

## CONCEPTUAL STUDY: BARRIERS OF ISLAMIC ESTATE PLANNING

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### Abstract

The estate planning is subset of the financial planning which has a direct impact on the individual and the country as well. The objective of this paper is to explore the concept of the Islamic estate planning and its current practice and behavioural factors. The study conducted the observations and descriptive analysis approaches which consist of documents analysis, and observations in few phases. The findings indicate that that the Malaysian have neglected the Islamic estate planning due to lack of awareness even though Quran and Sunnah recommend it.

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**Keywords:** Islamic estate planning, Wasiyyah, Hibah, fra'id, inheritance

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### 1. Introduction

The importance in the Islamic estate planning of Hibah toward the economic development and standard living among Muslim society has not been denied and left out. If, the estate planning being implemented, done by systematically and organized, the used of wealth and property will be enjoying and continue by the society without being left, outstanding, or even frozen. Furthermore, it will help in increasing the economic when circulation and increasing in wealth is well known and implemented. Frozen in the estate being most crucial and important, especially among Muslim society as long it is under Hibah concept. According to Zainol, Nizam, & Ab Rashid, (2016), in Malaysia, there is still lack and interested specially among Muslim society in estate planning. In addition, Buang, (2007) stated that there are still unconsciousness and willingness of the society to make estate planning during the life time for their next heritage. Furthermore, statistic from Ghul, Yahya, & Abdullah, (2015), reported there is more than RM 60 billion did not claim by the beneficiaries. The failure in the inheritance claims showed that the awareness of estate planning is weak among the society.

Stresses by Mohammad, (2015), Hibah is an imperative tool to be implemented more to avoid any disputation among the inheritance as it contributes to frozen estate glitches. Agreed by (Kamarudin & Alma'mum, 2013; Mujani, Rashid, Wan Hussain, & Yaakub, 2012; Rasyid & Ahmad, 2013), the need among Muslims in Malaysia donors to be encouraged during their lifetime and make it easy with the estate planning. Thus, lack of awareness of estate planning has raised on what factors effected on main contribution towards behaviour among the society of Malaysian citizen. Therefore, this study will explore the determine factors influence to the estate planning, especially among Muslim society and mentioned by Ahmad, (2014), behaviours as under the administration of Islamic property in Malaysia is governed by rule of Fara'id and it need to certain no harm created in society. Supported by Wan Kamal Mujani, Rusnadewi Abdul Rashid, (2011), that the phenomenon invites concerns as gives the bad consequences to the society and nation. He also mentioned that the lack and delay on the distribution to the heirs amongst the contribution outstand-

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ing and the frozen that no claim by the beneficiaries. Argued by Fazira, Wan Zahari, Al-Edrus, (2014) and Rozaid, Mohd Al Qayum, (2014), the unclaimed estates involved lands and building have been alarming as majority belongs to Muslims who leave the properties intestate and no transferring title from the deceased to their beneficiaries.

Therefore, stated by Halim, 2012a; and (2012b), considering on the matter of unclaimed, the need of considering to involve the legal and systems under Islamic law need to consider. He also concluded as this initiative was the business of society, banks, and organization's radical ethics. This study is related to the awareness of the estate planning among Malaysian as this product are not being implemented and well known among the Malaysian especially Muslims society. The basic goal of this study related to the estate planning products.

## 2. Overview of Islamic Estate Planning

Under Islamic wealth management, it has an equal right that focusing both in managing the properties in their lifetime and upon the death following Shariah principle followed by the rule of Al-Quran on receiving rewards on the day after. Contrast with conventional wealth management where only emphasis on the accumulation during the lifetime of the person's (Noordin, Ismail, Abd Rahman, Haron, & Abdullah, 2016). Mentioned by Ab Aziz, Nooh, Khairi, & Johari, (2014), wealth distribution are part of managing component under Islamic wealth management. This study concern on the low awareness and knowledge among Malaysian that distribute to the factors on the weakness on estate planning. Mohyin, 2004 and Omar, (2009), also stated on the low level of awareness and knowledge contribute to the factor of not practising the estate planning. Estate planning is where the wills or trust being misunderstood as the unpleasant thought of related to death issues. Unfortunately, with unpleasant thinking towards estate planning will lead to procrastinate on getting the motion plan and lead to freeze on assets that tight up to years and cause problems to heirs left behind. All the hard work during lifetime will be shrinking due to lack of planning.

Therefore, comes an extensive discussion of Islamic wealth management, particularly on the issues pertaining to Islamic estate planning such as Wasiyyah(will), fara'id (the law of succession) and Hibah (gift). Islamic knowledge of estate planning is where an individual has a full ownership over their properties, and is entitled to transfer or transact their properties to their heritances according to their desire within the Islamic Law. But upon the death of a Muslim, strictly the disposal estates must follow the Islamic Law of succession and inheritance rules. Determined by Surah An-Nisa:' (Al-Qur'an, 4: 11-12), that feature of the salient feature lies on fara'id in quantum of shares by eligible heirs' to protect the right of the heirs. Therefore, effectiveness towards the Islamic inheritance law need to be further investigated as rendered for dimension on economic and financial well-being of the society. According to Alma 'amun, (2013), inefficiency in the procedure of estate management and clearance distributes to the affairs of frozen estates in Malaysia. Argued by a few researchers that the cause of the problem is the system itself in that dying without a will (i.e. not having made a will) and testate (i.e. having made and left a valid will) is allocated under different regulation and by different authorized (Suhaili Alma'amun, 2010; Muhamad, 2007). Other previous research by Aziz, (2012), explained, estate planning had a few advantages whereby customers will be able to distribute their property beneficiaries quickly. Also, will minimize the expenses, less strain from the deceased's family, taxes reduce and provide the pledge to the hires after the death. According to Aziz, (2012), with estate planning, Muslims will avoid all the unnecessary hassle and other advantages that their trust will not be frozen but will be able to access in whatever circumstances.

### 3. Current Practise Islamic Estate Planning in Malaysia

Islamic estate planning in general is unpractised extensively among Malaysian especially Malaysian Muslims. Previous study stated that there is low awareness towards estate planning because of low in the financial planning as they are not planning nor aware on estate planning (Abdul Rahman, 2007; Hassan, and Yusop, 2006; Pusaka, 2004b). Study from Yaacob, (2006), Wasiyyahpractice among Malaysian Muslims, especially from Malays is driven only for protecting towards their adoption children as compared to Non-Muslims in Malaysia. Generally, Muslims are referring to Islamic law that based on Al-Quran which is Faraid whereby non-Malays practises by leaving their wills estates for the future. Furthermore, statement from ARB Amanah Raya Berhad (2006), stated the level of awareness towards estate planning among Malaysian are very low as 90 percent of Malaysian did not have wills. This percentage, include both to Muslims and non-Muslims. Claimed by Omar, (2006), particularly, the Malays do not write the Wasiyyahbase on the lacks of knowledge towards estate planning, postponing the draw of Wasiyyah. And wrong perception as Muslims believe in fara'id system.

Furthermore, Ahmad, and Pyeman, (2008) stated that contend with absence of awareness and knowledge is interrelated broadcasting or promotion involves. Therefore, behavioural norms are an important part in developing of will writing as Muslims should be courteous and well-mannered with respect to the estate matters. Based on the theory of plan behaviour the major behavioural norms are awareness, religiosity and social influence (Liao, Chen, & Yen, 2007).

### 4. The Reasons Behind Practice of the Islamic Estate Planning and Leaving Wasiyyah

According to Hassan, and Yusop (2006) most of Malaysian Muslims do not have the knowledge about the Wasiyyah and the benefits of it. Mostly of Malaysian Muslims, depending on the fara'id applies in the estate distribution and impact to them whether it is estate or intestate. Another reason relates to the reluctance on writing the Wasiyyah as estate planning is not widely practiced among Malaysia Muslims even though they knew it is important. Generally, people in this group thinking on doingWasiyyah is light matter. Final reasons are where it involves cost as most of the them are unable to draw up Wasiyyah even though they are very much known about it. Furthermore, zero knowledge about the cost of writing Wasiyyah charge by Amanah Raya Berhad (ARB) also contributed the lack of the awareness towards estate planning. Affecting to the confusion and misunderstanding towards estate planning, Pusaka., (2004a) and , (2004b), agreed only those who are aware of the important of leaving the estates to heirs who receive the inheritance will have the estate planning. There is a wrong perception from the Muslims society as the believing deeper towards with fara'id system, as the fara'id system is providing the ensure on the entitlement to be shared and follows strictly following Islamic law. Argued by Alma'amun, (2010), the governmentalpolicy does not ensure a smooth procedure of estate management and clearance.

### 5. Behaviour Factors that Influence the Practice of Islamic Estate Planning

Awareness is a vital factor that influence the practice of estate planning, as stated by Zhen, & Mansori, (2012), awareness is referred to the product and services that customers know and aware. According to Safari & Mansori, (as cited in Duncan, 1998), highlighted that communication, transaction and communication with the public are the crucial factors in promoting the awareness of the services. Molin, (2007)

and Schade,& Schlag, (2003), mentioned the effectiveness of mass media in creating the awareness, knowledge in increase the willingness interpersonal channel in persuading of ideas.

According to Mohd & Saad, 2016 study ( as cited in Ghazali, 1989), stated that religious principles are not an easy thing to be measured and Idris, Bidin & Saad, (2012) stated that the factor of religious should be tested as it is very important and playing a vital role in influencing the behaviour of Muslims. Furthermore, study from Weaver & Agle, (2002), stressed that various behaviour for the religion can be influenced by ethical behaviour. In Islamic environment, behaviour, the most influential factor of in religious reported is behaviour.

Previous research found there is a significant connexion between the value of zakat and religious compliance of behaviour (Bakar& Rasyid, 2010). Agreed by other researchers stated that in the religious factors also have the positive relationship between religious in influencing the (Osman, Mohammed, Fadzil, 2015; Osman, 2014). Argued by Tang, (2010), where unethical behaviour are significantly influenced with religious value and therefore this study expects Muslims who have the high background of religious value are aware and have a high tendency towards the importance of hibah.

A study from Fishbein & Ajzen, (1975), found that social influence represents the perception of individuals' towards people who important influencing his behaviour. Furthermore, Amin, Rahman, Sondoh, and Hwa, (2011), mentioned on social influence has a direct relationship with intention in using Islamic finance products. Furthermore, the model of the social influence has been developed by Gutierrez & Hershey, (2011) and Hershey, Henkens, and Van Dalen, (2010).

## 6. Methodology

The study collected data from libraries in the form of suitable books, journals and other publications, and from recognized internet websites that discuss some of the matters related to the study objectives: Islamic philosophies and concepts related to Islamic law, and standards and guidelines on finance and the banking industry.

## 7. Results and Discussion

Based on the analysis of literature the basic concept of the Islamic estate planning is the procedure of anticipating and arranging in life of individual, for the administration and clearance of person's estate before and after death, while diminishing gift, estate, generation skipping transfer, and income tax. Estate planning contains planning for incapability as well as a process of minimizing or removing worries over the management of a probate and raise the worth of the left assets by dropping taxes and other costs. The last purpose of estate planning will be identified by the intention of the customer, and it will be as simple or complex as the needs of the customer.

The Islamic estate planning has several advantages. whereby, Muslims will avoid all the unnecessary hassle and other advantages such as customers will be able to distribute their property beneficiaries quickly. Also, will minimize the expenses. Besides this its recommended in Quran and sunnah for the hereafter reward. But unfortunately, the Islamic estate planning is seriously ignored by Malaysian which is the main reason for the continuous increase of the unclaimed inheritance due to various behavioural factors namely zero knowledge and lack of awareness of the Islamic estate planning, in addition to the wrong

perception of fara'id among the society, the social influence and the religiosity have a vital significance in non-practice of the Islamic estate planning as well.

In conclusion, Malaysian government should take a serious action toward the Islamic estate planning to come out with a solution to the huge unclaimed amounts and properties which may affect the economy of the country as well as contribute an intensive awareness to Malaysian to stop the source of the issue. However, the individuals should take the initiatives to distribute the properties or else they may lose it and the Wasiyyah will make it faster the process.

## 8. Conclusion

Islam recommended the Islamic estate planning in many versus and traditions due to its benefits to individuals in life and hereafter as well as the its facilities to the others after death. This paper explores the elementary features of estate planning, one of the most important processes in life. Whereas Malaysian should understand the fundamentals. Such neglect will cost to your precious people, and appointing an expert will pay off in the long run for those you leave behind. It should be highlighted that the basic concept of recommending the Islamic estate planning to be incurred in Islam is to help each other as stipulated in the mutual cooperation. With onset of Islam the estate planning has become more organized. Moreover, Islam also has brought justice to all who is involved in the inherit asset by outlining the guidelines for preserving all the hassles and conducting the inheritance transaction. Besides that, Islam also has given a few guidelines for managing wealth. Among the guidelines are to follow the requirements listed in Al-Quran and sunnah.

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