

Role and Responsibility of Guardian in Manage of Inheritances Under Supervision of Medan Inheritances Center, Indonesia

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ABSTRACT

The role of the facilitator is vital in managing assets for the underprivileged, including minors or individuals who are legally considered incompetent. The facilitator is responsible for ensuring that the management of assets is carried out by regulations and protecting the interests of the heirs he represents. Supporting actions, especially those related to asset management or sale, require BHP approval to prevent misuse. This study uses a normative legal research method that examines legal principles and systematics through an approach to legislation and literature search. The study results show that the sponsor and BHP have a crucial role in ensuring fair management of heritage assets by the provisions of the law. The Heritage Center functions as a supervisor who ensures that the custodian carries out his duties in good faith and that every action of the custodian is carried out to protect the interests of the heirs. With the existence of BHP, the rights of heirs under custody can be protected to the maximum, and the potential for misuse of heritage assets can be prevented.

Keywords: Guardianship, Responsibility, Rights and Obligations, Protection of Heirs.

I. Introduction

Internship activities aim to provide students with practical work experience and skills. In legal education, internships are an essential stage that allows students to apply the theories they have learned in college in real situations. Internship activities at the Medan Heritage Center provide opportunities for students to understand the process and function of this institution in the management of heritage and trusteeship. Through this experience, students can develop a deeper understanding of legal practice and strengthen their competence in law. From the perspective of the field of education, Field Work Practice is one of the curriculum components in educational institutions, especially vocational education institutions, which is regulated in Article 36 paragraph (3) letter f and Article 37 paragraph (1) of Law Number 20 of 2003 concerning the National Education System, as well as Law Number 44 of 2015 concerning National Standards for Higher Education (Soedibyo, 2003). Fieldwork Practice aims to provide a practical understanding based on the theories learned in the educational institution. From an employment perspective, Field Work Practice provides opportunities for students to apply their knowledge and understand how the work system works in the real world. In this case, the author is more interested in discussing the supporting person's roles and responsibilities in managing deep heritage supervision of the Medan Heritage Center. Pengampuan, which comes from the Dutch term "Curatele," is a condition in which a person is considered incompetent in legal acts (Siregar, 2009).



An individual under custody is called *curandus*, which means he is declared incapable of the law. Tutors, or Curator, is a party appointed to represent and manage the interests of *curandus*. The husband or wife, blood family members, or relatives can submit applications for custody determination. In cases where a person's power is weak, the party can only file the application with interest. The consequence of the custody is that the *curandas* are considered to have no ability to perform legal acts, so all legal actions must be taken by the custodian on their behalf. This aims to protect the rights and interests of people who cannot care for themselves. Parenting or *curatele* can be considered as the opposite of maturing (*handlichting*). Through fostering, a person who has reached the age of adulthood (*meerderjarig*) but, because of his mental or physical state that is inadequate or less than perfect, is given the same status as an immature child (*minderjarig*). In the Civil Code of Custody, located in the first book, namely on Persons, Chapter XVII on Custody, precisely in Article 433, it is explained that: "every adult who is always in a state of ignorance, madness, or dark eyes, even if he is sometimes an adult, must be placed under custody, capable of using his mind. A subordinate to forgiveness because of waste".

The responsibility of a custodian is a big responsibility with high risk because it is related to asset management, so supervision from the authorized institution is needed in the trusteeship and custody process. The Heritage Center, as a Technical Implementation Unit under the Ministry of Law and Human Rights of the Republic of Indonesia, has the task of protecting human rights, especially individual rights, for those who, based on court decisions, are declared incapable of taking care of their interests according to applicable regulations. The role of the Heritage Center is vital, namely, to represent and take care of the interests of individuals who cannot do so independently legally. Overall, the functions of the Heritage Center include supervision of trusts and guardianships, management of inheritances without heirs, management of assets belonging to people who are declared absent, opening of testamentary documents, issuance of Certificates of Inheritance Rights, and acting as curators in bankruptcy cases (Arani, 2006).

Legally, many of the rules underlying the duties and functions of the Heritage Center in Indonesia still come from the colonial era before independence. Initially, these rules only applied to citizens of European descent and non-natives from Eastern countries. Because they are no longer in line with the values of Pancasila and the 1945 Constitution, these rules are considered irrelevant to current conditions and need to be adjusted to the development of applicable laws. Article 449 of the Civil Code states that the District Court must appoint a custodian after a custody decision has permanent legal force. The appointment of this person must be immediately reported to the Heritage Treasure Center, which is then given the authority to supervise the course of the care. The Medan Heritage Center has a vital role in Indonesian civil law, which is stipulated through its duties and functions by the Decree of the Minister of Justice of the Republic of Indonesia Number M.01.PR.07.01-80 of 1980 concerning the Organization and Work Procedures of the Heritage Center. However, the existence of the Center Heritage as a custodian supervisor is still necessary and valid for all Indonesian citizens. With this role, the Heritage Center provides important legal protection for individuals under the protection of the national interest.

The rights and obligations of everyone as a subject of law are equal in the eyes of the law. However, the law classifies those under custody as persons who cannot act legally. Nevertheless, they still have the same interests as normal humans. The main difference lies in their inability to exercise these rights or obligations directly, so it is necessary to have a facilitator in charge of representing and protecting their interests in the legal system (Mandiri & Tebing, 2021). In civil law, individuals who have a mental disorder are considered incapable of carrying out legal actions, such as buying and selling transactions, renting leases, or managing and selling a portion of their inheritance. Therefore, they need a representative or facilitator to represent them in these legal matters. Legal protection for these individuals is vital, especially for property, so that they do not suffer losses due to the actions of other parties.

Therefore, institutions such as the Heritage Center play an essential role in supervising and protecting the rights of persons incapable of acting legally, especially regarding managing their assets. Further studies are needed to understand the position of the Heritage Center in the regulations that apply in Indonesia, as well as its role in managing the assets of individuals under their custody. It is essential to link the functions of

this institution with the civil law regulations that govern individuals under custody so that legal protection of their rights can be guaranteed.

II. Research Method

The researcher uses a normative legal research method, which focuses on legal principles and legal systematics with an approach that refers to laws and regulations and related literature reviews. Normative law research focuses on understanding and finding solutions based on legal principles that apply in the regulation of a country's sovereignty, as well as solving problems through instruments of law, both at the national and international levels. This method aims to gain an in-depth understanding of analyzing the issues discussed in this study.

III. Result and Discussion

3.1. Position Hall Possessions Relics Deep Supervision towards Facilitator, Based on Civil Law.

In principle, every individual can be a subject of law from birth to death. Provisions on legal subjects are regulated in Articles 1-3 of the Civil Code. The main principle of this provision is that every individual has rights and obligations in the context of the law as long as the person is alive. This confirms that everyone has a permanent and protected legal status, allowing them to be involved in legal relationships, both as rights holders and obligors. A legal subject, or *rechtssubject*, is an entity that, in law, has rights and the authority to perform legal acts and can bear rights and obligations in the law. In the context of civil law, legal subjects are divided into two, namely human beings (*natuurlijke person*), which are individuals personally, and legal entities (*rechtspersoon*), which is an entity that has rights and obligations like human beings, such as companies, foundations, or other organizations.

A legal entity is an entity that is recognized as capable of acting in the legal realm and has rights, obligations, and legal relationships with other parties. Based on its authority, legal entities can be divided into two categories, namely public legal entities and private legal entities. Public legal entities have a role in public law, which aims to meet the public interest. And carry out government functions, which include the state, autonomous regions, departments, and state institutions. In contrast, private legal entities operate in civil law, mainly related to the interests of individuals or individuals. In civil law, everyone is recognized as a legal subject from birth. However, there are certain conditions where a person is declared unable to do To be able to do something in the law; a person is obliged to fulfill two mandatory conditions, namely the ability to act (*rechtsbevoegd*), which is the ability to perform legal acts and the authority to act (*rechtsbekwaam*), which is related to a person's right to perform legal acts by the legal status he can act in law is related to a person's ability to perform a lawful legal act. This ability depends on the individual's personal qualities. Several aspects can limit a person's power under the law, such as age, mental disorder, or certain status established by law, such as nationality, place of residence, position, or position, as well as behavior or actions performed. These factors suggest that acting proficiency is influenced by legal status and various aspects associated with the individual. By the applicable laws and regulations, the Heritage Center functions as a legal service institution that protects the human rights of individuals who, based on the judge's decision, cannot take care of their own interests per the applicable law. This institution operates as a government technical organizing agency under the Directorate General of General Legal Administration, Ministry of Law and Human Rights of the Republic of Indonesia.

According to Article 1 number 1 in the Regulation of the Minister of Law and Human Rights Number 27 of 2013, the Heritage Center is a technical implementing unit in charge of managing assets belonging to individuals who are not present or heritage assets that are not managed. This center is under the Regional Office of the Ministry of Law and Human Rights and is directly responsible to the Director General of General Legal Administration. The primary function of the Heritage Center is to represent and manage the interests of

individuals who cannot exercise their rights due to legal provisions or court decisions. Decree of the Minister of Justice of the Republic of Indonesia No. M.01.PR.07.01-80 in Chapter 1 explains the position, duties, and functions of the Heritage Center in Article 1 paragraph (1), which states that the Heritage Center is part of the work responsible for managing legal aspects related to heritage and trusteeship. This institution is under the auspices of the Ministry of Justice and is directly accountable to the Directorate of Civil Affairs. Thus, the Heritage Center plays a crucial role in managing heritage and protects the interests of individuals who cannot care for their rights.

The Heritage Center, dating back to the Dutch government era, has been adapted into the structure of the Government of the Republic of Indonesia, which has become independent by the rules for replacing the 1945 Constitution. Article 1 of the Instruction of the Heritage Center listed in Staatsblad 1872 Number 166 states that the Heritage Center is a state institution with duties stipulated in the instruction and other laws and regulations. These duties affirm the role of the Heritage Center as a state institution in civil law, which is related to the hierarchy of rules and regulations in the Republic of Indonesia by the MPR TAP Number III/MPR/2000. This Heritage Center is declared a state institution in civil law. It represents and meets the needs of individuals who cannot carry out their interests due to legal provisions or court decisions. Changes and developments in national law affect fundamental aspects of the Civil Code (KUH Percival), including those related to the Heritage Center. Some of the regulations that impact this Center's existence include Law Number 5 of 1960 and Law Number 4 of 1998 concerning Bankruptcy, which is related to Law Number 37 of 2004. These regulations form a more transparent legal framework for managing heritage and protecting the rights of interested parties.

The Heritage Center (BHP) has the responsibility and authority to supervise the trusteeship process affected by the emergence of new laws. One of the innovations in Indonesian civil law is the marriage law. Many provisions in the Civil Code (KUH Perdata) no longer apply to all levels of society in Indonesia. The Civil Code is mainly used by those who follow Western Civil Law. At the same time, the indigenous group refers more to customary laws and regulations by the local culture. As a result, the Heritage Center is less known as a state agency that plays a role in guardianship and protection of the rights of minors without parental supervision. Articles 50-54 of the Marriage Law regulate the guardianship of children but do not expressly state the role of the Heritage Center, namely being the guardian of the guardian. On the other hand, the provisions in the Bankruptcy Law bring significant changes to the bankruptcy stage and influence the role of the Heritage Center as a curator. With Article 67A of the Bankruptcy Law and the Suspension of Debt Payment Obligations, the function of curators has been strengthened, leading to the emergence of private curators, namely outside the Heritage Center. This situation creates competition in the curatorial services sector, which can encourage the Heritage Center to improve its services and competence, especially in bankruptcy. This improvement is significant so that the Heritage Center remains relevant and can meet the community's needs in line with ongoing legal developments.

According to Article 20 paragraph (1) of Government Regulation Number 10 of 1961 concerning Land Registration, heirs who obtain land rights from deceased heirs must register the land within six months from the heir's death date. In addition, based on Article 23 paragraph (1), to register the transfer of land rights obtained through inheritance, the heirs must submit a will issued by the authorized institution, namely the Heritage Property Center, which is also responsible for issuing a Certificate of Inheritance Rights (SKW). This procedure aims to ensure that the heirs can legally accept and manage the inherited land rights. The data in the heirs' file was obtained through a field inspection conducted by the Heritage Property Center to ensure its legal validity. The Heritage Center is authorized to issue Inheritance Certificates for European citizens and people with a status equivalent to European citizens in Indonesia. In addition, this Certificate of Inheritance can also be submitted to other officials according to the rules set by the Head of the Legal Development Agency of the Directorate General of Agrarian Affairs of the Ministry of Home Affairs. This division of authority aims to reduce limitations in the implementation of the duties of the Heritage Center. However, other parties' involvement in legalizing and managing inheritance rights can affect the main functions of the Heritage Center.

3.2. The facilitator's role in managing heritage assets under the supervision of the Medan Heritage Center.

Wealth includes tangible and intangible objects, both movable and immovable, with economic and aesthetic value. The management of this property is critical to meet human needs. In addition to being able to be used and inherited, wealth can also be used as collateral for debts in the form of certain assets. This guarantee protects creditors and makes it easier for borrowers to access financial resources (Sudarsono, 2022). Wise management of wealth is the key to ensuring that its value and benefits can be maintained. Tutoring, or curating, refers to a situation where a person is considered incapable of performing specific actions due to their nature or condition. According to Article 433, paragraph (1) of the Civil Code, every adult individual who experiences conditions such as mental retardation, mental disorders, or blindness must be under protection, even if they sometimes can still think with common sense. This provision aims to protect such individuals and ensure that legal action taken on their behalf is carried out by a guardian or authorized guardian to safeguard their interests and defend their rights.

The role of the facilitator in managing heritage assets under the supervision of the Medan Heritage Center (BHP) has a significant meaning in the context of inheritance law in Indonesia. A custodian is an individual appointed to manage and represent minors or persons legally considered incapable (e.g., due to mental limitations) of caring for their assets or inheritance (Karina et al., 2023). The Facilitator has a great responsibility in terms of administration and ensures that the interests of the person he represents are protected to the maximum. The management of this inheritance becomes more complicated if the inheritance is supervised by the Heritage Property Center, which protects the inheritance legally. In managing heritage assets under the supervision of the Medan Heritage Center, the trustee acts as a legal representative for heirs who are minors or considered incapable. The facilitator's main task is to ensure that the management of heritage assets is carried out correctly and by applicable regulations. The trustees must protect the rights of heirs, prevent the misuse of heritage by other parties, and cooperate with the Heritage Center in every management process. The Medan Heritage Center is vital in supervising inheritance management as a state institution. Its main functions include asset management, preventing the misuse of these assets, and ensuring the distribution of inheritance by applicable legal provisions. The Heritage Center also ensures that the custodians carry out their duties by regulations. With this supervision, the trustee cannot act arbitrarily, and any decision related to the sale, management, or transfer of assets must receive approval from the Heritage Center to protect the heirs who cannot afford it.

The role of the facilitator in managing this heritage can include many things, ranging from the management of physical assets such as land and buildings, the management of financial assets such as bank accounts or shares, to the management of legal issues related to inheritance. In every step taken, the caregiver must be careful and act in good faith to benefit the heirs. For example, if there is a need to sell property that is part of the inheritance, the person must first obtain permission from the Property Center Relics. The Facilitator is also responsible for reporting any developments related to asset management to the Heritage Center so there is transparency and accountability in every management process. In situations where there is a dispute or disagreement between heirs, the role of the facilitator becomes increasingly essential. The facilitator must be neutral and represent the interests of the heirs, who cannot do so without taking sides with one of the parties. In this case, the facilitator can act as a mediator to resolve disputes while still prioritizing the interests of the children or heirs he represents. Thus, the facilitator must have high integrity and sufficient expertise in inheritance law, asset management, and conflict mediation. In addition, it is also essential for the trustee to ensure that the rights of the heirs he represents are not only fulfilled in terms of material but also terms of education, welfare, and other needs that may require the use of part of the inheritance. This often requires in-depth knowledge of family and inheritance law in Indonesia and close cooperation with the Heritage Center in every stage of heritage management. In practice, the Medan Heritage Center not only supervises the management of heritage assets carried out by the authorities but also provides guidance and legal support if needed. Suppose the trustee faces difficulties managing the assets or legal challenges from other heirs or third parties. In that case, the Heritage Center may provide advice or take action to protect the

interests of the heirs represented. Therefore, the facilitator needs to understand the role and duties of the Heritage Center and must always communicate with this institution so that heritage management runs smoothly and according to the rules.

Overall, the authorities have a key role in managing heritage assets under the supervision of the Medan Heritage Center. They act as protectors and managers for heirs who cannot afford it and work closely with the Heritage Center to ensure that the heritage is managed appropriately and fairly. The biggest challenge faced by the custodian is maintaining a balance between meeting the needs of the heirs represented and keeping the existing assets safe and not misused. With the strict supervision of the Heritage Center and the expertise possessed by the authorities, it is hoped that the heritage can be appropriately managed for the benefit of the heirs.

3.3. Responsibilities of the Supervisor in managing heritage assets under the supervision of the Medan Heritage Center.

The facilitator's responsibility in managing heritage assets under the supervision of the Medan Heritage Center (BHP) is a very complex issue involving various legal and ethical aspects. In this case, a custodian is an individual entrusted to manage and care for the estate of someone who cannot take care of their property, such as a minor or a person legally considered incapable, such as an individual with a mental disorder. The Medan Heritage Center is an institution responsible for protecting, supervising, and managing heritage for individuals who are considered incapable, both legally and physically. This institution has a vital role in ensuring that inheritance management is carried out transparently and fairly in accordance with applicable laws and regulations. In this context, the trustee functions as the party that manages the property directly. At the same time, the Heritage Property Center acts as a supervisor who ensures that the trustee carries out his responsibilities by law and in the best interests of the party he represents.

The facilitator's responsibility in managing inheritance has a firm legal basis, as stipulated in the Indonesian Civil Code (KUH Perbanyak), especially in Articles 419 to 460. These articles regulate the procedure for appointing a facilitator and the duties and responsibilities that must be fulfilled, including supervision carried out by institutions such as the Heritage Center. When the Medan Heritage Center supervises heritage, the trustees must follow additional procedures to ensure that management is carried out correctly and avoid misuse. As a facilitator, a person is responsible for maintaining and managing heritage assets with high integrity and honesty for the interests he represents. The custodian's heritage often consists of various assets, such as property, cash, stocks, vehicles, and others. The facilitator ensures that the property is managed wisely and used for the best interests of those who can do so. One of the essential aspects of the custodian's responsibility is to ensure that the property is not misused or spent carelessly. If the Medan Heritage Center acts as a supervisor to monitor the actions of the custodians, especially if there is a suspicion of misappropriation or misuse of assets. In addition to managing heritage assets, the organizers must periodically report the progress of the management to the Medan Heritage Center. This report is essential as a form of accountability and transparency so that the management of heritage assets can be appropriately supervised. The report submitted must include details related to income, expenses, and decisions taken by the facilitator in managing the property. The Medan Heritage Center has the authority to examine this report and, if necessary, make recommendations or take action if any discrepancies or problems are found in management. In addition, the custodian must comply with the legal aspect of every action related to heritage property. For example, if the custodian wants to sell a particular asset, he must obtain approval from the Medan Heritage Center and, in some cases, from the court. This step aims to ensure that the sale is carried out for the owner's benefit, not for the sponsor's or other parties' personal interests. This process involves careful evaluation by the Heritage Center to ensure that the asset's selling price is fair and does not harm the party who can do so.

The responsibilities of the custodians also include the obligation to ensure that all taxes and other financial obligations related to the heritage have been paid on time. This is important to avoid future legal

problems that can burden the table. In this case, the facilitator must cooperate with the authorities to ensure that all tax and financial obligations have been adequately resolved. Suppose negligence is found in the payment of taxes or other obligations. In that case, the Medan Heritage Center can take action, including replacing the custodian or temporarily taking over the management of the heritage property. In addition to financial responsibility, the facilitator is also obliged to protect the personal interests and welfare of the employed person. In the case of minors, the caregiver must ensure that the child's basic needs, such as life, education, and health, are adequately met. Heritage property must be used wisely to finance these needs until the child reaches adulthood and is considered capable of managing his inheritance. In this context, the Medan Heritage Center remains a supervisor who ensures that the trustee does not abuse the property and always prioritizes the trustee's interests. However, the facilitators' responsibilities are not limited to administrative and financial aspects. The guardian is also morally obligated to maintain good relations with the family and other heirs to avoid conflicts that can hurt the helper. In a conflict between the trustee and other heirs, the Medan Heritage Center can mediate to resolve the dispute fairly and by the law. Conflicts related to inheritance often lead to protracted legal disputes. They are detrimental to all parties, especially those employed, so the facilitator must be careful in every action and always consider the impact.

The Medan Heritage Center also has an essential responsibility to supervise the process of rehabilitation. This institution is not only a passive supervisor but also has the authority to intervene if the management of heritage assets does not run as it should. Suppose it is found that there is abuse or the inability of the guardian to carry out his duties. In that case, the Heritage Center can apply to the court to replace the guardian or temporarily take over the management of the property until the situation is stable. This shows that the supervision carried out by the Medan Heritage Center is a serious effort to protect the interests of the people, not just a formality. Thus, the facilitator has a massive responsibility to manage heritage assets under the supervision of the Medan Heritage Center. This responsibility covers various aspects, from financial asset management and transparent reporting to safeguarding the interests and welfare of the people. The Medan Heritage Center, as a supervisory institution, plays a role in ensuring that the facilitators carry out their duties well and always prioritize the interests of the incumbent. This custody process is strictly regulated by law to prevent the misuse of inheritance and ensure that the rights of the beneficiaries are protected as well as possible.

IV. Conclusion

The Heritage Center (BHP) protects the rights of those declared unable to care for their interests based on court decisions. Structurally, the Heritage Center is under the Directorate General of General Legal Administration of the Ministry of Law and Human Rights of the Republic of Indonesia. The Dutch colonial government established this institution, which is still recognized today as part of the Indonesian civil law system. The Guardian acts as the legal representative of the heirs who are immature or considered incapable and manages the heritage by applicable rules. The guardian must also protect the rights of heirs and prevent the misuse of property. With the supervision of the Heritage Center, the authorities cannot act carelessly, and the institution must approve every action related to assets. The role of the facilitator includes the management of physical assets (land, buildings) to financial assets (bank accounts, stocks). Every action of the facilitator must be done in good faith for the benefit of the heirs. The facilitator is also obliged to report the progress of management to the Heritage Center to ensure transparency and accountability. The facilitator's responsibility in managing the heritage assets supervised by the Heritage Center is very complex, involving various legal and ethical aspects. The custodian manages the heritage belonging to those who are legally considered incapable, such as minors or people with mental disorders. In this task, the supervisor must maintain heritage with high integrity. In addition to financial obligations, the facilitator is also responsible for protecting the recipient's welfare, including educational and health needs. The inheritance must be wise until the heirs reach adulthood and can manage their property. The custodian must also report the property management to the Heritage Property Center periodically to ensure transparency. Every critical step taken, such as the sale of

assets, must be approved by the Heritage Hall and, in some cases, by the courts. This is done to ensure that the action is carried out for the benefit of the heirs, not the sponsor's benefit.

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