

Revocation of Land Gifts for Breach of Filial Responsibility: A Comparative Study of Indonesia and India

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ABSTRACT: The transfer of land rights through gifts within familial relationships often entails obligations of filial responsibility, particularly the duty of children to care for their elderly parents. As the increasing disputes over property transfers within familial relationships, this study addresses the legal grounds and consequences of revoking land gift agreements in Indonesia and India when recipients fail to fulfil their filial obligations. So the urgency of the results of this research can help to renew civil law in Indonesia, in particular, and add to the literature as a more general research concept. This article is a normative legal research methodology with statutory, conceptual, and comparative approaches. The findings reveal a doctrinal divergence: Indonesian law mandates explicit conditions within the gift deed to allow revocation based on filial neglect, emphasising a textual interpretation under Article 1688 of the Indonesian Civil Code. Conversely, Indian law, notably through Article 23 of the Welfare of Parents and Senior Citizens Act, recognises both explicit and implicit filial duties as valid grounds for annulment, facilitating broader judicial protection for elderly donors. The study highlights the restrictive scope of Indonesian legal enforcement compared to the more flexible, purposive judicial approach in India, which prioritises substantive justice and familial welfare. These insights suggest that Indonesian legal reforms could benefit from adopting similar flexibility to strengthen safeguards for elderly parents, mitigate intra-family conflicts, and ensure equitable intergenerational property transfers, because the similarity between Indonesia and India is the application of a legal system influenced by customary law.

KEYWORDS: Comparative Legal Analysis; Filial Responsibility; Land Gift Revocation.

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HOW TO CITE:

Sharon, Grace, et.al., "Revocation of Land Gifts for Breach of Filial Responsibility: A Comparative Study of Indonesia and India" (2025) 5:1 Jurnal Kajian Pembaruan Hukum 123-162. DOI: <<https://doi.org/10.19184/jkph.v5i1.53694>>.

Submitted: 02/06/2025 Reviewed: 03/06/2025 Revised: 21/06/2025 Accepted: 21/06/2025

I. INTRODUCTION

Indonesia and India have similarities and differences in their respective legal systems.¹ The implementation of civil law (continental Europe) and common law (Anglo-Saxon) systems in both countries always has a strong influence from customary law and religious law, as is characteristic of Eastern or Asian countries.² In writing this article, the scope of the research does not discuss the differences in general, but specifically takes the legal highlights that intersect with family law, in this case, about gifts.

Gifts (*hibah* or *scheking*) are a common mechanism for the transfer of rights. The legal concept of a gift refers to the voluntary (*om niet*) and gratuitous transfer of ownership or rights from one party to another absolutely (*onherroepelijk*). Unlike transactions involving compensation or exchange, such as sales or leases, a gift involves no consideration, and the transfer occurs simply out of the donor's intention to benefit the recipient. This transfer of rights can apply to both tangible assets, like real estate or personal property, as well as intangible rights, such as intellectual property or shares in a company.³

¹ Ni Ketut Sari Adnyani et al, "The Constitutional Law in Contemporary Times: Comparison of India and Indonesia" 6:2 (2024) Jurnal Suara Hukum 385–412.

² Ahmad Yani Nasution & Moh Jazuli, "Perbandingan Batasan Usia Perkawinan dalam Hukum Keluarga Islam (Studi Komparasi Negara Indonesia, Mesir dan India)" (2024) 7:2 Mutawasith Jurnal Hukum Islam 134–150.

³ Mohd Zamro Muda, Nur Nazirah Rosdi & Noor Lizza Mohamed Said, "A Literature Review For The Implementation Of Trust Hibah For Real Property In Malaysia: Sorotan Literatur Pelaksanaan Hibah Amanah Hartanah Di Malaysia" (2022) 27:1 al-Qanatir: International Journal of Islamic Studies 1–12.

In a broader context, gifting also plays a significant role in strengthening social bonds and fostering a sense of reciprocity and community.⁴ Beyond the formalities of legal frameworks, gifts often embody a deeper cultural meaning, symbolising trust, affection, or solidarity between individuals or groups. In some cases, gifts are used to convey symbolic rights or privileges.⁵

One of the most common objects given as gifts is land rights.⁶ This is largely due to the economic and symbolic significance attached to land.⁷ Land, as an asset, holds value not only because of its tangible use for cultivation, development, or investment but also due to its broader role in economic stability.⁸ It is often seen as a long-term financial resource that can appreciate in value over time.⁹ Additionally, land ownership provides a sense of security and independence, as it offers the potential for generating income or serving as collateral for loans.

The transfer of land rights through gifts often takes place within family relationships.¹⁰ One of the primary reasons why land rights are frequently given as gifts, particularly within familial relationships, is due to the economic and symbolic significance of land.¹¹ Land represents not only a

⁴ Zhengzhi Guan et al, “What influences the purchase of virtual gifts in live streaming in China? A cultural context-sensitive model” (2022) 32:3 *Information Systems Journal* 653–689.

⁵ Hanafi Adekunle, “Legal Protection on Women’s Property Rights as Panacea to Poverty Reduction and Environmental Sustainability in Uganda” (2022) 4:1 *GLS Law Journal* 5–21.

⁶ Renée Hirschon, *Introduction: Property, Power and Gender Relations* (Routledge, 1984).

⁷ Amalia Sari Handayani, Sanusi & Erwin Aditya Pratama, *Implementasi Praktik Hibah Tanah dan Bangunan di Pemerintah Daerah* (Bojong: Penerbit NEM, 2024).

⁸ Xiangxiang Xie et al, “Land value creation and benefit distribution in the process of rural-urban land conversion: A case study in Wuhan City, China” (2021) 109 *Journal Habitat International*.

⁹ Adewale Henry Adenuga, Claire Jack & Ronan McCarry, “The Case for Long-Term Land Leasing: A Review of the Empirical Literature” (2021) 10:3 *Land* 238.

¹⁰ Chetan Sachdeva, “Classification of Gifts” (2023) 5:1 *Indian Journal of Law and Legal Research* 1–14.

¹¹ Md Farid Miah, “Transnational land and property disputes: the British-Bangladeshi experience” (2021) 29:3 *Contemp South Asia* 330–342.

valuable economic asset but also a marker of family legacy, social status, and long-term security.¹²

The act of gifting land can also signify a transfer of social power, a way to cement or reinforce one's position within a family. For example, in rural communities, owning land is often associated with wealth, stability, and influence. By gifting land to family members, a donor may be strengthening the recipient's economic standing, helping them secure their own future, or solidifying their role within a larger social framework. This practice not only ensures that the recipient has a stable economic foundation, but it also enables them to maintain or improve their social status, which can be critical in societies where land is seen as a key determinant of one's rank or respect within the community.¹³

Based on the description above, the transfer of land rights from one family to another, particularly from parents to children, is indeed a prevalent practice in many societies, particularly in countries where kinship and family traditions hold significant cultural and social weight. This practice is particularly evident in countries such as Indonesia¹⁴ and India, as both countries have strong kinship ties within their family traditions.¹⁵ The intergenerational transfer of land through gifting is perceived as a means to ensure the welfare of children and maintain family continuity.¹⁶ In many cases, such transfers are not solely economic transactions but are embedded within deep cultural, emotional, and moral frameworks. In both

¹² Nicholas Burton, Mai Chi Vu & Allan Discua Cruz, "Our social legacy will go on: Understanding outcomes of family SME succession through engaged Buddhism" (2022) 143 *Journal of Business Research* 105–118.

¹³ Anne Mook & Puneet Dwivedi, "Shifting forest landownership interests over the life-course of female forest landowners in rural Georgia, United States" (2023) 100 *Journal of Rural Studies* 1–9.

¹⁴ I Wayan Suardana, "Kajian Yuridis Peralihan Hak Atas Tanah Melalui Hibah Berdasarkan Peraturan Perundang-Undangan Yang Berlaku Di Indonesia" (2023) 17:9 *Media Bina Ilmiah* 2281–2290.

¹⁵ Jasmer Singh & Tabish Hashmi, "A Study of The Paradigm Shift in The Land Ownership and The Provision of Land Grants in Ancient India" (2022) 43:1 *Journal of Advanced Zoology* 183–190.

¹⁶ Arvita Hastarini, Gusti Fadhil & Fithrian Luthfan, "Kedudukan Hukum Masyarakat Adat Dalam Memperoleh Hak Atas Tanah di Indonesia" (2022) 8:2 *Jurnal Hukum Sasana* 243–264.

nations, customs have an important role in maintaining social bonds and reaffirming family unity, and land is seen not only as a source of livelihood but also as a symbol of familial responsibility and cultural heritage. Although both countries face the practical challenge of protecting the elderly parents from such a situation, comparing Indonesia's restrictive framework with India's more dynamic one will offer normative guidance in enhancing the mechanisms.

For parents, transferring land to their children is seen as both a gift and a responsibility, ensuring that their children have the resources needed to secure their future. This transfer is often viewed as a means of providing long-term economic stability, while children see it as an opportunity to honour their parents' sacrifices and preserve the family legacy. As a result, parents often make efforts to manage and maximise the land's value throughout their lives, ensuring it is passed down effectively when they are no longer able to care for it. When parents reach a point where they can no longer meet their own economic needs, the transfer of land rights to children becomes a natural step. In such cases, this gift is typically accompanied by social and ethical obligations, particularly the recipient's duty to care for the parents, a responsibility commonly referred to as filial piety.¹⁷

Essentially, filial responsibility is a moral and legal obligation for children to care for their elderly or incapacitated parents.¹⁸ This obligation is regulated in Indonesia in several regulations, for example, Article 46 paragraph (2) of the Law of the Republic of Indonesia No. 1 of 1974 on Marriage, as amended by Law of the Republic of Indonesia No. 16 of 2019 (hereinafter referred to as the "Indonesian Marriage Law"), Jo. Law of the Republic of Indonesia No. 13 of 1998 on Elderly Welfare (hereinafter

¹⁷ Hanna Vangen & Katharina Herlofson, "Why care? How filial responsibility norms and relationship quality matter for subsequent provision of care to ageing parents" (2024) 44:12 *Ageing & Society* 2703–2727.

¹⁸ Danielle Erickson, "Filial Responsibility Laws—Codifying a Qualified Quid Pro Quo of Care" (2023) 22:2 *Connecticut Public Interest Law Journal* 163–172.

referred to as the “Indonesian Elderly Welfare Law”).¹⁹ This obligation is regulated in India under several provisions, for example, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 (hereinafter referred to as the “Indian Welfare of Parents and Senior Citizens Act”), which mandates the responsibility of children to provide maintenance and care for their elderly parents.²⁰

In some cases, the land gift agreement between parents and children explicitly includes a filial responsibility clause. In such agreements, there is often a provision stipulating that the recipient must care for their parents. For instance, the deed of gift may contain the following clause: “The Donor hereby grants the land rights to the Recipient, on the condition that the Recipient is obliged to care for and provide maintenance to the Donor for as long as the Donor is alive. Should the Recipient fail to fulfil this obligation, the Donor reserves the right to revoke this gift and reclaim the land rights”. The purpose of that clause is to ensure that the children as recipients of the land gift fulfil their filial responsibility to care for their parents, with the right to revoke the gift if this obligation is not met.²¹

In Indonesia and India, the regulation of conditional land gifts from parents to children, which requires the fulfilment of filial responsibility, is possible. In Indonesia, this is regulated under Article 1670 in conjunction with Article 1688 of the Indonesian Civil Code.²² In India, this is governed by Section 23 of the Indian Welfare of Parents and Senior Citizens Act.²³

A legal issue arises when the children as recipients of a land gift fail, either intentionally or negligently, to fulfil their filial duties towards their parents

¹⁹ Aria Sandra, “Kewajiban Alimentasi Anak Kepada Orang Tua Menurut Kajian Kitab Turast Dan Undang-Undang No. 1 Tahun 1974 tentang Perkawinan” (2023) 5:2 *Journal of Islamic Law* 139–157.

²⁰ Shaikh Aiyshanaz, “The Maintenance and Welfare of Parents and Senior Citizens Act of 2007” (2024) 7:4 *International Journal of Law Management & Humanities* 2276–2290.

²¹ Rania Areta Nur Annisa & Aad Rusyad Nurdin, “Pembatalan Hibah Orang Tua Kepada Anak di Pengadilan” (2024) 5:6 *Jurnal Hukum Lex Generalis* 1–15.

²² Nuri Hidayati, Krisno Jatmiko & Cahya Andika, “Hibah Sebagai Pelunasan Hutang” (2022) 1:1 *Jurnal Lawnesia* 1–4.

²³ Vijaykumar Harbishettar et al, “Regulation of Long-Term Care Homes for Older Adults in India” (2021) 43:5 *Indian Journal of Psychological Medicine* 88–96.

as the donor, while the gift agreement does not explicitly specify the filial responsibility condition. In such cases, there are two primary interpretive approaches. The first, based on a textual (grammatical) interpretation, asserts that the absence of an explicit condition concerning filial responsibility in the land gift agreement means that the recipient's failure to fulfil this duty does not invalidate the gift. Conversely, the second view, grounded in a contextual interpretation, posits that, notwithstanding the lack of explicit stipulation, there exists an ethical and moral expectation for children to care for their parents. Consequently, the failure to honour this duty could, in theory, justify the parents' right to revoke the land gift in order to secure their own livelihood. This dichotomy underscores a legal ambiguity, reflecting the complexities inherent in conditional land gifts that are not clearly articulated in the agreement.

In Indonesia, the approach is generally textual, as seen in Article 1688 of the Indonesian Civil Code, which states that "a gift cannot be revoked and therefore cannot be cancelled, unless the conditions of the gift are not fulfilled by the recipient". In contrast, India adopts a contextual approach,²⁴ as illustrated in the case of *Urmila Dixit vs. Sunil Sharan Dixit* (C.A. No. 10927/2024; 2025 INSC 20, Decided on 02-01-2025).²⁵

The case involved an elderly mother who had transferred her property to her son through a gift deed, which was both explicitly and implicitly conditioned upon the son's obligation to provide her with care and maintenance. When the son failed to fulfil this obligation—demonstrated by neglect and emotional mistreatment—the mother initiated proceedings under Section 23 of the Indian Welfare of Parents and Senior Citizens Act. The Supreme Court upheld her claim, declared the gift deed void, and ordered the restoration of possession of the property to her. Significantly, the Court affirmed that even implied conditions relating to maintenance

²⁴ Bailey James, "The Civil Law and the Common Law: Some of the Similarities and Differences between the Two Systems" (1978) 6:2 *International Journal of Law Libraries* 117-133.

²⁵ The Legal Shots, "Urmila Dixit vs Sunil Sharan Dixit: A Landmark Judgment Protecting Elderly Rights" (2025), online: <<https://thelegalshots.com/blog/urmila-dixit-vs-sunil-sharan-dixit-a-landmark-judgment-protecting-elderly-rights/>>.

are sufficient grounds for revocation of such a transfer. On this basis, the Court explicitly held that Article 23 of the Indian Welfare of Parents and Senior Citizens Act does not require the obligation of maintenance to be expressly stipulated in the gift deed in order to justify its annulment.

While numerous studies have explored the interrelationship of land gifting and filial maintenance obligations, few have undertaken a detailed legal analysis of the grounds for revoking such gifts in Indonesia and India when these obligations are violated. This *lacuna* in the literature presents a compelling opportunity for comparative legal inquiry, particularly in light of increasing disputes over property transfers within familial relationships. A nuanced understanding of the legal mechanisms governing the revocation of land gifts due to unmet filial duties is essential to bridge doctrinal ambiguities and ensure more consistent legal application in both jurisdictions.

In this context, the present study seeks to address the urgent need for a clearer framework regarding gift revocation and its implications. By doing so, it aims to inform judicial interpretation and law enforcement practices, especially in cases involving elderly parents who are vulnerable to neglect after transferring property to their children. With a practical goal in mind, this study not only offers normative guidance for judges and legal practitioners but also proposes potential policy implications and legal reforms, such as legislative amendments and judicial guidelines to mitigate intra-family conflicts and safeguard the welfare of both parents and children.

Based on the description above, the formulation of the problem in this article can be formulated as follows: What are the legal grounds for revoking land gift agreements in the legal systems of Indonesia and India? And what are the legal consequences when a child, as the recipient of a land gift, fails to fulfil their filial obligations towards the donor parent under Indonesian and Indian law?

The objectives of this research are to analyse the legal grounds for revoking land gift agreements in the legal systems of Indonesia and India, and to analyse the legal consequences when a child, as the recipient of a land gift,

fails to fulfil their filial obligations towards the donor parent under Indonesian and Indian law.

In order to highlight the novelty of this article, a number of related studies will be examined, followed by an explanation of how this study differs from them. Article from Zumiyati Sanu Ibrahim entitled: “Implikasi Pembatalan Hibah (Suatu Tinjauan Hukum Islam)” from *Jurnal Al Hilmayah* Vol. 5, No. 2, 2021. The article aims to describe the regulation of gift revocation under statutory law and Islamic law, and further analyses judicial considerations and the legal consequences arising from the revocation of a gift. The key distinction between that article and the present study lies in the underlying cause of the revocation. While Zumiyati's work examines general legal and religious grounds for revoking a gift, this article specifically addresses revocation based on the failure of a child to fulfil filial obligations toward their parents. Moreover, this study adopts a comparative legal approach, analysing both Indonesian and Indian legal frameworks in the context of gift revocation due to breaches of filial duty, which has not been sufficiently explored in the existing literature.²⁶ Article from Zulkarnain, Deni Rusli, and Zakaria Syafe'i, entitled “Pembatalan Hibah dalam Hukum Islam dan Perdata Indonesia dalam Teori Perikatan”, published in the *Indonesian Journal of Humanities and Social Sciences*, Vol. 4, No. 2, July 2023. This article analyses the revocation of gifts from the perspective of Islamic law and Indonesian civil law, using engagement theory as a conceptual framework. It provides a comparative legal analysis of the basis, procedures, and consequences of gift revocation under both legal systems, with particular attention to the conditions under which a grantor or grantee may annul a gift. The focus is largely doctrinal, examining legal provisions from the Indonesian Civil Code (KUHPerdata), the Compilation of Islamic Law (KHI), and classical Islamic jurisprudence. However, the present study differs in two significant respects. First, while Zulkarnain et al. provide a general legal-theoretical exploration of gift revocation, this article concentrates on a specific ground for revocation: the failure of children to

²⁶ Zumiyati Sanu Ibrahim, “Implikasi Pembatalan Hibah (Suatu Tinjauan Hukum Islam)” (2021) 5:2 *Jurnal Al Himayah* 132–146.

fulfil filial obligations toward their parents, particularly in the context of land gifts. Second, this study adopts a comparative jurisdictional approach, contrasting how Indonesia and India legally address gift revocation due to unmet filial duties.²⁷

II. METHODS

To support this research, the method employed is normative legal research utilising a statutory approach, a conceptual approach, and a comparative approach.²⁸ The aim of this normative legal research is to identify and analyse relevant legal rules, principles, and doctrines to address the legal issues at hand.²⁹ The statutory approach is used to examine the applicable legal provisions regarding conditional land gifts and filial responsibility in both Indonesian and Indian legal frameworks. The conceptual approach is employed to explore the legal principles and ethical considerations surrounding filial responsibility, focusing on the interplay of law and morality in intergenerational obligations. Furthermore, the comparative approach will be applied to examine the similarities and differences in the regulation of filial responsibility in land gift agreements between Indonesia and India, facilitating a deeper understanding of the cultural and legal divergences in how such duties are treated. In terms of comparative legal traditions, the analysis is built by comparing the differences between Indonesia's textual interpretation and India's flexible judicial approach. Furthermore, because both countries share strong kinship ties in socio-cultural terms, a conceptual approach that views land as a symbol of familial responsibility and cultural heritage is used to analyse community values in each country's legal framework.

²⁷ Zulkarnain, Deni Rusli & Zakaria Syafe'i, "Pembatalan Hibah dalam Hukum Islam dan Perdata Indonesia dalam Teori Perikatan" (2023) 4:2 Indonesian Journal of Humanities and Social Sciences 269–288.

²⁸ Terry Hutchinson, "The Doctrinal Method: Incorporating Interdisciplinary Methods in Reforming the Law" (2015) 8:3 Erasmus Law Review 130–138.

²⁹ Xavier Nugraha, Risdiana Izzaty & Annida Aqila Putri, "Rekonstruksi Batas Usia Minimal Perkawinan Sebagai Bentuk Perlindungan Hukum Terhadap Perempuan (Analisa Putusan MK No. 22/PUU-XV/2017)" (2019) 3:1 Lex Scientia Law Review 43–58.

The sources of legal materials for this research consist of both primary and secondary sources. Primary sources include statutes, regulations, and relevant case law. In Indonesia, key primary sources include the Indonesian Civil Code, Indonesian Marriage Law (Law No. 1 of 1974, as amended by Law No. 16 of 2019), etc. In India, primary legal materials include the Indian Welfare of Parents and Senior Citizens Act, along with relevant judicial decisions. Secondary sources include legal textbooks, journal articles, and academic papers, which will be used to provide a theoretical context for understanding the legal principles, doctrines, and ethical dimensions of filial responsibility in land gift agreements.³⁰

In terms of legal analysis, this research will critically review existing literature, statutes, and judicial decisions to assess how filial responsibility is applied in practice. It will specifically examine how filial duties are addressed in conditional land gift agreements, identifying potential gaps or ambiguities in the law, particularly in relation to the absence of explicit filial responsibility clauses. By comparing the legal frameworks of Indonesia and India, this research aims to highlight the ethical implications and challenges of enforcing filial duties in land gifting practices.

III. THE LEGAL GROUNDS FOR REVOKING LAND GIFT AGREEMENTS IN THE LEGAL SYSTEMS OF INDONESIA AND INDIA

A. Legal Framework in Indonesia (Regulations on the Revocation of Land Gifts in Indonesia)

As the classical legal maxim asserts: "*ad recte docendum oportet primum inquirere nomina, quia rerum cognitio a nominibus rerum dependet*" (freely translated: "to properly understand something, one must first inquire about its name, for true understanding of things depends on proper

³⁰ Ousu Mendy & Ebrima Sarr, "The Judiciary in Governance: Understanding the Juridical Nature and Function of the Constitutional Court of Indonesia" (2025) 2:1 Journal of Indonesian Constitutional Law 1–22.

identification").³¹ This principle underscores the necessity of first comprehending the definition of a legal concept before engaging in a deeper analysis of its implications.³² Before addressing the concept of gift within the legal framework, it is imperative to begin with an exploration of its definition as provided by legal scholars. Establishing this foundational understanding will enable a more precise examination of the legal conditions, consequences, and applications associated with gifts in the context of the relevant legal systems.

According to Abdul Ghofur Anshori, a gift is defined as the voluntary and gratuitous transfer of an object from one person to another who is still alive, with the intention that the recipient will acquire ownership of the object without any form of compensation.³³ Nor Mohammad Abdoeh, a gift is a gratuitous agreement, where the performance is solely undertaken by one party, while the other party is not required to provide any counter-performance or consideration in return.³⁴ Similarly, Joni Emirzon and Muhammad Sadi describe a gift agreement is a "unilateral agreement" made by the donor, where the recipient is not required to provide any counter-performance or consideration in return.³⁵ From these scholarly definitions, a gift can be understood as a voluntary, unilateral, and gratuitous transfer of an object from one party (the donor) to another (the donee), where the donee acquires ownership without any form of compensation or counter-performance, and the agreement is considered unilateral, with only the donor undertaking the performance.

³¹ Faizal Kurniawan et al, "The Principle of Balance Formulation as the Basis for Cancellation of Agreement in Indonesia" (2022) 6:1 *Lex Scientia Law Review* 121–156.

³² Admiral Admiral & Mega Ardina Pauck, "Unveiling the Dark Side of Fintech: Challenges and Breaches in Protecting User Data in Indonesia's Online Loan Services" (2023) 7:2 *Lex Scientia Law Review* 995–1048.

³³ Abdul Ghofur Anshori, *Filsafat Hukum Hibah dan Wasiat di Indonesia* (Yogyakarta: Gadjah Mada University Press, 2018).

³⁴ Nor Mohammad Abdoeh, *Hibah Dalam Tinjauan KHI, KUH PERDATA, Sosiologis Dan Filosofis* (Salatiga: Lembaga Penelitian dan Pengabdian Kepada Masyarakat IAIN Salatiga, 2020).

³⁵ Joni Emirzon & Muhamad Sadi Is, *Hukum Kontrak Teori dan Praktik* (Jakarta: Prenada Media, 2021).

A gift is a form of gratuitous agreement subject to the terms and conditions of agreements generally stipulated in the Indonesian Civil Code.³⁶ In the Indonesian Civil Code, gifts are included under the subject of obligations regulated in Book III, Chapter Ten, from Article 1666 to Article 1693. Article 1666 of the Indonesian Civil Code states that a gift is an agreement whereby the donor, during his/her lifetime, gratuitously and irrevocably, delivers a property for the benefit of the donee who accepts said delivery.

Article 1686, further regulates requirements concerning gifts which are, in principle, irrevocable.³⁷ It is stated that “ownership rights to the objects included in the gift, even if the gift has been lawfully accepted, do not transfer to the donee, except by way of delivery.” This provision is explained to mean that once a gift has been lawfully accepted by the donee, the donor cannot reclaim the property. This rule is designed to provide legal certainty regarding the ownership rights already possessed by the donee.³⁸

In the context of property rights, a gift is defined as a legal act intended to voluntarily transfer ownership rights of property from one party to another while the donor is still alive. Beyond the provisions of the Indonesian Civil Code, there are also specific regulations (*lex specialis*) that govern the transfer of land rights through a gift. These regulations outline the procedural requirements for the transfer of land titles, including formal procedures for registering the transfer of ownership from the donor to the recipient. For instance, Article 37, paragraph (1) of Government Regulation No. 24 of 1997 on Land Registration stipulates that the transfer of land rights through a gift can only be registered if it is evidenced

³⁶ Komang Ayuk Septianingsih, I Nyoman Putu Budiarta & Anak Agung Sagung Laksmi Dewi, “Kekuatan Alat Bukti Akta Otentik Dalam Pembuktian Perkara Perdata” (2020) 2:3 Jurnal Analogi Hukum 336–340.

³⁷ Farah Aisyah, Putri Haris & Adlin Budhiawan, “Analisis Yuridis terhadap Tanah Hibah yang Ditarik Kembali Menurut Perspektif Kuhper: Studi Putusan Nomor 33/Pdt.G/2019/Pn Pms)” (2024) 4:1 Journal of Basic Educational Studies 816–823.

³⁸ Leoni Cah Intan Sesar & Adam Sani, “Tanggung Jawab PPAT atas Pembuatan Akta Hibah yang Melanggar Ketentuan Pasal 210 KHI” (2023) 23:01 Jurnal Hukum Republica 87–99.

by a deed executed by a Land Deed Official (PPAT).³⁹ Further, according to Article 95, paragraph (1), letter c of the Minister of Agrarian Affairs/Head of National Land Agency Regulation No. 3 of 1997 on the Implementation Provisions of PP 24/1997, the gift deed executed by the PPAT serves as the basis for registering the change in land registration data.⁴⁰

However, despite the general irrevocability of land gifts, there are instances where land gifts are revoked.⁴¹ While the regulations governing land gifts do not specifically address revocation, the provisions of the Indonesian Civil Code apply in such cases. According to civil law in Indonesia, it is possible to revoke a gift based on some conditions regulated in Indonesian Civil Code. When a condition stipulated in Indonesian Civil Code breached by the donee, the donor is permitted to reclaim ownership rights to the gifted object.⁴²

The regulation is explicitly acknowledged in the Article 1688 Indonesian Civil Code, which states that:

“A gift cannot be revoked nor nullified on account thereof, except in the following cases:

1. *Due to non-fulfillment of the conditions under which the gift was made.*
2. *If the donee has been guilty of committing or assisting in a crime aimed at taking the life of the donor, or any other crime against the donor.*

³⁹ Christiana Sri Murni, “Peran Pejabat Pembuat Akta Tanah dalam Proses Peralihan Jual Beli Hak atas Tanah” (2021) 1:1 Jurnal Kajian Pembaruan Hukum 25–48.

⁴⁰ Ferica Indriani & Arsin Lukman, “Akta Hibah dari PPAT Sementara Camat yang Dibuat Tanpa Kehadiran Para Pihak (Studi Kasus Putusan Mahkamah Agung Republik Indonesia Nomor 1565 K/PDT/2023)” (2024) 6:4 UNES Law Review 12715–12721.

⁴¹ Joko Trio Suroso, “Pembatalan Pemberian Akta Hibah Yang Melanggar Legitieme Portie Ditinjau Dari Perspektif Hukum Perdata Indonesia” (2021) 20:2 Jurnal Ilmu Hukum 46–54.

⁴² Zahra Zara Mahasin, “The Cancellation of Grants in The Perspective of Civil Law and Islamic Law” (2022) 2:1 Semarang State University Undergraduate Law and Society Review 1–16.

3. *If he/she refuses to provide maintenance (support/alimony) to the donor after the latter has fallen into poverty.”*

The grounds for revocation of a gift, as described, are actually alternative, not cumulative.⁴³ This means that if one wishes to revoke a gift, not all the aforementioned conditions must be met; it can be based on just one of the conditions.

In the context of the (first) two grounds mentioned above, if a stipulated condition is not fulfilled by the donee, or if there is an act that endangers the donor's safety, or another act that violates the law and is subject to criminal penalties, such as theft or fraud, then the gift can be revoked.

Furthermore, under the third ground, revocation of the gift is also possible when there is a refusal from the donee to fulfill a moral obligation to assist the donor in times of hardship. In this context, 'fallen into poverty' as mentioned in this article is defined as a situation where a person – in this case, the donor – can no longer meet basic needs such as clothing, food, and shelter, or does not have sufficient income to support themselves. Although this act is not actually an obligation or a condition stipulated in the acceptance of the gift, it is a ground for revocation because it concerns a sense of humanity and a form of gratitude towards the donor, which usually involves a relationship between parents and children.⁴⁴

The Indonesian requirement for explicit conditions is rooted in its civil law tradition, which prioritize legal certainty and a formalistic interpretation of contracts. This revocation of a gift can only be requested by the donor by filing a lawsuit with the district court, so that the gift that has been given is revoked and returned to him/her. This revocation is also regulated by certain limitations; in the withdrawal of a gift, it is limited by the expiration of the right after a certain period, and only limited parties can file for the revocation of this gifted object. This considers that there must be a legal interest in the claim for the right of revocation of said gift.

⁴³ Ibnu Rusydi, “Hibah dan Hubungannya Dengan Kewarisan Menurut Komplikasi Hukum Islam dan Hukum Perdata” (2017) 4:2 Jurnal Ilmiah Galuh Justisi 212–224.

⁴⁴ *Ibid* 37.

Furthermore, because the revocation of the donee's ownership rights to the gift is carried out by filing a lawsuit in Court, the time limit is one year, calculated from the day the event constituting the grounds for the lawsuit occurred and (the day) this event became known to the donor based on Article 1691 Indonesian Civil Code.⁴⁵

B. Case Law and Judicial Interpretations on the Revocation of Land Gifts in Indonesia

As the legal maxim asserts: "*judicia sunt tanquam juris dicta, et pro veritate accipiuntur*" (judicial decisions are as statements of the law and are accepted as truth), which fundamentally means that to understand the law, one should examine the judicial decisions that have been made.⁴⁶ Therefore, to gain a deeper understanding of the revocation of land gifts, several relevant court decisions in Indonesia will be discussed.

An interpretation regarding the revocation of land gifts in court can be seen, for example, in Supreme Court Decision Number 295 K/Pdt/2021. That case began from case number 167/Pdt.G/2019/PN.Cbi. This is a dispute regarding the revocation of a land gift executed shortly before the donor's death. The plaintiffs, who were the legal heirs of the deceased Oen Yoen San alias Oejan, filed a lawsuit to annul the gift deed dated 8 September 2017. This deed stated that the deceased had gifted 4,000 square meters of land to a person named Feriansyah, who was allegedly his son from an extramarital relationship with a woman named Uwar. The plaintiffs argued that they were not aware of the deed, did not consent to it, and that one of them had signed it under duress and inducement. The plaintiffs contended that the execution of the deed violated mandatory procedural requirements under Indonesian law, particularly Government Regulation No. 37 of 1998 concerning the Regulation of the Position of

⁴⁵ Safira Ayudiatrī & Akhmad Budi Cahyono, "The Legality of Grants by Foreign Citizens on Land Objects in Indonesia: Case Studies of Court Decisions" (2022) 4:1 SIGn Jurnal Hukum 30–45.

⁴⁶ Ghansham Anand & Xavier Nugraha, "Exit Plan Terhadap Clerical Error Pada Putusan Yang Berkekuatan Hukum Tetap: Sebuah Upaya Preventif Terwujudnya Putusan Non-Executable" (2022) 5:2 Media Iuris 207–230.

Land Deed Officials, and Article 1688 of the Indonesian Civil Code, which provides the conditions under which a gift may be revoked.

However, the panel of judges rejected this argument. Referring to Articles 1666 and 1688 of the Indonesian Civil Code (*Burgerlijk Wetboek*), the court underscored that a gift (*hibah*) constitutes an irrevocable and gratuitous transfer of property, which may only be annulled under narrowly defined statutory exceptions—namely: (1) when the donee fails to fulfill conditions stipulated by the donor; (2) when the donee commits or participates in a criminal act against the donor; or (3) when the donor becomes impoverished and the donee refuses to provide necessary support. In the present case, the court found that the plaintiffs failed to establish that the donee, Feriansyah, had engaged in any behavior falling within these categories. Although the plaintiffs alleged various procedural irregularities and invoked the doctrine of tort (*perbuatan melanggar hukum*), they did not substantiate claims that the donee himself had committed conduct that would satisfy the legal threshold for revocation as stipulated by Article 1688 Indonesian Civil Code. As a result, the court determined that the requirements for revoking the gift were not met and thus declared the plaintiffs' claim legally baseless. The request for annulment of the deed of gift was consequently denied. This decision affirms the doctrinal rigidity and formalistic approach adopted by Indonesian civil courts in applying Article 1688, wherein the legal validity of a gift is maintained unless the grounds for revocation are both explicitly invoked and persuasively proven. This legal consideration is reinforced by the Supreme Court Decision Number 295 K/Pdt/2021.

C. Legal Framework in India (Regulations on the Revocation of Land Gifts in India)

The regulation of land gifts in India is governed by The Transfer of Property Act 1882, provisions specifically concerning gifts are regulated in Articles 122 to 129 of Chapter VII. Article 122 of The Transfer of Property Act 1882 defines a gift as “The transfer of certain existing movable or immovable property made voluntarily and without

consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee". Under this provision, for a gift to be considered valid, several conditions must be met. First, there must be a voluntary transfer, meaning that the donor must act of their own volition without any coercion or undue influence whatsoever when making the gift. Second, acceptance is also essential and must be made during the lifetime of the donor and while they are still capable of giving. Furthermore, specifically for immovable property, legal documentation is required that complies with the provisions of the Registration Act 1908, so that the gift can be valid.

Essentially, gifts are not allowed to be revoked under Indian law, to prevent arbitrary actions in the giving and acceptance of gifts. It is stated that 'once given and accepted, a present usually cannot be taken back'. The Supreme Court addressed the issue of whether a registered gift deed could be revoked, stating that the main question was if the deed, once accepted and acted upon, remained valid despite any attempts at revocation, especially when the donor had not reserved any right to revoke it. The Court explained that while gift deeds made properly can be revoked or suspended under specific circumstances, generally, they cannot be revoked. More specifically, if the gift deed does not explicitly include a right to revoke or conditions allowing revocation, then such a deed cannot be revoked.

Furthermore, article 126 of The Transfer of Property Act (TPA) governs the conditions under which a gift may be lawfully suspended or revoked.⁴⁷ It provides that a donor and donee may mutually agree that the gift shall be suspended or revoked upon the occurrence of a specified event, provided that such an event is not contingent upon the donor's will. In contrast, any agreement permitting revocation of the gift solely at the discretion of the donor is deemed void, whether in whole or in part. This provision underscores the principle that the sanctity of a completed gift cannot be undermined by unilateral withdrawal, except under legally recognized

⁴⁷ Pragati Gyan, "A Study Of The Provisions Of Gift Under The Transfer Of Property Act, 1882" (2024) 16:2 White Black Legal Law Journal 6–16.

exceptions. Furthermore, a gift may also be revoked under circumstances analogous to those that justify the rescission of a contract, excluding cases based solely on the absence or failure of consideration. This legal construct balances the voluntary nature of gifting with the need for certainty and fairness in property transfers, thereby reinforcing the integrity of donative transactions within the framework of Indian property law.

Specific conditions under which a gift can be revoked are, first, the absence of free consent. This means that revocation is possible when, in the giving of the gift, the donor was evidently coerced, defrauded, or pressured to give the gift to the donee. Matters concerning fraud and other undue influences when the giving of a gift is improper are regulated in Article 17 of the Indian Contract Act, 1872.⁴⁸ If this occurs, revocation of the gift can be requested because the giving of a gift should not involve fraud, deception, or undue influence on the donor's consent, as stipulated in Article 122 of The Transfer of Property Act, 1882. Furthermore, a gift can also possibly be revoked by the donor if the donee subsequently fails to fulfill conditions that were stipulated and mutually agreed upon

This can then be illustrated by the example, (a) A gives a field to B, reserving to himself, with B's assent, the right to take back the field in case B and his descendants dies before A. After that, B dies without descendants in A's lifetime. A may take back the field. (b) A gives a lakh of rupees to B, reserving to himself, with B's assent, the right to take back at pleasure Rs. 10,000 out of the lakh. The gift holds good as to Rs. 90,000, but is void as to Rs.10,000, which continue to belong to A.

Requirements such as legal capacity are also grounds for the revocation of a grant deed, such as when either the donee or the donor lacks legal capacity. The donor, for example, must be at least eighteen years old and of sound mind. Furthermore, for a gift to be valid, it is essential that it is accepted by the donee during the lifetime of the donor and while the donor is still capable of giving; otherwise, the gift may be considered void or incomplete. If the essential elements of a gift are not properly fulfilled,

⁴⁸ Aishwarya Agrawal, "Cancellation of a Gift Deed" (15 April 2024), online: *LawBhoomi* <<https://lawbhoomi.com/cancellation-of-a-gift-deed/>>.

then the gift, in this case, can be revoked. The party who can revoke such a gift is only the donor who files for revocation within a specific, regulated time period. This revocation will then ensure that the ownership rights to the gifted object subsequently revert to the donor.

Although it is indeed true that under certain conditions a gift can be revoked, there are also specific provisions for this revocation, especially when the revocation is done by submitting an application to the court. Once a certain time limit has passed, revocation of the gift can no longer be carried out. This is regulated in Article 59 of the Limitation Act 1963, which states that the time limit for carrying out a revocation is limited to only three years.

The right to request revocation of a land gift in the Indian legal system can be petitioned by the donor or the donee through mutual agreement, or by the donor who gives the gift alone if certain lawful conditions for revocation exist in the gift deed. Heirs of the donor may also be permitted to file a petition for revocation if they have indeed legally succeeded to the donor's rights and if the gift deed itself meets the criteria for revocation. For example, when conditions attached to the gift are breached or specific lawful contingencies arise. As for other parties wishing to request the revocation of a gift, they generally lack standing and do not have the right to request gift revocation, unless they indeed have a recognized legal interest and the court permits it.

C. Case Law and Judicial Interpretations on the Revocation of Land Gifts in India

A case illustrating the Indian judiciary stance on undue influence is *Kartari & Ors. v. Kewal Krishan & Ors.*, (1972) 2 SCC 860. The case involved a donor, an elderly, helpless, and illiterate woman named Shrimati Basanti, who was typically cared for by her daughter, the plaintiff. The defendants, Kewal Krishan and Mula Ram, took advantage of the daughter's

temporary absence to exert undue influence on the donor, including taking her away under the pretext of a medical appointment.⁴⁹

During this period, the defendants successfully procured a gift deed transferring ownership of the donor's land to themselves. Upon the plaintiff's return, her mother, could not recall the details but stated she had been forced to sign a gift deed. Acting on this, the donor, accompanied by her daughter, filed a formal complaint with the Superintendent of Police, Hosiarpur, alleging that the deed was obtained through undue influence and fraud and should not be considered binding. Three or four days thereafter, the donor died. The court then found sufficient evidence to prove that the gift deed was executed under undue influence, and therefore, the agreement did not represent the free and full consent of the donor. The court concluded that a valid contract within the gift deed never truly existed. As a result, the gift deed was set aside, and the plaintiff, as the natural heir, was entitled to obtain possession from the property from the defendants.

Indian jurisprudence has also evolved to address situations where a gift is made without explicit conditions but with an implicit expectation of care. A case in the Bombay High Court, examined the revocation of a gift that a mother (the donor) had given to her child (the donee) unconditionally out of parental love and affection.⁵⁰ The court then considered the principle that a child has a profound moral responsibility to care for their elderly parents. This has led to the legal interpretation that the irrevocability of a gift may be excepted if the implied moral condition of care is subsequently breached. The reasoning allows for the revocation of a gift when a donee fails to fulfill their duty of care towards an elderly parent, even if such a duty was not a formal condition of the gift.

⁴⁹ All India Reporter, *Smt. Kartari v. Kewal Krishan and Ors* (Himachal Pradesh, 1972).

⁵⁰ Admin, "Revocation of Gift Deeds: Right of Elders" (9 March 2025), online: *Jus Corpus* <<https://www.juscorpus.com/revocation-of-gift-deeds-rights-of-elders/>>.

The interpretation of implied duties is strongly supported by The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.⁵¹ This Act provides a specific legal mechanism for gift revocation related to neglect. The definition of “maintenance” under this statute is broad, encompassing not just financial support but also the provision of basic necessities like food, clothing, and shelter. The most critical provision is Section 23 (1), that the donee must provide their basic amenities and physical needs, and if the donee subsequently refuses or fails to do so, the transfer of property shall be deemed to have been made by fraud, coercion, or under undue influence. Consequently, the donor has the option to have the gift deed declared void by the Tribunal.

This legislative framework marks a progressive shift in legal interpretation. It provides a statutory basis for revoking a gift that would otherwise be irrevocable, codifying the principle that a failure to provide care and support to an elderly donor can invalidate the transfer.

A summary of the differences between the legal framework for land gift provisions in Indonesia and India is provided in the following table:

Table 1. Comparison of Legal Framework for Land Gift Provisions in Indonesia and India

Criteria	Indonesia	India
General Legal Basis	Indonesian Civil Code, Government Regulation No. 24 of 1997 on Land Registration, Minister of Agrarian Affairs/Head of National Land Agency Regulation No. 3 of 1997 on the Implementation	The Transfer of Property Act, 1882, Indian Contract Act, 1872, The Maintenance and Welfare of Parents and Senior Citizens Act, 2007.

⁵¹ Acts of Parliament, *The Maintenance and Welfare of Parents and Senior Citizens Act, 2007* (India, 2007).

Criteria	Indonesia	India
	Provisions of PP 24/1997	
Statutory Definition of a Gift	A gratuitous agreement, irrevocable, to deliver property during one's lifetime (Article 1666 of the Indonesian Civil Code).	The transfer of certain existing movable or immovable property made voluntarily and without consideration, by one person, called the donor, to another, called the donee, and accepted by or on behalf of the donee. (Article 122 of The Transfer of Property Act, 1882)
General Nature of Gift	Generally cannot be revoked unilaterally.	Generally cannot be revoked after it has been executed and accepted.
Time Limit for Annulment Application	One year, starting from the day the event that forms the basis of the lawsuit occurred and became known to the donor (Article 1691 Indonesian Civil Code)	Three years from the discovery of the facts causing the annulment (Article 59 Indian Limitation Act, 1963).
Grounds for Revocation of Gift	Article 1688 of the Indonesian Civil Code; 1. Due to non-fulfillment of the conditions under	1. The non-fulfillment of an agreed-upon condition/term (Article 126

Criteria	Indonesia	India
	which the donation was made.	Indian of The Transfer of Property Act, 1882).
	2. If the donee has been guilty of committing or assisting in a crime aimed at taking the life of the donor, or any other crime against the donor.	2. The existence of fraud or other acts vitiating consent. (Article 17 of the Indian Contract Act, 1872).
	3. If he/she refuses to provide maintenance to the donor after the latter has fallen into poverty.	3. The existence of coercion or undue influence (Article 19 of the Indian Contract Act, 1872).
		4. Failure to provide maintenance/care facilities by a child to a parent (Article 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007).

Source: Author's Analysis.

IV. LEGAL CONSEQUENCES OF UNFULFILLED FILIAL OBLIGATIONS IN GIFT REVOCATION: INDONESIA VS. INDIA

A. Legal Consequences in Indonesia

The legal framework governing filial obligations in Indonesia is anchored in various statutory provisions. The Indonesian Civil Code provides a fundamental legal basis for filial obligations within the family law framework. Specifically, Article 298 of the Indonesian Civil Code states that every child, regardless of age, is obligated to respect and honor their parents.⁵² This provision underscores the principle of filial piety embedded in Indonesian civil law, establishing a normative basis for upholding the dignity of elderly parents.

Complementing this, Law No. 1 of 1974 on Marriage (as amended by Law No. 16 of 2019) (the “Indonesian Marriage Law”) explicitly outlines the duty of maintenance. Article 46, paragraph (2) states that adult children have a legal and moral obligation to maintain their parents and ascendants according to their ability, should they require assistance. While the law affirms this filial duty, it does not specify detailed forms of maintenance nor prescribe direct sanctions for neglect within this statute.⁵³

Further reinforcement is found in Law No. 13 of 1998 on Welfare of Elderly People (hereinafter referred to as “Indonesian Elderly Welfare Law”), which explicitly links familial responsibilities with the social protection. Article 1 clauses 2 and 6 Indian Welfare of Parents and Senior Citizens Act define elderly persons as individuals aged 60 years and above and identify the family as the smallest social unit comprising spouses and their children, or parents and their children, including grandparents. Crucially, Article 8 Indian Welfare of Parents and Senior Citizens Act designates the family as a fundamental unit responsible for providing social

⁵² Melia Putri Purnama Sari et al, “Tanggung Jawab Alimentasi Anak Yang Sudah Dewasa Terhadap Orang Tua Lansia” (2022) 7:2 Jurnal Ius Constituendum 293–306.

⁵³ Lusi Aryani Angkat, “Tinjaun Hukum Tentang Kewajiban Alimentasi Antara Anak Kandung Dengan Orang Tua Menurut Hukum Islam” (2022) 2:3 Jurnal Ilmiah Mahasiswa Hukum 1-10.

protection to its elderly members. This regulation solidifies the moral and legal responsibilities enshrined in both the Indonesian Civil Code and the Indonesian Marriage Law.

Moreover, Indonesian Law No. 23 of 2004 on the Elimination of Domestic Violence (hereinafter referred to as “Indonesian Law on the Elimination of Domestic Violence”) broadens the scope of protection by criminalizing neglect within the household. Article 9, paragraph (1) Indonesian Law on the Elimination of Domestic Violence prohibits any person from neglecting members of their household to whom they are legally obliged to provide care or maintenance.⁵⁴ The law defines the household inclusively to cover relatives residing together and provides for criminal sanctions, including imprisonment or fines, for such neglect under Article 49 letter (a).

While the foregoing statutes establish a clear duty of care, these general filial obligations are not automatically enforceable through the revocation of gifts under Indonesian Law. The legal framework governing gift agreements adheres to the principle of legal certainty and requires a high threshold for annulment. Doctrinally, Indonesian jurisprudence does not recognize implied obligations of care within a deed of gift; for filial duties to be legally binding in this context, they must be explicitly incorporated as a formal condition of the contract.

The revocation of gifts is strictly regulated by Article 1688 of the Indonesian Civil Code, which permits annulment only under limited circumstances. For cases involving a breach of filial responsibility, three specific ground are relevant:

1. Non-fulfilment of Explicitly Stated Conditions.

⁵⁴ Mochamad Agus, Rizal Dwi Santoso & Syabbul Bachri, “Tinjauan Hak Asasi Manusia Terhadap Pasal 9 Undang-Undang Nomor 23 Tahun 2004 Tentang Penghapusan Kekerasan Dalam Rumah Tangga” (2022) 6:4 *Journal of Family Studies* 1-17.

2. If the donee has been guilty of committing or assisting in a crime aimed at taking the life of the donor, or any other crime against the donor.
3. Refusal of Maintenance After Donor Falls into Poverty.

Article 1688 paragraph (1) of the Indonesian Civil Code requires that a donor may revoke gift if the donee fails to perform a condition that was explicitly stipulated in the deed of gift. Furthermore, Article 1688 paragraph (3) of the Indonesian Civil Code provides that a donor may revoke a gift if the donor have fallen into poverty and the donee refuses to provide maintenance. If the obligation of care or maintenance is not expressly documented in the formal agreement, its subsequent breach cannot serve as a basis for revocation. The enforceability of this remedy is, therefore, entirely dependent on the formal inclusion of a care clause at the time of the gift. This provision is narrowly triggered only when the donor's state of impoverishment. Consequently, a neglect a parent who has not become financially destitute, cannot pursue this remedy.

This restrictive framework means that parents cannot initiate a lawsuit to revoke a land gift based solely on a general claim of unfulfilled filial duties. Unless one of the three specific conditions above is met, there is no legal ground for revocation under current Indonesian law.

Indonesian judicial practice affirms this formalistic approach. The necessity for explicit, written conditions to enforce obligation in a gift agreement is underscored by cases such as the Jakarta High Court Decision Number 223/PDT/2017/PT.DKI. In this case, the court annulled a gift deed precisely because the donee had breached a specific condition explicitly written into the agreement--namely, a prohibition on selling the gifted property before a certain time.

In this case, the donor, Mr. I, and one of the donees, Mrs. J, had formalized their arrangement in a Joint Agreement Deed No. 7 before a notary, with Mrs. J acting as guardian for her biological daughter, Miss S.

The dispute arose when Mrs. J sold a gifted residential flat unit, which was subject to a testamentary grant deed stipulating that the property could not be sold until Miss S reached 21 years of age. The plaintiff filed for revocation on the grounds that Mrs. J breached the explicit conditions agreed upon in the deed. While the District Court initially rejected the claim, the High Court ultimately granted the appeal, leading to the annulment of the gift.

This decision highlights the judiciary's reliance on the text of the deed. It confirms that in the absence of such explicit filial responsibility clauses, which are often missing in practice, legal recourse for donor-parents based on a child's neglect is severely limited.

B. Legal Consequences in India

In stark contrast to Indonesia's formalistic approach, India's legal framework provides robust mechanisms for enforcing filial duties, allowing for gift revocation based on both explicit and implicit conditions of care. The duties of children to support their parents are grounded in several key statutes.

The cornerstone of filial obligations in Indian law is Section 125 of the Indian Code of Criminal Procedure, 1973 (hereinafter referred to as "Indian Criminal Code"), which empowers courts to order maintenance for parents who are unable to support themselves. This provision legally binds financially capable children to provide their parents, with noncompliance leading to potential penal consequences.⁵⁵

This framework is significantly strengthened by The Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which specifically addresses the comprehensive welfare of elderly individuals. This Act obligates children and heirs to provide adequate maintenance and protection, ensuring their right to a dignified life. Section 4 of the Act

⁵⁵ Hmingthanpuii Ralte & Jangkhongam Doungel, "Administration Of Gender Justice Through Section 125 Of The CRPC, 1973" (2022) 4:2 Indian Journal of Law and Legal Research 1-10.

entitles parents and grandparents to seek maintenance and clarifies that this obligation includes essentials like food, shelter, clothing, and healthcare. Procedurally, Section 5 allows senior citizens or their authorized representatives to file for maintenance, while Section 9 empowers specialized Tribunals to enforce these rights upon verifying neglect.

A breach of these filial obligations carries significant legal consequences, including the potential revocation of land gift deeds under Section 23 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007. Subsections (1) stipulates that failure or refusal by the transferee to fulfill these obligations may render the transfer voidable as a transaction induced by fraud, coercion, or undue influence, subject to the transferor's election and judicial declaration. Moreover, subarticles (2) and (3) outline enforcement mechanisms, empowering tribunals and authorized organizations to uphold maintenance rights and protect incapacitated senior citizens.⁵⁶

Based on the foregoing provisions, it is apparent that the legal framework in Indonesia closely aligns with Article 1688 of the Indonesian Civil Code, which permits the revocation of land gift deeds when explicit conditions, such as filial obligations, are incorporated within the deed. This interpretation is corroborated by the Jakarta High Court Decision Number 223/PDT/2017/PT.DKI, wherein the court annulled a gift deed due to the explicit violation of stipulated conditions.

Conversely, the legal approach in India exhibits greater flexibility, recognising not only explicit but also implicit conditions. This principle was notably affirmed in *Urmila Dixit vs. Sunil Sharan Dixit* (C.A. No. 10927/2024; 2025 INSC 20, decided on January 2, 2025), where the appellant, an elderly mother, transferred property to her son via a Gift Deed explicitly conditioned upon the son's maintenance obligations. Furthermore, the son executed a promissory note contemporaneous with

⁵⁶ Thomas Gregor Issac et al, "Maintenance and Welfare of Parents and Senior Citizens Act 2007: A Critical Appraisal" (2021) 43:5 *Indian Journal of Psychological Medicine* 107–112.

the deed's registration, committing to care for both parents throughout their lives, and acknowledging that failure to comply would entitle the mother to reclaim the property.

Subsequent disputes arose when the mother alleged neglect and harassment, leading her to seek annulment under Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007. The Supreme Court bench, comprising Justices Sanjay Karol and Chudalayil T. Ravikumar, upheld the mother's appeal, reversing the High Court's dismissal and affirming the annulment of the Gift Deed. The Court emphasised that non-compliance with the deed's conditions constitutes valid grounds for relief under Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 and that authorities vested with jurisdiction may not only invalidate the transfer but also order restoration of possession to the aggrieved senior citizen.

This landmark judgment underscores two critical interpretative principles. Firstly, it mandates a purposive construction of the Act to effectively safeguard senior citizens, cautioning against narrow readings that undermine legislative intent. The Court's acknowledgement of implicit maintenance obligations, even in the absence of fully articulated clauses, signals a progressive move toward substantive justice that prioritises relational realities over formalistic drafting. Secondly, the scope of Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act, 2007 extends to both express and implied conditions, thus broadening the protective ambit and ensuring that failure to fulfil filial duties, whether explicitly stated or understood, can substantiate annulment claims.

To elucidate the divergences in legal frameworks governing the revocation of gifts predicated upon filial obligations in Indonesia and India, here is a table that delineates a comparative analysis

Table 2. Comparative Analysis of Legal Approaches to Revocation of Land Gift Deeds Based on Filial Obligations: Case Studies from Indonesia and India

Aspect	Indonesia	India
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Aspect	Indonesia	India
Filial Obligation Condition	Must be explicitly stated in the deed of gift	Can be explicit or implicit
Grounds for Gift Revocation	Breach of explicitly written formal conditions	Breach of both explicit and implicit conditions recognized as valid grounds
Case Identity	Jakarta High Court Decision No. 223/PDT/2017/PT.DKI	Urmila Dixit vs. Sunil Sharan Dixit (2025 INSC 20)
Ease of Revocation	Difficulty revoking gifts without explicit clauses	Greater opportunity for elderly to assert rights even without explicit clauses

Source: Author's Analysis

Based on the explanation above, it can be understood that Indonesia needs to consider expanding the scope of legal protections for elderly parents by adopting a more flexible approach similar to that implemented in India. This includes recognising implicit conditions in gift agreements that reflect obligations of care and support, rather than limiting enforcement solely to explicit provisions within the deed of gift. Establishing more effective and accessible enforcement mechanisms is also necessary, including the creation of specialised institutions or tribunals to oversee and address violations of filial duties. Such reforms would enable the Indonesian legal system to provide more comprehensive and responsive protection for the needs and rights of elderly parents in cases involving the revocation of gifts due to neglect by children.

Concrete legal measures that Indonesia may undertake encompass both long-term and short-term strategies. In the long-term measures, a

legislative amendment is necessary. The Ministry of Law and Human Rights and the National Law Development Agency should be tasked with proposing revisions, such as the Contract Law Bill, to explicitly accommodate recognition of implicit conditions in gift agreements related to filial obligations. These revisions should institutionalise the legal principle that a material failure to fulfil filial duties of care towards an elderly donor can serve as a ground for the revocation of a gift, mirroring the protective mechanism of Section 23 of The Maintenance and Welfare of Parents and Senior Citizens Act.

As a more immediate measure, the Supreme Court of the Republic of Indonesia could issue a Supreme Court Circular (SEMA). This circular would provide legal guidance for judges that gifts may be revoked if explicit or implicit conditions regarding a child's maintenance obligations toward parents exist within the gift agreement. This approach would render legal norms more responsive and adaptive in handling cases of gift revocation based on a child's neglect. These initiatives are expected to strengthen legal protections for elderly parents while providing legal certainty for all parties involved.

VI. CONCLUSION

This comparative study reveals that the legal grounds for revoking land gift agreements on the basis of unfulfilled filial obligations diverge notably between the Indonesian and Indian legal systems. In Indonesia, revocation is strictly limited to cases where the condition of filial duty is expressly incorporated in the gift deed or where the donor falls into poverty and the donee refuses maintenance, as stipulated under Article 1688 of the Indonesian Civil Code. Conversely, the Indian legal framework, particularly through Article 23 of the Welfare of Parents and Senior Citizens Act, adopts a more expansive approach by recognising both explicit and implicit filial obligations as valid grounds for annulment of gift deeds, thereby offering stronger protections for elderly donors.

The legal consequences of failing to fulfil filial responsibilities in Indonesia primarily hinge upon formal contractual stipulations, which restrict the

scope of enforceability and limit recourse for donor-parents absent explicit conditions. In contrast, Indian law facilitates a more dynamic judicial intervention, enabling senior citizens to seek revocation even in the absence of express conditions, thus reflecting a purposive interpretation that prioritises substantive justice and familial welfare. This analysis suggests that Indonesian law could benefit from reform by embracing a broader recognition of implicit filial duties within gift agreements and enhancing enforcement mechanisms. Such developments would strengthen legal safeguards for elderly donors, mitigate familial disputes, and promote equitable intergenerational transfers of property.

ACKNOWLEDGMENTS

None.

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