

## **HIBAH (GRANTS) AND FAMILY CONFLICT PREVENTION: A Case Study of The Betawi Community in Pondok Pinang**

**Habib Al Rahman<sup>1</sup>, JM Muslimin<sup>2</sup>, Mohammad Adnan<sup>3</sup>**

<sup>1,2,3</sup>Universitas Islam Negeri (UIN) Syarif Hidayatullah Jakarta

Jl. Ir H. Juanda No.95, Ciputat, Kota Tangerang Selatan, Banten 15412, Indonesia

E-mail: <sup>1</sup>[rahmanhabib@darunnajah.ac.id](mailto:rahmanhabib@darunnajah.ac.id), <sup>2</sup>[jm.muslimin@uinjkt.ac.id](mailto:jm.muslimin@uinjkt.ac.id), <sup>3</sup>[moh.adnan@uinjkt.ac.id](mailto:moh.adnan@uinjkt.ac.id)

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**Abstract:** This study explores the practice of *hibah* (grants) in the Betawi community of Pondok Pinang and its potential role in preventing family conflicts. Using a qualitative case study with a sociological approach, the research applies John W. Burton's conflict resolution theory, which emphasizes mediation, along with the *al-sulh wa al-tahkîm* method as mechanisms for resolving disputes. Findings reveal that *hibah* in this community is more than a traditional custom; it functions as a social tool with three main purposes: (1) ensuring the family's future and harmony, (2) preventing inheritance disputes that could divide the family, and (3) preserving family values. Thus, *hibah* is both a means of wealth distribution and a reflection of family dynamics. The study highlights *hibah* as an alternative to avoid inheritance conflicts. However, *hibah* often leads to disputes. While heirs have the right to manage inherited assets, violations of Indonesian *hibah* regulations can trigger conflicts. This research concludes that *hibah*, if managed according to legal and cultural principles, can be an effective instrument for maintaining family unity.

**Keywords:** *hibah* (grants); family conflict resolution; Betawi community; Pondok Pinang

**Abstrak:** Penelitian ini mengkaji praktik hibah pada masyarakat Betawi di Pondok Pinang serta perannya dalam mencegah konflik keluarga. Menggunakan metode penelitian kualitatif dengan studi kasus dan pendekatan sosiologis, penelitian ini menerapkan teori resolusi konflik John W. Burton yang menekankan mediasi, serta metode *al-sulh wa al-tahkîm* sebagai mekanisme penyelesaian sengketa. Hasil penelitian menunjukkan bahwa hibah di masyarakat ini bukan sekadar tradisi, tetapi telah berkembang menjadi instrumen sosial dengan tiga tujuan utama: (1) menjamin masa depan dan keharmonisan keluarga, (2) mencegah sengketa warisan yang dapat memecah belah keluarga, dan (3) mempertahankan nilai-nilai keluarga. Dengan demikian, hibah tidak hanya menjadi sarana pembagian harta, tetapi juga mencerminkan dinamika hubungan keluarga. Penelitian ini menilai hibah sebagai alternatif untuk menghindari konflik warisan. Namun, penelitian ini berpendapat bahwa hibah sering memicu perselisihan. Meskipun ahli waris memiliki hak mengelola harta yang diterima, pelanggaran terhadap ketentuan *hibah* di Indonesia dapat memicu konflik. Kesimpulannya, hibah yang dikelola sesuai aturan hukum dan budaya berpotensi menjadi sarana efektif untuk menjaga persatuan keluarga.

**Kata kunci:** hibah; resolusi konflik keluarga; masyarakat Betawi; Pondok Pinang

## Introduction

Religion plays a vital role in every daily activity of Indonesian society. In practice, Islam has regulated, guided, and refined Indonesian traditions, both socially and culturally. Culturally, the application of Islamic law has resulted in the acculturation of Indonesian customs. One impact of the implementation of Islamic law is the blending of existing laws in Indonesia, namely Islamic law and customary law.<sup>1</sup>

The application of law in Indonesia is divided into three categories: Islamic law, customary law, and Dutch law, now known as civil law. One interesting legal subject to study is the issue of *hibah* (grants). In Indonesian society, this practice is one way to reduce the level of imbalance in social life between people, creating harmony and community awareness. *Hibah* are part of Islamic law that focuses on the welfare and justice that disregards human status, whether rich or poor, because *hibah* are made to eliminate barriers to human life that cause inequality and social jealousy.<sup>2</sup>

In Betawi society, a *hibah* is an arrangement in which someone gives something for free or without the ability to take it back for the benefit of the recipient. However, in practice, there are numerous challenges associated with giving, one of which is the tradition, which is tied to certain customs, including the Betawi tradition of carrying out *hibah*.<sup>3</sup>

The practice of giving *hibah* among the majority of Betawi people generally takes two forms. Parents give something with the eldest child receiving the largest share, while the youngest child receives their parents' main house. In the second form, parents provide for both the eldest and youngest children equally, or according to need, and also offer an

equal or appropriate distribution of the parents' main house. It has been customary for most Betawi people, from ancient times to the present, for parents to divide their wealth among their children, both during their lifetime and after their children marry. This can be said to be an inherited custom, so that when parents die later, the inheritance (in addition to the assets donated) will also be distributed to their descendants, a distribution that is not based on inheritance law.

The purpose of a *hibah* is clear: to prevent heirs from fighting over inheritance after their parents' death, thus maintaining well-established family relationships. In this case, a *hibah* is a solution that is expected to prevent divisions between family members due to inheritance disputes. The uncertainty that arises in society regarding the fairness of inheritance distribution according to inheritance law or *farâ'ih*, both directly and indirectly, actually indicates a deep concern regarding the distribution of inheritance, which is considered unfair or not in accordance with expectations. This concern indicates that the public does not yet fully trust the existing inheritance law system. This is because, if they believe that the inheritance distribution system regulated by law *farâ'ih* is fair and just, there will be no more preventive measures such as *hibah* taken to avoid potential future conflicts or problems. In other words, confidence in a fair and transparent inheritance law system will reduce the need for alternative solutions such as *hibah*.<sup>4</sup>

One study conducted among the Betawi community in the Srengseng Sawah sub-district, South Jakarta, found problems related to the development of inheritance distribution practices according to Betawi customary inheritance law. Inheritance distribution practices initially followed customary law passed down through generations (customary law). Over time, the Betawi community in the Srengseng Sawah sub-district used customary law based on Islam to determine inheritance

<sup>1</sup> Koentjaraningrat, *Kebudayaan Jawa* (Jakarta: Balai Pustaka, 2009), 123.

<sup>2</sup> Haryanto Al-Fandi, *Etika Bermuamalah Berdasarkan Alquran dan Sunna* (Jakarta: Bulan Bintang, 2011), 144.

<sup>3</sup> Muhammad Amin Almuntazar, "Analisis Yuridis Pemberian dan Pembatalan Akta Hibah Tanah Nomor 590.4/23/2007 Menurut Hukum Perdata dan Kompilasi Hukum Islam," *Jurnal Fakultas Hukum Universitas Malikussaleh* 7, no. 2 (2019): 14, <https://ojs.unimal.ac.id/index.php/suloh/article/view/2032>.

<sup>4</sup> Munawir Sjadjali, *Polemik Reaktualisasi Hukum Islam* (Jakarta: Pustaka Panjimas, 1998), 4.

distribution practices. The development of inheritance distribution practices was influenced by four factors: religious factors, economic factors, migration factors, social and cultural factors, and educational factors.<sup>5</sup>

Article 211 of the Compilation of Islamic Law stipulates that a *hibah* from a parent to a child can be considered an inheritance. Article 171 letter g states that a *hibah* is the voluntary transfer of an object from a living person to another person for ownership. The term “can” in Article 211 is not considered an inheritance. Rather, it is a possibility that can be exercised if one of the heirs believes they have been harmed. However, Article 211 does not explain in detail the rationale behind this provision. Therefore, Article 211 requires a thorough examination to avoid misunderstandings.<sup>6</sup> Islamic law, customary law, and Indonesian civil law are the three legal systems that govern *hibah* in Indonesia.

According to these three legal systems, once something is given, it is irrevocable if cancelled or withdrawn. This is the position adopted by all three legal systems. The exception applies in cases (according to Islamic law) where something is given from a parent to a child; (according to customary law) where the *hibah* violates local customary provisions; and (according to civil law) where the recipient fails to fulfill the requirements for implementing what was given to him.<sup>7</sup>

Based on the description above, the author is interested in addressing this issue as a research topic. This decision is based on several important considerations outlined previously. This research is expected to make a significant contribution to Sharia or Islamic jurisprudence, focusing on social life and family conflict resolution in Betawi society.

<sup>5</sup> Dandia Magna Rijkova, Agung Basuki Prasetyo, and Sukirno, “Perkembangan Praktik Pembagian Warisan Menurut Hukum Waris Adat Betawi Pada Masyarakat Betawi di Kelurahan Srengseng Sawah, Kecamatan Jagakarsa, Jakarta Selatan,” 1-11.

<sup>6</sup> Abdul Rahim, “Pemberian Hibah dari Orang Tua Kepada Anaknya Dapat Diperhitungkan Sebagai Warisan Analisis Pasal 211 KHI,” *Al-Usrah: Jurnal Al-Ahwal As-Syakhsiyah* 10, no. 1 (2022): 48-59.

<sup>7</sup> Oping, “Pembatalan Hibah Menurut Pasal 1688 Kitab Undang-Undang Hukum Perdata”.

The results are expected to increase understanding and knowledge, as well as provide solutions to the problems being addressed.

The novelty in this research lies in the intersection of Islamic, customary, and civil law regarding *hibah*, particularly in Betawi society, where the practice is embedded in local customs and influenced by a mix of religious, economic, and social factors. While *hibah* as a practice is well-known, this study seeks to explore its impact on family dynamics, inheritance practices, and the community's perception of fairness in inheritance law. It also aims to evaluate the challenges faced by Betawi society in reconciling Islamic, customary, and civil law in inheritance distribution.

The purpose of this research is to provide a depth analysis of the practice of *hibah* in Betawi society, examining its role in inheritance distribution, its legal implications across different legal systems, and the social and cultural dynamics that influence its practice. By exploring the intersection of these legal systems and local traditions, the research aims to contribute to a better understanding of family conflict resolution and inheritance practices in Indonesian society.

## Method

This study uses empirical legal research (field research) with a sociological and descriptive approach. The focus is to describe the phenomenon of *hibah* (grants) practices in the Betawi community of Pondok Pinang without hypothesis testing, allowing direct exploration in the field. Subjects were selected using purposive sampling, including community leaders (Mr. BM), grantors/recipients (Mr. HS, Mr. HM, Mr. SFR, elementary school mothers, Mrs. RM, Mrs. ZB, Mrs. JN, Mrs. HF), and religious leaders.

The stages include preparing research instruments, collecting field data (December 8, 2023 – October 17, 2024), recording data, and conducting preliminary analysis in parallel with data collection. Materials include relevant laws and regulations, *hibah* documents, and supporting literature. Instruments

consist of semi-structured interview guides, observation formats, and document checklists. Data collection techniques

The research will utilize three primary methods to gather data on the practice of *hibah* in Betawi society. First, semi-structured interviews will be conducted to explore the experiences of informants. These interviews will provide insights into their personal experiences with *hibah*, the motivations behind it, and the challenges they encounter. Second, participatory observation will be employed to observe the *hibah* process directly. This will allow the researcher to examine the interactions, motivations, potential conflicts, and resolutions that emerge during *hibah* transactions within the community. Lastly, documentation will involve collecting relevant materials such as letters, archives, and photographs related to *hibah*. These documents will help to contextualize the practice historically and complement the data gathered from interviews and observations. Together, these methods will provide a comprehensive understanding of *hibah* and its role in Betawi society.

Data Analysis Techniques Using Miles & Huberman's interactive model: data reduction, data display, and conclusion drawing, conducted cyclically during and after data collection.

## Result and Discussions

### *Hibah* (Grants) in John W. Burton's Perspective

John W. Burton's conflict resolution theory offers an interesting perspective on preventing conflicts related to *hibah*. His human-centered approach emphasizes the importance of understanding and addressing the fundamental needs of all parties involved. In the context of *hibah*, these needs can range from transparency and fairness in decision-making to participation and recognition by all stakeholders. By identifying and addressing these needs early, potential conflicts can be minimized.<sup>8</sup>

<sup>8</sup> John W. Burton, *Conflict: Resolution and Prevention* (New York: St. Martin's Press, 1990), 50-80.

Burton stresses deliberation as the primary mechanism for preventing and resolving conflicts. For effective deliberation, it must be inclusive, allowing all parties to express their perspectives, interests, and needs. This process helps build understanding, identify common interests, and find solutions that satisfy all involved. Deliberation is not only a method to prevent conflict escalation, but also a tool to foster trust, collaboration, and shared goals.<sup>9</sup>

A key aspect of Burton's theory is the belief that conflict can be transformed into an opportunity for growth and positive change. In *hibah*, potential conflicts can be seen as opportunities to enhance transparency, accountability, and participation in program management. Through constructive deliberation, parties can develop shared understandings, strengthen relationships, and achieve sustainable outcomes. Thus, *hibah* can prevent conflicts while fostering collaboration and innovation.<sup>10</sup>

By applying Burton's conflict resolution principles such as inclusive deliberation, a neutral third party, and the transformation of conflict into positive change *hibah* can prevent disputes, improve program effectiveness, and build harmonious relationships among stakeholders.

### 1. Flexibility of *Hibah* (Grants) in Asset Distribution

*Hibah* offers flexibility in the distribution of assets because it can occur at any time while the testator is alive. This approach is recognized religiously, allowing for a fairer and more transparent distribution of assets to heirs. When assets are distributed while the testator is still alive, they have full control over the allocation, ensuring more equitable distribution among children or heirs. This flexibility also allows for adjustments based on changing family circumstances, such as when one family member requires more financial support than another.<sup>11</sup>

<sup>9</sup> Aulia Nur Faradila and Sukma Dewi, "Implementasi Asas Musyawarah dan Mufakat dalam Penyelesaian Sengketa Hukum Waris Adat di Indonesia," *Indonesian Journal of Social Sciences and Humanities* 3, no. 2, (2023), 39-46.

<sup>10</sup> Burton, *Conflict: Resolution and Prevention*, 50-80.

<sup>11</sup> Burton, *Conflict: Resolution and Prevention*, 50-80.

The practice of *hibah* in SFR families illustrates this flexibility, with the distribution being based on the individual needs of each child, particularly those facing financial hardships. This personalized approach allows parents to tailor the distribution to their children's circumstances. The SFR family's experience demonstrates that parents are deeply attuned to their children's needs and believe *hibah* is necessary to ensure prosperity and economic advancement for their children. Mahbubi and Habibullah also note that social realities often require greater flexibility in the implementation of *hibah*, which provides a more just solution compared to rigid inheritance laws. *Hibah* allows for asset allocation based on the needs and contributions of each heir, without violating Sharia provisions.<sup>12</sup>

Research in the Betawi community reveals that the *hibah* practice, adapted from long-standing customs, offers an opportunity for parents to fairly divide their wealth among their children through deliberation and mutual agreement. This process helps maintain family harmony while distributing wealth accumulated over the parents' lifetime.<sup>13</sup>

## 2. The Effectiveness of *Hibah* (Grants) in Reducing the Potential for Family Conflict

*Hibah* has proven to be an effective tool in reducing family conflict, particularly when implemented with principles of transparency and mutual agreement. In practice, *hibah* involves an open discussion process in which each family member has the opportunity to express their opinions, desires, and concerns. This approach fosters healthy communication, reducing feelings of injustice or jealousy that often arise when assets are divided without the involvement of all parties.

The effectiveness of *hibah* is rooted in the sociological values of family harmony, justice, and intergenerational relationship sustainability. In

<sup>12</sup> Mahbubi and Habibullah, "Hibah Waris Sebagai Solusi Pembagian Harta Waris Prespektif Maqâshid Syar'iyyah," *Al-Fattâh: Jurnal Hukum dan Pranata Sosial* 1, no. 1 (2024): 1-16.

<sup>13</sup> Yasmine Zaki Shahab, *Betawi dalam Perspektif Kontemporer: Perkembangan, Potensi dan Tantangannya* (Jakarta: Lembaga Kebudayaan Betawi, 1997), 150-170.

RM families, *hibah* is highly effective in reducing conflict, as distribution is carried out transparently, with parents engaging all children in the decision-making process. This inclusive approach helps mitigate dissatisfaction after asset distribution. The RM family, for instance, ensures that all children are involved in the discussions, hoping to prevent future conflicts and maintain family harmony. Raja Ritonga and Amhar Maulana Harahap highlight that fair and harmonious inheritance distribution helps maintain peace and strengthens religious practices. Therefore, preventing conflict allows families to focus on worship and obedience to God.<sup>14</sup>

Thus, *hibah* serves not only as a wealth distribution tool but also as an important mechanism for maintaining peace and unity within families. This practice reflects a balance between the heir's responsibility for justice and the family's need to uphold harmony, aligning with the values of Betawi culture, which prioritizes family and Islamic principles.<sup>15</sup>

## The Impact of *Hibah* (Grants) on Family Conflict Resolution

In Pondok Pinang Village, most Betawi people view *hibah* as an alternative way to distribute inheritance. Properly executed, *hibah* can prevent conflicts related to inheritance. This is reinforced by Article 211 of the Compilation of Islamic Law (KHI), which stipulates that "*hibah* from parents to their children can be considered inheritance."<sup>16</sup>

The practice of *hibah* among Betawi society is motivated by several factors: it is seen as a parental obligation to support their children with assets, especially when the children are starting their own families and living separately. *Hibah* provides a means for parents to ensure their children have

<sup>14</sup> Raja Ritonga and Amhar Maulana Harahap, "Harmoni Dalam Kewarisan: Solusi Damai Untuk Mencegah Konflik Keluarga," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 133-117 :(2024) 10.1.

<sup>15</sup> Ribut Riyadi, "Hibah Sebagai Strategi Penyelesaian Sengketa Pembagian Harta Waris di Indonesia," *Adkhi: Journal of Islamic Family Law* 4, no. 1, (2022), 71-80.

<sup>16</sup> Departemen Agama Republik Indonesia, *Kompilasi Hukum Islam*, (Jakarta: Departemen Agama RI, 1991), 90.

financial support and independence. Additionally, *hibah* is believed to safeguard assets from other heirs, ensuring clarity in the distribution process. This practice is rooted in strong principles that continue to be upheld by Betawi families today. Most people in Pondok Pinang Village firmly believe that their actions are in the best interest of their children, ensuring no future disputes over inheritance.<sup>17</sup>

The JN family exemplifies how *hibah* can resolve family conflict by clearly defining each child's rights. By distributing assets equitably, *hibah* reduces the likelihood of conflict between family members after a parent's death. In the study of eight Betawi families, all but one family experienced positive relationships after receiving *hibah*, with any disagreements quickly resolved through deliberation and mediation. A fair *hibah* process, based on consensus and transparency, minimizes the potential for injustice, allowing all parties to express their opinions and ensuring a just outcome.<sup>18</sup>

The impact of inheritance distribution using the grant method in most Betawi communities, particularly in Pondok Pinang Village, can be an example of how *hibah* (grants) can be a way to resolve family conflict. This can be seen in the eight families studied, which showed that the eight families, post-marriage, had a positive relationship given the grant is not subject to conflict, and one family experiences conflict. However, it can be resolved quickly through deliberation and the appointment of a mediator. A fair grant process involves distributing the grant through deliberation, with a grant agreement witnessed by all family members.<sup>19</sup>

This transparent, mutually agreed-upon practice of gift-giving minimizes the potential for injustice

because each child or heir is given the opportunity to speak and express their opinion. In Betawi society, deliberation before making a *hibah* is highly valued as it is seen as a means of reaching consensus. For example, if a child feels their rights are being violated, the deliberation process can improve the situation by listening to complaints and providing more adequate solutions. This deliberation process not only facilitates the division of assets but also strengthens family ties and ensures that decisions are not solely advantageous to one party.<sup>20</sup>

### **Draft *Al-Sulh* and *Al-Tahkîm* in Resolving Family Conflicts Related to *Hibah* (Grants)**

Conflict resolution involves two key concepts: resolution and conflict. Conflict is defined as a social process where two or more parties attempt to eliminate or overpower each other. In Islamic tradition, conflict resolution is rooted in the principles of peace, justice, and social balance. The Quran and sunnah provide the basis for conflict resolution, particularly within the family, teaching the importance of peace, forgiveness, conciliation, and security.<sup>21</sup>

The Quran and sunnah, as the primary sources of Islam, have become the basis of legitimacy and inspiration for developing conflict resolution, particularly within the family. The Quran teaches the concept of peace, whether verbally (speech) or through actions, such as *al-Salam* (uttering or realizing salvation), *al-'Afwu* (say, give or ask for forgiveness), *al-Islâh* (conciliate), and *al-Amn* (gives a sense of security).<sup>22</sup> Conflict resolution models developed in Islam as part of the concept of justice and social balance, and ultimately, several of these Islamic models have been able to enrich and inspire existing conflict resolution models. Among the Islamic conflict resolution models used narrowly

<sup>17</sup> Shahab, *Betawi dalam Perspektif Kontemporer: Perkembangan, Potensi dan Tantangannya*, 100-120.

<sup>18</sup> Tarmizi, "Upaya Penyelesaian Konflik Pembagian Harta Warisan Masyarakat di Indonesia", 41-56.

<sup>19</sup> Harahap, Purnama Hidayah, A. Asmuni, and A. Syahputra. "Socio-Economic Aspects of Urban Grant Cancellation: Examining Religious Court's Decision on Grant Cancellation." MADANIA: JURNAL KAJIAN KEISLAMAN Учредители: Institut Agama Islam Negeri (IAIN) Bengkulu 27, no. 189 :(2024) 2.

<sup>20</sup> HS, Betawi Community of Pondok Pinang, Jakarta, January 16, 2024.

<sup>21</sup> Olabimpe Ajoke Olatunji and Erhabor Sunday Idemudia, "The Multidimensionality of Inter-parental Conflict on Aggression and Mentalhealth Among Adolescents," *Heliyon* 7, no. 5 (2021): 4.

<sup>22</sup> Al-mad Mushtafa al-Marâghî, *Tafsîr al-Marâghî*, Jilid 1 (Mesir: Mustafa al-Bâbi al-Halabi, 1946), 100-150.

within the scope of family conflict dimensions are: *al-sulh* and *al-tahkîm*.<sup>23</sup>

Definition *al-sulh* in classical Islamic jurisprudence studies, it is classified in the field of muamalat (matters related to property). However, in practice, the term *al-sulh* is also often used in conflict resolution other than in cases of property conflicts. For example, the use of the term *al-sulh* beyond the resolution of property conflict cases is the statement of Ibnu Qudamah (one of the figures of the Hanbali school) who maps a group of variants *al-sulh* in Islam there are three, namely: (1) *al-sulh* between Muslims and Ahlu *al-Harb* (non-Muslims who did not make an agreement and are involved in conflict with Muslims). (2) *al-sulh* between *ahlu al-'adl* (fair party) with people-Baghyi (the cheating party). (3) *al-sulh* between husband and wife at the time of the incident *shriek*.<sup>24</sup>

Process *al-sulh* or deliberations have been conducted by several families visited by researchers, including the HS family, who acts as head of the family and also a religious figure, HS as a mediator. If examined more closely, HS plays a role *al-sulh* in the process of distributing the donated assets, he acted as a mediator and leader of the deliberations. This was done because every deliberation process must have someone who acts as a chairperson or leader in decision-making, and that role was played by HS.<sup>25</sup> a brief description of the object *al-sulh* relates to many aspects, such as state relations, inter-community relations, and even interpersonal relations. So that *al-sulh* can be categorized as a multifunctional conflict resolution model, which can be used for conflict resolution at the interpersonal, communal, domestic and international levels.

Besides *al-sulh*, in Islam there is also *al-tahkîm* as one of the types of conflict resolution models. In cases of interpersonal disputes within the family

between husband and wife, the Quan has specifically mentioned *tahkim* in this case. *Shriek* (a protracted and increasingly heated dispute) after the method *al-Sulh* has not been successful. Etymologically, *al-tahkîm* means making someone a mediator in a conflict. In terminology, *al-tahkîm* defined as the protection of two or more parties in conflict with a person who has been agreed to be a mediator and is willing to accept his decision in an effort to resolve the conflict between them.

*Al-Tahkîm* has different characteristics from *al-sulh* like nature *al-Tahkîm* who is forced in his decision, whereas *al-sulh* emphasizes more on resolving conflicts by consensus (agreement of all parties). Although decisions come from *al-tahkîm* is non-binding (not binding), but the final result of *al-tahkîm* not based on the voluntary consensus of the conflicting parties, but rather by a third party outside the conflict. So it is understood from this that *al-tahkîm* as if it were a further stage after the failure of the process *al-sulh*.<sup>26</sup>

Reality on the ground, concept *al-tahkîm* this was implemented in DL's family. Following the distribution of the gifted assets, a family conflict arose. Therefore, she chose to mediate with her brother, who acted as a mediator, with the result of the division remaining unchanged. After the distribution of the gifted assets, some family members disagreed with the decision. DL, as a mother, was unable to resolve the matter, so she acted as a mediator to resolve the *hibah* dispute.<sup>27</sup>

Draft *al-Sulh* and *al-Tahkîm* In resolving family conflicts related to the practice of *hibah* in Betawi society, there are two fundamental principles in Islamic law which aim to create a just and peaceful conflict resolution. *Al-Sulh* (peace) is a process of resolving disputes through deliberation and mutual agreement, in which the disputing parties seek a common ground that is acceptable to all parties without involving a third party as the decision maker.

<sup>23</sup> Departemen Agama Republik Indonesia, *Kompilasi Hukum Islam*, 70-80.

<sup>24</sup> Syams al-Dîn Muhammad bin 'Abbâs al-Ramlî, *Nihâyah al-Muhtâj ilâ Syârî al-Minhâj*, Jilid 3 (Beirut: Dâr al-Kutub al-Ilmiyyah, 1993), 383.

<sup>25</sup> BM, Betawi Community of Pondok Pinang, "interview," Jakarta, January 16, 2024.

<sup>26</sup> 'Ali Hasaballah, *Ushûl al-Fiqh al-Islâmi*, (Cairo: Dâr al-Nahdha al-'Arabiyyah, 1975), 300-350.

<sup>27</sup> HM, Child of DL and Betawi community of Pondok Pinang, "interview", Jakarta, October 15, 2024.

Meanwhile, *al-tahkîm* (arbitration) involves a neutral third party, usually a cleric, community leader, or respected individual, to render a decision based on Islamic sharia principles.<sup>28</sup>

In the Betawi community, which highly values family and justice, these two concepts are crucial elements in maintaining family harmony. Conflicts regarding the distribution of inheritance or gifts often arise from differing perceptions or dissatisfaction with the allocation. Through *al-sulh*, family members seek to reach a mutual agreement through deliberation, so that the decisions taken reflect justice and mutual understanding. If agreement is difficult to reach, then *al-tahkîm* be a solution that allows a third party to make a decision that is respected by all parties. These principles not only aim to resolve disputes practically, but also play a role in maintaining the integrity of family relationships and avoiding the negative impacts of protracted conflict. By implementing *al-sulh* and *al-tahkîm*, the distribution of assets, including *hibah*, can be carried out with transparency, openness and agreement, so as to create an atmosphere conducive to family harmony and wider social life in Betawi society.<sup>29</sup>

### Legal Perspectives on the Practice of *Hibah* by the Betawi Community in Pondok Pinang

After analyzing cases of giving in the Betawi community, the author concludes that the items given by the eight families are classified as absolute. These are absolute because they are given without any conditions. Parents give to their children as a form of affection and support, without requiring anything in return. Furthermore, the objects are goods, such as land, rental properties, gold, and other items.

The process of distributing gifted assets while the parents are still alive is evident in several Betawi family practices in Pondok Pinang. This is done so that the heir can mediate if a conflict arises later, or after the *hibah* distribution. The hope is that

<sup>28</sup> Mahyuni and Desi Yudiana, "Manajemen Konflik dalam Tinjauan Al-Qur'an," *Almuafida* 2, no. 1 (2017): 175-198.

<sup>29</sup> Mahyuni and Desi Yudiana, "Manajemen Konflik dalam Tinjauan Al-Qur'an".

after the assets are distributed, there will be no prolonged conflict between family members.<sup>30</sup> the distribution of assets during the testator's lifetime can be done through consultation with the family and potential heirs to determine the portion they will receive. This is intended to prevent disputes within the family after the testator's death, as the testator's assets have already been distributed. Furthermore, this distribution is expected to benefit the heirs in meeting their needs the economy to be better.<sup>31</sup>

The division by getting an equal portion or according to need is also motivated by the circumstances that occur in society, previously the portion obtained between male and female heirs was 2:1. However, from this portion, the female heirs considered that the portion stipulated in Islamic law was unfair, because they themselves as women had equal responsibilities with male heirs. Over time and with the awareness of parents that the 2:1 portion was unfair for their children and parents who thought they would not differentiate between their love for their children, boys and girls, so the portions were equalized 1:1, no one was more or less. So that finally every child, whether male or female, received an equal portion or according to need and there was no distinction.<sup>32</sup>

In the process of distributing gifted assets, the Betawi people in resolving inheritance disputes prefer a faster resolution method and this can be achieved by using a middle way, where this middle way has become the motive of the Betawi people who, when resolving a problem or issue, the first way that must be done is deliberation and consensus, because this is the main way to avoid disputes between families.<sup>33</sup>

<sup>30</sup> BM, People leader of Betawi Community in Pondok Pinang, "interview", Jakarta, December 8, 2023.

<sup>31</sup> Faizah Bafadhal, "Analisis Tentang Hibah dan Korelasinya dengan Kewarisan dan Pembatalan Hibah Menurut Peraturan Perundang-Undangan di Indonesia." *Jurnal Ilmu Hukum Jambi* 4, No.32-16 :(2013) 1.

<sup>32</sup> Auliyak and Azizah, "Sistem Hibah dalam Pembagian Warisan Perspektif Kesetaraan Gender.", 1-12.

<sup>33</sup> Aulia Nur Faradila and Sukma Dewi, "Implementasi Asas Musyawarah dan Mufakat dalam Penyelesaian Sengketa Hukum Waris Adat di Indonesia,", 39-46.

In the Betawi community, inheritance distribution involves two processes: a family-based process, gathering all heirs and extended family members to witness the distribution, and a verbal distribution process, where the testator announces the inheritance directly to his heirs without any witness from the extended family. However, the first method is often used, where parents summon all their children to discuss the inheritance distribution. The parents then designate portions for each heir. For example, the first child receives land, then the second child receives land, and so on.<sup>34</sup>

The distribution of parental property is essentially the transfer of wealth to descendants and close relatives. Islam conceptually teaches and establishes the transfer of property, outlined in detail in the Quran and hadith, so that Muslims can apply it in their lives. Property is a crucial aspect of human life. It is impossible for humans to be separated from it. In fact, property serves as a benchmark for a person's social status. Islamic law, in the areas of inheritance, zakat, *infaq*, *shodaqoh*, *berkah*, *waqf*, and wills, is an Islamic instrument for wealth distribution, as Islamic teachings prohibit the concentration of wealth in the hands of a few. Therefore, Islamic law, as mentioned above, firmly emphasizes the social aspects of human wealth.<sup>35</sup>

According to Sharia principles, *hibah* cannot be considered part of an inheritance and cannot be changed without the consent of the person making the *hibah*. However, in practice, there is a tendency to consider as part of the inheritance, especially when disputes arise between heirs. In such situations, it is important to adopt a wise approach based on family values and justice. Meeting together, deliberation, and counseling are appropriate steps to resolve such conflicts peacefully and fairly. Through deliberation, family members can discuss openly and express their respective views and interests. Sound advice can also help all parties understand

the legal and moral implications of their actions. Thus, with open dialogue and communication, it is hoped that a solution can be found that satisfies all parties and maintains harmony within the family.<sup>36</sup>

## Conclusion

Based on the research conducted on the practice of *hibah* or grants in the Betawi community of Pondok Pinang, several key conclusions can be drawn. First, most Betawi people prefer the implementation of Islamic inheritance law but, in practice, tend to use *hibah* as a more flexible and accommodating solution. *Hibah* is seen as an effective way to maintain family harmony and prevent conflict, leading to a mixture of inheritance law and *hibah* practices. The distribution of *hibah* is typically carried out while the testator is still alive, often through deliberation, to avoid disputes and ensure fairness among heirs. Any conflicts that arise after the distribution are generally resolved through mediation or deliberation, prioritizing family harmony and maintaining social cohesion.

The flexibility and effectiveness of *hibah* in asset distribution contribute significantly to reducing family conflict. *Hibah* allows for fairer and more transparent distribution of assets while the testator is still alive, addressing inequalities that may arise in post-mortem inheritance. The practice of *hibah* is based on principles of transparency, mutual agreement, and open communication, allowing family members to voice their opinions and reach a consensus.

The involvement of a neutral third party, such as a mediator, plays a crucial role in resolving conflicts arising from *hibah*. The application of the *al-sulh* and *al-tahkîm* methods ensures that *hibah* transactions are carried out with transparency and fairness, reducing tension and dissatisfaction among heirs.

This research contributes to understanding how *hibah* serves as an alternative means of inheritance

<sup>34</sup> BM, People leader of Betawi Community in Pondok Pinang, Jakarta, December 8, 2023.

<sup>35</sup> Ali Yafie, *Menggagas Fiqih Sosial: Dari Lingkungan Hidup, Asuransi, Hingga Ukhwah*, (Bandung: Mizan, 1994), 23.

<sup>36</sup> BM, People leader of Betawi Community in Pondok Pinang, Jakarta, December 8, 2023.

distribution in the Betawi community, supporting family harmony and conflict resolution. It emphasizes the importance of transparency, mutual agreement, and the role of mediation in the practice of *hibah*, highlighting its potential to strengthen family ties and promote a peaceful, just distribution of wealth.

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