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**APPLICATION OF THE MAXIMUM 1/3 OBLIGATORY
BEQUEST (*WASIAT WAJIBAH*) PRINCIPLE IN ADOPTED
CHILDREN GRANTS**

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Abstract

This research focuses on explaining about grants to adopted children that exceed 1/3 of the assets of their adoptive parents, resulting in heirs being hindered from obtaining their inheritance. This research using context of problems as how is the application of the maximum one-third provision on grants to adopted children? What are the consequences if the assets granted to the adopted child exceed one-third of the assets of the adoptive parents? This study falls under the typology of normative legal research. The research findings explain that grants to adopted children must adhere to the maximum one-third provision of the assets owned by the grantor, as stipulated in Article 210 of the Compilation of Islamic Law (KHI). If this provision is not followed by the grantor, a violation occurs in the grant process, potentially causing harm to the heirs. As a result of assets exceeding the maximum 1/3 provision, the grant can still be valid or null and void under the law.

Keyword : Adopted Children, *Wasiat Wajibah*, Grant.

INTRODUCTION

In Islamic law, the adoption of a child is allowed as long as it is for the reason of helping and alleviating the difficulties faced by the child's family in terms of care, education, and daily needs. (Mas'ut, 2019) Through the process of adopting a child, a married couple can have an adopted child. However, in Islamic law, the adoption of a child does not change their legal status, lineage, or adoptive status, as is the case in Western legal traditions. (Muhammad Luthfi, 2023) The adopted child still maintains their lineage with their biological parents, but the responsibilities of care,

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supervision, and education of the child shift from the biological parents to the adoptive parents. (Muhammad Luthfi, 2023)

Basically, an adopted child is a child who is not biologically related to a married couple but is raised and treated as if they were their own, resulting in a familial relationship between the adoptive parents and the adopted child. According to Article 171 letter h of the Compilation of Islamic Law (KHI), an adopted child is defined as a child whose daily upkeep, educational expenses, and other necessities are the responsibility of the adoptive parents as determined by a court decision, shifting these responsibilities from the biological parents to the adoptive parents. (Subiyanti, 2019) Although the treatment given to an adopted child, such as daily living expenses and educational costs, is similar to that of a legitimate child, there are differences between an adopted child and a legitimate child. An adopted child has limited rights, such as not being allowed to use the adoptive parents' names directly as identification or address, cannot designate their adoptive parents as guardians in their marriage, and does not have inheritance rights from their adoptive parents. (Lin Ratna dan Muhammad Wahyudin, 2021)

Islamic law confirms that adopted children do not inherit because they are not related to their adoptive parents. (Achmad Iarchosi, 2020) This is because the main principle in Islamic inheritance is blood relationship, *nasab*, or descent. (Hilman Hadikusuma, 1990) Article 174 paragraph (1) KHI also explains that the basis of inheritance in Islamic law only occurs for two reasons, namely blood relations and marital relations. Since adopted children do not fall into these two categories, they do not have the right to inherit from or leave inheritance to their adoptive parents. However, adopted children can still receive an inheritance from their adoptive parents as a form of responsibility and affection, and this inheritance

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can be provided through grant and/or obligatory bequest (hereinafter referred to as *wasiat wajibah*). (Tasya Shalsa Ilaha, 2021)

Grant and *wasiat wajibah* are essentially both valid ways of transferring one's assets to someone else in accordance with Islamic principles. However, there is a difference between the two concerning when the assets are transferred from the giver to the recipient. (Indah Sari, 2022) A grant is given while the giver is still alive, whereas a *wasiat wajibah* is provided after the giver has passed away. A *wasiat wajibah* is a testament intended for heirs or relatives who would not receive an inheritance because of an obstacle shara' (al-qarabat). (Nur Farikha dan M. Ali Syaifudin Zuhri, 2020). As is the case with adopted children who are legally prevented from inheriting due to their lack of blood relation with their adoptive parents. (Achmad Iarchosi, 2020) The existence of *wasiat wajibah* has a positive impact and upholds justice for adopted children who have served the deceased but are not included in the provisions of Islamic inheritance law. However, there are specific limitations regarding *wasiat wajibah*.

The Compilation of Islamic Law (KHI) restricts the amount of property that can be given for *wasiat wajibah*. This is evident in Article 209 paragraph (2), which essentially states that adopted children are only entitled to receive a *wasiat wajibah* of up to one-third of the estate of their adoptive parents. This limitation is intended to protect the heirs so that they are not left in a financially disadvantaged state after the deceased's passing. (Achmad Iarchosi, 2020) Similarly, with grant, the giving of grant is also limited to one-third of the property of the giver, as explained in Article 210 paragraph (1) of the KHI. It states that a person who is at least 21 years old, of sound mind, and acting without coercion can give up to one-third of their property to another person or institution in the presence of two witnesses for ownership transfer. However, in practice, cases of grant exceeding the prescribed

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limit have been found. In such cases, the gift given exceeds one-third of the property of the giver. As in the following case, there are facts which are not in accordance with the existing theory as follows:

In the beginning, Anas Rauf bin Jamirin married Djuminah binti Marjuki in 1967. From their marriage, they jointly owned a permanent house registered in the name of Anas Rauf. This house was built on a plot of land measuring 964 m², located at Jl. K.H. Agus Salim No.83, Kelurahan Bandar Kidul RT 20 RW 03, Kecamatan Mojojoto, Kota Kediri. The property's boundaries are as follows: to the north is the main road, to the south is the house of Mrs. Yatemi, to the east is the house of Mrs. Priyani, and to the west is the house of Mrs. Cip.

At the time of their marriage, Djuminah's status was single (unmarried), while Anas Rauf was a widower with one child named Asnimar. From their marriage, they did not have any biological children, but they adopted three children: Samsul Bahri, a 46-year-old male; Upik Tri Hartini, a 39-year-old female; and Anik Winarti, a 28-year-old female.

In 2007, Anas Rauf granted a permanent house in the name of Anas Rauf built on 964 m² of land located on Jl. KH Agus Salim No. 83, Bandar Kidul RT 20 RW 03, Kecamatan Mojojoto, Kota Kediri to his third adopted child, Atik Winarti. This grant was executed before the notary public Tjahjo Indro Tanojo, S.H., with grant deed number 453/HIB/M/XI/2007. Following the grant, the property's certificate was transferred to the name of Atik Winarti as the recipient of the grant. The problem was that the amount of property granted to Atik Winarti exceeds one-third of Anas Rauf's assets, which subsequently resulted in Anas Rauf's wife, biological child, and two other adopted children not receiving their respective shares as heirs.

Based on the presented case, there arises a question concerning the grant received by Atik Winarti, the adopted child, which contradicts the provisions of *wasiat wajibah*. This is because the amount of the grant received exceeds one-third, thereby disadvantaging Anas Rauf's biological child and wife, who are heirs and did not receive their shares. In this case, it needs to be considered whether the portion received by Atik Winarti should be reduced or even canceled since the amount received does not comply with the provisions of *wasiat wajibah*. Therefore, further examination is required regarding the application of the maximum one-third rule on grants to adopted children and the consequences if the property granted to the adopted child exceeds one-third of the giver's assets. How is the application of the maximum one-third rule on grant to adopted children? And What are the legal consequences if the property granted to the adopted child exceeds one-third of the adoptive parents' assets?

RESEARCH METHOD

The research conducted is normative legal research that is focused on the existence of legal principles. This research is carried out using a qualitative method, where it will examine the grant to adopted children in its application within the presented case in the form of a narrative, in order to draw conclusions and provide recommendations regarding the problem formulation. The data sources used are secondary data sources in the form of legal materials, including primary legal materials such as:

1. Compilation of Islamic Law
2. Grant Deed
3. Marriage Certificate
4. Certificate of Ownership, and
5. Court Decisions.

In this research, the author uses both the Statute Approach and the Conceptual Approach. The Statute Approach involves an examination of the legal regulations relevant to the existing legal issues, while the Conceptual Approach is intended to analyze legal materials in order to understand the meaning contained within legal terms. The legal materials used consist of juridical sources, such as legislative regulations, the Compilation of Islamic Law, and court decisions. To reinforce the normative approach, the author utilizes non-binding secondary legal materials, such as scholarly works and journals, to support the author's arguments in the research process.

RESULTS, DISCUSSION AND ANALYSIS

A. Analysis of the Application of the Maximum One-Third Rule in Grant to Adopted Children

Adoption of children has become a common practice in Indonesian society. A child who has been adopted is commonly referred to as an Adopted Children. According to Article 1 number 9 of Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection, an adopted child is defined as a child whose rights have been transferred from the care of their biological family, legally appointed guardian, or another responsible party for their upbringing, education, and care, into the family environment of their adoptive parents based on a court decision or court order.

Islamic law confirms that adopted children do not inherit because they are not related to their adoptive parents. Inheritance in Islam is typically determined by blood relation, nasab, or descent. The fact that adopted children do not share lineage with their adoptive parents is also explained in Article 39 of the Child Protection

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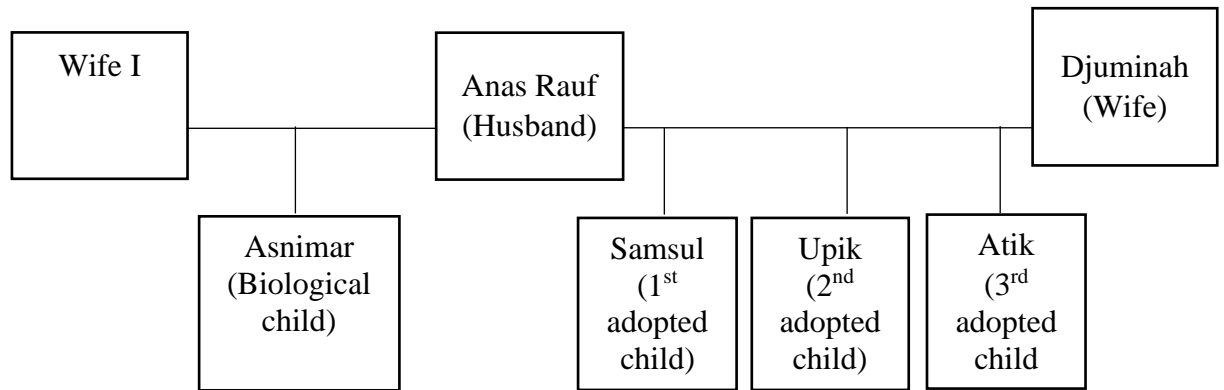
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Law. This article essentially requires adoptive parents not to conceal or sever the blood relationship between the adopted child and their biological parents.

In the context of this research, Atik Winarti binti Jamingan, is an adopted child in the family of Anas Rauf bin Jamirin and Djuminah binti Marjuki. Atik Winarti was adopted because Anas Rauf and Djuminah were not blessed with biological children. It should be noted that before marrying Djuminah, Anas Rauf had a previous marriage and one biological child. The adoption of Atik Winarti as an adopted child is not further elaborated upon by the Anas Rauf family, but witnesses have confirmed that Atik Winarti is indeed the adopted child of the Anas Rauf and Djuminah family. The court also declared Atik Winarti as an adopted child during the trial. Therefore, Atik Winarti can be legally recognized as the adopted child of the Anas Rauf and Djuminah family in accordance with the latest adoption regulations, namely Government Regulation No. 54 of 2007 on the Implementation of Adoption and Law No. 35 of 2014 on Amendments to Law No. 23 of 2002 on Child Protection.

Atik Winarti, as an adopted child, is not entitled to inherit. However, Atik Winarti, in her capacity as an adopted child, has the right to receive grant and/or *wasiat wajibah*. This is in accordance with Article 209 of the Compilation of Islamic Law, which implies that both adoptive parents and adopted children should be given *wasiat wajibah*. Nevertheless, these provisions must align with the stipulations outlined in Article 210 paragraphs (1) and (2). Both grant and *wasiat wajibah* given to adopted children have a maximum limit. According to the Compilation of Islamic Law, the grant or *wasiat wajibah* can be up to one-third of the estate of the giver or the deceased parent. This means that the property that can be granted or included in the *wasiat wajibah* for the adopted child is limited to a maximum of one-third of the giver's assets.

In fact, the grant given by Anas Rauf exceeded the maximum limit of the grant. Here is the scheme of the Anas Rauf family:



Anas Rauf was initially married to his first wife. In his first marriage, Anas Rauf had one biological child named Asnimar. Then, Anas Rauf married Djuminah as a widower. During his marriage to Djuminah, Anas Rauf and Djuminah did not have any biological children. Therefore, they adopted three adopted children, including Samsul Bahri, Upik Tri Hartini, and Atik Winarti.

During his marriage to Djuminah, Anas Rauf owned joint property, specifically a permanent house registered in Anas Rauf's name, built on a 964 m² located at Jl. KH. Agus Salim No. 83, Kelurahan Bandar Kidul, Rt. 20, Rw. 03, Kecamatan Mojoroto, Kota Kediri. Anas Rauf passed away on March 17, 2007, as evidenced by the death certificate issued by Kelurahan Bandar Kidul on March 26, 2007, in Anas Rauf's name. Before his passing, in the year 2007, Anas Rauf had granted this joint property (a permanent house registered in the name of the deceased on a 964 meter² located at Jl. KH. Agus Salim No. 83, Kelurahan Bandar Kidul, Rt. 20, Rw. 03, Kecamatan Mojoroto, Kota Kediri) to Atik Winarti as his

adopted child. Based on this explanation, it is evident that the entire object of the granted was property jointly owned by Anas Rauf and Djuminah.

In the case of the grant given to the adopted child, Anas Rauf essentially still had other heirs, namely his biological child and another heir, Djuminah. If this grant were to proceed, it would undoubtedly obstruct the other heirs from receiving their rightful inheritance. Furthermore, the grant given to the adopted child exceeds one-third of the giver's assets, clearly violating the rules governing grant. Therefore, Djuminah requested the Religious Court of Kediri to nullify the grant made by her deceased husband to Atik Winarti.

The implementation of a grant intended for an adopted child is carried out while the adoptive parents, as the givers of the grant, are still alive. The maximum limit for the property that can be granted is one-third of the total assets of the giver of the grant, and the property granted remains the rightful possession of the giver. This is in accordance with Article 210 of the Compilation of Islamic Law, which states the following:

1. A person who is at least 21 years old, of sound mind, and acting without coercion can grant up to one-third of their property to another person or institution in the presence of two witnesses to be owned;
2. The property being granted must be the rightful possession of the giver.

The case of a grants exceeding the limits within the Anas Rauf bin Jamirin family clearly disregards the valid conditions for a grant, as stipulated in Article 210 of the Compilation of Islamic Law. Article 210 paragraph (1) of the Compilation of Islamic Law states, "a person who is at least 21 years old, of sound mind, and acting without coercion can grant up to one-third of their property to another person or institution in the presence of two witnesses to be owned." In this case, the grant

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given by Anas Rauf to Atik Winarti, his adopted child, exceeded one-third of Anas Rauf's assets. Furthermore, Article 210 paragraph (2) of the Compilation of Islamic Law states, "the property being granted must be the rightful possession of the giver." The grant given by Anas Rauf to Atik Winarti did not consist entirely of his rightful possessions. The object gifted was jointly owned between Anas Rauf and Djuminah. Therefore, the property that rightfully belonged to Anas Rauf was only half of the granted object, with the other half belonging to Djuminah. In this context, the one-third rule should have applied to one-third of Anas Rauf's share.

An invalid grant makes all the consequences of the grant, including the issuance of the grant deed that subsequently serves as the basis for transferring the ownership of certificate of land rights No. 1629 from Anas Rauf's name to Atik Winarti, null and void under the law. Therefore, in terms of administrative procedure, the land agency of Kota Kediri must revert the ownership of the certificate of land rights back to its original name. Based on these considerations, the panel of judges granted the plaintiff's claim and declared the grant from the late Anas Rauf bin Jamirin to Atik Winarti regarding the disputed object as null and void.

Based on the case within the Anas Rauf family, it is evident that the grant to the adopted child became a dispute because it exceeded the maximum limit and did not consist entirely of the giver's assets. However, according to the clear regulations, adopted children are entitled to receive grant and *wasiat wajibah*, with a maximum limit of one-third of the giver's assets. Furthermore, the entire grant was given to the adopted child, disregarding the heirs, namely the biological child and the spouse of the giver. The implementation of grants for adopted children, especially among Muslim communities, must adhere to the Compilation of Islamic Law. In this regard, the giver should have followed the provisions of Article 210 of the Compilation of

Islamic Law. Granting the entirety of one's assets, clearly exceeding the maximum limit, can lead to issues and disputes among the parties involved.

Referring to the Compilation of Islamic Law, the method of implementing grants to adopted children is as follows:

1. The grant is made while the adoptive parents are still alive, including the delivery of the goods granted
2. The right to the goods granted passes when the grant is made
3. The maximum limit of the grant given is one-third of the assets owned by the adoptive parents
4. In the granting process, a statement by the adoptive parents as the grant giver is very important
5. It is recommended that the grant be made in the presence of several witnesses (although this is only considered a suggestion or sunnah in law). The aim is to avoid future disputes.

In line with the provisions, Abdurrahman Abd Al-Aziz al-Qasim also stated the conditions regarding the parents who make a grant to an adopted child. The conditions include the following:

1. The adoptive parent must be at least 21 years old, legally competent, and make the grant voluntarily, with a maximum limit of one-third of their wealth.
2. The property granted to the adopted child must be the property of the giver.
3. It must be witnessed by two witnesses.

Atik Winarti, as an adopted child who is not entitled to inherit from Anas Rauf, was given a grant of property. Anas Rauf gave this grant to Atik Winarti while he

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was still alive, in a legally competent condition, and without any coercion from anyone. In terms of the conditions set by the donor, the grant to Atik Winarti has been fulfilled. However, the object of the grant was jointly owned property, so it did not entirely belong to Anas Rauf, the donor. Furthermore, the grant given exceeded the grant limit, thus being considered as part of the inheritance and clearly obstructing the inheritance rights of other heirs (biological children and wife)

To provide legal certainty, the grant from adoptive parents to adopted children is carried out using a notarial deed. In this regard, Article 1683 of the Civil Code states the following:

"No grant is binding on the donor or produces any effect whatsoever, except from the day of the grant, if it has been expressly accepted by the recipient of the grant himself or by a person who, by an authentic instrument, has been authorized by the recipient of the grant to accept grants that have been made to him or will be made to him in the future. If such acceptance has not been made in the deed of grant itself, it may be made subsequently by an authentic instrument, the original of which must be kept, provided that such acceptance is made during the lifetime of the donor, in which case, as regards the person mentioned last, the grant will only take effect from the day when notice of acceptance is given to him."

Based on the explanation provided, it can be understood that grants given to adopted children are subject to a limit of one-third of the donor's wealth. The property being granted must also belong to the donor. The one-third limit is in place to prevent jealousy among heirs and to create fairness for all parties involved. In this context, if the grant given to an adopted child exceeds the one-third limit and is not contested by the other heirs, then the grant remains valid. However, if the granted property exceeds this limit and is challenged by the heirs, then the grant will have

further legal consequences and will be resolved according to applicable laws and court decisions.

In the case of Anas Rauf's family grant, the grant given to Atik Winarti, as an adopted child, did not adhere to the maximum grant limit. Anas Rauf gave a grant that exceeded the grant limit, which impeded the rights of other heirs. Additionally, the granted property was not entirely owned by the donor but was jointly owned between the donor and the donor's spouse. Anas Rauf's grant to Atik Winarti was subsequently challenged by Anas Rauf's wife as an heir and co-owner of the jointly owned property that was the subject of the grant. Therefore, the grant given has further legal consequences as per the legal regulations and court decisions in the proceeding.

B. Analysis of Consequences If the Property Granted to the Adopted Child Exceed One-Third of the Adoptive Parent's Assets

A grant essentially constitutes a transfer of assets to someone. The amount of the grant must comply with the provisions of the Compilation of Islamic Law, which stipulates that it should not exceed one-third of the giver's assets, and the property being granted must belong to the giver. This is in accordance with Article 210, paragraphs (1) and (2) of the Compilation of Islamic Law. Based on the provisions in the Compilation of Islamic Law, there are several reasons for limiting the extent of grants, including:

1. Islam prohibits granting more than one-third, as it may impede the rights of other heirs and is considered for the overall welfare of the heirs. Gift-giving is analogous to a will, where the portion of assets bequeathed should not exceed one-third.

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2. Based on the first point, this principle has been established through ijma (consensus) because Muslims, from the time of the Prophet Muhammad until the present, have commonly made wills and grants. Therefore, the Compilation of Islamic Law sets a limit of one-third of the giver's assets.
3. The importance of limiting grants is due to societal issues. When someone gives away all of their assets to someone else or to one of their heirs with the intention of ensuring that their assets are put to good use, they may fear that their assets will later fall into the hands of other heirs who may not be able to responsibly manage them, leading to the potential waste of those assets.

Muhammad Ibn Hasan and some Hanafi jurists argue that it is not valid to grant away all of one's assets, even for benevolent purposes. These scholars view such an act as the deed of an ignorant person that should be restricted. According to the opinions of Imam Ahmad Ishaq, Sauri, and several other Islamic legal experts, a grant is considered void if it exceeds or bestows the entirety of one's assets upon one recipient. It is not permissible to grant all of one's assets to one of their children and one should act justly among their children. This also includes not granting all of one's assets to an adopted child if there are still rightful heirs entitled to inheritance.

From a rational perspective, the understanding of the scholars regarding the one-third grant provision implies that if all of the assets are grant, it will have consequences for both the giver of the gift and the existence of the heirs. Based on the opinions of these scholars, it can be understood that the limitation on gifts in Article 210 of the Compilation of Islamic Law should not exceed one-third for the sake of the overall welfare and protection of the rights of the heirs. If the grant is allowed without limitation, it is feared that it will nullify the rights of the heirs to get the inheritance.

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The grant given to an adopted child is equal in amount to the mandatory testament. Both grants and mandatory wills provide a limit of one-third of the owner's property. If the grant exceeds the maximum limit, then the grant should be returned to the owner or heirs. Grant assets that exceed this maximum provision if not disputed by the heirs then it is not a problem. However, if it is disputed, the heirs can convey to the grantee that the grant violates the grant provisions. If the grantee refuses to return, then the grant can be cancelled or the grant can be returned through a lawsuit by the heirs or interested parties to the court.

As time has passed, issues related to grants have evolved, including cases where the grant exceeds one-third of the giver's assets. In such cases, the grant can be cancelled. This cancellation is because the grantor who exceeds one-third of the grantee's assets is clearly not in accordance with the terms and conditions of the grant as Article 210 of the Compilation of Islamic Law. This is what happened to the Anas Rauf family grant which the author has explained regarding the cancellation of the grant because it exceeded one-third of the grantee's assets.

According to the Compilation of Islamic Law, the first reason a grant can be cancelled is because there is a limit on the amount of grant allowed. In Islamic law, a person who gives a grant or the amount of goods given is limited to a maximum of one-third of their total assets. This aims to prevent conflicts or quarrels between family members. If the grantor gives more than this limit, the grantor's family has the right to apply for the cancellation of the grant that has been given. The second reason a grant can be cancelled is when the grant is not in accordance with the intent and purpose of the grant. For example, if the grantee neglects or does not take good care of the grant item, then the grantor has the right to apply for the cancellation of the grant.

The parties who have the right to request the cancellation of a grant are the grant giver and the heirs of the grant giver. A wife has the right to request the cancellation of a grant made by her husband if the grant interferes with the rights of the heirs to receive their inheritance. In this case, if the husband has passed away and the wife feels that the grant made can harm the heirs, the wife can apply for the cancellation of the grant for this reason. In addition to the wife, the gift giver can also submit a request for the cancellation of the gift if the purpose and objective of the gift are not achieved or after the gift has been executed, and if the heirs feel harmed.

Grants that exceed one-third of the total assets can be cancelled. However, if the grant exceeds one-third but has been approved by the heirs beforehand through deliberation, the grant is still valid. It is different if the grant of the entire property is made without the consent of the heirs. This situation makes the grant considered invalid and the heirs have the right to apply for the cancellation of the grant for their share of inheritance which is reduced due to the grant. The consequences of grant cancellation because the grantee does not meet the conditions specified in the grant agreement are:

1. The granted goods must be returned
2. When returning the goods, the grantee must ensure that the goods are free from all burdens previously placed by the grantee on the goods,
3. The grantee has the obligation to hand over to the grantor all proceeds obtained from the granted goods since the grantee failed to fulfil the stipulated conditions.

The consequences of cancellation based on fault, crime, violation, or failure to provide maintenance to the grant giver are as follows:

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1. The gifted property must be returned to the grant giver
2. The recipient of the grant has an obligation to deliver to the grant giver all the proceeds obtained from the granted property since the cancellation lawsuit was filed in court

The encumbrances placed on the property before the cancellation lawsuit was filed continue to apply to the property. However, any encumbrances established after the cancellation lawsuit was filed and registered in court are considered void. To avoid unwanted releases, the grant giver can register their lawsuit with the land registration office if the granted property is immovable.

The revocation or cancellation of a grant is carried out by communicating the intention to the grant recipient and requesting the return of the granted objects. If the grant recipient is unwilling to return them voluntarily and a dispute arises between the parties, then a request to reclaim the granted objects will be filed in court. The legal consequence of a grant being requested for cancellation in court and a legally binding revocation decision being issued is that ownership of the assets will revert to the grant giver or their heirs.

Anas Rauf's grant to Atik Winarti as an adopted child clearly exceeded one-third of the assets, which is the maximum limit set for grants. As a result, this grant disadvantaged the relevant heirs, namely Djuminah as Anas Rauf's wife and his biological child from a previous marriage. The amount of the grant that exceeded the maximum limit was not agreed upon by Anas Rauf's heirs. The heirs have communicated this issue to Atik Winarti as the recipient of the grant, but she refused to return the grant given by Anas Rauf. Atik Winarti's refusal to return the grant that exceeded the maximum limit is what prompted the heirs (Djuminah) to file a lawsuit against Atik Winarti seeking the revocation of the grant.

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The grant that occurred in Anas Rauf's family, according to the panel of judges, did not fulfil the legal requirements of the grant because the grant made by the deceased Anas Rauf bin Jamirin exceeded one-third of his property and the object granted did not fully belong to the grantee, but half of the object granted was joint property which was the right and property of the plaintiff. This made the grant made by Anas Rauf to Atik Winarti invalid. The panel of judges then stated that because the grant was invalid, all consequences of the grant, namely the issuance of a grant deed which then became the basis for transferring the name of the owner of the certificate of ownership No. 1629 from Anas Rauf's name to Atik Winarti, were null and void and must be handed over to the plaintiff. The Anas Rauf family case is one proof that grants exceeding one-third of the grantee's assets can be cancelled by filing a grant cancellation case.

The legal consequence of filing a grant revocation case in court that has obtained a legally binding verdict is that the assets that were previously granted will revert to the ownership of the grant giver. In other words, all assets that were given as a grant will return to the possession of the grant giver. For example, if someone gives a grant in the form of land or a house, then if the court decides on the legal revocation of the grant, the land or house will revert to the ownership of the grant giver.

The process of returning a grant involves vacating and returning the granted object to its original state before the grant was given. For example, if a house was granted, then the grant recipient must vacate the house in accordance with the court's decision. If the granted land has permanent buildings constructed on it, those buildings will be demolished so that the land returns to an empty state. If the granted object has been transferred or titled in the name of the grant recipient, the certificate will no longer be valid after the gift revocation decision is enforced. The grant giver

has the right to request the National Land Agency (Badan Pertanahan Nasional or BPN) to invalidate the certificate related to the disputed object based on the grant revocation decision. As a result, the certificate that was previously in the name of the grant recipient will be canceled, and the granted object will revert to the name of the grant giver as it was originally.

Based on the explanation, it can be understood that the consequence of a grant exceeding the specified grant limit is that it harms the heirs. If the heirs do not object to the grant exceeding the limit, then the grant remains valid. However, if the heirs raise objections, they can request the grant recipient to return the excess grant. If the grant recipient refuses to return the excess grant, a lawsuit for grant revocation can be filed in court. After the court's decision declares the grant exceeding the maximum limit as void, the grant becomes invalid and legally nullified. As a result, the property that was granted will revert to the ownership of the grant giver in accordance with the court's decision. The return of the grant is carried out by vacating the granted object. If the ownership of the granted object has been transferred or titled in the name of the grant recipient, then the certificate becomes legally invalid.

CONCLUSION

Based on the exposition provided, the conclusions of this research are as follows:

1. Grants to adopted children must adhere to the maximum limit, which is one-third of the wealth owned by the donor, as stipulated in Article 210 of the Compilation of Islamic Law. If this provision is not followed by the donor, it constitutes a violation in the grant process and can harm the heirs. To avoid violations, the heirs can request the grant recipient to

return any grant amount exceeding the maximum limit of one-third of the donor's wealth.

2. The consequence of granting assets to adopted children exceeding one-third of the donor's wealth can either remain valid or be legally void. If the heirs agree with the grant exceeding one-third of the donor's wealth, then the grant remains valid. However, if the heirs disagree, they can file a lawsuit in court for the annulment of the grant. A grant declared legally void by a court decision must be returned to the heirs.

The recommendations presented in this research are as follows:

1. If an adopted child receives a grant exceeding the one-third limit, it is advisable to voluntarily return the excess two-thirds and only retain their rightful one-third share of the total assets. This approach is based on the understanding that the adopted child does not have a blood relationship with their adoptive parents.
2. Regarding the return of assets exceeding one-third, it is advisable to resolve such matters within the family first and avoid resorting to legal proceedings whenever possible.

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