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Relevance of Legal Capacity as Legitimate Terms of Agreement of Saving for Child in the Bank

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Abstract

Indonesia is law state such as inserted in constitutional 1945. Legitimation Indonesia as law state have the impact that all attitude have to relevance by law. Similarly act such as saving in the bank. The law Number 10 of 1998 concerning change of the law Number 7 of 1992 concerning the banking stated the definition account saving as follows: "*account saving is savings who can be taken accord agreement of parties only, but it can't be taken with check, billyet, giro ect*". The definition of account saving upon explain implicitly that terms of agreement of saving surrender parties (pay attention of sentence "according specialist term by parties"). The sentence upon is norm blanked should facilitate the child for saving independent according of the best interest of the child principle. But the banking decided use the general law about legal capacity one forbidden the child saving independent. The law one forbidden the child saving independent is going to give impact

such as is blocked protective of law to interest child are for live, grow and develop for prepare the future their selves. Salving independent by the child are growth and development psychologically. According a research by Child and Youth Finance International said "the human one saving since child period is better than the human don't save since child period. It's mean attitude saving is going to become the child find best growth and the best psychological development.

Keywords

Relevance of Legal Capacity, Terms of Saving Agreement, The Child, Bank

I. Introduction

Indonesia upholds the principle of a constitutional state, as enshrined in the 1945 Constitution of Indonesia. This fundamental concept guides the nation in addressing various aspects of life. The commitment to this constitutional mandate remains unwavering. As a legal state, every action is mandated to conform to the established laws. Here, the term "*law*" refers to a system of regulations and norms that have been duly justified and incorporated into the legal framework. The essence of Indonesia as a constitutional state lies in adhering to the principles set forth in its constitution, ensuring that all actions align with the established legal standards and regulations.

This understanding is owed to the determination of rules about what can and cannot, one of which the determination of the

rules on the conditions to be met by the parties to be and / or are conducting the agreement if the agreement is about to declared invalid before the law. The rules on the validity of this agreement the terms stipulated in the Law of Civil Law (Civil Code) Articles 1320, which declared the agreement invalid if they meet four conditions and one of them is for the parties legally competent. The Civil Code itself is a statutory legacy of Dutch colonial designed and ratified in 1800. During this period of social changes caused by technological progress has not been much to contribute to the change in people's attitude toward the law.

At the time of proficiency as a condition of lawful agreements made at that time would still be relevant to behavior or habits of society at that time, so every action in terms of the agreement affected the flow of normative- dogmatic entirely still follow the terms stipulated by the law makers. Legal capacity to make an agreement is a principle set forth in the legislation. According to legal positivism, when provisions have been enacted such provision has absolute enforcement or should not be violated. This theory only accept the law as their,[1] that is in the form of existing regulations.

Legal positivism do not want law studies in the perspective of non-law as an ethical, sociological, political, and so forth.[2] The Conception positivism no place enactment of a law of nature, avoid the matter of assessment and also no place for customary law that live and thrive in society, simply viewing the law as das

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1 The legal term as their quoted from the article entitled positivism and the separation of law and morals by H. L. A Hart in R.M. Dworkin, an introduction to legal philosophy. tr. Yudi Santoso, Cet. I. Yogyakarta: Merkid Press. 2013, p 25

2 H. Lili Rasjidi and Thania Rasjidi-base- basic philosophy and Theory of Law, Citra Aditya Bakti. Bandung, 1981, p. 81

sollen/juridical regardless of das sein / social reality. If the principle of acting prowess made as a condition for enforcement of a law, this principle should not be and unlawful for crisis. This means, that arrangements are made without regard to this principle which has been included in Article 1320 of the Civil Code must be complied with, break it is a betrayal of the Act. Understand the absolute observance of the provisions of the legislation are affected by law enforcement in the deontological ethics. Ethics of deontological an ethical way of thinking which bases itself on the principle or objective norms that are considered to be applicable in any circumstances.[3]

When the deontological ethics or the categorical imperative applied to proficiency as a condition of lawful agreement, it thus raises doubts the relevance of skills to act as one of the conditions the validity of the agreement to the entire agreement. Laws that give priority to the written rules alone will have difficulty in interpretation and application. Interpretation an application of the law cannot be separated from human behavior.

Early codifying European law at the age of maturity to be declared legally competent is 21 years old. When the Netherlands to Indonesia benchmark 21-year being the size of a person prowess as set out in Articles 330 KUHPdt that minors are those who have not even aged 21 years or have never been married. Articles 1330 provides guidance KUHPdt who should not be made an agreement was one of them a child. Kids here means a person who has not attained the age of 21 years or have never been married before.

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[3] Tanya L. Bernard, in the Light of Conduct for Law Enforcement, Genta Publishing, Yogyakarta, 2011, p 12

Determining the age of 21 years as a benchmark maturity proficiency level because at the time of maturity of the new person's psychology occurs generally around the age of 21 years. But with the enactment of laws protecting children, the concept of maturity starts at the age of 18 years. It is somewhat strongly influenced by the complexity of the needs of children who have transformed the way a person's psychological maturity.

In reality, not all the agreements in today's era of progress is still relevant to the concept Articles 1320 of the Civil Code. One example of such an agreement is an agreement to save closed by minors during school (junior high and high school) where the agreement for today has been common practice for children aged under 18 years. Based on the pre-study conducted by the author on September 23, 2014 at Bank BTN UNS branch found that children who are students can close a savings agreement called the savings champion. According to Customer Service BTN a student is allowed to close a savings agreement champion without represented by a guardian or parent, with direct and set their signatures include parental consent.

The identification as a condition of the bank administration equipment is a student card of the depositor. By law, people who are not proficient in the law to take legal actions relating to civil rights and obligations must be represented by a guardian, in order to represent the legal interests of the incompetent person.[4] Fact or das sein described above will certainly lead to new problems if the law does not want to get out of the text. Although the *faqih* (jurist) agreed that the action violates the terms of the agreement prowess

[4] Imma Indra Dewi W, "Implementation of Civil Rights and Obligations of Persons Not Proficient in Sleman Law", articles on Pulpit Journal of Law, No. 3 Vol. 20, October 2008, p. 560

is simply implies that the agreement can be canceled in terms of the agreement remain in effect as long as there is no cancellation from the immature. In Article 1331 of the Civil Code in principle covered by a treaty which has not proficient by conjecture Act can be prosecuted only on the basis cancelation not competent when closing the agreement. Legal capacity are absolutely linked with maturity under suspicion legislation aims to provide justice that has not been capable (according conjecture law), but in the days ahead is now no longer possible enforced rigidly / absolutely no view of other factors. When prowess applies the categorical imperative (coercion unconditional) as an obligation, then what about the child who has reached the cognitive skills more quickly than other children. Children who have been working for economic crush, they basically have a conversation. Similarly, children who live in the environment of indigenous peoples, they have grown faster because of habituation in its environment.

Child is a legal subject whose interests should be protected by law. This means the interests of the child as a legal subject should be carried out without hindrance. The other side will be profitable for banks by increasing the absorption of funds / capital from the public bank that will strengthen the nation's economic progress as well. Definition of very concrete skills have only a narrow scope of enforceability only be able to embrace their adult by law only conjecture. This situation is a legal problem to be solved since its existence became a barrier right one subject banking law and slow the economy, not the law exist for economic support. Law should be born to stimulate the economy. By opening this barrier (kids free savings) would facilitate also the child according to conjecture law to obtain rights or justice. Base explanation upon, I get a formulation of problem: "How relevant

legal capacity as a condition of lawful agreement in the era of advanced and complexity of the needs of children?"

II. Method

Type of Research

This research is normative-empiric research. Normative research use principles of law and rule of law as analysis tool whereas empiric research is begun by positivist law one it"s applied to law incident "*in concreto*." The application of law such it can be implemented by real attitude and law document. Result of implementation will create a realization comprehension of implementation normative rule. This Analyze view law good effect or law bad effect. Base the type it, this research is diagnostic research and prescriptive research. Diagnostic research type look for data cause indications. While prescriptive research type look for solutions of problems.[5]

This research is normative research[6] because the research focus point toward existence justice who materialize in decision a law. Each norm, either justice norm or positive norm always exist as part of theory system about how we do find the law? Therefore the research called doctrinal normative research and it method

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[5] H. Setiono, Comprehension toward Methodology of law research, Program of Jurisprudence Study, Post Graduate of University Sebelas Maret, Surakarta, 2010, P. 5

[6] Soetandyo Wignyosoebroto different the law become five concept as follow: 1) the law is true principle and justice naturallity and unibeersally. 2) the law is positive norms in state law system. 3) the law is decision of judge in the court systematically. 4) the law are patterns of social attitude institutionalize as an empiric social variable. 5)the law are manifestation symbolic means of social attitude in interaction among them

called doctrinal method.[7] Doctrinal law research purpose to find correct answers by authentication truth which is found by law prescription in a legislation and doctrine. Whereas non-doctrinal research purpose to find correct answers by authentication truth in society fact which have law means as part of society sphere. Law normative research are library law research,[8] and it also law:[9]

(1) Law are true principle and justice naturally and universally
(2) Law are positive norm in national laws system
(3) Law are decision of judge, *inconcreto* and systemic as judge made law.
(4) Law are social behavioural patterns of institute, existent as empiric social variable.
(5) Law are manifestation of meaning symbolically of social behaviourals as view in social interaction them.

Concept law of author in this research is law as true principle and justice naturally and universally.

Approach Method

This research use normative approach method. This research is known as doctrinal research or normative law research. Phase of normative law by library study (analyze literature).

Type and Data Source

This research has secondary data type below:

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[7] *Ibid.*

[8] Soerjono Soekanto and Sri Mamudji, Normatif Law Research:a short Contemplation, Jakarta, Raja Grafindo Persada, 1995. P. 23

[9] *Ibid*

Secondary data: data are got by library material, it consist of three of law material as follow:

a. Primary material law. This material law is got by rules relevance by legal capacity as legal term of agreement and another rule. Primary material law as follow: book law of civil law (Burgerlijk Wetbook), Laws Number 23 Year 2002 concerning The Children Protection, Laws Number 30 year 2004 concerning Notary, SE. No.4/SE/I/2015 concerning Limitation adult age in service of Land Affairs, SEMA No.07/2012 concerning result formulation of Room Pleno close MA as Duty Implementation Directive in Court of State.
b. Secondary material law as follow materials of literature, research result, journal article, newspaper, magazine, social media etc.
c. Tertiary material law as follow law material is got by encyclopedia, law dictionary, speak Indonesia dictionary.

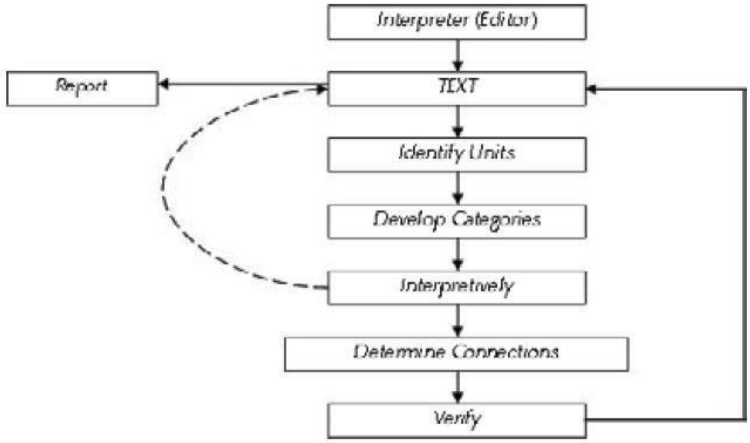
Data Collecting Method

Author take data by library research as follow author do take inventory to law product and law specialist and research relevance by principle of legal capacity in positive law. Collect data purpose to prove hypotheses. For that, author need manner collect correct data to each variable, so that to get valid and good information. Collect data is done by author to respondent become research sample.[10]

[10] W. Gulo, Methodology of Research, Jakarta, Grassindo, 2010, P. 29

Analysis of Data

Analysis of data use manner of editing analysis style[11]



III. Relevance legal capacity For Legal Terms of Agreement in the Era of Advanced and Complexity Needs Children

Understanding the relevance is not likely to be found in legal theory, even though the relevance of the term is commonly used by legal practitioners and academics. This is because relevance is the study of science communication. In this section the authors will describe things in terms of relevance. Introducing the concept of contextual effects and discusses the variety of various effects such as contextual implication, contradictive, and reinforcement. As a note that the impact of contextual very important for the depiction of the process of understanding. Interpret utterances not

[10] Benyamin F. Crabtree. Doing Qualitative Research, Sage Publication. London, 1995. P. 75

only include the identification of assumptions expressed explicitly: he crucially includes the completion of the addition of the consequences of this assumption to a set of assumptions that have been processed.

The concept is very important for the impact of contextual relevancy characteristics, the greater the greater the impact of contextual relevance.[12] Essentially the relevance of an article of law was the deconstruction of the text to the progression of meaning. Therefore relevance cannot be separated from the perspective of semiotics.[13] At any legislation contains a sentence which is commonly known as the language of the law. At any legislation have certainly created the transmission of communication so that everyone is able to understand that such legislation contextual impact for users.

It is important to remember the law is, the laws drawn up in the form of legal language that cannot be separated from the symbols or signs. In order to apply the law then everyone has to make sense of each symbol is tangible in the language of the law. This meaning later gave birth to a communication and success or failure is measured from the relevant communication or not the communication. Relevant here can be interpreted as having contextual impact, the greater the impact of contextual increasingly the relevancy of the communication. When the relevant theory was taken up by the law, the articles of the legislation is a means of communication because they contain legal

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[12] Dan Sperber, Deirdre Wilson. Theory of Relevance: Communication and Cognition, Reader Student, Yogyakarta, 2009, p. 175

[13] Anthon Freddy Susanto, Semiotics of Law: From Deconstruction Towards Progressivity Text Meaning. Reflika Aditama, Bandung, 2005, p 23

language in the form of commands, prohibitions, or suggestion. Irrelevant whether the regulation is determined by the impact of contextual owned by these regulations. Contextual impact is impact felt by the public as users of regulations. Contextual impact would be created if these regulations give justice as ideals of law in general.

IV. Justice in Law

Regarding the definition of what constitutes justice is never satisfactory. It is caused by an ideal of justice and is a classic problem that limits very relative. In fact, everyone has their own perception of what they consider to be justice, so the highly subjective nature. The lack of conformity in making sense of justice encourages people to formulate and define the appropriate background knowledge and experience of each.[14]

Latif[15] pointed out that the word literally means a straight fair, balanced, so that fairness means treating everyone with the principle of equality (principle of equal liberty), without discrimination based on subjective feelings, differences in ancestry, religion and social status.

Rawls[16] conceptualize justice as fairness containing the principles that free men and rational wishes to develop its interests should receive an equal footing at the moment will start and it is a

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[14] Karl Briton, Philoshophy And Meaning of Life, Primasophie, Yogyakarta, 2003, p 24

[15] Yudi Latif, State Plenary: historicity, rationality and actuality of the Pancasila, PT. Gramedia Pustaka Utama, Jakarta, 2001, pp 584-585

[16] Rawls in Satjipto Rahartjo, Satjipto Rahartjo, Law, revised edition, PT Citra Aditya Bakti, Bandung, 1991, p.164-165

fundamental requirement for them to enter their associations wills. Then Aristotle[17]approaching the issue of justice in terms of equality. This approach requires that the resources in the world is given on the basis of equality to members of the community or the State. Laws should keep the division thus always guaranteed and protected from rapes against Sheikh Izzuddin thinker Ibn Salam Abdis Egyptian-born Islamic law in his essay the rules of Islamic law give an explanation about the fair. Sheikh Izzuddin explained that measure granting a living with a lot-at least intent will include the fair, which will be closed in spite of the portion received his *hajat* different, ecause closing the lavatory (requirement) is the most important purpose of giving a living. Likewise in the division of property public good.[18]

In the fact interest of individuals and groups always conflicting. The fighting that the law is needed in order to maintain the peace. Thus different with the terms of the law that determine the rules of the public, then to generalize all people. Justice is a subjective, individual, and not generalize, in this case justice demanding every case weighed their selves.[19] The diversity of the meaning of the justice, influential on an effort to interpret the act or not. Said such as it may a behavior by a group is considered to be fair, but for other groups judged instead. In connection with it, Ismail[20] explained that effort that can be done

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17 *Ibid.*

18 Sheikh "Izzuddin Abdis Ibn Salam, Rule-Rule Islamic Law, mold-1. Imam Ahmad Ibn trans Nizar, Nusa Media, Bandung, 2011hlm 93

19 Sudikno Mertokusumo, know the law: a introduction, Edition V, Cet IV, Liberty, Yogyakarta,2006, p. 161

20 Nurhasan Ismail, Development of Land Law Indonesia: an economic approach: Political, dissertation, Graduate School of UGM, Yogyakarta, 2006, pp 41-41

was brought the ruling the law in the sense of justice to be lived by the people in order to practice can contribute to the creation of order.

Radbruch[21] states that laws only have meaning as a law if it is the realization of justice. The basic values of justice is human dignity. By Keraf[22] said that justice is always related to respect for the dignity and rights inherent in human beings. On the other hand Sudikno Mertokusumo explained that law is not synonymous with justice. The rule of law is not always realize justice. Because the law creating the general rules that bind all people and therefore general in nature, whereas to meet the justice of events to be seen by casuistry.[23]

Enforcement of the law is influence strongly by factors outside the law. This can be seen as an example in Article 1365 of the Civil Code. The value contained in terms unlawfully is change. Before 1919 "unlawful" defined narrowly (HR June 10, 1910), while since 1919 interpreted widely (HR January 31, 1919) while the editors of article 1365 Civil Code until now has not changed. Article will show the public that the tort was not limited to legislation alone but see sense of justice or the norms of social life. Thus the application of the law does not see the law juridical alone but see also in sociology and philosophy. In the application or enforcement in Indonesia, in accordance with Article 5 (1) of Law Number 48 Year 2009 regarding Judicial Power, states that judges

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[21] A. Gunawan Setiardja, Dialectics of Moral Law and Community Development in Indonesia, cet I, Kanisius, Yogyakarta, 1990, p. 41-42

[22] Faturrachman, Justice Perspective of Psychology, Faculty of Psychology UGM-Reader Student, Yogyakarta, 2002, p 20.

[23] *Ibid.*

and constitutional judges shall explore legal values and the sense of justice in society.

Laws exist and develop for existing and also the development of values in the society outside the law. When the values of unlawful denied that they have no influence on the formation of the law, then there is only a spectacle[24] comedy is not funny. Like a guy who only ran my busy touch certain body parts, and underestimate even deny other parts of the body. Other body parts were thrown away, abandoned as if not hers because it is not the same as body honored, this is a tragedy that so-called tragedy of self-mutilation was heartbreaking.[25]

Laws should be able to keep abreast of the times, able to answer the changing times with all the basic therein, and able to serve the community by leaning on the aspects of morality and human resources law enforcement itself.[26] For enforcement of the law, then the law[27] has a point (point of view) as the bases of law enforcement point of departure. Laws made without a point of view, cannot be called a true law but only a collection of clauses contains the commands and prohibitions alone.[28] At the point of view that contained the philosophy of life and contains wisdom about the "how do you think about the human and the human coexistence.[29] On the point, So to review Understanding the law

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[24] Bernard L. Tanya, Yoan N. Simanjuntak, Mark Y. Hage, Legal Theory Strategy orderly people across space and time, Cet. IV, Genta Publishing, Bantul, 2013, p, 204

[25] *Ibid.*

[26] Satjipto Rahartjo, Op. Cit. p.. 228

[27] J. Pajar Widodo, Menjadi Hakim Proresif, Indept Publishing, Bandar Lampung, 2013, p. 14

[28] *Ibid.*

[29] Satjipto Rahartjo, Kepastian Hukum. (Bahan bacaan mahasiswa PDIH, Semarang, UNDIP,2006) on J. Pajar Widodo, *Ibid.*

Operates Whole, understanding not Stop on Beep The text of the Act, but Must Understand The foundation of philosophical, sociological and juridical, because existence of legal system of a society is closely related to System Life „society, so that the law is a mirror of Civilization A society.[30]

Acting prowess is one of the requirements to make arrangements[31] but understand the implementation of proficiency as a condition for the validity of the agreement certainly does not stop with just reading the text of law only. In practice in the field there is a treaty override provisions of Article 1320 of the Civil Code in the second point, concerning competence to act by the parties within the law, such as saving agreement that committed by persons under suspicion immature legislation. In the agreement the parties entered into an agreement are children who are still attending school (secondary school) that they have not reached the age of maturity that the implications they have not had the capacity to act.

The essence of this discussion is not about whether or not the people but the loss is essentially[32] is the meaning of the actual legal situation. Legal-formal legal though that was driven by legal positivism does not recognize the philosophical foundation and

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30 Republik Indonesia, KUHPerdata, Buku III, Pasal 1320

31 *Ibid*

32 The theory regarding the expansive and diverse nature of existence is a subject of profound philosophical exploration, encompassing the entirety of what exists and what may come into existence. It delves into the intrinsic essence of the actual situation, emphasizing that the nature of things represents their authentic state, transcending transient and constantly changing conditions. As articulated by H. Juhaya and S. Praja in their work cited (Op. Cit, p. 19), this theory contemplates the profound depth and vastness of the problem at hand, acknowledging the intrinsic reality of all that exists and the potentialities that may unfold.

sociology, then make rigid law. In Islamic legal theory problems of *muamalat* (relation between human beings) are allowed to perform outside the text interpretation texts (Qur"an and Hadith). Such interpretation is known as the theory of Ijtihad.[33] In theory Ijtihad jurist (*faqih*) is given the authority to interpret the text to obtain Zanny level law (law approaching absolute truth). According to Ibrahim Hose[34] Ijtihad for the talented jurist wide open on the grounds that the laws of the sources of law (*nass*) is limited, while human activity is not limited, it is impossible to restore is not confined to a limited.

Based on the above, it is very important the role of legal principles and the rule of law in the application of the law as *Fiqiyyah* rules (rule of Islamic law) that states "where there is a benefit, then there is the law of the Creator". The rule of law is focused on the benefit of the legal assessment (public interest) man and treats people as human beings. It cannot be denied that applying the law against any action was more or less influenced by one's own understanding of the law.

V. The Relevance of the Discussion in the Law

In general, the sense of relevancy is a match. Relevant is relevant, useful directly (dictionary Indonesian). Relevance means that regard, the relationship (dictionary Indonesian). From this sense, the relevance of Article legislation should be based on the

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[33] H. Juhaya S. Praja, Op. Cit. p 69. See also Ibrahim Hosen, Is that Ijtihad, Scientific Studies, Jakarta, 1987, p.7

[34] *Ibid.*

suitability or usefulness relationship between that article with the application of the regulation to the facts. In other words there is a match between the data and das sein das sollen. To explain the suitability or fitness of a rule of law with the following practices can be seen in the legal sense, according to experts or schools of legal theory.

The core thesis of Savigny it can be realized in his own words as follows: "During the early days where authentic history evolved, it was found that already obtain legal permanent character, which is typical for the people concerned as well as language, behavior and its constitution. No, this phenomenon has no terms / special skills and tendencies of a particular nation, indivisible by nature and just seemed to be different from the nature / character in our view. What holds it all together into a whole is a shared belief rather than the nation. Awareness countryman because of the need *bathiniah* to exclusive other nations who do not have the same origins, the law grew up with the growth of the nation (people) and be strong with the strength of the nation and eventually die when a nation loses the nationality. So, the conclusion of this theory is that all the legal origin formed by the way, although not entirely appropriate, such as customs rules, the language that was formed initially he progressed through the customs and beliefs of the people, then the science of law; so everywhere by forces internal working quietly, not through arbitrary whim of legislators.[35]

Karl Friedrich von Savigny's concise theory posits that laws do not simply emerge; instead, they evolve organically alongside

[35] Teguh Prasetya & Abdul Halim Barkatullah, Philosophy, Theory, and Legal Studies. Jakarta. PT. King Grafindo Persada. 2012, P. 273-274

the community (rechts das wird nicht gemacht es ist und wird mit dem volke). According to this perspective, laws are not created but inherently grow and develop in tandem with the communal spirit. In essence, the law is born from the collective ethos of the community, serving as an organic reflection of the people it seeks to accommodate.[36] Departing from this understanding, there will be no static law but the law will always be dynamic with the times according to community needs. at this stage that the law will be confronted with relevant or irrelevant. Law dynamic will remain relevant to the development of the community. The contextual la will have an impact in the sense that what is proposed by the law will be fully implemented by the community, it is because the law is in line with the needs of contemporary society.

Legal capacity as a condition of lawful agreement as set forth in Article 1320 of the Civil Code is no longer relevant. The data given above shows explicitly that skill irrelevant as a condition of the agreement valid when applied to all agreements. According to Dan Sperber and Deirdre Wilson stated that an assumption is considered relevant when the impact of contextual assumptions, the more impact the more relevancies contextual assumptions/information. When the relevant theory is taken up by the law, then the relevance of an article of the legislation seen from its contextual impact. This means that the legislation on the article must be equal to the application in the empirical world because conformity is what makes him relevant Agreements savings in banks such as savings "savings" at Bank BRI and savings

[36] Indra, Mexsasai. "Konsepsi Kedaulatan Rakyat Dalam Cita Hukum Pancasila." *Jurnal Selat* 1.2 (2014): 120-126.

"Champion" at Bank BTN allows the customer has not capable to seal the agreement.

The soul of the nation (*volkgeist*) is expressed by Von Savigny is the local values practiced by the people of a nation. Acting skills are cognitive skills (mind) whose existence is strongly influenced by the psychology of the individual in society of a nation. Legal capacity in terms of psychology will be faster growth through technological development for encouraging children's cognitive technology to find out everything that has to offer such technology.

Another impetus came from the world of education both in schools or in media technology. Children's education at the school level always insert material saving advantages. At this stage the child in the learner's own ability to manage finances from an early age, and education positive response by banks that allow children to save without a parent representative.

VI. The Law According Jhering[37]

Jhering stated that law is partly the soul of nation indeed, meanwhile, the rest of it is the result of the adoption from external elements as a result of interaction with other nations. The law of Germany itself is not pure anymore. The reception of law of Germany has get rid almost all the old law of Germany so that the original law becomes unclear by influence of the law of Rome very

[37] Bernard L. Tanya, Yoan N. Simanjuntak, Markus Y. Hage, The theory of law strategy is orderly human traffic space and generation. Genta Publishing. Yogyakarta, 2013, pp. 97-99.

much. According Jhering the law of Germany are law building as a result of fusion the interest that exploit the elements from out itself that useful for it.

The explanation it can be known the law will have impact of contextual in the meaning there are relevance of contents of article and implementation in fact is created by fusion the customs of society then it becomes as dogmatic law. In the custom of society there are interests lucky each other. This the law form of combined interests that it is practiced daily and lucky each other, certain the useful interests that become the custom will be chosen as the law.

In the presumption of the laws age of adult is evaluated by general opinion only it means the age of adult is decided by based on the sample.it means in the specialist case legal capacity that is connected by the maturity will become irrelevance with the presumption of the law.

The children who gain the maturity will get rights as adult do-example: saving independently. By them, saving is implementation the early awareness to manage financial independently, this is motivated also by education in the school them and sphere around. In Jhering opinion the child saving custom and bank custom receive child saving are fusion the interest that useful, so that legal capacity as legitimation terms of agreement don't create a relevance because the legal capacity have no impact of contextual as terms of agreement.

VII. Law according DHM Meuwissen

DHM Meuwissen stated that, law is not indication neutral, which it is the free imagination result of human, but there are in note

relevance on problems and the society development. On one side, the law can be explained by help social factors; on another side social indicate can be explained by the law help.[38]

Legal capacity as one of legitimate of term of agreement should follow social development also. Legal capacity which always is adjusted by the maturity should follow social development. Age of maturity which is become legal capacity dimension certain it have changed. On early formation the book laws of civil law age of adult is 21st year such as in article 330 the book laws of civil law is dimension which suitable. Currently, the technology have grown up and change structure of society become to grow earlier. This development stimulate maturity of child grow earlier because almost of facilitate news, film, game. It can be accessed by them. This Facilities stimulate to grow up of child maturity early.

VIII. Conclusion

Soul of nation (*volgeist*) will not lose in interaction of society. Legal capacity cannot be dimension by laws forever because legal capacity arises in customs of society which it has been fusion by society. In adat society community the maturity do not evaluate on dimension the age but it evaluate on base skill look for the income and posture of body, and phycology. On society development currently which it stimulate by grow up the technology arise variant law interest. The complexities of interest

[38] *See* Nalle, Victor Imanuel W. "The relevance of socio-legal studies in legal science." *Mimbar Hukum*- 27, no .1 (2015): 179-182; Taqiuddin, Habibul Umam. "Penalaran Hukum (Legal Reasoning) Dalam Putusan Hakim." *JISIP (Jurnal Ilmu Sosial dan Pendidikan)* 1, no. 2 (2019).

arise from person in legal capacity according laws-child. Saving independently on child is the education to them early for set financial as supplies them carry out the work world. This is the interest or rights which should be protected by law. Child has worked as labor do not think that saving is a education access only but it has become a necessary evil of financial to a child. Whereas at another side a bank is state institution which keep a fund very much for grow up economy of nation. Both parties (child and bank) have an interest each other. The interest them meet in a agreement. They are collected together by illegal to legal capacity as legitimate terms agreement.

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