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Legal personhood and care for elderly parents in Indonesia

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ABSTRACT

In one of her last articles, K. von Benda-Beckmann explores the notion of embeddedness of persons in their social world and how this relates to their duty of care (2021). She found that there may be different degrees of embeddedness; that some people are not only bounded to their social relations and environment, but also that their *selves* extended to include their social world. She suggested a differentiated analysis that could account for these differences and expects this to benefit in understanding care relations and, on a practical front, to offer unexpected strategies in dealing with injuries. This paper continues this framework by looking into legal pluralism and the relinquishing of legal personhood of elderly parents across different levels of social organizations, from the decision-making within families and into the courtrooms. What are the reasons for- and how are individuals being declared as no longer having agency or legal personhood (legal competency)? How does this relate to extending proper care to family members and (or in opposition to) others? And in more abstract terms, how is law translated from cognitive conception to become institutionalized or systematized? Through an analysis of court decisions and interviews, this paper demonstrates the relationship between social security and dependency. It studies the complex ways in which individual and collective human agency relates to social security structures and institutions.

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Introduction

K. von Benda-Beckmann advanced a vital argument in one of her final scholarly contributions. Her analysis explored how individuals perceive themselves and the degree to which they are interconnected with the social world, thereby influencing their responses to injuries experienced by others (2021). This paper follows von Benda-Beckmann's exploration of "extended, permeable" personhood by delving into individuals providing care for their incapacitated parents.

This paper further follows her suggestion to use socio-legal methods that account for extended, bounded, relational personhood, and delves into issues surrounding

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legal guardianship of individuals declared legally incapacitated. It aims to (1) generalize findings and explore the potential for systematizing research in this domain and (2) analyze varying degrees of filial duty of care in different communities, and examine how these dynamics influence legal certainty and bureaucratic decision-making (Kouwagam 2020, Supomo 1978, cf. Riggs 1964).

Our findings underscore the necessity for a meticulous and nuanced methodological approach to construct a comprehensive ethnographic narrative of individual cases. In this study, we examined court decisions and conduct in-depth interviews with the parties involved and other professionals working in the field of elderly care. We will first illustrate our findings by providing a case study about contested guardianship over filial legitimacy and property rights.

In July 2009, a woman who had changed her Chinese name from Thio Tiok Eng to Engelina Wurangian died unexpectedly in Jakarta, setting a train of legal events in motion. She left her husband, who is from a blue-blood Javanese family, Raden Mas[1] Hardjono Tjondronegoro, as well as an alleged daughter. Engelina's husband Hardjono was ill; he suffered from a stroke in 2008 and was bound to a wheelchair. Their alleged daughter Viva claimed that she was caring for him in their home. A few months later, without Viva knowing, Hardjono was removed from the house under the direction of Hardjono's sister, Hartini, who had first registered his marriage to a woman unknown to Viva. Viva claimed the marriage was purely on paper to legitimize Hartini's removal and justified Hartini's relocation of Hardjono to their 'family home'.

When Hardjono was physically returned to the 'family home', Hartini continued to file a petition to the East Jakarta District Court, asking for both herself and Hardjono's nephew Roy, son of Hardjono and Hartini's eldest brother, to be Hardjono's legal guardian. From that moment on, Hardjono was stripped from his legal capacity, for instance to sign contracts, and to perform any legal action by himself. Hartini and Roy were then appointed by the Court to perform these actions for him.

Hartini based her legal claim as Hardjono's legal guardian with two main pieces of evidence. First, she provided testimonies from a driver, a 'bag carrier' (*ajudan*), and a maid that Hardjono was bound to the wheelchair, had to be fed, and therefore had no capacity to do anything by himself. Second, she presented the decision to appoint herself and Roy as Hardjono's guardian as a result of a family deliberation (*musyawarah*), with an agreement written down in a "*Notulen Rapat Keluarga Tjondronegoro* (Minutes of Tjondronegoro Family Meeting) dated 10 October 2011" and she attached this said document as evidence to the court. A few days later, Hartini (also signing on behalf of Hardjono) and her siblings entered into a sale and purchase agreement for one of their 'family homes' (they seemed to own many parcels of land throughout Jakarta which they inherited from their father). Viva, in her petition to the court, claimed that they had thereby gained significant amounts of money. Viva then tried first to prove that she was the legal caretaker and thus to cancel the court appointed guardianship. She argued that her father's sibling and her cousin did not want to become guardians in order to provide proper care, but instead that they abused legal procedure in an attempt to seize Engelina and Hardjono's property and profit from it. This became a massive legal battle resulting no less than 11 cases, including 5 Cassation and 1 judicial review to the Supreme Court. Viva's efforts, however, have been in vain.

The main argument Hartini presented against Viva was that Viva is neither Hardjono's nor Engelina's biological child. In one of her documents, Hartini stated: "*Engelina never gave birth*". Viva countered this argument by presenting her birth certificate showing that she was born to Engelina in 1965, before she changed her Chinese name in 1966. However, further into appeals and after an adjacent criminal complaint brought by Hartini against Viva for -amongst other things- fraud by fabricating fake deeds, Viva admitted that she was not their biological child, but that both Engelina and Hardjono had been acting as parents. She claimed that both Engelina and Hardjono always presented themselves as her parents and presented her elementary school reports with Hardjono's signature as well as photos showing that Hardjono gave the dowry for her wedding. This information, obtained from a series of decisions in the Supreme Court docket, leaves us puzzled as to who Viva is and why Hardjono had no voice throughout these procedures. To what extent is he mentally and physically incapacitated?

The criminal procedure lodged by Hartini tells quite another story. The case document states that Viva and her parents lived in Engelina and Hardjono's house, likely in an employee-employer relationship where Viva's biological parents helped out with domestic tasks like cleaning and gardening. This is quite common in Indonesia's upper- and middle-class families. And because Engelina and Hardjono did not have any children, Viva became close to Engelina, and was regarded interchangeably throughout the court documents as either: *anak asuh* (a child that someone cared for without any status, the level of care can also be minimal, such as only paying for education), *anak pungut* (a child that someone literally 'collects') or *anak angkat* (similar to *anak pungut*, literal meaning a child that someone 'picked up'). After Engelina passed away, Hardjono was said to have moved to a hotel that he owns, where he was cared for by nurses/employees. He married one of these employees and apparently asked his sister to help him remove Viva and her family from his property. The prosecutor claimed that it was the idea of Viva's lawyer to claim that Hartini kidnapped Hardjono from the house where he and Viva stayed. After Viva submitted a unilateral request to the Court (*verstek*) to be declared as a legal child (*anak sah*), Hardjono submitted a rebuttal (*verzet*) and proposed a paternity test. It was also stated that Hardjono actually requested that his sister become his legal guardian after Viva sold his car and a parcel of land that belonged to Engelina without his knowledge. Viva was able to do this because she is a commissioner and shareholder in one of Engelina's companies. The Supreme Court decided that these were not criminal acts and should be resolved in civil courts.

This one intricate case study, constructed from the analysis of eleven separate court decisions[2], reveals the complex socio-legal dynamics surrounding family disputes, guardianship, and property rights. All relevant information was gathered from the court decisions, as other sources, including interviews with the lawyer representing Hartini/Hardjono, provided minimal insight beyond the lawyer expressing satisfaction at having successfully jailed "the maid" Viva and her lawyer at one point during court proceedings.

The conclusion of the legal issues arising from the case can be interpreted in different ways depending on which side one would take. Viva could be a stranger who is exploiting the death of Engelina and Hardjono's incapacitated condition,

and Hartini could be an absentee sister who suddenly appeared to grab Engelina and Hardjono's property from Viva, who could have been the *de facto* daughter and caretaker. One clear problem in this procedure is Hardjono's absence. In the court proceedings, Hardjono's voice is mentioned through hearsay without the court summoning Hardjono to directly testify, and as his legal guardians, Hartini and Roy could submit motions without Hardjono's approval or knowledge. Therefore, the most crucial facts about Hardjono; for instance, his wishes and the extent of his incapacity, remain unclear.

To better understand such a series of events and their broader implications, we turn to K. von Benda-Beckmann's published research, which offers valuable insights into the embeddedness of individuals within their social worlds and the differentiated analysis of care relations. The implications of these findings will be elaborated in the following sections.

The nuanced perspective of K. von Benda-Beckmann: informal social security and relational personhood

Von Benda-Beckmann (2021) explores the concept of relational personhood, emphasizing that individuals' boundaries between themselves and their social world are neither clear nor consistent, it ranges from extreme individualism to extreme holism. She references scholars like Schwitters (2011), who discussed caring and socially secure employee-employer relationships until the late nineteenth century, and Engel and Engel (2010), who examined the Lanna in Northern Thailand, where the definition of a person is inseparable from the social and spiritual world.

Von Benda-Beckmann (2021) also highlights that caregiving tasks within intimate or family settings severely impact caregivers, leading to higher illness rates, earlier deaths, and long-term financial hardships due to impaired income-generating activities. This means that caregiving requires a degree of self-sacrifice from the caregiver. The concept of the porous boundaries of self and social world is vividly illustrated in the case study about Viva above, who allegedly cared for her alleged father Hardjono. Viva's alleged caregiving demonstrates how relational personhood could extend beyond biological ties.

Furthermore, the case study of Viva reveals the challenges of informal caregiving arrangements within the framework of legal pluralism. Viva's struggle to prove her legitimacy and guardianship role amidst property disputes suggests potential exploitation of legal procedures for monetary gain, a theme von Benda-Beckmann discusses in terms of the inadequacies of the state legal system. A better legal system would account for informal arrangements and translate them in court proceedings to establish or derive material truth before judging.

This case also reflects von Benda-Beckmann's work on the idea about welfare state. Scholars investigating the condition and development of 'welfare state' have found that the idea that the state is responsible for the welfare of its citizens has been shifting globally to become a 'social investment state', which emphasizes active citizen participation and individual responsibility rather than the state distributing passive benefits (e.g. Midgley 2017; Von Benda-Beckmann 2015a; Von Benda-Beckmann 1994; Thelen, Vetters, and von Benda-Beckmann 2014; Von Benda-Beckmann and von Benda-Beckmann 2007, 1994). In Indonesia, a long battle about the financial

viability of a nationwide universal healthcare system between the government and civil society was settled in 2014 by determining premium payments for citizens to enter the system. However, the system still struggles with financial viability and poor service quality (Pisani, Kok, and Nugroho 2017).

Previous research by Von Benda-Beckmann and von Benda-Beckmann (2007) suggests localized and private social security arrangements, like circles of support, can be as reliable as other established forms of social security. Casino (1988) introduces the concept of 'vertical bonding' in historically unequal relationships, such as servant-master dynamics, which function similarly to contemporary state laws ensuring social security, despite their historical associations with paternalism and authoritarianism. These circles of support rely on social capital, providing both security and insecurity through monetary exchanges and favors that function as currency, requiring individuals receiving support to repay it in some manner. (Kouwagam 2020, 141–142, Supomo 1978). Considering these dynamics, Von Benda-Beckmann and von Benda-Beckmann (2007, 1994) suggest a shift in focus, advocating an analysis not solely from the perspective of who provides social security but rather an examination of the functional social security mechanisms at play.

This article builds on K. von Benda-Beckmann's work, alongside that of her colleagues, which explores informal social security in hierarchical patronage and 'fictive kinship' relationships. Drawing on these insights, this article aims to examine how these concepts relate to the case study at hand. By adopting von Benda-Beckmann's perspective, the article seeks to provide a comprehensive analysis of the interplay between cultural practices, state legal systems, and filial obligations. This approach is intended to reveal how these elements intersect to create complex legal experiences. In doing so, the article challenges traditional assumptions and advocates for a broader understanding of legal interactions within socio-legal studies, particularly in relation to personhood, care, and social security.

Legal and ethical landscape of caring for elderly

Indonesia's Law No. 13/1998 concerning the welfare of the elderly establishes the obligation to enhance social welfare of older adults. This law mandates the government to direct, guide, and create a supportive environment for these efforts. Article 8 specifically outlines the shared responsibility of the government, society, and families in improving the social welfare of the elderly. The law provides clear sanctions for non-compliance, including the withdrawal of licenses for organizations, fines, and even imprisonment. Despite its clear intentions, this law has been referenced in litigation only four times[3], highlighting the gap between legislative intent and practical application.

Care ethicists emphasize the importance of understanding the nuances of caregiving actions and attitudes. They distinguish between caring attitudes and caring actions, noting that actions can be categorized as caring or non-caring, and caring actions can further be judged as good or bad care (Collins 2015, Held 2005), showing that the translation of the concept of caring into concrete legal application requires an elaborate and comprehensive reform of the rules of legal procedure.

The sporadic application of the current law that was enacted to improve protection of elderly suggests a broader issue within the socio-legal landscape where

informal care practices and ethical considerations of caregiving are often lost in translation into formal legal frameworks. While the law could provide a structural backbone for the welfare of the elderly, the practical realities often reveal a disconnect between the intended aim and the lived experiences of older adults and their caregivers. The ethical considerations of caregiving highlight the limitations of legal frameworks in capturing the full scope of caregiving responsibilities. Laws such as Indonesia's Law No. 13/1998 and laws regarding the duty of children to care for parents below are designed to provide protection and support, but they often fail to address the nuanced realities of caregiving relationships. These relationships are embedded in cultural practices and ethical norms that go beyond legal definitions, emphasizing the need for a socio-legal approach that is sensitive to the relational and moral dimensions of care as suggested by K. von Benda-Beckmann. This comprehensive understanding is crucial for developing policies that not only protect the elderly but also support caregivers in their vital roles.

The duty to care for parents under Indonesian law

Under Indonesian law, two questions are important for understanding the legal obligations of maintaining parents, other than a formal court-recognized child (*anak sah*); first, is the child a biological child and second, was the child born within or outside of wedlock? These questions serve as essential entry points to comprehend the intricate dynamics of filial duty, legal expectations, and considerations related to culture and ethics. Analyzing relational personhood requires taking all these factors into account.

In the context of legal pluralism, Nurlaelawati and Van Huis (2019) underscore the significance of these questions in Indonesian Muslim Family Law. They highlight that the fundamental principle of Islamic Law remains rigid, stating that fatherhood is not acknowledged even if the father is the biological father, when the child's mother is not married to him. This core principle persists despite variations in the statutory law, including: the 1974 Marriage Law, Indonesian Civil Code and *adat*, as well as differences in Islamic traditions, and even a 2012 Constitutional Court ruling that revised matters in the best interest of the child.

Indonesian Civil Code is applicable for all non-Muslim Indonesians. It mandated the duty to care for parents in Article 321, which explicitly states that children must provide maintenance for their parents. Further provisions extend this obligation to cover parents-in-law (Article 322) and emphasize reciprocal care (Article 323). Article 326 specifies that if children lack the means to provide financial support, they must bring their parents into their homes to fulfill their caregiving responsibilities.[4]

This means that the Civil Code is aligned with the findings of other social scientists, that self-care with support of children is the current condition for majority of Indonesians (cf. Lukman, Leibing, and Merry 2020; Van Eeuwijk 2006). However, with increasing urbanization and migration, this functional system is at risk (Kreager 2006), but as K. von Benda-Beckmann shows, this network can also expand transnationally (Von Benda-Beckmann 1996, 2015b) by families sending remittances between countries; in her case between Indonesia and the Netherlands. Our case study has illustrated that care in urban areas can be provided by paid "professionals",

such as household maids and drivers. These findings show a shifting condition of care-providers that shifts the means of care towards financial means.

Article 913 of the Indonesian Civil Code addresses inheritance, prescribing *legitime portie* and defining the lawful heirs' entitlement to a specific portion of the estate. Notably, most family law articles in the Civil Code do not apply to Muslims, as these matters are predominantly regulated in the Compilation of Islamic Law (Kompilasi Hukum Islam). The Compilation of Islamic Law adheres to a stricter stance, disallowing children from refusing inheritance, permitting only up to one-third of assets to be bequeathed through a will. In other words, a standard Muslim inheritance division applies to all children, which can only be modified under the will for up to 1/3 of the estate. Furthermore, employed caregivers and providers of spiritual guidance are ineligible to receive inheritance through such means, unless it is clearly written in the will that it is for recompense (Article 207).

The legal definition of relationships between parents and children does not significantly differ between Muslims and non-Muslims, yet practice varies. Article 261 of the Indonesian Civil Code stipulates that the legal proof of child-parent relationships requires presenting a birth certificate and civil registry, a requirement reiterated in the Compilation of Islamic Law. Our findings reveal a practical distinction between *anak kandung* (biological child), *anak angkat/adopsi* (adopted child), and *de facto* child (which includes *anak angkat, anak asuh, and anak pungut*). Ambiguities in a child's legal status can complicate asset transfers, especially in the context of caregiving. In instances where a child's status is unclear, the transfer of assets, aimed at facilitating means of care, may take on unconventional forms.[5] For example, as illustrated in the case described earlier, Engelina facilitated Viva's caregiving by transferring shares in a company. This could be one application of the unconventional form to distribute inheritance. However, such transfers can also be part of common arrangements where a capitalist designates a nominee, typically an employee, to sidestep liabilities—a practice we have revealed in previous studies (Kouwagam 2020). This dual-purpose nature of asset transfers necessitates a nuanced legal examination to discern the underlying intent and ensure legal clarity.

Although our findings highlight the significant role of broader 'family networks' in care provision for elderly (cf. Kreager and Schröder-Butterfill 2007; Kreager 2006), the law still expects that primary responsibility rest with children. This underscores the pivotal role of the nuclear family in providing care, as emphasized by Van Eeuwijk (2006) even only *pro forma*. However, as the dispute between Viva, Hartini and Hardjono above has shown, we also must consider the 'family networks' as a point of disputes and hindrance of care for the elderly, not only as a complement to the care provided by nuclear family members.

Property disputes, legal manipulation, and capacity assessments

The case study highlighted above exemplifies a recurring issue in Indonesia's legal landscape: property disputes, often originating from family conflicts, especially regarding land transactions in urban areas.[6] These disputes frequently hinge on disagreements among siblings over selling family-owned land or house. If all siblings do not unanimously agree to sell, those who did not sign the sale agreement (or

their successors) retain legal claim to the land. This situation significantly diminishes the land's commercial value, as potential buyers are deterred by the risk of future legal challenges from dissenting family members.

Delving into the complexities of land transactions reveals a crucial link to individuals' decision-making abilities and their overall well-being, both mentally and physically. The determination of one's capacity to engage in such transactions becomes pivotal, yet the legal procedures for assessing capacity are notably unclear and susceptible to manipulation. Despite the gravity of these assessments, they often lack substantial input from medical professionals.[7] Instead, the process primarily relies on testimonies from family members and household staff, underscoring a significant gap in incorporating medical expertise into capacity assessments.

Moreover, interviews with medical professionals, including neurologists and general practitioners, further illustrate this trend.[8] Neurologists commonly issue statements only affirming a patient's incapacity in response to requests from banks, particularly concerning stroke patients. Conversely, general practitioners reported the lack of such requests, and added that they are hesitant to provide similar assessments, citing concerns about legal implications and their limited involvement in such evaluations.[9] Hospitals are moving towards standardized formats to navigate these complexities, reflecting ongoing challenges within the medical profession regarding capacity assessments under the current legal framework.

These methodological challenges intersect with Serbser-Koal, Dreyer, and Roes (2024) research on autonomy and care for dementia patients, which emphasizes the importance of adopting a relational perspective. Their conceptual analysis underscores the heterogeneous use of autonomy in dementia care, highlighting two distinct perspectives: one focusing on deficits and cognitive decline, and another emphasizing social relations and the contextual understanding of personhood. Similarly, in our interviews, medical professionals first distinguish between cognitive and physical (in-)capability. This perspective is crucial in understanding how legal frameworks and capacity assessments impact individuals.

The implications of these procedural shortcomings extend beyond individual cases, resonating with broader themes of caregiving duties, legal frameworks, and socio-legal dynamics discussed throughout this study. They underscore the vulnerability of elderly individuals to family disputes and legal manipulations within property transactions, urging for enhanced legal safeguards and interdisciplinary approaches that integrate medical and relational perspectives more robustly into capacity assessments.

Methodological implications: the legal framework of caring relationships

This paper investigates the complex interplay between legal frameworks, cultural practices, and caregiving obligations, with a particular focus on property disputes and the adjudication of appropriate care. The findings from the case study and relevant literature highlight significant methodological implications for research in this domain.

K. von Benda-Beckmann critiques the 'methodological individualism' in social sciences, which assumes social behavior can only be studied in terms of individual

behavior. She calls for socio-legal studies to consider a more extended personhood (2021). This perspective raises two crucial questions: How can we probe the varying degrees of an individual's embeddedness in their social relations and environment? How do we find legal applications for these varying degrees of relational personhood to better understand caregiving and dependency?

To answer the first question, socio-legal scholars has argued the benefits of ethnography (e.g. Flood 2005; Griffiths 2005; Darian-Smith 2016). Griffiths (2005, 131–132) states that socio-legal ethnography can situate law in relation to other bodies and agencies that construct social relations, such as families, households, economic and political institutions, and accounts for social differentiation and inequality. But can notion of personhood be derived from such ethnographic findings?

In the legal battle over Hardjono's guardianship, the complexities of personhood and its relation with caregiving and dependency are evident. After Hardjono suffered a stroke, his sister Hartini and nephew Roy were appointed as his legal guardians, effectively stripping Hardjono of his legal capacity. Von Benda-Beckmann (2021) assertion that legal personhood is expressed differently across different contexts, and further defined by the legal system is reflected in this case, where the convoluted legal definitions of personhood and caregiving roles are obscured by inventing legal evidence - testimonies from domestic workers and family meeting minutes- in court proceedings instead of courts directly hearing from Hardjono. She signaled that the failure of state and legal institutions to recognize the differences on how personhood is expressed is the reason why people withdraw from the legal system (2021).

Moreover, understanding the capacity to sell property and rights to family homes emerges as critical. These assets often represent the primary wealth of families and are deeply intertwined with issues of legal capacity and filial duties. Researching uncertainties around land rights informs broader societal issues, such as the dynamics of elite creation and maintenance within socio-legal frameworks. Our inquiry reveals the need for a more integrated approach across various domains of legal studies to comprehend legal pluralism and its implications for caregiving. This encompasses not only family law but also extends to tort law, criminal law, and property law, particularly in the context of property transactions that often underpin caregiving arrangements. Administrative law also plays a crucial role, especially concerning land rights and other regulatory aspects.

The field of social gerontology's exploration of the 'Aging Enterprise' (Estes 1993, 1979) provides further context, emphasizing the fiscal infrastructure necessary for housing and elder care. This research underscores the importance of a supportive fiscal environment that caters to the diverse needs of the elderly and their caregivers, reflecting the societal challenges highlighted in the case study, especially for Viva, who -allegedly- cared for Engelina and Hardjono without receiving compensation.

The case study also illuminates ongoing servant-master relationships within caregiving and social security contexts, resonating with findings from scholars like Schwitters (2011) and Casino (1988). These scholars discuss the dual nature of care relations, influenced by both emotional bonds and economic considerations, which complicate legal interpretations and societal expectations.

Further research on dependency and personhood is essential, particularly in exploring how cultural beliefs about dependence impact notions of personhood.

For example, in Chinese culture, being dependent can be equated with "losing face", and because of this risk, elderly parents are reluctant to ask for assistance from others if their children cannot provide it (e.g. Bai 2019; Hwang 2012). This study underscores the methodological imperative of adopting a relational approach to understanding caregiving dynamics within legal contexts. The existing narrow legal approach leads to Hardjono having little to no voice in the proceedings, and the standards of both 'good' care and individual's incapacity requiring legal guardianship is not established. An alternative approach by examining legal frameworks, cultural practices, and caregiving obligations through an integrated lens will inform more effective policies and legal frameworks that uphold the rights of the elderly and support the caregivers in aging populations.

Exploring instrumental caregiving in Indonesia

To address the existing uncertainties, we propose considering a reciprocal framework similar to the one suggested by Oldham (2001). Oldham advocates for a quid pro quo approach where succession rights are exchanged for caregiving responsibilities. This reciprocal dynamic could foster interdependence and has the potential to mitigate legal ambiguities in the caregiving landscape. However, instead of caregiving in exchange for future inheritance, we propose a wider and clearer compensation rights that does not only consider inheritance but also involve a compensation scheme during the life of the care-receivers, even if the caregiving relationships exist within the context of filial obligation.

However, with this approach, concerns regarding the ethical dimensions of caregiving practices would emerge. While filial bonds ideally should be driven by emotional and moral considerations, economic realities often necessitate a pragmatic approach. Economic factors significantly influence the support provided to elderly parents and relatives, reflecting a blend of financial security and caregiving duties. Family Law and rules of civil procedure can facilitate this balance by clearly delineating responsibilities and benefits, ensuring both emotional and financial needs are addressed.[10]

Our case study exemplifies the practice of instrumental caregiving in Indonesia, where economic considerations frequently intersect with caregiving responsibilities despite strong kinship ties (Viva claiming to be the caring daughter and Hartini claiming to be the caring sister). While we acknowledge the concept of extended personhood as proposed by K. von Benda-Beckmann, economic factors play a significant role in shaping caregiving dynamics. Held (2005) highlights the moral complexity of caregiving actions, cautioning against overly reductive legal frameworks that may overlook these nuances. Therefore, adopting a legal pluralism approach informed by socio-legal methods as suggested by K. von Benda-Beckmann becomes essential. Such an approach can effectively regulate caregiving obligations, balancing moral imperatives with economic realities, providing space for a more compassionate approach to elder care in Indonesia, and avoiding extended legal disputes amongst family members in case of death of a relative who was an estate holder.

Conclusion

This article explores von Benda-Beckmann's work on personhood, care, and informal-functional social security. The case study directly reflects that social (in-) security exists within hierarchical patronage and 'fictive kinship' relationships. The complex family dynamics and legal capacity issues highlight complex disputes in elderly care, influenced by cultural practices such as family deliberation. Challenges in proving filial legitimacy in relation with property disputes suggest potential exploitation of legal procedures for selfish monetary gain. The absence of the vulnerable individual's voice in court proceedings raises concerns about representation and rights, while the interplay between civil and criminal law in resolving disputes underscores the complexities of legal procedure. This case exemplifies the multifaceted nature of legal pluralism, where formal legal systems, cultural practices, and filial duties intersect, leading to an extended and complicated legal journey.

Notes

1. A title indicating a Javanese male aristocrat.
2. Cases No. 132 K/Pdt/2017, No. 593 PK/Pdt/2015, No. 143 K/Pdt/2013, No. 1404/Pdt.P/2011/PN.Jkt.Tim., No. 282/Pdt.G/2011/PN Jkt.Tim., No. 725 K/Pdt/2015, No. 1368 K/Pid/2014, No. 403/Pdt.G/2013/PN.Jkt.Tim., No. 452/Pdt.G./2014/PN.Jkt.Tim., No. 22/Pdt/2016/PT.DKI., No. 1368 K/Pid/2014.
3. Source: Supreme court database https://putusan3.mahkamahagung.go.id. Last accessed, 17 July 2024. One case (Case No. 230/Pdt.G/2018/PTA.Smg.) involved a dispute in a religious court over the legality of a building/land transfer under Islamic Law (*wakaf*). The person transferring the land claimed she was under undue influence as an elderly person, while the counterparty claimed that she did not qualify as an elderly under Law No. 13/1998. The court did not cancel the transfer but decided to let the person to remain living at the object of dispute until she can find another accommodation or pass away. In another instance (Case No. 1069 K/Pid/2010), the prosecutor used the law to aggravate the defendant's sentence in a murder case involving the killing of an unknown 80-year-old man due to the victim's elderly status. A different criminal case (Case No. 1077/Pid.Sus/2019/PT.MDN.) saw an elderly defendant, charged with selling illegal drugs, seeking a lighter sentence by invoking their elderly status under the law. Similarly, another criminal case (No. 1210 K/Pid/2014) involving a church council member who issued a formal letter on behalf of the church without approval of the other council members. He requested a lighter sentence on the grounds of being 'elderly' according to the law. The courts rejected the reasoning in all these three cases.
4. From the Supreme Court's database, there are only 5 cases citing Article 321, and Article 326 has never been referred to in legal procedure. This is in contrast to more than eighteen thousand cases regarding guardianship in the first instance courts, 343 Cassation in the Supreme Court and 147 in the Judicial Review stage (Supreme Court database, https://putusan3.mahkamahagung.go.id. Last accessed 17 July 2024). It has to be noted as well that the status of the Indonesian Civil Code (*Burgerlijk Wetboek*) has always been ambiguous, and many judges and scholars believe that it is not authoritative, but rather has to be regarded as a set of "unwritten customary law" because it was first enacted by the Dutch colonial government.
5. This has been found to be a common phenomenon globally. See Braun and Röthel (2016).
6. For research on land disputes in urban areas, see for instance Kouwagam (2020), Bedner (2016), and Mulyani (2015).
7. Based on random selection of 343 Cassation cases regarding guardianship in the Supreme Court docket.

8. We interviewed two general practitioners and two neurologists. The neurologists both have a private practice and also work for hospitals.
9. One general practitioner has been practicing for 35 years and has never had such requests.
10. Or standing *in loco parentis*, a concept commonly used in courts in the United States to establish children's legal guardian, shall be applied to analyse legal guardianship for elderly parents that corresponds with entitlement of property.

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