



The Legal Rationale for Prodigality as a Reason for an Adult to Be Placed Under Guardianship

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Abstract

Relevance. This study examines the legal rationale for prodigality as a basis for placing an adult under guardianship under Article 433 of the Indonesian Civil Code. The issue of prodigality raises concerns regarding financial mismanagement, potential harm to the individual, and legal safeguards to prevent economic instability. The research aims to explore the legal foundation of prodigality and identify the criteria for determining whether an adult should be placed under guardianship due to financial irresponsibility.

Methods and Methodology. This study employs a normative legal research approach, analyzing legal documents, statutory regulations, and judicial decisions related to prodigality in Indonesia. A doctrinal approach is utilized to examine the interpretation and application of Article 433 of the Civil Code, considering legal principles and case law that establish guidelines for guardianship decisions.

Results. The findings indicate that prodigality, as regulated under Article 433 of the Indonesian Civil Code, serves as a legal ground for placing individuals under guardianship. Courts assess financial mismanagement, the potential for significant economic losses, the presence of mental or physical disorders, and expert opinions to determine an individual's financial competence. Judicial considerations focus on preventing further financial harm and ensuring economic stability through a court-appointed guardian. The study also highlights that Indonesian courts adopt a protective legal framework to balance personal autonomy and financial security.

Conclusion and Discussion. Article 433 of the Civil Code provides a legal safeguard to protect individuals from financial ruin due to prodigality. The application of guardianship involves a comprehensive assessment of financial behavior, mental health conditions, and expert evaluations. The study emphasizes the importance of judicial discretion in ensuring that guardianship mechanisms serve as a means of financial protection while respecting individual rights. Future research may explore comparative legal perspectives on prodigality and guardianship in different jurisdictions.

Keywords: Prodigality, Guardianship, Law in Indonesia, Civil Code of Indonesia

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Правовое обоснование расточительства как причины помещения взрослого человека под опеку

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Аннотация

Введение. В этом исследовании рассматривается правовое обоснование расточительства как основания для помещения взрослого человека под опеку в соответствии со ст. 433 Гражданского кодекса Индонезии. Расточительство, то есть неосмотрительное поведение в распоряжении финансами, наносит вред непосредственно субъекту действий, влечет за собой его нестабильность в экономическом плане. Целью исследования является изучение правовых основ расточительства и выявление критериев для определения того, следует ли помещать взрослого человека под опеку из-за финансовой безответственности.

Методология и материалы. В этом исследовании используется нормативно-правовой исследовательский подход, анализируются правовые документы, нормативные акты и судебные решения, связанные с расточительством в Индонезии. Доктринальный подход используется для изучения толкования и применения ст. 433 Гражданского кодекса с учетом правовых принципов и прецедентного права, которые устанавливают руководящие принципы для решений о назначении опеки.

Результаты исследования. Результаты показывают, что расточительство, регулируемое ст. 433 Гражданского кодекса Индонезии, служит правовым основанием для помещения людей под опеку. Чтобы определить юридическую дееспособность человека, суд оценивает рациональность финансового управления, потенциальные экономические потери, наличие психических или физических расстройств, а также мнения экспертов. Судебные соображения сосредоточены на предотвращении дальнейшего финансового ущерба и обеспечении экономической стабильности субъекта с помощью назначенного судом опекуна. Исследование также подчеркивает, что индонезийские суды принимают защитную правовую основу для баланса личной автономии и финансовой безопасности.

Выводы и обсуждение. Статья 433 Гражданского кодекса предоставляет правовую гарантию для защиты людей от финансового краха из-за расточительства. Применение опеки включает в себя комплексную оценку финансового поведения, состояния психического здоровья и экспертные оценки. Исследование подчеркивает важность судебного усмотрения в обеспечении того, чтобы механизмы опеки служили средством финансовой защиты при соблюдении прав личности. Будущие исследования могут изучить сравнительные правовые перспективы расточительства и опеки в разных юрисдикциях.

Ключевые слова: расточительство, опека, Индонезия, Гражданский кодекс Индонезии.

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Introduction

In the legal system, every individual from birth to death possesses rights and obligations recognized and protected by law. However, not all legal subjects are deemed capable of acting independently. Legal capacity, defined as the ability to perform legally valid actions, is implicitly regulated in Article 1330 of the Indonesian Civil Code (KUHPerdata). Under this provision, individuals considered legally incapacitated include minors or those placed under guardianship. This regulation implies that adults not under guardianship are presumed to have legal capacity to act independently¹.

The argumentum a contrario interpretation of Article 1330 of the Indonesian Civil Code concludes that an individual who has reached adulthood and is not under guardianship is presumed to have legal capacity². However, the law also provides protection for adults who are legally incapable of acting independently, such as those experiencing mental disorders or a tendency toward prodigality. This protection is implemented through the mechanism of guardianship (*curatele*), as stipulated in Articles 433 to 449 of the Indonesian Civil Code.

Article 433 of the Civil Code specifically states that any adult who is feeble-minded, mentally ill, or prodigal may be placed under guardianship. Prodigality (*verkwisting*) is defined as imprudent behavior in managing finances or assets, such as excessive spending, involvement in gambling, or financial decisions resulting in significant losses. Consequently, individuals exhibiting such behavior are considered legally incapacitated and must be placed under guardianship to protect them from further harm³.

The District Court holds the authority to establish guardianship status based on applications submitted by blood relatives, as stipulated in Article 434 of the Indonesian Civil Code. In practice, the determination of guardianship status also takes into account expert evaluations of the individual's intellectual, psychological, and financial behavior capacities. In the context of modern law, the Constitutional Court, through Decision Number 93/PUU-XX/2022, has amended the provisions of Article 433 of the Civil Code by introducing a new interpretation. The term "must" in the article has been reinterpreted as "may", providing greater flexibility in the application of guardianship status, particularly for individuals with mental or intellectual disabilities⁴.

However, the limitations and parameters of prodigality as a reason for guardianship remain complex issues. Prodigality not only impacts the individual concerned but also affects the financial stability of their family and the surrounding community. Certain situations, such as prodigal behavior driven by online gambling addiction or imprudent use of assets, pose challenges in the implementation of guardianship. Therefore, this study aims to examine the legal rationale (*ratio legis*) of prodigality as a basis for guardianship and the parameters used to assess prodigality as a form of legal incapacity.

Method and Research

This research employs a normative research method, focusing on the study of legal documents, legislation, and related literature⁵. The normative approach was chosen as it is appropriate for analyzing the *ratio legis* of prodigality as a reason for placing an adult under guardianship, as stipulated in Article 433 of the Indonesian Civil Code (KUHPerdata).

The study utilizes three types of legal materials primary, secondary, and tertiary to support the normative analysis. The primary legal materials include relevant legislation, particularly Articles 433 and 434 of the Civil Code, which regulate guardianship, as well as Constitutional Court Decision Number 93/PUU-XX/2022, which provides a new interpretation of guardianship for individuals with mental or intellectual disabilities. Additionally, court rulings on guardianship cases serve as references to understand the practical application of the law.

¹ Windajani, I. I. D. (2008) Pelaksanaan hak dan kewajiban perdata orang yang tidak cakap hukum di kabupaten sleman. *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada*, 20 (3), 559 p. DOI: <https://doi.org/10.22146/jmh.16296>

² Lestari, A. Y., Heriyani, E. (2009) *Dasar-Dasar Pembuatan Kontrak dan Aqad*.

³ Badriyah, S. M. (2011) Penemuan Hukum (Rechtsvinding) dan Penciptaan Hukum (Rechtsschepping) oleh Hakim Untuk Mewujudkan Keadilan. *Masalah-Masalah Hukum*, 40 (3), Article 3. DOI: <https://doi.org/10.14710/mmh.40.3.2011.384-392>

⁴ Mangku, D. G. S., Rai Yuliantini, N. P., Lasmawan, I. W. (2022) Legal Protection for People with Disabilities in Indonesia in the Perspective of Justice Theory. *Unnes Law Journal*, 8 (2), pp. 245–262. DOI: <https://doi.org/10.15294/ulj.v8i2.52406>

⁵ Irwansyah, I. (2020) *Penelitian Hukum: Pilihan Metode & Praktik Penulisan Artikel*. Yogyakarta: Mirra Buana Media, 8.

Secondary legal materials include legal literature such as civil law textbooks, scholarly journals, prior research findings, and articles discussing the concepts of guardianship, prodigality, and legal protection for individuals lacking legal capacity. Several scholarly journals utilized include *Indonesia Law Review*, *Jurnal Rechtsvinding*, and *Hukum dan Pembangunan*⁶. Additionally, international literature addressing guardianship and the legal protection of vulnerable individuals, such as reports from the United Nations Committee on the Rights of Persons with Disabilities (UN CRPD), is also considered to provide a global perspective on the issue.

Tertiary legal materials comprise legal dictionaries, encyclopedias, and other supporting documents that help clarify definitions and terminology used in this research. Examples include *Black's Law Dictionary* for understanding legal terms in an international context and the *Kamus Hukum Bahasa Indonesia* for alignment with Indonesia's legal context. Reports and guidelines from international organizations, such as the World Health Organization (WHO), are also used to enrich the analysis of prodigality related to mental conditions or individual behavior.

This study employs content analysis as a data analysis technique to understand and interpret the relevant legal materials⁷. This method systematically examines the content of legal documents, legislation, court rulings, and academic literature on guardianship to uncover the meaning of legal texts, identify patterns, and draw conclusions within the legal context being studied.

Result and Discussion

The Legal Rationale of Prodigality as a Basis for Placing an Adult Under Guardianship

Humans, as individuals and social beings, possess fundamental freedoms that must be exercised in accordance with applicable laws and regulations⁸. In Indonesia, this freedom is oriented toward a social function, taking into account the interests of others who also possess fundamental freedoms. As social beings (*zoon politicon*), humans cannot act arbitrarily because they are bound by the norms and legal rules prevailing in society⁹. Human actions must be based on religious norms, morality, customs, and positive law.

In the historical development of society, unwritten norms such as customs and traditions existed before the emergence of written legal norms¹⁰. Although these unwritten norms play a crucial role in regulating social life, they alone are insufficient to ensure consistent security and order. Written legal norms subsequently became necessary as they provide a clearer structure and legal certainty¹¹. Written legal norms also address the limitations of unwritten norms, such as a lack of uniform understanding, protection of specific interests, and the need for clarity in regulations, as seen in cases like traffic laws.

The history of Roman civil law began with the collapse of the Western Roman Empire in the 5th century due to Germanic invasions, which led to political and social fragmentation, a shift to agrarian societies, and the development of feudal systems in Europe. Meanwhile, the Eastern Roman Empire, under Emperor Justinian, codified Roman law through the *Corpus Juris Civilis*, consisting of four compilations of law. This codification ultimately influenced the development of law in Europe, including the codification of Dutch civil law in the 19th century following French influence¹².

⁶ Marzuki, M. (2017) Penelitian Hukum: Edisi Revisi. *Prenada Media*.

⁷ Cheng, M., Edwards, D., Darcy, S., & Redfern, K. (2018) A Tri-Method Approach to a Review of Adventure Tourism Literature: Bibliometric Analysis, Content Analysis, and a Quantitative Systematic Literature Review. *Journal of Hospitality & Tourism Research*, 42 (6), pp. 997–1020. DOI: <https://doi.org/10.1177/1096348016640588>

⁸ Van Engeland, A. (2022) Human Rights: Between Universalism and Relativism. In S. Sayapin, R. Atadjanov, U. Kadam, G. Kemp, N. Zambrana-Tévar, & N. Quéniwet (Eds.), *International Conflict and Security Law* (pp. 93–113). *T.M.C. Asser Press*. DOI: https://doi.org/10.1007/978-94-6265-515-7_5

⁹ Firdaus, M. I. (2023) The Legalization of Interfaith Marriage in Indonesia (Between Universalism and Cultural Relativism). *The Easta Journal Law and Human Rights*, 1 (02), pp. 64–72. DOI: <https://doi.org/10.58812/eslhr.v1i02.52>

¹⁰ Zuhdi, A., Kamula, A. A. (2024) Legitimasi Hukum Asing Sebagai Pertimbangan Putusan oleh Mahkamah Konstitusi: Perbandingan Antara Indonesia dan Afrika Selatan. *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang*, 7 (2), pp. 272–296. DOI: <https://doi.org/10.33474/yur.v7i2.21634>

¹¹ Villa-Rosas, G. (2023) MerkI's Stufenbaulehre in the History of the Theory of Legal Power. In G. Villa-Rosas & T. Spaak (Eds.), *Legal Power and Legal Competence* (Vol. 140, pp. 289–303). *Springer International Publishing*. DOI: https://doi.org/10.1007/978-3-031-28555-4_14

¹² Villa-Rosas, G. (2023) MerkI's Stufenbaulehre in the History of the Theory of Legal Power. In G. Villa-Rosas & T. Spaak (Eds.), *Legal Power and Legal Competence* (Vol. 140, pp. 289–303). *Springer International Publishing*. DOI: https://doi.org/10.1007/978-3-031-28555-4_14

The history of civil law in the Netherlands began with the influence of D'Argentré's theory following liberation from Spanish rule. It developed the statute theory centered on state sovereignty and the principle of *Locus Regit Actum*. Under French rule (1806–1811), the Netherlands adopted the French Code Civil, which was incorporated into the *Burgerlijk Wetboek* in 1814. This legal system was later consolidated and integrated with elements of customary law, Roman law, and French law, ultimately applied in the Dutch East Indies in 1848¹³.

The Indonesian Civil Code (*KUHPperdata*) came into effect on January 1, 1848, through the adoption of Dutch civil law based on the principle of concordance. This code regulated individual relations within society and protected personal interests while also incorporating elements of public law. It comprises four books, covering persons, property, obligations, and evidence, and remains in effect in Indonesia under the transitional provisions of the 1945 Constitution¹⁴.

Book I of the Indonesian Civil Code plays a crucial role in the legal system, particularly in regulating individuals as legal subjects with rights and obligations. This concept is rooted in philosophical views of humans as social beings who are not only governed by law but also contribute to social balance¹⁵. As legal subjects, individuals are recognized as having free will and legal capacity, with the right to make life decisions and the responsibility to bear their consequences.

Legal capacity is a key aspect of regulating individuals as legal subjects. Under the Civil Code, adulthood is defined as reaching 21 years of age or earlier if the individual is married. Guardianship is established as a protective mechanism for individuals who lack legal capacity due to mental or emotional limitations. Through guardianship, third parties are authorized to manage the legal interests of those incapable of doing so themselves.

The Indonesian Civil Code (*KUHPperdata*) is historically rooted in Dutch colonial law, adopted through the principle of concordance, but remains relevant through its adaptation to Indonesia's social values. Principles such as freedom of contract, the binding power of agreements, and legal equality form the foundation of civil law, ensuring the protection of rights and legal certainty while maintaining a balance between individual rights and public interests.

Social, political, and technological changes have driven the development of Indonesian civil law, including adjustments in marriage regulations, child protection, and electronic transactions. Emerging challenges, such as personal data protection and copyright issues, demand legal updates that respond to the dynamics of modern society while upholding the principles of justice and social harmony. Prodigality, defined as excessive behavior in utilizing resources, has significant legal implications. Article 433 of the Civil Code allows for individuals exhibiting prodigality to be placed under guardianship to protect their assets and rights. This reflects legal concern for the protection of vulnerable individuals while considering justice and the dignity of legal subjects¹⁶. Social transformation necessitates a more flexible legal approach, particularly in assessing guardianship cases.

The interpretation of the term "guardianship" in Article 433 of the Civil Code, in relation to Law Number 8 of 2016 on Persons with Disabilities, remains inadequately explained in the context of legal capacity in Indonesia. Although mental disabilities are often non-permanent or episodic, Article 433 of the Civil Code acknowledges the episodic nature of mental disorders through the phrase "even if sometimes capable of using their reason"¹⁷. However, this article generalizes episodic conditions with permanent conditions such as feeble-mindedness, insanity, mental illness, uncontrollable impulses, or prodigality.

Article 433 of the Indonesian Civil Code (*KUHPperdata*), which regulates guardianship, requires more detailed clarification, particularly regarding episodic or non-permanent disabilities. The process of establishing guardianship through the courts has the potential to become a form of rights deprivation for individuals with

¹³ Mousourakis, G. (2015) Roman Law and the Origins of the Civil Law Tradition. *Springer International Publishing*. DOI: <https://doi.org/10.1007/978-3-319-12268-7>

¹⁴ Lev, D. S. (1962) The Supreme Court and adat inheritance law in Indonesia. *Am. J. Comp. L.*, 11, 205 p.

¹⁵ Salverda, R. (2009) Doing Justice in a Plural Society: A Postcolonial Perspective on Dutch Law and Other Legal Traditions in the Indonesian Archipelago, 1600–Present. *Dutch Crossing*, 33 (2), pp. 152–170. DOI: <https://doi.org/10.1179/155909009X46193>

¹⁶ Muqoddas, B. (2002) Mengkritisi Asas-asas Hukum Acara Perdata. *Jurnal Hukum IUS QUIA IUSTUM*, 19 (20), pp. 18–31. DOI: <https://doi.org/10.20885/iustum.vol9.iss20.art2>

¹⁷ Permatasari, S. (2023) Pemaknaan frasa pasal 433 kuhperdata dikaitkan dengan pengertian disabilitas dalam uu nomor 8 tahun 2016 tentang penyandang disabilitas terhadap kecakapan bertindak dalam perjanjian.

disabilities. Currently, Indonesia lacks specific classifications of guardianship, and there are no explicit provisions regulating the authority held by guardians after guardianship status has been established.

Therefore, a new law is needed to clearly regulate the forms of guardianship in Indonesia, including the concept of partial guardianship. In this model, certain decision-making powers are transferred to the guardian, while the ward retains the right to make specific decisions independently. The establishment of a law on partial guardianship must include clear limitations on the authority between the guardian and the ward. This regulation can draw on practices from Civil Law countries such as Hungary, Serbia, Bulgaria, and Russia, which have adopted partial guardianship with clearly delineated authorities between the parties involved.

Legally, individuals exhibiting extreme prodigality can be deemed to have lost their legal capacity—the ability to perform lawful legal acts. This loss of capacity is often based on the individual's inability to make rational financial decisions, such as excessive spending, impulsively selling assets, or incurring debts without considering their ability to repay¹⁸.

Guardianship in such cases aims to provide legal protection to individuals showing signs of prodigality, preventing harmful decisions. Under Article 433 of the Indonesian Civil Code (*KUHPerdata*), guardianship applies to those deemed incapable of acting competently, including due to prodigality. This measure serves as a legal intervention to ensure that the individual does not harm themselves or third parties.

Guardianship as a legal protection mechanism allows a guardian, typically appointed by the court, to manage the assets of the ward. This aims to prevent harmful actions such as selling assets below market value, allocating funds to unproductive purposes, or neglecting essential financial obligations. In managing the ward's assets, the principle of prudence must be applied. Guardians are responsible for ensuring that the ward's assets are utilized optimally and not misused. This mechanism also provides legal assurance to third parties dealing with the ward, such as in transactions involving sales, purchases, or debt agreements.

While guardianship serves a noble purpose, its implementation can have significant implications for individual rights, particularly the right to self-determination. Individuals placed under guardianship automatically lose most of their rights to independently perform legal actions¹⁹. This can affect their dignity and autonomy, especially if guardianship is imposed without a thorough evaluation of their mental and financial conditions.

The *ratio legis* of prodigality is a legal principle underlying the regulation of prodigality in the Dutch legal system. Prodigality (*verkwisting*) is defined as a condition in which an individual is unable to manage their finances prudently, resulting in significant financial losses. In this context, the *ratio legis* of prodigality serves as the legal basis for determining whether an individual can be considered prodigal, which has implications for placing them under guardianship (*curatele*). The primary goal of this measure is to protect the individual from making financial decisions that harm themselves or others.

The main principles of the *ratio legis* of prodigality encompass three aspects. The first is financial adequacy, which focuses on an individual's ability to manage their finances prudently. This assessment is based on evidence showing that the individual has engaged in irrational or significantly harmful financial transactions. Such incapacity may be reflected in uncontrolled spending patterns, unreasonable investment decisions, or excessive reliance on debt. The second aspect is legal protection, which aims to safeguard individuals from further financial losses²⁰. Guardianship in this context provides a curator with the authority to manage the individual's finances to ensure financial stability and prevent harmful actions. The third aspect is psychological evaluation, a crucial step in determining whether mental disorders or other factors contribute to the individual's prodigality. Experts conduct evaluations to ensure that legal decisions are based on a comprehensive understanding of the individual's mental condition. Impulsive disorders, addiction, or severe psychological pressure are often the primary causes of prodigality.

¹⁸ Hamidi, J. (2016) Perlindungan Hukum terhadap Disabilitas dalam Memenuhi Hak Mendapatkan Pendidikan dan Pekerjaan. *Jurnal Hukum IUS QUIA IUSTUM*, 23 (4), pp. 652–671. DOI: <https://doi.org/10.20885/iustum.vol23.iss4.art7>

¹⁹ Caplan, G. (Ed.) (2013) *An Approach to Community Mental Health* (0 ed.). Routledge. DOI: <https://doi.org/10.4324/9781315013879>

²⁰ Burgers, L., Staal, T. (2019). Climate Action as Positive Human Rights Obligation: The Appeals Judgment in *Urgenda v the Netherlands*. In J. E. Nijman & W. G. Werner (Eds.), *Netherlands Yearbook of International Law 2018* (Vol. 49, pp. 223–244). *T.M.C. Asser Press*. DOI: https://doi.org/10.1007/978-94-6265-331-3_10

Article 433 of the Indonesian Civil Code (*KUHPerdata*) serves as the primary legal basis for regulating prodigality as a ground for placing an individual under guardianship. This article grants courts the authority to evaluate the financial condition and behavior of individuals based on available evidence. The legal process begins with a petition submitted to the court by interested parties, such as family members or others who have been adversely affected by the individual's financial actions. After the petition is submitted, the court evaluates financial reports, expert testimonies, and other evidence before deciding on guardianship placement in accordance with the criteria for prodigality outlined in Article 433 of the Civil Code.

Parameters for Placing an Adult Under Guardianship Due to Prodigality Based on Article 433 of the Indonesian Civil Code

A legal subject refers to an individual or entity recognized by legislation as possessing legal rights and obligations. Legal capacity (*rechtsbekwaam*)²¹ refers to the condition in which a legal subject, in accordance with applicable regulations, fulfills specific criteria and is therefore granted legal ability or authority (*rechtsbevoegd*). This authority enables legal subjects to engage in legal relationships, which may lead to legal events and produce legal consequences.

Legal relationships involve interactions between two or more legal subjects, encompassing rights and obligations that each party must fulfill. Legal events, on the other hand, are occurrences arising from legal relationships or specific legal provisions²². Legal consequences are the outcomes resulting from legal events, as stipulated within the framework of statutory regulations.

Although normatively the law recognizes that every individual without exception possesses rights and obligations, certain groups are considered legally incapable of independently performing legal acts under specific legal provisions. As such, they require representation or assistance from others. These groups include individuals who have not yet reached the age of majority and those placed under guardianship (*curatele*).

Minors can only exercise their rights and fulfill their obligations through the intervention of another party until they reach the age specified by legislation. Currently, the age of majority is set at 19 years. Provisions concerning guardianship are regulated in Chapter XVII, Articles 433–462 of Book I of the Indonesian Civil Code, which addresses the legal status of individuals.

Article 433 specifically outlines the criteria for placing adults under guardianship due to prodigality. These criteria center on the inability to act competently in managing personal affairs, including financial matters, where prodigality is characterized by reckless financial behavior leading to significant losses. Guardianship serves as a legal mechanism to protect individuals who are legally incapacitated and to ensure their rights and assets are managed responsibly.

The implementation of guardianship begins once the court issues a guardianship decree, as stipulated in Article 446 of the Indonesian Civil Code (*KUHPerdata*). Article 447 specifies that any civil acts carried out before the guardianship decree is issued may be annulled if the grounds for guardianship existed at the time those acts were performed. Therefore, for legal actions taken by the *curandus* (the individual under guardianship) to have valid legal consequences, such actions must be undertaken with the accompaniment of their guardian.

Guardianship is a legal status imposed on individuals based on specific reasons as outlined in Article 433 of the Civil Code. The primary conditions for guardianship include mental health disorders, habitual prodigality, or cognitive weakness. Mental health disorders encompass conditions such as feeble-mindedness, insanity, or uncontrollable emotions. Prodigality is defined as excessive behavior in the use of wealth, while cognitive weakness refers to an inability to make rational decisions, often due to advanced age or certain disabilities.

The process of establishing guardianship is conducted through the courts upon the request of eligible parties, such as blood relatives, spouses, or even the individual themselves. The stages of the application include drafting a petition, examining evidence and witnesses, and the issuance of a judicial decree. During

²¹ Simanjuntak, P. N. H. (2008) Pokok-pokok hukum perdata Indonesia. *Djambatan*.

²² Luthan, S. (2007). Hubungan Hukum dan Kekuasaan. *Jurnal Hukum IUS QUIA IUSTUM*, 14 (2), pp. 166–184. DOI: <https://doi.org/10.20885/iustum.vol14.iss2.art4>

the proceedings, the court may appoint a temporary guardian. The court's decision is binding and takes effect immediately upon its announcement. Legal actions by individuals under guardianship must be carried out with the assistance of their guardian to be deemed valid.

Guardianship can end either absolutely or relatively. Absolute termination occurs if the individual passes away or the condition that justified the guardianship ceases to exist. Relative termination may occur due to misconduct by the guardian, such as abuse of authority, bankruptcy, or legal challenges against the ward. The termination of guardianship is carried out through the courts, and the previously warded individual regains their legal status as a competent legal subject.

Legal capacity is closely related to an individual's maturity. Article 330 of the Indonesian Civil Code (*KUHPerdata*) states that the age of majority is 21 years, or younger if the individual is married. However, this age limit differs across various laws, such as the Marriage Law, which sets the age of majority at 18. This inconsistency creates discrepancies in the application of laws related to legal capacity in different contexts.

Individuals under guardianship lose the right to independently manage their civil affairs. Guardians bear full responsibility for managing the legal interests of the ward and are obligated to act in the ward's best interest, as stipulated in Article 454 of the Civil Code. The guardianship system shifts civil responsibilities to the guardian, leaving no room for the guardian to act for personal gain.

Some countries, such as Hungary and Serbia, distinguish between full and partial guardianship. Full guardianship grants the guardian complete authority, while partial guardianship allows the ward to retain certain rights to make decisions. In Indonesia, Article 433 of the Civil Code mandates that individuals with psychosocial disabilities be placed under full guardianship, a provision that may be considered restrictive to individual rights.

The regulation of guardianship in the Indonesian Civil Code (*KUHPerdata*) encompasses various aspects, such as legal subjects, applicants, procedures, and legal consequences. This framework has been interpreted and analyzed by legal experts, including Prof. Subekti, who explained that individuals in conditions of "feble-mindedness," "mental illness," or "uncontrollable impulses" must be placed under guardianship. However, this norm has sparked debates about its compatibility with human rights, particularly concerning individuals with psychosocial disabilities.

Guardianship is a legal process that involves multiple elements, including the legal subject, determination procedures, legal implications, duration, and termination of guardianship status. Legal subjects include adults deemed incompetent due to mental conditions or prodigality. The purpose of these regulations is to protect individuals who are unable to exercise their legal rights independently. There are two main categories of guardianship. The first applies to individuals with "feble-mindedness," "mental illness," or "uncontrollable impulses," where guardianship is mandatory even if their condition is occasionally normal. The second applies to individuals with habitual prodigality, where guardianship is optional. In both cases, guardianship aims to protect individuals from exploitation or legal harm.

Individuals under guardianship lose the right to manage their civil affairs independently, with their rights and obligations transferred to the guardian. Guardians are obligated to act in the best interests of the ward and are prohibited from exploiting their position for personal gain, as regulated in Articles 433–454 of the Civil Code. The guardianship system in Indonesia primarily applies full guardianship, often resulting in the complete loss of legal capacity for the ward. While this system aims to provide protection, it raises potential human rights concerns, particularly the right to make autonomous decisions. Some countries, such as the Czech Republic and Latvia, have abolished full guardianship in favor of protecting individual autonomy. This shift reflects a broader international trend toward balancing protection with respect for the self-determination of individuals with disabilities.

A guardianship petition is submitted to the District Court by blood relatives. The process involves presenting evidence and witnesses to support claims of the subject's incapacity. The court may appoint a temporary guardian before a final decision is rendered. Once guardianship is established, civil actions taken by the ward can be deemed null and void. Although guardianship is considered valid to protect vulnerable individuals, the imposition of full guardianship carries the risk of abuse by guardians. This highlights the need for a re-evaluation

of guardianship policies, including the implementation of more transparent and equitable mechanisms. Reform is necessary to respect individual rights while providing adequate legal protection.

The guardianship system in Indonesia should be aligned with global developments that place greater emphasis on human rights. Alternatives, such as partial guardianship or mechanisms involving the participation of the ward, should be considered. Such reforms would enable Indonesian law to become more inclusive and equitable, ensuring a balance between protecting vulnerable individuals and respecting their personal autonomy.

An illustrative case from the Netherlands, decision ECLI:NL:RBZWB:2018:2931, was heard at the Zeeland-West-Brabant District Court on April 19, 2018. The case involved an individual whose prodigal behavior led to significant financial losses. The court decided to place the individual under guardianship to protect their assets. An administration petition was filed because the individual was unable to manage their finances due to substantial debt, despite a previous termination of administration in 2017 when it was deemed unnecessary. However, the situation deteriorated again, prompting legal action to prevent further financial harm.

During the court session on March 29, 2018, the individual was found to have financial instability and frequently made poor decisions. While there was no medical evidence indicating physical or mental incapacity, social evidence showed improvements when administration had been previously implemented. Considering the risk of problematic debts if the petition were denied, the court decided to impose administration on the individual's property and appointed a professional administrator to safeguard their assets.

The judge adopted a multidimensional approach in their analysis, incorporating concrete facts such as the individual's pattern of poor financial decision-making and testimonies from social workers. The prior administration's history served as a basis to demonstrate a causal relationship between financial stability and legal intervention. Additionally, the judge took preventive measures to avoid future losses, employing a flexible legal interpretation tailored to the case's circumstances while upholding fundamental legal principles.

The second case, decision ECLI:NL:RBDHA:2022:9537 from the District Court of The Hague on September 20, 2022, involved an individual with schizophrenia, which impaired their ability to manage finances. The court imposed administration over the individual's assets and appointed Britt Helpt BV as the administrator to provide structured financial management. Additionally, a mentor was appointed to offer intensive guidance in the individual's daily life, incorporating medical, legal, and social approaches.

In this case, the court faced challenges such as the individual's behavioral instability, unauthorized use of funds, and a history of unpaid debts. Britt Helpt BV was reappointed as the administrator due to its proven experience and ability to handle complex situations. The judge also rejected a request to terminate the administration, citing the individual's physical and mental condition as insufficient for independent financial management.

The judge considered various elements in their decision, including medical aspects such as schizophrenia, legal measures through the appointment of an administrator, and social aspects through the guidance of a mentor. This decision reflects a holistic approach that combines the protection of the individual's legal rights with support aimed at improving their quality of life. The measures taken were designed to provide sustainable solutions for individuals with severe mental disorders.

These cases demonstrate how Dutch courts utilize factual analysis, legal protection principles, and a multidimensional approach to resolve issues of prodigality. Indonesian judges could adopt a similar methodology, as provided in Articles 433–434 of the Indonesian Civil Code (*KUHPerdata*), by ensuring comprehensive fact-finding, safeguarding vulnerable individuals, and appointing professional administrators. This preventive and equitable approach supports the financial and social rehabilitation of affected individuals effectively.

The placement of an adult under guardianship due to prodigality is determined based on key parameters, such as an inability to manage finances, evidenced by imprudent financial decisions, uncontrolled spending, or escalating debt that leads to significant harm to themselves or others.

Another factor considered is the presence of physical or mental disorders, such as schizophrenia or impulsive behavior, which impact the individual's financial management capabilities. The court also evaluates the individual's track record, including failures to manage finances independently after prior interventions were discontinued, as well as evidence from expert reports, such as those provided by social workers or financial administrators.

Additional support, such as mentors or professional administrators, is often necessary to ensure more structured management. These parameters are used to assess the potential for greater risks if intervention is not implemented. Thus, the decision to impose guardianship aims to protect the individual from further harm and ensure sustainable financial stability.

Conclusion

In Indonesia's legal system, prodigality is regulated under Article 433 of the Indonesian Civil Code (*KUHPerdata*) as a basis for placing individuals under guardianship. The purpose of this guardianship is to protect individuals who are unable to manage their finances prudently, preventing further financial losses. This mechanism involves the appointment of a guardian responsible for managing the legal rights and obligations of the individual. Through guardianship, financial stability is expected to be maintained, and financial rehabilitation can be conducted in a more structured manner.

In the Dutch legal system, prodigality is assessed based on three main principles: financial adequacy, legal protection, and psychological evaluation. Article 433 of the Civil Code serves as the legal basis for placing individuals under guardianship (*curatele*). The legal process includes an evaluation of the individual's financial condition and other evidence, such as expert reports. The goal is to prevent further financial harm caused by the individual's inability to manage their finances, through the appointment of a court-designated curator to manage their assets and obligations.

Placing an individual under guardianship can occur due to their inability to manage finances prudently. Factors such as uncontrolled spending, debt accumulation, or irrational financial decisions often serve as primary causes of prodigality. Additionally, physical or mental disorders affecting financial management capabilities are critical considerations. During court proceedings, aspects such as a history of financial mismanagement, expert testimony, and recommendations from relevant institutions are heavily weighed. Appointing a mentor or professional administrator becomes a necessary step to establish a more stable and structured financial management system, thereby preventing further losses and providing legal protection for the individual.

Indonesia's legal system has the potential to strengthen the implementation of Article 433 of the Civil Code (*KUHPerdata*) by clarifying the criteria for prodigality, including financial adequacy, legal protection, and psychological evaluation. This approach could adopt practices similar to those applied in the Dutch legal system. Courts should ensure collaboration with financial and psychological experts to provide a comprehensive analysis before deciding on guardianship. Additionally, financial rehabilitation and education programs for individuals experiencing prodigality should be developed to support their recovery towards financial independence.

These measures will ensure that guardianship not only protects individuals from financial harm but also empowers them to manage their finances more wisely in the future. With the support of a multidisciplinary team involving medical experts, psychologists, and financial advisors, the guardianship process can be more effective. Integrated evaluation and supervision are crucial to ensuring sustainable recovery and preventing potential abuse of individuals requiring protection.

To support the implementation of this policy, updates to Indonesia's legal regulatory framework on guardianship are necessary. This includes the establishment of a modern guardianship program, mandatory certification for prospective administrators or guardians, and the development of more systematic mechanisms for evaluating guardianship administration. Public outreach and education are also essential to reduce the stigma surrounding individuals requiring guardianship, ensuring they feel supported while living under adequate legal protection.

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