

Inconsistency Adult Age Restrictions in Indonesian Law Construction

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Abstract. Introduction: Indonesian law provides different age limits for adults. Each law provides its limits. The lowest age is found in the law of marriage Marriage, and the highest in civil law in general. Examine the law age limit in Indonesia, and analyzing the ideal age limit in Indonesian law in the future. This research uses secondary data in the form of law materials. The approach used is philosophical, namely looking at the provisions of the ideal adult age limit in the future. The age limit for adults in many laws and regulations varies. The Marriage Law differs from the age limit. The Child Protection Law, the General Election Law, and Population Administration Law. The impact of the inconsistencies in the age boundaries of adults creates an overlapping situation. There needs to be a uniformity of age restrictions in all laws and regulations in Indonesia.

Keywords: Adult age, Overlapping, Law, Ius constituendum

1 Introduction

Adult age restrictions in Indonesian laws and regulations are not uniform. The lowest adult age limit formulation is in the Marriage Act. The minimum age of marriage according to the Marriage Law in Indonesia which regulates prospective brides is 16 years and 19-year-old men are still too low so there are many cases of early marriage.

Setting an adult age limit and being allowed to marry is very important to provide an understanding of society. The conduct of marriage is not based solely on irrational reasons but rather the reason rationale closely related to legal liability. The adult age limit is used to determine a person's ability to perform legal acts. The distinction of different treatments for children and adults before the law has been a concern for the community for a long time. Although the causative factor is not solely due to the factor of adulthood that is classified as still low. Various factors cause early marriage, such as coercion from parents, free association, curiosity about sex, economic factors, environmental factors, and customs [4]. Low education, self-will, the factor of sex addiction as other triggering factors [3].

United National Development Economic and Social Affair (UNDESA) ranks Indonesia 37th in the World and 2nd in ASEAN countries with high rates of early marriage [7]. Indonesia ranks second only to Cambodia [2].

The adult age limit of a person about whether or not the person commits legal acts or as a subject of law. Since a person is in adulthood, he has the right to perform legal acts with others or perform certain legal acts. For example, buying or selling permanent property in his name,

guaranteeing land registered in his name, acting as a shareholder in a Limited Liability Company, Foundation, Firm, Organization, and so on without the help of his parents as trustees.

The provision of adulthood restrictions of a person in Indonesia creates an overlapping and inconsistent situation. A solution is needed to reduce the impact of disharmony regulatory provisions that will be used towards the ideal adult age limit. Non-uniform adult age restrictions are inconsistent.

Adulthood is used to describe the condition of a person with mature thinking and is defined as the phase of human growth after adolescence. The phase of growth into adulthood is inevitable, due to the maturity of the mind, physical growth, and the achievement of genital maturity. Adult age restrictions are used in determining a person's ability to perform legal acts.

Along with the complexity in determining the legal adult age limit, and the lack of uniformity of some provisions in the legislation on the adult age limit of a person, then this research is important to do. The purpose of this study is to examine the overlapping regulations on setting adult age restrictions and their solutions in the future.

2 Method

This type of research is library research. Library research is a study that is rigidized by researching library materials or secondary data. This research includes literature research because the data used is secondary data in the form of legal documents. The approach used in this research is philosophical. The philosophical approach in legal research is to examine the law in terms of ideals. This research uses a philosophical approach because it formulates laws that are still in the level of aspired (*ius constituendum*), in the form of the idea of a future funding system. The data source used in this study is secondary data. Secondary data is data obtained indirectly or has been provided by another party. Secondary data used in the form of legal documents that serve as the main reference to the adult age limit in Indonesian laws and regulations. Data collection techniques were used in this study through offline and online management. Offline library approval is the activity of finding the source of the library to the data store. While online graduation is the activity of finding the source of libraries in cyberspace through the internet network. Conventional library approval is done by looking for library materials to libraries, collections of books and personal journals, purchasing books, and attending scientific activities (seminars). While online approval is done by searching on the internet. The method of data analysis used is qualitative. Qualitative data analysis is the process of organizing and sorting data into patterns, categories, and basic description units so that themes can be found presented in narrative form. This study uses qualitative data analysis because the data will be presented in a narrative-descriptive way, not in the form of numerics.

3 Results and Discussion

3.1 Overlapping Adult Age Restriction Settings in Indonesia

According to The Great Dictionary of Indonesian Language, adulthood is the age that has reached puberty, i.e. not children or teenagers anymore. And who is more mature than he who has menstruated for women and is a man, and is a man of hard age? A person's time to reach puberty, different from each other. Adulthood means biologically mature, as well as psychically.

So it can be said that there is no need to wait for old age to become an adult because maturity does not always go hand in hand with reduced age.

Adulthood in psychology is a period of development that begins in the late teens or early twenties and ends in the thirties. Adulthood is a period of formation of personal and economic independence, a period of career development, and for many, the period of choosing a partner, learning to live with someone intimately, starting a family, and parenting.

The age limit of adults in Indonesian legal settings is formulated differently. This concludes overlap, let alone formulated in a hierarchically equivalent Law, for example:

1. Article 330 of the Civil Code governs that the immature are those who have not reached the age of even 21 years, and have not married before.
2. Article 98 paragraph (1) Compilation of Islamic Law regulates the age limit of a child who can stand alone or adult is, 21 years, as long as the child is not physically or mentally disabled or has never held a marriage.
3. Circular Letter of the Supreme Court of the Republic of Indonesia Number 07 the Year 2012 concerning The Legal Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as Guidelines for the Implementation of Duties for the Court, and the Results of the Civil Chamber Meeting of the Supreme Court of the Republic of Indonesia, dated 14 - 16 March 2011 it was agreed that the adult age limit is 18 Years.
4. Circular Letter of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency No. 04/SE/I/2015 concerning The Limitation of Adulthood in the Framework of Land Services stipulates that the adult age that can perform legal actions in the framework of land services is at least 18 years old or already married.
5. Article 145 paragraph (1) of the updated Indonesian Reglemen regulates that to be a witness, a person must be 15 years old.
6. Article 47 paragraph (1) of the Law of the Republic of Indonesia Number 1 the year 1974 concerning Marriage regulates children who have not reached the age of 18 years or have never held a marriage under the authority of their parents as long as they are revoked from their power.
7. Articles 39 and 40 of the Law of the Republic of Indonesia Number 30 of 2004 concerning Notary Office regulate that the requirement to be a witness is 18 years.
8. Law of the Republic of Indonesia Number 7 the Year 2017 concerning General Elections defines voters are Indonesian citizens who are even 17 years of age or older or have/ have married.
9. Law of the Republic of Indonesia Number 2 the Year 2008 concerning Political Parties as amended into Law of the Republic of Indonesia Number 2 the Year 2011 states that Indonesian citizens can become members of a Political Party if they are 17 years old or have/ have been married.
10. Law of the Republic of Indonesia Number 23 of 2006 as amended by Law of the Republic of Indonesia Number 24 of 2013 concerning Population Administration, determining the age limit of adults is 17 years or have married or have been married must have an e-KTP.
11. Law of the Republic of Indonesia Number 11 of 2012 concerning the Juvenile Criminal Justice System that a child in conflict with the law is a child who is 12 years old, but not yet 18 years old.

Some provisions in the legislation mentioned above state the absence of uniformity about the age limit of adulthood in Indonesia. Some give a limit of 21 (twenty-one) years, as well as 18 (eighteen) years, some even 17 (seventeen) years. The lowest adult age limit is in the

Marriage Act, which is 16 years for women. While the highest age limit is 21 years in the Civil Code and the Compilation of Islamic Law.

As a result of the law doing private legal action will be valid if it meets subjective and objective requirements. The proficiency of legal subjects is included in subjective requirements that have a minimum age standard for performing legal acts. If legal action does not meet the subjective requirements then the legal consequences can be annulled or if the person continues his legal action then must have a guardian to perform guardianship against him or her which has been regulated by law. While the legal consequences of committing public legal action are that it can arise because of the actions of the government only, not waiting for the reaction of the parties served or those affected by the actions or actions of the government.

3.2 The Need for Uniformity of Adult Age Restrictions in Future Regulations

In the event of friction between legal norms, the principle of law is used to break the deadlock. In the context of the conflict between laws and regulations, the relevant principles for use are *lex superior derogat legi inferior* (higher rules trump lower rules). There is also the principle of *lex specialis derogat legi generalis* (a more specific rule trumps the more general rule), and *lex posterior derogat legi priori* (newer rules trump the old rule).

About the adult age limit, the provisions in the Civil Code are seen as a general provision, so that for the field of civility specifically used more specific laws. Based on the principle of *lex specialis derogat legi generalis*, for marriage then used is a law that specifically regulates marriage. Likewise for other cases.

Performing legal actions requires the ability to act, and the ability to act is influenced by age. But there is no uniformity about the adulthood of a person from the government. There should be one law that uniformly determines the age limit for adults. So that there is clarity of the benchmark of adulthood that is considered capable of doing legal actions and in terms of proficiency in doing a legal action.

There is a lot of smuggling or data manipulation in doing legal action. There needs to be clearer regulation for those that specifically regulate a person's productive limits as well as the role of guardians in representing and supervising to perform legal actions. It will not harm either party in committing a legal action if it violates subjective or objective terms.

Today's millennial era is an era where people are increasingly aware of the importance of the presence of laws to regulate and create order in society. The issue of setting the age limit for adults who act uniformly in various social fields. Of course, it raises public confusion considering that during the explosion of information technology that is so sophisticated, in Indonesia there are still underage marriages.

While it cannot immediately blame the overlapping regulations, it can be said that this contributes to people's confusion about which rules they will follow and use. Moreover, the status of a person who has married or ever married is also a benchmark of a person considered mature in the language of the Law [6].

Although everyone has the authority to do a legal action, of course, some conditions must be met by a person as a legal subject to be able to do legal action and then be legally responsible for his actions. In other words, every act of law must be supported by law and authority [5].

Proficiency is the authority to perform its legal actions and this skill is determined based on the parameters of an adult or immature person according to the law. Maturity in law becomes a requirement that a person as a legal subject can be declared as capable of acting in performing legal acts or adult circumstances that meet the requirements of the Law called "Maturity" [1].

As an effort to harmonize and uniformize the adult age limit, the Supreme Court of the Republic of Indonesia has anticipated it by issuing 2 circulars namely: First, Circular Letter Supreme Court Republic of Indonesia Number 7 the Year 2012 on The Legal Formulation of The Results of the plenary meeting of the Supreme Court as guidelines for the implementation of duties for the Court. Based on this circular that adults are capable of acting within the law i.e. people who are 18 years old or have married. Second, Circular Letter of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 4/SE/I/2015 age restrictions in the framework of land services. This Circular Letter aims to remove confusion about the age limit of adulthood in land affairs and stipulate that a person who can perform legal actions in the framework of land services is 18 years old or already married.

The publication of the two Circular Letters is expected to provide a reference on the age limit of adulthood in carrying out legal actions. However, circulars that are hierarchically included as derivatives of legislation are certainly inadequate to harmonize laws that hierarchically much higher. Likewise, by using the principle of law. The use of legal principles depends on law enforcement as well as policymakers. The use of legal principles as a temporary policy to meet the needs of the community can be casuistic. Therefore, the uniformity of adult age restrictions is required in all laws and regulations, both at the level and the rules under it in future regulations.

4 Conclusion

Based on the above discussion, it can be concluded that the provisions of an adult age limit for a person to perform legal actions in several laws and regulations in Indonesia are regulated differently. Civil Code and Compilation of Islamic Law with a minimum age of 21 years, the Marriage Law regulates 19-year-old men and women aged 16 years, the Election Law, the Adult Population Administration Act aged 17. The Child Protection Act is 18 years old. Notary Office Law 25 years. As a result of the law doing private legal action will be valid if it meets subjective and objective requirements. While the legal consequences of committing public legal action are that it can arise because of the actions of the government only, not waiting for the reaction of the parties served or those affected by the actions or actions of the government. Solutions in overcoming the diversity of adult age limit regulation have been done by issuing Circular Letter Mahkan Agung Republic of Indonesia Number 7 the Year 2012 and Circular Letter of the Minister of Agrarian Affairs and Spatial Planning / Head of the National Land Agency Number 4/SE/I/2015 adult age restrictions. Harmonization of legislation is required, although there are legal principles that can be used. The use of legal principles depends on law enforcement as well as policymakers. Uniform regulation is required in determining the age limit for future adulthood

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