
**LEGAL PROTECTION FOR LAND GRANT BENEFICIARIES AGAINST
REVOCATION EFFORTS BY DONORS IN INDONESIAN RELIGIOUS
COURTS**

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Abstract

This study aims to examine the legal basis and judicial practice regarding the revocation of land grants (hibah) by the donor and to analyze the legal protection granted to beneficiaries of land grants in the Indonesian legal system. The research employs a normative juridical method supported by a case approach, using primary legal sources such as the Compilation of Islamic Law (KHI), the Compilation of Sharia Economic Law (KHES), and the Civil Code (KUHPerdota). Three religious court decisions were analyzed: Decision No. 1175/Pdt.G/2024/PA.Smn, Decision No. 236/Pdt.G/2017/PA.Pal, and Decision No. 601/Pdt.G/2020/PA.Tnk, all of which addressed grant cancellations due to exceeding the legal limit of one-third of the donor's estate. The findings indicate discrepancies in the legal reasoning among judges. Some judges considered only the grant deed invalid while maintaining the legal status of the grant, whereas others invalidated both the grant and the deed, creating legal uncertainty for the beneficiaries. The research concludes that although a land grant is legally binding and irrevocable under normal circumstances, its legitimacy can be questioned and revoked if it violates inheritance rights or exceeds the permitted limit without the heirs' consent. The study emphasizes the need for legal harmonization and more consistent judicial interpretation to ensure legal certainty and justice for grant recipients.

Keywords: Land Grant, Legal Protection, Islamic Law, Grant Revocation, Religious Court

INTRODUCTION

Land, as a valuable and strategic asset, plays a central role in the socio-economic structure of Indonesian society. Ownership and transfer of land rights are crucial legal issues that frequently arise, particularly in the context of hibah or land grants. Hibah refers to a legal act in which a person voluntarily and irrevocably transfers ownership of an asset, including land, to another party without compensation. This form of transfer is recognized in both the Indonesian Civil Code (KUHPerdata) and Islamic Law through the Compilation of Islamic Law (KHI) and the Compilation of Sharia Economic Law (KHES).

While *hibah* is intended to promote familial harmony and the voluntary distribution of wealth, its practice has generated a substantial number of legal disputes, especially when donors attempt to revoke grants that were previously declared irrevocable. These conflicts often stem from a lack of legal awareness about the formal and material requirements for valid *hibah*, including the critical limitation that *hibah* may not exceed one-third of the donor's total wealth unless all heirs provide explicit consent. This issue becomes more complex when the object of the hibah is land, which often holds significant economic and sentimental value, and may overlap with inheritance rights if the grantor has passed away or if the land was part of a joint marital estate.

Several recent studies have examined legal certainty in land transactions and the potential for disputes in the absence of formal documentation (Fadillah et al., 2023). These studies largely focus on the technical aspects of land registration and the role of notaries and PPAT (Land Deed Officials). However, they do not thoroughly explore the judicial interpretation of the limitation on hibah as found in Article 210 of the KHI, particularly in cases where hibah exceeds the prescribed one-third threshold. Additionally, there remains little discussion on how courts balance between protecting the finality of hibah and honoring the inheritance rights of other heirs, creating a vacuum in normative and jurisprudential scholarship. (Permana et al., 2022)

This study is motivated by those doctrinal and practical gaps. Several decisions from the religious courts indicate a lack of consistency in the application of legal rules surrounding

hibah. For example, some judges differentiate between the validity of the act of hibah and the validity of the deed itself—allowing the grant to stand but ordering the deed to be revised following legal limitations—while others annul both entirely. These inconsistencies not only affect the outcome of disputes but also contribute to broader legal uncertainty for beneficiaries, who may believe they have received valid and enforceable rights under the law.

Accordingly, this study aims to examine (1) the legal framework governing hibah and its revocation under Indonesian law and Islamic principles, and (2) the scope of legal protection afforded to land grant recipients facing revocation claims from the donor. Employing a normative juridical approach, supported by case studies from three religious court decisions (Nos. 1175/Pdt.G/2024/PA.Smn, 236/Pdt.G/2017/PA.Pal, and 601/Pdt.G/2020/PA.Tnk), the research analyzes how courts evaluate formal documents, interpret material ownership, and reconcile hibah law with inheritance rights.

The structure of this paper is organized as follows: the next section reviews the legal framework and statutory basis of hibah; this is followed by a comparative analysis of judicial decisions related to the revocation of land grants that exceed legal limits; the third section presents a normative and empirical analysis of legal protections for beneficiaries; and finally, the paper concludes with key findings and recommendations to improve legal certainty and fairness in hibah disputes.

REVIEW OF LITERATURE

The legal concept of hibah (grant) holds a significant place in both Indonesian civil law and Islamic jurisprudence. Under the Civil Code (Kitab Undang-Undang Hukum Perdata (KUHPerdata), Staatsblad 1847 No. 23, n.d.), *hibah* is defined as an agreement in which a donor transfers assets voluntarily and without compensation to a living recipient. Meanwhile, in Islamic law, as codified in the Compilation of Islamic Law (KHI), hibah is similarly recognized as a voluntary legal act but is bounded by certain religious principles, particularly the restriction that it must not exceed one-third of the donor's total assets unless approved by all heirs (Kompilasi Hukum Islam (KHI), Instruksi Presiden No. 1 Tahun 1991, 1991).

The concept of irrevocability in hibah is central to its legal nature. According to Article 212 of KHI, a hibah cannot be revoked, except in the case of a parent granting property to their child. This provision aligns with classical Islamic jurisprudence, including Sabiq interpretation in Fiqh as-Sunnah, which stresses fairness in distribution and prohibits unequal grants among heirs that may lead to injustice or resentment.

However, recent legal literature has acknowledged a tension between the irrevocability principle and emerging court practices. Empirical findings from case law show inconsistencies in judicial decisions, especially when hibah exceeds the one-third threshold or involves jointly owned or undivided inherited property. In some cases, judges have annulled the hibah entirely, while others only declared the excess portion invalid. These disparities highlight a pressing need for clearer doctrinal alignment and more consistent jurisprudence to prevent legal uncertainty.

Several academic studies have contributed to this discourse. Wahyuni (2021), for instance, identifies that public misunderstanding of the hibah limitation rule often results in legal disputes when grants are made without considering heirs' rights. Additionally, Endang Sri Wahyuni's research emphasizes that the lack of community awareness regarding legal requirements contributes significantly to the vulnerability of beneficiaries in litigation settings. Meanwhile, Hasanah (2022) explores the inconsistencies in judges' interpretations of hibah involving inheritance (*tirkah*), illustrating how religious courts differ in evaluating similar cases (Permana et al., 2023).

From a theoretical standpoint, the study is grounded in the concept of legal certainty, as articulated by Radbruch, who asserts that law must be based on clarity, consistency, and factual accuracy. Law, in his view, should not be subject to abrupt change and must offer predictable guidance to individuals (Prakoso et al., 2024). This theory becomes particularly relevant when analyzing the inconsistent application of hibah regulations in court. In addition, the research employs Philipus M. Hadjon's theory of legal protection, which distinguishes between preventive and repressive mechanisms. While preventive protection is embedded in

the clarity of laws such as KHI and land registration rules, repressive protection emerges through court judgments that defend the rights of good-faith beneficiaries.

Another theoretical contribution comes from Rahardjo, who emphasized that the law should not be reduced to rigid rules but must serve broader social justice. This humanistic legal perspective is particularly crucial when courts assess cases involving grants that were already utilized or developed by beneficiaries over time. Revoking such grants without considering beneficiaries' legitimate expectations could lead to new injustices.

In summary, while previous scholarship has offered valuable insights into the legal structure of hibah, this study addresses a specific gap in the literature by focusing on judicial interpretation inconsistencies and the fragility of recipient protection. This literature review thus lays the groundwork for evaluating whether the current legal framework adequately balances the principle of hibah's finality with the protection of heirs and the legitimate interests of recipients in land-based *hibah* disputes.

RESEARCH METHOD

This study employs a normative juridical research method, which focuses on the analysis of legal norms, principles, and statutory regulations relevant to the issue of land grants (hibah) and their revocation in the Indonesian legal system. The normative juridical method is appropriate as the research centers on evaluating the consistency and validity of existing laws, particularly concerning the legal protection of hibah recipients when the grant is challenged or annulled by the donor.

The research utilizes two primary approaches: the statute approach and the case approach. The statute approach is used to examine relevant legislation, including the Compilation of Islamic Law (KHI), the Civil Code (KUHPerdara), the Compilation of Sharia Economic Law (Kompilasi Hukum Ekonomi Syariah (KHES), 2008), and other laws governing land ownership and inheritance in Indonesia. This method allows for an assessment of the coherence between existing legal provisions and their alignment with principles of justice and legal certainty.



The case approach complements the normative analysis by examining judicial decisions from Indonesian religious courts, where many disputes concerning hibah are adjudicated. The researcher specifically analyzed three court rulings: Decision No. 1175/Pdt.G/2024/PA.Smn, Decision No. 236/Pdt.G/2017/PA.Pal, and Decision No. 601/Pdt.G/2020/PA.Tnk. These decisions were chosen for their relevance to the central issue—revocation of hibah that exceeds one-third of the donor's estate—and for the diversity of judicial reasoning reflected in their verdicts. Through these cases, the researcher assessed how judges interpret and apply relevant legal provisions, particularly the extent to which the one-third rule is enforced and how inconsistencies in judicial reasoning affect legal certainty for beneficiaries.

The source of legal data in this study consists of both primary legal materials, such as statutes, court decisions, and judicial interpretations, and secondary legal materials, including books, journals, scholarly articles, and academic commentary related to land grants, Islamic inheritance law, and legal theory.

Legal data were collected through library research, which involved reviewing printed and digital legal documents, doctrinal texts, and academic journals. The researcher employed techniques such as systematic and grammatical interpretation to analyze the collected legal materials. The systematic interpretation helped identify the relationship between various legal norms, while grammatical interpretation ensured an accurate understanding of the legal language used in legislation and court decisions.

Since this research is normative and not empirical, there were no field interviews or direct observations. However, the researcher's presence is reflected in the critical evaluation and legal reasoning constructed from the examined materials. The unit of analysis includes the legal provisions in the KHI and KUHPperdata, the judicial application of those norms in the selected cases, and their implications for beneficiaries' rights under Indonesian law.

To ensure validity and reliability, the research utilized triangulation of legal sources, cross-referencing statutory laws with court rulings and academic perspectives to construct a comprehensive and balanced analysis. The study also emphasized doctrinal consistency by

applying relevant legal theories, such as Gustav Radbruch's theory of legal certainty and Philipus M. Hadjon's theory of legal protection, to evaluate the adequacy of current legal norms in protecting hibah recipients (Permana et al., 2024).

The research was conducted over a period of six months, with the case documentation and legal materials obtained from official court repositories, online legal databases, and university libraries. The location of the study was based at the Faculty of Law, with legal databases from the Religious Courts (Pengadilan Agama) and Mahkamah Agung RI serving as key sources of case documentation.

RESULTS AND DISCUSSION

This study investigates the legal considerations and judicial decisions regarding the cancellation of land grants (hibah) that exceed the one-third limit prescribed by Islamic inheritance law. The primary data was obtained from three Religious Court decisions: Case No. 1175/Pdt.G/2024/PA.Smn, Case No. 236/Pdt.G/2017/PA.Pal, and Case No. 601/Pdt.G/2020/PA.Tnk. These cases were selected for their relevance to the research objectives and their distinct judicial interpretations regarding the legal status of the grant deeds and the grants themselves.

The analysis reveals significant inconsistencies in judicial reasoning, particularly in determining whether the violation of the one-third limitation invalidates the grant deed, the grant itself, or both. The findings are summarized in the following table:

Table 1.
Comparison of Judicial Considerations on Grant Deeds and Grants in Three Religious Court Decisions

No	Case Number	Judicial Consideration on Grant Deed	Judicial Consideration on the Grant
1	1175/Pdt.G/2024/PA.Smn	The grant deed was declared invalid only in part (beyond 270 m ²), while the rest was not accepted (niet ontvankelijk verklaard).	The grant it self was still considered legally valid within the allowed portion and not fully canceled.
2	236/Pdt.G/2017/PA.Pal	The grant deed was declared null and void because the grant exceeded one-third of the donor's total wealth.	The grant was considered valid only up to one-third of the donor's property, and the remainder must be returned.

3	601/Pdt.G/2020/PA.Tnk	The grant deed was declared null and void due to its violation of the legal limitation on grants and the lack of legal ownership of the grantor.	The entire grant was declared null and void as it contradicted the law, specifically inheritance provisions and ownership limitations.
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As shown in Table 1, the first case ((*Putusan No. 1175/Pdt.G/2024/PA.Smn, 2024*)) illustrates a partial invalidation approach. The court declared that the grant deed was invalid only for the portion exceeding 270 m² and maintained the validity of the remaining part. However, the court rejected the plaintiffs' request to nullify the entire deed, demonstrating a moderate stance aimed at procedural balance.

In the second case ((*Putusan No. 236/Pdt.G/2017/PA.Pal, 2017*)), the court adopted a proportional interpretation. While the deed was declared null and void for violating the one-third rule, the grant itself was still considered valid up to the permissible one-third portion. The remaining two-thirds were ordered to be returned to the donor, reflecting a legal approach that emphasizes partial correction rather than total revocation.

Conversely, the third case ((*Putusan No. 601/Pdt.G/2020/PA.Tnk, 2020*)) took a more rigid position. The court ruled that both the deed and the grant were entirely invalid due to non-compliance with legal ownership rights and inheritance limitations. The court emphasized that the grantor, who was merely one of the heirs, lacked full legal authority to dispose of the disputed land, and the grant exceeded permissible limits without any heir consent.

These findings indicate that while all three courts recognized the legal limitation on hibah (no more than one-third without heir approval), their interpretations and applications varied significantly. This inconsistency not only reflects different judicial philosophies but also raises serious questions about the certainty of law and the protection afforded to beneficiaries (Fajrimustika & Arsin, 2023).

In line with previous academic findings (Wahyuni (2021); Hasanah (2022)), this study supports the view that beneficiaries of hibah are vulnerable when legal procedures are not rigorously followed or when the donor lacks full ownership of the granted property.

Furthermore, the absence of standardized judicial approaches exacerbates this vulnerability, reinforcing the need for doctrinal harmonization and improved legal guidance in hibah adjudication.

The findings from the three judicial decisions provide a nuanced understanding of how Indonesian religious courts address the revocation of hibah that exceeds legal limitations. Each case offers a unique judicial construction, which not only reflects differing legal interpretations but also exposes the fragility of legal certainty for recipients of grants in inheritance contexts (Widyadhana et al., 2024).

In Case No. 1175/Pdt.G/2024/PA.Smn, the court's reasoning was centered on distinguishing between the validity of the grant deed and the substance of the grant itself. The judge declared the deed invalid only to the extent that it exceeded the allowable 270 m², corresponding to the permissible one-third portion. The rest of the land (410 m²) remained in legal limbo but was not automatically restored to the inheritance pool. The court refrained from declaring the entire deed void ab initio, thus offering partial legal recognition to the hibah. This indicates the court's attempt to reconcile procedural justice with substantive fairness, although it could also be argued that such a compromise may result in ambiguity regarding land ownership status and the need for further legal proceedings to validate a new deed.

In Case No. 236/Pdt.G/2017/PA.Pal, the court clearly acknowledged that the hibah had exceeded the one-third threshold, which, under Islamic law, requires explicit consent from other heirs to remain valid. Since no such consent was present, the court invalidated the hibah proportionally. The deed itself was declared null and void, but the grant remained valid up to one-third of the donor's wealth. The remaining two-thirds were ordered to be returned to the donor, underscoring the court's strict adherence to the 1/3 limitation as a substantive boundary. This approach is consistent with jurisprudence from the Indonesian Supreme Court ((*Putusan No. 76 K/AG/1992*, n.d.) and (*Putusan No. 75 K/AG/2003*, n.d.)), which affirms that a hibah that violates the one-third limit without heir approval is legally defective and partially void.



In contrast, Case No. 601/Pdt.G/2020/PA.Tnk demonstrates a more rigid application of legal norms. The court annulled both the deed and the grant itself, citing that the donor was not the sole legal owner of the land, which formed part of a shared inheritance estate. The decision was grounded in the principle that no party may transfer ownership of an object they do not fully own, regardless of their familial relationship with the recipient. The court further reinforced this reasoning by referencing binding Supreme Court jurisprudence that invalidates grants exceeding one-third of the donor's estate. This case reflects a doctrinally conservative interpretation, emphasizing procedural completeness and the inviolability of inheritance rights over equitable considerations for the recipient.

From a comparative perspective, the inconsistency between these rulings presents a fundamental challenge to the principle of legal certainty, a core element of both Gustav Radbruch's legal philosophy and Indonesia's legal system (Mangesti & Tanya, 2014). As emphasized by Radbruch, predictability and consistency are essential features of just law. When courts issue divergent rulings on similar legal grounds, individuals—particularly grant recipients—are placed in vulnerable positions. This uncertainty risks undermining public confidence in the legal system and threatens the enforceability of hibah as a lawful transfer of property.

Moreover, the discrepancies in the rulings raise broader questions about how judges balance legal formalism with substantive justice. In situations where the recipient has possessed, used, or developed the land in good faith—often for many years—the total cancellation of the hibah can lead to disproportionate harm (Kinasih, 2024). Scholars such as Satjipto Rahardjo argue that the law must serve human interests, and not merely procedural rigidity. Thus, the outcome in Case No. 601, while legally valid, could be seen as socially unjust when viewed through the lens of legal realism.

The results of this study also corroborate the findings of Wahyuni (2021), who noted that a lack of legal knowledge among donors and recipients often leads to procedural violations in hibah practices, especially when not involving notarial authentication. The use of informal mechanisms or incomplete deeds increases the risk of litigation and judicial

annulment. Similarly, Hasanah (2022) observed that many hibah disputes stem from the erroneous assumption that family ties alone can override formal legal requirements.

In sum, while all three cases recognize the legal boundaries surrounding hibah, the courts differ in how they construct remedies and apply the law to facts. This variation not only creates legal uncertainty but also points to a need for stronger jurisprudential guidelines, clearer regulatory frameworks, and better public legal education regarding the limitations and enforceability of land grants.

The inconsistencies identified in the judicial treatment of land grants (hibah) that exceed one-third of the donor's estate invite a deeper theoretical reflection. The use of different legal constructs by the courts—partial invalidation, proportional adjustment, or total cancellation—can be better understood through the lens of legal certainty, legal protection, and progressive law theory.

According to Gustav Radbruch's theory of legal certainty, one of the fundamental purposes of law is to ensure stability, predictability, and clarity. Legal certainty enables individuals to organize their conduct and affairs based on a reliable framework of rules. In the context of hibah, particularly those involving land—a high-value and often emotional asset—Radbruch's principle requires that judicial decisions be consistent, foreseeable, and grounded in a uniform interpretation of statutory and religious norms. However, the diverging outcomes in the three analyzed cases challenge this notion. While one court (PA Tanjung Karang) strictly annulled both the deed and the grant, another (PA Sleman) upheld the grant partially while rejecting the deed in part, and yet another (PA Palu) allowed partial revocation with clear proportions. Such doctrinal fragmentation leads to unpredictability, particularly for recipients who may have accepted hibah in good faith, believing in its irrevocability as stated in both KHI and KUHPerdota.

These findings also resonate with Hadjon theory of legal protection, which distinguishes between preventive and repressive protection. Preventive protection is achieved through clear, well-structured laws and transparent procedures, such as requiring that hibah be made via notarial deed, comply with inheritance limitations, and involve all affected heirs (Yetniwati et al., 2021). When these procedural safeguards are neglected—either by donors,

notaries, or recipients—repressive protection must step in through court intervention. In all three cases analyzed, the courts exercised repressive legal protection to various degrees: either by revising the scope of the hibah, voiding it in part, or annulling it altogether (Zainuddin, 2017). However, the lack of consistent repressive standards diminishes the effectiveness of this protection, especially when courts fail to take into account the recipient's position and reliance interests (Firmansyah, 2024).

More profoundly, these rulings raise important questions within the framework of Rahardjo theory of progressive law, which holds that law must serve the goals of justice and respond to real-life complexities, not merely the formal application of rules. In many hibah cases, especially where recipients have long occupied or used the land in good faith, a strictly formalistic approach to revocation may create new injustices. For instance, in PA Tanjung Karang's decision (No. 601/Pdt.G/2020), the court voided both the deed and the entire hibah, without regard to whether the recipient had developed, resided on, or otherwise relied upon the land. In contrast, PA Sleman's partial recognition of the hibah—despite exceeding one-third—can be seen as a more humanistic interpretation aligned with Rahardjo's view that law must prioritize human values and social outcomes over mechanical rule-following.

Furthermore, the discussion in this study highlights a structural challenge in the intersection between Islamic inheritance principles and contemporary land law. Although the one-third limitation is doctrinally grounded in Islamic inheritance jurisprudence, its application in modern state law demands procedural harmonization—particularly when hibah involves land subject to national land registration systems and civil formalities. The fact that some courts allow partial correction (as in PA Palu) while others require full cancellation (as in PA Tanjung Karang) shows that the normative integration between KHI, KUHPerdara, and agrarian law remains incomplete and inconsistent.

Thus, the findings of this study not only confirm that hibah exceeding one-third without heir consent is vulnerable to legal challenge, but also emphasize that how courts interpret and enforce these violations varies greatly, depending on whether their approach favors certainty, proportional fairness, or restorative justice. The theoretical implication is

clear: the current legal framework provides a doctrinal basis for protection, but it is the judicial application and consistency that ultimately determine the strength of legal protection for grant recipients.

This analysis confirms earlier scholarly observations by Wahyuni (2021) and Hasanah (2022), who warned about the fragile status of hibah recipients in Indonesia. Their vulnerability is not only rooted in legal technicalities but is also reinforced by unequal access to information, uneven judicial interpretation, and the absence of comprehensive case law guidance. Therefore, to safeguard both the integrity of Islamic legal norms and the rights of recipients, a harmonized interpretive standard and clearer procedural enforcement mechanism are needed.

CONCLUSION

Legal protection for recipients of land grants is conditional, not absolute. Although grant recipients have the right to retain ownership under a valid and properly executed hibah, their position becomes vulnerable when the grant exceeds legal limitations or when procedural requirements are not met. This vulnerability is particularly apparent in the inconsistency of judicial decisions across different cases. Some courts maintain the validity of the hibah partially while voiding the grant deed; others annul both. This lack of uniformity undermines legal certainty and highlights the importance of standardizing judicial interpretations regarding the enforceability and limitation of hibah. The findings support the application of several legal theories, including Gustav Radbruch's theory of legal certainty, Philipus M. Hadjon's theory of legal protection, and Satjipto Rahardjo's theory of progressive law. These theories help explain why inconsistencies in legal enforcement can cause both injustice and uncertainty, especially when beneficiaries are not given adequate protection despite having accepted the grant in good faith.

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