

UNIVERSITI TEKNOLOGI MARA

**DESCRIPTIVE ANALYSIS ON
PERCEPTION HIBAH AS A
PROPERTY DISPUTE RESOLUTION
TOOL AMONG STAFF IN SK BALOK
BARU**

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Thesis submitted in fulfillment
of the requirements for the degree of
Bachelor of Muamalat (Hons)

Faculty of Academy Contemporary Islamic Studies

December 2024

ABSTRACT

The current study assesses the perception of SK Balok Baru staff on *hibah* as an instrument in settling property disputes. This study utilizes a quantitative approach through a questionnaire given to 44 respondents. The results of the study described that a large number of respondents understand the concept of *hibah*, but there are several factors that influence respondents not to choose *hibah* as an alternative in resolving property disputes, including lack of knowledge about *hibah*. The result of this study indicates that educational programs on *hibah* have to be enhanced to inspire its utilization as one of the tools for amicable and harmonious resolutions of property disputes. It also means that with better awareness, *hibah* is able to reduce property disputes among the community.

ACKNOWLEDGEMENT

All praise and gratitude is to Allah SWT because with His grace, I was able to complete this Final Year Project (FYP) entitled “Perception of *Hibah* as A Property Dispute Resolution Among Staff in SK Balok Baru”

Humbly, I would like to express my special thanks to all parties, directly or indirectly, which have helped me during this research process. First of all, I would like to express my deep gratitude to my project supervisor, Dr. Zanirah Binti Mustafa, for guiding me through the research process and giving advice as well as much support in every possible way. Her views and feedback mean a lot and are very valuable in ensuring the quality of this study.

Next, I would like to extend my gratitude to SK Balok Baru, especially to the staff who have taken the time to answer the questionnaire and provide valuable information needed in this study. I highly appreciate your cooperation and support.

Special gratitude is extended to my beloved family, particularly my parents, for prayers, encouragement, and moral support that have been priceless. My friends are no exception; they have been helpful and a source of encouragement along the way of completing this project.

Finally, this appreciation is also addressed to all other parties who have contributed in various ways to the success of this project. May all our efforts be blessed and benefit the community.

That's it, thank you.

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CHAPTER ONE

INTRODUCTION

1.1 Research Background

The word *hibah* is derived from the Arabic word '*wahaba*', which meaning '*tabarruq*,' or offering without compensation. (Muhammad, 2011) It means that a *hibah* is the voluntarily transfer of property rights from one person to another throughout one's lifetime without expecting anything in return, and is therefore regarded a gift. In Islam, the practice of giving presents is encouraged because it can help fulfill the goal of maqasid sharia, which is to conserve wealth. It has the ability to defend individuals' and the community's property and property rights from all forms of theft, fraud, and harm. This involves encouraging equitable property management. (Serji & Shapiee, 2018)

In Malaysia, in the context of Islamic law, *hibah* has garnered a lot of attention as a viable instrument for resolving property disputes when traditional techniques such as *faraid* can lead to heir conflicts. Examples of *hibah* cases in Malaysia include the Federal Territories Syariah High Court case, which established the validity of a gift of property to a specific successor made with clear intentions, adequately documented, and accepted by the receiver prior to the grantor's death. If there is evidence of fraud or coercion, the court may reject the *hibah*. (Saad, Daud , & Mat Hussin, 2023)

Hibah can be utilized to prevent family disputes after the heir's death since it permits the heir to distribute the property as he sees fit while still alive. (Rashid & Ahmad , 2013) This reduces the likelihood of property conflicts among heirs and allows for more equitable and timely resolution of property partition issues. Furthermore, *hibah* aids in reducing the lengthy and complex legal process that frequently arises when the division of property according to *faraid* does not match the wishes of all parties. A *hibah* allows heirs to precisely identify who will receive certain property, decreasing friction and dispute among family members.

One of the current concerns and challenges for the implementation of *hibah* is the withdrawal of *hibah* (Serji & Shapiee, 2018). The revocation of *hibah* is a complex topic in both Islamic and Malaysian law. Although it is generally accepted that a perfected *hibah* is irreversible, certain deviations are permitted in specified situations. Furthermore, one of the challenges that arises during the implementation of *hibah* is a