

Limitation of a Person's Maturity or Proficiency in Performing Legal Actions in Indonesia in the Perspective of Justice

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Abstract

The limits of maturity in Indonesia are not yet clear. The Civil Code states that the limit of maturity is when a person reaches the age of 21 years. While law no. 39 of 1999 on human rights and law no. 23 of 2002 concerning child protection states that a child is someone who is under 18 years of age. Thus, a contrario someone aged 18 years and over is considered an adult. Likewise with the notary position law which states that the age of 18 years is considered an adult and capable to appear before a notary. This has an impact on the basis of different decisions on similar cases. The purpose of this study is to analyze the regulation of the limit of maturity or a person's ability to carry out legal actions that are not based on the value of justice; This study uses a constructivist paradigm that involves the opinions of psychologists, notaries, and academics. The research method used is qualitative, with descriptive-analytical type where the research data is based on data found in the field. Data collection techniques are interviews, literature studies or documents. Data analysis techniques include data reduction, data presentation and drawing conclusions. The results of the study indicate that the limits of maturity and skills that apply in Indonesia have not realized the value of justice because of differences in maturity limits between regulations, especially regarding rights and obligations as legal subjects, so that in law enforcement it creates conflicts between norms that have multiple interpretations.

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A. INTRODUCTION

Children as creatures of God Almighty and social beings, from within from womb to birth have the right to life and independence and receive good protection from parents, family, community, nation and state. Juridical protection of children may include legal protection of children in the field of civil law and in the field of public law. Every child has human rights, as rights possessed by adults, not many parties also think about and are willing to take concrete steps to protect children's rights. Children are very easy to become victims of all forms of violence or crime because children have not been able to do things to protect themselves properly.¹

Determining the age limit of a person's maturity is important because it will determine whether or not a person acts legally, it must be clear and not confusing, because it will be a measure for someone to be considered a responsible legal subject, and can be held accountable for his actions. However, the arrangements in various laws in Indonesia are carried out in various ways, so they need to be equated. As for comparison, namely:²

First, Article 330 of the Civil Code stipulates that minors are those who have not reached the age of 21, and have not been married before.³

Second, Article 98 paragraph (1) of the Compilation of Islamic Law states that the age limit for a child who is able to stand alone or as an adult is 21 years, as long as the child is not physically or mentally disabled or has never married.⁴

¹ Purwanto, Perlindungan Hukum Terhadap Anak Sebagai Korban Tindak Pidana Dalam Perspektif Hukum Positif Indonesia, Jurnal Idea Hukum. Vol 6 No.1 2020. DOI: <http://dx.doi.org/10.20884/1.jih.2020.6.1.133>

² Nurkholis. 2017. *Penetapan Usia Dewasa Cakap Hukum Berdasarkan Undang Undang Dan Hukum Islam*. YUDISIA, Vol. 8 No. 1, Juni 2017.

³ Code of Civil law

⁴ Compilation of Islamic Law

Third, the Decree of the Director General of Agrarian Affairs, Directorate of Land Registration (Cadastre) No. Dpt.7/539/7-77, dated 13-7-1977 divides the notion of adulthood into: 1) political maturity, for example, is the age limit of 17 years to be able to participate in the General Election; 2) sexual maturity, for example, is the age limit of 18 years to be able to get married according to the new Marriage Law; 3) legal adulthood is meant to be a certain age limit according to law which can be considered capable of acting in law.

Fourth, the Circular Letter of the Supreme Court of the Republic of Indonesia Number 07 of 2012 concerning the Legal Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guide to the Implementation of Duties for the Court, and the Results of the Meeting of the Civil Chamber of the Supreme Court of the Republic of Indonesia on March 14-16, 2011 agreed that the adult age limit is 18 year.

Fifth, the latest related to the land sector is the Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 4/SE/1/2015 concerning Adult Age Limits in the Framework of Land Services stipulating that adults can take legal actions in the context of land services. is at least 18 (eighteen) years old or already married.

The next order is the laws and regulations governing the ability to carry out a legal act. **Sixth**, Article 145 paragraph (1) of the Updated Indonesian Regulation (HIR) stipulates that in order to be a witness, a person must be 15 years of age.

Seventh, Article 47 paragraph (1) of Law Number 1 of 1974 concerning Marriage which states that children who have not reached the age of 18 (eighteen) years or have never married are under the authority of their parents as long as they are not revoked from their power. **Eighth**, Articles 39 and 40 of Law Number 30 of 2004 concerning the Position of a Notary which stipulates that the requirement to become an auditor as well as a witness is 18 years.

In addition to civil matters, the age limit for adults is also regulated in laws and regulations in the field of administrative and criminal law. **Ninth**, Article 7 of Law Number 42 of 2008 concerning the General Election of the President and Vice President defines a voter as an Indonesian citizen who is 17 years old or older or has/ever been married. **Tenth**, Article 14 paragraph (1) of Law Number 2 of 2008 concerning Political Parties states that Indonesian citizens can become members of a Political Party if they are 17 years old or have/have been married.

Eleventh, Article 63 of Law Number 23 of 2006 as amended by Law Number 24 of 2013 concerning Population Administration, states that Indonesian Citizens are Foreigners who have Permanent Stay Permits who are 17 years old or have married or have been married. have an e-KTP.

Continuing the notes above, the **twelve** are laws and regulations in the field of criminal law. Law Number 11 of 2012 concerning the Juvenile Criminal Justice System in Article 1 number 3, number 4 and number 5 stipulates: a child in conflict with the law is a child who is 12 years old, but not yet 18 years old who is suspected of committing a crime; a child who becomes a victim of a crime is a child who is not yet 18 years old who has suffered physical, mental and/or economic loss caused by a criminal act; a child who is a witness to a crime is a child who is not yet 18 years of age who can provide for the purposes of investigation, prosecution, and examination in a court hearing about a criminal case that he has heard, seen, and/or experienced himself.

What is reviewed above are twelve examples of laws and regulations that regulate the age limit for adults and the ability to carry out legal actions. Some regulations use the age limit of 18 years, others use 17 or 21 years. So which one to use? Even if we look at the judges' decisions, there is no uniformity in the application of the adult age limit even for similar cases.¹

With these different interpretations, of course, there will be legal loopholes that can ultimately harm the community, this is certainly not in accordance with the application of the principle of legal certainty. About this is regulated in Law no. 12 of 2011 concerning the Establishment of Legislation with one principle that *lex superior derogat legi inferiori*, or lower regulations must not conflict with higher regulations. Similarly, the principle of *lex specialist derogat legi generali*, or special provisions override general provisions. In this case, when viewed from the regulations regarding the age limit of a person's maturity, the legislation is of the same level.²

Given the basic differences between the concepts of the Criminal Code, the Civil Code, the Marriage Law and the UUJN and even other laws, the author wants to further examine the issue of the limit of maturity or a person's ability to carry out legal actions in a justice perspective.

B. RESEARCH METHOD

This study uses a constructivist paradigm that involves the opinions of psychologists, notaries, and academics.³The research method used is qualitative, with descriptive-analytical type where the research data is based on

¹ Putro, Khamim Zarkasih. 2017. *Memahami Ciri dan Tugas Perkembangan Masa Remaja*, APLIKASIA: Jurnal Aplikasi Ilmu-ilmu Agama ISSN 1411-8777 Volume 17, Nomor 1, 2017. See too Sanawiah. 2018. *Batasan Kedewasaan dan Kecakapan Hukum Pewasiat Menurut Hukum Islam dan KUHP*. Jurnal Hadratul Madaniyah, Volume 5 Issue 1, June 2018.

² Regulated in Law no. 12 of 2011 concerning the Establishment of Legislation

³Bambang Setyabudi, Anis Mashdurohatun, Reconstruction of Legal Protection Regulations for Debtors and Third Parties in Credit

data found in the field. ¹Data collection techniques are interviews, literature studies or documents. Data analysis techniques include data reduction, data presentation and drawing conclusions.²

C. RESEARCH RESULTS AND DISCUSSION

In a broader perspective, many cases related to the limit of maturity often occur when a legal event contains a tangent point of several other rules. This is due to the different assessments of public institutions when measuring a person's maturity with the legal actions taken. This becomes a problem, when in the psychological aspect, which is quantitatively determined with age limits on the one hand, with an assessment of the maturity of certain legal acts on the other.

The above facts become a legal oddity that continues, from the past until now. This downstream causes unnecessary difficulties. In turn, it will cause unthinkable losses, because the root of the problem is in the administrative dimension, which should not cause substantially detrimental legal consequences.

The national legal system should have the same maturity limit, at least there is uniformity in one particular legal area. For example in the area of administrative law, the area of civil law and so on. Or to be more precise, there must be a clear standard in terms of the limits of maturity according to the law, so that there is no confusion and doubt for the implementers. Law makers should understand this and make the age standard as something that really deserves to be appreciated for its similarities.

Based on the above, there should be one age unification that applies to all. The different provisions are confusing because basically every legal act has the same dimensions. The similarity is observed from the perspective of acting psychology. This means that there is actually no juridical and practical argument when someone gives the right to vote, marry, or take other legal actions. Everything should be seen as the same. Therefore, age should be a definite benchmark so that it has a value of justice.

A. Limits of a person's maturity or competence in carrying out legal actions in international conventions
Human rights are rights that are intrinsically owned by humans because of their dignity as humans that they have had since birth.³

As a member of the world community, Indonesia cannot escape from all provisions that apply in the international community based on international law. Many international treaties/agreements/conventions regulate the behavior of states and individuals, particularly those concerning human rights law and humanitarian law.

Awareness of the importance of fulfilling children's rights and protecting children has emerged in the minds of stakeholders around the world since decades ago. It was this awareness that then made member countries of the United Nations (UN) to later formulate an international agreement, a universal rule, which can be a guide in fulfilling children's rights and protecting children.

After going through various meetings, the UN General Assembly then ratified the Convention on the Rights of the Child on November 20, 1989. The day of the ratification of the Convention on the Rights of the Child became known as World Children's Day.

Definition of Convention According to the Big Indonesian Dictionary, convention is defined as an agreement or agreement (especially regarding customs, traditions) and agreements between countries, government authorities. In general, conventions are a form of habit and are maintained in practice and do not conflict with applicable legal provisions. In the context of international law, a convention can be in the form of a written international agreement that is subject to the provisions of customary international law, jurisprudence or general law principles. An international convention can be enforced in Indonesia, after first going through the ratification process carried out by the DPR.

The definition of a convention or an unwritten definition of basic law are basic rules that arise and are maintained in the practice of state administration even though they are unwritten. This Convention has the following characteristics:

- 1) It is a habit that is repeated and maintained in the practice of its implementation
- 2) Does not conflict with the Constitution and runs parallel
- 3) Accepted by all people
- 4) It is complementary, so that it is possible as basic rules that are not contained in the Constitution.

It did not take long for the Indonesian people to agree on the Convention on the Rights of the Child. Until then on January 26, 1990, Indonesia became one of the countries that signed the Convention on the Rights of the Child. It was not enough, President Suharto later ratified the Convention on the Rights of the Child as a positive legal rule, ratifying it on September 5, 1990. With this ratification, Indonesia has technically bound itself

Agreements with the Object of Fiduciary Based Guarantee, *Sch Int J Law Crime Justice*, Dec, 2022; 5(12): 520-526.

¹ Bernhard Limbong, *Pengadaan Tanah Untuk Pembangunan*, Margaretha Pustaka, Jakarta, 2015, page. 220-221

² Anis Mashdurohatun, Gunarto & Oktavianto Setyo Nugroho Concept Of Appraisal Institutions In Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual Property As Object Of Credit Guarantee To Improve Community's Creative Economy, *JPH: Jurnal Pembaharuan Hukum*, Volume 8, Number 3, December 2021.

³ Frans Magnis Suseno, 1994, *Etika Politik: Prinsip-Prinsip Moral Dasar Kenegaraan Modern*, Gramedia Pustaka Utama: Jakarta, Page. 121.

voluntarily to the provisions contained in the Convention on the Rights of the Child.

Convention on the Rights of the Child (Convention on Rights of the Child, UN Resolution 44/25, 20 November 1989)¹ which has been ratified by Presidential Decree Number 36 of 1990 concerning Ratification of the Convention on the Rights of the Child (State Gazette of the Republic of Indonesia of 1990 Number 57) dated August 25, 1990 (hereinafter referred to as Presidential Decree 36/1990) which contains the definition of "Child" as "Every human being under the age of 18 years, except under the laws that apply to children, maturity has been reached earlier".

Member States of the United Nations are required to ratify this convention in order to transform from legal language into policies, strategies, goals and programs in those countries, and have an obligation to appear before the Committee on the Rights of the Child periodically to evaluate progress- progress made in implementing this convention, as well as evaluating the status of children's rights in the country. The Committee on the Rights of the Child groups the 54 articles in the Convention on the Rights of the Child into eight categories so that each country can understand the basic provisions and principles in the Convention on the Rights of the Child. The eight categories in question are:

- 1) General Implementation Measures;
- 2) Definition;
- 3) General Principles of the Convention on the Rights of the Child;
- 4) Civil Rights and Freedoms;
- 5) Family Environment and Alternative Parenting;
- 6) Disability, Basic Health, and Welfare;
- 7) Education, Utilization of Leisure, and Cultural Activities;
- 8) Special Protection.

Cluster 1-3 does not explicitly mention the substantive rights of children but is closely related to the substance of children's rights. Meanwhile, clusters 4-8 contain provisions regarding the substance of children's rights.

There are 4 (four) general principles of international law (General Principles of International Law) contained in the Convention on the Rights of the Child (CRC), as follows:

- 1) The principle of non-discrimination (principle of universality of human rights)

The first paragraph of Article 2 of the CRC creates fundamental obligations of state parties that are bound by the Convention on the Rights of the Child, to respect and ensure all children's rights in this convention to all children in all jurisdictions. nationally without discrimination of any kind.² It is necessary to underline the possibility of discrimination against children who need special protection, disadvantaged children or groups of children who are at risk, for example disabled children, refugee children. Certain articles of the CRC provide special forms of protection for children who tend to experience discrimination. This is because discrimination is the root of various forms of exploitation of children.³

- 2) The principle of the right to life, survival and development (human rights indivisibility) This principle explains the guarantee for the survival of children. All potential that will endanger children must be minimized from all environments in children's lives, for example in the school and home environment. States parties must guarantee to the maximum extent the survival and development of children (Article 6 paragraph (2) of the Convention on the Rights of the Child).
- 3) The principle of the best interest of the child This principle first appeared at the international level in principles 2 and 7 of the 1959⁴ Declaration of the Rights of the Child. The principle of the best interest of the child) was adopted from Article 3 paragraph 1 of the CRC, where this principle is placed as a primary consideration in all actions for children, whether by social welfare institutions in the public or private sector, courts, administrative authorities, or legislative bodies. Article 3 paragraph 1 of the CRC asks the state and government, as well as public and private bodies to ensure the impact on children for all their actions, which of course ensures that the principle of the best interest of the child is the main consideration, giving better priority to children. children and build a child-friendly society.⁵ The best interests of the child

¹The Convention on the Rights of the Child dates back to 1979, when the International Year of the Child was declared. At that time, the Polish government proposed the formulation of a document that laid down international standards for the recognition of children's rights and was legally binding. In 1989, the draft Convention on the Rights of the Child was finalized and in the same year the final text was unanimously adopted by the UN General Assembly on 20 November. This Convention entered into force on September 2, 1990 after the number of countries that have ratified it has reached the requirements. As of October 2015, 196 countries have ratified it, including all member states of the United Nations except the United States of America. Supriyadi W. Eddyono, *Pengantar Konvensi Hak Anak*, Seri Bahan Bacaan Kursus HAM Untuk Pengacara X, Lembaga Studi Dan Advokat Masyarakat (ELSAM): Jakarta, 2005, Hal. 1.

² Muhammad Joni, *Hak-Hak Anak dalam UU Perlindungan Anak dan Konvensi PBB tentang Hak Anak: Beberapa Isu Hukum Keluarga*, (Jakarta: Komisi Nasional Perlindungan Anak, 2008), page 2.

³ *Ibid*, page. 3.

⁴ Trevor Buck, *International Child Law*, London: Cavendish Publishing Limited, 2005, page 59.

⁵ Muhammad Joni, *Op. Cit.*, page 4

become the principle when a number of other interests surround the interests of the child. Thus, in this case the best interests of the child must take precedence over other interests. The best interests of the child are not understood as giving the child freedom to determine his own views and opinions liberally. The role of adults is precisely to prevent children from choosing a situation that is unfair and not exploitative, even though it is no longer felt by children.¹ In order to implement the principle of the best interest of the child, in the formulation of Article 3 paragraph 2 of the CRC, it is emphasized that participating countries guarantee child protection and provide care for children within their jurisdiction. The state takes on the role of enabling parents to be responsible for their children, as well as other legal institutions.²

- 4) The principle of respect for the views of the child (respect for the views of the child) This principle is a manifestation of children's participation rights which are absorbed from article 12 of the CRC. Referring to article 12 paragraph 1 of the CRC, it is recognized that children can and are able to form or express their opinions in their own views which are the right to express freely (capable of forming his or her own views the rights to express those views freely). The guarantee of protection of the right to express an opinion on all these matters must be considered according to the age and maturity of the child.³ In line with that, participating countries are obliged to ensure that children are given the opportunity to express their opinions in any judicial or administrative process that affects children's rights, either directly or indirectly.

Article 1 of the Convention on the Rights of the Child generally defines a child as a person who has not reached the age of 18 years, but this article also recognizes the possibility of differences or variations in the determination of the age limit for maturity in the laws and regulations of each State Party. For example, to work, to participate in elections, to consume alcoholic beverages, to be criminally responsible or to be sentenced to death and so on. Ideally, participating countries treat the standards set out in the Standards of the Convention on the Rights of the Child as the lowest standards and gradually begin to adjust the age limit for children contained in national legislation to conform to the standards of the Convention on the Rights of the Child.

By knowing the age limit of the child, the rest are considered adults. Because the international convention does not explain the limitations regarding maturity or does not discuss the age of adulthood. By knowing that the age limit of a child is 18 years, the age of more than 18 years is no longer called a child with the assumption that he is an adult.

B. Limits of a person's maturity or competence in carrying out legal actions on legislation in Indonesia

Continuing the definition of a child in the convention on the rights of the child above, the definition of a child according to the Indonesian legal system varies between 16-21 years (the Marriage Law and the Child Welfare Law respectively). It should be noted that the statement in the initial report of the Republic of Indonesia since the enactment of the CRC in general is about, The essence of this definition is to provide maximum protection, guidance and support to children. in order to grow optimally under any conditions. It is also said that to some extent various local regulations have been put in place to protect children from violence and the effects of certain conditions such as pornography etc. Then it is said that in this case the definition of a child varies between 14-18 years. Regarding the legal age limit for consuming alcohol, it is said that Indonesia does not need any special rules about it because the majority of its people are Muslims who are prohibited from drinking alcoholic beverages. Community control has played a large role in preventing the occurrence of alcohol abuse among children. Regarding children who are in situations of economic exploitation, it is stated that the labor law stipulates an age limit of 14 years. Regarding exploitation and sexual violence against children, it is stated that by definition, the maturity to engage in prostitution is 16 years. It was also stated that due to the influence of religion and strong community control, prostitution and sexual exploitation of children did not occur in Indonesia. However, it is recognized that it is difficult to know the exact age of the child due to the low level of education and public awareness. The presentation (in brief) of Indonesia's initial report which should state the efforts that have been made in relation to the obligations of the State in relation to the implementation of the provisions of the CRC for the period between 1990-1992 above is simply to provide an overview of how the Government of Indonesia perceives obligations and implements obligations as regulated. in KHA.

As evidence of Indonesia's commitment to ratify the Convention on the Rights of the Child, the Indonesian government ratified Law Number 23 of 2002 concerning Child Protection which as a whole, the main material in the law contains the provisions and principles of the Convention on the Rights of the Child. Then this law was revised in 2014 through Law Number 35 of 2014 concerning Amendments to the Child Protection Act. The law guarantees the fulfillment of children's rights to grow, develop, and participate optimally in accordance with human dignity and dignity, as well as receive protection from violence of discrimination for the realization of quality, noble, and prosperous Indonesian children.

Long before the Convention on the Rights of the Child was ratified, the Indonesian government had first

¹ Muhammad Joni & Zulchaina Z. Tanamas, *Aspek Hukum Perlindungan Anak dalam Perspektif Konvensi Hak Anak*, (Bandung: Citra Aditya Bakti, 1999), page 105.

² Muhammad Joni, Loc. Cit

³ *Ibid.*, page 5

passed Law Number 4 of 1979 concerning Child Welfare. Then in Law Number 23 of 2002 the definition of a child is expanded, namely that what is meant by a child is not only someone who is under 18 years of age, as stated in the Convention on the Rights of the Child, but includes children who are still in the womb. Likewise regarding children's rights, in Law Number 23 of 2002 concerning Child Protection there are 31 children's rights. In addition, the Indonesian government added article 28B paragraph 2 to the 1945 Constitution in the Second Amendment, which reads "Every child has the right to survive, grow, and develop, and has the right to protect children from violence and discrimination".

In Indonesian law, there is pluralism regarding the criteria for children, because each legislation regulates separately the criteria for children.¹ Article 330 of the Civil Code stipulates that "minors are those who have not reached the age of 21 (twenty one) years and have not married before". Article 330 paragraph (1) of the Civil Code does contain a limit between a minor (*minderjarigheid*) and an adult (*meerdejarigheid*), which is 21 years, unless the child has been married before 21 years, or has matured (*venia aetatis*) (article 419) of the Civil Code.² Article 330 paragraph (2) of the Civil Code stipulates that the dissolution of a marriage that occurs to a person before he is 21 years old has no effect on his maturity status, while paragraph (3) of the same article states that a minor who is not under parental control will be under guardianship.

The Marriage Law does not explicitly mention the definition of a child, but several articles do include it implicitly. Article 47 of the Marriage Law stipulates that children who have not reached the age of 18 (eighteen) years or have never married are under the control of their parents as long as they are not revoked from their power. It is also stated that the parents represent the child regarding legal actions inside and outside the court. If the parent's authority is revoked, then the child is under the supervision of a guardian (article 50 of the Marriage Law).

In the Criminal Code (*Wetboek Van Straftrecht*) (hereinafter referred to as the Criminal Code)³ Article 45, a child (a person who is not yet old enough/*minderjarig*) is defined as a person who is not yet 16 (sixteen) years old. Therefore, if he is involved in a criminal case, the judge may order that the guilty person be returned to his parents, guardians or guardians without being subject to a penalty. The Criminal Code also stipulates that the age of a child as a criminal victim is not even 15 (fifteen) years old as regulated in articles 287, 290, 292, 293, 294, 295, 297, others. Those articles do not qualify the act as a crime if it is committed with/against an adult, but on the contrary it will be a criminal act if it is committed with/against a child who is not yet 15 (fifteen) years old.⁴

The provisions in Article 45 of the Criminal Code above were later declared no longer valid by Article 67 of Law Number 3 of 1997 concerning Juvenile Court (State Gazette of the Republic of Indonesia of 1997 Number 3, Supplement to the State Gazette Number 3668), which was amended by Law Number 11 of 2012 concerning the Juvenile Criminal Justice System (State Gazette of the Republic of Indonesia of 2012 Number 153, Supplement to the State Gazette Number 5332 (hereinafter referred to as the SPPA Law)). The SPPA Law states that children in conflict with the law are divided into three groups, namely children in conflict with the law, children who are victims of criminal acts, and children who are witnesses to criminal acts (article 1 number (2)). According to the SPPA Law, children in conflict with the law are children who are 12 (twelve) years old, but not yet 18 (eighteen) years who are suspected of committing a crime (article 1 point (3)), a child who is a victim of a crime is a child who is not yet 18 (eighteen) years old who suffers from physical, mental, and/or economic loss caused by a criminal act (article 1 point (4)), while a child who is a witness to a crime is a child who is not yet 18 (eighteen) years old who can provide information in the interest of investigation, prosecution, and examination in a court session regarding a criminal case that he has heard, seen, and/or experienced (article 1 point (5)). The definition in the new SPPA Law is different from the definition in the revoked Juvenile Court Law Number 3 of 1997, which defines a child as "a person who in the case of a naughty child has reached the age of 8 (eight) years but has not yet reached the age of 18 (eighteen) years and have never been married" (Article 1 point (1)).

In the Child Protection Law article 1 number 1, it is defined that "a child is someone who is not yet 18 years old, including children who are still in the womb". In Article 1 number (2) of the Child Welfare Law, what is meant by a child is "a person who has not reached 21 (twenty one) years and has never been married". Article 1 number (5) of the Human Rights Law states that "a child is every human being who is under 18 (eighteen) years old and unmarried, including children who are still in the womb if this is in their interest". The age limit for children is also contained in Article 98 paragraph 1 of the KHI, where the article states that "the age limit for a child who is able to stand alone or as an adult is 21 years, as long as the child is not physically or mentally disabled or has never married". Article 98 paragraph (2) states that "the parents represent the child regarding all legal actions inside and outside the Court".

The definition of children is also spread in several other laws and regulations. In Article 1 number (26) of

¹ Darwan Prinst, *Hukum Anak Indonesia*, (Bandung: Citra Aditya Bakti, 2003), page. 2.

² Irma Setyowati Soemitro, *Aspek Perlindungan Anak*, (Jakarta: Bumi Aksara, 1990), page. 17.

³ *Staatsblad* 1915-732 jls. S. 1917-497. 645. Enacted, amended and supplemented by Law No. 1 of 1946 concerning Criminal Law Regulations.

⁴ Darwan Prinst, *Op. Cit.* page. 4.

Law Number 13 of 2003 concerning Manpower (State Gazette of the Republic of Indonesia of 2003 Number 39, Supplement to the State Gazette Number 4279), a child is any person under the age of 18 (eighteen) years. In article 4 letter (h) of Law Number 12 of 2006 concerning Citizenship (State Gazette of the Republic of Indonesia of 2006 Number 63, Supplement to the State Gazette Number 4634) (hereinafter referred to as the Citizenship Law), children born outside of legal marriage to a mother Foreign Citizens who are recognized by an Indonesian citizen father as his child and the acknowledgment is made before the child is 18 (eighteen) years old or unmarried will be considered as Indonesian Citizens. Article 1 number (5) of Law Number 21 of 2007 concerning the Eradication of the Crime of Trafficking in Persons (State Gazette of the Republic of Indonesia of 2007 Number 58, Supplement to the State Gazette Number 4720), a child is "a person who is not yet 18 (eighteen) years old, including children who are still in the womb. Meanwhile, Article 1 number (4) of Law Number 44 of 2008 concerning Pornography (State Gazette of the Republic of Indonesia of 2008 Number 181, Supplement to the State Gazette Number 4928), states that a child is someone who is not yet 18 (eighteen) years old.

Efforts to uniform the adult age limit in this case the Supreme Court has anticipated by:

1. Issued Circular Letter Number 7 of 2012 concerning the Legal Formulation of the Results of the Plenary Meeting of the Supreme Court as a Guide to the Implementation of Duties for the Court. In the Circular Letter of the Supreme Court, it has explained the provisions on the limits of a person's maturity. It was stated in the results of the meeting of the Civil Chamber on March 14-16, 2012, that adults are capable of acting under the law, namely people who have reached the age of 18 years or have been married. In addition to being stated in the results of the meeting of the Civil Chamber, a person's maturity is also stated in the results of the meeting of the Criminal Chamber of the Supreme Court of the Republic of Indonesia. It is stated in the results of the meeting of the Criminal Chamber for the Special Crimes section, that the size of a person's maturity depends on the case (casuistic).

The purpose of holding this room meeting system is none other than to create a legal entity, and to make it easier to handle a case. In the results of the meeting of the Civil Chamber it was stated that the legal age limit and legal competence was 18 years old or married. The judge determined that because it was guided by most of the laws and regulations that stipulate the age limit for adulthood is 18 years. It is hoped that with the issuance of the Circular Letter of the Supreme Court Number 7 of 2012 there will be legal equality in applying the provisions of the law, especially regarding the regulation of a person's adult age limit. So there is no confusion in applying these provisions.

2. Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 4/SE/I/2015 concerning Adult Age Limits in the Context of Land Services.

In the provision of number 7, it is stated that the adult age who can carry out legal actions in the context of land services is at least 18 years old or already married. The National Land Agency as the provider of land services considers that the age limit for adult services in the context of services in the land sector in each region, the National Land Agency applies 175 different provisions regarding the age limit for adults. In order to avoid confusion and become a legal entity, the Head of the National Land Agency issues this Circular. So that after this it is hoped that there will be no rejection of the application for land registration even though the applicant is not yet 21 years old, because it has been specifically regulated in Circular Letter Number 4/SE/I/2015.

The existence of these two efforts can at least provide a reference regarding the age limit for carrying out legal actions. When conducting a civil law relationship, the Circular Letter of the Supreme Court Number 7 of 2012 can be the legal basis for determining a person's adult age limit. To carry out legal actions in the land sector, one can pay attention to the Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 4/SE/I/2015, to determine the adult age limit for a person in the context of land services.

Table
Age Limits for Children / Minors According to Various Legislations

NO	Regulation	Chapter	Child/minor age limit
1.	Burgerlijk Wetboek, (Staatsblad 1847 No. 23). Civil Code (KUHPperdata)	Article 330	Minors are those who have not reached the age of 21 (twenty one) years and have not married before.
2.	Law Number 1 of 1974 concerning Marriage	Article 47 paragraphs (1) and (2) Article 50 paragraph (1)	Children who have not reached 18 (eighteen) years or have never been married are under the control of their parents as long as their authority is not revoked. Parents represent the child regarding legal actions inside and outside the court. Children who have not reached the age of 18 (eighteen) years or have never been married, who are not under the authority of their parents, are under the authority of a guardian.
3.	Law Number 36 of 2008 concerning the Fourth Amendment to Law Number 7 of 1983 concerning Income Tax	Elucidation of Article 8 paragraph (4)	What is meant by an immature child is a child who is not yet 18 (eighteen) years old and has never been married.
4.	Law Number 4 of 1979 concerning Child Welfare	Article 1 number (2)	Child is someone who has not reached the age of 21 (twenty one) years and has never been married.
5.	Presidential Decree No. 36/1990 on Ratification of the Convention on the Rights of the Child	Annex: Convention on the Rights of the Child Part 1 Article 1	Child means any human being under the age of 18, unless under the laws applicable to children, maturity has been reached earlier.
6.	Compilation of Islamic Law (Presidential Instruction Number 1 of 1991)	Article 98 paragraph (1) and (2)	The age limit for a child who is able to stand alone or as an adult is 21 (twenty one) years, as long as the child is not physically or mentally disabled or has never been married. The parents represent the child regarding all legal actions inside and outside the court.
7.	Law No. 39/1999 on Human Rights	Article 1 number (5)	A child is every human being under 18 (eighteen) years of age and unmarried, including a child who is still in the womb if this is in his interest.
8.	Law Number 23 of 2002 concerning Child Protection, as last modified by Law Number 17 of 2016	Article 1 number (1)	Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.
9.	Law Number 13 of 2003 concerning Manpower	Article 1 number (26)	Child is any person under the age of 18 (eighteen) years.
10.	Law Number 12 of 2006 concerning Citizenship	Article 4 letter (h)	A child born outside a legal marriage to a foreign mother who is recognized by an Indonesian citizen father as his child and the acknowledgment is made before the child is 18 (eighteen) years old or unmarried.
11.	UU Nomor 21 Tahun 2007 Tentang Pemberantasan Tindak Pidana Perdagangan Orang	Pasal 1 angka (5)	Anak adalah seseorang yang belum berusia 18 (delapan belas) tahun, termasuk anak yang masih dalam kandungan.
12.	Law Number 40 of 2008 concerning Pornography	Article 1 number (4)	A child is someone who is not yet 18 (eighteen) years old

NO	Regulation	Chapter	Child/minor age limit
13.	Law Number 11 of 2012 concerning the Juvenile Criminal Justice System	Article 1 number (3) Article 1 number (4) Article 1 number (5)	Children in Conflict with the Law are children who are 12 (twelve) years old, but not yet 18 (eighteen) years old who are suspected of committing a crime. Children who become victims of criminal acts are children who are not yet 18 (eighteen) years old who experience physical, mental, and/or economic losses caused by criminal acts. Children who are witnesses to criminal acts are children who are not yet 18 (eighteen) years old who can provide information for the purposes of investigation, prosecution and examination in court regarding a criminal case that has been heard, seen, and/or experienced by him/herself.
14.	Law Number 40 of 2004 concerning the National Social Security System	Article 41 paragraph (6)	The right of the heir to the child's retirement benefit ends when the child is married, works permanently, or reaches the age of 23 (twenty three) years.

The non-uniformity of the age limit for adults or the age limit for children in various laws and regulations (positive law) in Indonesia often raises questions about which limits should be used.

The provision of adult age is a main thing that must be obeyed in every legal act. Because adulthood is a formal requirement for someone to take legal action. In Article 1320 of the Civil Code concerning the conditions for a valid agreement, it is regulated regarding a person's ability to make an agreement. A person's skills are a formal requirement when making an agreement. If the formal requirements are not met, the agreement that has been made can be canceled.

D. CONCLUSION

The limit of a person's maturity or skill in carrying out legal actions has not realized the value of justice, this is because there are differences in the limits of maturity or skills in the laws and regulations in force in Indonesia. As stated in the Civil Code which stipulates the maturity limit of 21 years, it is contrary to Law No. 35 of 2014 concerning Amendments to Law No. 23 of 2002 concerning Child Protection and Law no. 30 of 2004 jo. Law No. 2 of 2014 concerning Notary Positions which stipulates the maturity limit of 18 years. It is also supported by other laws such as the Marriage Law, Manpower Law, Child Protection Law, Child Welfare Law, and others. This often causes confusion and multiple interpretations in its implementation.

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