



Harmonization of the Legal Age in the Context of Private Law as a Means of Achieving Legal Certainty and Justice in Indonesia

Diana Tantri Cahyaningsih^(✉), Adi Sulistyono, and Hari Purwadi

Universitas Sebelas Maret, Surakarta, Indonesia
dianatantri@staff.uns.ac.id

Abstract. There is no uniformity or parameter in laws and regulations in Indonesia regarding a person who is considered legally capable or authorized to carry out legal actions, causing confusion for citizens in carrying out their obligations and obtaining their rights as citizens. It is to determine the person's legal age because it determines whether a person acts legally, and whether a person's capability to do legal acts. Some regulations use the definition of "child" and the age of majority of a person with a limit of 21 (twenty-one) years, age 18 (eighteen) years, and some even 17 (seventeen) years. The research method is normative legal research with a conceptual, statutory and case approach. The outcomes of the discussion show that there is an overlap between regulations resulting in no legal certainty. To address the diversity of legal age standard contained in laws and regulations, there needs to be a legal harmonization with an emphasis on the application of the principle of law, as well as the existence of cooperation between institutions. The government must evaluate and review the legal age, as well as collaborate and coordinate so that there are no sectoral egos in each institution related to the legal age. The hope is that the parties will have legal certainty and justice.

Keywords: Harmonization of law · legal age · civil law · legal certainty · justice

1 Introduction

Currently, the adult age limit for carrying out legal actions has no uniformity or standard of parameters, a person is considered legally competent or authorized to carry out legal actions in laws and regulations. In almost every area of life, maturity is always a measure of responsibility for an action. Because only someone who has matured is considered to be perfectly accountable for his actions, this can be seen from several legal provisions that provide qualifications for actions that in principle can only be carried out by those who are adults. [1] oramature or in maturity capable or capable of carrying out all legal actions, for example making agreements, conducting marriages, and making wills [2].

The non-uniformity of the age limit for adults or the age limit for children in various laws and regulations in Indonesia creates confusion for citizens in carrying out their obligations and also in obtaining their rights as citizens. The variety of laws and regulations governing the age limit for adults has become a polemic in its implementation.

In this case, several regulations use the notion of “child” and a person’s adult age is less than 21 (twenty one) years old, not yet 18 (eighteen) years old, and some are even 17 (seventeen) years old.

Determination of the age limit for maturity in some laws seems out of sync because between one and the other there is absolutely no correlation, if a common thread is drawn from each goal of having an age limit for maturity, it will eventually point to the notion of responsibility, namely guaranteeing the actions taken by someone can be legally accounted for and can be sued before the law if his actions are detrimental to other parties.

Below will be described some of the provisions of the law regarding the age limit applicable 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. Law Number 16 of 2019 concerning Amendments to Law N 1 of 1974 concerning Marriage: Permit to marry at the age of 19, both male and female.
3. 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).
4. 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).
5. Law Number 39 of 1999 about 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.
6. Law Number 35 of 2014 concerning Amendments to law number no. 23 of 2002 about Child Protection Article 1 paragraph (1) Child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb.
7. Law Number 24 of 2013 concerning Amendments to Law Number 23 of 2006 about Population Administration Article 63 Paragraph (1) states “Indonesian Citizens and Foreigners who have Permanent Stay Permits who are 17 (seventeen) years old or have been married or have been married are required to have an e-KTP.
8. Law Number 30 of 2004 about the Position of a Notary Article 39 Paragraph (1) states that: “the appearer must meet the following requirements: a) at least 18 (eighteen) years old or married and b) competent in carrying out legal actions

Presidential Instruction Number 1 of 1991 concerning the Compilation of Islamic Law Article 98 of the KHI states that (1) 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 been married, (2) His parents represent the child regarding all legal actions in and outside the country. Outside the Court.

In the laws and regulations in Indonesia, there are so many laws that regulate the age limit for adults, but in legal products in the form of laws and regulations there is no

uniformity in providing an adult age limit between one regulation and another so that it cannot provide certainty. Law against a person or legal subject. The problem in this study is why the diversity of the adult age limit in the legislation in the civil law system in Indonesia and legal efforts so that the implementation occurs harmonization of the legislation.

2 Research Method

The legal research used is included in normative juridical research, which emphasizes secondary data in reviewing the principles and principles of positive law as well as elements related to the object of research, supported by sufficient library materials. The method used in this research is the law is conceptualized based on written regulations (law in book).

3 Findings and Discussion

1. The factors that cause the diversity of adult age limits in Indonesia in the civil law system are caused by:
 - a. Pluralism of the legal system in Indonesia

historical factors of the Indonesian nation which has differences in ethnicity, language, culture, religion and race. The purpose of legal pluralism in Indonesia has one common goal, namely justice and the benefit of the nation. So far, Indonesia in the law still apply four laws, namely Customary Law, Islamic law, civil law and Common Law [3]. The definition of customary law itself [4] is a living law because it embodies the real legal feelings of the people according to their own nature, customary law continues to grow and develop like life itself. The existence of indigenous peoples in Indonesia is recognized constitutionally as regulated in the 1945 Constitution of the 4th Amendment Article 18B paragraph (2): "The state recognizes and respects customary community units and their traditional rights as long as they are still alive and in accordance with community development and state principles. Unity of the Republic of Indonesia as regulated by law". Until now, customary law is still used by some communities in general as a legal guideline.

Islamic law as an order that is adhered to and adhered to by the majority of the population and the people of Indonesia is a law that has lived in society and is part of the teachings and beliefs that exist in the life of national law, is an ingredient in its development and development. Islamic law is law that was born and developed [5] in countries that adhere to or apply Islamic law in their legal systems, such as Saudi Arabia, Iran and Egypt. In law, the Qur'an and the Sunnah of the Prophet are the main sources of law. Based on the Qur'an and Sunnah, Islamic law is often referred to as Law.

- 1) There are differences in understanding the concept of Adult concept in customary law

Djojodigono stated that customary law does not recognize an age limit to determine whether it is a minor or an adult. In customary law, there is no fiction as in Western civil law. Customary law does not recognize a sharp difference between people who are completely incapable of carrying out legal actions on the one hand and people who are capable of carrying out any legal actions on the other [6]. If maturity is related to the act of marriage, in Djojodigono's view, customary law recognizes the fact that if a man and a woman marry and have children, they are declared adults even though they are only 15 years old. On the other hand, if they are mated, they do not produce children because they are not yet capable of sexual intercourse, they are said to be immature, for example, child marriage [7].

R. Soerojo Wignjodipoero stated, according to customary law, those who are considered capable are men and women who are considered adults. In traditional customary law, the criteria for adulthood are not age but with certain characteristics, including: [8] Kuwat gawe (already able to work alone), able to take care of their own property and other needs, able to carry out all interactions in social life and be responsible for everything themselves. There is no unity of opinion, this may be due to unwritten customary law and between one scholar and another scholar conducts research objects in different places.

2) Concept of Adulthood according to Islamic Law

According to Islamic law, legal competence is a person's obedience to carry out obligations and leave prohibitions and someone's propriety is judged by his actions so that it has legal consequences [9]. Legal skill here is related to expert al-Manifest (the ability to own and bear rights), while appropriateness to act concerns a person's appropriateness to carry out the law as a whole which in fiqh terms is called Ahliyah al-ada (the ability to give birth to obligations on himself and rights for others). Therefore, the ulama' ushul fiqh defines the ability to act as a person's propriety for the emergence of an act (action) from himself according to the way determined by syara' [10].

Baligh is a term in Islamic law that indicates a person has reached maturity [11]. Baligh is taken from Arabic which literally means "until" which means that a person's age has reached the stage of maturity. The law cannot be separated from the context of Hadith which is the legal basis for their Ulama' as the second margin after the Qur'an.

Maturity according to the Islamic view mentions in the term "Baligh" which means until or clearly, namely children who have reached a certain age which becomes clear to him all the affairs or problems they face. His mind has been able to consider which ones are good and which are considered bad [12]. Baligh is a phase where the age of the child has reached adulthood, the age of the child has fulfilled his full awareness of himself so that he is charged with religious and social responsibilities.

3) Understanding the concept adults according to civil law

Based on the Civil Code

A person's ability to carry out legal actions requires maturity and maturity is influenced by age. The concept used in the Civil Code regarding the size of a person's maturity stated in the provisions of Article 330 of the Civil Code, adults are those who: (a) have

reached the age of 21 years or older; (b) those who are married, even if they are not yet 21 years old [13]. Based on the provisions of Article 330 of the Civil Code, people who are 21 years old or more and those who were married before reaching that age, are people who are already aware of the legal consequences of their actions and are therefore capable of acting under the law. Based on the Civil Code there are other factors besides the age element to measure maturity, namely the status of being married, including if the husband and wife concerned have not reached the age of 21 years, they are considered adults. Based on Law Number 1 of 1974 concerning Marriage

Based on statutory regulations that are often used as references to determine adult limits (legally), namely Law Number 1 of 1974 concerning Marriage, Adult age, which is 18 (eighteen) years or has been married (Article 47 paragraph (1), paragraph (2) and Article 50 paragraph (1) and paragraph (2)).

Based on the Compilation of Islamic Law (KHI)

Regarding the age limit for adulthood, it is explained in the Compilation of Islamic Law in Article 98 paragraph 1, Chapter XIV concerning Child Care: 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 marry". It means; adult when he is 21 years old or married, not disabled or insane, and can be responsible for himself.

4) The overlap between the laws and regulation with each other

Seach law that has differences in regulating and determining age limits as a form of maturity does not rule out the possibility of meeting each other in certain circumstances between several legal rules. Making an ID card or having an ID card is inconsistent with the Banking Law, Adminduk Law and UUJN regarding the provisions on adult age in making account agreements at Banks.

Opening a savings account and a time deposit account at a bank is basically an agreement, considering that opening an account is an agreement. So in this case, it must meet the requirements regarding the age limit of individual customers without being represented in the practice of banking activities, 17 years is inappropriate, if this is related to the legal age of maturity in making agreements

Article 1 number 17 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking states that a depositing customer is "a customer who places his/her funds in a bank in the form of a deposit based on a bank agreement with the customer concerned". Opening a savings account at a bank is one form of legal action carried out by legal subjects, namely individual customers who create an engagement that is born out of an agreement. At the time of making an agreement, of course, Article 1320 of the Civil Code, namely regarding the conditions for the validity of the agreement, namely Agree, Capable, Certain things and Halal causes. A person's ability to act in law is determined from whether or not a person is said to be an adult according to law.

In the implementation of the agreement to open a savings or time deposit account, a person who is 17 years old can make his own agreement with the bank without having to be represented by a parent or guardian. The Bank requires prospective customers to open an account in 2 categories, namely the adult individual category and the represented minor individual. Of the two categories, the activity of opening a savings account or

time deposit at a bank is categorized based on the age of the individual customer and the presence or absence of an identity card (KTP). In the activity of opening a KTP savings account, it is an important requirement that must be fulfilled by individual customers which must be included when filling out the form as proof of identity when filling out the form as proof of identity. This is regulated in Bank Indonesia Regulation Number 3/10/PBI/2001 concerning the Application of Know Your Customer Principles Article 4 paragraph 2 that “prospective customers must be able to prove their identity with the existence of supporting documents such as customer identity documents. PBI Regarding the Implementation of Know Your Customer Principles Article 5 letter a number 1 Explanation Section states that what is meant by Customer Identity documents are, among others: Identity Card (KTP), Driving License (SIM) or Passport equipped with information regarding permanent residence address if different from what is listed.

In Indonesia, the regulation regarding KTP is regulated in Law no. 24 of 2013 concerning Population Administration (hereinafter abbreviated as the Adminduk Law). Article 63 of the Administrative Law stipulates that: “Residents of Indonesian Citizens and Foreigners who have Permanent Residence Permits who are 17 (seventeen) years old or have been married or have been married are required to have an ID card.”

Basically, both the PBI on Know Your Customer Principles and the Adminduk Law do not explicitly state that 17 years is a person who is considered an adult. The PBI on Know Your Customer Principles only requires that someone who is going to open an account must have supporting documents, one of which is an ID card. Meanwhile, the Adminduk Law only requires Indonesian citizens and foreigners who have a permanent residence permit and are 17 years old or married to have an ID card. Even in Article 1 point 14 of the Administrative Law, it is stated that KTP is limited to the official identity of residents.

According to the author, this is certainly an inconsistency considering that opening an account at a bank is included in the agreement, but there are no firm rules regarding the category of adult individuals in banking regulations. The current banking regulations only require that individual customers who wish to open an account must have an ID card. This is of course inconsistent with the subjective requirements in making agreements as regulated in Article 1320 of the Civil Code.

5) There's no legal certainty

According to Gustav Radbruch [14], that the ideals of law are supported by 3 basic values, namely justice, expediency and legal certainty. Legal certainty is “sicherheit des Rechts selbst” (certainty about the law itself). 4 things related to the meaning of legal certainty. First, that the law is positive, meaning that it is legislation (gesetzliches Recht); Second, that this law is based on facts (Tatsachen), not a formulation of judgments that will later be made by the judge, such as “good will”, “politeness.” Third, that the facts must be formulated in a clear way so as to avoid mistakes in meaning, while also being easy to implement. Fourth, positive law should not be changed frequently. The certainty of the law is a protection against arbitrary actions, which means that someone will get something that is expected under certain circumstances. People expect legal certainty, because with legal certainty the community will be more orderly. Law creates certainty because its purpose is for public order [15].

The existence of legal uncertainty according to the author is contained in several court decisions as follows:

The adult age limit used is 21 years.

Example:

- (a) Manado District Court Decision No. 205/Pdt.G/1998/PN.MDO Dated December 21, 1998 jis. Decision of the High Court of North Sulawesi in Manado No. 141/Pdt/1999/PT. MDO Dated September 29, 1999 jis. RI Supreme Court Decision No. 278/K/Pdt/2000 June 4, 2003

According to the consideration of the Panel of Judges, Defendant III who is still not yet 21 years old is considered immature, because his parents, namely Defendant I and Defendant III are responsible for the losses incurred as a result of the actions of Defendant III. In the decision, the Panel of Judges is of the opinion that the age limit used to determine whether a person is an adult or not is under the age of 21 years.

- (b) South Jakarta District Court No. 69/Pdt.P/2009/PN.Jaksel Dated April 16, 2009 (Application to take legal action on behalf of a minor) The judge determined that the applicant was the widow of her deceased husband, with 2 sons aged 16 and 13. In this case, the judge stated that the two children were still under age based on Article 330 jo 1330 BW. (21 years)
- (c) Klaten District Court No. 15/Pdt.P/2015/PN KIn Dated March 4, 2015 (Application to take legal action on behalf of a minor). The Judge determined that the Petitioner was a widower from a divorced and deceased wife with 2 children, a boy (16 years old) and a daughter (14 years old). The judge stated that the two children were not yet mature based on Article 330 of the Civil Code (BW) which stated that “the immature are those who have not reached the age of 21 (twenty one) and have not been married before.” The applicant represents his child who is not yet an adult with the aim of selling land with a house building.
- (d) Religious High Court of South Kalimantan no.0006/Pdt.G/2018/PTA/Bjm February 1, 2018. The judge decided that the custody of children aged 15 and 5 years, for the sake of maintenance, set 2.5 million per month from the time of the divorce until the child reached the age of 21 years or as an adult. Judges do not use legal considerations of laws and regulations.
- (e) Yogyakarta Religious High Court No. 36/Pdt.G/2015/PTA/YK 23 June 2015. At the Court of first instance the judge decided that the custody of the Petitioner’s 2 children was given to the Respondent until the adult/independent child was 21 years old or married. At the High Court the judge sentenced the Petitioner to pay for his 2 children 5 million/month with an increase of 5% every year until the children grew up. (Without mentioning the legal basis for the notion of adulthood).
- (f) Central Jakarta District Court No. 331/Pdt.G/2013/PN Jkt.Pst May 31, 2014. The Panel of Judges decided to reject the Plaintiff’s claim with the consideration that the defendant was not yet an adult. The basis of consideration used is Article 330 of the Civil Code, which states that minors are those who have not reached the age of 21 years and have not been married.

The adult age limit used is 18 years

- (a) Pontianak Religious court No: 113/Pdt.P/2012/PA.Ptk dated July 3, 2012. (guardianship Application)

The applicant is a widow with a husband who has died, with 2 children who are still underage. The applicant filed for guardianship over his child. The judge stated that the two children were not yet 18 years old or had never been married. The judge refers to Article: 47 paragraph (1) of Law no. 1 of 1974 concerning Marriage that children who are not yet 18 years old or have never married are under the control of their parents as long as their rights are not revoked; Paragraph (2) Parents represent children regarding legal actions inside and outside the Court.

- (b) Sukabumi District Court No. 407/Pdt.P/2011/PN Smi dated November 8 2011.

Application of the biological father as a guardian to take legal action against his two children, especially to sign letters relating to the credit process or to guarantee a HM land certificate on behalf of his two underage children.

The Panel of Judges used the consideration that they were still immature because they had not yet reached the age of 18 and were not married. Using the basis of Article 47 paragraph (1) and paragraph (2) in conjunction with Article 48 in conjunction with Article 49 in conjunction with Article 50 of Law no. 1 of 1974 concerning Marriage.

- (c) Surakarta Religeous Court No.0026/Pdt.P/2014/PA.Ska Dated April 17, 2014 (Application fot Guardianship)

The judge determined that the Petitioner was the guardian of his 2 nephews who were 15 years old and 8 years old, respectively, because both of the children's parents had died.

The judge's consideration that the two children were under the age of 18 years, there was a family relationship with the child concerned. The legal basis used is Article 51 paragraph (2) of Law no. 1 of 1974 Jo Compilation of Islamic Law Article 107.

- (d) Medium City Religious Court No. 0014/Pdt.P/2015/Pa.Mn March 30, 2015.

The judge determined that the Petitioner was a widower whose wife had died, leaving 2 children, namely 18 years old and 15 years old.

The judge's consideration in determining guardianship to the Petitioner against both of them for the benefit of the process of buying and selling/transferring the name of the inheritance.

The Panel of Judges considered that the two children of the Petitioner were still immature, based on Article 47 paragraph (1) of Law no. 1 of 1974 concerning the Marriage of the Petitioner as the surviving parent has the power to represent him as a guardian; The Panel of Judges also considered legal actions to guarantee certificates and sell inherited land based on Article 48 of Law No. 1 of 1974 concerning Marriage, namely "Parents are not allowed to transfer rights or mortgage fixed assets owned by

their children who are not yet 18 years old (eighteen) years or have never been married, unless the interests of the child itself so desire”;

The Panel of Judges considered that the determination to represent the legal actions of minors was based on Law no. 1 of 1974 concerning Marriage and the Compilation of Islamic Law (KHI).

6) Application for certain legal actions

The judge used the consideration that the adult age limit for a person to be able to act legally refers to Article 47 paragraphs (1) and (2) of Law no. 1 of 1974 concerning Marriage. That is, the age limit used as a parameter to determine the legal capacity is 18 years.

Central Jakarta District Court No. 150/Pdt.P/2009/PN.Jakpus 7 September 2000. The judge based his maturity at the age of 18 years based on Law no. 1 of 1974 concerning Marriage and Law number. 30 of 2004 concerning UUJN.

However, in its application, considering that the legal act carried out was buying and selling before the PPAT, the applicant by the Panel of Judges was deemed to have submitted to the provisions of Article 330 BW that maturity is 21 years.

It turns out that in this case the judge has not been able to be firm in determining legal skills, namely using Law No. 1 of 1974 concerning Marriage and Law Number. 30 of 2004 concerning UUJN. Judges still do not dare to expressly deny the provisions of maturity in Article 330 BW.

7) The adult age limit used is the category “Under age or not yet an adult without an age limit used

Claims for compensation due to unlawful acts

- (a) West Jakarta District Court Decision No. 305/Pdt/G/191/PN. West Jakarta On June 12, 1992 jis. DKI Jakarta High Court Decision No. 433/Pdt/1992/PT.DKI dated January 5, 1993 jis Supreme Court Decision No. 2597K/Pd t/1993 May 3, 1996.

The Panel of Judges in their consideration stated that Defendant I was underage without elaborating on the legal basis for declaring Defendant I to be underage. Under Article 1367 BW, parents of guardians are responsible for damages caused by minors who live with them and over whom they exercise parental or guardian power. In the judge’s decision, there is no age limit used to declare underage or not yet an adult.

- (b) Sungailiat District Court Decision No. 19/Pdt.G/1999/PN.SGT 2 February 2000 jis. South Sumatra High Court Decision in Palembang No. 49/Pdt/2000/PT.PLG Dated June 6, 2000 jis Supreme Court Decision No. 3727 K/Pdt/2000 May 11, 2004C.

The Defendant’s biological child who is 12 years old, under consideration is declared immature, so that the Defendant is also responsible for the losses caused by the unlawful acts committed by his child. In the judge’s decision, there is no age limit used to declare underage or not yet an adult, nor does it include the legal basis used.

Application for legal action on behalf of minors

- (a) Tangerang District Court No. 4/Pen. Pdt.P/2008/PN Tangerang dated June 2, 2008.

The judge determined that the Petitioner was the grandfather of 2 (two) heirs of his deceased parents. The Petitioner is the caretaker of the two children aged 12 and 10, who are considered incapable of taking legal action. The applicant's goal is to take care of the inheritance belonging to the two children for educational purposes. In the judge's determination, there was no age limit used to state that he was underage or not yet an adult, nor did he mention the legal basis.

- (b) West Jakarta District Court No. 004/Pdt.P/2009/PN Jakbar dated March 10, 2009.

The judge determined Duda whose wife died, leaving 2 children who are still minors. Namely 17 years and 4 years. The purpose of the trust application is to sell the estate for care and living expenses. In the legal stipulation, the age limit is determined and the age limit used is not specified. Also does not include the legal basis used as a consideration.

- (c) Banjarbaru District Court No. 02/Pdt.P/2016/PN.BJB Dated January 12, 2016.

Application of a widow whose husband has died to serve as guardian on behalf of her 2 children who are still underage. The judge determined his mother as a guardian because she was underage or incompetent to carry out legal actions. The applicant's purpose is to pledge land and buildings to the bank. In the judge's decision, there is no age limit used to declare underage or not yet an adult, nor does it include the legal basis used.

From the examples of cases mentioned above, it shows that the judge's decision in applying the law does not have legal certainty [16] namely there are still differences in determining the size of adult or legal competence. There are still age limits used by judges who use the age of 21 years or 18 years, even though there are also those who do not use the age limit, only mentioning "minors" or not yet adults without using laws and regulations as legal considerations.

2. Legal harmonizations efforts on the diversity of adult age limits in the laws and regulations in Indonesia, namely:

Harmonizations of laws regulations

The adult age limit in Indonesia is regulated in various laws and regulations governing the adult age limit and the ability to carry out legal actions. Some regulations use the age limit of 18 years, others use 17 or 21 years. Even if we observe the judges' decisions as the authors have mentioned above, it turns out that there is a non-uniformity in the application of the adult age limit even for similar cases or cases.

Based on Hasan Wargakusumah's opinion, what is meant by harmonization of law is a scientific activity towards a process of harmonization of written law that refers to philosophical, sociological, economic and juridical values. In its implementation, harmonization activities are comprehensive studies of a draft law, with the aim of finding

out whether the draft regulation in various aspects has reflected harmony or conformity with other national laws and regulations, with unwritten laws.

Living in the community, or with international conventions and agreements, both bilateral and multilateral, which have been ratified by the Government of the Republic of Indonesia [17].

Harmonization of law according to Kusnu Goesniadhie is an effort or process to realize harmony, compatibility, compatibility, balance between legal norms in laws and regulations as a legal system within a unified framework of the national legal system [18]. Regarding legal practice in Indonesia, there are a number of causes for the emergence of legal disharmony.

Factors causing legal disharmony include [19]:

- (a) Differences between various laws or statutory regulations.
 - (b) Conflicts between laws and implementing regulations.
 - (c) Differences between laws and regulations and government policies.
 - (d) Differences between statutory regulations and jurisprudence and the Circular Letter of the Supreme Court.
 - (e) Conflicting policies of central government agencies.
 - (f) Differences between Central and Regional Government policies.
 - (g) Differences between legal provisions and the formulation of certain meanings.
 - (h) Conflicts between the authorities of government agencies due to the unsystematic and clear division of authority.
3. Efforts to harmonize this legislation can be carried out:

If there is friction between legal norms, then legal principles are used to break the deadlock, the relevant principle is *Lex superior derogat legi inferior* (higher rules beat lower rules); *Lex Specialis derogat legi generalis* (more specific rules beat more general rules); *Lex posterior derogat legi priori* (the newer rule trumps the old). Although the legal principle is expected to resolve the impasse of overlapping regulations. For example, the BI regulations in making accounts which are an agreement, in practice do not use the basis of Article 330 of the Civil Code and the Law on Notary Positions. That is, children aged 17 can create their own savings accounts, because they have fulfilled the requirements to have an ID card.

Uniforming the adult age limit, namely with policies that have been carried out by each institution, as an effort to make it uniform, namely through: SE Minister of Agrarian and Spatial Planning/Head of BPN No.4/SE/I/2015 concerning Adult Age Limits in the Context of Land Services. In Number 7, 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.

4. Harmonization between institution in the application of adult age.

In addition to harmonization of legislation, efforts that have been made in synchronizing are still separated between institutions, namely by issuing several policies/regulations, namely:

- a. National Land Agency

Circular 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 Framework of Land Services stipulates that the adult age who can take legal actions in the context of land services is at least 18 (eighteen) years or already married.

The existence of this Circular is an effort to bridge between Notaries/PPAT and BPN in relation to the act of buying and selling land. Because prior to the existence of the SEMA, there were differences between institutions in granting permission to transfer land ownership rights using the legal basis of the Civil Code with an age limit of 21 years, while for buying and selling agreements using the UUJN, the applicant was 18 years old.

b. Banking Institution

There are inconsistencies in Article 1 number 17 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking states that a depositing customer is “a customer who places his/her funds in a bank in the form of a deposit based on a bank agreement with the customer concerned”. Opening a savings account at a bank is one form of legal action carried out by legal subjects, namely individual customers who create an engagement that is born out of an agreement. Article 330 of the Civil Code states that minors are “Those who have not reached the age of twenty-one years and have not previously been married”.

Whereas contrario, that an adult is 21 years old and married. And adults are people who are basically capable of action. However, according to Bank Indonesia Regulation Number 3/10/PBI/2001 concerning the Application of Know Your Customer Principles Article 4 paragraph 2 that “a prospective customer must be able to prove their identity with the existence of supporting documents such as customer identity documents. PBI Regarding the Implementation of Know Your Customer Principles Article 5 letter a number 1 Explanation Section states that what is meant by Customer Identity documents are, among others: Identity Card (KTP), Driving License (SIM) or Passport equipped with information regarding permanent residence address if different from what is listed. Even though we know that someone can get an ID card, driver’s license or passport when they are 17 years old. Of course, this will be a dilemma in providing legal certainty when it is said that someone is capable of carrying out certain legal actions.

4 Conclusion

1. There is a diversity of adult age limits in carrying out legal actions in the laws and regulations in Indonesia due to the application of pluralism in the legal system in Indonesia, namely the implementation of the customary law system, the Islamic legal system and the civil law system.
2. Efforts are being made to harmonize the law, namely:
 - a. harmonization of laws between legislation with one another with an emphasis on the application of legal principles, namely: the principle of *Lex Superior derogat legi generalis*, *Lex Posterior Derogat Legi Priori*.

- b. uniform age limit of 18 years with several policies through the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 4/SE/I/2015, namely the age limit for the age of maturity in the ranks of land servants aged 18 years or already married.
- c. Third: The existence of cooperation between institutions, namely the Judiciary, Notary Institutions, Banking Institutions, Civil Registry Institutions.

References

1. M. Ghufron, The Meaning of Maturity in Marriage, *Al-Hukama The Indonesian Journal of Islamic Family Law*, Vol.06, Number 02, December 2016, p. 322.
2. Abdulkadir Muhammad, 2000, *Indonesian Civil Law*, PT Citra Aditya Bakt, Bandung, p. 40.
3. Teguh Prasetyo.2013. *Law and Legal System Based on Pancasila*. Yogyakarta: Media Perkasa, page 75.
4. Soepomo. 1993, *Customary Law*, Jakarta: PT Pradnya Paramita, p. 3
5. See Ichtijanto SA, *Philosophical Basis of Higher Legal Education in Indonesia Where Islamic Law is Located*, (Paper) presented at the seminar on Integration of Islamic Law into the Curriculum of the Faculty of Law (Jakarta: Faculty of Law Unismuh, 1985). page 5.
6. Abdulkadir Muhammad, *Op. Cit.*, p. 42.
7. *Ibid*.
8. Soeroyo Wignjodipoero, 1990, *Introduction and Principles of Customary Law*, Jakarta, CV Mas Agung, p. 104
9. Ade Manan Suherman, 2007, *Introduction to Islamic Law*, Jakarta, Pradnya Paramita, p. 50.
10. Djauarah Bawazir in *Umi Magazine* (Adolescent Delinquency due to Mother's Mistake, XI Edition, p. 14.
11. Ningrum Puji Lestari, 2005, *Islamic Law*, Bandung, Logos Discourse on Science, p. 25.
12. M. Abdul Mujib, Mabruri Tolhah, 1994, *Sharia, Dictionary of the Terms Figh*, Jakarta, Pustaka Firdaus, Pg.37.
13. J. Satrio. 1999. *Personal Law Part I Natural Person*, Bandung, Citra Aditya Bakti.hlm. 63.
14. Satjipto Rahardjo, 2006, *Law in the Universe of Order*, Jakarta, UKI Press, Pages: 135-136.
15. Sudikno Mertokusumo, 1999, *Knowing the Law: An Introduction*, Yogyakarta, Liberty, Page: 145.
16. Legal certainty is a guarantee of law that contains justice. Norms that promote justice must really function as rules to be obeyed. According to Gustav Radbruch, justice and legal certainty are permanent parts of the law. He argues that justice and legal certainty must be considered, legal certainty must be maintained for the security and order of a country. Finally, positive law must always be obeyed. Based on the theory of legal certainty and the value to be achieved, namely the value of justice and happiness. See Ahmad Ali. 2002. *Uncovering the Veil of the Law (A Philosophical and Sociological Study)*. Publisher Toko Gunung Agung. Jakarta. p. 95.
17. Moh. Hasan Wargakusumah. 1997. *Formulation of Harmonization of Laws on Methodology of Harmonization of Laws*, Jakarta: National Law Development Agency, Ministry of Justice. Pages: 37.
18. Kusnu Goesniadhie.S.2010. *Harmonization of the Legal System Realizing Good Governance*. A3 and Nasa Media. page 9.
19. LM Gandhi, *Harmonization of Law towards Responsive Law*, Speech on Inauguration of Permanent Professors at the University of Indonesia, Jakarta, October 14, 1995, pp. 10–11.

Open Access This chapter is licensed under the terms of the Creative Commons Attribution-NonCommercial 4.0 International License (<http://creativecommons.org/licenses/by-nc/4.0/>), which permits any noncommercial use, sharing, adaptation, distribution and reproduction in any medium or format, as long as you give appropriate credit to the original author(s) and the source, provide a link to the Creative Commons license and indicate if changes were made.

The images or other third party material in this chapter are included in the chapter's Creative Commons license, unless indicated otherwise in a credit line to the material. If material is not included in the chapter's Creative Commons license and your intended use is not permitted by statutory regulation or exceeds the permitted use, you will need to obtain permission directly from the copyright holder.

