

TRUST HIBAH IMPLEMENTATION BASED ON THE CONCEPT OF MASLAHAH

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Abstract: *The centre of the trust hibah refers to the contract granting the hibah property to the grantee during the future life, naming an individual or entity (such as a bank) as trustee and accompanied by stipulations. In some cases, the implementation of trust hibah differs from conventional hibah, but it is tolerated for the benefit of the community. This study aims to discuss how the concept of maslahah works in meeting the needs of the Muslim community and achieving the wishes of the givers and recipients of hibah through the development of this trust hibah. The study used a qualitative method, in which primary data is collected from in-depth interviews. library methods and data will be analyzed by content analysis. The results of the study found that the development of trust hibah for the purpose of estate planning during life can achieve the concept of maslahah through four aspect: 1) the division of maslahah, 2) the order of precedence of maslahah, 3) the scope of maslahah, 4) maslahah from the standpoint of necessity. Therefore, it is hoped that this study will be an added value to the efforts of the responsible parties to preserve the property of Muslims and optimize its use in Malaysia.*

Keywords: *Maslahah, Trust Hibah, Maqasid Syariah*

Introduction

Trust hibah is a gift made out of love, and the property will be administered by the trustee before being given over to the receiver after the grantor's death (Azhar, 2017). According to Halim and Bustami (2017), a grant of trust is a type of gift from the giver of property during his lifetime, and the giver of property can still utilise the property after the grant of trust contract takes effect. In the case of *Lee Ing Chin & Ors v. Gan Yook Chin & Anor* [2003] 2 CLJ 19, this principle is demonstrated. After the grantor of the trust property appoints a trustee or appoints himself as a trustee to oversee the trust property, the contract is considered complete.

Trust hibah is the combination of two contracts, hibah and amanah (Halim & Bustami, 2017). A trust hibah will be implemented following the death of the grantor (Azhar, 2017; Muda, 2008). This contract allows the grantor to have complete control over the grant property during their lifetime, and the grantee will only get the grant property after the grantor's death (Halim & Bustami, 2017). Hibah amanah became popular in the Muslim wealth management business when Amanah Saham Nasional Berhad (ASNB) established it in 2013 (Noordin et al., 2016). Even today, Islamic banking institutions work with trust companies to provide trust grants, such as Bank Islam Malaysia Berhad with Amanah Raya Berhad (Islamic Bank, Amanah Raya Grant Document) and Bank Muamalat Malaysia Berhad with As-Salihin Trustee Berhad (Muamalat Bank, Pre-Hibah or Grant Document Declaration).

The usage of conditional hibah in the sighthibah trust hibah is considered as contradictory to the sighthibah conditions stated by the jurists. The conditions are either susceptible to or conditioned by a specific period (Othman et al., 2017). The usage of a combination of contracts in the trust hibah, on the other hand, makes this product incompatible with the classic hibah (Halim & Bustami, 2017), which has a Shariah basis from the Qur'an, the Sunnah, the practises of the companions, and the jurists' *ijtihad*' (Nordin et al, 2016).

Innovations in the development of trust hibah instruments have arisen from English law, as established in the judgment of the case *Yong Nyee Fan & Sons Sdn. Bhd v. Kim Guan & Co Sdn. Bhd.* [1979] 1 MLJ 182 by Justice Hashim Yeop Sani J. and do not completely embrace the traditional hibah concept. The pilot study from financial industry revealed inconsistencies in the legal basis of hibah amanah (trust hibah) due to conflicts between federal and state jurisdictions (Ibrahim, 2021).

These inconsistencies arise from differing scholarly views on conditional hibah, particularly on the validity of *umra* and *ruqba* clauses in trust instruments. Resolution issued by Bank Negara Malaysia recognizes the use of *ruqba* in trust hibah as valid, but only for Islamic banking and *takaful* institutions (Bank Negara Malaysia, 2011). Other Islamic financial sectors, however, lack clear guidelines (Muhammad Serji & Shapiee, 2018; Muda, 2008). At the state level, Syariah Courts rely on laws that follow the Shafi'i school of thought, the main reference in Malaysia. Under this school, *ruqba* hibah is valid, but its conditions are considered void, despite other schools allowing such conditions (Ibrahim, 2021).

However, the community accepts this instrument since it provides benefits in property management and preservation. As a result, this study will investigate the concept of *maslahah* in the application of trust grant instruments in accordance with Shariah law.

Literature Review

Concept of Maslahah

Maslahah is derived from the words *saluha*, *yasluhu*, and *salih*, which imply good in contrast to the word *fasada*, which signifies evil (Zakariyya, 1979). In his work *Lisan al-Arab*, Ibn Manzur (2003) discusses the meaning of *maslahah*, which leads to *al-masalih*. Both phrases refer to benefits that exist at the source or as a result of activities such as producing convenience and benefit or preventive and care. *Maslahah* is frequently associated with *maqasid sharia* since the goal of *sharia* revealed to people by Allah SWT is to ensure *maslahah*, or the goodness of their lives (Mohamad & Mansor, 2016). In short, *maslahah* is the primary objective or goal of Islamic law.

In terms of terminology, the jurists consider and interpret *maslahah* from a broader perspective. Al-Khawarizmi defines *maslahah* as the maintenance of the purposes of Islamic law by eradicating evil from creation. According to Al-Ghazali, *maslahah* is a consideration that benefits or prevents harm to maintain the *Sharia's* goals and purposes, which include the preservation of five important values: religion, life, intelligence, children, and property. Al-Daruriyat Al-Khams (the five basic needs) is another name for this purpose. As a result, any measure that ensures these values is within the scope of *maslahah*, and anything that goes against them is evil (*mafsadah*), and preventing evil (*mafsadah*) is likewise within the scope of *maslahah* (Al-Ghazali, 1998).

Maslahah is also defined by Al-Shatibi (1997) as a principle that emphasises human survival, the improvement of livelihoods, and the development of a person's emotional and intellectual abilities. *Maslahah* was further divided into three categories by him: *dharuriyyat* (basic necessities), *hajiyyat* (need for ease), and *tahsiniyyat* (life perfection). According to Ibn Ashur (2001), *maslahah* denotes "the best truth and goodness." He also defined actions of charity or justice that benefit the general public or individuals. Badness (*mafsadah*) on the other hand, is defined as an act that constantly or usually causes harm to people or individuals (Ibn Ashur, 2001).

According to Dr. Sa'id Ramadan al-Buti, *maslahah* is defined as a benefit that is the aim of *syara'* (Allah) the All-Wise to his servants merely to preserve their religion, life, intellect, progeny, and riches in the order of significance decided among the five things (Al -Buti, 1965). Dr. 'Abd al-Karim Zaydan argued that *maslahah*, in its positive aspect, receives profit while rejecting damage (Zaydan, 1994). That is why he claimed that *maslahah* meant refusing harm before receiving benefits.

Methodology

This study employs a qualitative method, which is unique in analysing the subjective content of text data through the processes of classification, coding, and systematically finding themes (Hsieh and Shannon, 2005). Effendi (2013) defines qualitative research as "a practical method for describing the conduct of research studies." The narrative approach is employed in qualitative research as a systematic guideline and rule. Its goal is to gather sources from prior materials, investigate and study those sources, and then give a synthesis of the results gained (Ibrahim, 1997). The researcher will draw findings via the narrative approach to explain why and how an event, development, or experience can occur (Konting, 1990).

The narrative approach of fact collection is systematic, employing personal experience, observation, and the analysis of papers, records, and artefacts to achieve thorough detail (Mohamed, 2001). This study conducted narrative research on the concept of the creation of trust hibah instruments in the financial industry from the standpoint of maslahah. This method will be applied by reviewing the authoritative book of jurisprudence addressing the maslahah related to the implementation of trust hibah.

Moreover, In-depth interviews were conducted to obtain richer insights and allow informants greater flexibility in expressing their views (Palmer & Bolderston, 2006; Merriam & Tisdell, 2015). The informants comprised one representative from an Islamic financial institution and three academicians directly involved with trust hibah.

Table 1: Demographic Profile of Informants

No	Type of institution	Name of institution	Code
1	Islamic Financial Institution	MyAngkasa Berhad	II1
2	Academicians	Universiti Kebangsaan Malaysia (UKM)	IA1
3		Universiti Islam Antabangsa Malaysia (UIAM)	IA2
4		Universiti Pendidikan Sultan Idris (UPSI)	IA3

Source: Author

Result and Discussion

The Division of Maslahah

Maslahah can be broken down into four categories. The first is the division of maslahah, the second is the order of precedence of maslahah, the third is the scope of maslahah, and the fourth is maslahah from the standpoint of necessity. Maslahah is broken out differently for each facet.

The most essential basis for usul scholars to work on whether the maslahah can be utilised as an argument or vice versa is the division of maslahah into mu'tabarah, mulghah, and mursalah. Without this foundation, determining law on the basis of maslahah will result in distortions and destruction.

a. *Maslahah al-Mu'tabarah*

This maslahah is a division of maslahah that is acknowledged and recognised by syariah evidence, and there is a clear text regarding it as well as the presence of certain evidence demonstrating acceptance (Al-Zuhayli, 1989). This maslahah includes all maslahah concerning religion, life, intellect, lineage, and wealth.

The concept of hibah and amanah is recognised by sharia and has special arguments in the context of hibah amanah. This statement demonstrates the importance of applying in everyday life. According to Al-Bugha (2002), the legalisation of grant is explained in Surah al-Nisa', which is:

وَأَتُوا النِّسَاءَ صَدَقَاتِهِنَّ بَحْلَةً فَإِنْ طِئِنَ لَكُمْ عَنْ شَيْءٍ مِنْهُ نَفْسًا فَكُلُوهُ هَنَيْئًا مَرِيئًا

“And give the women (on marriage) their dower as a free gift; but if they, of their own good pleasure, remit any part of it to you, Take it and enjoy it with right good cheer..”

(Surah al-Nisa’: 4)

According to Jumhur fuqaha', this verse becomes an argument that giving from a wife's dowry to her husband is necessary. Thus, the duty for the husband to accept the dowry offered by the wife via hibah demonstrates the obligation to do hibah (Al-Qurtubi, 2002; Al-Jassas, 1992; Al-Qinujji, 1992). Furthermore, as indicated by (Tahtawi, 2003), there is support for the legalisation of hibah in the hadith, which is:

تَهَادَوْا تَحَابُّوا

“You should give each other gifts, you will surely love each other”.

(Hadith Bukhari: 594)

Evidence for trust is also explained through the Word of Allah SWT:

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا

“Allah doth command you to render back your Trusts to those to whom they are due;”

(Surah al-Nisa’:58)

In reading this verse, Ibn Al-'Arabi states that scholars vary on the meaning of al-amanat. Some of them claimed that it was taken with the master's approval. Others claim that it is something stolen with the master's permission for his personal profit. Actually, both of the above are valid because trust is derived from the word 'aman' which means to safeguard anything from harm (Ibn Al-'Arabi, 2003).

In addition, the legalization of trust is also found through the words of Allah SWT:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَخُونُوا اللَّهَ وَالرَّسُولَ وَتَخُونُوا أَمَانَاتِكُمْ وَأَنْتُمْ تَعْلَمُونَ

“O ye that believe! betray not the trust of Allah and the Messenger, nor misappropriate knowingly things entrusted to you.”

(Surah al-Anfal’:27)

However, there is no explicit proof in the Qur'an or Sunnah that explains the trust hibah. Malaysian trust hibah evolved from the notion of living trust established by English law (Moidin et al., 2023b; Halim & Bustami, 2017; Hassan & Zaizi, 2020).

b. Maslahah al-Mulghah

Maslahah al-Mulghah, on the other hand, refers to a division of maslahah that is obviously contradicted by evidence. It is not appropriate to use it as a justification to rely on the law or build a law on it based on the consensus of scholars. *Maslahah al-Batilah* is another name for this maslahah because it obviously contradicts the wording of the Quran and hadith (Al-Wazir, 2002). As a result, this maslahah contradicts syariah scriptures, whether by text or ijmak. Usul scholars have agreed that this form of maslahah cannot be employed as a legal argument, even if human reason believes it will benefit them (Al-Amidi, t.t).

Returning to the trust hibah, there is no explicit argument in the Quran or Sunnah that forbids its use. As a result, the trust hibah application in Malaysia cannot be denied outright because there is no legal argument against it.

c. *Maslahah al-Mursalah*

Maslahah al-Mursalah is a maslahah whose law is not governed by Sharia and for which there is no evidence. Syariah does not go into length about its legal position on this topic (Al-Wazir, 2002; Al-Namlah, 1999). It is also referred to as Masalih al-Mursalah or Manasib al-Mursal, which implies absolute, independent, and unbound by syarak proof (Al-Wazir, 2002; Badran, 1965).

The trust hibah is a subset of *Maslahah al-Mursalah*. It is in accordance with the intention and requirement of syariah to protect five things, namely religion, life, reason, lineage, and property, without denying any original law and without contradicting the text or arguments that have been definitively judged by the law. It should also coincide with the benefits that are desired and acknowledged by the syarak al-Quran, al-sunnah and qias. It is in accordance with the fiqhiyyah method that every matter or an affair depends on the purpose or intention (Moidin et al., 2023a).

The Order of Precedence of Maslahah

Scholars have divided maslahah into three categories: Daruriyyat, Hajiyyat, and Tahsiniyyat. This divide is founded on maqasid sharia, which is to defend the five things of religion, life, intellect, lineage, and property (Al-Buti, 1965). These three levels or portions are to be the medium in assessing whether or not the five items described are maintained (Al-Buti, 1965).

The order of priority is a key aspect in understanding the core of maslahah in Islamic law methodology. Based on the arguments of syar'a to defend the maqasid sharia, syara' recognises three levels of maslahah priority (Al-Khinn, 1994):

a. *Maslahah al-Daruriyyat (Preserving fundamental interests)*

This issue is related to basic human requirements in this world as well as in the afterlife. If this maslahah does not exist, human life will be crippled, and eternal rewards will be lost in the world, while punishment and regret will be experienced in the afterlife (Al-Namlah, 1999; Al-Shatibi, 1997). Maslahah al-Daruriyyat is tied to five things that form the basis of the maslahah itself, which are to preserve religion, oneself, reason, offspring, and money. All activities made to implement, maintain, or preserve this policy are *Maslahah al-Daruriyyat*.

b. *Maslahah al-Hajiyyat (Protecting human interests based on ancillary needs)*

Maslahah al-Hajiyyat refers to whatever humans require to prevent and eliminate challenges. People would experience numerous obstacles in life if there is no *al-Hajiyyat*, even if they do not damage life (Al-Khinn, 1994; Al-Namlah, 1999). This issue manifests itself in four areas: worship, customs, muamalat, and criminality (Al-Shatibi, 1997).

c. *Maslahah al-Tahsiniyyat (Maintain comfort and harmony of life)*

Maslahah al-Tahsiniyyat is to use all that is good and proper for the grandeur of morality, the pinnacle of dignity, and the radiance of tradition. If such things do not exist, it does not disfigure human life in the same way that it does in the first dignity (*Maslahah al-Daruriyyat*) or the second dignity (*Maslahah al-Hajiyyat*) (Al-'Alim, 1994; Hassan, 1981; Al-Shatibi, 1997; Al-Zuhaili, 2012).

These three *maslahah* are regarded *sharia* goals that are inextricably linked. Their roles are complimentary and mutually beneficial. *Maslahah Tahsiniyyat* is the final chapter of *Maslahah al-Hajiyyat*. *Maslahah al-Daruriyyat* is completed with *Maslahah al-Hajiyyat*. *Maslahah al-Daruriyyat*, on the other hand, is considered the first and first in the sequence of *maslahah*. If the initial *maslahah* is cancelled, the completed *maslahah* will be rejected. As a result, the original *maslahah* should be prioritised over the one that completes it, because failure to complete *Maslahah al-Daruriyyat* will result in life flaws in this world and the next (Al-'Alim, 1994; Hassan, 1981; Al-Shatibi, 1997; Al-Zuhayli, 1989). When there is a disagreement between the three *maslahah*, the position and arrangement of these *maslahah* might provide assistance to the *mujtahids* in making the transition. As a result, the law that was released truly complies with *syariah* standards and will not be subject to variations (Hassan, 1981).

The significance of *hibah amanah* is contained in the goal of *syariah* (*maqasid syariah*), which is to protect five things, namely religion, life, intellect, lineage, and property, even if it affects individual rights. At the same time, the government or government must implement the confirmation of the grant of trust. Based on the general premise that all government activities against the people are subject to *maslahah*.

There are several advantages to using a trust *hibah*, including the ability to complete inheritance planning and deal with the issue of disagreement that arises among heirs, especially when a large amount of property is involved. Worse, as reported in the newspaper (Metro, 2022), it can lead to murder. If this issue is not addressed, it can lead to unclaimed property, making the grant of trust a necessary solution for the community. Trust *hibah* are also required to preserve the grantor's welfare for future life management, as well as the welfare of children and heirs in need by giving protection, as well as converts who want to leave property to their loved ones but have not embraced Islam. It can express the beauty of the Islamic religion while also becoming *rahmatan lil 'alamin*.

The Scope of Maslahah

The split of problems is next examined from the standpoint of scope. *Maslahah 'ammah*, *aghlabiyyah*, and *khassah* are the three categories (Al-'Alim, 1994; Al-Zuhayli, 1989).

a. *Maslahah 'Ammah or al-Kulliyyah* (Public Interest)

Maslahah is defined as Muslims' universal interest in a country (Al-Zuhayli, 1989), or benefits that are returned to the entire community or a portion of it without being unique to one party (Khalil, t.t; Al-Khafif, 1990).

b. *Maslahah Aglabiyyah* (Common Interests)

This *maslahah* involves the interests of the vast majority of Muslims around the world. *Maslahah al-Daruriyyat*, *al-Hajiyyat*, and *al-Tahsiniyyat* are among them.

c. *Maslahah al-Khassah* (Interest of Individuals)

This *maslahah* also emphasises the importance of individual or specific group rights (Al-Khafif, 1990). It does not affect the entire society.

In general, the trust *hibah* established is applicable to all Muslims (*Kulliyyat*), i.e. it delivers good and refuses evil to all people. If the benefit is only enjoyed by a small number of people (*Juz'iyyat*), it cannot be used to establish a law. At the same time, the act of making a trust *hibah* does not, in principle, eliminate or deprive other interests that are more important or equivalent

to it, such as helping disabled children, giving grants to avoid debt, justice in giving property to children, and giving property by converts to non-Muslim family members (Moidin et al., 2023a).

Maslahah From The Standpoint of Necessity

In the last stage, *maslahah* must be viewed through the lens of need, which is split into three categories: *maslahah Qat'iyah*, *maslahah Zanniyyah*, and *maslahah Wahmiyyah* (Al-Zuhayli, 1989).

a. Maslahah Qat'iyah

This *maslahah* refers to *maslahah* whose status is thought to be clearly declared in the text of the Qur'an or the Sunnah and does not raise any doubts.

b. Maslahah Zanniyyah

While *maslahah zanniyyah* is a *maslahah* that is reasoned and not within the realm of *Maqasid al-Syar'iyyah* or advantages that are given by *zanni* texts.

c. Maslahah Wahmiyyah

Maslahah that is assumed to be useful and good, but when researched, it is discovered to be harmful. If a topic is mentioned in the provisions of *maslahah wahmiyyah*, it cannot be implemented.

The public interest on which the law is based on the trust *hibah* is the true public interest (*haqiqiyyah* or *qati'iyah*) and not a *wahmiyyah* interest. *Al-Haqiyyah* refers to the conviction that the implementation would benefit people and avoid any harm and hardship, with no ambiguity or doubt about its achievement. If the public interest is only a vague guess (*waham*) that we believe has merit, it cannot be used to determine the law.

Essentially, the law of trust *hibah*, which employs the notion of conditional trust and includes *'umra* and *ruqba*, is required in Islam based on *maslahah 'ammah*, which is excluded from the original rule because it offers good to all people while rejecting harm and hardship. According to the Word of God Almighty, this means:

﴿وَمَا جَعَلْ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ﴾

“and has imposed no difficulties on you in religion”

(Al-Hajj:78)

The position of *maslahah 'ammah* always takes precedence over particular *maslahah*. The existence of the trust instrument *hibah* will indirectly take care of *maqasid al-khams*, which is covered by *maslahah al-daruriyyat*. The *maslahah* of trust *hibah* is also a division of *maslahah al-mursalah* because no specific text explains or rejects its implementation.

In addition, the interest in the requirements of the trust *hibah* is the true interest that makes the trust *hibah* classified as a *maslahah qati'iyah*. Therefore, the validity of *tawqit* conditions for *'umra* and *ruqba* on the contract of *hibah* for public benefit is required, as determined by the jurists. Although in actuality, the acceptance of the law on the contract of *'umra* and *ruqba* is included in the law of the caliphate, but there are still views that justify it. Looking at unclaimed Muslim property data renders the property unusable and undeveloped, breaching Sharia *maqasid* and necessitating the acceptance of trust *hibah*.

Table 2 below presents the *maslahah* themes underpinning the necessity of trust *hibah* as highlighted by the informants. These themes are consistent with the broader framework of *maslahah*, encompassing *maslahah 'ammah*, *maslahah al-daruriyyat*, *maslahah al-mursalah*, and *maslahah qati'iyah*.

Table 2: Themes of Maslahah Related to The Necessity of Trust Hibah

Theme	Description	Supporting Statements
1. Hibah as a Complement to Estate Planning	Hibah is viewed as an essential instrument to enhance estate planning, ensuring the donor's wishes are honored without bypassing <i>faraid</i> rules.	"Hibah is an instrument to complete our estate planning... and we must remember, the intention of hibah is not to avoid <i>faraid</i> ." (II1)
2. Protection of Donor and Beneficiary Interests	Trust hibah contracts safeguard the donor's rights while protecting the interests of beneficiaries, including minors, disabled children, or other specific individuals.	"The trust hibah contract is made to protect the welfare of the donor and at the same time protect the interest of the beneficiary... such as minors or disabled children." (IA1)
3. Prevention of Inheritance Disputes	Hibah reduces the likelihood of conflicts among heirs, preventing disputes that could result in unclaimed assets.	"Unresolved issues among heirs... disagreements can lead to disputes and cause unclaimed property issues." (IA2)
4. Safeguarding the Assets of New Converts (Muallaf)	Hibah serves as an alternative mechanism to will-writing for new converts to ensure non-Muslim family members can inherit their assets.	"For a <i>muallaf</i> , hibah can be used as a way to transfer assets to non-Muslim family members besides a will." (IA2)
5. Fulfilling Various Maqasid (Benefits)	Hibah offers multiple benefits, including solutions for individuals without heirs, ensuring assets go to specific people, and providing protection for children.	"There are many <i>maqasid</i> offered... such as for those with no heirs, or for protecting the rights of children." (IA3)

Source: Author

Although the usage of the notion of *maslahah* requires the implementation of trust *hibah*, Moidin et al. (2023a) noted that the form of requirement is not absolute but subject to standards. She claims that there are nine *maslahah* standards in the execution of trust *hibah*, which are as follows:

1. It must be consistent with the meaning and demands of *syara'* by not contradicting the original law.
2. It should not be contradictory to the *nas* or contain conclusive arguments.
3. It should strive to protect the purpose of *syariah* (*maqasid syariah*), which is to preserve five things: religion, life, intellect, lineage, and wealth.
4. Must be carried out by the responsible party (the government).
5. It should be ensured that the *maslahah* is valid and not only *wahmiyyah* (speculation).
6. The *maslahah* should bring good to all people (*kulliyyat*) rather than being selective (*juzziyyah*).
7. Other interests that are more essential or equivalent to it should not be eliminated or forfeited.
8. The execution of the trust *hibah* should be agreeable to common sense in order to avoid the normal issues.
9. The trust *hibah* can directly avert the inevitable hardships.

Conclusion

Muslim property management includes trust hibah. It distributes property to the receiver in exchange for their voluntary love over their lifetime, while the trustee holds the property. The majority of trust hibah performed in Malaysia have conditions in the contract, sparking controversy regarding its relevance. Because of the existence of interest and kindness to the community, as well as the rejection of damage, the practise of trust hibah can be used in Malaysia based on the concept of maslahah that has been discussed.

The novelty of this study is that it explains the concept of maslahah in trust hibah through four aspects of the approach, namely the aspect of dividing maslahah, the aspect of maslahah's order of priority, the aspect of maslahah's scope, and the aspect of maslahah's need. In the execution of trust hibah, these four aspects of maslahah exist. Thus as a suggestion, the concept of maslahah can be applied in the application of trust hibah instruments in Malaysia. However, it is subject to certain standards in order for its implementation to be in accordance with Shariah requirements.

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References

- Al-Amidi, Sayf al-Din Abi al-Hassan 'Ali b. Abi 'Ali b. Muhammad (t.t) *Al-Ahkam fi Usul al-Ahkam*, jld.3, Beirut: Dar al-Kutub al-'Ilmiyyah, hlm.312.
- Al-'Alim, Yusuf Hamid (1994), *Al-Maqasid al-'Ammah li al-Syari'ah al-Islamiyyah*. Ma'ahad al-'Alami li al-Fikr al-Islami, hlm.166.
- Al-Bugha, al-Duktur Mustafa Dib. (2002). *Al-Tazhib fi Adillah Matn al-Ghayah wa al-Taqrīb*. Beirut: Dar Ibn Kathir.
- Al-Buti, Muhammad Sa'id Ramadan (1965), *Dawabit al-Maslahah fi al-Syari'ah al-Islamiyyah*, Damsyiq: Maktabah al-Umawiyyah, hlm.23.
- Al-Ghazali, M., (1998). *Al-Mustafa min 'ilm al-usul*. Dar al-Kutub al-'Islamiyyah, Beirut.
- Al-Jassas, Abi Bakr Ahmad bin 'Ali al-Razi. (1992). *Ahkam al-Quran*, j.2. Beirut: Dar Ihya' al- Turath al-'Arabi.
- Al-Khafif, 'Ali (1990), *Al-Milkiyyah fi al-Syari'ah Ma'a Muqaranatiha bi al-Qawanin al-'Arabiyyah*, Beirut: Dar al-Nahdah al-'Arabiyyah.
- Al-Khinn, Mustafa Sa'id (1994), *Athar al-Ikhtilaf fi al-Qawa'id al-Usuliyyah fi Ikhtilaf al-Fuqaha'*, cet.5, Beirut: Mu'assasah al-Risalah, hlm.552.
- Al-Munawwar, F. A. (2021). 'Abd al-Majid al-Najjar's Perspective on Maqasid al- Shari'ah. *Jurnal Ilmiah Syariah*, 20(2), 209-223.
- Al-Namlah, 'Abd al-Karim b. 'Ali b. Muhammad. (1999), *Al-Muhazzab fi 'Ilm Usul al-Fiqh al- Muqarin*, cet.1, jld.3, Riyad: Maktabah al-Rusyd, hlm.1003.
- Al-Qinujj, Siddiq bin Hassan. (1992). *Fath al-Bayan fi Maqasid al-Quran*, j.1. Beirut: al-Maktabah al-'Asriyyah.
- Al-Qurtubi, Abu 'Abd Allah al-Ansari. (2002). *Al-Jami' li Ahkam al-Quran*, j.5. Kaherah: Dar al-Hadith.
- Al-Shatibi, Abu Ishaq (1997). *Al-Muwafaqat Fi Usul al-Syariah*. Edisi ke-3., Dar al-Ma'rifah, Beirut.
- Al-Wazir, Ahmad b. Muhammad b. 'Ali (2002), *Al-Musaffa fi Usul al-Fiqh*, cet.1, Kaherah: Dar al-Fikr, hlm.372.

- Al-Zuhayli, Wahbah (1989), *Usul al-Fiqh al-Islami*, cet.1, jld.2, Damsyiq: Dar al-Fikr, jld.2, hlm.752.
- Azhar, A. (2017). *Praktis hibah di Malaysia*. Penerbit Universiti Utara Malaysia. <https://uumpress.com.my/praktis-hibah-di-malaysia>
- Badran, Abu al-‘Aynayn Badran (1965), *Usul al-Fiqh al-Islami*, cet.1, Kaherah: Dar al-Ma’rifah, hlm.209.
- Chotib, M. (2021). Zakat management concept to accelerate health and economic recovery during the covid-19 pandemic. *Open Access Macedonian Journal of Medical Sciences*, 9, 1213–1217. <https://doi.org/10.3889/oamjms.2021.7394>
- Dahlan, A. A. 1996. *Ensiklopedi Hukum Islam*. Ed. Pertama, Jakarta: Ichtiar Baru Van Hoeve.
- Effendi, J. 2013. *The role of Islamic microfinance in poverty alleviation and environmental awareness in Pasuruan east java Indonesia*. Universitätsverlag Gottingen, Gottingen, 1-150.
- Halim, A. H., Aris, T., & Bustami, A. (2017). Pelaksanaan Hibah Amanah Sebagai Suatu Instrumen Pengurusan Harta Islam Di Malaysia (Execution of Hibah Amanah as an Instrument of Islamic Property Management in Malaysia). *Kanun: Jurnal Undang-Undang Malaysia*, 29(2), p310-335.
- Hassan, R., & Zaizi, N. M. A. (2020). The Concept And Application Of Hibah As A Financial Instrument From The Malaysian Legal Perspective: An Analysis. *IIUM Law Journal*, 28(1), 227–252. <https://doi.org/10.31436/IIUMLJ.V28I1.498>
- Hassan, Husayn Hamid (1981), *Nazariyyat al-Maslahah fi al-Fiqh al-Islami*, Kaherah: Maktabah al-Munabbi, hlm.30-31.
- Hsieh, H.F. & Shannon, S.E. (2005). Three approaches to qualitative content analysis. *Qualitative Health Research*. Vol. 15(9), 1277-1288.
- Ibn Ashur, M. A. T. (2001). *Maqasid al-Shari'ah al-Islamiyyah*. Amman : Dar Al-Nafaes.
- Ibn Manzur, Jamal al-Din Muhammad b Mukram (2003). *Lisan al-Arab*, j.9. Kaherah : Dar al-Hadith
- Ibn Al-‘Arabi, Muhammad bin ‘Abdullah Abu Bakar. (2003). *Ahkam Al-Quran*. 1/570, Beirut : Dar Al-Kutub Al-‘Ilmiah
- Ideris, M.N. (1992), Susunan Keutamaan Maslahah dan Fungsinya Dalam Perundangan Islam. *Jurnal Syariah*, bil.2, hlm.174.
- Khalil, Sa‘ad Muhammad (t.t), *Naz ‘ al-Milkiyyah li al-Manfa‘ah ‘Ammah Bayna al-Syariah wa al-Qanun*, Kaherah: Dar al-Salam.
- Konting, M. M (1990), *Kaedah Penyelidikan Pendidikan*. Kuala Lumpur: Dewan Bahasa dan Pustaka.
- Lee Ing Chin & Ors lwn Gan Yook Chin & Anor [2003] 2 CLJ 19.
- Merriam, S. B. & Tisdell, E. J. (2016). *Qualitative research: A guide to design and implementation* (4th ed.). San Francisco, CA: Jossey-Bass.
- Metro. (2022), Kerat ibu 15, tak puas hati pembahagian harta pusaka. Diakses pada 26 Oktober 2023 daripada <https://www.hmetro.com.my/utama/2022/06/848870/kerat-ibu-15-tak-puas-hati-pembahagian-harta-pusaka>.
- Mohamad, M.H. & Mansor, F. 2016. Patuh-Syariah dan Kesannya ke atas Pengurusan Risiko Organisasi: Satu Kajian Awal. Dlm: Abdullah, L, Ramli, R. & Razif, N. F. M. (Ed), *Maqasid Al-Shariah: Aplikasi dalam Aspek Muamalat dan Kehartaan*. 231-244. Kuala Lumpur: Jabatan Fiqh dan Usul Akademi Pengajian Islam Universiti Malaya.
- Moidin, S., Rani, M. A. M., Adenan, F., Arif, M. I. A. M., Saiman, M. Z., Suyurno, S. S., ... & Rosli, M. S. D. (2023a). Maslahah Standards in The Implementation of Hibah Amanah in Malaysia: Piawaian Maslahah Dalam Pelaksanaan Hibah Amanah di Malaysia. *Al-Qanatir: International Journal of Islamic Studies*, 30(2), 207-214.

- Moidin, S., Rani, M. A. M., Arif, M. I. A. M., Adenan, F., Saiman, M. Z., & Jamal, I. H. (2023b). Vagueness in The Hibah Amanah. *International Journal of Academic Research in Business and Social Sciences*, 13(7), 770 – 782.
- Muda, M. Z. (2008). Instrumen Hibah: Analisis Hukum dan Aplikasi di Malaysia. *Konvensyen Faraid Dan Hibah Kebangsaan*.
- Noordin, N. H., Ismail, M. I., Abd Rahman, M. A. H., Haron, S. N., & Abdullah, A. (2016). Re- evaluating the practice of hibah trust in Malaysia. *Humanomics*, 32(4), 418–436. <https://doi.org/10.1108/H-05-2016-0044>
- Othman, N. S., Said, N. L. M., Muda, M. Z., & Muhamad, N. H. N. (2017). Analisis Kes Amalan Hibah Bersyarat di Malaysia. *ISLAMIYYAT*, 39(2), 135–142. <https://doi.org/10.17576/islamiyyat-2017-3902-05>
- Palmer, C., & Bolderston, A. (2006). A brief introduction to qualitative research. *Canadian Journal of Medical Radiation Technology*, 37(1), 16-19.
- Tahtawi, 'Ali Ahmad 'Abd al-'Aal. (2003). *Al-fatawa al-Nadiyah Fi al-Farq Bayna al-Rashwah Wa al-Hadiyyah*. Dar Al-Kutub Al-Ilmiyyah.
- Yong Nyee Fan & Sons Sdn. Bhd v. Kim Guan & Co Sdn. Bhd. [1979] 1 MLJ 182.
- Zaydan, 'Abd al-Karim (1994), *Al-Wajiz fi Usul al-Fiqh*, Beirut: Mu'assasah al-Risalah, hlm.378.
- Zakariyya, Ahmad bin Faris. (1979). *Mu'jam Maqayis al-Lughah*, j.3. Beirut: Dar al-Fikr.