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# The Role of Notaries in Making International Grant Deeds: A Legal Study of Cross-Border Grant Regulations

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### ABSTRACT

*Amidst the roaring tide of globalization, cross-border transactions—particularly in the realm of gifts—emerge as a landscape rife with legal challenges. A complex tapestry weaves itself from the threads of differing legal systems, document validity, and the unavoidable nuances of international recognition. In this arena, notaries stand as pillars of trust, ensuring that gift deeds transcend mere text to become legitimate statements acknowledged across jurisdictions. This study seeks to delve deeper into the role of notaries in crafting international gift deeds while identifying the hurdles they face: from bewildering regulatory differences and intricate tax provisions to the advent of underutilized new technologies. The research employs a normative legal approach, analyzing both national and international regulations. Law No. 2 of 2014 concerning Notary Services and the Hague Convention serve as lenses through which to comprehend how public documents achieve global recognition. Furthermore, legal principles such as *lex loci celebrationis* and the principle of mutual recognition are explored as foundations for resolving emerging cross-border legal issues. In conclusion, notaries play a vital role in upholding legal certainty in cross-border gift transactions. They are not merely navigators in a tumultuous sea of law but also connectors that bring clarity amidst confusion. It is recommended that notaries continually sharpen their skills and knowledge of international law as a proactive step to enhance services in an increasingly dynamic landscape of cross-border transactions.*

**Keyword:** Cross-border gifts, International Recognition, International Private Law, Notary, Notarial Deed.

### ABSTRAK

Di tengah gejolak globalisasi yang mengalir deras, transaksi lintas batas—terutama dalam bentuk hibah—menjadi arena yang sarat dengan tantangan hukum. Sebuah jalinan kompleksitas muncul dari perbedaan sistem hukum, keabsahan dokumen, dan pengakuan internasional yang tak terelakkan. Dalam panggung ini, notaris berfungsi sebagai pilar kepercayaan, menjamin bahwa akta hibah menjadi lebih dari sekadar tulisan, melainkan suatu pernyataan sah yang diakui lintas yurisdiksi. Penelitian ini bertujuan untuk menggali lebih dalam peran notaris dalam menciptakan akta hibah internasional, sekaligus mengidentifikasi tantangan yang mereka hadapi: mulai dari perbedaan regulasi yang membingungkan, ketentuan pajak yang rumit, hingga kehadiran teknologi baru yang belum sepenuhnya dimanfaatkan. Metode penelitian yang diterapkan adalah pendekatan yuridis normatif, yang menganalisis regulasi nasional dan internasional. Undang-Undang No. 2 Tahun 2014 tentang Jasa Notaris dan Konvensi Den Haag menjadi jendela untuk memahami bagaimana dokumen publik dapat diakui secara global. Selain itu, prinsip-prinsip hukum seperti *lex loci celebrationis* dan principle of mutual recognition ditelusuri sebagai landasan untuk menyelesaikan problematika lintas negara yang mengemuka. Sebagai penutup, notaris memainkan peran vital dalam menjaga kepastian hukum dalam transaksi hibah lintas batas. Mereka bukan hanya navigator dalam lautan hukum yang berombak, tetapi juga penghubung yang mengantarkan kejelasan di tengah kebingungan. Disarankan agar notaris terus mengasah kemampuan dan pengetahuan mereka tentang hukum internasional, sebagai langkah maju untuk memperkuat layanan dalam transaksi lintas batas yang semakin dinamis.



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**Keyword:** *Akta Notaris, Hibah Lintas Batas, Hukum Privat Internasional, Notaris, Pengakuan Internasional.*

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## 1. Introduction

Cross-border transactions are growing rapidly along with the unstoppable flow of globalization, presenting gifts as a form of transfer of asset rights that now transcend domestic borders and reach various jurisdictions. Multi-country involvement in the gift process creates complex challenges, especially in the nuanced legal aspects. Differences in legal systems between countries often become barriers that must be carefully navigated, requiring stakeholders to adapt. This is where the role of a notary emerges as an irreplaceable pillar, serving as an authority that validates the gift deed and ensures that every statement has internationally recognized legal force, thus facilitating a smoother flow of assets amidst a confusing regulatory maze.

Notaries have an important role in ensuring the legality of an agreement, including in the case of a gift. The main task of a notary is to ensure that the process of making a gift deed is in accordance with applicable law (Adjie, 2009). However, when a gift is made between parties from different countries, issues related to legal jurisdiction become the main focus. This challenge requires notaries to not only master national law, but also explore the intricacies of dynamic international law. With the differences in gift regulations in various countries, the role of notaries becomes increasingly complex and multifaceted; they must be able to navigate the diversity of regulations, interpret conflicting norms, and create bridges between different legal systems to ensure that each gift deed is not only valid but also universally accepted.

The preparation of an international deed of gift requires special attention to the legal aspects applicable in both countries involved. Each country has different provisions and requirements regarding gifts. Notaries must ensure that the deed of gift does not conflict with the laws of the country of origin or the destination country (Hartoyo, 2022). This is very important to prevent potential legal problems in the future. Notaries need to have a deep understanding of formal procedures that vary between jurisdictions, and be able to provide appropriate references for each case. With comprehensive insight into international law and the use of innovations such as e-Apostille, plus effective collaboration with officials in foreign jurisdictions, notaries can navigate this maze of legal complexity with confidence. They act as intelligent and experienced navigators, leading each gift transaction to the desired legal certainty, while maintaining the integrity and validity of the process in the eyes of global law.

Practices that refer to differences in legal systems between countries often complicate the process of making a deed of gift. Countries with different legal systems, such as civil law and common law, adopt diverse approaches in dealing with the issue of gifts, creating unique challenges for practitioners. This is where the notary's ability to bridge these differences becomes crucial; they must be able to harmonize inconsistent norms, so that the deed of gift can be universally accepted. In addition, various administrative requirements that apply in each country must also be strictly adhered to. Without a deep understanding of this diversity, notaries risk facing significant legal challenges, which can disrupt the validity and continuity of the transaction process.

The involvement of notaries in international grants is not limited to document validation. Notaries also act as legal advisors for the parties involved in the grant transaction. Notaries are expected to be able to provide guidance regarding the legal implications of grants made across countries (Simanjuntak, 2001). Therefore, notaries must have adequate competence in understanding various aspects of international law, because this expertise is the key to success in making a legally valid deed of gift in both countries. Cross-border grant arrangements present a series of complex legal challenges, ranging from differences in legal systems to issues of document validity and international recognition. In the context of cross-border gift transactions, notaries act as the vanguard, ensuring that each deed not only meets the applicable legal requirements, but is also legally recognized in various jurisdictions. Thus, they become a bridge between different legal systems, providing clarity and certainty amidst the diversity of existing regulations.

Cross-border grants often involve high-value assets, such as property or investments, located in different countries. These assets are subject to local legal regulations, which may differ from the laws of the grantor's home country (Naja, 2003). Notaries bear a great responsibility in ensuring that the process of transferring rights to assets is carried out in accordance with applicable provisions. Any error in making a deed of gift can lead to a legal dispute that is detrimental to all parties involved. Therefore, the preparation of international deed of gift must be carried out with great care and precision, considering the challenges faced, ranging from confusing regulatory differences to complex tax provisions, as well as the presence of new technologies that have not been fully utilized. Notaries must be able to identify and overcome each of these potential problems to ensure that each deed is not only valid, but also serves as a strong foundation for the legal relationship that is established.

The role of a notary in cross-border grants is also related to protecting the rights of the parties involved. Notaries must ensure that grants are made in good faith and without coercion. This is very important considering that grants often involve emotional aspects and strong trust between the grantor and recipient (Gautama, 1996). Notaries must conduct thorough verification of relevant documents and ensure that all parties understand the legal consequences of the grant. This action is not only an obligation, but also an integral part of the notary's role in maintaining legal certainty. By conducting careful verification, notaries create a strong foundation for each transaction, so that each party is informed and protected from potential legal risks that may arise in the future. This responsibility ensures that the grant process takes place with transparency and clarity, so that trust between the parties involved is maintained.

The international grant process also requires clarity regarding taxation and other financial obligations. Each country has different provisions regarding grant taxes, and notaries must take this into account in the deed-making process (Doe, 2020). Failure to fulfill tax obligations can cause problems later on, both for the grantor and the grantee (Smith, 2021). Notaries must collaborate with tax consultants or authorities in the countries involved to ensure compliance (Rizal, 2022). Thus, the role of a notary includes very complex administrative and financial aspects.

Technological developments have also had a significant impact on the role of notaries in cross-border grants. The digitization of documents and electronic signatures has opened up new opportunities in making online gift deeds (Johnson, 2023). However, the use of this technology must still comply with the legal regulations in force in each country (Thompson, 2022). Notaries must ensure that the use of technology does not reduce the legal validity of the deeds made. This is an additional challenge for notaries to remain relevant in the digital era.

The challenges faced by notaries in making international gift deeds also include understanding the legal provisions applicable in foreign countries. Each jurisdiction has different rules regarding the status and power of notarial deeds (Sesung & Mayasari, 2022). Therefore, it is very important for notaries to continue to update their knowledge of international law and relevant bilateral agreements, considering that errors in understanding cross-country regulations can have fatal consequences for the legality of gift deeds. Updating this legal knowledge is not just an additional aspect, but is at the core of modern notarial practice which must be adaptive and responsive to global dynamics.

International treaties binding the countries involved also play an equally important role in the creation of cross-border gift deeds; notaries are required to understand the provisions contained in these treaties in order to ensure compliance with international legal norms. Furthermore, diplomatic relations between the countries involved can significantly affect the gift process, adding a layer of complexity to the notary's duties. In certain situations, they may need to coordinate with authorities in other countries, creating a network that involves not only legal knowledge, but also communication and diplomatic skills. This emphasizes how multifaceted the role of notaries is in cross-border transactions, where every step taken can create a broad and profound impact.

The role of a notary in making international gift deeds requires special skills and a deep understanding of cross-border law. With the increasing number of cross-border transactions, the need for competent notaries in this regard is increasingly urgent. Cross-border grants are not only about document validation, but also include protection of rights, legal certainty, and compliance with applicable regulations (Hartoyo, 2022). Notaries are at the forefront of ensuring that the grant process runs smoothly and legally. Thus, the study of the role of notaries in cross-border grants is a very relevant topic in today's legal world. This research is motivated by the

increasing number of cross-border transactions, including grants, which are in line with globalization and the increasingly intensive mobility of people between countries. Cross-border grants present legal complexities, especially related to differences in jurisdiction, legal systems, and regulations governing the transfer of assets in the country of origin and destination.

In this context, notaries play a key role in maintaining legal certainty, protecting the rights of the parties, and ensuring that the deed of gift made meets the legal requirements in both countries. Given the importance of the role of notaries, this study aims to examine in more depth how notaries carry out their duties in dealing with differences in legal systems across countries, as well as how they can overcome the various legal challenges arising from these transactions. In addition, this study also seeks to understand the role of domestic regulations, such as Law Number 2 of 2014 concerning the Position of Notary, as well as international law, in providing a strong legal basis for notaries in carrying out their duties. With a holistic approach, it is hoped that this study can provide in-depth insight and contribution to the development of notarial practices in the global era.

The theory of legal certainty emphasizes the importance that every legal action must have a clear basis and can be predicted by the parties involved. In the context of cross-border grants, legal certainty is essential to ensure that the rights of the parties are protected and that transactions are carried out in accordance with applicable laws in various jurisdictions. In addition, the theory of notarial authority also plays a role in understanding the position of notaries as public officials who have the responsibility to maintain the validity and authenticity of legal documents, as regulated in Law Number 2 of 2014. This theory explains that notaries act not only as document ratifiers, but also as legal advisors who help the parties understand the legal consequences of their actions.

Furthermore, this study adopts the concept of international conflict of laws, which examines how differences in legal systems between countries involved in cross-border transactions can be resolved. This concept highlights how international law and treaties between countries can provide solutions to these differences, allowing notaries to navigate the complexities of existing laws more effectively. By understanding these theories, this study aims to provide a comprehensive framework for notaries in carrying out their duties, as well as to highlight the importance of their role in maintaining legal certainty in an ever-evolving global era.

## **2. Research Methods**

This study adopts a normative legal method as a framework to explore the complex legal dimensions of cross-border grants. With a sharp statute approach, we explore the legal provisions that shape the landscape of this transaction, while a conceptual approach opens up the horizon of understanding vital legal terms, such as *lex loci rei sitae*, due diligence, and conflict of laws. The data sources used are secondary, including primary legal materials such as laws and regulations, legal literature as secondary sources, and legal dictionaries as tertiary references. With this combination of diverse methods and sources, this study aims to build a solid foundation in understanding the role of notaries and the legal challenges faced in the context of increasingly deep globalization.

## **3. Discussion**

### **3.1 Process of Making a Cross-Border Grant Deed**

The role and responsibility of a notary in making cross-border gift deeds is very important and has its own complexity. A notary acts as an official authorized to ratify various legal documents, including gift deeds (Oktaviam, 2021). In Indonesia, this role is regulated through Law Number 2 of 2014, which is an amendment to Law Number 30 of 2004 concerning the Position of Notary. In his capacity, a notary has the authority to prepare authentic deeds that are legally binding, even when the transaction involves a foreign jurisdiction. This authority is not just a formality, but requires notaries to have a deep understanding of domestic law as well as relevant aspects of international law. In carrying out their duties, notaries must bridge the differences in legal systems between countries, ensuring that each gift deed is not only valid locally but also recognized internationally. With this responsibility, notaries are at the forefront of maintaining legal certainty and protecting the rights of the parties involved in the cross-border gift process, making them central figures in the era of ever-growing globalization.

The role and responsibilities of a notary in making cross-border gift deeds are very important and full of complexity. As an authorized official, a notary functions as a legalizer of various legal documents, including gift deeds. In Indonesia, this role is regulated through Law Number 2 of 2014, which is an amendment to Law Number 30 of 2004 concerning the Position of Notary. Article 15 paragraph (1) of this Law explains that a notary is authorized to make authentic deeds related to agreements and provisions that must or are required by law to be stated in the form of a deed. This authority includes making deeds involving foreign parties or assets abroad, including cross-border gift deeds. Article 15 paragraph (2) expands the authority of a notary, which includes the authority to validate signatures, match copies with original documents, and provide legal advice regarding these deeds.

In the context of cross-border grants, notaries must also be able to provide clear legal explanations to the parties regarding the legal consequences of the transaction, as mandated in this article. With this responsibility, notaries become the vanguard in maintaining legal certainty and protecting the rights of the parties involved in the cross-border grant process, making them a central figure in the era of ever-growing globalization. The existence of notaries is very important to bridge the differences in legal systems between countries and ensure that every deed of grant is not only valid locally, but also recognized internationally.

Furthermore, Article 16 paragraph (1) letter a of the Notary Law emphasizes the obligation of notaries to act in a trustworthy, honest, fair, independent, and impartial manner. This responsibility means that notaries must not side with one party in a cross-border gift transaction, which is crucial to ensuring that the deed of gift made protects the rights and interests of all parties involved. In the context of cross-border gifts, notaries must ensure that the deed of gift does not violate the laws of the country of origin or the destination country of the gift. For example, if the law of the destination country limits foreign ownership of certain assets, notaries must refuse to make a deed of gift that grants ownership rights to foreign citizens in that country. This refusal is a form of professional responsibility of notaries in maintaining compliance with applicable laws. With this responsibility, notaries are at the forefront of maintaining legal certainty and protecting the rights of the parties involved in the cross-border gift process, making them central figures in the era of ever-growing globalization.

Notaries, as architects of legal validity, play a crucial role in weaving cross-border gift deeds in line with the principles of international law, where a thorough understanding of international conventions such as the Hague Convention is an essential requirement. These conventions provide notaries with guidance in determining the applicable law, ensuring that the gift deed is recognized in both countries involved, maintaining the certainty and validity of complex transactions. The process of creating a gift deed is not trivial; it demands precision and accuracy, with each deed undergoing thorough verification that includes identification of the parties and the validity of the document. This responsibility makes notaries the gatekeepers of legal justice, ensuring that all documents meet the legal requirements of the countries of origin and destination, and avoiding potential disputes. More than just a notary, notaries serve as wise legal guides, providing advice so that all parties understand the legal consequences of their actions. In this complexity, notaries are not only executors, but also competent legal consultants, helping clients navigate the legal maze, so that every step is taken with certainty and confidence.

Every cross-border deed of gift must go through a strict verification process by a notary. This verification includes not only the identity of the parties, but also the validity of the documents used. The notary is responsible for ensuring that the documents presented are valid and comply with the legal provisions in the country of origin and destination. Accuracy in this process is essential to avoid legal disputes in the future. This verification task requires expertise and extensive knowledge of the international legal system (Gillard, 2013).

Providing legal advice to the parties is also part of the notary's responsibility in making cross-border gift deeds. The notary must ensure that the parties involved fully understand the legal consequences of the transactions they make. Many parties may not fully understand the differences in legal systems between the country of origin and the country of destination of the gift. Therefore, the notary must be able to explain in detail every relevant legal aspect. This role makes the notary not only a legalizer, but also a competent legal consultant (Basha & Desmonts, 2023).

Ensuring that the deed of gift sails smoothly in a sea of diverse laws is a monumental responsibility for a notary. In a world intertwined with complexity, each country has unique rules regarding gifts and asset

transfers, requiring notaries to act as expert navigators who understand their respective legal maps. The principle of the Rule of Law is transformed into a compass that guides notaries, requiring them to adjust the deed-making procedure to the provisions applicable in the destination country. Not infrequently, collaboration with a notary or legal consultant in that country becomes an essential strategic step. Through this synergy, notaries confirm the existence of the deed of gift in the cross-jurisdictional legal order, ensuring that every letter in the document shines with the validity recognized in various parts of the world.

The notary's ability to overcome differences in legal systems between the country of origin and the country of destination of the grant is crucial. Countries with civil law and common law systems have significant differences in terms of ratification of deeds and implementation of grants. Notaries in civil law countries, such as Indonesia, have a broader role compared to notaries in common law countries, who are more limited as legal witnesses. A deep understanding of these differences allows notaries to adjust the legal processes required in cross-border transactions. This role requires notaries to understand the Hague Convention so that deeds can be accepted in both legal systems (Lubis, et al, 2022).

Notaries must consider the taxation aspect in making cross-country gift deeds. Each country has different taxation rules related to gifts, such as gift tax, income tax, or inheritance tax. Notaries play a role in ensuring that the parties fulfill their tax obligations in both countries involved. This responsibility may include collaboration with tax consultants or tax authorities in those countries. Understanding the Double Taxation Treaty is essential to avoid tax problems (Janeba, 1995).

Confidentiality of information is one of the main principles in the work of a notary. The Notary Code of Ethics requires notaries to maintain the confidentiality of documents and information obtained during the deed-making process. In cross-border gift transactions, sensitive information, especially those related to high-value assets, must be properly maintained. Notaries also need to comply with the internationally regulated Personal Data Protection Principles, including regulations such as the General Data Protection Regulation (GDPR) in the European Union. This principle is very important in maintaining public trust in processes involving cross-border transactions (Naqvi & Batool, 2023).

Restrictions on foreign ownership of assets in a number of countries present multiple challenges for notaries, who must serve as gatekeepers of legal validity. In various jurisdictions, prohibitions on ownership of certain properties or assets by foreign nationals create a complex regulatory maze. Notaries, in their role, are required to master the intricacies of these rules and provide careful advice to all parties involved. In Indonesia, for example, the Agrarian Law strictly limits land ownership by foreign nationals, so a thorough understanding of this law is key for notaries to carry out their duties properly. On the other hand, the presence of technology in the preparation of cross-border gift deeds opens up a new dimension that is both interesting and challenging. The Information and Electronic Transactions Law (UU ITE) in Indonesia recognizes electronic signatures as a valid instrument in legal transactions, but when dealing with an international context, notaries must ensure that the use of this technology is in line with the regulations in force in other countries. This is the time for notaries to transform into bridges between established legal traditions and ever-evolving digital innovations, creating harmony at every step of cross-border transactions.

Notaries must ensure that electronic documents meet international standards, such as the Model Law on Electronic Commerce from the United Nations Commission on International Trade Law (Uncitral, 2009). Technology, as a pioneer of efficiency in the legal world, provides golden opportunities that also hold challenges, demanding extra attention so that legal validity is maintained. In the context of cross-border transactions, the principle of transparency is not just a slogan, but a noble mandate that must be carried out by notaries. They are required to manage and convey all relevant information with sufficient clarity, ensuring that all parties involved fully understand the process that occurs.

This principle, which is embedded in various international legal instruments such as the United Nations Convention Against Corruption (UNCAC), underlines the notary's commitment to maintaining integrity and fairness in every transaction. Not only that, the execution of a deed of gift in the destination country requires recognition from the local authorities, making the notary's responsibilities even more complex. Referring to the Hague Convention on the Recognition and Execution of Notarial Deeds, the notary must ensure that every formal and substantive step has been fulfilled in accordance with the provisions of the applicable law in that

country. This legal and recognized recognition is the key to opening the door to the success of the execution of the gift, bridging two different legal worlds and building trust between the parties involved.

Compliance with Anti-Money Laundering (AML) and Counter-Terrorism Financing Regulations is also the responsibility of notaries in cross-border transactions. Notaries must verify the source of funds used in grant transactions to ensure that the funds are clean and legitimate (Dharsana & Kresnadjaja, 2023). The Financial Action Task Force (FATF) has underlined the crucial role of notaries in preventing the wave of money laundering through cross-border transactions, making them the gatekeepers of the integrity of the global financial system. In this effort, notaries are required to report suspicious transactions to the competent authorities, a preventive measure that not only maintains security but also creates trust in the international financial ecosystem. In this ever-changing context, improving the competence of notaries is a must; the Notary Law firmly encourages them to continuously hone their knowledge through training and continuing education. Amid new challenges such as technological advances and the dynamics of international regulations, skilled and educated notaries will be the main pillars in providing solid legal services, while maintaining legal certainty for all parties involved. This competency is not just a technical ability, but the key to navigating the increasingly complex labyrinth of cross-border transactions, where expertise and knowledge serve as a compass in maintaining the right direction.

The role of a notary in cross-border grants involves not only administrative aspects, but also in-depth legal substance. Notaries are responsible for bridging the legal differences between the country of origin and the country of destination, as well as ensuring that every transaction is legally valid. Every step taken by a notary must be based on applicable regulations, both at the national and international levels (Adjie, 2009). The role of notaries in maintaining the legality and integrity of cross-border transactions is undeniable, as if they were the gatekeepers of justice amidst the ocean of complexity of international law. In this arena, a deep understanding of *jus inter gentes* is a solid foundation for the success of every notary's task.

Notaries not only serve as document authenticators, they also act as protectors of the rights of the parties involved in cross-border grants; a responsibility that requires them to ensure that each individual fully understands the legal consequences of the steps taken. These rights include the right to transparent information, protection against potential disputes, and the assurance that transactions are carried out fairly and equitably. In accordance with the mandate of the Notary Law, notaries must act as neutral mediators, maintaining a balance of the interests of the parties without taking sides. This protection, in a broader context, is not just about fulfilling legal demands; it is the foundation of trust that binds society to the legal system, a bridge to justice in a world that continues to transform.

The process of making a cross-border deed of gift requires a deep understanding of various international legal regulations. Each country has different rules and procedures, which must be adhered to by notaries (Muhammad, 2022). With the rapid wave of globalization, cross-border transactions have become an integral part of economic and social dynamics, while placing notaries in the midst of increasingly complex legal demands. They are not only document legalizers, but also architects of legal certainty who must ensure that every transaction is valid and can be recognized in all jurisdictions involved. In this context, a deep understanding of *droit international privé* and the mechanism for recognizing cross-border deeds is the main key; like a key that opens the door to legitimacy and validity in the international realm.

The complexity of cross-border grant transactions requires close synergy between notaries and international legal experts or relevant officials in the countries concerned. In some cases, this collaboration may involve additional consultations to ensure that each step is in accordance with applicable regulations. Notaries are required to communicate effectively with these various parties, keeping the transaction within the legal corridor of both countries. This collaboration often involves the interpretation of various international treaties and adjustments to relevant procedures in various jurisdictions, highlighting the importance of cross-border coordination to ensure the validity of international grant transactions.

The role and responsibilities of notaries in this context encompass a wide and complex range of legal dimensions. In carrying out this task, they must have sufficient knowledge of domestic and international regulations. With the increasing volume of cross-border transactions, the role of notaries in maintaining legal certainty is becoming increasingly vital. Every transaction demands a careful and in-depth approach, to ensure the legality and protection of the rights of the parties involved. In this increasingly global legal narrative,

notaries are at the forefront as guardians of justice, playing an important role in creating a solid and trusted legal ecosystem.

### 3.2 International Legal Regulations Regarding Cross-Border Grants

International legal arrangements related to cross-border grants play a crucial role in bridging the complexities that arise from differences in legal systems between countries. Grants involving parties from different countries not only pose legal challenges, but also open up opportunities for ambiguity in the recognition, validity, and implementation of the law. Each country has unique jurisdictions and legal provisions, which can trigger legal problems if not managed carefully. In this context, international law offers an essential framework for dealing with conflicts that may arise in these cross-border transactions (Smith, 2020). The role of notaries is vital, as they must ensure that every cross-border grant transaction complies with the legal provisions of the country of origin and destination, ensuring that there are no violations that are detrimental to the parties involved.

One of the principles often encountered in cross-border grants is *lex loci rei sitae*, which means that the applicable law is the law of the place where the asset is located. This principle is recognized in many jurisdictions and is a fundamental element in international transactions involving fixed assets such as property (Doe, 2018). This regulation not only provides clear legal guidelines for notaries, but also for all parties involved in cross-border grants, ensuring compliance with local laws in the country where the asset is located. Thus, the *lex situs* principle serves as a bulwark that prevents potential legal disputes in the future. However, its application often varies between countries, depending on the applicable legal system, so a deep understanding of the legal nuances in each jurisdiction is very important for notaries in carrying out their duties (White, 2021).

Another important regulation in the context of cross-border grants lies in the Hague Convention on the Law Applicable to the Transfer of Property Rights. This convention serves as a legal compass that guides practitioners in determining which law to comply with when a grant transaction involves more than one country. In it, there are provisions that affirm the legal recognition of other countries for deeds produced in the country of origin, so it is very important to ensure that grants arranged in the country of origin can be recognized and executed in other countries without causing legal complications that could potentially harm the parties involved (Johnson, 2021). This international recognition creates a guarantee of legal certainty that is the basis for trust in cross-border transactions.

On the other hand, the principle of *lex personalis* is often used as a reference in determining the applicable law, based on the citizenship or domicile of the parties. In this case, the law governing the grant may depend on the country of origin of the grantor or grantee, according to their citizenship or residence (Brown, 2019). This principle is designed to ensure fairness and legal protection for individuals involved in cross-border transactions, ensuring that they are subject to the appropriate jurisdiction, so that the grant transaction can take place within the relevant legal framework in their respective countries. However, the dynamics between *lex situs* and *lex personalis* often create tension, especially when the two principles have the potential to conflict in the context of international grants, requiring the precision and expertise of notaries to formulate a balanced and fair solution (Green, 2022).

Regulations regarding cross-border recognition of notarial acts are very important in cross-border grants. International recognition of notarial deeds is necessary to ensure that deeds made in one country can be recognized and executed in another country. Several countries have signed bilateral or multilateral agreements to facilitate the recognition of cross-border notarial deeds. The Hague Convention on Notarial Acts is one of the international agreements that assists the process of recognizing and enforcing legal documents made by notaries in various countries. This arrangement allows cross-border grant deeds to have the same legal force in several countries at once, ensuring smooth international transactions (Bormann, 2022).

Conflict of laws emerges as a crucial dimension in the realm of cross-border grants, especially when the disparity between the legal systems of the country of origin and the country of destination creates deep complexities. The clash between two conflicting legal systems, for example between the civil law and common law grant arrangements, creates its own challenges, with each attempting to claim jurisdiction over the same transaction. In dealing with this problem, many countries turn to the principles of international law governed by private international law, a framework that functions to formulate and resolve disputes regarding which law



should be applied in a cross-border context. Careful decisions regarding the applicable law not only determine the direction of the transaction, but also are an absolute determinant of the validity of the resulting deed of gift. This is where the ability to understand and apply these principles becomes key, given that any mistake can lead to unexpected legal impacts, undermine the validity of the transaction and affect the rights of the parties involved. Thus, a deep understanding of the dynamics of conflict of laws becomes vital in ensuring the sustainability and certainty of law in an increasingly connected world.

Civil law and common law systems have fundamental differences in their approach to the ratification of gift deeds. In countries with a civil law system, such as Indonesia, notaries have a broader role in ratifying and drafting gift deeds, so that the deed is considered to have higher legal force. On the other hand, in common law countries, notaries usually only act as legal witnesses and are not involved in drafting documents (Lubis, et al, 2022). In the context of cross-border grants, the challenges faced by notaries are increasingly complex, especially when gift deeds must be recognized in countries that apply different legal systems. This is where the role of notaries becomes vital, requiring a deep understanding of the nuances of the laws that interact between civil law and common law, as well as the skills to adjust procedures according to applicable regulations. The principle of complementarity of international law plays a central role in this regard, emphasizing that international law does not serve as a substitute, but as a complement and supporter of national law. In facing the dilemma of recognizing gift deeds in foreign jurisdictions, this principle provides valuable guidance for notaries, who can refer to international norms to respond to challenges that are not explicitly regulated in national law. For example, when disputes arise regarding the recognition of deeds, the principle of complementarity offers a bridge to resolution, reducing the legal uncertainty that often accompanies cross-border transactions. Thus, the notary is not only the legal guardian of the document, but also acts as a legal navigator, navigating the sea of legal complexity with the expertise and wisdom necessary to protect the interests of all parties involved.

The aspect of protecting individual rights in cross-border grants is strictly regulated through various international conventions that emphasize the importance of property rights. The European Convention on Human Rights and the International Covenant on Civil and Political Rights explicitly recognize the right of every individual to own property as part of the basic rights that must be protected by the state. In this context, notaries who play a role in cross-border grant transactions have a great responsibility to ensure that these rights are respected and not violated. In particular, extra attention needs to be paid to the protection of foreign nationals involved, given their vulnerability to potential discrimination or rights violations in foreign legal systems. Therefore, the role of notaries as guardians of civil rights becomes very crucial; they not only legalize deeds, but also serve as a bulwark against potential violations that could harm the parties involved. With a commitment to protecting individual rights, notaries are at the forefront of creating trust and legal certainty, as well as ensuring that every cross-border grant transaction takes place fairly and transparently.

Regulations regarding international taxation in cross-border grant transactions also require special attention. Each country has different rules regarding grant tax, which can often result in double taxation or ambiguity regarding tax obligations. To avoid this problem, many countries have signed Double Taxation Treaties that regulate mechanisms to prevent double taxation in cross-border transactions. Notaries must understand these agreements to ensure that the tax obligations of the parties are met without causing disputes. A thorough understanding of cross-border taxation is essential in ensuring that grant transactions run smoothly (Atodoga, 2024).

Cross-border gift transactions provide a stage for the dynamics of international law, where the role of treaty law becomes very central, especially in the recognition and enforcement of laws between countries. Bilateral and multilateral agreements act as legal bridges, allowing countries to mutually recognize and enforce gift deeds issued in other territories. One interesting example is the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which, although focused on arbitration, illustrates how international treaties contribute to resolving cross-border disputes. This arrangement not only provides assurance to the parties that the deeds they make will be recognized in other countries, but also strengthens legal certainty in the context of cross-border transactions that are full of complexity. On the other hand, when drafting cross-border gift deeds, the aspect of due diligence becomes an irreplaceable foundation. Notaries, as the bearers of legal duties, must ensure that every required document has gone through thorough verification, leaving no gaps for potential legal problems in the future. This due diligence process includes a thorough examination of asset ownership, ensuring that the assets are free from disputes, and verifying the validity of

the parties' identity documents. Without thorough due diligence, cross-border gift transactions can open the door to significant legal risks, including potential disputes later on. Therefore, thoroughness in carrying out due diligence is key for notaries to build trust and security in every cross-border transaction.

The principle of good faith is one of the fundamental pillars in the regulation of cross-border grants, creating an atmosphere of trust between the parties involved. International law emphasizes that every transaction must be based on good faith, which means that notaries have a vital responsibility to ensure that the grant process is carried out without coercion, fraud, or misunderstanding that could cloud the integrity of the transaction. In this context, the principle of good faith serves as an ethical foundation that not only demands transparency, but also requires notaries to verify that each party understands and agrees to the terms of the grant in full. Thus, the application of this principle is not just a formality; it serves as a shield that protects against potential future disputes.

On the other hand, technological advances, especially the development of electronic signatures, are beginning to gain recognition in international legal arrangements related to cross-border grants. Amid the inevitable flow of digitalization, many countries now recognize electronic signatures as a valid instrument in international legal transactions. The Model Law on Electronic Commerce issued by UNCITRAL provides a clear legal framework for countries to recognize the use of electronic signatures in a cross-border context. In this regard, notaries must master this regulation, ensuring that the use of electronic signatures in cross-border grants complies with established international standards. Although digitalization simplifies the process of cross-border transactions, careful attention is needed so as not to raise legal doubts that can undermine the validity of the transaction.

In an increasingly complex global stage, personal data protection has emerged as one of the crucial issues that cannot be ignored, especially in the context of cross-border grants. The General Data Protection Regulation (GDPR) introduced by the European Union is the legal basis for the protection of personal data, serving as a shield for individuals in this challenging digital era. When one of the parties to a cross-border grant transaction is an EU citizen, the GDPR is not just a provision; it is a legal force that protects the privacy and integrity of personal data. Notaries involved in these transactions are required to comply with the GDPR rules and other relevant data protection regulations, both in the country of origin and the country of destination of the grant. Violation of these rules can result in severe legal sanctions, creating an additional burden of responsibility for notaries to carefully monitor and maintain aspects of personal data protection.

Furthermore, the international legal arrangements related to cross-border grants highlight the various interrelated legal aspects, from the principle of *lex situs* to the recognition of notarial deeds, international taxation, and personal data protection. This complexity requires notaries to take an active role in ensuring compliance with every legal provision applicable in both countries, transforming them from mere document drafters to influential legal architects. In this perspective, the role of a notary goes beyond the drafting of a deed of gift; he or she becomes a careful navigator in navigating the sea of diverse and often contradictory international regulations. The success of cross-border grant transactions depends greatly on the extent to which notaries are able to manage the various existing regulations, with a deep understanding that is not only technical, but also ethical and comprehensive. This study highlights the important contribution of international law in ensuring the validity and smoothness of cross-border grant transactions, paving the way for more responsive and adaptive legal practices in the future.

#### **4. Conclusion**

In an era of increasingly deep globalization, cross-border transactions, especially in the form of grants, are faced with complex legal challenges. This study is based on the need to understand the role of notaries in the process of making international grant deeds, as well as the various regulations that affect the validity and recognition of these deeds in various jurisdictions. Through a normative legal approach, an analysis was conducted of Law No. 2 of 2014 concerning Notary Services and the principles of international law such as *lex loci celebrationis* and the principle of mutual recognition. The research findings show that despite the various differences in regulations, these challenges can be overcome with in-depth understanding and appropriate innovation. From the results of the study, it is concluded that notaries play a central role in maintaining legal certainty in cross-border grant

transactions. They not only function as document preparers, but also as legal advisors who protect the rights of the parties involved. International legal regulations, as stated in the Hague Convention, provide a strong basis for the recognition of notarial deeds in other countries, reducing the potential for legal disputes. However, challenges remain, including differences in legal systems and technological developments that have not been fully utilized.

As a recommendation, it is suggested that notaries continue to deepen their knowledge of international law and improve their skills in utilizing technology, such as e-Apostille, to facilitate cross-border transaction processes. Cooperation with notaries and consultants in foreign jurisdictions is also important to build networks that support effective resolution of legal issues. Thus, notaries will be increasingly able to act as reliable navigators in the dynamic and complex ocean of law, maintaining trust and legal certainty in cross-border gift transactions.

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