



اَوْنِيُوْرَسِيْتِي تِيْكْنُوْلُوْجِي مَآرَا
UNIVERSITI
TEKNOLOGI
MARA

FACULTY OF CONTEMPORARY ISLAMIC STUDIES ACADEMY

BACHELOR'S DEGREE MUAMALAT

CASE STUDY TITLE: GIVING CONDITIONAL HIBAH

CLASS: D1IC2104B (GROUP 5)

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IMU601 / FIQH MUQARAN

D1IC2104B

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1.0 INTRODUCTION

Hibah is one of the important instruments used in Islamic wealth management. Hibah occurs when an individual confers his valuable asset to another, during his lifetime unilaterally, without any due consideration. Hibah in its original form is considered a tabarru' contract, which is made without any reverse intention. In Islam, the practice of giving the hibah is encouraged among Muslims as it promotes the concept of maqasid of Shari'ah in terms of the protection of wealth as well as strengthening the relationship with one another. In Malaysia, the hibah instrument is usually used by Muslims in planning asset distribution to the intended beneficiaries about specific assets, whereby the ownership of the asset is transferred to the beneficiary during the donor's lifetime or in certain circumstances, allowed conditionally after the death of the donor.

The concept of conditional hibah has gained popularity in recent years as a means of structuring charitable donations or endowments in Islamic finance. By attaching conditions to the gift, donors can ensure that their donations are used for specific purposes or projects that align with their values and beliefs. For example, a donor might give a conditional hibah to a charitable organization with the stipulation that the funds be used to build a school or hospital in a particular community. In addition to charitable giving, conditional hibah is also used in other areas of Islamic finance, such as estate planning and asset protection. For example, a parent might give a conditional hibah to their child with the stipulation that the child use the funds to start a business or further their education. This can help to ensure that the wealth is used in a way that is consistent with the parent's values and goals.

Overall, the concept of conditional hibah is an important aspect of Islamic finance and has been widely used for centuries as a means of transferring wealth and property. By attaching conditions to the gift, donors can ensure that their donations are used in a way that is consistent with their values and beliefs, making it a powerful tool for charitable giving, estate planning, and asset protection.

2.0 DISCUSSION

2.1 Definition Of Hibah And The Juristic Opinion

According to Islamic law, hibah is an important tool in property planning. Hibah is a gift of property that happens throughout the grantor's lifetime. This instrument is recommended in Islam, where it can prevent the emergence of disagreements and disputes over property if used appropriately and in compliance with the criteria of the Syariah. Grants can assist relatives who are in need. There is a widespread belief that by performing hibah, he has broken the accuracy of faraid law. This view is incorrect because this instrument is given its own significance and position in Islam.

2.1.1 The Literal Meaning of Hibah

Hibah means to give, either in the form of external (*'ain*) or in another way which includes gifts and charity (JABATAN KEHAKIMAN SYARIAH NEGERI KELANTAN, 2020). These three words virtually have the same meaning. The distinction lies in the intent of the present, where charity is a gift intended to gain a reward in the hereafter and is typically given by the wealthy to the needy. While a gift is a present given to honour someone and typically has anything to do with something.

According to the Fourth Edition of the Dictionary of the Language Hall and Library, grant is the voluntarily granting of rights (property) to others for a worthy cause; gift giving (while the giver was still living).

الهبة أصلها من وهب له الشيء يهبه وهباً، ووهبه أعطاه إياه بلا عوض، فهو واهب ووهوب ووهَّاب.

From the Arabic phrase above, the origin of the hibah is that whatever is gift on him, he grants it, and he grants it without remuneration, then he is a giver, giver, giver (Al-Fadhli, 2019).

فالهبة هي تبرع وتفضل على الغير ولو بغير مال، أي بما ينتفع به مطلقاً، سواء كان مالا أو غير مال.

A gift is a donation made to another person, even if the donation is not from property; that is, what benefits the recipient regardless of whether the giving is property or not (Al-Fadhli, 2019). For example, a gift in the form of property, such as a horse, vehicle, or home from one person

to another. While in the form of non-property, for example, someone prays for another person in the hope that Allah SWT provides him a child. As Allah SWT stated in Surah ash-Shuraa verse 49.

يَهَبُ لِمَن يَشَاءُ إِنْتًا وَيَهَبُ لِمَن يَشَاءُ الذُّكُورَ

“He blesses whoever He wills with daughters, and blesses whoever He wills with sons,”

All literal definitions of hibah lead to the conclusion that every charity and gift is a gift, but not every gift is both a charity and a gift.

2.1.2 The Technical Meaning of Hibah

Many jurisprudence academics define hibah in their own way. In this section, we shall provide every jurisprudence scholar's opinion and derive implications from each of those opinions.

Hibah is defined by the Hanafi School as "having points without regard." Alternatively, "own property without compensation (Al-Fadhli, 2019)." That is, any individual who has points has legal property that may be distributed to others for free now or in the future during his lifetime.

The Maliki school of thought, on the other hand, defines a hibah as: the possession of a person without compensation for the donor's face (given to him) or the possession of a person who has a donation of an entity that can be lawfully transferred without compensation to the donor's family (Al-Fadhli, 2019). Some say that ownership is financed without construction compensation. The word “*financed*”: bring out with him other possessions as marital possessions. “*No compensation*”: Exit sales and other negotiations. “*Construction*”: issued a ruling on the rights of heirs because the certificate is not produced.

Hibah, according to Imam Shafi'i, is a gift that is acceptable, recommended, and given as long as the giver is alive (Najmia, 2021). This present is not intended to demand respect, flatter someone, or meet the requirements of the person to whom it is given. As a result, Imam Shafi'i's scholars describe the meaning of hibah, which is defined in two senses: the first is a