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Sharia Economic Law Analysis of Plant Utilization on Donated Land

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ABSTRACT

This study examines the utilization of productive plants on donated land at Al-Hasanah Islamic Boarding School, East Tanjung Jabung, from the perspective of Sharia Economic Law. The study focuses on the legal status of plants cultivated on donated land, the patterns of utilization and distribution of agricultural benefits, and the conformity of such practices with the principles of ownership, qabd, contractual certainty, justice ('adl), mutual consent (tarāḍin), and maslahah. This research employed a qualitative field research design using a case study approach. Data were collected through semi-structured interviews, direct observation, and documentary analysis involving pesantren administrators, the donor, plant managers, and members of the surrounding community. Data were analyzed through data condensation, data display, and conclusion drawing, with source and methodological triangulation employed to ensure trustworthiness. The findings demonstrate that the land was transferred to the pesantren through a documented hibah in 2017, accompanied by actual possession and utilization. The donated land is currently used for productive agriculture, including oil palm, vegetables, and chili, with the resulting products allocated for internal consumption, pesantren operational needs, and commercial sale. Documentary evidence indicating that the land was donated "together with its contents" further supports the pesantren's ownership of plants existing on the land at the time of transfer. Nevertheless, the study identifies governance weaknesses in the subsequent management of agricultural assets, particularly the absence of written agreements with third-party cultivators, unclear benefit-sharing arrangements, and limited institutional monitoring. From the perspective of Sharia Economic Law, the utilization of the donated land and its productive plants is substantively permissible because it generates economic and social benefits and is consistent with 'adl, tarāḍin, and maslahah. However, stronger contractual and administrative governance is required to prevent gharar, protect the rights of all parties, and ensure accountability. The study contributes to the discourse on productive hibah by demonstrating that legal certainty over donated land must be accompanied by transparent post-transfer governance of the assets and benefits generated from it.

Introduction

Muamalah constitutes an essential dimension of Islamic law governing human interactions in the ownership, transfer, management, and utilization of property. Within this framework, hibah (gift) represents a form of tabarru' contract through which property is voluntarily transferred from one party to another without consideration. Unlike commercial contracts, the primary orientation of hibah is not economic exchange but voluntary transfer of ownership accompanied by social, humanitarian, and distributive values. Contemporary studies emphasize that hibah occupies an important position within Islamic legal practice because it facilitates the transfer of property while simultaneously requiring clarity regarding the object, parties, and legal consequences of the transfer (Arbaina, 2025; Latif et al., 2025). In the Indonesian legal context, the distinction between hibah and other forms of property dedication is particularly important because the legal consequences of each instrument differ substantially.

The distinction between hibah and waqf becomes especially significant when the transferred property consists of land. Although both may be motivated by religious and social considerations, hibah generally results in the transfer of ownership to the recipient, whereas waqf is characterized by the dedication of property for religious, social, or public purposes in accordance with its intended purpose. The Indonesian Waqf Board emphasizes that waqf and hibah are legally distinct instruments: property transferred through hibah becomes the property of the recipient, while waqf involves the dedication of property for specified religious or public purposes (Badan Wakaf Indonesia [BWI], 2023). This distinction is not merely conceptual but has direct implications for the authority to manage, utilize, and benefit from the property. Accordingly, uncertainty in determining whether a parcel of land constitutes hibah or waqf may generate uncertainty concerning ownership, management authority, and the distribution of economic benefits derived from the property. Recent research on donated land similarly demonstrates that inadequate documentation and unclear legal status can create disputes concerning ownership and control (Fadillah et al., 2023).

The legal significance of hibah becomes more complex when the donated property is used productively. Land may generate economic benefits through agricultural activities, plantation crops, buildings, rental arrangements, or other forms of utilization. In such circumstances, the legal question extends beyond the validity of the original hibah to include the ownership and entitlement to the benefits generated by the donated property. A recent study on the utilization of donated land found that productive management can increase the economic value of hibah assets, provided that the utilization remains consistent with the requirements and principles of Sharia Economic Law (Gini Gaussian & Mutoharoh, 2025). Similarly, Indonesian land regulations recognize the legal and administrative significance of land transfers through hibah, particularly when the recipient is a religious, educational, or social institution (Kementerian Keuangan Republik Indonesia, 2022). These developments indicate that the productive utilization of donated land should be examined not only from the perspective of economic benefit but also through the principles of ownership, contractual certainty, justice, and accountability.

One relatively underexplored issue concerns the legal status of plants growing on donated land. Land and plants attached to or cultivated on that land may generate economic value, yet the ownership and utilization of such benefits are not always explicitly addressed in the initial hibah arrangement. This issue becomes particularly relevant when the land is managed by a religious educational institution such as a pesantren. In practice, community members may perceive land located within a religious institution as waqf property even when the available administrative evidence identifies it as hibah. Such a misconception may affect the way the land and its productive assets are managed. Recent scholarship has shown that ambiguity surrounding the legal status of donated land can create uncertainty in the exercise of ownership and management rights (Fadillah et al., 2023), while contemporary discussions of hibah emphasize the importance of qabd (possession or receipt) and clear transfer of ownership in determining whether a gift has been legally completed (Majelis Ulama Indonesia, 2026). Therefore, the status of plants cultivated on donated land warrants specific examination because the plants may constitute economically valuable assets whose benefits are potentially separable from the underlying land.

This legal problem is observable at Al-Hasanah Islamic Boarding School in East Tanjung Jabung, Indonesia. Preliminary field observations and available administrative documentation indicate that the land utilized by the institution was obtained through hibah rather than waqf. Nevertheless, the existence of productive plants on the donated land raises questions concerning who possesses the legal authority to cultivate, manage, harvest, and benefit from those plants. The problem becomes more significant when the community or institutional actors interpret the donated land as waqf, because such an interpretation may impose restrictions and management assumptions that are different from those applicable to hibah. The issue is therefore not merely one of terminology but concerns the determination of property rights, management authority, and the distribution of economic benefits. This empirical condition also reflects a broader problem of legal certainty in donated land, where the absence of clear understanding or adequate documentation may create competing interpretations concerning ownership and utilization (Fadillah et al., 2023). The study consequently positions the utilization of plants as a distinct legal issue rather than treating it merely as a consequence of land ownership.

Based on this context, this study examines the utilization of plants growing on donated land at Al-Hasanah Islamic Boarding School from the perspective of Sharia Economic Law. The study focuses on two interconnected questions: first, how productive plants on the donated land are managed and utilized in practice; and second, whether such utilization is consistent with the principles of ownership, qabd, contractual certainty, justice (ʻadl), mutual consent (tarāḍin), and responsible utilization of property under Sharia Economic Law. The study contributes to the existing literature by shifting the analytical focus from the general validity of land hibah to the specific legal consequences of utilizing productive assets located on donated land. This focus is important because previous studies have predominantly examined the validity of hibah, disputes over donated land, or the general economic utilization of donated property, while the legal status and utilization of plants growing on such land remain comparatively underexamined (Gini Gaussian & Mutoharoh, 2025; Fadillah et al., 2023). By combining empirical findings from a pesantren setting with an analysis based on Sharia Economic Law, this study seeks to provide a more precise understanding of property utilization and legal certainty in contemporary hibah practices.

Method

This study employed a qualitative field research design to examine the utilization of productive plants growing on donated land at Al-Hasanah Islamic Boarding School, East Tanjung Jabung, Indonesia. A qualitative approach was selected because the study seeks to understand the meanings, practices, legal interpretations, and relationships underlying the utilization of donated property within its natural social context. The research was designed as a bounded empirical case in which the utilization of plants, the status of the donated land, and the rights associated with its economic benefits were examined as an interconnected phenomenon. This design enables the researcher to explore not only what occurs in practice but also how the relevant actors understand ownership, management authority, and entitlement to the benefits generated from the plants. Qualitative inquiry is particularly appropriate when researchers seek contextual and interpretive understanding of a phenomenon through multiple sources of evidence rather than relying on numerical measurement (Creswell & Poth, 2024).

Data were obtained from primary and secondary sources. Primary data were collected through semi-structured interviews, direct observation, and examination of relevant documentary evidence. Informants were purposively selected based on their direct knowledge of the donated land and the utilization of the plants located on it, including pesantren administrators, the recipient of the donation, individuals involved in managing or harvesting the plants, and community members who were knowledgeable about the original transfer of the land. Semi-structured interviews were used to obtain information concerning the history and status of the hibah, the parties involved, the management practices applied to the plants, the distribution or use of harvests, and the parties' understanding of ownership and utilization rights. Direct observation was conducted to document the physical condition of the land and plants, patterns of cultivation and maintenance, harvesting practices, and the actual use of the resulting benefits. Documentary evidence included the hibah letter or other proof of transfer, institutional records, photographs, and other relevant administrative documents. The combination of interviews, observations, and documents was intended to provide contextual depth and enable cross-verification of empirical information (Creswell & Poth, 2024).

Data analysis was conducted interactively throughout the research process using a systematic process of data condensation, data display, and conclusion drawing and verification. Interview recordings and field notes were transcribed, organized, and coded according to themes relevant to the research questions, including the legal status of the land, forms of plant utilization, management authority, ownership of plant products, distribution of benefits, and conformity with Sharia Economic Law. Data condensation involved selecting, focusing, simplifying, and organizing information obtained from the field while retaining evidence relevant to the legal and empirical dimensions of the case. The condensed data were then displayed through thematic narratives and analytical matrices to identify relationships and recurring patterns among informants and documentary sources. Conclusions were developed progressively by comparing empirical findings with the relevant principles of Sharia Economic Law, particularly ownership (milk), possession (qabd), contractual certainty, justice (ʻadl), mutual consent (tarāḍin), and responsible property utilization. The analytical process was iterative, allowing emerging findings to be compared continuously with subsequent field evidence and thereby strengthening the interpretive rigor of the study (Miles et al., 2020; Saldaña, 2020).

The trustworthiness of the findings was established through source and methodological triangulation, together with researcher reflexivity and verification of interpretations. Source triangulation was conducted by comparing information obtained from pesantren administrators, the recipient of the hibah, plant managers or harvesters, and knowledgeable community members. Methodological triangulation involved comparing interview accounts with direct observations and documentary evidence, particularly the available hibah documentation and records concerning the utilization of the plants. Where discrepancies occurred, the researcher conducted clarification interviews and re-examined relevant documents before establishing an interpretation. The researcher also maintained field notes and an analytical record to distinguish empirical observations from interpretive judgments and to reduce the risk of premature conclusions. The final interpretation was established only after the empirical evidence had been systematically compared and verified against the principles of Sharia Economic Law. Such procedures are consistent with contemporary qualitative research standards emphasizing transparency in data collection, systematic analysis, reflexivity, and validation of interpretations (Creswell & Poth, 2024; Saldaña, 2020).

Results and Discussion

1. Results

The study was conducted at Al-Hasanah Islamic Boarding School, Pematang Lalau, Simpang Tuan, Mendahara Ulu District, East Tanjung Jabung Regency, an Islamic educational institution that integrates religious education, formal and non-formal learning, and community empowerment. The institution utilizes several assets to support its educational activities, including a parcel of land acquired through hibah (gift). Field findings indicate that the donated land has not remained idle but has been developed into a productive agricultural asset through the cultivation of economically valuable plants. The utilization of the land serves both institutional and social functions: part of the agricultural products is used to meet the daily consumption needs of students and the pesantren, while other products are sold to generate funds for institutional operations. This finding confirms that donated land can function as a productive economic asset when managed according to the needs and objectives of the recipient institution. A recent study similarly found that productive utilization of donated land can generate economic value and contribute to institutional or community welfare when its management remains consistent with Sharia Economic Law (Gaussian & Mutoharoh, 2025).

The historical and documentary evidence establishes that the land was donated by H. Islan to Al-Hasanah Islamic Boarding School in 2017. The transfer was supported by a Surat Keterangan Hibah (Gift Certificate) signed by the donor and recipient in the presence of the Simpang Tuan village head and witnesses. Interviews with pesantren administrators confirmed that the land was intentionally transferred to support the educational and economic sustainability of the institution. Bonar Purba, a pesantren administrator, stated that the land was "given by its owner to the pesantren for utilization" and that a written gift document exists. The donor, H. Islan, further confirmed that he no longer claimed any share of the agricultural products and had entrusted their management entirely to the pesantren. These findings indicate that the transfer was understood by the parties as a completed hibah, rather than a temporary loan, lease, or waqf. The finding is consistent with recent research emphasizing the importance of documentary evidence and clarity of transfer in establishing legal certainty in land hibah practices (Keano et al., 2025). The evidence is therefore significant because the legal classification of the land determines the extent of the recipient's authority to manage and derive benefits from the property.

The utilization pattern identified in the field demonstrates three principal forms of agricultural management: internal consumption, commercial sale, and cultivation by designated individuals or members of the surrounding community. Aripin Abdullah explained that part of the harvest is used to meet the food and operational needs of the students, while Miswati explained that the wider agricultural area is planted with palm oil for sale and that vegetables and chili are cultivated near the dormitory for direct household consumption. This arrangement demonstrates that the utilization of the donated land is not exclusively profit-oriented. Rather, economic and social objectives are integrated into the management model: commercial crops generate financial resources for educational activities, whereas food crops directly support the nutritional needs of the pesantren community. The findings therefore reveal a productive hibah model in which the economic value generated from the donated asset is converted into educational and social benefits. This pattern corresponds with recent scholarship showing that productive utilization of donated land can enhance economic welfare when the proceeds are directed toward socially beneficial purposes (Gaussian & Mutoharoh, 2025).

Despite these productive functions, the research identified weaknesses in the institutional governance of the agricultural assets. In some cases, the cultivation and harvesting of plants are entrusted to particular individuals or community members, and the distribution of the resulting benefits is not consistently regulated through written agreements. One informant explained that individuals sometimes manage the plants and subsequently provide a portion of the harvest to the pesantren, but "there is not always a clear distribution." This finding reveals an important distinction between ownership of the donated property and authority to utilize or manage the productive assets located on that property. Although the pesantren possesses the donated land, informal arrangements concerning the cultivation and distribution of agricultural products create uncertainty regarding the rights and obligations of the parties involved. Similar problems have been identified in contemporary studies of agricultural cooperation, where verbal arrangements and unclear distribution mechanisms may generate uncertainty and potentially undermine fairness ('adl) and transparency (Rivaldi et al., 2026). From the perspective of Sharia Economic Law, the absence of clearly defined management arrangements does not necessarily invalidate the underlying hibah, but it creates a separate contractual governance issue that should be clarified to prevent gharar, disputes, and potential exploitation.

A particularly significant finding emerged from the documentary analysis of the gift certificate, which explicitly states that the land was donated "together with its contents." This clause provides an important basis for determining the status of plants and trees located on the donated land. The donor also confirmed during the interview that he had relinquished any claim to the products generated from the land and intended all benefits to support the pesantren. Accordingly, the evidence indicates that the ownership transferred through the hibah encompasses not only the land itself but also the productive plants that formed part of the donated property at the time of transfer. From the perspective of Sharia Economic Law, this finding strengthens the position of the pesantren as the legitimate owner and manager of the donated asset. Contemporary research on hibah likewise emphasizes that a valid transfer accompanied by acceptance and possession establishes the recipient's legal position over the donated property (Abdul Ghani et al., 2023). However, the study also found a subsequent oral arrangement allowing members of the surrounding community to continue maintaining and taking some agricultural products for household consumption, provided that their activities did not interfere with pesantren operations. This arrangement can be understood as a separate consensual utilization arrangement rather than evidence that ownership of the plants remained with the donor or community. Its legitimacy, however, depends on clarity of consent, scope, duration, and the absence of harm to the rights of the pesantren.

Overall, the findings demonstrate that the utilization of plants on donated land at Al-Hasanah Islamic Boarding School is substantively compatible with the objectives of Sharia Economic Law because it generates both economic and social benefits. The proceeds from agricultural commodities contribute to pesantren operations, educational activities, and student welfare, while food crops directly support daily consumption. The donor's statement that he has relinquished his economic claim further confirms the absence of a continuing ownership interest in the agricultural proceeds. Nevertheless, the research identifies an institutional gap between substantive ownership and administrative governance. The pesantren possesses a strong basis for ownership of the donated land and its contents, but informal management practices and unclear benefit-sharing arrangements create potential risks of gharar and disputes. The central implication is therefore that productive hibah management requires not only recognition of ownership but also transparent governance of utilization rights, harvesting authority, cost responsibilities, and distribution of benefits. Written management agreements with third-party cultivators, systematic recording of harvests and revenues, and institutional accountability mechanisms would strengthen the implementation of 'adl, maslahah, and mas'uliyyah. In this respect, the case demonstrates that the productive utilization of donated land can become an instrument of pesantren economic independence, provided that ownership and management arrangements are clearly distinguished and administered in accordance with Sharia principles.

2. Discussion

The utilization of productive plants on donated land at Al-Hasanah Islamic Boarding School demonstrates that the legal consequences of hibah extend beyond the transfer of the land itself to the utilization of the economic benefits generated from the donated asset. In Islamic jurisprudence, hibah constitutes a voluntary transfer of ownership that becomes legally effective through acceptance and qabd (possession). Recent scholarship confirms that qabd is an important element in determining the completion of hibah, while the recipient subsequently acquires legal authority over the donated property (Abdul Ghani et al., 2023). In the present case, the existence of a written Surat Keterangan Hibah and the donor's explicit statement that the land was transferred to the pesantren provide substantial evidence that ownership had been transferred. Therefore, the pesantren's position is not merely that of a manager or temporary beneficiary but that of the recipient of the donated property. This finding is also consistent with recent research demonstrating that productive utilization of donated land may be legally permissible when the transfer satisfies the requirements of hibah and its subsequent utilization remains consistent with Sharia Economic Law (Gaussian & Mutoharoh, 2025).

The legal status of plants growing on the donated land, however, requires a more nuanced distinction between ownership of the land, ownership of existing plants, and rights arising from subsequent cultivation. Where plants were already attached to the land at the time of the hibah and the documentary evidence states that the land was transferred "together with its contents," there is a strong legal basis for treating those plants as part of the donated property. Consequently, their economic benefits may be utilized by the pesantren as the recipient of the hibah. This interpretation should nevertheless be distinguished from plants subsequently cultivated by third parties after the transfer. In such circumstances, ownership of the land does not automatically determine every right associated with labor, cultivation, maintenance, and harvesting. If another party contributes labor or production inputs, the relationship should be structured through an appropriate contract, such as muzaraʻah, musaqah, or another permissible cooperation arrangement. Contemporary research on hibah similarly emphasizes that the legal consequences of the gift depend on the object transferred, acceptance, and the completion of the transfer rather than merely on the donor's intention (Abdul Ghani et al., 2023). Thus, the central legal distinction in this case is between ownership (milk) and utilization rights (haqq al-intifaʻ), which should not be conflated.

The findings further indicate that the distribution of agricultural products becomes legally problematic when cultivation is undertaken by persons other than the pesantren without a clearly formulated agreement. Islamic economic jurisprudence places considerable emphasis on contractual certainty and the avoidance of gharar, particularly where economic benefits are shared between parties. Where the pesantren itself manages the land, the resulting harvest may reasonably be attributed to the institution as the owner and operator of the productive asset. Conversely, where another party cultivates the land, entitlement to the harvest should be determined by the underlying contractual relationship rather than assumed solely from land ownership. A muzaraʻah or musaqah arrangement, for example, requires clarity regarding the parties, agricultural activity, duration, and distribution of output. Recent research on productive utilization of donated land shows that agricultural management by another party can remain consistent with Sharia Economic Law when the arrangement satisfies the requirements of the relevant contract and does not contain prohibited elements (Gaussian & Mutoharoh, 2025). The empirical finding at Al-Hasanah therefore indicates that the main weakness is not the utilization of the donated land itself, but the absence of sufficiently explicit contractual governance for certain forms of third-party cultivation and benefit distribution.

From the perspective of the Indonesian Islamic legal framework, the findings reinforce the importance of qabd and legal certainty in hibah. Recent analysis of KHES explains that Indonesian hibah law recognizes the donor, recipient, donated property, iqrar, and qabd as important elements in establishing the legal validity of the gift (Abdul Ghani et al., 2023). The present case satisfies these substantive requirements through the identification of the donor and recipient, the existence of a specific object, the documented declaration of transfer, and the actual possession and utilization of the land by the pesantren. Accordingly, the continued involvement of the donor in certain aspects of agricultural management should not be interpreted automatically as evidence that ownership has reverted to the donor. Rather, the evidence suggests a subsequent consensual arrangement concerning utilization. Such an arrangement is legally more defensible when it is based on explicit consent (tarāḍin), defined rights and obligations, and the absence of harm (ḍarar) or uncertainty. Recent cases concerning hibah also demonstrate that unclear or defective arrangements may generate disputes over the validity and legal consequences of the transfer, underscoring the importance of documentary and contractual certainty (Fitriah, 2025).

Overall, the practice at Al-Hasanah Islamic Boarding School can be considered substantively permissible (mubāḥ) and consistent with the objectives of Sharia Economic Law, particularly because the donated land and its agricultural products are utilized for educational, institutional, and social purposes. Nevertheless, permissibility at the level of purpose does not eliminate the need for stronger governance at the level of contractual implementation. The study reveals a distinction between the pesantren's substantive ownership of the donated asset and the informal arrangements through which some community members participate in cultivation or obtain agricultural products. This distinction constitutes the principal legal implication of the research: productive hibah assets should be accompanied by explicit rules concerning cultivation authority, maintenance responsibilities, harvesting rights, distribution of products, and accountability for revenues. Recent literature likewise identifies productive hibah as a potentially significant economic instrument when its utilization is properly managed (Gaussian & Mutoharoh, 2025). Therefore, the Al-Hasanah case demonstrates that the effectiveness of hibah as an instrument of pesantren economic independence depends not only on the validity of the original transfer but also on the establishment of transparent post-transfer management arrangements that preserve ownership certainty, contractual justice, maslahah, and protection against gharar.

Conclusion

This study concludes that the utilization of productive plants on donated land at Al-Hasanah Islamic Boarding School, East Tanjung Jabung, is legally permissible under Sharia Economic Law because the hibah was completed through a valid transfer of ownership supported by documentary evidence and actual possession. The transfer established the pesantren as the legitimate recipient and granted it authority to manage and utilize the donated land, including its productive agricultural potential. The agricultural products are utilized for internal consumption, pesantren operational needs, and, in part, sold to generate institutional income. This practice demonstrates that hibah can function not only as an instrument of property transfer but also as a productive asset supporting educational sustainability and institutional self-reliance. The utilization is consistent with the principles of ʻadl (justice), tarāḍin (mutual consent), maslahah (public benefit), and responsible management of property, provided that the utilization does not cause harm or infringe upon the legitimate rights of other parties.

The study identifies a significant governance gap between substantive ownership and the management of utilization rights. Although the pesantren has a strong legal basis as the recipient and owner of the donated land, some agricultural activities continue to involve third parties through informal arrangements, while written agreements, benefit-sharing mechanisms, and monitoring procedures remain limited. These conditions may generate uncertainty regarding cultivation authority, harvesting rights, and the distribution of economic benefits, particularly when the parties' rights and obligations are not explicitly defined. Therefore, the productive utilization of donated land should be strengthened through written management agreements, transparent recording and distribution of agricultural proceeds, clearly defined responsibilities for cultivators, and periodic institutional oversight. Such measures would not alter the substance of the hibah but would strengthen its implementation by ensuring legal certainty, contractual fairness, accountability, and protection against gharar. The study thus highlights that the sustainability of productive hibah assets depends not only on the validity of ownership transfer but also on transparent post-transfer governance that transforms donated property into a sustainable source of educational and social benefit.

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