The Social Sciences 11 (7): 1318-1321, 2016
ISSN: 1818-5800

Analysis of Islamic Estate Distribution Preferences: Analytical Hierarchy Process Approach

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Abstract: Estate distribution is important to the economic development among Muslims. It must be distributed properly to avoid estate being frozen and become uneconomic to the society. For Muslims deceased's estate, there are three methods of distribution which are faraid, muafakat and takharruj. It is the aim of this study to identify the preferred distribution that the heirs will choose in the event of death. The Analytical Hierarchy Process (AHP) is utilised to show how the heirs rank these methods of distribution based on their preference. The questionnaire is employed to gather the respondents' information. This study indicates that the heirs prefer to distribute the estate based on faraid share compared to other methods. This study also recommends that the community should be exposed to other methods of distribution which best suited to their needs.

Key words: AHP, Islamic estate distribution preference, faraid, muafakat, takharruj, heirs

INTRODUCTION

Unclaimed estate is one of the serious Muslims' economic problems in which the property will be frozen and cannot be developed, even though some of the properties are highly potential for Muslims socio-economic development. This issue will lead to several impacts such as the case of multiple ownerships, overlapping claims, abandoned properties without appropriate management, complications in the distribution trial and the risk of losing deceased's documents. Layered inheritance cases are also the effects of delaying estate claiming where such distribution would be more complex as it involves numerous heirs.

There are several factors that contribute to the frozen estates such as ineffective estate management methods, unclear legal systems and lack of knowledge among legal heirs. Based on land office's records, the ownership transfer of deceased's estate is difficult due to disputes and conflicts among them in choosing the owner of the estate, missing or unknown heirs (Buang, 2008). Consequently, the estate claiming will be delayed till, the all heirs agree to the estate division.

The estate management among Muslims is complex due to the existence of the variety distribution methods and the nonchalant attitude of the heirs pertaining to estate claiming. As a result, if the management is carried out inappropriately, women's rights will not be protected even though, Allah has decreed their rights in faraid law (Sulong and Taha, 2016). So, the heirs should be tolerant and work together to facilitate the claiming management process and the distribution of the estate.

Furthermore, the heirs also do not know how and where to start the estate claiming due to the lack of exposure and awareness regarding to the claiming process (Noordin *et al*., 2012; Hassan *et al*., 2014). For this reason, the society should be educated on Islamic inheritance. There are several suggestions to demonstrate faraid calculation at primary, secondary or higher education level because now a days, they only focus on basic knowledge of Islam. Alma'amun (2010), Ismail *et al*. (2013) and Noordin *et al*. (2013) suggested that the government should revise Islamic studies education policy and expand the scope to include the public awareness and knowledge of the estate claiming process. Eventually, the inheritance-related knowledge will provide strong influence towards the attitude of the inheritance management.

Basically, faraid or Islamic law of inheritance will be applied if the estate belongs to Muslims, albeit the estate administration is based on civil law. Meanwhile for non-Muslims, the distribution act 1958 is applied. However, there is no specific law that governs the faraid distribution. As a result, the decision of faraid distribution

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may be different to each other due to the different texts that are used as references by the relevant officers in dealing with certain issues. Even though, the heirs agree to obtain faraid certificate at Syariah courts, they will still have to attend two trials in order to get the faraid certificate and land office for the estate distribution purposes. Nevertheless, small estate (distribution) Act 1955 does not state any requirement for faraid certificate. Furthermore, despite having E-faraid system to provide an initial overview the shares among heirs, these two trials will slow down the claiming process (Noordin *et al*., 2012).

Currently, most community members misunderstand the faraid distribution and have narrowed its application, making it becomes impractical. The literal understanding of faraid distribution will lead to land fragmentation and reduction of its value where a small piece of land which is owned by many people is difficult to develop. If there are two or more joint ownership towards an acre land, it will become an idle land due to required approval from each owner for development or business purposes. Nonetheless, faraid system is not the main factor that contributes to the land fragmentation as it only defines the rights of the deceased's heirs. It is the heirs who decide on how the property ownerships are divided based on predetermined rights in faraid law. The society has an incorrect perception when they only consider faraid law for the estate distribution matters and that distribution method is compulsory. This has led to problems in estate claiming process, causing a lot of complaints from the land administrators regarding the faraid distribution (Ab Aziz *et al*., 2014; Buang, 2008).

As the result of the administrative problems in faraid distribution, other alternatives are sought to the estate distribution such as muafakat (The distribution based on mutual consent among heirs) and takharruj (Withdrawing from receiving the inheritance whether in part or in total by giving its share to the other heirs either by consideration or without consideration) approaches. Muafakat approach can be applied when all heirs mutually give consent to the estate distribution. This distribution method can be either in the form of equally divided (based on specific lots) or some heirs give larger shares to the certain heirs like to mothers or sisters. Meanwhile, takharruj approach can be applied if some heirs withdraw or relinquish their rights from faraid distribution through unconditional compensation, conditional compensation (compensation is taken from the heirs' property or from deceased's estate) or agreements. These methods of distribution can prevent land fragmentation and avoid making land less valuable. Muafakat method does not violate Islamic laws as Islam recommends consulting practice. However, the concept of takharruj is less practiced since, the society is still bounded by narrow distribution method.

According to Section 15 (5) and first schedule of the small estate (distribution) Act 1955, the estate can be distributed not based on faraid if all heirs mutually give consent. In addition, this study even discovers that based on DDA form (Rule 4A), there are three ways of estate distribution. According to faraid, mutual consent among heirs or relinquished of rights or share of certain individuals.

All things considered, the aim of this study is to identify the preference of distribution that they will receive in the event of death. Based on previous studies, there are three methods of distribution which are faraid division, mutual consent or relinquish the rights. This study uses the Analytical Hierarchy Process (AHP) to acquire the distribution evaluation where the respondents need to evaluate the preferences of distribution either faraid, mutual consent or relinquish the rights.

MATERIALS AND METHODS

This study employs a quantitative method to study the distribution preferences among the heirs. Analytical Hierarchy Process (AHP) is a theory of measurement through pairwise comparisons and relies on judgments to derive priority scales (Saaty, 2008). The AHP is engaged to show how the heirs rank these methods of distribution based on their preference. The AHP also enables qualitative measurement to disclose their results in the form of quantitative (Pandey and Bansal, 2004). This study employs questionnaire to gather information from respondents. The respondents are Muslims, 18 year old and above and the unit of measurement is the Malaysian employees who are attached to government bodies. The questionnaire is divided into two parts, part A is demographic and part B is method of distribution.

There are three steps to perform AHP approach which consist of the establishment of a hierarchy, setting priorities and consistency logic. Figure 1 shows the

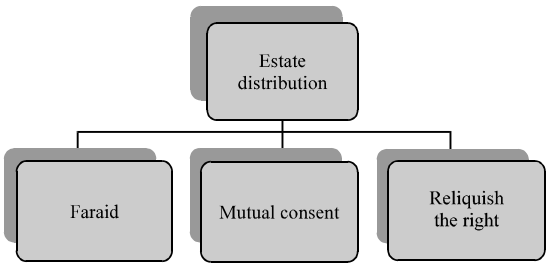

Fig. 1: Decision-hierarchy for methods of distribution

Table 1: Pairwise comparison scale AHP

Numerical rating	Verbal judgment of preferences
1	Equally preferred
3	Moderately preferred
5	Strongly preferred
7	Very strongly preferred
9	Extremely preferred
2, 4, 6, 8	Intermediate values between the two adjacent judgments

Table 2: Random consistency Index (RI)

Size of matrix	Random consistency
1	0.00
2	0.00
3	0.58
4	0.90
5	1.12
6	1.24
7	13.24
8	1.41
9	1.45
10	1.49

decision-hierarchy for estate distribution that distribute according to faraid, mutual consent and relinquish their right. Meanwhile, the priority setting is based on schedule 1. The priority is given to the decision by comparing pairwise of the elements with causal relationship (Wang *et al*., 2008) (Table 1).

The individual decision consistency is measured by consistency ratio (Elsheikh *et al*., 2015). In other word, consistency is the degree to which the relationship between items in the pairwise comparisons is consistent (Abduh and Omar, 2012). The acceptable maximum level to show the consistency is 10% (Wang *et al*., 2008). The evaluation of consistency ratio is using Eq. 1 and 2 while Table 2 shows the random consistency index:

$$CI = \frac{\lambda_{max} - n}{n - 1} \quad (1)$$

$$CR = \frac{CI}{RI} \quad (2)$$

Where:

λ_{max} = Largest eigenvalue
n = Comparison matrix
CI = Consistency Index
RI = Random consistency Index

RESULTS AND DISCUSSION

Total respondents in this study are 389. Table 3 indicates the demographic items of the respondents, namely, gender, marital status, age and education level. Most of the respondents are females, 249 of them and 140 are males. The majority of the respondents are married, totaling 276, followed by 108 singles and 5 divorcees. The highest percentage of the respondents

Table 3: Demographic

Demographic	Frequency (n)	Percentage
Gender		
Male	140	35.99
Female	249	64.01
Total	389	100.00
Marital status		
Single	108	27.76
Married	276	70.95
Divorced	5	1.29
Total	389	
Age		
21-30	125	32.13
31-40	154	39.59
41-50	61	15.68
51-60	47	12.08
61-70	2	0.51
Total	389	
Education level's		
Primary schools	2	0.51
Secondary schools	43	11.05
STPM	8	2.06
Diploma	83	21.34
Bachelor	181	46.53
Master	62	15.94
PhD	10	2.57
Total	389	

Table 4: Pairwise comparisons among three methods of estate distribution

	Overall (n = 389)		
Vectors	Faraid	Mutual consent	Relinquish the right
Faraid	1.0000	2.7970	3.1828
Mutual consent	0.3575	1.0000	2.4715
Relinquish the right	0.3142	0.4046	1.0000

Table 5: Priority vectors for Islamic estate distribution decision hierarchy

Vectors	Overall weight (%)
Faraid	58.07
Mutual consent	27.44
Relinquish the right	14.48
CR	5.83

are between 21-30 and 31-40 year old which are 32.13 and 39.59%, respectively. This study also indicates that respondents with degree qualifications have the highest percentage which is 46.53%.

Table 4 illustrates the geometric mean based on pairwise comparison towards three methods of estate distribution and Table 5 shows the priority vectors for Islamic estate distribution decision hierarchy.

Based on priory vector, faraid distribution (58.07%) is the most preferred method of distribution, followed by mutual consent (27.44%) and the least preferred is relinquished the right (14.48%). In other words, the heirs prefer faraid distribution 2.12 (0.5807/0.2744) times more than mutual consent and 4.01 (0.5807/0.1448) times more than relinquishing the right.

The result indicates that faraid distribution is still, the most preferable method of distribution among heirs compared to its counterparts (mutual consent and relinquish the right). This study argues that the heirs'

views remain unchanged, in which faraid distribution is the only way for estate distribution. In fact, this study also confirmed that takharruj concept is less practiced due to narrow views regarding to estate distribution even though, it is one of the solution for land fragmentation problems. Thus, other methods than faraid should be exposed to the society so the heirs will acknowledge these alternatives.

CONCLUSION

This study employs, an AHP approach in getting an overview of the preferred methods of distribution among heirs. This study indicates the heirs prefer to distribute the estate through faraid division compared to other division methods. Hence, related parties should take appropriate actions and provide proper advice to the heirs. At the same time, multiple efforts should be implemented and enhanced to give clear guidelines and explanation to the society regarding the methods of distribution other than faraid. This is to facilitate the heirs opportunities to divide the estate accordingly suitable to their needs. This study solely focuses in estate distribution method and further research should be conducted to identify the factors that influence the distribution preferences.

ACKNOWLEDGEMENTS

This study was presented in Seminar Hibah Peringkat Kebangsaan 2015, 19-20 May 2015, Pusat Islam Universiti Utara Malaysia, organized by Universiti Utara Malaysia (UUM). Thanks for the helpful comments from anonymous referees and editors.

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