

THE APPLICATION OF *MAQASID AL SYARIAH* ON DETERMINANTS OF DECISION TOWARDS ESTATE PLANNING: A CONCEPTUAL STUDY

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Article history

Received date : 2-3-2024
Revised date : 3-3-2024
Accepted date : 7-4-2024
Published date : 30-4-2024

To cite this document:

Mat Rusok, N. H., Ab Rahman, S. M., Setapa, M., Ahmad Tajuddin, N. H., & Mohd Zaki, A. N. (2024). The application of maqasid al syariah on determinants of decision towards estate planning: A conceptual study. *Journal of Islamic, Social, Economics and Development (JISED)*, 9 (62), 62 – 68.

Abstract: *Estate planning involves making plans for the transfer of estate after death. The estate includes cash, clothes, jewellery, cars, houses, land, retirement, investment, and savings accounts. More than 90 per cent of Malaysians have not made a will as estate planning is not widely practiced. Among the reasons are procrastination and lack of urgency. Several reasons, including beneficiary ignorance, the expense of estate planning, regulatory restrictions, and the conviction that proactive planning is superfluous, are blamed for this lack of participation in estate planning. Difficulties in the management process have also arisen from the Islamic estate administration process's shortcomings and delays, including the unpredictability of property distribution among heirs. As a result, there are a lot of assets that have gone unclaimed, neither trust funds nor will have been created, and there isn't much involvement in Islamic estate planning. They believe that only the rich need a will and they have to build up wealth before writing a will. This conceptual study explores how Maqasid al-Shariah principles can be applied to determine what factors influence estate planning decisions in Malaysia. The research aims to clarify how religious beliefs, cultural norms, legal considerations, and familial dynamics intersect to shape people's estate planning decisions, with a focus on Islamic jurisprudence and the ethical aspects of estate distribution. The results highlight how important it is to incorporate Maqasid al-Shariah principles into estate planning frameworks to guarantee the just and equitable distribution of wealth and assets in line with Islamic principles. The study's consequences encompass policy suggestions meant to encourage the harmonization of*

estate planning techniques with Maqasid al-Shariah's goals, consequently advancing social welfare and fair inheritance distribution in Malaysian society. This study lays the groundwork for future inquiries and interventions in this area by examining the complex interplay between Islamic jurisprudence and estate planning choices.

Keywords: *estate planning, Maqasid al-Shariah, Islamic jurisprudence*

Introduction

Estate planning is one of the components of personal financial planning (Kamarudin & Nor Muhamad, 2018). Estate planning is a definite plan for the administration and disposition of one's property during one's lifetime and at one's death (Abd Wahab et al., 2021). Thus, it involves both handling your property while you are alive and dealing with what happens to that property after your death. Furthermore, estate planning is one part of retirement planning and an integral part of financial planning (Roemanasari et al., 2022). It also involves two components, which are the first consists of building your estate through savings, investments, and insurance and the other one is transferring your estate upon your death after the manner that has been specified. The purposes of estate planning are to help protect the individual and family in case of incapacity, to provide for minor children and loved ones, to have an individual's wishes carried out, and to keep the estate liquid to help with distribution (Camarda et al., 2021). Comprehensive estate planning requires individuals to put time and energy into preparing against the possibility of their death, as well as their incapacity, and facing difficult decisions about the distribution of their assets and their choices for medical care (Ismail et al., 2013). Individuals who have completed these steps have established a less complicated legacy for their heirs and families.

Malaysian Muslims continue to engage in estate planning at a notably low rate, despite a growing recognition of the practice's significance in the country. This is demonstrated by the low level of Islamic estate planning, the high percentage of unclaimed assets, and the lack of wills or trust funds. The body of research on the subject also emphasizes several other factors, including beneficiary ignorance, the expense of planning, and regulatory restrictions. Moreover, the management process has been hampered by the Islamic estate administration process's tardiness and shortcomings, which include the unpredictability of property distribution among heirs. To ensure the orderly and effective distribution of property in compliance with Islamic law, it is imperative to develop best practices for Islamic estate planning that are in line with the Maqasid of Syariah and that Malaysian Muslims can use effectively. Numerous sources that highlight the value of Islamic estate planning, the obstacles and causes behind Malaysian Muslims' low involvement in estate planning, and the requirement for a methodical property planning procedure in line with the Maqasid of Syariah all lend support to this problem statement (Abd Wahab et al., 2021; Roemanasari et al., 2022).

Theoretical background and literature reviews

Maqasid al-Syariah

Maqasid refers to purpose, objective, principle, intent, goal, and end. Meanwhile, the Maqasid al-Syariah is the objective or purpose behind Islamic laws. The objectives of Maqasid al-Syariah are classified in various ways, according to several dimensions. Some of the dimensions are levels of necessity, the scope of the rulings aiming to achieve purposes, the scope of people included in purposes, and the level of universality of the purposes (Auda, 2015; Zahroh, 2021).

Traditional classifications of Maqasid divide human needs into three levels of necessity, namely necessities (darurat), needs (hajiyat) and luxuries (tahsiniyat) (Auda, 2008). Necessities are further classified into what preserves one's faith, soul, wealth, mind, and offspring. These three levels of needs are essential matters for human life.

According to Bakar & Rahim, (2021), five folds entail the necessities that are the preservation of life, property, progeny, mind, and religion. The levels of necessity are in the hierarchy and they are interrelated with each other. In other words, each level serves and protects the level below. For example, the level of needs acts as a shield of protection to the level of necessities. Further, after humans reach these two levels, they are prone to focus on the third level which is the luxuries needed. Subsequently, Rasool et al., (2011) and Rasool & Noor, (2018), propose an Islamic Poverty Index (IPI), which is based on human needs according to Syariah. The IPI is formulated based on five basic needs of a human namely religion (al-din), physical life (al-nafs), knowledge (al-aql), family (an-nasb) and wealth (al-mal).

فَإِنَّ اللَّهَ حَرَّمَ عَلَيْكُمْ دِمَاءَكُمْ وَأَمْوَالَكُمْ وَأَعْرَاضَكُمْ، كَحُرْمَةِ يَوْمِكُمْ هَذَا فِي شَهْرِكُمْ هَذَا فِي بَلَدِكُمْ هَذَا

The Prophet (ﷺ) said: "Allah has made your blood, your properties and your honour sacred to one another (i.e. Muslims) like the sanctity of this day of yours in this month of yours, in this town of yours."

(Sahih al-Bukhari 6043).

Religion: The utmost important basic need of humans in syariah is religion and Muslims are not supposed to commit any conduct that goes against the syariah. Therefore, all aspects of a Muslim's life; be it economic, political, religious, or social should seek the blessing of Allah.

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

"O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allah is to you ever Merciful. "

(Al-Quran 4:29).

The need is inclusive of commitment to carry out religious obligations such as performing daily prayers, fasting in the month of Ramadhan, paying zakah, and performing haji. Those who are unable to perform the required basic needs are classified as spiritually poor.

H1: Religion has a significant relationship with the attitude toward estate planning

Physical Life: The second basic need is the physical self, which refers to the daily needs of humans such as healthcare and nutrition, quality of dwelling or living place, amenities, utilities as well as clothing and transportation (Rao & Min, 2018). In general, humans strive to ensure that they meet these physical basic needs.

يَا أَيُّهَا النَّاسُ اتَّقُوا اللَّهَ مَا كَانَ لِلنَّاسِ أَنْ يَسْرِفُوا ۚ إِنَّهُ لَا يُحِبُّ الْمُسْرِفِينَ

"O Children of Adam! Put on your adornment on every occasion of prayer, and eat and drink, but do not waste; indeed He does not like the wasteful."

(Al-Quran 7:31).

Apart from that, all of the humans' actions are to protect themselves and their families. Furthermore, they would not commit any harm that might jeopardize themselves and other parties.

H2: Physical Life about estate planning has a significant relationship with the attitude toward estate planning

Knowledge: The third basic need is knowledge or mind development, which people need to develop their intellectual levels and skills. This need is inclusive of psychological factors such as stress management, education attainment, and participation in social activities. Thus, humans need to work hard to acquire knowledge and use their intellectuality for the benefit of themselves, family, and society (Zakaria & Malek, 2014).

قَوْلًا لَهُمْ وَقُولُوا وَأَكْسُوهُمْ فِيهَا وَأَرْزُقُوهُمْ فِيمَا كَفَّمَا اللَّهُ جَعَلَ الْتِي أَمْوَالِكُمْ السُّفَهَاءَ تُؤْتُوا وَلَا
مَعْرُوفًا

"And do not give the weak-minded your property, which Allah has made a means of sustenance for you, but provide for them with it and clothe them and speak to them words of appropriate kindness."

(Al-Quran 4:5).

كُنِبَ عَلَيْكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ إِنْ تَرَكَ خَيْرًا الْوَصِيَّةُ لِلْوَالِدَيْنِ وَالْأَقْرَبِينَ بِالْمَعْرُوفِ
حَقًّا عَلَى الْمُتَّقِينَ

"Prescribed for you when death approaches [any] one of you if he leaves wealth [is that he should make] a bequest for the parents and near relatives according to what is acceptable - a duty upon the righteous."

(Al-Quran 2:180).

H3: Knowledge about estate planning has a significant relationship with the attitude toward estate planning

Family: The fourth basic need is family or offspring. People need family, besides possessing parenting skills as well as nurturing knowledge of skills in children (Hart et al., 2003). In addition, humans should also protect the pride and dignity of the family as well as their ancestors. Indeed, this need is essential in current socio-economic settings.

H4: Family influence has a significant relationship with the attitude toward estate planning

Wealth: The fifth and last basic need is wealth whereby humans need to possess fixed assets and durable goods. They also need to have the ability to generate income or revenue from economic activities. Furthermore, wealth is also used to spend on food and non-durable goods. Humans can possess wealth and assets as much as they can, as long as the way of possession is not prohibited by Syariah (Zakaria & Malek, 2014).

إِلَيْكَ اللَّهُ أَحْسَنَ كَمَا وَأَحْسِنِ الدُّنْيَا مِنْ نَصِيْبِكَ تَنَسَّ وَلَا الْآخِرَةَ الدَّارَ اللَّهُ ءَاتَاكَ فِيمَا وَأَبْتَعِ

"But seek, through that which Allah has given you, the home of the Hereafter; and [yet], do not forget your share of the world. And do good as Allah has done good to you."

(Al-Quran 28:77).

الْعَقَابِ شَدِيدُ اللَّهِ إِنَّ اللَّهَ وَاتَّقُوا فَأَنْتَهُوَ عَنْهُ نَهَلَكُمْ وَمَا فَخَذُوهُ الرَّسُولُ ءَاتَاكُمْ وَمَا

"And whatever the Messenger has given you - take; and what he has forbidden you - refrain from. And fear Allah; indeed, Allah is severe in penalty."

(Al-Quran 59:7).

Al Syatibi's theory of the level of needs of Maqasid al-Syariah is quite similar to Abraham Maslow's Hierarchy of Needs (Zakaria & Malek, 2014). Maslow (1970) proposed 5 levels of needs, ranging from basic physiological requirements and safety, to love and esteem and finally self-actualization.

H5: The wealth of estate planning issues created by media has a significant relationship with the attitude toward estate planning

Methodology

In this study, the quantitative methodology for the study involves the use of structured surveys or questionnaires to collect data from a sample population. The aim is to gather empirical evidence regarding the determinants influencing individuals' decisions regarding estate planning among UiTM Kelantan Staff, with a focus on the application of Maqasid al-Shariah principles.

Research Design

The research design will be cross-sectional, aiming to capture data from a diverse range of participants representing various demographic and socio-economic backgrounds.

Sampling Technique

A stratified random sampling technique will be employed to ensure representation from different demographic groups such as age, gender, income level, and educational background. The sample size will be determined based on statistical considerations to ensure adequate power and representativeness.

Instrument Development

A structured questionnaire will be developed based on a review of existing literature on estate planning, Islamic finance, and Maqasid al-Shariah principles. The questionnaire will include both closed-ended and Likert scale questions to measure respondents' perceptions, attitudes, and determinants influencing their estate planning decisions.

Variable Measurement

The questionnaire will include variables related to demographic characteristics (age, gender, income, education), awareness and knowledge of estate planning, understanding of Maqasid al-Shariah principles, perception of the importance of estate planning, religious beliefs and practices, and intentions or actions regarding estate planning.

Data Collection

The data collection process will involve distributing the structured questionnaire to the selected sample population. This could be done through various means, including online surveys, face-to-face interviews, or postal/mail surveys, depending on the preferences and accessibility of the target population.

Data Analysis

Quantitative data analysis techniques will be employed to analyze the collected data. Descriptive statistics such as frequencies, percentages, means, and standard deviations will be used to summarize demographic characteristics and responses to survey items. Inferential statistical techniques such as correlation analysis, regression analysis, and analysis of variance (ANOVA) may be utilized to examine relationships between variables and identify determinants influencing estate planning decisions.

Ethical Considerations

Ethical considerations will be adhered to throughout the research process, including obtaining informed consent from participants, ensuring confidentiality and anonymity of responses, and obtaining necessary approvals from relevant institutional review boards or ethics committees.

Limitations

Potential limitations of the quantitative methodology may include sampling biases, respondent biases, and limitations inherent in self-reported data. Steps will be taken to minimize these limitations through careful sampling techniques, clear instructions to participants, and rigorous data validation processes.

By employing a quantitative methodology, the study aims to provide empirical insights into the determinants influencing individuals' decisions towards estate planning in Malaysia, while considering the application of Maqasid al-Shariah principles.

Conclusion

The research emphasizes the importance of integrating Maqasid al-Shariah into estate planning practices to ensure that the distribution of wealth and assets aligns with Islamic principles of justice, equality, and social welfare. This integration can contribute to the promotion of ethical and equitable distribution of inheritance within Malaysian society. The study will suggest potential policy implications aimed at promoting the application of Maqasid al-Shariah in estate planning practices in Malaysia. Additionally, it identifies avenues for future research to further explore the relationship between Maqasid al-Shariah and estate planning decisions, as well as the effectiveness of interventions designed to promote ethical estate planning practices within the Malaysian context. Overall, the study highlights the importance of incorporating Maqasid al-Shariah principles into estate planning practices in Malaysia and provides valuable insights into the determinants influencing individuals' decisions in this regard.

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