

DAFTAR ISI

COMPARATIVE STUDY OF THE SETTLEMENT OF COPYRIGHT DISPUTES THROUGH ARBITRATION BETWEEN INDONESIA AND THE UNITED KINGDOM

Ali Abdullah, Ade Maman Suherman, Tri Setiady, Wiwin Triyunarti 1-16

LEGAL PROTECTION OF INFRINGEMENT OF THE NON-RIGHT USE OF THE REGISTERED TRADEMARK OF THE SITTING ELEPHANT SARONG

Aditya Yunianto, Ade Maman Suherman, Tri Setiady, Wiwin Triyunarti 17-30

THE ROLE OF THE WEST JAVA PROVINCIAL DPRD IN SUPERVISING THE PERFORMANCE OF REGIONAL HEADS

Dea Eka Rizaldi, Ade Maman, Tri Setiadi, Wiwin Triyunarti 31-46

THE ROLE OF FINANCIAL SERVICES AUTHORITIES IN PROTECTING CRYPTO ASSET INVESTORS IN INDONESIA: BETWEEN REGULATION AND SUPERVISION

Sri Rokmahwati, Upik Mutiara, Rizky Zulva Pratama, Indra Effendi, Septian Ibrohim 47-63

AGE DISCRIMINATION OF JOB APPLICANTS IN INDONESIA FROM A HUMAN RIGHTS PERSPECTIVE

Aryasuta Faharsyah Setiawan 64-87

THE MECHANISM FOR UTILIZING TOBACCO PRODUCT EXCISE REVENUE SHARING FUNDS (DBH-CHT) IN BOJONEGORO REGENCY IS REVIEWED BASED ON THE THEORY OF DIGNITY JUSTICE

Putri Freda Cayadewi, Gunawan Hadi Purwanto, Asri Elies Alamanda 88-101

PROBLEMS WITH FREE NUTRITIOUS EATING PROGRAM MENUS WITH NUTRITIONAL STANDARDS IN THE PERSPECTIVE OF LAW NUMBER 17 OF 2023 CONCERNING HEALTH

Zahrotun Nisha Mayliana, Hanin Alya' Labibah, Muhammad Yasir 102-117

**LEGAL PROTECTION FOR MEDICAL PERSONNEL IN PROVIDING ASSISTANCE
TO DEMONSTRATION VICTIMS BASED ON LAW NUMBER 12 OF 2005** Vivi Vibri

Yannika Setiana Putri, Gunawan Hadi Purwanto, Asri Elies Alamanda ... 118-132

**LEGAL REVIEW OF THE DEVELOPMENT OF E-COMMERCE AS AN ELECTRONIC
TRADING MEDIA IN INDONESIA** Nurul Hajjan, Lusiana Sulastri..... 133-153

**NOMINEE AGREEMENTS IN THE PERSPECTIVE OF ECONOMIC CRIMINAL LAW:
RISK IDENTIFICATION, PROOF, AND ENFORCEMENT** Wahyu Danang Setiadi,

Lusiana Sulastri 154-179

AGE DISCRIMINATION OF JOB APPLICANTS IN INDONESIA FROM A HUMAN RIGHTS PERSPECTIVE

Aryasuta Faharsyah Setiawan

¹Faculty Of Law, Gadjah Mada University Jakarta, Indonesia

* Correspondence email: aryasutafaharsyahsetiawan@mail.ugm.ac.id

Abstract: *The majority of job vacancies available in Indonesia list the age requirement with the maximum or highest limit that is very young, which is in the range of thirty years or even twenty-five years. This results in job seekers over the age of thirty not having many options in the job market. In fact, at that age, people often need jobs. This research uses normative legal research methods. The results of the study show that age restriction requirements for all types of work give birth to various problems. In Indonesia, companies often set unreasonable work requirements and until now there are no clear regulations in Indonesia regarding discrimination on the age of workers or ageism. The authorities should make written rules to regulate the rights of job seekers and not just limited to companies based on human rights.*

Keywords: *Requirements, Age, Occupation*

1. Introduction

The majority of job vacancies available in Indonesia list the age requirement with the maximum or highest limit that is very young, which is in the range of thirty years or even twenty-five years. This results in job seekers over the age of thirty not having many options in the job market. In fact, at that age, people often need jobs.

The age limit used is the productive age. The productive age is the population between the ages of 15 and 64. The productive age population is referred to as a group of workers who are able to produce goods or services efficiently. In many countries around the world, the productive age is considered very important for advancing the economy, income, and well-being. Therefore, a country can benefit if it has a high enough percentage of its population of productive age.

Age in relation to a person's psychological ability is stated by some experts, individuals aged 18 to 25 years are at the highest point of their physical ability, by having the greatest strength and very fast reflex movements. ¹Individuals between the ages of 22 and 28 acknowledge themselves and the world they are entering and strive to establish a stable life structure and find a place in the world of work and social relationships. ²The stability phase is found in individuals aged 33 to 40 years, with a firm belief to find their place in society and try to improve their careers as best as possible, dreams in the previous phases begin to come true.³

One of the selection processes in worker recruitment has the purpose of finding out the differences in the abilities of each individual applicant. The problem of individual differences is often associated with differences in gender, culture, education, age, and ethnicity. In fact, the selection process is more aimed at finding out the extent to which a person is experienced or not, highly educated or not related to personal characteristics that are the requirements of a job. ⁴Assessment of work or performance can be seen from the results of work which is greatly influenced by the personality of the worker which includes values, skills, motivation, attitudes, and other characteristics.⁵ Other characteristics in question are initiative (initiative), meticulousness, intelligence, and emotional stability. Prudence and emotional stability can be affected by age, the older a person is, the more maturity shown in one's stability and prudence, the more likely it is to increase.

Basically, the primary purpose of age restrictions with respect to job vacancies is to establish a legal minimum age requirement for employees, or, in other words, to prevent

¹ Demit. (2013). *Developmental Psychology*. PT Remadja Rosdakarya. Bandung.

² Monks, F.J., AMP Knoers, and Siti Rahayu Hadinoto. (2014). *Developmental Psychology*. Yogyakarta. Gadjah Mada University Press.

³ Munandar, Ashar Sunyoto. (2014). *Industrial and Organizational Psychology*. UI Press. Jakarta

⁴ Ibid.

⁵ Ibid.

child exploitation. However, age discrimination sometimes still occurs, especially in Indonesia. The minimum age is still often listed as one of the requirements in job advertisements. Therefore, many candidates have difficulty getting jobs, thus increasing the unemployment rate.⁶

Job seekers can be significantly affected by age requirements, especially for the old and young age groups. According to Law Number 13 of 2003 concerning Manpower, setting the age limit can be considered discriminatory and violates the principle of equal employment opportunities. Companies will also miss out on opportunities to recruit talented, experienced, and skilled employees from different age groups. A wise employer will match candidates to job needs, ensuring their policies are inclusive, fair, and compliant with legal obligations. *Ageism* or age-based discrimination in the workplace is prohibited in a number of countries. Some developed countries have implemented regulations on the prohibition of age discrimination, for example the United States, the United Kingdom, Sweden, Hong Kong, China, and Korea. The regulations expressly prohibit age discrimination in job seekers, workers, or people who will stop working. America has an agency that specializes in handling complaints about discrimination issues, especially age, namely the EEOC (*equal employment opportunity commission*). This commission accommodates aspirations/receives reports, files lawsuits, and investigates discrimination cases. This prohibition of age-based discrimination stems from the knowledge that age is a strong predictor of substandard performance and often has nothing to do with talent at work. A person's competencies, credentials, and talents should be considered when determining whether or not they are qualified for a particular

⁶ Nisa, M.S (2024). Why Are There Job Openings That Limit Applicants' Age? Here's the explanation. <https://www.kitalulus.com/blog/seputar-kerja/pembatasan-usia-dalam-lowongan-pekerjaan/> accessed on December 29, 2025

role. The problem is that age restrictions in job vacancies are considered a common thing in Indonesia.

Based on the above background, the author will outline the following five problems. First, whether the problems arise due to the age restriction of job applicants. Second, what are the characteristics of discrimination in the maximum age limit for job applicants. Third, how to limit the maximum age as a prerequisite for working based on human rights principles. Fourth, how to limit the age of the workforce as a form of discrimination. Fifth, how is the employment policy in Indonesia related to requirements. The purpose of this writing is to answer the five problems above.

2. Research Methods

The use of this method is based on normative *legal research*. Quoting an explanation from Peter Mahmud Marzuki, normative legal research is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues at hand. The approach in this research applies a statute *approach* and a conceptual approach.

3. Analysis or Discussion

3.1 Problems Arising Due to Age Restrictions for Job Applicants

The age restriction requirement for all types of work gives birth to various problems, namely philosophical, theoretical, juridical, and sociological problems. Philosophical problems are related to three aspects, namely the ontological (essence), epistemological (method), and axiological (usability) aspects. Ontological problems are related to the nature of work. A job is basically something that everyone has the right to get, according to their skills and abilities. Acts of discrimination on the basis of age or others that prevent a person from accessing a job are not right. The problem is that the facts show

that companies limit the age for their applicants so that many of the workforce cannot get the opportunity to apply for jobs.

Epistemological problems are related to methods, how can age discrimination occur? Age discrimination for job seekers can occur due to considerations based on the logic that currently most of Indonesia's workforce is young; young age (individuals with an age range of 18-27 years) are considered more productive compared to individuals who are over 27 years old; If you hire an older age, the risk is greater because older people have more complex problems.

Axiological problems are related to the value of use/benefit or the choice of action taken. Age discrimination will provide useful value for some "young" people. Young people will have a greater chance of getting a job. Meanwhile, age discrimination will be detrimental to some other communities. This community will suffer losses because they do not get the opportunity to get a job. Options for action can be taken, for example, by including a ban on age discrimination in applicable regulations to reduce various negative impacts that occur

Age discrimination will cause problems related to various theories, including justice theory, human rights theory, and human productivity theory. Age discrimination breeds injustice in society because there are some people who actually have the same ability but do not have the opportunity to be able to work because there is a maximum age requirement that limits it.

Human rights are a gift from God Almighty which is formulated as an inherent natural right owned by humans as a gift given by God to human beings in supporting and maintaining their life and livelihood on earth.⁷ Benefit theory states that something is expected to provide as many benefits as possible in life, if age discrimination occurs, it

⁷ Qamar, Nurul. (2013). *Human Rights in Democratic Rechtsstaat*. Sinar Grafika:Jakarta.

will harm certain age groups. Productivity theory states that the productive age for a person is 15 to 64 years old, an age restriction in various companies

contrary to the theory of productivity in general. The theory of moral development divides human moral development into several phases, at a more mature age humans tend to be more mature, so it is likely to affect the way of working and thinking which will certainly be more profitable for the company or agency.

The juridical problems that arise can be seen from several articles in the following laws and regulations.

- a. The provisions of Article 27 paragraph (2) of the 1945 Constitution states that everyone has the right to get a decent job and livelihood, When there is an age restriction, there are some people who cannot access the job because age restriction is one of the registration requirements.
- b. Article 28D paragraph (2) concerning the right of everyone to work and get remuneration and proper and fair treatment in an employment relationship.
- c. Article 28I paragraph (2) everyone has the right to be free from discriminatory treatment on any basis and has the right to be protected from such discriminatory treatment.
- d. Article 5 of Law No. 13 of 2003 regulates the protection of job seekers, namely the prohibition for employers to discriminate against job seekers, which in the explanation of the article only limits to five types of discrimination and has not accommodated the prohibition on age discrimination.
- e. Article 38 of Law No. 39 of 1999 states that everyone has the same right to get a decent job according to their talents, skills, and abilities.

Based on the provisions of Article 27 paragraph (2), Article 28D paragraph (2), Article 28I paragraph (2) which observes to provide protection for everyone to get a job that is free from discriminatory treatment, it has not been realized in the laws and regulations

under it because Law No. 13 of 2003 concerning Manpower has not yet regulated the prohibition of age discrimination. It can be said that there has been a legal incompleteness in terms of the prohibition of age discrimination for job seekers.

The incompleteness of the law related to the prohibition of age discrimination can in principle cause problems, namely the lack of protection of the public, especially job seekers from acts of discrimination on the basis of age inherent in them. Sociological problems, companies or agencies impose age restrictions for their applicants. Based on the results of a survey at the job fair,⁸ the results showed that of 13 goods and services companies that offer 80 types of jobs, 3 (3%) types of jobs with a maximum age of 25 years, 6 (7%) types of jobs with a maximum age of 26 years, 23 (29%) types of jobs with a maximum age of 27 years, 16 (20%) types of jobs with a maximum age of 28 years, 21 (26%) types of jobs with a maximum age of 30 years for applicants. In the job vacancy offer above, there are 4 types of jobs that do not limit the age of their prospective workers. The brochure does not include an age limit for applicants, but based on information from the exhibition booth keeper at the job fair, it turns out that the age limit is a maximum of 40 years and 30 years. This condition causes workers whose age is outside the required category to not be able to access or apply for the job.

3.2 Characteristics of Discrimination on the Maximum Age Restriction of Job Applicants

Human rights are a right for every human being bestowed by God Almighty since the human being was born into the world. In fact, every human being has human rights in many aspects, including economic rights, social rights, cultural rights, civil rights, political rights, and others. The right to work is a derivative of economic rights that have been guaranteed by various regulations, both international and national law. The right to work and obtain a

⁸ Awaliyah, Siti. (2014). *The Effectiveness of Anti-Discrimination Articles in the Manpower Law in East Java*. State University of Malang. Malang.

job is regulated in the 1945 Constitution and is the right of every person, both individually and in groups. The right is exercised without differences such as gender, ethnicity, religion, race, group and other backgrounds. In order to realize efforts in fulfilling human rights and legal protection, Law Number 13 of 2003 concerning Manpower provides instructions that every citizen has the right to get a job.

The birth of the Labor Law is a root that is believed to be able to provide enforcement on the issue of protection and guarantee efforts for the workforce, as part of the United Nations (UN) that upholds and implements the Universal Declaration of Human Rights. The meaning of social justice is actually that employment is expressed in ways that protect the workers against the unrestricted jurisdiction of any party, whether employer/employer, which through legal methods applies. Protection is needed for workers/laborers as stated in the fourth paragraph of the preamble to the 1945 Constitution as well as in Article 27 paragraph (2), Article 28 D paragraph (1) and paragraph (2).

Age is one of the requirements listed in a qualification in a job vacancy. Age, which is generally said to be in the productive period, has a high level of productivity compared to older workers, so it is said that their physical condition is weaker and more limited.⁹ Productivity is said to be a benchmark in providing a better life boost and economic growth. The value of life in a country whose economy has advanced is said to be higher inversely compared to the value of life in developing countries. In addition to the next productivity regarding the age of the worker, it is said that working age is when a person who is between 15 and 64 years old is called productive age or someone who is expected to be able to earn a decent income. A person's age is basically called work if it is sufficient to determine the success of doing an accredited job, whether physical or non-physical. In general, older

⁹ Arnando, E. (2019). Work Productivity as seen from the Age and Work Experience Factors. *Journal of Management*, 2(2), 145–153. <https://ejournal.stei.ac.id/index.php/ManajemenSTEI/article/view/928>

workers have weak and limited physical strength, while younger workers have strong physical abilities.¹⁰

Actually, regarding the productive age population, the World Health Organization (WHO) explained that the age of the population ranges from 15 to 59 years, while the state of Indonesia is said to be of productive age, namely the population of working age. The focus of the concept of the Productive Age Population is generally used by BPS and most of the people in our country are said to be in the age range of 15 to 64 years.¹¹ One of the aspects of fulfillment of the influence on the productivity activities of employees is age. Age that is still classified as a productive age usually has a higher level of productivity which is inversely proportional to the older workforce so that their physique may look weak and limited.

Selvi Aprilianti in her research said that there are things that affect the productivity of the person working, namely the length of work. So the longer the working period of a worker, the more in line with the skills and ability to do their work, the more they will increase. The skill of a person to do his work continuously is able to provide an increase in maturity to his technique. The work period is the level of a person's mastery of the implementation in terms of aspects of equipment engineering with the work technique. The aspects that can be the focal point of whether or not employees are experienced and as a benchmark of experience from work skills are the length of time and working age, the level of mastery skills of work and equipment.¹²

The existence of requirements in job recruitment which mention the age limit in applying for jobs has become an issue known to the general public. Statements regarding

¹⁰ University of Muhammadiyah Surabaya University in Surabaya, J. T. (n.d.). *CHAPTER II LITERATURE Foundations of Theory, Study A.*

¹¹ Goma, E. I., Sandy, A. T., & Zacharias, M. (n.d.). *Analysis of Distribution and Interpretation of Data on Indonesia's Productive Age Population in 2020.* 6(1). <https://journals.unihaz.ac.id/index.php/georafflesia>

¹² Aprilyanti, S. (2017). The Effect of Age and Working Period on Work Productivity (Case Study: PT. OASIS Water International Palembang Branch). *Journal of Industrial Systems and Management*, 1(2), 68. <https://doi.org/10.30656/jsmi.v1i2.413>

qualifications or requirements of employment can be said to discriminate against job seekers, so this can be said to be discrimination. Ageism is categorized as a form of human rights violation, the provision of a maximum age limit for workers in applying for a job can be said to be inappropriate and has violated human rights. Based on Article 1 paragraph (1) of Law Number 39 of 1999 concerning Human Rights, it is referred to as human rights, namely a set of rights that are inherent in the nature and existence of human beings as creatures of God Almighty and are His gifts that must be respected, upheld and protected by the state, law, Government, and every person for the honor and protection of human dignity and dignity, clearly emphasized.

This issue is an interesting discussion because it is considered a form of discrimination, The characteristics of discriminatory acts are contained in Law Number 39 of 1999 concerning Human Rights, Article 1 Paragraph (3) emphasizes that discrimination is "any restriction, harassment, or exclusion that is directly or indirectly based on the discrimination of human beings on the basis of religion, ethnicity, race, ethnicity, groups, groups, social status, economic status, gender, language, political beliefs, which result in the reduction, deviation or elimination of the recognition, exercise or exercise of human rights and basic freedoms in life both individually and collectively in the political, economic, legal, social, cultural, and other aspects of life."

Furthermore, it is further explained in the Constitutional Court decision 72/PUU-XXI/2023 which further affirms the decision related to discriminatory acts that have been restricted, in another Decision, the Constitutional Court No.024/PUU-III/2005 which has been pronounced in a plenary session open to the public dated March 29, 2006 which is quoted again in the Constitutional Court Decision Number 97/PUU-XIV/2016 which was pronounced in a plenary session open to the public dated November 7, 2017 states that "Discrimination can be said to occur if there is any restriction, harassment, or exclusion that is directly or indirectly based on the discrimination of human beings on the basis of religion,

ethnicity, race, ethnicity, group, class, social status, economic status, gender, language, political belief, which results in the reduction, deviation or elimination of the recognition, exercise or use of human rights and basic freedoms in life both individually and collectively in the field of politics, economics, law, social, cultural, and other aspects of life."

The court in stating that the decision explained that the meaning of discrimination has an element, namely a difference in treatment, but the treatment is not in every difference in treatment, so it is not necessarily an act of discrimination. Prior to this, there was also an explanation of the Decision from the Constitutional Court No. 070/PUU II/2004 dated April 12, 2005, which explained that discrimination will occur if there is treatment in different cases without any specific reasonable ground to even make the difference actually occur. Thus, if this is not the same as the enactment in line, it will have an impact on an injustice. In terms of another decision, namely the Constitutional Court Decision No.27/PUU-V/2007, dated February 22, 2008, it also states that there is discrimination, namely if there is different treatment of the same thing. It is also inversely proportional if it is said that it does not include discrimination if there is a different treatment of things that are really different.

The General Conference of the International Labour Organization (ILO) in Article 1 states that, the term discrimination includes; namely in letter (a) it affirms "any difference, exclusion or choice on the basis of race, color, sex, religion, political belief, nationality or origin in society, which results in the loss or reduction of equal opportunity or treatment in employment or position", then in letter (b) it also affirms "any difference, exclusion or other choice that results in the loss or reduction of equal opportunity or treatment in employment or such position as may be determined by the relevant Member after consultation with the organization representing employers and workers, if any, and with other relevant bodies."

Article 38 paragraph (1) of Law Number 39 of 1999 states, Every citizen, in accordance with talents, abilities, and abilities, has the right to decent work. Furthermore, paragraph (2) explains that everyone has the right to freely choose the job he likes and also

has the right to fair employment conditions. Article 39 also states that "Everyone has the right to establish a trade union and shall not be prevented from becoming a member in order to protect and fight for his interests and in accordance with the provisions of laws and regulations". Based on Article 23 paragraph (1) of the Universal Declaration of Human Rights, it provides an explanation that everyone has the right to work, the right to freely choose work, the right to fair and favorable labor conditions and the right to protection from unemployment. Then, Article 27 (2), Article 28A and Article 28D (2) of the 1945 Constitution are explained in essence that every person or every citizen, has the right to get the feasibility of work, the right to maintain life and the right to work and livelihood that is suitable for humanity (Hukum et al., 2024). In the International Covenant on Economic, Social and Cultural Rights (ICESCR), precisely in Articles 6 and 7 which provide recognition of the right to a job, which includes the right to equal opportunities and fair and decent working conditions.

So based on the regulations above, the author argues that ageism is a form of discrimination against workers, especially job seekers, there are differences in the treatment of workers such as at the age of 25 and 30 years which can later cause a lot of unemployment if something like this happens because there is a gap in opportunities provided by employers, regulations or legal regulations are also considered to lack a clear explanation so that It is very necessary to have clear rules and provide justice for these parties.

3.3 Maximum Age Restriction as an Initial Condition for Working Based on Human Rights Principles

At this time, there is no regulation containing a clear legal remedy in Indonesia that should provide rules regarding "discrimination" on the age of workers or ageism. Regulations regarding working age are not specifically explained in Law Number 13 of 2003 concerning Manpower which prohibits qualifications from age. Article 5 emphasizes "Every worker has an equal opportunity without discrimination to obtain employment". The state

should provide certainty for workers who are said to still have the ability to work have an equal opportunity to get a job. Quoting the opinion of an Employment Expert named Tadjudin Nur Effendi where he criticized and analyzed the age limit requirements, he assessed that it should not be a reference and benchmark in job acceptance. According to him, competence is in line with the consideration of the company providing work in recruiting these prospective workers. He is concerned about the phenomenon of requirements or qualifications regarding the age limit for prospective workers, seeing that this country does not have clear regulations specifically in providing legal protection for prospective job seekers which leads to "discrimination" on the requirements of job vacancies.¹³

Furthermore, there is a specific regulation regulating the maximum working age limit enforced in Law Number 20 of 2023 concerning the State Civil Apparatus. The requirements when registering to become a State Civil Apparatus are a minimum age of 18 years and a maximum of 35 years old. However, what about a worker who is generally looking for a job in a general company? For example, the author gives an example of a restaurant that is opening a job vacancy to become a cook, but in the job vacancy the restaurant lists certain maximum age requirements, must have an attractive appearance, and others, even though to fill the position the cook should be an expert in his field in terms of cooking, the dream of the cooks who want to apply to work in the restaurant with skills What he has disappears instantly when applying for the job because there is a maximum age restriction requirement, this is one of the relevant examples that can be said to be age discrimination (ageism).

There is also news that is being discussed in cyberspace today about companies that open job vacancies with a maximum working age of 22 years, the author feels that incidents like this are not new but have happened many times so that it is an issue that needs to be

¹³ Shelomita Putri Amelia, A. P. A. and D. S. (2024). The Effect of Age Requirements on Job Opportunities for Workers in Indonesia. *Journal of Social, Political and Legal Studies*, 1.

considered by regulators, both on the side of a company that opens job vacancies and on the side of job seekers who need a job so that their rights are not misinterpreted which in Finally, it causes a form of age discrimination in looking for a job. Quoting the opinion of Vina Muliana, a practitioner in the field of HRD at a SOE explained that under certain conditions, an agency does limit the age of job applicants. Vina Muliana explained three reasons, namely First, the agency is indeed in need of employees at the junior or entry level. He admitted that the age limit could make it easier for agencies to screen job seekers, with the number of applicants not exploding. Second, the agency justifies looking for candidates whose character is better formed. The agency views that people under the age of 25 will be easier to form according to the needs of the agency. Third, he further explained that prospective workers under the age of 25 are generally unmarried, thus the expenses or responsibilities are not so large as a result of which they are considered flexible, agile, and easy to direct, or can be controlled.¹⁴

The existence of age restrictions, both minimum and maximum, will certainly hinder everyone in obtaining their right to work. In general, a company or employer may provide conditions for prospective workers with a record of being rational and there is no discrimination, in the real fact in the field Law Number 13 of 2003 Article 35 (1) does not provide rational conditions, even though the employer may provide rational and non-discriminatory conditions and this is guaranteed by the constitution. It is very clear that the employer is the more benefited party, even though the company has the authority based on the regulations stated in Article 35 paragraph (1) more or less emphasizes the employer, namely the company or agency considers it necessary for a workforce that can accept the workforce itself through the implementation of the labor place itself. Justice is needed for both parties, both from the company as a recruiter and also to job seekers.

¹⁴ Law, P., Studies, H. A. M., & Recruitment, K. (2024). *REVIEW OF THE AGE LIMIT REQUIREMENTS FOR RECRUITMENT OF. 11(3)*, 124–134.

3.4 Age restriction of the workforce as a form of discrimination

In Indonesia, companies often set unreasonable work requirements in job vacancies, one of which is to provide age limit requirements ranging from 18-25 years old. This unreasonable restriction on working age makes it very difficult for the workforce who have just completed their education, especially those at the undergraduate level. In many other countries, the practice of restricting the working age is referred to as age-based discrimination or commonly called ageism. Ageism is already banned in various countries. This prohibition is based on the understanding that age is an indicator of poor performance prediction and is often unrelated to employability. This age restriction has had a very bad impact on contract workers and female workers. Contract workers who have no guarantee when their contracts will be extended or terminated, while their age continues and are no longer at the required age and for female workers many of them decide to stop working temporarily when women are married, pregnant, childbirth, and taking care of children. When the woman decides to return to work, their age has passed the required age limit. Not only does ageism provide age limits to prospective applicants, ageism can also occur in the form of:

1. The ideas offered are ignored for age reasons;
2. Always make negative comments about age;
3. Underestimated because it is considered that age is not experienced enough;
4. Does not provide promotion opportunities or salary increases;
5. Not involved in meetings because age is considered too young.¹⁵

At this time, there is no strong legal protection in Indonesia that regulates age discrimination or ageism. In Law Number 13 of 2003 concerning Manpower, there is no

¹⁵ Dian, R. (2023). Ageism: When age restrictions actually violate the rights of workers. <https://Narasi.Tv/Read/Narasi-Daily/Ageisme-Ketika-Pembatasan-Usia-Justru-Melanggar-Hak-Para-Pekerja>. accessed on December 29, 2025.

article that explicitly regulates the prohibition of the age limit for workers, but in Article 5 it is stated that "Every worker has an equal opportunity without discrimination to get a job." This means that the state must guarantee that everyone has the same opportunity to get a job as long as the person is still able to do his job. This is in line with Law Number 39 of 1999 concerning Human Rights in Article 38 Paragraph (1) and (2) which essentially states that everyone has the right to decent work and fair employment conditions. In addition, Indonesia has also ratified the International Labor Organization (ILO) Convention Number 111 concerning discrimination in employment and position, through Law Number 21 of 1999 which states that the state is responsible for ensuring that there should be no discrimination in the recruitment process to the implementation of employment relations. Therefore, age restriction is a form of violation of workers' rights, because the law guarantees equal rights for everyone to have equal opportunities in finding a job and in the workplace.

However, although Article 5 of the Manpower Law states that there should be no discrimination in obtaining a job, Article 35 Paragraph (1) of the Manpower Law states that "Employers who need labor can recruit the required labor themselves or through labor placement implementers." This means that this article gives permission to the company/employer to determine the job requirements for prospective workers themselves, this is contrary to Article 5. In the recruitment stage, companies/employers often provide illogical requirements and even lead to elements of discrimination that ultimately make it difficult for prospective workers to get a job.¹⁶

These requirements are not only about the age limit but for example applicants can only be of a certain gender, for example only accepting men or women, women must have an

¹⁶ Izzati, N. R. (2023). Age Discrimination in Job Vacancies: How 'Ageism' Harms Workers, Especially Contract Workers and Women. <https://Theconversation.Com/Diskriminasi-Usia-Dalam-Lowongan-Pekerjaan-Bagaimana-Ageism-Merugikan-Pekerja-Terutama-Pekerja-Kontrak-Dan-Perempuan-199603>. accessed on December 29, 2025.

attractive appearance or good looking, have work experience for a certain time, and there are even companies that only want to hire employees with a certain religion.¹⁷ Article 35 Paragraph (1) is considered very detrimental so Leonardo Olefins Hamonangan, a resident of Bekasi, filed a Judicial Review of Article 35 Paragraph (1) of the Manpower Law with Case Number 35/PUU-XXII/2024. The applicant considers that this article makes the company/employer set requirements that are detrimental to prospective workers so that it can cause an increase in the unemployment rate in Indonesia.

Tadjudin Nur Effendi, who is an employment expert, also criticized the age limit requirement, he considered that the age limit should not be a recruitment reference. According to him, competence should be considered by companies in recruiting prospective workers. Tadjudin Nur Effendi is also concerned about the phenomenon of age limit requirements for prospective workers, especially in Indonesia there are no specific rules or legal protections for prospective workers who experience discrimination over job vacancy requirements.¹⁸ In contrast to the opinion of Tadjudin Nur Effendi, Public Policy Expert at Airlangga University, Gitada Tegas Supramudyo stated that the working age limit is an affirmative policy and should be acceptable.

The lecturer of the Faculty of Social and Political Sciences UNAIR argued that the age limit requirement provides opportunities for the younger generation to develop, reflecting on the productive age in Indonesia more than the non-productive age so that it is necessary to accommodate the younger generation to progress. However, Gitadi also reminded the

¹⁷ Raissa, A. (2020). Protection for job seekers from discriminatory company qualifications. *Mimbar Keadilan*, 12(2), 262-271.

¹⁸ Putra, D. A. (2024). Employment Expert: The age limit on recruitment is discriminatory. <https://Tirto.Id/Ahli-Ketenagakerjaan-Batasan-Usia-Rekrutmen-Itu-Diskriminatif-Gw6q>. accessed on December 29, 2025.

need for an ideal system to regulate the age limit policy so that it is implemented properly and far from prejudice.¹⁹

Various countries have issued rules regarding the prohibition of ageism which is considered very detrimental. The European Union has since 2000 issued a ban on discrimination based on age in employment and position. Then, in July 2008 the European Commission proposed another directive on the application of the principle of equal treatment between people regardless of age. Likewise in Australia, The Age Discrimination Act (ADA) 2004 is a law that prohibits discrimination in employment based on age. The ADA protects

Australians both younger and older from discrimination in other areas of public life, including education, obtaining and using public services, and renting or buying a home. The United States has also taken several important measures to protect elderly individuals from age discrimination, for example by enacting The Age Discrimination in Employment Act of 1967 (ADEA), which protects people aged 40 and over from the practice of ageism. This law states unequivocally that discriminating against a person based on their age is an illegal act. Reflecting on these countries, therefore, Indonesia should provide legal protection against the practice of ageism because so many people feel very disadvantaged by this working age requirement.

3.5 Employment Policy in Indonesia Regarding Age Requirements

According to the Ministry of Manpower and Transmigration (Ministry of Manpower and Transmigration) in 2006, the workforce is divided into two categories, namely Productive Workers and Non-Productive Workers. Productive workers are individuals who are of working age and have the physical and mental ability to do work. They are usually in the

¹⁹ Rohmawati, Y. (2024). Questioning the Employment Age Limit Policy, UNAIR Expert: Give Opportunities to the Young Generation. <https://Unair.Ac.Id/Menyoal-Kebijakan-Batas-Usia-Kerja-Pakar-Unair-Beri-Peluang-Generasi-Muda/>. accessed on December 29, 2025.

productive age range, i.e. 15 to 64 years old, and are actively able to participate in economic activities. Meanwhile, non-productive workers are individuals who are also of working age, but are unable to work for certain reasons, for example due to age, health, or other reasons. This category includes those who are too young (<15 years old), elderly (> 64 years old), or have health conditions that do not allow them to work. A child under the age of 15 should not work because it is not yet time. Because basically, those under the age of 15 do not have perfect maturity.²⁰

Article 69 Paragraph (2) of the Manpower Law, states that "Employers who employ children in light work as referred to in paragraph (1) must meet the requirements:

- a. written permission from a parent or guardian;
- b. employment agreement between the employer and the parent or guardian;
- c. maximum working time of 3 (three) hours;
- d. carried out during the day and does not interfere with school hours;
- e. occupational safety and health;
- f. the existence of a clear working relationship; and
- g. receive wages in accordance with applicable provisions

Article 81 Paragraph (1) of the Labor Law, regulates sanctions for employers who employ children under 15 years old, "Employers who violate the minimum working age provisions can be subject to criminal sanctions of imprisonment for a minimum of 1 year and a maximum of 4 years, as well as a fine of at least IDR 100,000,000 and a maximum of IDR 500,000,000." In addition to children under 15 years old and havenot yet entered retirement age, everyone has the right to the same opportunity to get a job. The retirement age for workers/laborers is further regulated in the Regulation of the Minister of Manpower

²⁰ Suarni, W. ., & Nurul Audri, A. . (2021). THE RELATIONSHIP BETWEEN EDUCATION, WORKING HOURS, AND AGE TO LABOR LAW. *Journal of Applied Management Science*, 2(6), 721–732. <https://doi.org/10.31933/Jimt.V2i6.636>.

Number 02/MEN/1995 Article 2 Paragraphs (1) and (2); (1) The normal retirement age is set at 55 (fifty-five) years. In the event that workers are still employed by the Employer after reaching the age of 55 (fifty-five) years, the maximum age is set at 60 (sixty) years. The impact of age-related employment policies on job opportunities for workers can be seen from research conducted by Hartoko.

According to Hartoko's research, the highest unemployment rate occurs among adolescents, both men and women, with an unemployment rate of 31.12 percent for the 15-19 year old age group and 18.97 percent for the 20-24 year old age group. The open unemployment rate decreased in the age group of 25-29 years and beyond. Entering the workforce at a very young age rarely provides a high income due to the low level of education achieved by young people. The high unemployment rate among adolescents may be due to their difficulty in accessing lucrative jobs, so they often experience recurrent unemployment. On the other hand, older people, especially married people, generally have to work, often even longer. Despite the decline, open unemployment still exists in the age group of 25-29 years and beyond, likely because there are adults living dependent on their children, pensions, investment income, or house rent. Therefore, these groups can experience unemployment for longer because they can sustain their lives without having to work.²¹

4. Conclusion

1. The age restriction requirement for all types of work gives birth to various problems, namely philosophical, theoretical, juridical, and sociological problems. Philosophical problems are related to three aspects, namely the ontological (essence), epistemological (method), and axiological (usability) aspects. Age discrimination will

²¹ Hartoko, Y. (2019). The Influence of Education, Training, Gender, Age, Marital Status, and Region of Residence on the Length of Time to Seek Work for Educated Workers in Indonesia. *Journal of Education and Economics*, 8(3), 203-207.

cause problems related to various theories, including justice theory, human rights theory, and human productivity theory. The juridical problems that arise can be seen from several articles in laws and regulations.

2. Sociological problems, companies or agencies impose age restrictions for their applicants, this condition causes workers whose age is outside the required category to not be able to access or apply for the job Age is one of the requirements listed in a qualification in a job vacancy. Age, which is generally said to be in the productive period, has a high level of productivity compared to older workers, so it is said that their physical condition is weaker and more limited. Productivity is said to be a benchmark in providing a better life boost and economic growth.
3. At this time, there is no regulation containing a clear legal remedy in Indonesia that should provide rules regarding "discrimination" on the age of workers or *ageism*. Regulations regarding working age are not specifically explained in Law Number 13 of 2003 concerning Manpower which prohibits qualifications from age. Article 5 emphasizes "Every worker has an equal opportunity without discrimination to obtain employment". The state should provide certainty for workers who are said to still have the ability to work have an equal opportunity to get a job.
4. In Indonesia, companies often set unreasonable work requirements in job vacancies, one of which is to provide age limit requirements ranging from 18-25 years old. This unreasonable restriction on working age makes it very difficult for the workforce who have just completed their education, especially those at the undergraduate level. In many other countries, the practice of restricting the working age is referred to as age-based discrimination or commonly called *ageism*. *Ageism* is already banned in various countries. This prohibition is based on the understanding that age is an indicator of poor performance prediction and is often unrelated to employability.

5. Ministry of Manpower and Transmigration (Ministry of Manpower and Transmigration) In 2006, the workforce was divided into two categories, namely Productive Workers and Non-Productive Workers. Article 69 Paragraph (2) of the Manpower Law, states that "Employers who employ children in light work as referred to in paragraph (1) must meet several requirements. Article 81 Paragraph (1) of the Manpower Law, regulates sanctions for employers who employ children under 15 years old, In addition to children under 15 years old and have not yet entered retirement age, everyone has the right to get the same opportunity to get a job. The retirement age for workers/laborers is further regulated in the Regulation of the Minister of Manpower Number 02/MEN/1995 Article 2 Paragraphs (1) and (2); (1) The normal retirement age is set at 55 (fifty-five) years. In the event that the worker is still employed by the Employer after reaching the age of 55 (fifty-five) years, the maximum age is set at 60 (sixty) years.

References

Book:

- Awaliyah, Siti. (2014). *The Effectiveness of Anti-Discrimination Articles in the Manpower Law in East Java*. State University of Malang. Malang.
- Demit. (2013). *Developmental Psychology*. PT Remadja Rosdakarya. Bandung.
- Monks, F.J., AMP Knoers, and Siti Rahayu Hadinoto. (2014). *Developmental Psychology*. Yogyakarta. Gadjah Mada University Press.
- Munandar, Ashar Sunyoto. (2014). *Industrial and Organizational Psychology*. UI Press. Jakarta
- Qamar, Nurul. (2013). *Human Rights in Democratiche Rechtsstaat*. Sinar Grafika:Jakarta.

Journal Article:

- Aprilyanti, S. (2017). The Effect of Age and Working Period on Work Productivity (Case Study: PT. OASIS Water International Palembang Branch). *Journal of Industrial Systems and Management*, 1(2), 68. <https://doi.org/10.30656/jsmi.v1i2.413>



Universitas Buana Perjuangan Karawang

Vol. 11 No.1 (2026)

Submit:02-Jan-2026

Revised: 19-Feb-2026

Published: 15-Mar-2026

- Arnando, E. (2019). Work Productivity as seen from the Age and Work Experience Factors. *Journal of Management*, 2(2), 145–153. <https://ejournal.stei.ac.id/index.php/ManajemenSTEI/article/view/928>
- Dian, R. (2023). Ageism: When age restrictions actually violate the rights of workers. <https://Narasi.Tv/Read/Narasi-Daily/Ageisme-Ketika-Pembatasan-Usia-Justru-Melanggar-Hak-Para-Pekerja>. accessed on December 29, 2025.
- Goma, E. I., Sandy, A. T., & Zacharias, M. (n.d.). *Analysis of Distribution and Interpretation of Data on Indonesia's Productive Age Population in 2020*. 6(1). <https://journals.unihaz.ac.id/index.php/georafflesia>
- Hartoko, Y. (2019). The Influence of Education, Training, Gender, Age, Marital Status, and Region of Residence on the Length of Time to Seek Work for Educated Workers in Indonesia. *Journal of Education and Economics*, 8(3), 203-207.
- Law, P., Studies, H. A. M., & Recruitment, K. (2024). *REVIEW OF THE AGE LIMIT REQUIREMENTS FOR RECRUITMENT OF*. 11(3), 124–134.
- Izzati, N. R. (2023). Age Discrimination in Job Vacancies: How 'Ageism' Harms Workers, Especially Contract Workers and Women. <https://Theconversation.Com/Diskriminasi-Usia-Dalam-Lowongan-Pekerjaan-Bagaimana-Ageism-Merugikan-Pekerja-Terutama-Pekerja-Kontrak-Dan-Perempuan-199603>. accessed on December 29, 2025.
- Scott, M. (2024). Age Barriers to Employment Opportunities. <https://News.Detik.Com/X/Detail/Intermeso/20240316/Batas-Usia-Penghalang-Kesempatan-Kerja/>. accessed on December 29, 2025.
- Nisa, M.S (2024). Why Are There Job Openings That Limit Applicants' Age? Here's the explanation. <https://Www.Kitalulus.Com/Blog/Seputar-Kerja/Pembatasan-Usia-Dalam-Lowongan-Pekerjaan/> accessed on December 29, 2025
- Parker, Y. (2021). Ageism And Discrimination Against The Elderly. <https://Florinroebig.Com/Age-Discrimination/>. accessed on December 29, 2025.
- Putra, D. A. (2024). Employment Expert: The age limit on recruitment is discriminatory. <https://Tirto.Id/Ahli-Ketenagakerjaan-Batasan-Usia-Rekrutmen-Itu-Diskriminatif-Gw6q>. accessed on December 29, 2025.
- Raissa, A. (2020). Protection for job seekers from discriminatory company qualifications. *Mimbar Keadilan*, 12(2), 262-271
- Rohmawati, Y. (2024). Questioning the Employment Age Limit Policy, UNAIR Expert: Give Opportunities to the Young Generation. <https://Unair.Ac.Id/Menyoal-Kebijakan->



Universitas Buana Perjuangan Karawang

Vol. 11 No.1 (2026)

Submit:02-Jan-2026

Revised: 19-Feb-2026

Published: 15-Mar-2026

Batas-Usia-Kerja-Pakar-Unair-Beri-Peluang-Generasi-Muda/. accessed on December 29, 2025.

Shelomita Putri Amelia, A. P. A. and D. S. (2024). The Effect of Age Requirements on Job Opportunities for Workers in Indonesia. *Journal of Social, Political and Legal Studies*, 1.

Suarni, W. ., & Nurul Audri, A. . (2021). THE RELATIONSHIP BETWEEN EDUCATION, WORKING HOURS, AND AGE TO LABOR LAW. *Journal of Applied Management Science*, 2(6), 721–732. <https://doi.org/10.31933/jimt.V2i6.636>

University of Muhammadiyah Surabaya University in Surabaya, J. T. (n.d.). *CHAPTER II LITERATURE Foundations of Theory, Study A*.