

ABSTRACT

Suwardi. LEGALITY OF AGREEMENT IN E-COMMERCE TRANSACTIONS CONDUCTED BY SUBJECTS OF LEGAL INADEQUACY, under the supervision of Prof. Dr. Ade Saptomo, S.H., M.Si. as Promoter and Dr. Megawati Barthos, S.H., M.M. as Co-Promoter

The rapid advancement of telecommunication and computer technology has resulted a multifunctional internet. This development has brought us to the threshold of the fourth revolution in the history of human thought when viewed from the knowledge construction of the mankind, which is characterized by a borderless way of thinking. The acceleration of technology is increasingly more rapid and becomes the material cause of continuous change in all interactions and activities of the information society. This situation is, of course, elusively reachable by conventional legal rules of contract, which have so far been referred to the rules inherited from the Dutch East Indies colonial government, namely the Civil Code (KUHPerd) or Burgerlijk Wetboek (BW), especially Book III concerning Contracts, some of which have been out of date along with the flow of globalization that is increasingly swifter. Therefore, the renewal or modernization of contract law is absolutely necessary. The renewal of the law can be done through two ways, namely legislation and jurisprudence. The problems in this study are 1) How is the legal force of the agreement implementation in e-commerce transactions conducted by subjects of legal inadequacy? 2) How is the fulfillment of the principles of the agreement that meet the sense of justice, benefit and legal certainty in e-commerce transactions? Based on the problems studied, this research is normative legal research method. This normative legal research method is carried out by examining existing library materials. This research is also descriptive qualitative in nature. In the normative legal research method, there are three kinds of library materials used by the author, namely primary, secondary and tertiary legal materials. This study employed the theoretical framework of Legal Certainty, Law Enforcement Theory, Legal Effectiveness Theory and Law Country Theory. Based on the research results, the author concludes that the legality of a contract or an agreement must be measured by the fulfillment of the clauses agreed upon by the parties (expression of will). Fulfillment of Agreement Principles in E-Commerce Transactions and the legal relationship generated by e-commerce transactions is an agreement. Legal Aspects in E-Commerce Transactions and electronic contracts (e-contracts) are categorized as "unnamed contracts" (innominaat), namely agreements that are not regulated in the Civil Code but exist in the society due to the changing times and demands of business needs. However, this kind of contract must comply with the provisions of Article 1320 of the Civil Code which regulates the terms of the legality of the agreement.

Keywords: Legality of the Agreement, E-Commerce Transactions, Legal Inadequacy