



Religious Court Decisions Regarding the Revocation of Grant (Hibah) in the Perspective of Islamic Jurisprudence

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Abstract: This scholarly article examines the judgments rendered by Religious Courts concerning disputes related to the revocation of grants, employing the viewpoint of Islamic jurisprudence and the *maslahah* theory. In this instance, the judicial panel overseeing the dispute related to the cancellation of the grant primarily invoked the provisions outlined in Article 35, Paragraph 1, and Article 36, Paragraph 1 of the Marriage Act (Law Number 1 of 1974), which pertain to joint property, along with Article 1338 of the Civil Code, addressing agreements. Consequently, the judges disregarded the article pertaining to the right to withdraw the grant's subject, even though the grant is given without the consent of the other heirs. Meanwhile, in accordance with the *maslahah* theory, decisions rendered by a panel of judges in the Religious Court ideally aim to actualize the concept of *Maqasid al-Shari'ah*, specifically focused on the preservation of both property and descendants. This approach helps mitigate adverse consequences that may arise within familial dynamics, particularly in relationships between parents and their heirs. Nevertheless, in accordance with Hans Kelsen's justice theory, the deliberations undertaken by judges when adjudicating cases involving the revocation of grants often exhibit inconsistency in the application of the pertinent legal framework, thereby leading to a partial realization of the intended concept of justice.

Keywords: Revocation of Grants, Judicial Rulings, Islamic Jurisprudence.

Abstrak: Artikel ilmiah ini mengkaji tentang putusan-putusan Pengadilan Agama mengenai sengketa yang berkaitan dengan pembatalan hibah, dengan menggunakan sudut pandang yurisprudensi Islam

dan teori masalah. Dalam hal ini majelis hakim yang memeriksa perkara pembatalan hibah tersebut pada dasarnya mengacu pada ketentuan yang tertuang dalam Pasal 35 Ayat 1 dan Pasal 36 Ayat 1 Undang-Undang Perkawinan (UU Nomor 1 Tahun 1974) yang berkaitan dengan harta bersama, dan dengan Pasal 1338 KUH Perdata yang mengatur tentang perjanjian. Oleh karena itu, hakim mengabaikan pasal mengenai hak untuk menarik objek hibah, meskipun hibah tersebut dilakukan tanpa persetujuan ahli waris yang lain. Sedangkan menurut teori masalah, putusan yang diambil oleh majelis hakim Pengadilan Agama idealnya bertujuan untuk mewujudkan konsep *Maqasid al-Shari'ah*, yang secara spesifik fokus pada kelestarian harta benda dan keturunan. Pendekatan ini membantu menghindari dampak buruk yang mungkin timbul dalam dinamika keluarga, khususnya dalam hubungan antara orang tua dan ahli warisnya. Namun demikian, sesuai dengan teori keadilan Hans Kelsen, pertimbangan yang dilakukan hakim ketika mengadili perkara pencabutan hibah sering kali menunjukkan tidak konsisten dalam penerapan kerangka hukum yang bersangkutan, sehingga menyebabkan tidak terwujudnya konsep keadilan yang dimaksud.

Kata Kunci: Pembatalan Hibah, Putusan Pengadilan, Hukum Islam

Introduction

In contemporary discussions about grants, there is a discernible departure from the authentic essence of the term. A genuine grant is characterized by the act of giving from one individual to another without anticipating reciprocity. Fundamentally, grants are bestowed by God upon His people due to various factors, including compassion and utility.¹ In addition to this, the requisites for the formulation of a grant encompass an entity or individual providing the grant, a designated recipient, and the specified property earmarked for the grant. In the context of Islamic jurisprudence, grants are instituted with the overarching objective of nurturing human connections with the divine. Meanwhile, in civil law, grants are denoted by the term *schénking*. Furthermore, Islamic law acknowledges the presence of freedom of choice in this context, ensuring the safeguarding of the lives of its adherents in the execution of actions pertaining to their rights.²

The compilation of Islamic Law, as articulated in Article 171, clause g, defines a grant as “a voluntary gift bestowed from one individual to another without anticipation of reciprocation, with the transfer occurring while both parties are still alive”.³ In contrast, as stipulated by the Civil Code, Article 1666 delineates a grant as “a gratuitous gift from one person to another, irrevocable at the discretion of the grantor, involving a movable or immovable object, and executed while the grantor is alive”.⁴ Derived from the elucidation provided by these articles, it signifies that parental grants to offspring are permissible; however, they must adhere to specific conditions, encompassing considerations such as the quantifiable value of assets that can be conferred.

The prevailing view among the majority of Islamic scholars is that the revocability of a grant is contingent upon the status of the granted object. If it remains under the control of the descendants

¹ M Nur Kholis Al Amin, “Hibah Orang Tua kepada Anak sebagai Pengganti Waris (Telaah Hermeneutika Terhadap Pasal 211 Kompilasi Hukum Islam),” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 6, no. 1 (2016): 29–44.

² Dhofir Catur Bashori and Miftahul Ichsan, “Pembatalan Hibah Oleh Pengadilan Agama,” *Hakam: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 5, no. 1 (2021).

³ Vaula Surya Hannifa, Johni Najwan, and M Amin Qodri, “Hak Waris Anak Angkat Dalam Perspektif Kompilasi Hukum Islam Indonesia,” *Zaiken: Journal of Civil and Business Law* 3, no. 1 (2022): 34–48.

⁴ Ipah Sariyah and Ila Nurmila, “Hukum Hibah ‘Umra Menurut Imam Malik Dan Kitab Undang-Undang Hukum Perdata Pasal 1666,” *Istinbath|Jurnal Penelitian Hukum Islam* 14, no. 2 (2020): 149–90.

or is commingled with their parents' assets, revocation remains a viable option. However, once the granted property has become integrated with their personal holdings or the possessions of others, revocation becomes impermissible. It can be asserted that the grantor retains the potential to rescind a previously bestowed grant under diverse circumstances and specific conditions. Concerning the legal dimensions of granting, it appears that altering or revoking grants is a straightforward process, leading individuals to engage in such actions without formal documentation, such as a grant deed, as substantiating evidence. From a legal standpoint, grants do not pose additional complications in the absence of litigation. As a grant represents a grantor's ultimate bequest, its integrity remains inviolable. Nevertheless, when the grant becomes entangled with inheritance matters, it may engender legal complexities.⁵

The Religious Courts Law underscores that the jurisdiction of Religious Courts extends to the adjudication of cases involving divorce, child custody (*hadhanah*), alimony, marital assets, inheritance, and various related matters.⁶ Basically, the practice of bestowing grants is prevalent among the residents of North Sumatra. An illustration of this practice is individuals offering grants in the form of property or wealth to others without anticipating any reciprocation. Nonetheless, occasional disputes arise within the community regarding the annulment of grants, resulting in legal proceedings pursued through the Religious Courts.

Interestingly, certain judges within the Religious Courts of North Sumatra have issued rulings on grant revocation lawsuits, providing diverse explanations and considerations in their decisions. Typically, the lawsuits initiated by plaintiffs occur subsequent to the demise of the grantor. The contentious aspect often revolves around the gifted object, primarily attributed to its considerable economic worth.⁷ Nevertheless, such actions are regrettable as they undermine the benevolent intentions of the grantor, who seeks to contribute to the public welfare. Moreover, the individuals frequently contesting the existence of the granted object are heirs who perceive themselves as disadvantaged, despite the intended purpose being the communal benefit.

Upon querying the Case Tracking Application System (SIPP) of the Religious Courts in North Sumatra, numerous rulings pertaining to grant revocations were identified. Among them is the Decision of the Kisaran Religious Court under registration No. 955/Pdt.G/2021/PA.Kis.⁸ The outcome of this verdict signifies the approval of the grant's revocation under specific conditions: given the Defendant's explicit acknowledgment of an error in executing the grant to the two children of both the Plaintiff and Defendant, namely xxxxxx and xxxxxx (both names withheld), coupled with the absence of any objection to the revocation in the lawsuit.

Subsequently, the ruling from the Stabat Religious Court, documented under registration No. 1062/Pdt. G/2015/PA.Stab, manifests the approval of the grant's revocation, subject to the stipulation that the property or object designated as the grant, specifically a plot of land measuring 2,376 square meters, was indeed part of the broader inheritance spanning 6,860 square meters, as attested by the petitioners in the primary submission. The verdict from the Medan Religious Court,

⁵ Muhammad Shofwanul Mu'minin, "Konflik Keluarga Akibat Pembagian 'Harta Waris' Dengan Hibah Perspektif Kompilasi Hukum Islam," *Sakina: Journal of Family Studies* 4, no. 3 (2020).

⁶ Undang-Undang Republik Indonesia, *Undang-Undang Nomor 3 Tahun 2006 Tentang Peradilan Agama*, 2006., 27.

⁷ Nasrullah Abdul Rahim, Muhammad Amar Adly, and Akmaluddin Syahputra, "Studi Pandangan Hakim Pengadilan Tinggi Agama Medan Terhadap Fatwa MUI Sumut Tentang Istbat Talak Di Luar Sidang Pengadilan Agama," *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 10, no. 01 (2022): 239–56.

⁸ Sistem Aplikasi Penelusuran Perkara, *Putusan Pengadilan Agama Kisaran No.955/Pdt.G/2021/PA.Kis*, 2023.

documented under registration No. 1353/Pdt.G/2020/PA.Mdn, likewise affirms the approval of the grant's revocation, accompanied by the stipulation that the plaintiff's legal representative is directed by the panel of judges to present the plaintiff as the principal during mediation proceedings.

Examining outcomes from Religious Court decisions concerning disputes over grant revocations among the residents of North Sumatra, including decisions numbered 955/Pdt.G/2021/PA.Kis, 1062/Pdt.G/2015/PA.Stab, and 1353/Rev. G/2020/PA.Mdn, it is evident that the judicial panels approved the plaintiff's request for the revocation of the grants, as initiated by their heirs. Therefore, conflicts arising in the community concerning the annulment of grants stem from diverse factors, including non-compliance with stipulated terms and conditions when bestowing grants upon offspring, particularly without the concurrence of other heirs. Additionally, instances exist where individuals present grants surpassing one-third of their assets. Furthermore, some litigants filed lawsuits with the court but failed to participate in the trial proceedings, leading the panel of judges to infer a lack of good intentions on their part.

Upon reviewing the instances of grant cancellations as per court decisions, it becomes evident that this is a delicate matter with the potential to disrupt familial harmony. The amicable relationship between a parent and their offspring may be compromised, as the donated property becomes subject to withdrawal following the approval of the lawsuit and the issuance of a court decision. Paraphrase with formal tone. Therefore, it is deemed necessary to look at this case using the *maslahah* theory, as introduced by Imam al-Ghazali.⁹ Since the *maslahah* theory is pertinent to this study, we will scrutinize the objectives of benefit and the avoidance of harm in the context of grant revocations. Al-Ghazali perceives the *maslahah* orientation as comprising five dimensions, including the preservation of religion, soul, lineage, reason, and property. He posits that actions causing benefits are those that align with established legal norms. Moreover, any action devoid of *maslahah* is deemed undesirable.¹⁰

Fundamentally, each decision should embody a notion of justice. A primary aim of the law is to attain advantageous outcomes in case resolution, a responsibility entrusted to the judiciary. The ideal demonstration of justice, particularly in the legal considerations surrounding decisions in grant cancellation cases, aligns with the theories advanced by Hans Kelsen, specifically his theory of justice. Kelsen posits that the law achieves a state of justice when it effectively regulates human conduct in conformity with established norms to foster contentment within society.¹¹ Furthermore, in his perspective, the facet of justice is synonymous with legality. General principles are deemed equitable when they are effectively enforced. Conversely, they are regarded as inequitable if, in their application, they are selectively employed in one instance but not extended to other cases with comparable characteristics.¹²

In an effort to circumvent redundancy in research, we endeavored to review various research findings concerning grant cancellations, drawing from diverse sources such as the internet, literature, books, scholarly journal articles, and other academic materials. This exploration aims to elucidate several studies previously investigated by scholars, including Oktaviana Adhani's research

⁹ Abdul Gaffar, M Ali Rusdi, and Akbar Akbar, "Kedewasaan Usia Perkawinan Perspektif Hadis Nabi Muhammad Dengan Pendekatan Interkoneksi Masalah," *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 (2021): 83–98.

¹⁰ Muhamad Abduh and Tutik Hamidah, "Tinjauan Mashlahah Imam Al-Ghazali Terhadap Taklik Talak Dalam Hukum Positif Indonesia," *DIKTUM: Jurnal Syariah Dan Hukum* 19, no. 2 (2021): 133–48.

¹¹ Fadlih Rifenta and Tonny Ilham Prayogo, "Nilai Keadilan Dalam Sistem Kewarisan Islam," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (2019): 111–27.

¹² Irma Indriyani, "Pengaruh Aliran Hukum Positivisme Dan Rasa Keadilan Di Indonesia," *Ahkam* 1, no. 1 (2022): 193–204.

conducted in 2020 on “the validity of revoking grants due to the impoverishment of grantors”.¹³ The findings of this study indicate the validity of granting joint marital property to minor children when represented by their mothers. Additionally, a separate investigation by Alyatama Budify and colleagues in 2020 delves into the “revocation of grant deeds at the Pematangsiantar District Court, as per decision number 33/pdt.g/2019/pn.pms”.¹⁴ The research outcomes reveal that grantors possess various rights in accordance with the provisions outlined in Articles 1669, 1671, and Article 1672 of the Civil Code. Lastly, a study conducted by Dhofir Catur Bashori and Miftahul Ichsan in 2021 explores the “revocation of grants by the Religious Court”.¹⁵ The findings of the last study indicate that the revocation of the grant, as per the Situbondo Religious Court’s decision, aligns with the prevailing regulations. The legal rationale behind the judge’s determination in this case stems from the inadequacy of the grant transfer process in meeting the stipulated requirements of the grantor. Furthermore, the study affirms that, according to Islamic jurisprudence, the cancellation of the grant is deemed permissible.

In summary, the aforementioned studies share a common focus on the general subject of grant cancellation. However, they do not delve extensively into the detailed considerations made by judges or the legal ramifications associated with the application of the *maslahah* theory. In light of this, the researcher posits that there is a notable absence of specific studies dedicated to the analysis of Religious Court decisions regarding grant cancellation disputes through the lens of *maslahah*. Consequently, there exists a scholarly motivation to undertake research activities rooted in scientific inquiry. One of the objectives of this research is to scrutinize the academic issues inherent in grant revocation cases, comprehensively understanding them from both the normative-legal perspective and the practicalities observed within society.

Given the aforementioned issues, we deem it imperative to undertake research grounded in scientific methodologies. The primary focus is to thoroughly examine and analyze the legal deliberations made by the judicial panel, particularly pertaining to the rulings of the Religious Court on disputes concerning the revocation grants. Additionally, the objective of this research is to elucidate the chronological sequence of grants bestowed upon the children of the plaintiff and defendant without the concurrence of other heirs. This research further investigates the phenomenon of bestowing grants that surpass one-third of an individual’s assets. Additionally, the study aims to scrutinize the equitable aspect of the legal considerations employed by judges, employing the theory of justice pioneered by Hans Kelsen. Furthermore, the researcher systematically analyzes the legal dynamics surrounding the cancellation of grants in the Religious Courts through the application of al-Ghazali’s theory of *maslahah*.

Grants According to Schools of *Fiqh*

A grant refers to the voluntary transfer of rights to an entity or possession to another person without anticipating any reciprocal compensation.¹⁶ In the Arabic language, the term grant (*hibah*)

¹³ Oktaviana Adhani and Bagiyo Atmaja, “Keabsahan Pembatalan Hibah Akibat Pemberi Hibah Jatuh Miskin,” *Jurnal Komunikasi Hukum (JKH)* 6, no. 1 (2020): 95–103.

¹⁴ Alyatama Budify, Jelitamon Ayu Lestari Manurung, and Satria Braja Hariandja, “Pembatalan Akta Hibah Di Pengadilan Negeri Pematangsiantar: Kajian Putusan Nomor 33/Pdt. G/2019/PN. Pms,” *SIGn Jurnal Hukum* 2, no. 1 (2020): 72–85.

¹⁵ Bashori and Ichsan, “Pembatalan Hibah Oleh Pengadilan Agama.”

¹⁶ Julfan Saputra, Sri Sudiarti, and Asmaul Husna, “Konsep Al-‘Ariyah, Al-Qardh Dan Al-Hibah,” *Al-Sharf: Jurnal Ekonomi Islam* 2,

is derived from the word “*wahaba, yahibu*” denoting the act of giving. From this, it can be inferred that the concept of a grant entails the voluntary bestowal of property rights upon another individual during the grantor’s lifetime, without the expectation of reciprocation or reward, contingent upon a specific consent and acceptance. Meanwhile, as per the Compilation of Islamic Law, the definition of a grant, outlined in Article 171, is characterized as the formal and voluntary transfer of property devoid of any coercive elements, where one party relinquishes assets without anticipation of reciprocal benefits to another party, and this transaction is executed while the grantor is still alive.¹⁷

However, diverse viewpoints exist among Islamic scholars in defining the concept of a grant. For instance, Imam Abu Hanifah asserts that a grant is the act of transferring ownership rights to property from one individual to another without the expectation of receiving anything in return. Nonetheless, Imam al-Shafi’i articulated that a grant is the voluntary transfer of property rights from one individual to another while both are alive, with no compulsion from external parties and lacking any specific direction. Meanwhile, Sayyid Sabiq delineates a gift as “a mutual agreement and acknowledgment concerning the conveyance of one’s property rights to another individual during one’s lifetime, without anticipating any reciprocation”.¹⁸

Meanwhile, within Islamic jurisprudence literature, the four main schools of thought also furnish definitions of grants.¹⁹

1. The Shafi’ie school, in particular, delineates grants in two distinct ways. Firstly, in a general sense, a grant is considered as both a gift and an act of charity. Secondly, in a more specific context, the term “*hibah*” designates the grantor, who is obligated to meet specific provisions and conditions.
2. The Hanbali school of jurisprudence characterizes a grant as a bestowal of property or wealth to a legally competent adult, whether the amount is known or undisclosed and challenging to ascertain. In this context, the bestowed object or property is considered an obligation without any expectation of reciprocation.
3. The Hanafi school of law offers a definition of a grant as the transfer of property rights to someone in the form of assets without specific conditions, particularly without any form of compensation. This transaction occurs while the grantor is still alive.
4. The Maliki school characterizes grants as acts of charity, attributing the position of the grantor to that of providing something freely, with the aspiration of earning God’s approval.²⁰

According to the elucidation provided by the majority of Islamic scholars, grants must adhere to specific principles and conditions, one of which is that the process of granting must align with the relevant legal provisions. Ibn Rushd outlined the conditions for the implementation of grants

no. 1 (2021): 19–34.

¹⁷ Budi Hariyanto, “Tinjauan Yuridis Terhadap Pembagian Harta Waris Beda Agama Menurut Kitab Undang Undang Hukum Perdata (KUH Perdata) Dan Kompilasi Hukum Islam (KHI),” *IUS: Jurnal Ilmiah Fakultas Hukum* 8, no. 2 (2020): 28–42.

¹⁸ Endra Syaifudin, “Pandangan Islam Tentang Penghibah Yang Mencabut Kembali Hibahnya Dari Penerima Hibah,” *Warna Warni Gagasan*, n.d., 64.

¹⁹ Asep Dadang Hidayat et al., “Pembatalan Akta Hibah dalam Perspektif Imam Madzhab,” *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 10, no. 001 (2022): 51–64.

²⁰ Abdullah Abdullah, “The Legal Impact of Islamic Law in the Identity and Provisions of Qatari Legal System: Conceptual Frame and Legislative Directions,” *Al-Jami’ah: Journal of Islamic Studies* 58, no. 2 (2020): 451–82.

as follows: 1) a grantor (*al-wahib*) must be present; 2) recipients of the grant (*mawhub lahu*) must be willing; and 3) there must be objects or goods intended for the gift (*mauhub bih*). This aligns with the perspective of Abd al-Rahman al-Jaziri, who asserts that three conditions are requisite for a grant: the grantor and the grantee, the object or item being bestowed, and mutual consent and acceptance. Presently, particularly in Indonesia, there exist several regulations governing grants, including the Compilation of Islamic Law, the Civil Code, and various customary laws that remain applicable. Ideally, provisions concerning grants should incorporate elements of equity to prevent disparities and disputes.²¹

Revocation of Grants in the Compilation of Sharia Economic Law

Historically, the development of the Compilation of Sharia Economic Law (KHES) was prompted by the pressing necessity to furnish substantive legal references within the jurisdiction of Religious Courts, particularly in the domain of sharia economic law, following the enactment of Law Number 3 of 2006 concerning Religious Courts. Furthermore, the existence of the Compilation of Sharia Economic Law serves to address immediate requirements amid the expanding adoption of sharia-based economic principles and the proliferation of the sharia banking system throughout the entirety of Indonesia. The enactment of the Compilation of Sharia Economic Law involved a considerable duration, and the process underwent multiple intellectual study forums engaging various individuals to achieve consensus. The development of KHES underwent an extensive process of study and discussion, conducted formally through a scholarly seminar titled “Compilation of Islamic Texts and *Hujjah Shar’iyyah* in the Sector of Sharia Economics”. This event was organized by the national legal development agency, specifically the Department of Law and Human Rights, in collaboration with the Faculty of Sharia and Law at Syarif Hidayatullah State Islamic University, Jakarta, Indonesia, held from 10-12 July 2006.

The Compilation of Sharia Economic Law deems the act of revoking a grant permissible. Furthermore, it stipulates that the grantor has the authority to rescind the grant agreement before the transfer of assets takes place. Nevertheless, if the grantor retracts the grant without valid justification, consent from the grant recipient, or a court decision, especially after the completion of the grant transfer, such an action is deemed impermissible. In this context, the grantor is regarded as infringing upon the rights of the recipient. This aligns with the regulations outlined in Article 713 of KHES concerning the annulment of grants, stating that “if the grantor revokes a grant that has already been transferred without the consent of the recipient or a court decision, the grantor is classified as infringing upon someone else’s property rights. Furthermore, if the property or goods, while under the grantor’s control, are declared damaged or lost, the grantor is obligated to compensate for the incurred loss”.

Additionally, as per Article 712 of KHES, it is specified that “the grantor has the right to retract the transferred assets after the completion of the grant transfer process, provided that the grantee gives consent.” However, exceptions apply when the grant is bestowed upon one’s parents, siblings, nieces or nephews, uncles, and aunts. In such cases, grants given to these individuals are irrevocable, as delineated in Article 714, paragraphs 1, 2, and 3 of the Compilation of Sharia Economic Law, which

²¹ Miqdarul Khoir Syarofit and Anisatun Nur Laili, “Hukum Hibah Tanah Untuk Gereja Persepektif Empat Mazhab,” *JOSH: Journal of Sharia* 1, no. 1 (2022): 1–11.

states: (1) In the event that an individual grants assets to their parents, siblings, nieces or nephews, uncles, or aunts, the grantor is precluded from retracting the gift; (2) Parents bestowing a grant upon their children reserve the right to revoke the gift as long as the child remains alive; (3) Ideally, if parents grant assets to their children and there is no mutual agreement among the other heirs, it should be considered as a property transfer akin to inheritance.

Legal Consequences of Revoking Grants

The existing laws and regulations in Indonesia do not comprehensively address the legal ramifications of disputes over the cancellation of grants. In essence, the legal consequences of revoking grants are not permanent and may be subject to a retroactive period, reverting to the initial condition (*ex-tunc*). Revoking a grant, once executed, constitutes a breach of the Civil Code. The rationale behind this regulation is grounded in the principle that “both property and individuals must be reinstated to their original state before any agreement was made”. Subsequently, there are individuals who posit that the annulment of a gift may transpire due to the presence of coercion or fraudulent elements, thereby carrying implications for both the subject of the grant and the involved parties returning to their pre-agreement state. One of the factors contributing to this is the non-fulfillment of conditions by the grantor, in accordance with the terms specified in Article 1330 of the Civil Code, which stipulates that “a return to the original state is permissible”.

In accordance with positive law, despite the existence of a decision to annul a grant, it does not bear legal consequences as intended. Nevertheless, in jurisprudence and legal doctrine, the term absolute revocation implies “a legal action that is null and void”, indicating that the legal action, at the time of occurrence, had no legal impact or repercussions. On the other hand, relative revocation refers to a legal action that is subject to annulment, allowing one of the parties to execute the cancellation according to their wishes.

Consequently, all assets bestowed by the grantor will revert to their original ownership. For instance, if a property is utilized as collateral, it is advisable to settle any outstanding obligations promptly to facilitate the return of the property to its rightful owner. If the donor grants a property, such as a house or a parcel of land, and a decision from the Religious Court, which holds enduring legal validity, dictates the annulment, the land and house will revert to the ownership of the grantor. The procedure for restoring the gifted object involves vacating it initially. However, in the case of a house being the gifted item, the recipient is required to vacate the premises in accordance with the Religious Court’s decision.²² Furthermore, in the event that the gifted object is a piece of land containing a permanent structure, the structure must be disassembled and returned to its initial state as per the decree of the Religious Court.

Decisions Rendered by Judges in Religious Courts Concerning Grant Revocations

A court is delineated as an authorized institution tasked with administering the justice system, encompassing the examination, adjudication, and determination of legal matters. Broadly, the court is vested with two types of competencies: absolute and relative. Absolute competence refers to the

²² Sarmo Sarmo, “Hukum Perubahan Status Harta Benda Wakaf: Studi Kasus Perubahan Status Kepemilikan Tanah Wakaf Di Desa Keniten Kecamatan Kedungbanteng Kabupaten Banyumas,” *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 2 (2020): 239–50.

authority of Religious Courts to adjudicate matters within their designated regions or jurisdictions. On the other hand, the unequivocal authority of the Religious Courts is stipulated in articles 49 and 50 of Law No. 7 of 1989, as amended by Law No. 6 of 2006 regarding Religious Courts. These provisions specify that “Religious Courts are tasked with examining, adjudicating, and resolving cases at the initial level for Muslim individuals in the realms of marriage, inheritance, wills, grants, endowments, and alms, all of which are governed by Islamic law.” Additionally, judges, in their role of examining, adjudicating, and deciding a case, are presumed to possess knowledge of the law (*ius curia novit*).

In an ideal scenario, the judicial panel, when rendering decisions, should draw upon legal foundations derived from the Al-Qur’an, As-Sunnah, and Ijtihad. Nevertheless, in contemporary practice, the panel of judges often employs a diverse array of legal material sources, such as the Compilation of Islamic Law, Civil Code, KHES, Islamic Fiqh and others. Similarly, when adjudicating a case in the Religious Court of North Sumatra concerning the revocation of a grant, the judge scrutinized the causal factors contributing to the dispute over grant cancellation in their decision. Moreover, the judges delve into an examination of whether the stipulated terms and conditions have been met, encompassing the presence of the grantor, the recipient of the grant, the designated object of the grant, and the requisite consent and acceptance. In order to ascertain the factual details, the subsequent section outlines various decisions rendered by the Religious Court pertaining to grant revocations.

No.	Religious Court	Decision to Annul a Grant Approved	Decision to Annul a Grant Rejected
1.	Kisaran Religious Court	Granting the Plaintiff’s petition in its entirety; Imposing the litigation costs on the Plaintiff, totaling IDR 420,000.	-
2.	Stabat Religious Court	Acceding to the Petitioner’s plea; Mandating the Petitioner to settle all associated court expenses, totaling Rp. 1,601,000.	-
3.	Padang Sidempuan Religious Court	Partially granting the Plaintiff’s claim; Adjudicating the Defendants to fulfill all legal expenses for the case, presently quantified at Rp. 976,000.	-
4.	Medan Religious Court	Fulfilling all petitions; Imposing a shared responsibility on both parties to settle the expenses incurred in this case, totaling Rp. 241,000.	-
5.	Medan Religious Court	-	Determining that the Plaintiff’s assertion is not admissible; Directing the Plaintiff to cover the incurred case/court expenses.

Derived from the aforementioned judgment, it can be deduced that, according to the Civil Code, “grants that have been conferred are irrevocable”. Nonetheless, the grantor has the prerogative

to initiate legal proceedings for the annulment of the grant in the Religious Court, provided they have adhered to the stipulations outlined in Article 1688 of the Civil Code. One of the outcomes resulting from the case of revoking a grant is that it holds no legal implications, in accordance with the provisions laid out in the prevailing laws and regulations.

In light of this case, the judicial panel deemed that the Plaintiff effectively presented substantial evidence along with compelling arguments. Consequently, the Defendant was found to have engaged in an unlawful act in accordance with Article 1365 of the Civil Code. Corroborating the actions of the Defendant, it is affirmed that Grant Deed No. xxxx (concealed), executed by the Notary as the Land Deed Official (PPAT) in accordance with Certificate of Ownership No. xxxxxx (concealed), is declared legally valid. This aligns with the procedural prerequisites for bestowing the Plaintiff's grant upon the Defendant, demonstrating adherence to the law and compliance with the stipulations outlined in Article 37, paragraph (1) of Government Regulation no. 24 of 1997 concerning Land Registration.

Nevertheless, the annulment of the grant is permissible if the Defendant's actions are found to lack benevolent intentions for distribution. Upon careful consideration and alignment with statutory provisions, specifically Article 1688 of the Civil Code outlining procedures for grant annulment, the Grant Deed numbered xxxxx (concealed) executed by a Notary/PPAT from the Plaintiff to the Defendant is deemed subject to legal cancellation. In an ideal scenario, grants are irrevocable, yet certain conditions must be met according to statutory regulations, such as: (1) Article 1667 paragraph 2 of the Civil Code stipulates that "if the grant involves goods whose form is not yet apparent, then the grant is considered void"; and (2) Article 1668 asserts that "the grantor is prohibited from committing to retain the authority to exercise ownership rights over the gifted item, rendering such a grant model, which is contingent on the grantor's control, invalid".

Meanwhile, as per the Compilation of Islamic Law, grants are generally irrevocable, with an exception outlined in Article 212 of the Compilation of Islamic Law that allows parents to retract grants given to their children. In such cases, the withdrawal is ideally driven by perceived benefits, often reflecting care and a desire for divine approval.

Resolution of Grant Revocation Disputes in Religious Courts: An Examination from the Perspective of Islamic Legal Jurisprudence

As per al-Ghazali, the concept of *maslahah* represents an attainment that yields benefits and prevents harm. He delineates that the objective of *maslahah* is an interest aligned with upholding Sharia principles, encompassing five facets: the preservation of religion, the safeguarding of the soul, the protection of the intellect, the care of progeny, and the maintenance of property. Within these aspects, the determination of an activity as *maslahah* depends on whether it contributes to the preservation or detriment of these five elements. The antithesis of *maslahah* is referred to as *mafsadat*, signifying harm or negativity.²³

Additionally, al-Ghazali asserted that the *maslahah* concept should be grounded in Sharia provisions, serving as a guide in legal applications. Conversely, any policy conflicting with the *maslahah* concept is, by extension, contrary to Sharia principles and should be resolutely rejected.

²³ Ahmad Zayyadi, "Dinamika Modernisasi Hukum Islam: Tinjauan Historis Dalam Pembacaan Mazhab Sociological Jurisprudence," *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (2020): 99-112.

This stands in contrast to al-Syatibi's perspective presented in his work, *al-Muwafaqat*, where *maslahah* is defined as a return to prosperity and survival, encompassing both intellectual and biological needs. Furthermore, al-Syatibi posits that *maslahah* is an ongoing effort to sustain and achieve good while rejecting evil. He emphasizes that the *maslahah* purpose is solely to fulfill God's objectives for humanity, rather than seeking benefit for God's sake.

Human life demands differ, necessitating individuals to adapt based on their specific requirements. Al-Ghazali, recognizing this diversity, categorized *maslahah* into three levels according to human life needs: *al-Daruriyyat*, *al-Hajiyyat*, and *al-Tahsiniyyat*. The highest tier, *al-Daruriyyat*, focuses on preserving fundamental human needs such as upholding religion, sustaining life, nurturing the intellect, securing posterity, and safeguarding property. Failure to address these essential human needs is not only detrimental but can lead to a stage of deterioration or harm, rendering human life unfeasible.²⁴

Preserving religion involves adhering to the commandments of faith in God and practicing religious beliefs. Moreover, Islamic law prohibits followers from blaspheming religion or disseminating anti-religious sentiments, as it is feared that such actions could disrupt the societal order. Regarding the safeguarding of life, Muslims are obligated to engage in virtuous deeds, fulfilling the rights and responsibilities essential for life, such as securing necessities like food, drink, clothing, and maintaining health. Consequently, Islamic law prohibits actions that pose a threat to life due to the neglect of fundamental life requirements. Concerning the preservation of intellect, Sharia commands the safeguarding of intellectual capacity by fostering its development. To ensure this, divine guidance instructs humans to refrain from actions that may impair intellectual faculties. Regarding the protection of offspring, Sharia lays down regulations to meet human biological needs, promoting reproduction through the sanctioned means of sexual intercourse. Consequently, Sharia principles dictate that followers legally marry in accordance with established legal provisions. Finally, in terms of safeguarding property, Islam instructs individuals to engage in lawful and ethical pursuits to sustain their lives while diligently protecting property rights for themselves and others.²⁵

Furthermore, to scrutinize the legal rationale employed by judges in adjudicating cases of grant cancellation through the lens of justice, we find it imperative to employ the theory of justice, a concept pioneered by Hans Kelsen. In his work "The General Theory of Law and State", Kelsen elucidates that a societal structure can be deemed just if it effectively governs the conduct of individuals, ensuring their happiness within the framework of that structure. Kelsen holds a positivist perspective, asserting that justice is derived from individual values rooted in legal regulations that encapsulate universal values. Despite the inherently subjective nature of justice, these legal rules aim to instill a sense of justice and contentment in each individual. He acknowledges that genuine justice emanates from nature, emerging either from human essence, nature, or divine will. Through contemplation, justice can materialize as a doctrine articulated by natural law. This implies that Kelsen, despite his positivist stance, acknowledges the inherent truth of natural law.²⁶

Accordingly, Kelsen's ideas on the notion of justice underscore the dichotomy between positive law and natural law. Justice is rationalized through understanding that manifests as interests,

²⁴ Abdul Ghofur Anshori, *Filsafat Hukum Hibah Dan Wasiat Di Indonesia* (UGM-Press, 2018).

²⁵ Implications Of Marad Al-Mawt Over and Hibah Agreement, "Implikasi Marad Al-Mawt Ke Atas Akad Hibah," *Journal of Contemporary Islamic Law* 5, no. 2 (2020): 22–28.

²⁶ H Zainuddin Ali, *Filsafat Hukum* (Sinar Grafika, 2023), 37.

ultimately leading to conflicts of interest. This conflict resolution approach can be attained through regulations that establish a sense of justice for one interest at the expense of others or by striving for compromise to achieve peace for all interests. In Kelsen's view, the term "justice" denotes legitimacy. It is considered "just" when uniformly applied, while it is deemed "unjust" if applied in one case but not in another similar case. When the notions of justice and legality are incorporated into the national legal system, they serve as a legal framework for national legal provisions, taking into account their hierarchy and significance, particularly as legal provisions hold obligatory legal authority concerning the substantive content of the legal regulations.²⁷

Ideally, the judges assigned to adjudicate the case should initially furnish legal deliberations pertaining to the substantive content of the plaintiff's lawsuit. In this instance, the judges deemed the dispute over grant cancellation to fall under the absolute jurisdiction of the Religious Court, thereby enabling it to scrutinize, adjudicate, and render a verdict on the case. This aligns with Article 49, section d, of Law Number 3 of 2006 concerning Religious Courts. Fundamentally, in rendering a decision, it is imperative to engage in foundational deliberative processes. Such considerations are pivotal, as they contribute to the formulation of well-founded decisions incorporating legal principles, thereby ensuring justice for all parties involved. In reviewing the considerations of the decision in this particular case, at the initial stage, the judicial panel ruled on the matter of revoking a grant that exceeded one-third of the grantor's assets. While there is a consensus among judges, there are also instances where judges hold divergent opinions regarding the legal considerations applied in delivering verdicts in cases related to the cancellation of grants.²⁸

In arriving at this decision, the judicial panel made reference to Article 212 of the Compilation of Islamic Law and Article 712 of the Compilation of Sharia Economic Law, which outlines the principle that a father has the authority to retract a grant given to his child. Concurrently, the judge took into account the stipulations of Article 35 and Article 36, Paragraph 1, of the Marriage Law, highlighting that assets acquired during marriage are classified as joint assets. Consequently, in matters pertaining to assets jointly owned by spouses, both parties can take actions, including giving away assets, with the mutual consent of both spouses. The judicial panel concluded that the Plaintiff's plea was accepted as the Defendant had provided a truthful testimony supporting the Plaintiff's claim. Consequently, given the Defendant's statement, the acknowledgment made is deemed conclusive and binding, eliminating the necessity for further evidentiary proceedings.

Hence, this aligns with the stipulation in the jurisprudential compilation *Majallah Al-Ahkam al-'Adliyyah* Article 1069, which specifies that "legal actions related to syirkah property require the consensus of syirkah members". Concurrently, according to Article 720 of the Compilation of Sharia Economic Law, the grant cannot be revoked upon the demise of the grantor or grantee. In rendering a decision on the dispute concerning the parental gift to the child, the judge must thoroughly consider the element of benefit for all parties involved in the case, particularly regarding the parent-child relationship. In our assessment, the judge's deliberations, when analyzed through the lens of *maslahah*, warranted the acceptance of the petition for grant revocation due to the ambiguity surrounding the existence of the assets. The prerequisite stipulates that the property subject to the grant should rightfully pertain to the grantor, specifically the plaintiff. Furthermore, it is imperative

²⁷ Agus Riwanto, "Mengembangkan Paradigma Sistem Hukum dari Positivisme ke Konstruktivisme," n.d.

²⁸ Sigit Sapto Nugroho and M SH, *Sukma Hukum Keadilan Berhati Nurani* (uwais inspirasi indonesia, 2019), 48.

to consider the allowable grant amount in accordance with the prevailing law, specifically a maximum of one-third. Consequently, in our judgment, the ruling rendered by the religious court aligns with the principles of *maslahah* theory. This pertains to the domain of *maslahah daruriyyah*, signifying the safeguarding and preservation of property to prevent it from falling into unwarranted control, potentially leading to harm due to being overseen by entities lacking legitimate ownership rights, as stipulated by relevant laws and regulations, and in accordance with Islamic jurisprudence.²⁹

Consequently, the panel of judges' deliberations manifest a form of advantage aimed at preserving and protecting assets and averting harm, particularly concerning the plaintiff and the defendants in their receipt of the grant. As one of the guiding principles of legal implementation is to promote benefit and mitigate harm, aligning with the *fiqh* doctrine that prioritizes preventing harm over seeking benefit.³⁰ *Maslahah*, or the pursuit of goodness, serves as a legal guiding principle for addressing various legal issues. Essentially, *maslahah* refers to something that is deemed beneficial according to rational considerations, contributing to the well-being of individuals while aligning with the objectives of Sharia in legal determinations.³¹

In accordance with the theory of justice, a judge, in rendering decisions, must convey a sense of impartiality to the litigants. Aristotle delineates justice into two categories: distributive and communicative justice. Distributive justice entails allocating shares to individuals based on their merits, while communicative justice involves imparting an equal portion to each person, irrespective of variations in achievements. The panel of judges is obligated to carefully assess the vindication of justice for the disputing parties. Nonetheless, if the panel of judges opts for a legal outcome that, in reality, fails to accommodate the interests of the parties, it may undermine the principles of justice, encompassing both distributive and communicative justice aspects. In our assessment, the judge's deliberation was accurate in invoking the stipulations of Article 35, Paragraph 1, Article 36, Paragraph 1, and Article 210 of the Compilation of Islamic Law, along with a reference to Article 705, Paragraph 1, of the Compilation of Sharia Economic Law. This underscores the requirement that the assets earmarked for a grant must originate from the grantor's possessions. Furthermore, the panel of judges fortified their rationale by citing Article 720 of the Compilation of Sharia Economic Law, stipulating that if either the grantor or the grantee has passed away, the grant cannot be revoked.³²

However, the panel of judges' considerations indicate a strong commitment to ensuring and implementing legal certainty in the verdict, aligning with Gustav Radbrouch's perspective that the law should embody three fundamental values, serving as a benchmark in legal discourse. These three elements include legal certainty, the perception of justice, and utility. In practice, achieving harmony among these elements is challenging due to potential conflicts. Legal certainty may not always align with the sense of justice. Consequently, when rendering a decision, the panel of judges

²⁹ Ongky Alexander, "Efektivitas Pembagian Harta Gono-Gini Pasca Perceraian Dalam Perspektif Yuridis Sosiologis," *El-Ghiroh: Jurnal Studi Keislaman* 16, no. 01 (2019): 113–29.

³⁰ Muhammad Iqbal Juliansyahzen, "The Contemporary Maqāṣid Sharia Perspective on Sexual Violence Provisions in the Indonesian Law Number 12 Year 2022," *Al-Manahij: Jurnal Kajian Hukum Islam*, 2022, 269–86.

³¹ Siti Fatimatu Zahra, "Tinjauan Hukum Gugatan Pembatalan Hibah Dari Ayah Kepada Anak (Studi Kasus Putusan Pengadilan Tinggi Agama Makassar Nomor 6/Pdt. G/2015/Pta. Mks)," 2021., 25.

³² Serli Sulasina, Teki Prasetyo Sulaksono, and Yuli Kurniasih, "Analisis Putusan Mahkamah Agung Nomor 267 K/Ag/2018 Tentang Sengketa Hibah Harta Bersama Dalam Perkawinan," *Social Pedagogy: Journal of Social Science Education* 1, no. 2 (2020): 137–49.

must navigate and balance these three foundational values, often requiring a choice to prioritize one over the others. Despite the intricacies of the judicial profession, the process of rendering a judge's decision is fundamentally an application of logical reasoning. Philosophically, justice entails the actualization of fairness. However, in practical terms within the judicial context, judges often adhere to positivism principles, relying on procedures and viewing the law as a set of norms. Consequently, what is achieved is procedural justice rather than substantive justice. Hence, the attainment of justice is limited to procedural considerations aligned with prevailing laws and regulations, signifying that the panel of judges has effectively embraced procedural justice for all involved parties.³³

In this context, the panel of judges relies on pertinent legislation or regulations when deliberating on a case, particularly concerning the dispute over grant cancellation, as outlined in Article 7, Paragraph 1 of Law Number 12 of 2011 concerning the Formation of Legislation (modified by Law Number 15 of 2019). Therefore, the panel of judges in this particular instance adhered to the legal positivism perspective articulated by Hans Kelsen, as previously noted. Nevertheless, its legal binding nature can be realized when its existence is affirmed by a superior court, such as the High Religious Court (appellate court) and the Supreme Court (cassation court). Hence, the panel of judges presiding over the grant revocation dispute anchored their decision in the Compilation of Islamic Law and the Compilation of Sharia Economic Law. This aligns with their role within the Indonesian legal system, and their verdict serves to address legal gaps in the absence of specific statutory regulations concerning disputes related to the revocation of grants.

Conclusion

The judge presiding over the dispute related to grant cancellation primarily relies on Article 35, Paragraph 1, and Article 36, Paragraph 1, of the Marriage Law (Law Number 1 of 1974) concerning joint marital property, along with Article 1338 of the Civil Code pertaining to agreements. In doing so, the judge overlooks provisions allowing the withdrawal of the gifted object without the consent of other heirs, as outlined in Article 212 of the Compilation of Islamic Law and Article 712 of the Compilation of Sharia Economic Law. Meanwhile, in accordance with the *maslahah* theory, the presiding judge predominantly supports the resolution of grant disputes in Religious Courts to actualize the concept of *Maqasid al-Shari'ah*, specifically focusing on the preservation of property and descendants. This aligns with the *maslahah* theory introduced by al-Ghazali. However, based on Hans Kelsen's theory of justice, the judge's considerations lack consistency in implementing a just legal system, indicating that justice has not been entirely realized.

References

- Abduh, Muhamad, and Tutik Hamidah. "Tinjauan Mashlahah Imam Al-Ghazali Terhadap Taklik Talak Dalam Hukum Positif Indonesia." *Diktum: Jurnal Syariah Dan Hukum* 19, no. 2 (2021): 133–48.
- Abdullah, Abdullah. "The Legal Impact of Islamic Law in the Identity and Provisions of Qatari Legal System: Conceptual Frame and Legislative Directions." *Al-Jami'ah: Journal of Islamic Studies* 58, no. 2 (2020): 451–82.

³³ Nur Safina Mohd Sharif and Noor Lizza Mohamed Said, "Maqasid Syariah Dalam Keharusan Hibah Riqba," *Journal of Contemporary Islamic Law* 7, no. 2 (2022): 96–105.

- Adhani, Oktaviana, and Bagiyo Atmaja. "Keabsahan Pembatalan Hibah Akibat Pemberi Hibah Jatuh Miskin." *Jurnal Komunikasi Hukum (JKH)* 6, no. 1 (2020): 95–103.
- Alexander, Ongky. "Efektivitas Pembagian Harta Gono-Gini Pasca Perceraian Dalam Perspektif Yuridis Sosiologis." *El-Ghiroh: Jurnal Studi Keislaman* 16, no. 01 (2019): 113–29.
- Ali, H Zainuddin. *Filsafat Hukum*. Sinar Grafika, 2023.
- Amin, M Nur Kholis Al. "Hibah Orang Tua kepada Anak sebagai Pengganti Ahli Waris (Telaah Hermeneutika Terhadap Pasal 211 Kompilasi Hukum Islam)." *Al-Ahwal: Jurnal Hukum Keluarga Islam* 6, no. 1 (2016): 29–44.
- Anshori, Abdul Ghofur. *Filsafat Hukum Hibah Dan Wasiat Di Indonesia*. UGM-Press, 2018.
- Bashori, Dhofir Catur, and Miftahul Ichsan. "Pembatalan Hibah Oleh Pengadilan Agama." *HAKAM: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 5, no. 1 (2021).
- Budify, Alyatama, Jelitamon Ayu Lestari Manurung, and Satria Braja Hariandja. "Pembatalan Akta Hibah Di Pengadilan Negeri Pematangsiantar: Kajian Putusan Nomor 33/Pdt. G/2019/PN. Pms." *SIGn Jurnal Hukum* 2, no. 1 (2020): 72–85.
- Gaffar, Abdul, M Ali Rusdi, and Akbar Akbar. "Kedewasaan Usia Perkawinan Perspektif Hadis Nabi Muhammad Dengan Pendekatan Interkoneksi Masalah." *Al-Manahij: Jurnal Kajian Hukum Islam* 15, no. 1 (2021): 83–98.
- Hannifa, Vaula Surya, Johni Najwan, and M Amin Qodri. "Hak Waris Anak Angkat Dalam Perspektif Kompilasi Hukum Islam Indonesia." *Zaaken: Journal of Civil and Business Law* 3, no. 1 (2022): 34–48.
- Hariyanto, Budi. "Tinjauan Yuridis Terhadap Pembagian Harta Waris Beda Agama Menurut Kitab Undang Undang Hukum Perdata (KUH Perdata) Dan Kompilasi Hukum Islam (KHI)." *IUS: Jurnal Ilmiah Fakultas Hukum* 8, no. 2 (2020): 28–42.
- Hidayat, Asep Dadang, Mulyadi Mulyadi, Senki Nurachmadi, N Irfan, and Aufa Aufa. "Pembatalan Akta Hibah dalam Perspektif Imam Madzhab." *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 10, no. 001 (2022): 51–64.
- Indonesia, Undang-Undang. *Undang-Undang Nomor 3 Tahun 2006 Tentang Peradilan Agama*, 2006.
- Indriyani, Irma. "Pengaruh Aliran Hukum Positivisme Dan Rasa Keadilan Di Indonesia." *Ahkam* 1, no. 1 (2022): 193–204.
- Juliansyahzen, Muhammad Iqbal. "The Contemporary Maqāṣid Sharia Perspective on Sexual Violence Provisions in the Indonesian Law Number 12 Year 2022." *Al-Manahij: Jurnal Kajian Hukum Islam*, 2022, 269–86.
- Mu'minin, Muhammad Shofwanul. "Konflik Keluarga Akibat Pembagian 'Harta Waris' Dengan Hibah Perspektif Kompilasi Hukum Islam." *Sakina: Journal of Family Studies* 4, no. 3 (2020).
- Nugroho, Sigit Sapto, and M SH. *Sukma Hukum Keadilan Berhati Nurani*. uweis inspirasi indonesia, 2019.
- Over, Implications Of Marad Al-Mawt, and Hibah Agreement. "Implikasi Marad Al-Mawt Ke Atas Akad Hibah." *Journal of Contemporary Islamic Law* 5, no. 2 (2020): 22–28.
- Perkara, Sistem Aplikasi Penelusuran. *Putusan Pengadilan Agama Kisaran No.955/Pdt.G/2021/PA.Kis*, 2023.
- Rahim, Nasrullah Abdul, Muhammad Amar Adly, and Akmaluddin Syahputra. "Studi Pandangan

- Hakim Pengadilan Tinggi Agama Medan Terhadap Fatwa MUI Sumut Tentang Istbat Talak Di Luar Sidang Pengadilan Agama.” *Al-Mashlahah Jurnal Hukum Islam Dan Pranata Sosial* 10, no. 01 (2022): 239–56.
- Rifenta, Fadlih, and Tonny Ilham Prayogo. “Nilai Keadilan Dalam Sistem Kewarisan Islam.” *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (2019): 111–27.
- Riwanto, Agus. “Mengembangkan Paradigma Sistem Hukum dari Positivisme ke Konstruktivisme,” n.d.
- Saputra, Julfan, Sri Sudiarti, and Asmaul Husna. “Konsep Al-‘Ariyah, Al-Qardh Dan Al-Hibah.” *Al-Sharf: Jurnal Ekonomi Islam* 2, no. 1 (2021): 19–34.
- Saripah, Ipah, and Ila Nurmila. “Hukum Hibah ‘Umra Menurut Imam Malik Dan Kitab Undang-Undang Hukum Perdata Pasal 1666.” *Istinbath|Jurnal Penelitian Hukum Islam* 14, no. 2 (2020): 149–90.
- Sarmo, Sarmo. “Hukum Perubahan Status Harta Benda Wakaf: Studi Kasus Perubahan Status Kepemilikan Tanah Wakaf Di Desa Keniten Kecamatan Kedungbanteng Kabupaten Banyumas.” *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 2 (2020): 239–50.
- Sharif, Nur Safina Mohd, and Noor Lizza Mohamed Said. “Maqasid Syariah Dalam Keharusan Hibah Ruqba.” *Journal of Contemporary Islamic Law* 7, no. 2 (2022): 96–105.
- Sulasina, Serli, Teki Prasetyo Sulaksono, and Yuli Kurniasih. “Analisis Putusan Mahkamah Agung Nomor 267 K/Ag/2018 Tentang Sengketa Hibah Harta Bersama Dalam Perkawinan.” *SOCIAL PEDAGOGY: Journal of Social Science Education* 1, no. 2 (2020): 137–49.
- Syaifudin, Endra. “Pandangan Islam Tentang Penghibah Yang Mencabut Kembali Hibahnya Dari Penerima Hibah.” *Warna Warni Gagasan*, n.d., 64.
- Syarofit, Miqdarul Khoir, and Anisatun Nur Laili. “Hukum Hibah Tanah Untuk Gereja Persepektif Empat Mazhab.” *JOSH: Journal of Sharia* 1, no. 1 (2022): 1–11.
- Zahra, Siti Fatimatu. “Tinjauan Hukum Gugatan Pembatalan Hibah Dari Ayah Kepada Anak (Studi Kasus Putusan Pengadilan Tinggi Agama Makassar Nomor 6/Pdt. G/2015/Pta. Mks),” 2021.
- Zayyadi, Ahmad. “Dinamika Modernisasi Hukum Islam: Tinjauan Historis Dalam Pembacaan Mazhab Sociological Jurisprudence.” *Al-Manahij: Jurnal Kajian Hukum Islam* 14, no. 1 (2020): 99–112.