family Law Acts in Kuwait and Morocco, which are influenced by certain schools of Islamic jurisprudence. The secondary data consist of legal literature, scholarly journals, books, and previous studies that are relevant to the topic under discussion.

## 3. Results and Discussion

### 3.1. *The Civil Relationship Between Fathers and Their Biological Children in Indonesia*

In Indonesia, a legal dualism exists in addressing the civil status of a child in relation to their biological father. This phenomenon creates uncertainty due to the differing perspectives between the Civil Code, the Marriage Law, and the Compilation of Islamic Law. These three legal frameworks often conflict with one another, thereby generating complexity in determining a child's legal status. Consequently, it is essential to further elaborate on the provisions governing the civil status of children with their biological fathers in Indonesia in order to provide a clearer understanding of the applicable regulations.

#### a. The Indonesian Civil Code (KUHPerdata)

After gaining independence, Indonesia continued to apply the civil law inherited from Dutch colonial rule before establishing its own Marriage Law. Within the civil law system, the legal status of children is classified into two categories: (Rahajaan & Niaepele, 2021): (a) Legitimate children (*echtekinderen*) refer to those born or raised within the marital bond between their father and mother. The status of a legitimate child is not solely determined by the biological relationship between the parents but also by the existence of a lawful legal relationship, namely through a valid marriage. A legitimate child possesses legal ties to both parents, which can be evidenced by the inclusion of both parents' names on the child's birth certificate. (b) An illegitimate child, or a child born out of wedlock, refers to a child whose birth occurs outside of marriage. Such a child is born solely as a result of a biological relationship between a man and a woman prior to the validity of a lawful marriage. A child born out of wedlock has a legal relationship only with the mother who gave birth to the child, as reflected in the birth certificate. (Angelin et al., 2021).

The term '*anak luar kawin*' or '*anak alami*,' as used in Civil Law, is referred to as *natuurlijk kind*. In a broader sense, this term encompasses: (Nazar & Rismawati, 2022): (a) A child born out of wedlock has no civil legal relationship with either the mother who gave birth or the man who impregnated her, if neither of them has acknowledged the child. (b) A child born out of wedlock has a civil legal relationship only with the mother who gave birth, provided that she acknowledges the child. The same applies to the biological father who acknowledges the child, or to both parents if they jointly acknowledge the child. (d) A child born out of wedlock attains the status of a legitimate child if both the mother who gave birth and the biological father acknowledge the child, followed by a lawful marriage between them.

According to the Indonesian Civil Code (KUH Perdata), an illegitimate child is defined as a child who has no civil relationship with either the father or the mother who gave birth to the child, thereby necessitating legal protection for such children (Ipandang, 2020). A legitimate child is entitled to receive care and education until reaching adulthood, as stipulated in Article 298 paragraph (2) of the Civil Code. Meanwhile, Article 277 of the Civil Code regulates the status of children born out of wedlock, stating that they are subject to the applicable law in the same manner as children born within a lawful marriage. Furthermore, for illegitimate children who have been legally acknowledged, Article 306 paragraph (1) of the Civil Code provides that they fall under guardianship, while paragraph (2) affirms that the provisions of Article 298 also apply to them. (ChardciaAdilla Bawotong, 2024).

Based on the provisions of this article, when viewed in the context of childcare and education, a child born before the recognition of a lawful marriage still retains equal rights as a legitimate child, even if placed under guardianship due to the parents not being married. However, it is important to note that under the Indonesian Civil Code (KUH Perdata), the change of status of a child born out of wedlock through acknowledgment depends on the voluntary decision of the parents, particularly the father. Consequently, if such acknowledgment is not made, the child will not obtain the right to care and education from both parents.

Article 284 of the Civil Code stipulates that acknowledgment of a child born out of wedlock may only be carried out during the lifetime of the child's mother and with her consent. Meanwhile, Article 863 of the Civil Code regulates that if a deceased person leaves lawful heirs, such as descendants or a spouse, an acknowledged illegitimate child is entitled to inheritance, although only a fraction of the share that would have been received had the child been legitimate. Based on this provision, a child born out of wedlock who has been legally acknowledged is entitled to inherit in a limited portion. The Civil Code thus provides legal protection for acknowledged illegitimate children, particularly with respect to inheritance rights. Nevertheless, such protection applies only if the child has been acknowledged by one or both parents.

a. Law Number 1 of 1974 on Marriage

In Law Number 1 of 1974 concerning Marriage, the legal status and position of children are regulated under Chapter IX, particularly Articles 42 and 43 paragraphs (1) and (2). In general, these provisions affirm that a legitimate child is one born as a result of a lawful marriage. Article 2 paragraph (1) defines a lawful marriage as a marriage conducted in accordance with the religious laws of each couple. Furthermore, Article 2 paragraph (2) emphasizes that every marriage must be officially registered in accordance with the applicable regulations.

Meanwhile, the status of a child born before a lawful marriage, or an illegitimate child, is recognized as having a legal relationship only with the mother and her family. Article 43 paragraph (1) of Law Number 1 of 1974 stipulates the provisions regarding illegitimate children as follows: (Husni et al., 2021): (a) A child born to a woman who is not bound by a valid marriage to the man responsible for her pregnancy. (b) A child born to a woman who became pregnant as a result of rape. (c) A child born to a woman who was subjected to *li'ān* by her husband. (d) A child born to a woman whose pregnancy was mistakenly attributed to her lawful husband, although in reality it was not. (e) A child born to a woman whose pregnancy resulted from a prohibited marriage.

According to the provisions of Law Number 1 of 1974 on Marriage, a child born outside the bounds of marriage has a legal relationship only with the mother and the

mother's family. Consequently, from a legal perspective, such a child falls under the custody and supervision of the mother, who bears the responsibility of nurturing and educating the child. Nevertheless, the prohibition of marriage with biological siblings as well as milk siblings (siblings through breastfeeding) remains in force.

#### b. Compilation of Islamic Law

In the Compilation of Islamic Law (KHI), a child born out of wedlock is recognized as having a lineage (*nasab*) relationship only with the mother and her family (Noviarni, 2023). The responsibility for providing maintenance (*nafkah*) rests entirely on the mother and her maternal relatives. Article 100 of the KHI explicitly states that a child born before a valid marriage only has a lineage relationship with the mother and her family (Thaib et al., 2022). Consequently, the biological father is not legally obliged to provide maintenance for the child. Although in some cases the biological father may voluntarily provide financial support, such an act is based on moral or humanitarian considerations rather than legal obligation. Furthermore, from a legal standpoint, such a child cannot demand maintenance.

In Islamic inheritance law, a child is generally regarded as a primary heir entitled to receive inheritance from their parents upon death. However, this principle does not apply to children born out of wedlock. According to Article 171 (c) of the KHI, heirs are defined as individuals who have a blood relationship or a marital bond with the deceased, are Muslim, and are not legally barred from inheriting. Accordingly, the status of children born out of wedlock is governed by Article 100 of the KHI, while the provisions regarding those entitled to inherit are regulated in Article 171 (c) of the KHI. In summary, a child born out of wedlock is only entitled to inherit from the mother and her maternal family, as they hold no legal right to inherit from the biological father or his family in the absence of a valid marriage between the parents at the time of the father's death. (Susanto et al., 2021).

### 3.2 The Civil Relationship Between Fathers and Their Biological Children in Malaysia

The definition of an illegitimate child refers to a child born as a result of adultery or rape. According to the fatwa in Malaysia, the National Muzakarah Committee on Islamic Religious Affairs defines an illegitimate child (*Anak Tak Sah Taraf*) as "A child born out of wedlock, whether due to adultery or rape, and not resulting from doubtful intercourse (*syubhah*) or from slavery." This definition indicates that a child cannot be arbitrarily attributed (*nasab*) to the biological father without fulfilling the provisions stipulated in the law.

Requirements for the Recognition of a Legitimate Child, When a man acknowledges another person, either explicitly or implicitly, as his legitimate child, he shall be regarded as the father of that child, provided that the following conditions are fulfilled: (a) There is no other individual regarded as the father of the child; (b) The age difference between the man and the child makes the possibility of a father-child relationship plausible; (c) If the child has reached puberty and is capable of making decisions, the child consents to be acknowledged as such; (d) The man and the child's mother could have lawfully contracted marriage at the time of conception; (e) The acknowledgment is

not merely a recognition of the child but also confers the status of legitimacy; (f) The man possesses the legal capacity to enter into a contract; (g) The acknowledgment is made solely for the purpose of granting the child legitimate status; (h) The acknowledgment is explicitly clear, and the child is recognized as his biological offspring.

The determination of a child's lineage is generally carried out by an institution known as the National Registration Department, which is responsible for issuing birth certificates for all children, whether Muslim or non-Muslim, as well as for those born within or outside of a lawful marriage. According to the Director-General of the National Registration Department, a child born in less than six months of marriage is considered illegitimate. This decision is based on a fatwa issued by the Fatwa Committee of the National Council in 2003: (Norazman, 2020).

a. The 2003 Fatwa ,

(ii) The 57th Muzakarah of the Fatwa Committee of the National Council for Islamic Religious Affairs Malaysia, convened on 10 June 2003, deliberated on the issue of illegitimate children. The Muzakarah reached the following resolutions.

b. Illegitimate Children are defined as:

(a) A child born outside of a valid marriage, whether as a result of adultery or rape, and not originating from intercourse under *shubhah* (mistaken intercourse) or from concubinage. (b) A child born less than six months and two moments (*lahzah*) according to the lunar calendar from the date of lawful intercourse (*tamkin*). The Civil Relationship Between Fathers and Their Biological Children in Malaysia.

c. Maintenance

The costs of care and the provision of a child's needs should be the responsibility of the mother, not the father who has committed zina (fornication). According to the Islamic Family Law Act (Federal Territories) 1984, Part VI, Section 80, it is stipulated that when a woman neglects or refuses to provide maintenance for an illegitimate child who is unable to support himself or herself, except for a child born out of zina, the court may order the woman to pay monthly maintenance, provided that sufficient evidence is presented.

d. Guardian in Marriage

A child born prior to a legally recognized marriage is often referred to as a child of zina or a child of li'an. One of the legal consequences of this status is that the child has no paternal lineage (*nasab*) with the biological father, which implies the absence of mutual rights and obligations between them. Specifically, for a daughter born outside of wedlock, the biological father does not possess the right to act as her guardian (*wali*) in marriage. In such circumstances, the legitimate guardian is the *wali hakim* (Kholis et al., 2021). As stipulated in the Islamic Family Law Act (Federal Territories) 1984, Part II on Marriage, Section 7, if a woman does not have a guardian from her family, then in accordance with *Hukum Syara'*, her marriage must be solemnized with the approval of the *wali hakim*.

e. Inheritance

A child born prior to the solemnization of a marriage does not possess the right to inherit from his biological father, even though the man is his biological parent. This legal principle is articulated in the decision of the National Fatwa Council during its session on June 25, 1998, which states that “a child born outside a valid marriage has no inheritance relationship with the biological father.” Furthermore, the biological father is also not entitled to be an heir or to inherit the child’s estate.

### 3.2. Civil Relationship Between Father and Biological Child in Kuwait

The Kuwaiti Family Law No. 51 of 1984, also known as the *Family Law Act*, regulates various aspects of civil law within the framework of family relations in Kuwait (Sulpiya & Hidayat, 2024). This law covers several issues, including marriage, divorce, child custody and care, as well as paternal acknowledgment of biological children (Handika Suryanto, 2023). Its primary objective is to establish a legal foundation that governs the rights and obligations of each party within the family, thereby safeguarding the interests and welfare of family members and maintaining the overall stability of the household.

In accordance with Law No. 51 of 1984, Article 1961, a child born to a wife within a valid marriage is legally attributed to the husband under two conditions: (a) A child born within a valid marriage is automatically attributed to the husband under two conditions: (1) the pregnancy must have occurred after the marriage contract (*akad nikah*), and (2) there must be no physical impediment preventing marital relations between the spouses from the time of the marriage contract until the birth of the child, or in cases where the marriage has lasted more than 365 days. If such impediments are removed, the pregnancy must have occurred at least after the date of the husband’s death. (b) If any of the above conditions are not fulfilled, the establishment of paternity between the husband and the child may only be determined with the husband’s consent.

A child born prior to the conclusion of a lawful marriage is not recognized as legitimate under the law and does not possess any legal relationship with the biological father, even if the father acknowledges the child as his own. In such circumstances, the father does not hold any rights over the child. Conversely, the child is not entitled to financial support or inheritance from the father’s family. (Rahman Hidayat et al., 2023).

In Kuwait, the legal provisions concerning guardianship in marriage (*wali nikah*) for children born out of wedlock are based on Islamic law (Sulton & Wilujeng, 2022), particularly as applied in accordance with the state’s official school of jurisprudence, the Hanafi school. Under Islamic law, a child born out of wedlock has no established lineage (*nasab*) to the biological father; therefore, the biological father is not entitled to act as the legal guardian (*wali nikah*) of the child.

Within the context of Kuwait’s adherence to the Hanafi school, the authority of marriage guardianship for a child born out of wedlock generally falls to the *wali hakim*. The *wali hakim* serves as a representative of the state or legal authority empowered to regulate matters of marriage, especially in cases where a guardian by lineage (*wali nasab*) is absent or deemed ineligible.

### 3.3 The Civil Relationship Between Fathers and Their Biological Children in Morocco

In Morocco, the civil relationship between a father and his biological child is regulated under the *Mudawwanah al-Ahwal al-Syahsiyyah*, (Nasiri, 2021) or the Personal Status Code, which was adopted in 2004 (Budi et al., 2020). This legal framework encompasses various aspects of family law, including guardianship, inheritance rights, and lineage relations. According to the provisions of the *Mudawwanah*, a biological father may only establish a legitimate civil relationship with his child if the child is born within a lawful marriage. (Awaliyah, 2020)

Morocco Family Code 2004/2015 (Moudawana) Article 154 Paragraphs 1 and 2 states that a child's lineage can be linked to the marriage of a husband and wife, as follows: (1) A child born within six months after the marriage contract, provided that sexual relations are possible, regardless of whether the marriage is valid or not. (2) A child born within one year after a divorce. This provision also applies to unregistered marriages, as well as marriages deemed defective under the same article. (Armi et al., 2023).

There are two mechanisms to determine a child's filiation in this context, as provided in Articles 155 and 157 of the Moudawana. Article 155 stipulates that if sexual relations result in pregnancy, so that the woman gives birth within the period consistent with the term of pregnancy, the child is considered the offspring of the man involved in the relationship. This determination must be proven according to the applicable rules. Article 157 states that if paternity can be proven, it remains valid even if the marriage is invalid, or the result of sexual relations caused by error, or acknowledgment (El-Sadany & Jamali, 2023). All consequences of kinship, including prohibitions on marriage within blood relations and breastfeeding relations, as well as obligations of support and inheritance rights, remain applicable.

#### a. Lineage

In the Islamic legal system applied in Morocco, the lineage relationship between a father and a child is recognized only if the child is born from a lawful marriage in accordance with Sharia. Lineage confers civil rights, such as inheritance, guardianship, and the obligation of maintenance. However, if a child is born outside a lawful marriage, no recognized lineage relationship exists between the child and the biological father. Consequently, the biological father has no civil obligations toward the child, such as maintenance or inheritance rights.

#### b. Child Acknowledgment

The *Mudawwanah* provides an opportunity for a father to formally acknowledge his child through an official recognition procedure, known as *ithbat nasab*. If a man acknowledges a child as his own and the acknowledgment is accepted by the court, the lineage relationship can be recognized even if the child was born outside a marital bond. Following such acknowledgment, the child obtains the same civil rights as a child born within a lawful marriage.

**Table 1.** The Civil Relationship between a Child and Their Biological Father.

Aspect	Indonesia	Malaysia	Kuwait	Marocco
Legal Sources	1. The Civil Code of Indonesia.	Islamic Family Law Act (Federal Territo-	Personal Status Law	Mudawwanah (Family Code of 2004)

	2. Law No. 1 of 1974 on Marriage. 3. The Compilation of Islamic Law (KHI)	ries) 1984.	(Kuwait Law No. 51 of 1984).	
.Recognition of Biological Chil- dren	A child born outside a lawful marriage has a legal relation- ship only with the mother and the mother's family (Ar- ticle 43 of Law No. 1 of 1974).	The recognition of a biological child is established through a valid marriage, whereas a child born prior to the existence of such a marriage has a civil relation- ship only with the mother.	The ac- knowledg- ment of a legitimate child can only be es- tablished within a lawful mar- riage, whereas a child born prior to a valid mar- riage has no legal rela- tionship with the biological father.	A child who is recog- nized as a biological child can only be acknowledged through a lawful marriage. Mean- while, a child born out- side of marriage has a legal relationship solely with the mother.
The Right to Maintenance from the Father	A father is obliged to provide financial support, education, and care for his bio- logical child within a lawful marriage. Children born out of wedlock do not have the right to claim fi- nancial support from their biological father.	A father is obliged to provide maintenance for legitimate chil- dren born within marriage. Children born out of wedlock do not have the right to claim financial support from the father.	A father is obliged to provide maintenance for his le- gitimate child. A child born out of wed- lock has no right to fi- nancial sup- port from the biological father.	A father is obligated to provide financial sup- port for his legitimate child. A child born out of wedlock does not have the right to receive maintenance from the biological father.
Inheritance Rights	A biological child born within a lawful marriage is entitled to inherit the father's estate under Islamic law, whereas a child born outside of mar- riage does not pos- sess inheritance rights from the bio- logical father.	Only legitimate chil- dren born within a marriage are entitled to inherit from their father, while chil- dren born out of wedlock may only inherit from their mother.	A legitimate child under the law is entitled to inherit from his father, whereas a child born out of wed- lock is not granted in- heritance rights from his biological father.	A legitimate child under the law has the right to inherit from his father. Meanwhile, a child born out of wedlock does not obtain inheritance rights from the biological fa- ther.
Recognition of Lineage	A child born out of wedlock is affiliated only with the moth- er.	Lineage of a child is recognized if born within a lawful mar- riage. A child born out of wedlock is affiliated only with the mother.	A child's lineage is recognized if the child is born within a lawful marriage. A child born out of wed- lock is affili- ated only	Lineage of a child is only recognized if born from a lawful marriage. A child born out of wedlock is attributed solely to the mother.

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#### 4 Conclusions

The civil relationship between fathers and their biological children in Indonesia reflects the complexity arising from legal dualism, namely between the Civil Code (KUH Perdata), the Marriage Law, and the Compilation of Islamic Law (KHI). Under the Civil Code, an out-of-wedlock child who has been legally acknowledged possesses a legal relationship with his or her biological father, including rights to custody and inheritance, although this remains highly dependent on voluntary acknowledgment. In contrast, the Marriage Law limits the legal relationship of an out-of-wedlock child to the mother and her family, granting no rights whatsoever to the biological father. The same rule is found in the Compilation of Islamic Law.

In Malaysia, a child born outside of marriage, including from adultery or rape, cannot be legally affiliated with the biological father. Legal recognition of a child's status requires several conditions, such as the absence of another legally recognized father and consistency in age between the alleged father and the child. The determination of lineage is regulated by the National Registration Department based on the fatwa of the National Fatwa Council, which stipulates that a child born less than six months after marriage is considered illegitimate and, therefore, is not entitled to maintenance nor eligible to inherit. Moreover, the biological father cannot serve as a legal guardian in marriage.

The Kuwaiti Family Law No. 51 of 1984 provides regulations concerning civil matters within family relations, including paternity, child custody, and child maintenance. According to this law, a child born prior to a valid marriage is not legally recognized by the biological father and, consequently, is not entitled to financial support or inheritance from him. With regard to guardianship of a child born out of wedlock, the Hanafi school, which is applied in Kuwait, stipulates that such guardianship falls under the authority of the legal guardian (*wali hakim*), rather than the biological father.

In Morocco, civil relations between father and child are recognized under the law only if the child is born within a valid marriage, as stipulated in the 2004 *Mudawwanah al-Ahwal al-Syahsiyyah* (Family Code). Lineage (*nasab*) grants civil rights such as inheritance, guardianship, and financial support. However, if a child is born before the existence of a valid marriage, the biological father has neither obligations nor civil rights over the child. The *Mudawwanah* also provides the possibility of child acknowledgment through *isbat nasab*, which enables a child born out of wedlock to obtain civil rights equivalent to those of a legitimate child.

This comparison shows that most countries continue to link civil rights to the legitimacy of marriage, leaving children born out of wedlock at risk of marginalization. To address this, national laws should be harmonized with international human rights principles, particularly the Convention on the Rights of the Child, by upholding non-discrimination, the best interests of the child, and the right to identity and parental care. Such alignment ensures that children born out of wedlock receive protection, recognition, and legal certainty without being disadvantaged by their parents' marital status.

#### 5 Patents

There are no patents resulting from the work reported in this manuscript.

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