

Topic: Human Right Issues of Artificial Intelligence (AI) Gaps and Challenges, and Affected Future Legal Development in Various Countries

The Role of a Notary/PPAT Towards Girls as Recipients of Grant from Parents in Bali

Ganesh Deo Gangga¹⁾, Bambang Tri Bawono²⁾, Jawade Hafidz³⁾ & Widihi Handoko⁴⁾

¹⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: e-mail: ganesh.gangga@yahoo.com

²⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: e-mail: bambang@unissula.ac.id

³⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: e-mail: jawade@unissula.ac.id

⁴⁾Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: e-mail: widihihandoko@unissula.ac.id

Abstract. *Parents show their love for their children in various ways. However, jealousy within the family often occurs because one or more individuals perceive their siblings as a threat. Jealousy can come from blood family relationships in deviant lines, one of which comes from biological children. Jealousy can be related to inheritance and will ultimately cause parents to worry about their children. So parents do various things to provide protection to their children if the parents die in the future. One way is by way of grants. Gifts to daughters usually become a polemic among their male relatives, especially in Bali where there is a patrilineal kinship system. The problems of this research are: 1. what impacts will arise in the future on the distribution of grants to daughters; 2. The role of Notary/PPAT in realizing the wishes of the community who wish to provide grants to their daughters. The method used in this research is an empirical juridical approach. The results of the discussion from this research show that the role of Notary/PPAT is to provide direction to grant givers in providing grants to obtain approval from all of their heirs to reach deliberation and consensus to avoid conflicts in the future after the grant giver is declared dead.*

Keywords: *Daughters; Grants; Kinship; Patrilineal; System.*

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1. Introduction

The Balinese Customary Law Community regulates the Patrilineal Kinship system which makes sons the heirs, while daughters cannot inherit. This gives rise to discrimination against women in Bali, especially the imbalance between the rights of boys and the rights of girls considering that the obligations as a woman in Bali in customary law play a very important role, especially in matters of obligations towards Balinese customs themselves. Along with developments in the Balinese customary law community itself, girls in Bali have the right to receive a share of their parents' assets with support from the issuance of the Decree of the Main Council of Pakraman Village Number 01/KEP/PSM-3/MDP Bali/ No. However, the internal effectiveness of this Decree does not yet apply as a whole to the Balinese Customary Law Community and regarding inheritance law it is returned to Kala Patra Village.

A gift in article 1666 of the Civil Code states an agreement made by a gift giver to a gift recipient whereby a gift person hands over an item that cannot be withdrawn to the Grantee who has that interest and is declared to be still alive. Meanwhile, in Balinese Customary Law, gifts are made based on the consent of the male heirs, meaning that if parents want to give gifts to their children, especially to daughters who will marry out as provisions for the future or to their children who have become widows and then return home. Originally, these two things required the knowledge and consent of the male heirs.

Implementation of grants in Balinese customary law can be done in two ways:

1. An ordinary gift is a gift which takes effect immediately after the item or property is gifted or transferred into the name of the heir.
2. A testamentary grant is a grant that takes effect after the person (the heir) dies.

Gifts to daughters in Balinese customary law are known as Jiwa Dhana in Indonesian, referred to as inherited assets. This Jiwa Dhana is given to girls as preparation for their marriage because the parents are worried that their child's life with her husband will not be what she hopes. The person who has the right to give Dhana's soul assets is a father, not a mother, wife or widow, because Bali adheres to a patrilineal kinship system. Meanwhile, sons do not have the right to disagree with any decisions made by parents who give gifts to their daughters. However, undesirable possibilities may occur in the future. In the distribution of inheritance in the Balinese traditional community, sons receive two shares, while daughters who marry out or are widows receive one share.

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Based on this background, several problems can be formulated as follows:

1. What impacts will arise in the future on the distribution of gifts to daughters in terms of Balinese Customary Law?
2. What is the role of the Notary/PPAT in realizing the wishes of the community who want to give grants to their daughters?

2. Research Methods

In conducting research, methods play a very important role. The method of studying the problems raised and relating them to applicable laws and regulations and existing theories is then connected to the realities in the field. Methods also provide instructions on how to carry out research. With these instructions, it is hoped that reliable research results will be obtained. The type of method used in this research is an empirical juridical approach (socio legal research). In the juridical approach, it is intended to examine the rules regarding Grants through the Civil Code, the rules regarding the Authority of Notaries and PPATs in making authentic deeds in front of their clients, while the empirical approach is to find out the legal and social implications related to giving grants to girls in Bali. The source of legal materials used in this research is: 1. Primary data is data obtained from observations by researchers in the field, which can be in the form of interviews or interviews. 2. Secondary data is data obtained through literature study and documentation, including using primary legal materials, secondary legal materials and tertiary legal materials. The data analysis process is a work to find themes and formulate hypotheses even though there is no definite formula for formulating hypotheses. The data processing and analysis technique used in this discussion is qualitative analysis, namely the analysis of legal materials by describing the applicable laws and regulations linked to theories of customary law and inheritance law which involve problems. From this description a conclusion will be drawn as final research results.

3. Results and Discussion

3.1. The impact that arises in the future on the distribution of grants to daughters viewed from the perspective of balinese customary law.

As is known, inheritance assets in Bali are non-material and material. The non-material in question is the Hindu place of worship itself. The place of worship at home is called sanggah or merajan, while in the extended family it is called Pura or Pura Kawitan. Material can be land, money or heirlooms. Balinese Customary Law is very closely related to Hinduism and cannot be

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separated. This can be seen from religious ceremonies in Bali which contain elements of traditional socio-cultural values. These non-material inherited assets are passed on by the heirs to their descendants.

In the patrilineal kinship system in Bali, sons are considered to have a more important position than their sisters. It is considered important because it is tasked with carrying out responsibilities towards the ancestors and Almighty God in the form of traditional and religious ceremonies in Bali or through daily devotion in the form of flowers and fruit offered through prayer places in the form of sanggah. Apart from that, boys have an obligation to be more active in the community in their village regarding traditional and religious ceremonies. The thing that often creates discrimination against girls is that the author knows that women also have a big responsibility in traditional ceremonies in Bali. Balinese Customary Law teaches that in protecting and caring for the continuity of family life, parents as heirs can use their inheritance to meet all their family's needs.

One example is land the land is built on a house and then rented out or planted with crops that produce it. The Balinese Indigenous People here are actually not allowed to sell their inheritance because it is closely related to their obligations to their ancestors. The more he inherited, the greater the responsibility he assumed. If the inheritance is sold out by the Heir, then the customary obligations will never be separated from the heir unless she leaves her extended family environment.

The Balinese traditional community in providing grants to their heirs is based on the boundaries of Balinese customary inheritance law by paying attention to several things, namely that the heirs are already bound by what is called marriage, secondly they can be said to be mature in thinking, independent in living their lives, and can be responsible for himself and look after and care for her parents. The form of gift that is usually given is mostly in the form of inherited land, it can also be in the form of ancestral relics such as keris, rings or other lucky objects. However, it is also possible that the granting was given or carried out immediately because previously there was a dispute between one heir and another heir, each of them had already calculated how much of the portion they would receive later, or one of the heirs had bad plans for the gift giver. or other grant recipients.

In the implementation of grants, conflicts or disagreements often occur between one grant recipient and another grant recipient, either before the process of making a grant deed before a Notary/PPAT or after the grant deed is issued by PPAT. Conflict in Bali is usually referred to as biota or speech. Grant recipients in dispute can be biological children and biological children,

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biological children and adopted children, biological children and stepchildren, or male biological children and female biological children. Researchers see that in people's lives, human nature is often dissatisfied with what they have or have achieved, which makes family relationships less peaceful.

The impact is likely to occur if seen from the perspective of Balinese customary law, namely regarding what is called responsibility to future ancestors. The grant recipient referred to as a girl here is allowed to help her brother in activities related to traditional and religious ceremonies. She did not immediately abandon her previous obligations. She has the right to look after and look after the place of worship for her family, parents and relatives. In Bali itself, anyone who is an heir or recipient of a gift, whether male or female, is also responsible for all forms of inheritance from their ancestors, whether in the form of places of worship, heirlooms, debts and inherited land in order to achieve the concept of Tri Hita Karana, namely the three causes of prosperity, namely creating a harmonious relationship with God, creating a harmonious relationship with humans, and creating a harmonious relationship with the environment. Article 9 of the Regulation (Peswara) dated 13 October 1900 concerning Inheritance Law Applicable to Balinese Hindu Residents of Buleleng Regency, if a daughter misbehaves and leaves the yard of her family's house, after obtaining permission from the Government, the items that may be given to her come from from inherited assets, must be removed from her hands and then the items are treated as if he had died. In article 10 paragraph 1, it is stated that a woman may not let go or pawn the items she received as an inheritance without the permission of her heirs. A daughter is also considered less fit to inherit if she does not carry out her obligations as well as possible after she marries. If the daughter is not married, she is still allowed to enjoy the property of her parents. Regarding girls who do not fulfill their obligations as children, it depends on the assessment of their parents as gift providers. Things like this can be seen from deviant behavior towards the heir causing harm to the heir and benefiting himself.

Meanwhile, another impact on giving grants to girls that may occur is feelings of jealousy that arise from other grant recipients, especially male heirs. Debates began to occur which ultimately gave rise to objections from various parties who inherited or felt they had rights in the future when their parents died in the future. Balinese Customary Law recognizes the principles of decency and balance. Appropriateness and balance seem very relative. Customary Law Communities, especially the recipients of grants, namely men, in dealing with problems regarding these grants, must use the principle of propriety because the existence of this principle teaches the community to live appropriately, while balance teaches one party to another to live equally or in balance. This reminds us that the sense of justice in customary law does not belong

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to individuals alone. Therefore, the Balinese Traditional Community believes in ensuring that the journey of ancestors, namely the spirits of the heirs, finds a peaceful place, they try not to have disputes with other heirs, and minimize disputes that occur between families regarding inheritance by living in harmony and peace.

3.2. What is the role of Notary/PPAT in realizing the wishes of the community who wish to provide grants to their daughters.

Based on article 16 paragraph 1 letter a of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the position of Notary Public, it is stated that in carrying out her position, the Notary is obliged to act in a trustworthy, honest, thorough, independent, impartial and safeguard the interests of parties involved in legal actions and in letter e it is stated that notaries are obliged to provide services in accordance with the provisions of this Law, unless there are reasons to refuse. In article 1 of the Government Regulation of the Republic of Indonesia Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations on the Position of Officials Making Land Deeds, it is stated that PPAT is a public official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights or Ownership rights to apartment units. PPAT's main duties in making grant deeds are stated in article 2 paragraphs 1 and 2 of Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Making Officials, which states that PPAT has the main task of carrying out some of the land registration activities by making deeds as proof that certain legal acts regarding rights have been carried out. on land or Ownership Rights on Flat Units, which will be used as the basis for registering changes to land registration data resulting from the legal action. PPAT has the main task of carrying out some of the land registration activities by making deeds as proof that certain legal acts have been carried out regarding land rights or ownership rights to apartment units, which will be used as the basis for registration.

2). The legal acts as intended in paragraph (1) are as follows:

- a. buy and sell;
- b. exchange;
- c. grant;
- d. income into the company (inbreng);
- e. sharing of joint rights;

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f. granting Building Use Rights/Use Rights over Freehold Land;

g. granting Mortgage Rights;

h. granting power of attorney to impose mortgage rights.

The role of the Notary/PPAT in realizing the wishes of the Balinese Indigenous People who provide grants to girls is by providing legal outreach first to the parties who come to the Notary/PPAT office. Apart from providing legal knowledge, this legal socialization also directs the parties who will make the Grant deed and understand all the consequences arising from a legal action. The Notary/PPAT hopes that family disorganization will not occur in the future because an agreement has not been reached. Article 913 of the Civil Code regarding legitime portie requires that gifts be given to take into account the consent of the heirs without violating absolute rights to prevent conflicts from arising in the future. Anything can happen, such as concerns that cause the other heirs to disapprove of the grant recipient. Article 881 of the Civil Code states that with such an appointment of inheritance or gift, the person who bequeaths and grants it must not harm their heirs who are entitled to an absolute share. The requirements given by the Notary/PPAT so that the grant process can run properly, namely that the Grantor is the person whose name is listed on the land certificate, including the person who is the actual owner of everything gifted to the grantee. Then the Grantor is a person who is capable of carrying out legal actions, because with the skill of the Grantor he can carefully consider what he wants to donate. Grant givers in giving grants are not in a situation where they are forced to be sincere because sincerity is the main principle in giving grants. When making a gift deed, refer to Article 1320 of the Civil Code which states that there are four conditions for the validity of a legal act, namely the existence of an agreement for those who bind themselves, the existence of the ability to make an agreement, the existence of a certain subject matter and a cause that is not prohibited.

4. Conclusion

In accordance with the results of the research described above, the conclusion can be drawn, namely, that a daughter as a recipient of a gift from her parents will not be free from obligations in her old place of residence when she is married. Even though this is an obligation, there is no element of coercion on the part of the family. To be precise, during traditional ceremonies and religious ceremonies in Bali, at any time the girl will be asked for help by her family. Meanwhile, another impact could be jealousy from other heirs, especially men. The role of the Notary/PPAT in realizing the wishes of the people who want to give grants to their daughters is to first provide requirements to clients regarding the applicable legal regulations. The Notary/PPAT provides

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views to the grantor to properly understand the party to whom the gift will be made regarding the suitability and appropriateness of the grantee and the agreements of other heirs until an agreement is reached. Bearing in mind that the grant creates a relationship and legal consequences between the grantor and the grantee, so that in the future problems do not arise from various parties. If these requirements have been realized then deliberation, consensus, harmony and peace will be achieved in the future between the parties involved in the grant. Women in Bali also have the right to inheritance. This is done so that there are no differences between the male and female parties in terms of inheritance. The role of the Notary/PPAT here is to provide legal counseling to the parties and pay close attention to the issue of grants to girls so that they can protect the rights of these girls in the future.

5. References

Books:

- Burhan Ashofa, 2007, Legal Research Methods, Rineka Cipta, Jakarta.
- Gde Panetje, 2004, Various Notes on Balinese Customary Law, CV. Kayumas Agung, 3rd Printing.
- Hilman Hadikusuma, 2003, Introduction to Indonesian Customary Law, Mandar Maju, Bandung.
- I Ketut Artadi, 2009, Balinese Customary Law with Various Problems, Pustaka Bali Post, Denpasar.
- I Made Suastika Ekasana, 2012, Dharmasthya Series (Hindu Civil Law) Dharma Bandhu Hindu Family Law, Paramita, Surabaya.
- I Nengah Lestawi, 1999, Customary Law, Paramita, Surabaya.
- Moleong, Lexy, 2002, Qualitative Research Methodology, PT Teen Rosdakarya, Bandung.
- R. Van Dijk, 2006, Introduction to Indonesian Customary Law, Mandar Maju, Bandung.
- Soekanto, 1990, Sociology an Introduction, PT. Raja Grafindo Persada, Jakarta.
- Ter Haar Bzn, 2001, Principles and Structure of Customary Law (Translation by K.ng. Soebakti Poeponoto), Thirteenth Printing, Pradnya Paramita, Jakarta.
- Wayan P. Windia, 1995, Answering Legal Problems, PT. BP, Denpasar.
- _____, 2008, Bali Mawacara, Awig-Awig Unity, Law and Government in Bali, Udayana University Press, Denpasar

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Regulation:

Pakraman Village Main Council Decree Number 01/KEP/PSM-3/MDP Bali/X/2010 concerning the results of Pasamuhan Agung III MUDP Bali on October 15 2015

Code of Civil law

Government Regulation Number 37 of 1998 concerning Position Regulations for Officials Making Land Deeds

Regulation (Peswara) dated 13 October 1900 concerning Inheritance Law Applicable to Balinese Hindu Residents of Buleleng Regency

Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law

Number 30 of 2004 concerning the position of Notar

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