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### PROBLEM OF THE ADULT AGE IN THE IMPLEMENTATION OF THE INDONESIA STATUTORY REGULATIONS

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#### **ABSTRACT**

This article will examine the problem of the pluralism in the adult age restriction on Indonesian legislation and its legal reconstruction in the implementation of legislation. The research methods used in this study are the normative legal research conducted by examining the literature, emphasis on the primary materials, namely the legal materials consisting of legislation with a statutory approach related to various regulations of the adult age restrictions in the legal system in Indonesia. The results showed that there is problematics in the community there is a different age limitation of adulthood is the difference that caused: overlap between legislation one rule with the other regulation causing the legal uncertainty. The legal reconstructions to solve this problem as follow: first one, using the legal principle of *Lex Superior derogat legi generalis*, and the principle of *Lex posterior derogat legi Priori*; second one, committing the restriction of the adult age by issuing a policy that is through the circular letter of Supreme Court Number 7 of 2012 as the guidelines for implementation of duty for the Court and the circular letter of the Minister of Agrarian and Spatial/head of BPN No. 4/SE/I/2015. Last one is cooperation between judicial, banking, and other institutions to prevent sectoral interest to be occurred.

#### **INTRODUCTION**

The maturity of a person refers to a state already or has not been an adult by law to be able to act in the law. Maturity in law becomes a condition so that one can and can be expressed as capable of acting in doing all legal acts. Adult conditions that meet these legislation are called "maturity". Adults are capable or able to do all legal actions, such as making agreements, doing marriage, and making wills ( Abdulkadir Muhammad. 2000 : 40). A juridical maturity contains the authority of a person to do its own law without the help of another

party, either a parent or guardian. Adult definition According to Indonesian Dictionary means: *up to age* (<https://kbbi.kemdikbud.go.id/entri/dewasa>).

Determination of age limit of maturity in some laws does occur difference because between one with the other regulation does not contain no correlation, but if drawn red thread from all purposes of determining the age limit of maturity, then it will eventually point to the sense of responsibility, namely to ensure that the deeds done by a person can actually be held accountable legally and therefore can be required before the law if the Act is detrimental to the other party

Lack of adult age restriction or child age restriction on various laws in Indonesia raises confusion for citizens in carrying out its obligations and also to obtain its rights as citizenship. The various legislation governing the limitation of the adult age to be a separate polemic in their execution. In this case some rules by using the understanding of children and the adult age of a person with a limitation of less than 21 (twenty one) years old, not yet until the age of 18 (eighteen) years, even a 17 (seventeen) years. The prevailing laws and regulations in Indonesia as follows:

1. The Civil Code of Law in section 330 clause (1) mentions "immature is those who have not yet reached the age of twenty-one years and do not first marry" whereas in verse (2) It is mentioned that "when the marriage was dissolved before their age was even twenty-one years old, then they did not return again in an immature position". (21 years old)

2. Criminal Procedural Law Code. Article 171 mentions "that can be examined for unsworn information is: A. The child whose age is not yet enough fifteen years old and has never married, b. Sick person or soul pain even though his memory is good again (Fifteen years old)

Article 153 subsection (5) mentions "The presiding judge may determine that a child who has not yet reached the age of seventeen is not allowed to attend the hearing". (17 years old).

3. Code of Criminal Law, Article 45 mentions "in the case of criminal prosecution of immature people for doing a deed before the age of sixteen, the judge could determine: ordered that the guilty be returned to his parents, his guardian or nourishment, without any criminal; Or ordered that the guilty be handed over to the government without any criminal, if the deed is a crime or one of the violations based on sections 489, 490, 492, 496, 497, 503-505, 514, 517-519, 526, 531, 532, 536, and 540 and has not passed two years since convicted of committing crimes or any of the aforementioned violations, and its verdict has or impose a criminal to the guilty " (16 years old).

4. Law Number 1 of 1974 on marriage Article 50 subsection (1) mentions "a child who has not reached the age of 18 (eighteen) years or has never held a marriage, which is not under the authority of the parents, is under the authority of the Guardian". (18 years old)

5. Law Number 4 of 1979 on child Welfare, article 1 paragraph (2) mentions "the child is a person who has not reached the age of 21 years and has never married. (21 years old).

6. Law Number 3 of 1997 on the Children's Court, article 1 that the son is a person who in the case of a bad child has reached the age of 8 (eight) years but has not reached the age of 18 (eighteen) years and has never married.. (18 years old).

7. Law Number 39 of 1999 on human Rights Article 1 Figure 5 The son is any human being under the age of 18 (eighteen) years and not married, including a child who is still in the womb when it is for the sake of his interests and never married.. (18 years old).

8 .Law Number 35 of 2014 on the change of Law Number 23 of 2002 about Child protection, article 1 paragraph (1) the child is a person who is not 18 (eighteen) years of age, including a child who is still in the womb ( 18 years old).

9. Law Number 12 of 2003 on general election article 13 mentions "citizens of the Republic of Indonesia who on the day of voting is aged 17 (seventeen) years or has been married has the right to vote". (17 years old).

10. Law Number 13 of 2003 on The Labour, article 1 Figure 26 It is said that: "The son is any person under the age of 18 years old.

From explanation data above some rules of invitation show no uniformity in giving limit of adult age limit, which is limit with age 16, 17, 18 also 21 years old. So that it raises disharmonization in its execution, between the rules that one with the other overlap, so it can not provide legal certainty against a person or legal subject. The main problem that will be discussed in this research on how to problem the pluralism in the adult age restriction on Indonesian legislation and how the solution of the adult age restriction pluralism in the implementation of legislation?

## **METHODS**

The research methods used in this study are normative legal methods. Normative legal research, on normative legal research library material is the basic ingredient in the science of research classified as secondary data. (Soerjono Soekanto and Sri Mamudji, 2015:24). Secondary Data consist of legislation relating to the adult age restriction for legal action. Analytical techniques with legal approaches.

## **RESULT AND DISCUSSION**

### ***Restrictions on Adult Age Pluralism in Indonesian Law***

Legal pluralism with regards to the current restrictions on the child's maturity is governed by the statutory regulations that result in a minimum limitation of

adult age. The minimum adult limitation for a child is important because any legal action performed by a legal subject can be held accountable when it is grown. None of all statutory regulations explicitly mention the boundaries of maturity, but by determining the age restriction for a particular law, then the actual maturity factor that becomes a measure, for example in some laws only lists the age restriction for those called children, so that the age limit must be considered adult, or the law allows a person to do a certain deed after exceeding the specified age limit.

The lack of a limitation on the minimum age of adults in Indonesia resulted in uncertainties and guarantees for Indonesian nationals as a legal state pursuant to Article 1 paragraph (3) of The 1945 Constitution of The Republic of Indonesia. In various legal systems in Indonesia that always be the measure of the responsibility of a deed that is a person who has grown, considered the deeds can be accounted for. This can be seen from some legal provisions that qualify for deeds that can be done by the adults. That is indicated there is a law that has diesebutka in the above background. Legal uncertainty is a characteristic that can not be separated from the law, especially the legal norm written. Law without the value of law certainty will be lost because it can no longer be a code of conduct for all people ( Fence M.Wantu. 2007 :193).

In the field of legal sciences maturity can determine the validity of a legal deed. A person who has not been seen as a subject that has not been able to act successful before the law so that its legal tindakan are represented by parents/guardians. The presence of the different minimum age restrictions is:

- a. Age of 16 years old: Article 45 of Criminal Law Code
- b. Age of 16 years old: Article 153 sentence (5) Criminal Procedural Law Code; Article 13 Law Number 12 of 2003 on Elections; Article 14 paragraph (1) of Law Number 2 of 2008 on political party; Article 1 number to 25 Law Number 8 of 2012 on The Elections of Member of The House of Representatives, Regional Representative Council, and House of Regional Representatives; Law Number 24 of 2013 On The Amendment of Law Number 23 of 2006 on The population of Article 63 paragraph (1);
- c. Age of 18 years old : Article 50 paragraph (1) Law Number 1 of 1974 on marriage; Article 1 Law Number 3 of 1997 on the Children's Court; Article 1 Figure 5 Law Number 39 of 1999 on human Rights; Law Number 2 of 2014 On The Amendment of Law Number 30 of 2004 On The Public Notary article 39 (1); Article 1 Figure 26 Law Number 13 of 2003 On The Labour; Article 51 paragraph (1) Law Number 8 of 2012 On The Elections of Member of The House of Representatives, Regional Representative Council, and House of Regional Representatives; Article 98 Presidential Instruction No. 1 of 1991 on the compilation of Islamic Law (KHI); , Article 1 paragraph (4) Law Number 44 of 2008 about pornography.

d. Age of 19 Years Old : Article 7 (1) Law Number 16 of 2019 On The Amendment of Law Number 1 of 1974 about marriage.

e. Age of 21 Years Old : Article 330 subsection (1) Civil Code; Article 1 paragraph (2) Law Number 4 of 1979 on child welfare;

The diversity of opinion in determining the adult age limit is caused by the absence of a benchmark that can be used accurately to determine the boundaries of human maturity. The difference between the minimum age limitation of maturity in various legal regulations will cause a separate problem in every legal deed. None of all statutory regulations explicitly refer to the boundaries of maturity, but by determining the age restriction for a legal action, then the maturity factor is used as a measure, for example there are some regulations only indicate the age restriction for those called children that is on Law Number 35 of 2014 on the change of Law Number 23 of 2002 on child Protection article 1 paragraph (1) the child is a person who is not 18 (eighteen) years , including children who are still in the womb.

Law Number 39 of 1999 on human Rights Article 1 Figure 5 The son is any human being under the age of 18 (eighteen) years old and not married, including a child who is still in the womb if it is for his or her interests. So that above the age limitation of the adult child allows a person to perform a certain deed after exceeding the prescribed limitation. All these arrangements are ultimately drawn to the intent and understanding of maturity (Sudarsono. 1991: 163).

In the case of different age restrictions in the legal system in Indonesia, it has resulted in several problems in the community's law enforcement as follows regulation overlapping. Some regulations has the distinction of determining age restriction as a form of maturity will meet each other in certain circumstances or a particular case, for example at the time of the trial proceedings for the breach of road transport traffic law. Among them the age restriction is allowed to have a driver's licence.

A 17-year-old child under article 81 paragraph (2) of Law No. 22 of 2009 on traffic and land transportation, has the right to obtain a driver's licence while under the Court Act of the age of 17 is still in the child category, so that when the child commits a traffic offence is heard in court it should be subject to Law Number 3 of 1997 about the Court of the child whose trial process must use the means set out in the child's trial. As stated in Law Number 11 of 2012 on the Child criminal justice system article 1 figure (3), namely the child who conflicts with the law is a child who is 12 (twelve) years old, but not 18 (eighteen) years who allegedly commit a criminal offence.

In the case of a 15-year-old pursuant to article 171 Criminal Law Procedural Code has been able to provide information as witnesses under oath with all legal consequences of his oath and description. If this article is faced with the Child Protection Act a 15-year-old must be treated as an immature child. (Bambang Waluyo. 2008:78).

Even more contradictory is if the provisions of article 171 Criminal Law Procedural Code are linked to the provisions of Article 153 clause (5) of the Criminal Law Procedural Code that the presiding judge may determine that a child who has not reached the age of 17 (seventeen) years is not allowed to attend the hearing., one side of the law has given obligation to a 15-year-old , but on the other hand someone who is not 15 years old can not attend the trial because it is still classified as children. The difference between the age limit of a person can be a witness or can attend the proceedings in this case of course contradictory so that it needs to be re-examined.

Issuing the resident registration card is not in accordance with the Banking Law, the Law of the population administration and Law on the notary office regarding the provision of adult age in the Bank account agreement. In the opening of savings account and deposit account at the bank in its base is one of the agreements, given the account opening including the agreement. So in this case must be qualified regarding the age limit of individual customer without being represented in the practice of banking activities 17 years is not appropriate, if it is associated with the adult age in making the agreement.

Article 1 Figure 17 Act Number 10 year 1998 about the amendment to law Number 7 year 1992 about banking that the customer depository is "the customer who placed the funds in the bank in the form of deposits based on the bank agreement with the customer concerned". In the opening of a savings account in the bank is a form of legal action conducted by the subject of the law, which is the customer who raises the alliance from the agreement.

At the time of making the agreement, the article 1320 Civil Code, that is, about the terms of the agreement that is agreed, ably, a certain thing and the reason that is lawful. The purpose of proficient is capable to act or to do legal acts alone. The prowess of a person acting in law is determined by his or her person is said to be mature by law. In article 330 Civil Code It is mentioned that immature is "those who have not reached an even age of twenty-one years and have not been married". In this case, it is contrario that adults are 21 years old and have been married.

In the implementation of a savings account opening or deposit agreement, a person who is 17 years old can do their own agreement with the bank without having to be represented by a parent or guardian. Bank requires prospective customers to open an account there are 2 categories that are adult category and individual adults who are represented. From both categories in the opening of savings accounts or deposits in banks are categorized based on the age of individual customers and the presence or absence of Tanda resident card.

In the opening activity of KTP savings account is an important condition that must be fulfilled by the individual customer who must be included at the time of completing the form as proof of identity at the time of filling the form as proof of identity. This is governed by Bank Indonesia Regulation No. 3/10/PBI/2001 concerning Application of know customer principles of article

4 paragraph 2 that "prospective customers must be able to prove their identity with the existence of supporting documents such as Customer ID documents. PBI about application of know customer principles Article 5 letter a digit 1 part explanation stated that the customer's identity document, among others, ID card, driver's license or passport that is completed with information about the permanent residence if it is different from the one stated" In Indonesia, the arrangement of the Tanda resident card is governed by Law Number 24 of 2013 on the Population administration (hereinafter referred to Law on The Population Administration)

***Solution for the Minimum Limitation on Pluralism of Adult Age in Indonesian Legislation.***

The harmonization of law is the adjustment of legislation, government decisions, judges' decisions, legal systems and legal principles with the aim of increasing legal unity, legal certainty, fairness and benchmarking, usability and legal clarity without obscuring and sacrificing legal pluralism. (Kusnu Goesniadhi. 2006 : 100). Efforts undertaken as follows Efforts undertaken as follows :

- a) On the legal system when friction between legal norms then the legal principle is used to break down the deadlock, the relevant principle is Lex superior derogat legi inferior (the higher rule beats the lower rule); Lex Specialis derogat legi jeneralis (more specific rules of defeating more general rules); Lex posterior derogat legi priori (newer rule beats the old one). Although the legal principle is expected to resolve the deadlock there are regulatory overlaps. For example Bank Indonesia regulation in creating an account which is an agreement, in the preview does not use the basis of Article 330 Civil Code and the law of notary Office is in children who are 17 can create their own savings account, because it is eligible to have Resident ID Card.
- b) Attempts to uniformity of adult age restriction provisions. Some policies have been conducted by government agencies or agencies, as an attempt to uniformity in adult age restrictions through circular letter of Supreme Court Number 7 of 2012 states: "That adulthood is capable of acting in the law i.e. the person who has reached 18 years or has married" and Minister of Agrarian Circular Letter and spatial/head of BPN Number 4/SE/I/2015 regarding the adult age restriction in the framework of land services. At number 7, that the age of mature who can do legal action in the framework of land service is at least 18 years or already married.
- c) Harmonization of Government agencies/institution. The existence of coordination between the institutions on the application or enforcement of law namely the District Court, notary body, Civil Registration Institute, the banking institution, so that each institution does not occur the existence of sectoral interests.

## CONCLUSION

Based on the explanation above, it can be concluded as follows the minimum age limitation of a person to commit legal action in Indonesia is governed differently. Some regulations govern the adult age limit of 21 years at Civil Code, Law on child welfare, and in the compilation of Islamic law. Age limit 18: Marriage Law, Notary Public Law, Child protection Law, judicial child Law. Human Rights Law, Labour Law, is under the limit of 17 years of age set at Elections Law, Traffic Law. The overlapping of implementing legislation, e.g. Traffic Law Violations then a child who is only 17 has a driver's licence, at the Children's Court of Law mentions the age of 17 years is still the category of children; Children aged 15 years Section 171 Criminal Procedural Law Code can be a witness, whereas Child Protection Law mentions the age of 15 years still categorized as an immature child, inconsistency regulation of Bank Indonesia Number 3/10/PBI/2001 is the opening of Bank account of children aged 17 years have a Resident ID Card can make an agreement, but in Notary Public Law only the right to make a The uncertainty of the law is evidenced by some of the decision to use legal considerations that are not equal in determining the limitation of adult age and 18 years, and 21 years .

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