

UNIVERSITI TEKNOLOGI MARA

**THE EFFECTIVENESS OF HIBAH
AS AN ESTATE PLANNING TOOL IN
KUANTAN SYARIAH COURT.**

AYU ATIRAH BINTI NASARUDIN

Thesis submitted in partial fulfillment
of the requirements for the degree of
Bachelor of Muamalat

Academy of Contemporary Islamic Studies

January 2025

ABSTRACT

This study aims to examine the effectiveness of Hibah as an estate planning tool at the Kuantan Syariah Court. Hibah, a concept of gifting assets during one's lifetime, has become an alternative to the faraid system and wills in addressing inheritance distribution issues. This study focuses on three main objectives: first, to identify the acceptance of Hibah by beneficiaries among staff based on cases registered at the Kuantan Syariah Court; second, to explore the main challenges faced by the court in implementing Hibah; and third, to propose strategies to increase awareness of Hibah among Muslims. This research adopts a qualitative approach through face-to-face interviews with court officials and an analysis of documents related to Hibah cases. The findings reveal that while Hibah is positively accepted, challenges such as lack of public knowledge, complex procedures, and legal constraints remain significant obstacles. The study suggests that relevant institutions should actively promote Hibah through seminars, informational materials, and collaborations with the courts. In conclusion, Hibah has great potential as an estate planning tool if the identified challenges are effectively addressed.

ACKNOWLEDGEMENT

Praise for Allah s.w.t for granting strength and patience throughout the process of complete this research. I would like to extend my gratitude to Allah s.w.t for giving me the opportunity to embark on my thesis and for making the journey of this research has become successful. Special gratitude to my beloved parents, Mr. Nasarudin Bin Ismail and Mrs. Nor Hasimah Binti Yaacob for their moral support, motivation and give some ideas to help me during I complete my final academic writing.

Next, I would like to extend my deepest appreciation to my supervisor, Mrs. Zanirah Binti Mustafa@Busu for giving me guidance; ideas, immense knowledge and encouragement have greatly enhanced my ability to become better researcher. Indeed, it is also having helped me at every milestone of my research and this thesis could be complete without her respected supervision.

My following appreciation goes to all respondents who willingly took the time to answer my questionnaires and contributed greatly to achieving the research objectives. Without the cooperation of respondents willing to participate, this study would not have been completed successfully.

This project also dedicates to all my friends and colleagues for their support, encouragement and has been good listeners and suggested several ideas towards my thesis. Throughout this journey, I would like to express my thankful to everyone who are involve directly or indirectly by giving moral support and help me when I am having difficult to complete this research. From the bottom of my heart thanks to all of you. This journey would not have been completed and successful without your prayers and support

TABLE OF CONTENTS

	Page
CONFIRMATION BY PANEL OF EXAMINERS	i
AUTHOR'S DECLARATION	ii
ABSTRACT	iii
ACKNOWLEDGEMENT	v
TABLE OF CONTENTS	vi
CHAPTER ONE: INTRODUCTION	1
1.1 Research Background	1
1.2 Problem Statement	2
1.3 Research Question	3
1.4 Research Objectives	3
1.5 Research Significance	4
CHAPTER TWO: LITERATURE REVIEW	5
2.1 Introduction	5
2.2 Definition of Hibah	5
2.3 Concept of Hibah From The Islamic Perspective	6
2.4 Frozen Estate Problem in Malaysia and Hibah as A Solution	7
2.5 Differences Among Hibah, Wasiyyah And Faraid	8
2.6 Types of Hibah	11
2.6.1 Hibah Absolute (Hibah Mutlak)	
2.6.2 Conditional Hibah	
2.6.2.1 Hibah Ruqba	
2.6.2.2 Hibah Umra	
2.6.2.3 Hibah Takaful	

CHAPTER ONE

INTRODUCTION

1. Research Background

Hibah is a voluntary agreement to transfer ownership of property for the duration of one's life without receiving payment. One such tool in Islamic inheritance planning is granting, which can help minimise the amount of inheritance that remains unclaimed and unmanaged by the heirs. One such tool for Islamic inheritance planning is granting, which can help to minimise the amount of inheritance that remains unmanaged and unclaimed by the heirs. Islamic wealth management is an important topic that has to be addressed, especially with Malaysia's Muslim community. The main issue is that, unfortunately many Muslims still do not have a plan in place for how to divide their money in order to prevent future conflict (Basah, 2019). In fact, it has been noted that the general population in Malaysia is unaware of the significance of estate planning (Noordin, 2016). Islam recommends a number of Islamic wealth techniques, such as *faraid*, *wasiyyah*, and *hibah*. The application of *hibah* has grown in Malaysia in the context of modern practice, serving as a kind of secondary financial tool inside the main Islamic financial services offered by a number of Islamic financial organisations. The financial *hibah* relates to various primary Shari'ah-based contracts for goods or services, including *takaful* products. These include contracts for sales and purchases (*al-bay'*), leases (*alijarah*), pawns (*al-rah*), companies (*al-syarikah*), profit and loss sharing (*almudharabah*), and savings (*al-wadiah*). As a way to encourage consumers to keep contributing capital into their Islamic bank accounts, Islamic financial institutions give *hibah* to their consumers in the form of encouragement, dividends, or consolation (Hassan, 2020).

In Addition, even while more people are becoming aware of the significance of *hibah*, its usage is still rather limited (Ani, 2020). In 2013, statistics from the Malaysian Syariah Judiciary Department showed that inherited assets valued at RM66 billion were still frozen. It was stated in 2020 that there were still around RM70 billion in unclaimed inherited assets, the most of which belonged to Malays and had not been claimed since independence. If organisations involved in wealth planning do not take appropriate action, this number is predicted to increase annually. The community's shortcomings in handling estate settlement are brought to light by the inability to settle inherited disputes. The purpose of this study is to