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**ISLAMIC ESTATE PLANNING:
ANALYSING THE MALAYSIAN PERCEPTIONS
ON WASIYYAH (WILL) AND BEQUEST
PRACTICES**

BY

SUHAILI ALMA'AMUN

**A thesis submitted to
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ABSTRACT

Islamic Estate Planning: Analysing the Malaysian Perceptions on *Wasiyyah* (Will) and Bequest Practices Suhaili Alma'amun

Islamic inheritance system is usually explained within the conceptual and mechanistic framework of *faraid*, bequest and gift (*hibah*). In Islam, there is no limitation on the transfers of wealth during the lifetime, but the disposal of estates upon the death is strictly subject to *faraid* and bequest rules. The salient feature of *faraid* implies that inheritance is subject to pre-determined quantum of shares of the eligible heirs. Bequest, on the other hand, is limited up to one-third of the estates value and only allowed to be given to the non-heirs. Considering Islamic estate planning and Islamic inheritance system within the same framework renders a new dimension as part of the Islamic economics and finance that calls an urgent investigation. Making a *wasiyyah* (will) is the most crucial part of such a system. In referring to the conflict of laws in defining the meaning and contents of *wasiyyah*, this study, however, selected *wasiyyah* which carries the meaning of a will and, secondly, bequest as the main concepts to research in this debate.

The main aim of this research, thus, is to explore the perception of Malaysian Muslims towards *wasiyyah* and bequest from financial planning and economics points of view within the Islamic estate planning framework. *Wasiyyah*, hence, was analysed in terms of the Malaysian Muslims' awareness and practice. Bequest, was examined in terms of their attitudes to leaving a bequest based on the life-cycle, altruism and dynasty bequest models with integration of the Islamic theory of wealth. This research further aims at analysing the perception of the *wasiyyah* writing providers with the objective of locating their opinions on various related issues.

In responding to the research questions, primary data were collected through questionnaire with a sample of Malaysian Muslims to identify the demand side related issues, while semi-structured interview schedule used to assemble data from *wasiyyah* writing providers representing the supply side of the practice. In analysing the data, multiple analysis techniques were employed. In investigating the *wasiyyah* related issues, descriptive statistics, mean value and chi-square were used. Findings imply that the awareness level of *wasiyyah* was low reflecting their inadequate exposure of the *wasiyyah* ruling, professional means of *wasiyyah* writing and the importance of *wasiyyah* in estate planning. Thus, *wasiyyah* practice was a minority activity. Other findings reflect making a *wasiyyah* by means of traditional methods either handwritten by themselves or verbal *wasiyyah* were common practices, but, Malaysian people have gradually accepted the professional means of making a *wasiyyah* especially with ARB due to its credibility and its status as a government institution. Several factors were identified to be significant to the *wasiyyah* practice namely age, employment status, monthly income, amount of inheritance received previously, health status, having children, having adopted children, having grandchildren, knowledge, institutional factor and inheritance law. Other findings show that mass media were the main sources of their knowledge and to increase their awareness. The study also found that there was a conflict of interest in *wasiyyah* writing providers in terms of increasing awareness, educating people and profit maximization. They also differed in their perception on the ability of *wasiyyah* alone solving the estate problem comprehensively and showing their concerns over the manipulation of several estate planning instruments to avoid *faraid*.

Investigation on the attitudes to leaving a bequest using multinomial logit model implies that such attitudes were influenced by several factors namely age, ethnicity, education, having grandchildren, employment status, monthly income, total assets value, importance of bequest, religiosity and inheritance law. Bequest motives were also examined by cross checking the findings from the types of bequest, verbatim responses and results obtained from the multinomial logit. To sum up, life-cycle, altruism and dynasty model co-existed in their bequest making with some of them observed the Islamic theory of wealth. Other additional finding shows that people did not utilize the bequest allocation especially those who had non-Muslim family members.

DECLARATION

I hereby declare that this thesis has been written by me and that all materials which are not my own work have been identified. No portion of the work in this thesis has been submitted for a degree in this or any other university or institute of learning.

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Suhaili Alma’amun

December 2010

DEDICATED

to

My parents, Alma'amun bin Sulong and Nik Yah binti Nik Man and my husband, Hilmi
bin Embong.

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LIST OF ABBREVIATIONS

2LS	: Two-stages least squares
ARB	: Amanah Raya Berhad
ASB	: Amanah Saham Bumiputra (Bumiputra Unit Trust)
ASN	: Amanah Saham Nasional (National Unit Trust)
BIMB	: Bank Islam Malaysia Berhad
BME	: Black and Minority Ethnic
CFP	: Certified Financial Planner
EPF	: Employment Provident Fund
IAL	: Investment Advisory Licence
IFPC	: Fellow Chartered Financial Practitioner
IIA	: Independent of Irrelevant Alternatives
INCEIF	: International Centre for Education in Islamic Finance
IRL	: Investment Representative Licence
LR	: Likelihood ratio
MFPC	: Malaysian Financial Planning Council
OLS	: Ordinary least squares
RFP	: Registered Financial Planner
SCC	: Scottish Consumer Council
STEP	: Certificate in Foundation of Trust and Estate Practitioners
VIF	: The variance inflation factor

TABLE OF STATUTES

Enactment No.4 of 1999 Muslim Wills (Selangor) (1999)

Administration of Islamic Law (Federal Territories) Act 1993 (Act 505) & Rules (2006)

Probate and Administration Act 1959 (Act 97) & Regulations (2006)

Small Estates (Distribution) Act 1955 (Act 98) & Regulations (2007)

Public Trust Corporation Act 1995 (Act 532) (2008)

GLOSSARY

(The Glossary for terminology used in this thesis is taken from Shanmugam *et al.* (2008)), Nasir (1986), Tanzil-ur-Rahman (1978), Tanzil-ur-Rahman (1980), Zayas (2003). Doi (1984), Yaakub (2006), Haqqi (2009), Laldin (2006) and Rasban and Mohd. (2006)).

- 'Umra* : A temporal gift or a lifetime-gift. It is a contract of gift during the life of the donor or donee with condition that if the donee dies first, the gift is to be returned to the donor.
- Akhlaqiyyah* : Moral and ethics
- Faraid* : Succession to the estate of the deceased which is governed by compulsory rules laid down in the Qur'an.
- Fiqh* : An Arabic term for Islamic jurisprudence. It covers all aspects of life – religious, political, social or economics etc. In addition to religious observances (prayer, fasting, *zakah* and pilgrimage) it covers family law, inheritance, social obligations, commerce, criminal law, constitutional law and international relations, including war. The whole corpus of *fiqh* is based primarily on the Qur'an and the *Sunnah* and secondarily on *ijma'* and *ijtihad*.
- Hadith* : The tradition or collection of traditions attributed to the Prophet Muhammad (PBUH) that includes his sayings, acts, and approval or disapproval of things. *Hadith* is valued by Muslims as a major source of religious law and moral guidance.
- Hajj* : Refers to the pilgrimage to Mecca. It is obligatory once in a lifetime for Muslims, provided they are physically and financially able. It is among one of the five pillars of Islam.
- Hibah* : An Arabic term for gift. Literally it means a gift awarded voluntarily in return for a loan. Islamic law defines *hibah* as a transfer of a determinate amount of property without any exchange from one person to another, and accepted by or on behalf of the latter.
- Hukm* : Rulings
- Ibadah* : Refers to devotional matters or worship in Islam. It is the term given to any and all acts which demonstrated obedience and commitment to Allah.
- Ijma'* : The secondary source of the *Shari'ah*. It is the consensus of opinion of the companions of the Prophet Muhammad.

- Ijtihad* : The total expenditure of effort by a jurist to infer, with a degree of probability, the rules of *Shari'ah* from their detailed evidence in the sources.
- Mu'amalat* : The rules which pertain to the actions of people and their dealings among themselves as in sale, mortgage, hire, disputations, evidences, judgment and the like.
- Ruqba* : A term used for giving a property to someone on the condition that if the donor dies before the donee, it shall become the property of the donee and his heirs but if the donee dies first, the property given should be returned to the donor.
- Sadaqah* : Voluntary charitable giving.
- Shari'ah* : It is an Arabic word meaning the 'Path' to be followed. It is defined as rules which are ordained by Allah for His servants by sending His Messenger.
- Takaful* : It means guaranteeing each other. It is a system of Islamic insurance based on the principle of *ta'wun* (mutual assistance) and *tabarru* (voluntary) where the risk is shared collectively by the group voluntarily.
- Tawhid* : Faith
- Waqf* : An endowment or a charitable trust set up for Islamic purposes.
- Waqf al-ahli/Waqf al-awlad* : A private trust instituted for the benefit of family members.
- Waqf al-am* : Refers to a public endowment set apart for a charitable or religious purpose.
- Waqf al-khairi* : A *waqf* for the general good. It is usually intended to fulfill a noble social function, especially in respect of those functions that are not performed by the state such as hospitals, school and mosques.
- Waqf khas* : A specific or private endowment.
- Wasiyyah* : Is an act through which one makes certain disbursement of his property absolute for the period following his own death.

Instruction regarding appropriation in the estate of a deceased person after his death.
- Wasiyyah wajibah* : Mandatory will; a disposition created as a remedy to a growing source of complaints, namely the position of the grandchildren whose parents die during the lifetime of their father or mother, or die, or are deemed to die with them.

- Wisayah/wisoyah* : A trusteeship to be executed upon the death such as paying off the debt and executing a bequest made by the deceased.
- Zakah* : Is a yearly premium on all forms of accumulated productive wealth as well as on a variety of agricultural products, calculated at various rates according to the nature of the wealth or product, and due to the needy individuals of the Muslim community for their rehabilitation.

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Suhaili Alma'amun

Chapter 1

INTRODUCTION

1.1 BACKGROUND OF THE RESEARCH

As part of their lives, individuals are engaged in generating wealth and using this for their own prosperity. However, individuals are also expected to have social responsibility concerns for which they are expected to 'return to society' as part of their altruistic behaviour. The management of this created wealth is an important issue, as individuals are expected to also manage their lives with this wealth. Therefore, throughout history, scholars have written on the meaning and distribution of wealth through philosophical, economic and also from legal perspectives. Thus, it is the concern of this study to investigate how wealth is perceived and how it is distributed by individuals in the form of inheritance and bequest modes. Before delving into the subject matter, it should be mentioned that the notion of wealth within conventional conceptual form is definitely not similar to the Islamic one. In a very simple description, the former implies that an individual's wealth is under his/her sole ownership and full freedom is granted to him/her to use it without consequences for social responsibility and life henceforward.

Islamic theory of wealth provides useful guidelines in relation to wealth ownership, wealth management and financial planning. The notions of wealth in Islam are based on philosophic foundations derived from two primary sources namely Al-Quran, the Holy Book of Islamic, and *Hadith*, the sayings of the Prophet of Islam. The whole conceptualization of wealth and its use must therefore be consistent with *Shari'ah* or the Islamic Jurisprudence. The idea in Islam begins with the recognition of wealth when it satisfies the Islamic conditions of ownership. In addition, Islam does not accept the idea that wealth is purely owned by individuals as suggested by conventional theory. It is totally in contrast with the teaching of Islam in which the absolute ownership belongs to Allah and individuals are only trustees. Since an individual is not the absolute owner of wealth in this world, he/she has the duty and responsibility to manage it in the manner which is in line with the divine arrangements.

Consequently, wealth management and financial planning have prominent positions in Muslims lives. A distinctive feature in Islamic wealth management and financial planning appears in the form of an integration of both holistic and economic dimensions. Such an approach, if truly observed by Muslims will guide them to the utilization of wealth in the manner that will bring rewards in the life hereafter and generate economic and financial benefits to themselves, family and society simultaneously. Taking this approach as the departure point, with regard to wealth management in Islam, it comprises several segments: ‘wealth accumulation’ or ‘creation’, ‘wealth enhancement’, ‘wealth protection’ and ‘wealth distribution’.

Wealth is accumulated through a variety of sources, which, generally, can be segregated into two groups: either by means of working or inheritance. The harnessing process of wealth is the task of wealth enhancement, which can be done through savings and investment instruments. Accumulated wealth must be protected from risks and such protection is provided by *takaful*, or the Islamic insurance. The last component of wealth management is wealth distribution, which ensures that Muslims distribute their wealth to the needy by means of *zakah*, compulsory alms giving for poor or voluntary charitable giving such as *sadaqah*. It also outlines the devolution of Muslims’ properties and estates to their eligible heirs and non-heirs.

Wealth management and financial planning are interconnected and people can easily find that estate planning is also part of financial planning. During the lifetime, if Muslims observe both Islamic wealth management and Islamic financial planning, they will realize that they are expected to sort out their financial matters and allocate their wealth through a manner which covers the following aspects: *zakah* management, managing consumption and saving, investment, *takaful*, estate planning, managing of tax and state duty.

Estate planning is a process of allocating the property or estate for the devolution purpose of achieving pre-set goals. Basically, every person has an option to give away their property before the death or upon the death, but such a decision involves many considerations. The essential difference between estate planning for non-Muslims and Muslims lies in the fact that Muslims’ estates are subject to the Islamic inheritance law,

which then makes the estate planning process for Muslims more complicated when juxtaposed to the estate planning for non-Muslims.

In a very simple description, there is no restriction for Muslims to transfer their property while they are alive, but upon the death, the estate transfer is automatically subject to *faraid* and bequest mandatory rules. *Faraid* has pre-determined the quantum of shares which eligible heirs should get after deducting burial expenses, debts to Allah and other people, the rights of spouse to mutually acquired property, incomplete life-time transfers and bequest. In addition to this, bequest is restricted by two principle rules: the amount allowed to bequeath is limited up to one-third and it is only allowed to be given to the non-heirs.

In addition to the Islamic legal norms, the relation between estate planning and Malaysian legislations must be taken into account, since this study investigates Islamic estate planning in Malaysia, where two laws namely Civil Law and *Shari'ah* Law work together in the estate administration and distribution process. However, administration and settlement of the estates are regulated by the Small Estates Distribution Act 1959 and the Probate and Administration Act 1959 under the jurisdiction of the Civil Court. The *Syariah* Court has only the authority to issue the *faraid* certificate. Due to this, for Malaysian Muslims, leaving a *wasiyyah* (will) is a crucial part of the Islamic estate planning, as the problem of frozen estate in Malaysia is the most common problem cited in the literature as a result of not leaving a *wasiyyah*. These unclaimed assets are wastage as they cannot be utilized for economic purposes. Other relevant problems are those such as family disputes, information regarding assets and liabilities not being easily accessible, fraud, and problems related to the nominees.

Despite these differences between estate planning for Muslims and non-Muslims in Malaysia, most part of the process of the estate planning for Muslims and non-Muslims in Malaysia are similar. The main purpose of estate planning in Malaysia for Muslim is also to expedite estate claims by avoiding the frozen estate problem, protecting the estate from a split into many portions which would then diminish its potential value, and protecting the beneficiaries.

Realistically, Islamic estate planning is almost totally neglected by Muslims in general and in Malaysia particularly. Today, in a modern and complex world, leaving a written will is crucial, and, thus, it implies that Islamic estate planning for Muslims demands a proper planning beyond the provision of *faraid* and bequest. Most Muslims in Malaysia do not view estate planning seriously and some of them are sceptical about making a *wasiyyah*, which is evidenced by having large number of Malaysian Muslims not having *wasiyyah*. Information from available resources indicates that in general, awareness of *wasiyyah* practice among Malaysian Muslims is not very encouraging (ARB, n.d.a; Jin, n.d.; Omar, 2006:17; Omar, 2009:3). Several factors were identified to contributing to the current scenario, ranging from sociodemographic, economic, health-related factors, knowledge, cultural values, religiosity, institutional and inheritance law.

In addition to having a mismatch between legislative requirements and traditions, *wasiyyah* in Malaysia has a multi-definition, which does not facilitate the process of leaving *wasiyyah*. For example, for some people, *wasiyyah* is actually a bequest. Therefore, when there is no need for them to make a bequest, the issue of leaving a *wasiyyah* does not exist. However, when the provisions in the Small Estates Distribution Act 1959 and the Probate and Administration Act 1959 are taken into account, *wasiyyah* in Malaysia should not be perceived as leaving a bequest only. The *wasiyyah* should be viewed as a ‘will’ in which the appointment of an executor is the most important content if the goal of the estate planning is to expedite the estate claims. Such arguments have sparked controversies among Islamic estate planners in Malaysia, and as a result, many names have been suggested to rename the ‘wills’ for Muslims such as ‘Islamic wills’, ‘*wisoyah*’ and ‘Document of the Appointment of Executor’ alongside ‘*wasiyyah*’.

In Malaysia, it can be observed that some progress towards improving Islamic estate planning has taken place, particularly on the practice of making a *wasiyyah*. The Islamic estate planning industry in Malaysia is now growing and offers a range of products to facilitate Malaysian Muslims’ needs in managing and improving their estate planning matters. These include *wasiyyah*, bequest, *hibah*, trust and jointly acquired property.

It should be noted that *wasiyyah* and bequest are connected, as those who have a bequest to make must leave a *wasiyyah*. Bequest in Islamic inheritance law is another interesting issue to be investigated from an economic and financial point of view. It is clear that bequest in this contextual form is a vehicle for intergenerational transfer. It should be noted that various theories, hence, have been put forth regarding bequest transfer, with three theories being dominant over the others, namely: ‘life-cycle’, ‘altruism’ and ‘dynasty’ bequest theories. These theories are also able to explain Muslims’ behaviours towards bequest, but the restrictions imposed on bequest must take into consideration and the theory of wealth from Islamic point of view must be integrated into it.

In line with the preceding discussion, it is therefore the aim of this study to conduct a study focusing on Islamic estate planning among Malaysian Muslims with special interest on *wasiyyah* and bequest.

1.2 SCOPE OF THE STUDY

As the preceding discussion demonstrates, *wasiyyah* and bequest are the subject matter of this study. It is, however, important to stress here that this study is only interested in discussing both *wasiyyah* and bequest as part of Islamic estate planning and viewing them within the parameters of economics and finance. Firstly, this study aims to gauge the level of awareness of *wasiyyah* by means of exploring Malaysian Muslims’ knowledge or experience towards several segments of *wasiyyah* – Islamic estate planning, Islamic ruling on *wasiyyah*, *wasiyyah* writing providers and dying intestate. Secondly, this study attempts to locate the extent to which *wasiyyah* has been practiced and how it varies across several factors. Thirdly, it examines the Malaysian Muslims’ attitudes to leaving a bequest and consequently locates the existence of bequest motives. Types of bequests and their verbatim responses as to why they have made or would make those particular bequests are cross examined in order to shed light on which model of bequest is applicable.

1.3 AIM AND OBJECTIVES

This study aims to explore and examine the perceptions of Malaysian Muslims in relation to *wasiyyah* and bequest and their practice as part of Islamic estate planning by means of investigating the participants' awareness of *wasiyyah*, *wasiyyah* practices and attitudes to leaving a bequest, both within the parameters of economics and finance. For this, the following objectives are developed:

- i. to investigate the awareness level and extent of *wasiyyah*;
- ii. to locate the knowledge of Islamic estate planning in general and *wasiyyah* in specific;
- iii. to locate the extent to which *wasiyyah* making has been practiced;
- iv. to identify factors influencing *wasiyyah* practice;
- v. to establish what Islamic estate planning and *wasiyyah* are all about;
- vi. to identify the significances, roles and products of Islamic estate planning in Malaysia;
- vii. to identify problems of Islamic estate planning in Malaysia including the legal procedures, lack of understanding and misconception among Malaysian Muslims regarding *faraid*, *wasiyyah* and bequest;
- viii. to examine Malaysian Muslims' attitudes to leaving a bequest;
- ix. to search for the bequest motives; and
- x. to identify the importance of leaving a bequest within Malaysians Muslims' circumstances.

1.4 RESEARCH QUESTIONS AND HYPHOTHESES

In fulfilling the aims and objectives of this research, the following research questions are developed:

- (i) What is the level of awareness of *wasiyyah* among Malaysian Muslims?
- (ii) To what extent are Malaysian Muslims aware of *wasiyyah*?
- (iii) What is the level of understanding about Islamic estate planning among Malaysian Muslims?
- (iv) What are the factors that influence the *wasiyyah* practice among Malaysian Muslims?
- (v) What are the roles of Islamic estate planning and *wasiyyah* for Muslims and how are they affected by Malaysian Muslims' circumstances?

- (vi) What have offerings have there been by *wasiyyah* writing providers in Malaysia in terms of products?
- (vii) What are the roles of other methods of estate transfers in Islamic estate planning?
- (viii) How are life-cycle, altruism, dynasty and Islamic theory of wealth able to explain the attitudes to leaving a bequest?
- (ix) What is the bequest motive among Malaysian Muslims?
- (x) Why is leaving a bequest important in Malaysia Muslims' circumstances?
- (xi) How can the results of this study be used to help the Islamic estate planning agencies to enhance and improve their functions?
- (xii) How can the results of this study help the government to set up appropriate policies?

It should be noted that corresponding hypotheses are developed and discussed in detail in Chapter 6, which is the research methodology chapter.

1.5 RESEARCH RATIONALE AND MOTIVATION

Several factor triggered the researcher to conduct research in these areas. Firstly, while in the Islamic economics and finance literatures, there have been many discussions about *zakah* management, *takaful*, consumption, saving and investment, it is unfortunate that the topics covered in these works have hitherto received little attention. Earlier studies within *wasiyyah* issue are more focussed on the rulings aspect. Secondly, Islamic estate planning is now growing in Malaysia, particularly *wasiyyah* writing services. It shows that this industry is going to be one of the important branches of the Islamic finance industry in the near future. More academic research should take place aggressively to cope with the needs of this developing industry. Thirdly, Malaysian universities have begun to offer modules in Islamic wealth management and financial planning. Thus, developing human resources is an urgent task, so that universities have capacity to deliver the knowledge. This researcher has taken a step towards filling this gap by studying the subject at the PhD level.

1.6 RESEARCH METHODOLOGY

This study utilized primary data collected through a survey and semi-structured interviews. Respondents were sampled using purposive sampling. In total, there were 314 respondents from the survey and 15 respondents from a semi-structured interview schedule. The construction of the questionnaire and semi-structured interviews was mainly developed from the previous studies, with some modifications to make them applicable to the Malaysian Muslim society. With regard to the semi-structured interview, this study managed to collect data from the *wasiyyah* writing providers in Malaysia, comprised of solicitors, *Shari'ah* lawyers and professional bodies such as Amanah Raya Berhad (ARB), ZAR Perunding Pusaka, *Wasiyyah* Shoppe, partners of As-Salihin Trustee Berhad, BIMB and CIMB Trustee Berhad.

Analysis of the data obtained from questionnaires involved univariate statistics consisting of the descriptive analysis and mean value calculation in SPSS. In addition, cross-tabulation and Chi-square tests were employed. However, in relation to the investigation of attitudes to leaving a bequest, ordered probit and multinomial logit models were developed and both models were estimated using maximum likelihood estimation (MLE) in Stata. In regards to the data from semi-structured interviews, a narrative approach was used to analyze the data.

1.7 SIGNIFICANCE OF THE STUDY

As the aim and objectives of the study demonstrate, the research presented aims to contribute to the relevant literature. Therefore, the significance of the study can be listed as follows:

- (i) This study will be an academic research of Islamic estate planning which has not been widely covered from the economics and financial perspectives;
- (ii) The outputs from this study are essential ingredients for the Islamic estate planning industries to formulate appropriate strategies to attract Malaysian Muslims to write *wasiyyah*, leave a bequest and utilize other methods of estate transfers to mitigate the effects of the mandatory rules of *faraid* and bequest on their estates;
- (iii) This study helps the existing efforts made to improve the perception, awareness and knowledge of Malaysian Muslims towards Islamic wealth management,

financial planning and estate planning in general, and *wasiyyah* as well as bequest in particular;

- (iv) The suggestions provided by this study can be implemented to reduce the problems related to legal procedures and nominees in Malaysia;
- (v) This study supplies rich information to the industry about the current demand and supply of Islamic estate planning products, which will enable the industry to design new Islamic estate planning products to fill the demand–supply gap;
- (vi) This study also provides certain information, which can assist the industry in developing appropriate marketing strategies to promote their products;
- (vii) This study establishes that there is a bright future in the Islamic estate planning industry, with the capacity of the industry to create more employment opportunities;
- (viii) This study also renders a source of reference to policy makers and academicians, which is rather scarce in both academic and professional circles.

1.8 ORGANIZATION OF THE STUDY

There are eleven chapters that constitute the whole of the study and the following section provides the description of each of the chapters:

Chapter 1, being the first chapter, is the introductory chapter, which briefly explains the background of the study, the content of the study, how the whole study was constructed and the extent to which this study benefits the society.

Chapter 2 reviews the economic concept of the intergenerational transfer with special focus on the theoretical foundation of the bequest transfer. Three dominant theories of bequest are elaborated namely life-cycle, altruism and dynasty models.

Chapter 3 is a thorough survey on the previous studies conducted within the context of bequest, will and *wasiyyah*. A substantial number of qualitative and quantitative researches are examined and the discourse of these previous studies are deconstructed according to the theoretical foundation of the study, the factors that influence bequest, will and *wasiyyah* and the methodology used to analyse data.

Chapter 4 is an extensive discussion on the ‘Islamic concept of inheritance’, ‘Islamic concept of wealth’, ‘financial planning’ and ‘estate planning’. With reference to the Islamic inheritance system, this chapter covers the rulings of *faraid*, bequest and *hibah*. The knowledge on wealth in Islam in this chapter is elaborated through a Quranic discourse of wealth. The extent to which wealth management, financial planning and estate planning for non-Muslims and Muslims differ are elaborated in detail in this chapter.

Since this study is about Malaysian Muslims’ behaviours towards *wasiyyah* and bequest, Chapter 5 focuses on this issue with special reference to Malaysian Muslims’ circumstances. Using all information available from the various sources, this chapter begins with an understanding of Malaysian legislations of the estate administration and distribution. Finally it discusses the current scenario of the Islamic financial planning and estate planning in Malaysia and factors that contribute to such problems.

A substantive research methodology applied to this study is well constructed in Chapter 6. Theoretical foundation, data collection and techniques of analyses data are justified in this chapter.

Chapters 7, 8 and 9 are allocated to the data analyses and findings. Findings from the questionnaire with respect to *wasiyyah* are presented in Chapter 7. This chapter presents answers to the issues regarding the awareness of *wasiyyah* and *wasiyyah* practice. Chapter 8 presents the findings from the questionnaire with respect to bequest. The investigations on the likelihood of leaving a bequest and bequest motives are the core subject matters of this chapter. Chapter 9 presents findings from semi-structured interview. The profile of interviewees, their estate planning products and costs of the products are presented at the beginning of this chapter before turning to the findings related to *wasiyyah* and bequest. Chapter 10 renders an extensive discussion on the findings. In this penultimate chapter, hypotheses developed in Chapter 6 are tested by means of cross checking all the findings presented in Chapters 7, 8 and 9. Answers to the research questions are also discussed in detail in the same manner.

The final chapter, which is Chapter 11, presents the summary and policy implication. Several main points are tendered, representing the whole findings of the study. A range of remedies and solutions are put forward for consideration of government and industry.

Chapter 2

INTERGENERATIONAL TRANSFERS AND INHERITANCE: A CONCEPTUAL LITERATURE REVIEW IN ECONOMICS

2.1 INTRODUCTION

Economists over the years have shown particular interest in exploring and analysing intergenerational transfers, specifically on bequest and inheritance with the aim of determining household behaviour for making bequests based on a number of competing proposed bequest motives. This chapter endeavours to delve into the extensive literature on the subject from a conventional standpoint, providing even better understanding in terms of conceptual definitions, theories on bequest motives and empirical studies. Thus the core subjects of this chapter are deconstructed into two main sections; conceptual definitions and theoretical models of bequest motives. The former explains the intergenerational transfers, inter vivos and bequest in terms of the definitions and types. While the latter is simply about a discussion on three dominant theoretical models of bequest motives namely life-cycle, altruism and dynasty models.

2.2 CONCEPTUAL DEFINITIONS

2.2.1 Intergenerational Transfers

Intergenerational transfer is one of modes of wealth accumulation (Kotlikoff, 1988: 41). The flow of an intergenerational transfer could be either from an older to a younger generation or vice versa (Pestieau, 2000: 888-889). Economists define wealth in a broader view, hence, intergenerational transfers may appear in five different forms, namely: tangible asset, financial asset, human capital¹ (Menchik and Jianakoplos, 1998:46; Pestieau, 2000:888–889; Nordblom and Ohlsson, 2002:2), biological transfers of natural talents and abilities to descendants (Laitner and Ohlsson, 2001:207;

¹ It could appear either in the forms of tangible social capital such as money and time spent for education investment (Menchik and Jianakoplos, 1998:46; Pestieau, 2000: 888; Nordblom and Ohlsson, 2002:2) or intangible social capital which refers to the way the parents bring up their children (Pestieau, 2000: 888-889).

Nordblom and Ohlsson, 2002:2) and finally assistances in the form of services that may be descending or ascending in nature² (Pestieau, 2000: 888–889).

2.2.2 Inheritances: Inter Vivos and Bequest

Inheritance is defined “in the strict sense [as] the transmission of relatively exclusive rights at death” (Menchik and Jianakoplos, 1998:1-2). However, the time when this transmission takes place is what concerns the economist in regard to inheritance matters (Menchik and Jianakoplos, 1998:46). It could take place upon death or between the living. The former is known as ‘bequest’, while the latter is called ‘inter vivos’ transfer (Menchik and Jianakoplos, 1998:46; Nordblom and Ohlsson, 2002:1). The main focus of this study is restricted to transfers of tangible property and financial wealth in the form of post-mortem bequests to one’s heir or heirs.

2.3 THEORETICAL MODELS OF BEQUEST MOTIVES

Economists have uncovered a great deal of behavioural information about bequests at the individual/household level. A number of competing bequest motives provide answers for three crucial issues with respect to the bequests:

- (i) what triggers the individuals’ decisions in making bequests;
- (ii) how bequest motives shape bequest distribution; and
- (iii) to whom the bequests are made.

The three models of bequest motives, commonly used by economists, and dominant over the others, are: the life-cycle model; the altruism model; and the dynasty or lineal model.

² For instance, providing accommodation or care to grandchildren or providing care, visits or accommodating elderly parents (Pestieau, 2000: 888-889).

2.3.1 Life Cycle Model

The life cycle model is a theory of spending proposed by Modigliani and Brumberg (1954). It rests on several assumptions: there is a limited resource available over the individual's lifespan; people are selfish; and there is an absence of altruism towards their children. Below is the description of how an individual, as a result of these assumptions, finally makes wise choices on his/her spending which are tailored to his/her needs at different ages and allocates some provision for his/her retirement.

At the core of the model, individuals are assumed to be utility maximisers, and therefore the utility function consists entirely of their current and future consumption. For simplicity, interest rate is set to zero.

$$U = \sum_{t=1}^T U(C_t) \quad (2.1)$$

Throughout their lifetime, individuals simply spend a fixed fraction of their life income. Utility is maximized subject to budget constraint:

$$\sum_{t=1}^T C_t \leq A_1 + \sum_{t=1}^T Y_t \quad (2.2)$$

The variables in equation (2.1) and (2.2) are defined as follows:

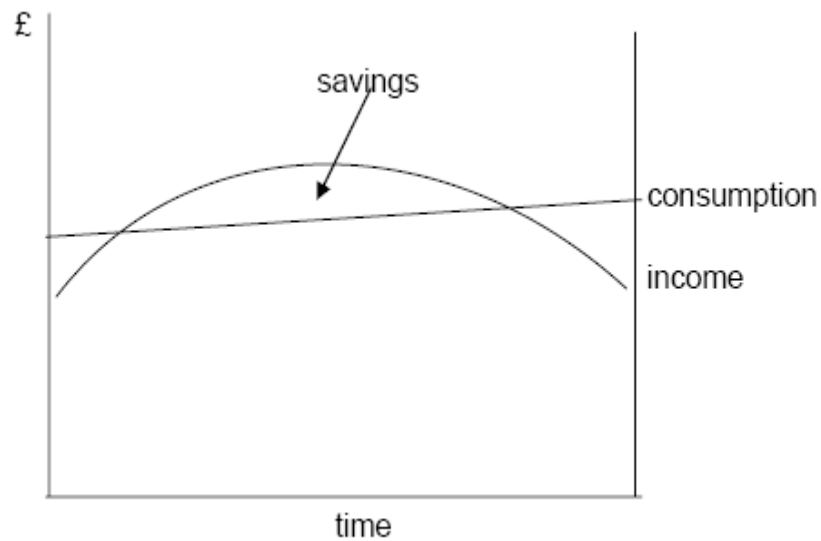
U = utility

C_t = consumption in period t

Y = income in period t

A = initial wealth

Figure 2.1: Life-Cycle Model



Source: Stevens (2004:2).

The key idea of the life-cycle model posits that people save during their working years and dissave in old age. Such behaviour can be portrayed by the income stream and consumption profile in Figure 2.1. An individual's lifespan consists of three stages. At a younger age or at the beginning of his/her lifespan, in which the income is relatively low but the consumption is relatively high, he/she will borrow or live off endowment. Reaching his/her mid-life, he/she will save and pay off debt. At the end of his/her lifespan, he/she will dissave in retirement in order to maintain a slightly rising level of consumption over their lifetimes. Obviously, the individual uses saving and borrowing to smooth the path of consumption. Since individuals are assumed to be selfish, wealth declines after retirement leaving a sufficient amount for them to reach the end of lifespan. In such circumstances, all income is consumed and bequest equals zero. In conclusion, it is obvious that the individuals do not plan to leave a bequest to their heirs (Modigliani and Brumberg, 1954:390-392; Stevens, 2004:1-2; Modigliani, 1988:23; Horioka *et al.*, 2000: 27; Deaton, 2005:1; Landsberger, 1970:176; Romer, 2001:331-332; Jürges, 2001:392).

Two types of bequest motives are consistent with the life-cycle model. First is the unintended, unplanned or accidental bequest motive and second is the exchange bequest motive.

2.3.1.1 Unintended, unplanned or accidental bequests

The life-cycle theory claims that a desire and intention to leave bequests does not exist as the parents accumulate wealth only in provision for their old age. Nevertheless, when there are precautionary savings and deferred consumptions made throughout the lifespan of the parents, children probably end up receiving an inheritance known as an ‘unintended, unplanned, involuntary or accidental’ bequest (Davies, 1981:562). The reasons behind the making of precautionary savings and deferred consumptions could basically be perceived as the response towards the uncertainty over one’s lifespan (Modigliani and Brumberg, 1954:392; Nordblom and Ohlsson, 2002:1; Pestieau, 2000:890; Davies, 1981:561-562), the response towards the annuity market imperfections (Pestieau, 2000:890; Davies, 1981:562) and the impossibility of leaving a negative inheritance (Pestieau, 2000:890).

2.3.1.2 Exchange bequests

When parents care about their old-age security in the sense of caring about the services or attention undertaken by their children and they value such services and attention by making certain amounts of bequests, then these kinds of bequest fall into the exchange bequests category (Pestieau, 2000:893; Laitner and Ohlsson, 2001:211). Between the parents and their children, the former take care of the latter until they reach adulthood and promise to leave an inheritance. In return, the children promise to look after their parents when they reach old age. There are two types of exchange bequest motives, namely bequest that arises because of deficiencies in the insurance market, and strategic bequest.

2.3.1.2.1 Bequest that are part of an implicit intra-family annuity contract

Kotlikoff and Spivak (1981) derive a model of bequests that arises because of deficiencies in the insurance market with a consequence that the family itself will create an implicit intra-family annuity contract or risk-sharing agreement. A complete annuity market serves individuals with a range of annuities that can be selected and purchased with the objectives of hedging the uncertainty of the date of death and insuring

themselves against the risk of living too long and running out of their savings for the remaining old age period. However, public market insurance is subject to several problems such as higher transaction costs, adverse selection, moral hazard, and deception, and to some extent, perfect public market insurance might not be easily available in certain poor and developing countries. Therefore, the institution of marriage and family formation is, to a large extent, able to take over the role of the complete and fair annuity market in providing individuals with risk-sharing opportunities.³

The benefits from family annuity contracts appear in several forms such as parents purchasing annuities from their children with bequests paid in return for support during the old age of the parents and hedging the risk of living too long by the other partner's potential death while the partner, who is still alive, is bequeathed with a certain amount of bequest left by his or her spouse to help finance his or her consumption. Even though it is not a perfect substitute, a small family can replace a perfect market annuity by more than 70 per cent. Family and marriage can be regarded as incomplete and implicit insurance contracts made *ex ante* by completely selfish family members, while at the same time containing a certain degree of trust and a level of information⁴ and in fact, it is much cheaper. Given the absence of altruistic feelings in the contracts and the fact that they are not legally enforceable, love and affection may be important for such agreements to be established (Kotlikoff and Spivak, 1981:372-374 and 380-384; Menchik and Jianakoplos, 1998:54; Pestieau, 2000:894).

2.3.1.2.2 Strategic bequest

A strategic bequest is “bequest-as-exchange model with strategic features” (Menchik and Jianakoplos, 1998:54). Strategic features are employed intentionally so that testators would be able to manipulate the behaviour of the beneficiaries through their choice of a rule for dividing their estates. It could be perceived as a threat of disinheritance in which lesser bequests or no bequest will be rendered to those who give less attention and services to the testators. Bernheim *et al.* (1985) present empirical results to substantiate this theory, which is discussed in the succeeding section.

³ Becker (1974:1084) provides the same opinion in which he says that charitable behaviour among family members is actually “a form of self-insurance that is a substitute for market insurance and government transfers.”

⁴ Family members are assumed to have such a level information regarding “the risk of illness or death when financing retirement and on individual talents and motivations when financing education” (Pestieau, 2000:894).

For these strategic bequests to be credible, Bernheim *et al.* (1985) contend that they are only successful with three conditions. Firstly, having at least two individuals or institutions that the testators could name as beneficiaries. By having at least two individuals or institutions, whom the individual could credibly name as beneficiaries, the testators can use bequest to influence the behaviour of potential beneficiaries by conditioning the division of bequest on the beneficiaries' action. Therefore, the beneficiaries who aim to obtain the bequests would behave themselves in the way that the testators want them to.

Secondly, the presence of bequeathable wealth can influence the behaviour of potential beneficiaries. This implies that the strategic bequest has a weaker impact on the wealthy children as compared to the poor children. Thirdly, testators will definitely exercise this influence. The testators might commit themselves to particular rules regarding the distribution of gifts and bequests through both formal and informal means. Formal means could be via will writing and making public an explicit will, while through informal means the individual could make informal promises and rely on his/her reputation for keeping such promises. It is possible for the testators to break their promises, but, they need to consider several consequences, for instance, substantial cost of legal fees which may occur if they make a new will or loss of reputation. Given such consequences, as long as the benefits from defection do not exceed the costs, then the individual can successfully pre-commit to a strategic incentive scheme.

By rendering empirical evidence, Bernheim *et al.* (1985) verify their theory. With reference to equation 2.3, supply of attention from children (V_i) is the dependent variable and it is measured via the total number of children, the number of children who visit or telephone their parents weekly, and the number of children who visit or telephone their parents monthly. The bequeathable wealth per child (b_i) is one of the independent variables measured by financial wealth (stocks, bonds, mutual funds, bank accounts, checking accounts), residential and other property, the face value of life insurance, privately purchased annuities and debt. The other two variables are nonbequeathable annuity wealth per child (aw_i) consisting of social security and pension wealth; and a vector of parental characteristics (Z_i) consists of the age of respondent

(AGE_i)⁵, health dummies indicating whether the respondent's health is better (BH_i) or worse (WH_i) than that of other members of his cohort and retirement dummy (RET_i). There are two different family cases here. First, is an analysis on the multiple-child family data and second is an analysis on the single-child family data.⁶ Equation 2.3 below is estimated using ordinary least squares (OLS) and two-stages least squares (2LS).

$$V_i = \beta_0 + \beta_1 b_i + \beta_2 aw_i + Z_i\gamma + \varepsilon_i \quad (2.3)$$

With regard to explanatory variable bequeathable wealth, the findings reveal that, bequeathable wealth is strongly correlated with attention. The effect of bequeathable wealth on attention appeared to be largest for parents living in closest proximity to their children.⁷ For multiple-child families, rich parents who are in poor health receive more attention than their indigent counterparts. It can, thus, be concluded that the financial motivation appears to be the main factor that increases the attention of children on their parents. In single-child family analysis, bequeathable wealth is no longer positively correlated to the attention, indicating the absence of the strategic considerations (Bernheim *et al.*, 1985:1065-1066).

2.3.2 Altruism Model

Becker (1974) and Barro (1974) present a version of bequest model that is driven by the altruism motive.⁸ As contrast to the life-cycle model, the altruism model informs that a parent is altruistic in the sense of caring about the consumption possibilities of his/her children. This is because he/she cares about the well-being of the children and this particular behaviour is implied in the form of bequest transferred to the children. This model has one particular distinctive property in which bequests are divided unequally

⁵ A vector of parental characteristics is an important variable that need to be included because it might contribute to the high correlation between attention and bequeathable wealth. For example, healthy parent may be more pleasant to visit.

⁶ One of the flaws of working with these data used is that information on the behavior of potential beneficiaries is limited to children. On the other hand, their theory suggests that successful exchange takes place only when this set contains at least two children. Therefore they cannot be certain that single-child families will behave in the manner predicted here. Consequently, they initially restrict attention to families with two or more children but they still provide analysis and discussion of behaviour in single-child families.

⁷ Children leave nearer to their parents' house are assumed to visit more. Therefore, Bernheim *et al.* (1985) posit that parents leave more bequests to these children.

⁸ Note that, according to Pestieau (2000:891-892), altruism in the neoclassical sense of the term is not to be confused with generosity or disinterest.

among children with the purposes of ensuring that the children will be equally well off; to equalize opportunities among children with different abilities; or to ensure the children will enjoy the same relative status in life as the parents. Therefore, in the altruism model, more bequests are given to the less able and lower income children. Moreover, according to Becker and Tomes (1986:16), the altruism motive can be extended to bequests used to equalize incomes of siblings as well. In addition, charitable bequests made for individuals outside of the family relationship due to concern about others can also be associated with the altruism motive as contended by McGranahan (2000:1274). It should be noted here that bequests are the last resort to achieve the goals after parents have exhausted other ways to improve their children's quality of life such as through human capital investment⁹ (Laitner and Ohlsson, 2001:208; Menchik and Jianakoplos, 1998:53-54).

In relation to the subject under discussion, Becker (1974) introduces the 'rotten kid' theorem, which posits that if the head of a family exists, all members have the same motivation as the head to maximize family opportunities and to internalize fully all within-family 'externalities', regardless of how selfish these members are. The head of the family is defined as "the one who transfers general purchasing power to all other members because he cares about their welfare" (Becker, 1974:1063). The budget constraint of the head is determined by the total family income. Since the head maximizes his utility subject to his budget constraint, anything that increases family income will increase his utility (Becker, 1974:1077).

Furthermore, because the head will reduce his own consumption and increase his contributions to the members to offset any initial losses, a redistribution of income among members does not affect the consumption or welfare of any members and unfavourable incidents do not reduce the income of any members (Becker, 1974:1076). That apart, not only the head but other members will act as if they love all members by maximizing not only their income, but also the family income and share the person's disaster by consuming less (Becker, 1974: 1080).

⁹ In the form of provisions of the basic necessities including food, clothes, health care and education (Menchik and Jianakoplos, 1998:53).

For a clear picture, Becker's (1974) analysis is explained through a simple tool of economic theory which is known as 'social income'. Social income is defined as "the sum of a person's own income and the monetary value to him of the relevant characteristics of others", Becker calls this 'social environment' (Becker, 1974:1063).

Becker (1974:1067) assumes utility is a function of a single commodity and a single characteristic of other people's utility.

$$U_i = Z(x, R) \quad (2.4)$$

He also assumes that the effect of other variables on this characteristic is not dependent on i 's own effort. Therefore, R can be written as the additive function

$$R = D_i + h \quad (2.5)$$

where h measures the effect of i 's efforts and D_i the level of R when i makes no effort and D_i measures i 's social environment.

His budget constraint for money income can be written as

$$p_x x + p_R h = I_i \quad (2.6)$$

where I_i is his money income, $p_R h$ is the amount he spends on R and p_R is the price to him of a unit of R . Substitute $R - D_i$ for h in equation (2.5) to get

$$p_x x + p_R R = I_i + p_R D_i = S_i \quad (2.7)$$

The right-hand side in equation 2.7 gives the sum of i 's money income and the value to him of his social environment which represent the social income. The left-hand side shows how his social income is 'spent' partly on his 'own' goods (x) and partly on the characteristics of others (R). If i maximizes the utility-output function given by equation 2.4 subject to the constraint on social income given by equation 2.7, the equilibrium condition is:

$$\frac{\frac{\partial U_i}{\partial x}}{\frac{\partial U_i}{\partial R}} = \frac{p_x}{p_R} \quad (2.8)$$

As regards to Barro's study (1974:1098-1100), he adopts an overlapping-generations model with physical capital to explain the period of lives and connection between generations. Each individual lives two periods, which are old, o , and young, y , periods. Generations are numbered consecutively beginning with the generation which is currently old (o_1); followed by its descendant, which is currently young (y_2); followed by its descendant; and so on. A few further assumptions are made by Barro (1974) as follows; there is the same number of people in each generation, N ; all individuals are identical in terms of tastes and productivity and he also assumes technology remains the same over time. The members of each generation work a fixed amount of time set equal to one unit only while young and receive an amount of wage income w . Wage for future period for future generations are assumed to be static at the current value.

Asset holdings (A) take the form of equity capital (K). However, Barro (1974) includes government bond as an additional form in which assets can be held and can be transferred to the next generation through bequest. r is the rate of return on assets which is assumed to be paid out once per period and the rate of return for future periods are assumed to be constant at the current value. A_i^y is the amount of asset possessed by a member of the i th generation while he/she is young and A_i^o is the amount of asset hold when he/she is old. The assets holding while old is the bequest, which is assumed to go to the member of the next generation; $i + 1$.

The budget equation for a member of generation I , who is currently old, is

$$A_1^y + A_0^o = c_1^o + (1 - r) A_1^o \quad (2.9)$$

In equation 2.9 above, c denotes consumption. Both consumption and receipt of interest income for both generations are assumed to begin at the start of the period. The equation also implies that the total resources of an individual comprise the assets held while young, A_1^y , plus the bequest from the previous generation, A_0^o . While the total expenditure is consumption while old, c_1^o plus the bequest provision, A_1^o which goes to a

member of generation 2, less interest earnings at rate r on this asset holding. The budget equation for members of generation 2 and for members of any generation $i \geq 2$ is, assuming that wage payments occur at the start of the young period is

$$w = c_2^y + (1 - r) A_2^y \quad (2.10)$$

and, for the old period is

$$A_2^y + A_2^o = c_2^o + (1 - r) A_2^o \quad (2.11)$$

A_1^o is a portion of the lifetime resources of a member of generation i that goes to generation $i + 1$. In other words, this is a bequest provision which Barro (1974) assumes is motivated by concern for a member of the next generation. Therefore it can be assumed that the utility of a member of generation i depends solely on own two-period consumption, c_i^y and c_i^o , and on the attainable utility of his immediate descendant, U_{i+1}^* . Hence, the utility function for a member of the i th generation has the form,

$$U_i = U_i(c_i^y, c_i^o, U_{i+1}^*) \quad (2.12)$$

Becker's (1974) and Barro's (1974) theories reflect that intergenerational transfers which connect the current generation to the future generation give impact on the macroeconomic policies. Becker (1974:1077) further explains that "the resources of the present generation are changed at the expense of or to the benefit of the resources accruing to future generations". For example, increased government debt or social security payments are financed by increased taxes on future generations, or increased public investment, with benefits accruing to future generations financed by taxes on the present generation. If present and future generations are fully connected by a series of intergenerational transfers, called 'bequests', then each changes in the relative resources of present and future generations would tend to be offset by equal but opposite changes in bequests. In a simple description, increased taxes on future generations would be matched by increased bequests to them from the present generations (Becker, 1974:1077; Barro, 1974:1097).

2.3.3 Dynasty Model

Bequests with the dynastic motive are manifestations of the individuals' determination in ensuring the perpetuation of the perennial trace, a financial or industrial dynasty (Pestieau, 2000:895). Perhaps, 'primogeniture' could represent the nature of the dynastic bequests. The individuals who are responsible for making sure the system works are the family heads. In fact, transfers from relatives can also indicate some dynastic effect (Nordblom and Ohlsson, 2002:14). Chu (1991:84) explains that in ancient times, the high mortality rate prevailing and the probability of extinction were factors that triggered the family heads to be very concerned about the perpetuation of the family line. Chu (1991:97) in his lineage or dynastic model points out that primogeniture is a possible outcome of family heads' optimal divisions to minimize their probability of lineal extinction. Family heads prefer the unequal bequest division policy so that at least one of their children is more likely to stay or become rich, hence making their succession lines firm.

Basically, each individual in the economy lives either one or two periods; the first period of life which is the childhood period and the second period which is the adulthood period. People, who die in the childhood period, will not be able to produce any children while those who survive until the adulthood period will be able to reproduce N children. Malnutrition, disease, or poor hygiene may cause some of them to die before they reach adulthood. Chu (1991) assumes that child mortality depends on family income (y). A low probability of child mortality is associated with high income as more nutritious goods are afforded and a better provision of hygiene is made when compared to those with lower incomes. For $0 \leq n \leq N$, let $p(n|y)$ denote the probability that n out of N children survive to adulthood in a family with income y . Clearly,

$$\sum_{n=0}^N p(n|y) = 1 \quad (2.13)$$

The family income is assumed to be dependent only on the head's productivity which in turn depends on his endowed bequest and luck. A person's luck is characterized by a random variable which may represent his fortune in operating his business. For simplicity, every human capital-related factor is ignored and it is assumed that each

mature individual inelastically supplies one unit of labour. It is further assumed that the capital market is imperfect and that the bequeathed endowment is the only source of capital a family head has at his disposal.

As such, equation 2.14 below summarizes the relationship among income, bequests and luck:

$$Y = f(b, \alpha_b) \tag{2.14}$$

where α carries a subscript implying that its distribution may be affected by b . Family income is spent in child rearing, family consumption, and bequests. The total expenses on consumption and child rearing be E . Then clearly E will be a function of n and y : $E = E(y, n)$. The total bequest will therefore be:

$$y - E(y, n) = B(y, n) \tag{2.15}$$

In order to focus the discussion on the division of bequests, assume that the functional form of $B(y, n)$ is given by habit or custom and is not the family head's decision variable. With the certain amount of income and a number of adult children, the family head will divide his bequests among his surviving children depending on the objective function he carries. Since Chu's theory is concerned with the perpetuation of the family line, he assumes that the family head cares about the prosperity of the future generations that carry the family name and the prosperity he has in mind may contain two elements: an enhancement of the well-being of his surviving off-spring; and the avoidance to the extent possible, of lineal extinction. He can, then, choose among various bequest division rules to minimize the probability that all the number of succession lines of his children will come to an end certain periods later. Since the eldest surviving child is always the first one to mature, if bequests are divided unevenly among children, chances are he will end up being the one who inherits the most (Chu, 1991:83-84). Given the long discussion about the bequest division with dynastic motive, such model only works with the absence of a perfect capital market. If the capital market is nearly competitive, children will easily get access to other types of funding such as loans if they are not be able to get funding from their parents, thus making bequest less important (Chu, 1991:86-87).

2.4 CONCLUSION

This chapter aimed at discussing the theoretical foundations of bequests. Three prominent theories of bequest models, namely the life-cycle, altruism and dynasty models were discussed in details. This chapter is important in the sense that it typifies the theoretical foundations used in this study. The next chapter, with reference to these three bequest models, will present several evidences from previous studies.

Chapter 3

SEARCHING FOR EMPIRICAL EVIDENCE ON BEQUEST, WILL AND WASIYYAH: A LITERATURE REVIEW

3.1 INTRODUCTION

Inheritance is a huge topic of discussion but this study's fundamental interest is to discuss the particular topic within the context of learning people's attitudes towards it from economic and financial points of view. This chapter aims at evaluating the empirical studies available in the body of the relevant on bequest, will and *wasiyyah*. Empirical work on bequests presented in the following sections is confined within the theoretical foundations explored and presented in Chapter 2. On the basis that bequest, will and *wasiyyah* are inter-correlated, the empirical studies of will and *wasiyyah* are included within this chapter as well.

3.2 LOCATING EMPIRICAL EVIDENCE ON BEQUEST

For several decades now, interest in intergenerational transfers has surged and economists have uncovered a great deal of information about how these transfers are allocated among children, family members and generations. As already highlighted, this study is limited to intergenerational transfers in the forms of bequests. Subjects of discussion in previous studies within bequest transfers are reviewed and clustered as follows: Firstly, what are the bequest motives that trigger bequest transfers or in other words, which model of bequest is more applicable in the real world? However, there are exceptional cases where some studies focus on locating people's perception on bequest and their likelihood to leave a bequest rather than locating bequest motives. Secondly, what are the economic features, socio-demographic and other relevant factors that may underlie the patterns of bequest transfers?; and finally, what are the methodologies used in the previous studies?

There is much debate regarding the bequest motives behind bequests transfers across countries. Some of these studies reveal that there is a mixture of bequest motives with potentially different preference orderings, while others imply a quite similar pattern across countries. A study conducted between the United States and Japan using data of saving motives signifies that the life-cycle model bequest is the dominant model of household behaviour in both countries. Despite this, selfish life-cycle model is far more applicable in Japan than it is in the United State. Other findings show that altruism and dynasty models are far more applicable in the United States than in Japan. These are largely due to the following reasons: saving for the retirement motive in Japan being more than double that in the United States; the saving for the precautionary motive is higher in Japan than it is in the United States; and the proportion of households saving for the bequest motive in the form of the accumulation of financial assets is much smaller in Japan than they in the United States (Horioka *et al.*, 2000:14). Moreover, they also investigate bequest motives using data on bequest transfers, views on bequest motives and views on bequest division. Results show that firstly, life-cycle is the dominant model of household behaviour in both countries; secondly, altruism is far more applicable in the United States when compared to Japan and thirdly, life-cycle and dynasty models are far more applicable in Japan than they are in the United States (Horioka *et al.*, 2000:17–18, 26).

Results from Laitner and Ohlsson (2001) on bequest behaviour in the United States and Sweden also offer some support for a mixture of bequest motives with some families following the altruistic model but others following the egoistic or accidental models. A conclusion from Villanueva (2005) implies that the strength of bequest motives is empirically very weak in three countries, namely the United States, West Germany and the United Kingdom as most elderly people save for precautionary motives. This also explains why involuntary bequests appears to be one of the most important channels of intergenerational transfer in these three countries. An examination of the bequest motive among Germans by Jurges (2001) indicates that pure life-cycle model and life-cycle with bequest motives are operative in the German population. According to explicit data from respondent answers to survey questions on saving motives and bequest intentions, precautionary motive is found to be the most important reason for Germans to hold assets (Jurges, 2001: 391 and 401). A study by Light and McGarry (2004) implies that motives for intra-family transfers differ across mothers. Based on mothers' own

explanations for their decisions to treat their children unequally, it appears that altruism and exchange bequests for child-provided services are equally prominent motives. Nordblom and Ohlsson (2002) in their empirical analysis find some support for parents having altruistic motive for their bequest transfers.

Rowlingson and McKay (2004 and 2005) do not explore bequest motives but they focus on the likelihood of leaving a bequest and attitudes towards it. Their study in 2004 finds most people (41 per cent) stating that they will leave property but spend their savings, 32 per cent say they expect to leave both savings and property and 21 per cent say they expect to give or spend most of it before they die (Rowlingson and McKay, 2004:34). In another study by the same authors a year later, their finding shows that one-quarter of the public (26 per cent) say that are very likely to leave a bequest in the future (Rowlingson and McKay, 2005: xi and 35).

A number of competing bequest motives investigated and observed through bequest practice is determined by several factors. Such factors can be pooled together and distinguished into four main categories; firstly, the economic features of the countries; secondly, cultures, tradition, customs and inheritance law; thirdly, the connectivity between bequests and other intergenerational transfer channels, and fourthly, the individual characteristics.

The difference between economic features among countries which are closely pertinent to the government sectors and the provision of the public programmes (Villanueva, 2005; Lainer and Ohlsson, 2001; Horioka *et al.*, 2000) and system of taxation (Lainer and Ohlsson, 2001) may contribute to the different patterns of bequest transfers. People act differently towards different policies that have been set up by the government. This is emphasized by Lainer and Ohlsson (2001:212) when they highlight the disparities between Sweden and the United States with the objective of understanding the reason why inheritance is more widespread in Sweden. Although both have high standards of living, the government sector in Sweden is a considerably larger fraction of the economy. More generous provision of public goods, services and transfers presumably reduce household incentives in Sweden to arrange private insurance including insuring descendants' living standards through private intergenerational transfers. This opinion is similar to that of Horioka *et al.* (2000:14) in which they assert that Japanese people save

more due to the retirement motive when compared to the American people because public and private pensions are less available in Japan.

The presence of the annuity market directly influences bequest practice and determines how strong the bequest motives are. In countries where the elderly have a higher degree of wealth annuitization through the public sector – such as West Germany – or through the private sector – for instance, in the United Kingdom, the expectation to bequeath is weaker than in countries like the United States where less wealth is annuitized. Therefore, the higher the participation in annuity schemes, the weaker the bequest motives and the lower the bequest practice (Villanueva, 2005:548). Lillard and Willis (1997:115) describe this as a transmission process as a result of emerging market and developing more sophisticated financial institutions. It implies that the function of family is slowly substituted by safety-net programmes such as the annuity market, public social security, health insurance and unemployment insurance available in the market. Taxation systems bring impacts on bequest and inheritance through several channels. In Sweden, a more onerous tax system with an exemption from paying inheritance taxes for each child also brings similar impacts to the public programmes (Lainer and Ohlsson, 2001:212–213).

Different cultures, traditions, customs (Horioka *et al.*, 2000:2)¹⁰ and inheritance laws (Pestieau, 2000) play an important role in shaping the bequest transfers. One could possibly relate inheritance laws to traditions and customs in the sense that in some countries, these traditions and customs constitute part of the countries' inheritance laws (Pestieau, 2000:899). Equal division and male primogeniture are the inheritance laws that are most commonly cited. It is interesting to explore to what extent such inheritance laws affect the bequests. For instance, in a society where the equal division rule applies, such as in France and Germany, the full freedom of bequest making is definitely restricted (Pestieau, 2000:900).

¹⁰ Unfortunately, Horioka *et al.* (2000) do not explain cultural differences further. They just cite that due to the cultural differences, they expect different models of household behaviour to apply in the United States and Japan.

Nordblom and Ohlsson (2002) and Bruce and Waldman (1990) prove that interactions between different channels for transfers determine the size of the transfers and the preference channels of transfer. In particular with the investigation of how the inter vivos can affect the bequest transfers, it can be concluded that there is a tradeoff between inter vivos and bequest transfers. Several studies find that those who have received parental inter vivos gifts are less likely to inherit (Nordblom and Ohlsson, 2002:14; Bruce and Waldman, 1990:162) which apparently justifies people use of bequests as substitutes (Nordblom and Ohlsson (2002:14).

The influences of the individual's characteristics towards bequest have received attention from several researchers. It is easier to distinguish and discuss all the chosen individual's characteristics by categorizing them as follows: economic factors, sociodemographic factors, health-related factors, religiosity¹¹ and attitudinal factors.

Household income (Kao *et al.*, 1997; Rowlingson and McKay, 2005; Jurges, 2001); the value of liquid and non-liquid asset holdings; the amount of inheritance ever received; self-employment status (Kao *et al.*, 1997); social class (Rowlingson and McKay, 2004 and 2005); having been 'poor when growing up' to capture the effect of parent lifetime resources; lifetime earnings; (Laitner and Ohlsson, 2001); lifetime income (Villanueva, 2005); individual's income; individual's wealth; variation in children's income (Light and McGarry, 2004); housing tenure (Rowlingson and McKay, 2004 and 2005; Jurges, 2001); and wealth¹² (McGranahan, 2000; Jurges, 2001) are all widely used as proxies for the economic factors.

Results from Villanueva (2005) indicate that expected bequests vary with cumulated parental earnings in the United States, West Germany and the United Kingdom. The relationship between lifetime income and expected bequests is influenced by the degree of wealth annuitization in that particular country. The higher degree of wealth annuitization among the elderly, the weaker is the relationship between lifetime income and expected bequests (Villanueva, 2005:548). Jurges (2001:402) however, finds a very odd result in which income has negative impact on the bequest motive for saving and he

¹¹This variable is measured in two ways; intensity of the religious preamble and whether God, religion or the church is mentioned in the will.

¹²This variable is measured in terms of: occupation to represent income group; literacy assuming that those who are literate are wealthier; and whether they have a servant or not.

cannot locate any justification for this finding. In contrast, Laitner and Ohlsson (2001) find that lifetime earning has a positive effect in the United States and Sweden but the result is not significant for the latter. Extending the analysis, Light and McGarry (2004:1673–1674) determine that an individual’s financial status – either income or wealth – has no effect on the probability of intending unequal bequests, while the children’s income is positively and significantly associated with the probability of intending unequal transfers. People’s expectations of leaving a bequest are found to be positively and significantly related to the household income, liquid assets holdings, value of non-liquid asset holdings, amount of inheritance ever received and self-employment status (Kao *et al.*, 1997:368–369).¹³ Rowlingson and McKay (2005:36) also find that those with incomes of less than £100 a week are less likely to leave a bequest, indicating a positive correlation between both variables. Variation across social class shows that people from higher social classes (professional/managerial social classes and clerical workers) are more likely to say they will leave a bequest (Rowlingson and McKay, 2004:36 and 2005:36). Meanwhile, ‘poor when growing up’ has a negative relationship with bequests in both Sweden and the United States. Having a father with an elevated occupational status has a positive relationship with bequest in the United States (Laitner and Ohlsson, 2001:222). In relation to housing tenure as independent variable for economic factors, those who are outright owner and have a mortgage (Rowlingson and McKay, 2004:36–37) or are owner-occupiers (Rowlingson and McKay, 2005:35) are more likely than others to say that they have something to leave. The same variable is not significant in Jurges (2001:402). McGranahan (2000:1284) shows that wealthier people leave more charitable bequests. In Jurges (2001:402) wealth is also found to positively related to the bequest motive for saving.

In locating the sociodemographic factors influencing the individual’s attitudes towards bequest, the following factors are observed from the literature: the socio-demographic characteristics consist of age (Kao *et al.*, 1997; Rowlingson and McKay, 2004 and 2005; Jurges, 2001), education (Kao *et al.*, 1997; Laitner and Ohlsson, 2001; Light and McGarry, 2004; Jurges, 2001), marital status (Kao *et al.*, 1997; Laitner and Ohlsson,

¹³Kao *et al.* (1997:368) estimate two different sets of data; an individual data set and a combination of the results of five data sets. Pertaining to household income, liquid assets holdings and amount of inheritance ever received, these variables produce different results depending on type of data set used. There are found to be positive but not significant after combining the results of the five data sets, but they are significant in the estimation using individual data sets.

2001; Light and McGarry, 2004; McGranahan, 2000; Jurges, 2001), race (Kao *et al.*, 1997; Rowlingson and McKay, 2004), gender, (Laitner and Ohlsson, 2001; Jurges, 2001), number of siblings, (Laitner and Ohlsson, 2001), number of children under 18 (Kao *et al.*,1997), number of children (McGranahan, 2000; Villanueva, 2005) or having children (Jurges, 2001), having stepchildren or adopted children, having co-resident children (Light and McGarry, 2004; Rowlingson and McKay, 2004), having grandchildren (Light and McGarry, 2004) or number of grandchildren (McGranahan, 2000), presence of living parents (Kao *et al.*,1997), number of other close family members, number of other relatives, number of friends,¹⁴ circumstances of will writing (McGranahan, 2000) and having an heir (Jurges, 2001).

In relation to the age factor, Kao *et al.* (1997:369), Rowlingson and McKay (2004:35 and 38 and 2005:35) and Jurges (2001:403) find that older people are more likely to leave bequests. Together, education is proved to have a positive and significant effect on intergenerational transfers in which people with higher education tend to leave bequests (Kao *et al.*, 1997:369). Surprisingly, Jurges (2001:402–403) find that years of education have a negative impact on bequest motive for saving. He realizes that his finding is contradictory to existing studies and he cannot provide any justification for this. Furthermore, Laitner and Ohlsson (2001:219–220 and 222–224) find that the parent’s education brings a positive effect on bequests in the United States and Sweden, while the child’s education is positively significant in the United States, but not in Sweden. Meanwhile, having higher education is associated with higher probabilities of intended unequal bequests but this is not significant (Light and McGarry, 2004:1674).

The finding from Kao *et al.*, (1997:369) states that being married is found to be positively and significantly related to the expectation of leaving a bequest. Surprisingly, this variable is negatively significant in Sweden but not significant in the United States (Laitner and Ohlsson, 2001:221 and 223). Meanwhile, being a divorced woman is associated with higher probabilities of intended unequal bequests but this result is not significant (Light and McGarry, 2004:1674). McGranahan (2000:1282) discovers that

¹⁴Other close family consists of son- and daughter-in-laws, brothers, sisters and parents. Other relatives and friends consist of godchildren, more distant relatives and individuals whose relationship to the testator is not revealed. Circumstances when the will is written refer to the location where the testators live and time (in months) between when the will is written and probate (time when it is proved).

having a wife does not influence people to bequeath for charitable purposes. It should be noted that marital status is not found to be significant in Jurges's study (2001:402).

Regarding the race factor, being white is found to be positively but not significantly related to the expectation of leaving a bequest (Kao *et al.*, 1997:370). By contrast, Rowlingson and McKay (2005:37–38) find that Black and Asian¹⁵ people are more likely to leave a bequest than White or other groups of ethnicity. Male and female are found to behave differently towards bequests. Being female is found to be negatively significant in the United States. It may be related to the fact that all of the female respondents in the United States data were single (Laitner and Ohlsson, 2001:223). However, Jurges (2001:402) does not find gender to be an influential factor of bequest motive for saving (2001:402).

An enormous finding of the impacts of family features on bequests exists in the literature review. Number of siblings has a negative effect in both Sweden and the United States (Laitner and Ohlsson, 2001:221–223), the anticipation of leaving a bequest is inversely associated with the total number of children under 18 in the household (Kao *et al.*, 1997:369), and number of children is a significant explanatory variable for charity bequest practice in which there is a negative correlation between children and the probability of making a charity bequest (McGranahan, 2000:1285). In addition to this, Villanueva (2005:533–534) argues that precautionary savings explain most of the relationship between lifetime income and expected bequests because the presence of the children does not affect the expected bequests in the United States, West Germany and the United Kingdom. Jurges (2001:402), on the other hand finds that having children is positively connected to the bequest motive for saving. In fact his analysis shows that the variable 'children' gives the strongest impact compared to the rest of the variables.

In extending the analysis, Light and McGarry (2004:1670 and 1675) find that having stepchildren, having adopted children and some children having children are strongly and positively associated with higher probabilities of intended unequal bequests. On the contrary, in McGranahan (2000:1282), having grandchildren is found not to be

¹⁵Asian people consist of Indian and Pakistani people.

significant in influencing the probability of leaving a charity bequest with the probit model but it shows a significant positive effect with the Tobit model. The significant finding implies that testators who are more likely to give to individuals outside of their immediate family are also more likely to give to the poor. In reflecting on the children aspects of the issues, Light and McGarry (2004:1674) find mothers with co-resident children are far more likely than others to make unequal transfers but the result is found to be insignificant. Rowlingson and McKay (2004:35–36) determine that the presence of children make people more likely to leave a bequest. Eventhough the empirical result by Kao *et al.* (1997:370) reveals that the anticipation of leaving a bequest is inversely associated with the presence of living parents the result is also not significant. In extending the model, McGranahan (2000) investigates the impact of family features further. He finds the variable ‘the number of other close family members’ is positive but insignificant while the variable ‘number of other relatives and friends’ is found to be positively related to the probability of leaving a charity bequest. Again, this implies the same conclusion as variable ‘grandchildren’ does (McGranahan, 2000:1285). McGranahan’s (2000) finding is consistent with Rowlingson and McKay (2005:xi and 48) in which they find that people are more likely to leave a bequest to their children, grandparents are more likely to leave a bequest to their grandchildren while older people without children are much more likely to leave a bequest to other family members especially nephews and nieces. Juges (2001) does not split the variable ‘heir’ into categories as McGranahan (2000) does, while his finding shows that the variable ‘heir’ is not significant to the bequest motive for saving.

When and where the will is being written may affect the content of the will according to McGranahan (2000). He (2000:1287) argues that “wills written farther in advance of death are more likely to include donations to the poor” and “those with more time to think about their distribution are more likely to give include the poor”. Therefore, it can be concluded that the longer the length of time, the higher the probability of giving. On the other hand, the location the testators live during the will making has a negative effect, which according to him is a surprising and unexpected result. He tests whether testators from Suffolk and Sudbury differ in their attitudes of making charity bequest and finds that testators from Sudbury are more likely to give to the poor than testators from Suffolk. He then justifies his result with three plausible explanations consisting of

economy changes, changes in personal wealth and income and religious conflict (McGranahan, 2000:1288).

With regard to health factor, disabled people are found to be less likely than the nondisabled to expect to leave bequests (Kao *et al.*, 1997:369). Another empirical result shows that the probability that a mother intends unequal bequests is significantly higher if she is in poor health (Light and McGarry, 2004:1670 and 1673). In light of the religiosity factor, McGranahan's study (2000:1281) suggests that religiosity is a significant predictor of charitable giving in which it has a positive effect to the probability of making a charity bequest.

Attitudinal factors according to Kao *et al.* (1997) reflect an individual's perception towards bequests depending on how people perceive charity work, the importance of leaving bequests and risk-taking level¹⁶ when making a financial investment decision. Kao *et al.* (1997:369) discover that; firstly, people's expectations of leaving a bequest are found to be positively and significantly related to having a positive attitude towards charitable contributions; secondly, the anticipation of leaving bequests varies significantly and positively according to the level of perceived importance of bequeathing to a respondent and thirdly, the anticipation of leaving a bequest is inversely associated with the extension of risk aversion.

Table 3.1 summarizes the methodologies used to investigate the bequests in the previous studies that have been discussed above. Apparently, researchers use various methods to analyse the data. However, qualitative response regression models such as binary models and ordered probit are preferable.

¹⁶The connection between risk taking and leaving a bequest as hypothesized in bequest motive theories is through people's actions when choosing between two options: preserve their resources for future consumption after retirement or for their own financial emergency; or bequeath their resources to their children.

Table 3.1: Summary of the Underlying Bequest Motive Models Used in the Previous Research and Methodologies

Authors	Underlying bequest theory used in the research	Methodology
Horioka <i>et al.</i> (2000)	Life-cycle, altruistic and dynastic	Descriptive analysis
Jurges (2001)	Life-cycle	Probit and chi-square
Kao <i>et al.</i> (1997)	Altruistic	Ordered probit
Laitner and Ohlsson (2001)	Altruistic, egoistic and exchange	Tobit
Light and McGarry (2004)	Altruistic, dynastic and exchange	Logit
McGranahan (2000)	Altruistic	Probit and Tobit
Nordblom and Ohlsson (2002)	Altruistic	Probit
Rowlingson and McKay (2004)	-	Descriptive analysis and analysis of qualitative transcript (interviews)
Rowlingson and McKay (2005)	-	Descriptive analysis, logit and factor analysis
Villanueva (2005)	Pure life-cycle (accidental bequest) and altruistic	OLS

3.3 LOCATING EVIDENCE ON WILL PRACTICE

The will practice is very much concerned with in the United Kingdom and such practice is meticulously examined. The most prominent qualitative works which have been regularly cited by researchers working in a similar subject are firstly Finch and Mason (2000),¹⁷ and secondly Rowlingson and McKay (2004). Prior quantitative work in this field are: Brooker (n.d.), who investigates will practice in England and Wales; Scottish Consumer Council (SCC) (2006), which studies will practice in Scotland; and

¹⁷ It should be noted here that Finch and Mason (2000:2) clearly clarify that the central focus of their study is not inheritance but kinship. However, it does provide this study with significant findings on will practice in England. Two types of qualitative method are applied in their study: namely content analysis and semi-structured interview. They conduct a content analysis on the wills and on the other hand, interviews with public, solicitors and will advisers.

Rowlingson and McKay (2005), who focus on will practice across the whole United Kingdom.

A number of vital issues follow on from these studies. To begin with, the level of will ownership could be the essence of the study that should be highlighted before turning to other areas of the studies. A general conclusion reached from these studies is that a minority of people have drawn up a will as nearly two-thirds of the adult population in each country do not currently have a will (Brooker, n.d.:1; SCC, 2006:6 and 9). Specifically, will ownership in England is 36 per cent, Wales and Scotland have a similar rate which is 37 per cent and the rate for the whole United Kingdom is 45 per cent (Brooker, n.d.:1; SCC, 2006:6 and 9; Rowlingson and McKay, 2005:71). Finch and Mason (2000:64) find that only 41 per cent of their respondents have made a will.

These studies take a step forward in building a detailed socio-economic picture of will ownership and elaborating the likelihood of having or not having a will. The reasons that shape such patterns of the will ownership and its variation across different groups are reviewed in a proper and precise manner. Other issues are then segregated as follows: the understanding towards consequences of dying intestate; the cost matter in drawing up a will; the effects of changing personal circumstances over time on their wills; the methods of drawing up their wills and knowledge of succession law and intestacy.

These surveys provide rich information of will ownership by age, gender, social class or employment, ethnicity, relationship status, property, characteristics of children, relatives if they inherit, residential location, literacy and religion. The studies establish that age is the most significant factor in influencing people to have a will and thus, it justifies why making a will is found to be very rare among younger people (Brooker, n.d.:3; SCC, 2006:6; Rowlingson and McKay, 2005:71; Finch and Mason, 2000:64; McGranahan, 2006:23). This can be observed from the following findings: people aged 60 and over are more likely to have a will than younger people (Brooker, n.d.:3); in England and Wales, 70 per cent of those aged 65 and older have a will compared to only 3 per cent of those in 16–24 age group (Brooker, n.d.:3) while in Scotland, 69 per cent of those aged 65 and over have a will compared to only 4 per cent of those aged 18–24 (SCC, 2006:6); people over 60 are more likely to have a will (Finch and Mason, 2000:64). The

connection between age and will ownership should be viewed as “a reflection of the importance of life stage that triggers the decision to make a will” (Brooker, n.d.:3) and as “a fact that older people are more likely to die and a will is necessary prior to death” (McGranahan, 2006:23). Despite the results above, surprisingly, almost one-third of people aged 65 and over in Scotland do not have a will and SCC is concerned that this age group does not take into account that longevity in Scotland is around 65 years old yet does not perceive that getting round to having a will drawn up as soon as possible is crucial (SCC, 2006:19).

There are three reasons to explain why younger people may be more likely to have made a will. Firstly, as argued by Rowlingson and McKay (2005:71), this group of people is more likely to have made a will because they had children. This is evidenced by their finding indicating 27 per cent of parents aged under 45 have made a will compared with only 9 per cent of those under 45 without children (Rowlingson and McKay, 2005:71). The other two reasons according to Finch and Mason (2000:64) are namely divorce and travel. In relation to travel, it actually refers to the type of travel that has a huge possibility of a dramatic death which consists of the first experience of flying in an aeroplane, long-distance driving with all members of the family in the same car or a trip to a distant part of the world (Finch and Mason, 2000:65).

Rowlingson and McKay (2005:71) contend that gender has an influential role to play in will practice. They find that 77 per cent of women reported to have made a will compared with 72 per cent of men. Moreover, variation across all age groups, except 30 to 39 year olds group, yields the same pattern of result and women’s increasing longevity is said to be the reason behind this (Rowlingson and McKay, 2005:71). Conversely, Finch and Mason (2000:64) stress that gender is not a major distinguishing factor between those who have made a will and those who have not. Another findings by Finch and Mason (2000:63) and Rowlingson and McKay, (2004:46) show that firstly, the median age at which the ‘last’ will is written is 69 for men and 73 for women, and secondly, 25 per cent of the wills were written ten years before the testator died. This informs that some people they will wait until life become more settled before making a will.

The mentioned empirical studies demonstrate that there is a clear association between social class and will ownership. Breaking down this social class into groups according to their employments, studies indicate those in the higher social class are more likely to have made a will. Therefore, those in professional and managerial occupations are found to be more likely to have a will than those in semi-skilled and unskilled jobs, non-manual and skilled manual occupations as well as those who are unemployed. As demonstrated by Brooker (n.d.:3), in England and Wales, 70 per cent of those in professional and managerial employment have a will compared to only 27 per cent of those in semi-skilled and unskilled positions. There is a similar finding in Scotland in which 58 per cent of those in professional and managerial positions have a will compared to only 22 per cent of those in semi-skilled and unskilled positions (SCC, 2006:6 and 29). Rowlingson and McKay (2005:71) do not present the exact figure but their finding is similar to others' findings. McGranahan (2006:26), however, finds that occupations do not influence the probability of writing a will.

There is no report on will ownership by ethnicity in Scotland by SCC (2006). However, in England and Wales, as highlighted by Brooker (n.d.:3), white people are more likely to have a will compared to Black and Minority Ethnic (BME) (39 per cent versus 12 per cent). Similar findings appear in Rowlingson and McKay (2005:71) as only 17 per cent of Asians and 12 per cent of Black people have made a will. These percentages are small compared with 47 per cent of white people. Rowlingson and McKay (2005:71) and Brooker (n.d.:6) are of the opinion that the different age and socioeconomic profiles between white and BME respondents could explain as to why BME has lower will ownership. Brooker (n.d.:6) also believes that other factors namely cultural differences and language barrier are relevant in this case. The former relates to the joint ownership of assets, which is more common among Asian families and standard wills might not be compliant with *Shari'ah* law, which then lead them to solving problems within the family or community (Brooker, n.d.:6-7). Brooker (n.d.:7) adds further that a lack of basic awareness about sources of help and advice is a result of the latter.

These studies also establish that relationship status has a significant impact on will ownership. Again, this is related either to the age of respondents (SCC, 2006:7) or to a person's life stage (Brooker, n.d.:4). Widows, married, divorced, and separated couples are more likely to have a will than cohabitants and single people. Among these groups,

widows are identified to be the largest group to have a will in England and Wales (68 per cent) as well as in Scotland (50 per cent). Single people are identified as the group that are the least likely to have a will – 12 per cent in England and Wales, and 16 per cent in Scotland (Brooker, n.d.:4; SCC, 2006:7). (SCC, 2006:7) says, taking into account that cohabitants are likely to be younger people and will making is certainly linked to the age factor, there is no doubt that this group is less likely to have a will. Brooker (n.d.:4), however, reminds that the consequences of dying without a will are potentially more serious for cohabitants, since the partner has no automatic entitlement to the estate (Brooker, n.d.:4).

Brooker (n.d.) and SCC (2006) use house ownership as proxy for property while Rowlingson and McKay (2005) use property and saving to represent the property itself. The purpose of this is to see the variation of will ownership among those who have and do not have property. Such a relationship is evidenced by Brooker (n.d.:5) and SCC (2006:7 and 20) who finally conclude that those who own their home are more likely to have a will than non-homeowners. Brooker (n.d.:5) discovers that 68 per cent of people who own their property outright in England and Wales have a will compared to 32 per cent with a mortgage who have a will. While SCC (2006:7 and 20) shows that in Scotland, 50 per cent of home owners have a will compared with 15 per cent of non-home owners and most of them have made a will because their solicitor had offered them a free will when they bought their property. Rowlingson and McKay (2005:71) provide the same conclusion that having asset such as property and saving to leave is seen to prompt people to make a will. This is evidenced from the findings in which three-quarters (76 per cent) of outright owners have made a will and 6 in 10 of those who say that they have property or savings to leave say that they have made a will (Rowlingson and McKay, 2005:71). Age is a relevant factor here as claimed by Brooker (n.d.:5) as older people are more likely to own their homes. Finch and Mason (2000:64) deliberately include a large number of respondents into their study who are homeowners, constituting three-quarters of their study population. Finding from Finch and Mason (2000:64) tells a different story in which housing tenure is not the distinguishing factor that influences will ownership.

Using the variable natural log of the estate value, McGranahan (2006:25) proves that a 1 per cent increase in wealth increases the probability of making a will by 7 per cent. He then incorporates two additional proxies for wealth measures: whether the household contains servants and the number of housepoints neither of which is statistically significant (2006:25). He tries to incorporate another proxy which is whether the testator is the holder of the land or not. After including this proxy into the estimation, it is found that variable wealth influences will-writing. McGranahan (2006:25–26) substantiates his finding as follows:

“The higher propensity to write a will among landholders because the assets of non-landowners may have been more liquid and easier to split among beneficiaries. Landholders may have more concern with giving a single beneficiary a sizeable enough farm to support a family and may have been concerned with which child inherited the holding.”

Having children as contended by Brooker (n.d.) and Rowlingson and McKay (2005) is an event that triggers people to make a will as having a will can avoid custody disputes if the parents of dependent children die intestate. Brooker (n.d.:4) again claims that age is a relevant factor here. Rowlingson and McKay (2005:71) prove that those aged 45 or over with children are also more likely to have made a will than those who are childless (68 per cent compared with 58 per cent). On top of that, it appears that respondents who have children living with them are half as likely to have a will as those without children in the household (21 per cent versus 42 per cent) (Brooker, n.d.:4). On the other hand, McGranahan (2006:25) finds that the characteristics of children – in terms of having children, their ages and having minor children – do not influence will writing. Despite this, SCC (2006:20) reveals that three-quarters of the younger people with children do not have a will.

McGranahan (2006) postulates that individuals are more likely to write a will if other relatives inherit. However, his study’s finding indicates that having relatives who inherit does not bring any impact on will writing. He also tests whether will writing varies across different residential locations and he finds that city dwellers are less likely to write a will because of low landholding by individuals in cities at that point of time. Neither literacy or religion variables are significant as examined by McGranahan (2006:24), and the findings from other variables used in McGranahan (2006:26) are as follows; ‘lives with one prime aged child’ prior to death is statistically significant

indicating the existence of the exchange motive and ‘lives outside ones family of origin such as with their siblings’ is found not to be significant implying that compensation for giving them a place to live through writing a will is not their concern.

Before discussing the reason for making or not making a will, there is one particular factor which determine the will practice that should be highlighted here – inheritance law. It determines the strength of will practice as it affects bequest motives as contended by Pestieau (2000:900). As discussed in the previous section of bequest, Pestieau (2000:900) stresses out that where there is limited freedom of making a bequest due to the inheritance laws, accordingly, there is also little room for wills. For example, he says that there are fewer wills in countries such as France and Germany where the equal division rule applies, than in the United States or the United Kingdom where there is full freedom of bequest.

As to why people have not made a will, each of the mentioned reasons is intensively investigated and wide socio-economic variations are suggested which then provide further in findings reasons for will making. ‘Have not got around to it’ appears to be the most cited reason as can be seen in Rowlingson and McKay (2005:72), Brooker (n.d.:5) and SCC (2006:8). Their findings are as follows: 58 per cent of those who have not made a will in the United Kingdom, 42 per cent of those who have not made a will in England and Wales and 46 per cent of those who have not made a will in Scotland provide this reason. Variations across age, marital status and house ownership as can be found in Brooker (n.d.:5) and SCC (2006:8) reflect those who are in professional and managerial categories, people aged from 22 to 64, married and non-homeowners are most likely to provide this reason. These findings are in line with the previous study carried out by Rowlingson and McKay (2004:46).

The studies demonstrate that the second most cited reason is that they have never thought about making a will. According to Brooker (n.d.:6) and SCC (2006:8), some 30 per cent in England and Wales cite this reason while in Scotland it is slightly lower with a rate of 28 per cent. This reason is more common among younger respondents, especially those aged under 35. Surprisingly, even a few people aged 65 and older also cite this reason. In addition, BME respondents, those who are in semi-skilled or

unskilled occupations or unemployed, men and non-homeowners are more likely to provide this reason (Brooker, n.d.:6–7; SCC, 2006:8 and 20).

Studies by Brooker (n.d.:5) and Rowlingson and McKay (2005:72) reveal that a quite significant proportion of people choose not to have a will because they are ‘too young to think about it’, but this reason is not given as one of the options in SCC’s (2006) survey. Brooker (n.d.:5) finds 15 per cent of those who have no will in England and Wales cite this reason while Rowlingson and McKay (2005:72) report that 20 per cent of those who have no will provide the same reason for the whole United Kingdom and this becomes the second main reason as claimed by them. Observations across age by Brooker (n.d.:6) imply that the majority of those who choose not to have a will due to age are 16 to 25 year olds, while Rowlingson and McKay (2005:72) find that most of them are aged 18 to 29. There is one particular finding by Rowlingson and McKay (2005:72) that should be given attention: a quite a number of people in middle age group also cite this reason.

Brooker (n.d.:1) finds that people choose to not have a will and the choice could be ‘active choice’ while SCC (2006:20) terms it as ‘a deliberate choice’ on the grounds that they do not need one. This is simply because either they do not have property or they are satisfied that their property would go to those whom they wanted to inherit it anyway. In England and Wales, 7 per cent say their estate is not large enough for them to need one, while in Scotland this percentage is 12 per cent (Brooker, n.d.:6; SCC, 2006:8). Those in lower socio-economic groups, non-homeowners and those are not in marriage are more likely to say this (Brooker, n.d.:6; SCC, 2006:8). However, Brooker (n.d.:6) also finds that those aged 65 and older also give this reason (14 per cent) (Brooker, n.d.:6). This finding is line with Rowlingson and McKay (2005:72) which report that for the whole United Kingdom 17 per cent give this reason and in fact this is a very common reason given by at least 3 in 10 of those in rented accommodation. In Rowlingson and McKay (2005:72), this is also the third most common reason given by the respondents.

A number of studies find that only 4 per cent in England and Wales say that they are confident that those who they want to inherit will get it regardless of whether or not they have a will, whereby in Scotland it is 6 per cent and 9 per cent for the whole United Kingdom (Brooker, n.d.:6; SCC, 2006:8; Rowlingson and McKay, 2005:72). Older age groups, especially those over 35, are identified to be more likely to give this reason

(Brooker, n.d.:6; SCC, 2006:8). The same finding appears in Finch and Mason (2000:63). Their interview data indicate that a number of people who do not write a will believe that it is unnecessary for them to do so because intestacy legislation will produce the outcome they want in any event. Accordingly, these findings lead them to other important issues which highlighted by Rowlingson and McKay (2005:72) and Finch and Mason (2000:63) as follows: misjudging what will happen with their money after they die; having misconceptions and a very hazy idea towards intestacy legislation such as the belief that property will be passed to a spouse or children automatically; the fact that people do not understand that the lack of a will could complicate and delay matters for the person's relatives.

Furthermore, as revealed by Brooker (n.d.:6) and SCC (2006:8), 9 per cent in England and Wales say that they have not made a will because they 'do not want to think about dying' while only 3 per cent opt for the same reason in Scotland. Surprisingly, 8 per cent of those aged 65 and older in England and Wales give this reason (Brooker, n.d.:6). Instead of placing the same statement in the survey, Rowlingson and McKay (2005:72), however, change it slightly to 'do not like thinking about such things' which then gives rise to an assumption as to whether the word 'things' refers to a will or dying. However, they clearly state in their further elaboration that they interpret the statement as 'a few people in the United Kingdom said that they did not like to think about wills' (7 per cent). Again, this finding is line with Rowlingson and McKay (2004:46).

These studies also investigate whether cost and knowledge factor are relevant here and they find that only a tiny response is given to cost matters and lack of knowledge about making a will. Findings in Brooker (n.d.:6) and SCC (2006:8) indicate that both 'because of the expense' or 'because they do not how to do it' are cited by no more than 2 per cent in England, Wales and Scotland. This is also in line with the findings by Rowlingson and McKay (2005:72) for the whole United Kingdom. Surprisingly, as indicated in Brooker (n.d.:6), people in lower socio-economic groups do not really bother about the cost of preparing a will. Brooker (n.d.:6) proves the same top reasons are given across all socio-economic ranges which then indicating that the degree of economic activity is not a dominant factor. To justify the results, Brooker (n.d.:6) highlights the findings of research by the Financial Services Authority, which reveals that "lower income people actually do not totally avoid the financial planning but, they

prefer to manage their finances on a day-to-day basis and are less likely to plan ahead for their financial futures”.

Finch and Mason (2000:65) find other significant reasons that could explain why people do not make a will. Firstly, property is often jointly owned so will automatically go to the deceased's partner; secondly, people make arrangements with family about distribution of property and so do not make a will, and thirdly, people make gifts to others during their life so there is no need for a will. Finch and Mason (2000:65) show that the low level of will ownership is a consequence resulting from the existence of other possible means of property distribution in England. Other means of property distribution in England are namely joint ownership between spouses, legislation that provides for the administration of small estates without recourse to a will, intestacy rules, direct gifts by the testator before he or she dies and through agreement between beneficiaries. Among these mechanisms, informal agreement within family is more widely used than others. Apart from those reasons mentioned above, Rowlingson and McKay (2004:46) prove that people have not made a will because they do not expect to die for some time and expect to make a will before such time. Some of them consider that the perfect time to get a will drawn up is immediately after sorting out their affairs.

The succeeding part is the discussion on the reasons why people leave a will. Before turning to discussion on these reasons, remark from Brooker (n.d.:7) should be noted in which he says the sample size of those who have made a will is smaller than the sample size of those who have not made a will. Variation across groups shows that age is the most significant factor and therefore Brooker (n.d.:7) reminds that interpreting the data should take into account the connection between circumstances and age.

Brooker (n.d.:7) and SCC (2006:9) identify that ‘peace of mind about what would happen to their estate when they died’ is the most common reason given in England and Wales (55 per cent) as well as in Scotland (51 per cent). This reason is given more often among older people, especially those who are over 55, widowers and those in higher socioeconomic groups (Brooker, n.d.:7; SCC, 2006:9 and 21). According to them, the second main reason is ‘to ensure the family is provided for’. In England and Wales about 51 per cent, and in Scotland 46 per cent, provide this reason as their motivational factor (Brooker, n.d.:7; SCC, 2006:9). Older people, those in lower socioeconomic

groups and people with children in the household are more likely to provide this reason (Brooker, n.d.:7).

Rowlingson and McKay (2004:48) and Brooker (n.d.:7) report that people make a will as a reaction toward their personal circumstances or life events. Personal circumstances are defined as one of the following: birth, death of a relative or friend, illness of self or relative or friend, changes in personal relationships, economic events, having to sort out the estate of a family member, long-distance travel by airplane or living overseas. Brooker (n.d.:7) mentions that these life events prompt 12 per cent of respondents in England and Wales to make a will. Out of these life events, the first two are the most commonly stated triggers of will ownership and older respondents are more likely to give this reason. Economic events such as buying a home, receiving an inheritance or a sudden rise in estate value are found to be the least likely to be given as reasons (Brooker, n.d.:8–9). SCC (2006) does not explore these in detail, but having children as a reason for making a will is included in the possible responses and this factor received a quite significant number of respondents in Scotland (17 per cent) (SCC, 2006:9 and 21).

‘Experiencing intestacy problems firsthand’ prompts 7 per cent of respondents in England and Wales as well as Scotland to make a will as reported in Brooker (n.d.:7) and SCC (2006:9 and 20). Obviously, knowing someone who died without leaving a will and subsequently experiencing difficulty with this gives a vital lesson to some of respondents and leads them to make a will. Age is a significant factor here as those aged between 45 and 54 are more likely to cite this as the main reason as to why they have made a will (Brooker, n.d.:7; SCC, 2006:9). The assumptions made here by SCC (2006:20) are that perhaps at this stage of life, people are more likely to face personal experience of intestacy problems and they do not want the same difficulties to happen to their family.

Findings derived from Finch and Mason (2000:26–28 and 65) imply that from the solicitors’ point of view, those who have been divorced, married and remarried are those who should pay more attention and take will matters more seriously, but the findings from the interview with the public show that this is not necessarily the case. As asserted by Finch and Mason (2000:26–28 and 65), these complex relationship matters including

divorce, separation, re-partnering and step-relationships do not lead them towards making a will. Only some of the divorcees or those whose cohabiting relationship has broken down have prepared a will to ensure that their children received their property.

Another reason for making a will as described in Brooker (n.d.:7-8) and SCC (2006:9 and 12) is because it is offered free of charge when buying a home. Sadly, as argued by (Brooker, n.d.:7-8), even when it is free, only 2 per cent of respondents in England and Wales take the offer. In Scotland, as discovered by SCC (2006:9 and 21), 12 per cent of respondents give this reason and those in professional and managerial occupations are less likely than those in semi-skilled or unskilled occupations to cite this as their main reason for having a will. Brooker (n.d.:8) states that it should be noted here that the buying process in Scotland is different to that in England and Wales. Solicitors in Scotland also do estate agency work and so they can be described to fulfil a more central role in the house-buying and selling process overall. He adds that this actually indicates that there is huge scope to develop market incentives in England and Wales.

‘Disinheritance’ is among the least common reasons mentioned by the respondents, which is found in a study by Brooker (n.d.:7) and SCC (2006:9 and 21). Only 3 per cent in Scotland say that they have a will in order to stop someone from inheriting their property while in England and Wales this figure is 7 per cent (Brooker, n.d.:7, SCC, 2006:9 and 21). Brooker (n.d.:7) and SCC (2006:9 and 21) argue that tax does not really influence people’s decision not to have made a will This is indicated by only 2 per cent of respondents in Scotland and around 7 per cent of respondents in England and Wales who cite this reason (Brooker, n.d.:7, SCC, 2006:9 and 21). Other reasons for making a will as can be found in Brooker (n.d.:7) and SCC (2006:9) are ‘do not know why they have not made a will’ and ‘not married to their partner’ in which both are cited by 1 per cent to 5 per cent respondents.

It should also be mentioned that studies by Brooker (n.d.) and SCC (2006) on will writing behaviour are extended to the following matters; methods of making a will in the past and future and keeping a will up-to-date. With reference to the methods of making a will, employing a solicitor to prepare a will is described as a traditional route by Brooker (n.d.:9) is found to be the most common method in the United Kingdom. The majority in England, Wales and Scotland say their wills are prepared by solicitors

(74 per cent in England and Wales and 94 per cent in Scotland) (Brooker, n.d.:9; SCC, 2006:10). However, there is a very strong justification given by Brooker (n.d.) to explain why the rate in Scotland is higher than in England and Wales. Brooker (n.d.:9) stresses that in comparison, market alternatives are less developed in Scotland. In addition, in Scotland, SCC (2006:10 and 21) finds that those in professional or managerial occupations and homeowners are more likely to have had their will prepared by a solicitor who is most likely to offer a free will during the home buying process.

Despite this, Brooker (n.d.) and SCC (2006) prove that other methods are quite common among respondents. In England and Wales, 15 per cent of respondents who already have a will, used an alternative market providers such as a specialist will-writing firms or others such as companies and banks. Out of this 15 per cent, 8 per cent use a specialist will-writing firm which actually indicates that the specialist will-writing firm is the second main will provider in England and Wales (Brooker, n.d.:9). SCC (2006), however, does not report the number of wills prepared by a similar type of company in Scotland.

Handwriting individual will is not a very popular means as asserted by Brooker (n.d.:9) as only about 6 per cent in England and Wales use this method. However, in Scotland, as found in SCC (2006:10 and 21), this mode of preparing a will is quite large at 16 per cent and is the second main method in Scotland. Those over 45 and semi-skilled and unskilled occupations are more likely to have handwritten the will themselves. Findings by Brooker (n.d.:9) and SCC (2006:10 and 21) reveal that using a pre-printed form to make their wills is cited by a very small portion of respondents (about 2 per cent in England and Wales and 5 per cent in Scotland). Again, those in semi-skilled and unskilled occupations are more likely to have written it on a pre-printed form (Brooker, n.d.:9, SCC, 2006:10 and 21). SCC (2006: 10 and 21) posits that there is a fear of increased costs among this group if they go to a solicitor to have a will drawn up.

Only Brooker (n.d.) asks the respondents about which methods of preparing a will they will be willing to use in the future. Surprisingly, just 59 per cent stated that they would consider using a solicitor. The rest would consider hand-writing their own will (14 per cent) and making a will on the internet in the future (6 per cent). Handwritten wills seem

to be more preferred by younger respondents who lack knowledge about the legislation of testacy (Brooker, n.d.:10).

Brooker (n.d.:10) gives an essential remark with regard to the currency of wills in which he says “life circumstances change; marriage, divorce, having children. So, it is important that consumers keep their will up-to-date”. Brooker (n.d.) and SCC (2006) then observe the length of time since the will is prepared. Within the definition of an old will by Brooker (n.d.:11) in which he defines it as a will made or updated at least 15 years ago, these studies record 22 per cent of wills are classed as old wills in Scotland and 20 per cent in England and Wales. The rest of the wills are categorized as follows: less than a year, one to four years, five to nine years and ten to fourteen years ago (Brooker, n.d.:11; SCC, 2006:11). Regardless of the time length, Brooker (n.d.:11) points out that the large majority of consumers who have a will are confident it is up-to-date. According to SCC (2006:11), age is identified as the most significant factor here on the grounds that the length of the time of a will is prepared increases with the increasing of age while relationship status and home ownership have no effect on how long ago the will was prepared.

The respondents’ knowledge on the perceived cost of drawing up a will is investigated in Brooker (n.d.) and SCC (2006). Their findings indicate that in England and Wales, 38 per cent of respondents give the correct answer and 27 per cent say they do not know how much making a will is likely to cost (Brooker, n.d.:10–11; SCC, 2006:12). Following are the groups of respondents who are more likely to say that they do not know the cost of making a will: BME, those in semi-skilled or unskilled jobs, those not in employment, those who have no will, young people and single (Brooker, n.d.:10–11; SCC, 2006:12). SCC (2006:12) finds that respondents in the 45–64 age range are most likely to answer correctly and those who have made a will are more likely to identify the right answer. This is not a surprising result as this is related to will ownership and then will ownership is related to age (SCC, 2006:12). The expectation that those who have made a will might know the exact cost is wrong as Brooker (n.d.:11) shows that those who have a will also give the wrong answer. Brooker (n.d.:11) summarizes that:

“Older respondents are more likely to under-estimate the cost of making a will while younger respondents are more likely to over-estimate. People without a will are more likely to over-estimate the cost, while those with a will are more likely to under-estimate.”

There are two other dimensions of related knowledge raised in previous studies: knowledge of succession law on intestacy (Rowlingson and McKay, 2005; SCC, 2006); and knowledge of inheritance tax (Rowlingson and McKay, 2005). Rowlingson and McKay (2005) and SCC (2006) carry out an investigation on knowledge of succession law on intestacy by giving four scenarios and a few statements involving a person dying without leaving a will. Respondents are then asked to give their answer about the rights of cohabitants and the rights of children under the current law. In general, SCC (2006:19) concludes that there is a poor understanding towards the succession rights of a deceased person’s family. With regard to identifying knowledge of rights of cohabitants, SCC (2006:23) and Rowlingson and McKay (2005:72) identify that people do not really understand the difference in law between married and cohabiting couples in which they are unaware that cohabitants have fewer inheritance rights than those who are married. Other related findings by SCC (2006:13–16) and Rowlingson and McKay (2005:72–73) can be segregated as follows: a low level of awareness is apparent even within the cohabiting couples; social class, education level and relationship status are significant factors of a correct response; those from professional and managerial occupations, those educated to degree level or above and those who are cohabiting with a partner are more likely to answer correctly; those who have something to leave as an inheritance or who have previously received an inheritance are also more likely to give the right answer and women, middle aged and older people (those aged 45 to 64) are more likely to give correct answer.

Study by SCC (2006:25) also suggests that “many people in Scotland are not well informed about the succession rights of children on intestacy”. Social class, on the other hand has no effect on how likely respondents are to give the correct answer (SCC, 2006:17). However, SCC (2006:16-18) finds that there are a number of factors influencing the likelihood of a correct response in which those with children in their household, married, younger and middle aged respondents and homeowners are more likely to answer correctly.

Knowledge of inheritance tax is relatively poor as revealed by Rowlingson and McKay (2005:73) on the ground that very few people know this subject area. They further say that this is expected as very few estates actually pay inheritance tax in the United Kingdom. Older people, especially those aged 60 to 69, those in professional and managerial occupations, those with degrees, and people with high levels of assets possess higher knowledge of inheritance tax. Despite this, it still means that the vast majority of people in this group either do not know or overestimate the scope of inheritance tax (Rowlingson and McKay, 2005:73).

Rowlingson and McKay (2005:73–75) reveal that there is a similar lack of knowledge of how inheritance tax is calculated as most people do not know the exact amount of inheritance tax to be paid. Rowlingson and McKay (2005:73–75) discover that those in professional and managerial occupations, those who have made a will, older people and those with substantial levels of wealth have a better idea about the calculation of inheritance tax. Eventhough Brooker (n.d.) does not investigate these matters he acknowledges findings from other studies and expresses concerns about the lack of knowledge leaving two-thirds of people not fully protecting their asset (Brooker, n.d.:5).

Table 3.2: Summary of the Methodologies Used in the Previous Research of Will Practice

Authors	Methodology
Brooker (n.d.)	Descriptive analysis
Finch and Mason (2000)	Narrative approach for semi-structured interview and content analysis on probated wills
McGranahan (2006)	Probit model
Rowlingson and McKay (2004)	Analysis on the qualitative transcript (Interviews)
Rowlingson and McKay (2005)	Descriptive analysis
SCC (2006)	Descriptive analysis

After presenting the findings of the studies in the literature, Table 3.2 depicts the methodologies used to analyse data for the purpose of investigating will practice by a number of studies. In general, it can be concluded that in addition to the quantitative methods, previous studies also utilize a qualitative approach to strengthen their findings.

3.4 LOCATING EVIDENCE ON WASIYYAH PRACTICE

The *wasiyyah* practice in Malaysia is not entirely clear due to the lack of previous work in the literature. Only recently researchers have started to integrate the quantitative method into their studies on *wasiyyah* practice related issues in Malaysia. Practice of making a *wasiyyah* within Malaysian Muslim society is the aim of the study by Ahmad and Pyeman (2008). This study finds that the participants of the study have knowledge of the objective and purpose of making a *wasiyyah*. Most of them agree that it is to protect the welfare of those whom one wishes to give one's assets to but are not eligible under the *faraid* law such as adopted children. It also addresses that this is the main influential factor that motivates a Muslim individual to make a *wasiyyah* besides other reasons including to ensure the transfer of the property as the testator intends, health factors, to rapidly carry out the process of property distribution and to help the needy (Ahmad and Pyeman, 2008:52–53 and 56).

The awareness of *wasiyyah* among the public is determined through their knowledge about *wasiyyah*. As a whole, Malaysian Muslim society is familiar and conversant with the *wasiyyah* term but whether people have in-depth knowledge on *wasiyyah* is then tested in terms of their knowledge on the body or institutions that are involved in preparing the letter of *wasiyyah* and the correct portion of property distribution according to *wasiyyah* as allowed in the *Shari'ah* law. The former indicates that they lack of accurate and essential information about organizations engaging with the preparation of *wasiyyah* and organizations handling *wasiyyah* matters. The latter shows a quite similar result. Therefore, Ahmad and Pyeman (2008) conclude that people have no clear idea or understanding about *wasiyyah* (Ahmad and Pyeman, 2008:52-53 and 56). With regard to the benefits of making *wasiyyah*, many people are not aware enough regarding the function of *wasiyyah* in improving the socio-economic conditions of the *ummah* or Muslim society as found by Ahmad and Pyeman's descriptive analysis of a survey (2008:54 and 56).

Furthermore, Ahmad and Pyeman (2008:55) also prove through OLS regression analysis that *wasiyyah* making among Muslims respondents is influenced by three factors, namely: knowledge about *wasiyyah*, objective of *wasiyyah*, and benefits of *wasiyyah*. The result reveals that these factors have a positive relationship with *wasiyyah* making. Specifically, the objective of *wasiyyah* is identified as the main factor in influencing Muslims in preparing a *wasiyyah*. This is followed by the benefits of *wasiyyah* as well as knowledge regarding *wasiyyah* making.

Muda *et. al* (2008:8) do not discuss *wasiyyah* practice in Malaysia but point out four influential factors for *wasiyyah* writing practice in Malaysia, namely: demographic, religious, self-interest and awareness and institutional factors. It is, however, very disappointing that they do not discuss each factor further or provide empirical results.

3.5 CONCLUSION

This chapter examined approximately a dozen previous studies relating to bequest, will and *wasiyyah*. The following conclusions can be drawn from this literature: Firstly, the observations of bequest motives have been conducted by means of investigating saving data, bequest transfers data or attitudes to leaving a bequest. The second point is that, with respect to the research methodology, the investigation of bequests and wills has been integrated with both the qualitative and quantitative method. The third point is that a range of determinant variables have been tested for bequest, and it can be seen that the explanatory variables used in the study of bequest and will are relatively the same. Finally, with regard to *wasiyyah* practice, studies with sound theoretical foundations and methodologies are still insufficient.

Chapter 4

THE ISLAMIC PERSPECTIVES ON INHERITANCE, WEALTH MANAGEMENT, FINANCIAL PLANNING AND ESTATE PLANNING: A LITERATURE SURVEY

4.1 INTRODUCTION

This chapter aims at surveying the Islamic literature in relation to the key concepts explored so far, which are: the Islamic inheritance system, theoretical foundation of wealth, wealth management, financial planning and estate planning. Thus, this chapter presents a systematic and coherent connection between these concepts as each of them can be brought together under the umbrella concept of ‘wealth’. The Islamic inheritance system comprises of *faraid*, bequest and gift (*hibah*) must be clearly defined together with the theoretical foundation of wealth from Islamic point of view before wealth management and financial planning take place. Islamic estate planning, which is one of the sub-sections of the Islamic financial planning is elaborated at the end of this chapter. This last section is different from the initial section in the sense that the discourse of Islamic inheritance system is integrated into the Islamic estate planning contextual form while the initial section limits the discussion on the conceptual and legal issues concerning with the Islamic inheritance system.

4.2 ISLAMIC INHERITANCE SYSTEM: CONCEPTUAL DEFINITION

Islamic inheritance system is comprised of a number of micro institutions: *faraid*, bequest and gift (*hibah*). *Faraid* is defined as the Islamic law of succession or the Islamic law of inheritance, which is one of the most important branches of Islamic jurisprudence. This makes the study of *faraid* as an important core of the Islamic inheritance system is inevitable. Bequest and gift are the two most common supplementary mechanisms available within the comprehensive Islamic inheritance system for the devolution of property. Therefore, this section presents a discussion on *faraid*, bequest and gift in detail.

4.2.1 Faraid and Classification of Heirs

The eligible heirs in *faraid* are prescribed by Islamic *fiqh*, which are summarised by Coulson (1971:31) in two groups: the inner and the outer family. With regard to the former, there are two classifications commonly used. The first classification implies that the inner family members are divided into the Qur'anic and agnatic heirs. The second classification breaks down the inner family members into three classes: primary, substitute and secondary heir. The latter comprises distant kindred and *Baitul Mal*.

4.2.1.1 Inner family

4.2.1.1.1 Classification 1: Qur'anic and agnatic heirs

Within its own boundaries, the Islamic inheritance system known as *faraid* had determined who are the heirs¹⁸ and their entitlements to the estate. To understand the system as a whole, then there are two essential aspects that should be covered in detail. Firstly, classification of the heirs to determine which of the relatives of the deceased are entitled to inherit and secondly, the quantum share entitlement of each of the heirs concerned. For that purpose, the heirs can be easily divided into two major groups, which are the Qur'anic heirs and the agnatic heirs.

4.2.1.1.1.1 The Qur'anic heirs¹⁹ (*Ashabul-Furud*)

There are twelve categories of persons consisting of the husband, the wife, the daughter, the father, the mother, the uterine brother, the germane sister, the uterine sister, the consanguine sister, the son's daughter (how low soever), the agnatic grandfather (how high soever) and the grandmother (maternal and paternal how high soever) that form a group of heirs called Qur'anic heirs (Coulson, 1971:35; Rumsey, 1971:15). The son's daughter, the agnatic grandfather and the grandmother were not specifically designated

¹⁸ The following are some different terminologies used widely for certain heirs. uterine brother equals half-brother by mother, consanguine brother equals half-brother by father, germane brother equals full brother, uterine sister equals half-sister by mother, consanguine sister equals half-sister by father, germane sister equals full sister, son's son equals agnatic grandson, son's daughter equals agnatic granddaughter, agnatic grandfather equals true grandfather or paternal grandfather and grandmother equals true grandmother (maternal or paternal grandmother). True grandmother or true female ancestor is any female ancestor who is related to the deceased without the intervention of a false grandfather. True grandfather or true male ancestor is a male ancestor without any intervening female ancestor in the line of ascent. Otherwise, they are called false grandfather and false grandmother (Ullah, 1999; Coulson, 1971 and Rumsey, 1971).

¹⁹ Coulson (1971) and Hassan (2005) use this terminology but Ullah (1999) uses other terminology which is 'the sharers'.

by the Qur'an as legal heirs but were added by Sunni jurists into the list of Qur'anic heirs based on the juristic method of analogy (*qiyas*) (Coulson, 1971:35).

Qur'anic heirs possess the rights of inheritance either through marriage (Hassan, 2005f:36; Ullah, 1999:5; Coulson, 1971: 10 and Al-Khin *et al.*, 2005:1080) or through consanguinity (*nasab*) (Hassan, 2005f:36; Ullah, 1999:5; Coulson, 1971; Al-Khin *et al.*, 2005). In addition, traditional *Shari'ah* law recognizes the right of inheritance caused by the institution of patronage (*wala'*) (Coulson, 1971).²⁰

(i) *Marriage*

By reason of marriage, there are only two Qur'anic heirs: namely the husband and wife (Ullah, 1999:5). A spouse relict's right of inheritance only arises from a legal and valid tie of marriage with the intention of be a life-long union (Coulson, 1971:10).²¹ The mutual rights of inheritance between spouses cease once they are divorced but depend upon the nature of the divorce: either it is revocable (*raj'i*) or absolute and irrevocable (*ba'in*). With the provision of the opportunity to retract during the '*idda*'²² the rights of inheritance continue to exist within this period. On the other hand the rights of inheritance are absolutely terminated in the case of an absolute or irrevocable divorce as it is a final severance of the marital tie (Coulson, 1971:17).

(ii) *Blood relationship (nasab)*

The ten Qur'anic heirs by blood relationship are namely: the father, mother, agnatic grandfather, true grandmother, uterine brother, daughter, son's daughter, germane sister, consanguine sister and uterine sister (Ullah, 1999:5). Islam strongly stresses the legitimacy of the blood relationship in the eyes of law, so that, the heirs are legally entitled to the rights of inheritance (Coulson, 1971:10 and 23).

²⁰ Other terms used by others are fictitious (Ullah, 1999:5) or collateral relationship (Hassan, 2005f:36 and Al-Khin *et al.*, 2005:1080). *Wala'* is the relationship between a freed slave and his former master. The master has a right to inherit from a freed man if the latter died without any heirs by blood (Coulson, 1971:10; Al-Khin *et al.*, 2005:1080). *Wala'* is not discussed in detail here as it is not relevant to modern Muslim society anymore.

²¹ As a consequence, a type of marriage known as *mut'a* is regarded as a null and void contract in the eye of Sunni law. In contrast, it is recognized in Shi'i law. *Mut'a* marriage involves a setting of a specified period of time of marriage in return for a fixed remuneration (Coulson, 1971:17).

²² *Idda* is the length of waiting time imposed on a wife following her divorce or following the death of her husband for the purpose of ensuring she is not pregnant before she could enter into another marriage contract (Coulson, 1971:14).

4.2.1.1.2 Agnatic heirs or residuaries (*Asabah*)

There are three sub-groups of residuaries²³ (Hassan, 2005f: 36–37; Al-Khin *et al.*, 2005:1111):

(i) **The male relations in their own right or residuaries in their own right (*asaba-bi-nafsihi*)**

This group consists of male agnates or male residuaries: the male relations in their own right (Hassan, 2005f:36) or residuaries in their own right (Ullah, 1999:23) (*asaba-bi-nafsihi*). Al-Khin *et al.* (2005:1111–1112) split them into four groups which in order of priority: are the son and his descendants (the son of a son how low soever); the father and his ascendants (the father's father how high soever); the descendants of the father (the brothers of the deceased and their issue, the nephews of the deceased, how low soever); and the descendants of the agnatic grandfather (the deceased's uncles and cousins and their issue how low soever). However, Coulson (1971:33) and Ullah (1999:16) add another group, which is the lines of descendants of the great agnatic grandfather and higher grandfathers in ascending order (the deceased's great uncles and their issue). The following are the rules of the estate distribution among male residuaries.²⁴

(a) *The rule of class*

The male residuaries are divided into classes in order of priority and any members of a higher class totally exclude any member of a lower class (Coulson, 1971:33; Al-Khin *et al.*, 2005:1112). The majority of Sunni scholars including Imam Abu Hanifa differ in opinion on the exclusion of the brother of the deceased by the agnatic grandfather. The former say that the brothers of the deceased are not excluded from succession by the agnatic grandfather (Coulson, 1971:33 and Ullah, 1999:19), but the latter holds that brothers or sisters whether full or consanguine are all excluded from participating even by the agnatic grandfather (Ullah, 1999:19).

²³ There is another type of residuary which is residuary for special causes (*asababsababiyah*) (Al-Khin *et al.*, 2005:1110; Ullah, 1999:23). It is related to the relationship arises from *wala'*. It is not discussed further here as *wala'* is not relevant anymore with modern society.

²⁴ These three criteria are collectively known as *al-Jabari's* rule.

(b) *The rule of degree*

Among relatives of the same class the nearer in degree to the deceased excludes the more remote. For example, a nephew of the deceased will be excluded by the deceased's brother, who could be his own father or his uncle (Coulson, 1971:33–34; Al-Khin *et al.*, 2005:1112–1113).

(c) *The rule of strength of blood-tie*

Within the same class and the same degree, the rule of strength of blood tie has set that germanes have priority over consanguines. For example, the germane brother of the deceased totally excludes the consanguine brother from succession (Coulson, 1971:35).

(ii) The female relations in the right of another (Hassan, 2005f:36–37) or residuaries in another's right (Ullah, 1999:23) (*asaba-bi-ghayri*)

These are people who are the Qur'anic heirs, but are converted into residuaries, when they co-exist with one or more male residuaries of the same relationship to the deceased. For example, a daughter co-existing with a son is converted into a residuary by the latter (Ullah, 1999:24). It must be noted here that the female heir will always receive a half-portion compared to the male heir (Hassan, 2005f:37). This group consists of four females namely:

- a) Daughter (co-exists with son) (Ullah, 1999:24; Al-Khin *et al.*, 2005:1115);
- b) Son's daughter (co-exists with equal son's son) (Ullah, 1999:24; Al-Khin *et al.*, 2005:1115);
- c) Two or more germane sisters (co-exist with germane brother) (Ullah, 1999:24; Al-Khin *et al.*, 2005:1115);
- d) Two or more consanguine sisters (co-exist with consanguine brother) (Ullah, 1999:24; Al-Khin *et al.*, 2005:1115).

However, there are two exceptional cases appear here. Firstly, in the case known as *umariyyatain* or *gharrawiyyatain*, whereby the mother co-exists with the father in the presence of the spouse of the deceased and in the absence of other heirs. After the share has been allotted to the spouse, the father and the mother take the residue as residuaries (Ullah, 1999:24). Secondly, in the case where there is a daughter and a son's daughter co-existing with a son's son of the lower grade, the son's daughter is converted into a residuary by the son's son of the lower grade (Ullah, 1999:13). For example, when there

are two daughters and a son's daughter, the two daughters take two-thirds and the son's daughter if alone would take nothing but if there is a son's son's son, she is converted to residuary in which she gets one-ninth and the son's son's son gets two-ninths (Ullah, 1999:17; Al-Khin *et al.*, 2005:1114).

(iii) The female relations with one another (Hassan, 2005f:37) or residuaries together with another (Ullah, 1999:23) (*asabama'aghayrihi*)

Another classification is consisted of the female relations with one another (Hassan, 2005f:37) or residuaries together with another (Ullah, 1999:23) (*asabama'aghayrihi*). They are converted into residuaries by other female Qur'anic heirs and thereby inherit together. They are as follows:

- a) Germane sister co-existing with a daughter or son's daughter and not being excluded by any heir becomes residuary together with the daughter or son's daughter (Al-Khin *et al.*, 2005:1116; Ullah, 1999:24);
- b) Consanguine sister co-existing with a daughter or son's daughter and not being excluded by any heir becomes residuary together with the daughter or son's daughter (Al-Khin *et al.*, 2005:1116; Ullah, 1999:24).

This classification has been criticized as it is probably confusing in the sense that one may think that Qur'anic heirs have a priority to exclude the residuaries (Coulson, 1971:31). However, the fact is that Qur'anic heirs do not exclude residuaries, not all Qur'anic heirs are entitled to inherit together at one and the same time, some of the Qur'anic heirs can be excluded by other Qur'anic heirs or even by the residuaries. To a large extent, some of the Qur'anic heirs can be converted into residuaries with certain conditions (Coulson, 1971:32; Ullah, 1999:31).

Qur'anic heirs, namely the father, agnatic grandfather, daughter, son's daughter, germane sister, consanguine sister and the mother, can also inherit as residuaries under certain circumstances. The following general rules determine the conversion of Qur'anic heirs into residuaries (Ullah, 1999:6):

- a) A female Qur'anic heir is excluded from inheriting as a Qur'anic heir and is converted into a residuary by one or more male residuaries of the same degree and consanguine relationship to the deceased;²⁵
- b) The father and agnatic grandfather are converted into residuaries in default of the deceased's children or son's children of the deceased.

4.2.1.1.2 Classification 2: Primary, substitute and secondary heirs

Taking into account the confusions discussed above and in order to easily understand how the system works, therefore it would be better to divide the Qur'anic and agnatic heirs to the sub-groups as follows:

4.2.1.1.2.1 Primary heirs

Husband, wife, son, daughter, father and mother are six primary heirs who are never excluded from succession by any other relative of the deceased (Al-Khin *et al.*, 2005:1089; Coulson, 1971:38; Ullah, 1999:31).

4.2.1.1.2.2 Substitute heirs

There are four substitute heirs who generally take the place of the primary heir in the latter's absence. They are the son's son (how low soever is a substitute heir for the son), son's daughter (how low soever for the daughter), the agnatic grandfather (how high soever for the father) and the grandmother (maternal and paternal, how high soever for the mother) (Coulson, 1971:38; Ullah, 1999:31).

4.2.1.1.2.3 Secondary heirs

This group is made up of the brothers of the deceased, sisters of the deceased and all other male agnate relatives. The secondary heirs are totally excluded from succession by any male blood relative who is primary or a substitute heir (Coulson, 1971:39).

²⁵ Again, the case of the father converting mother into a residuary is an exception to this rule in the case known as *Umariyyatain* or *Gharrawiyyatain* (Ullah, 1999:6).

The following rules explain the exclusion of some heirs by the presence of others (Ullah, 1999:30–31):

- a) The nearer in degree excludes the more remote. An individual nearer in degree (proximity) to the deceased excludes the one who is remoter within the same class of heirs (son excludes all grandsons);
- b) A person related to the deceased through any person shall not inherit while that person is alive – for instance, a brother, who is related to the deceased through another (i.e. father) is excluded by the presence of the latter;
- c) There is not representation;
- d) The strength of consanguinity determines preferences – full blood excludes half-blood through father (so a germane brother will exclude a consanguine brother but not a uterine brother);
- e) If the degree of relationship is equal then as a general rule a male sharer takes double the portion of a female sharer of the same degree.

Tables 4.1, 4.2 and 4.3 summarize all the discussions above regarding primary, substitute and secondary heirs and their shares according to *faraid*.

Table 4.1: Primary Heirs and Their Quantum of Shares

Primary heirs	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Husband	¼	In the presence of the: 1) children (Hassan, 2005f:36; Al-Khin <i>et al.</i> , 2005:1094; Ullah, 1999:8; Coulson, 1971:41) or 2) son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1094; Ullah, 1999:8 and 13; Coulson, 1971:41).	Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38; Ullah, 1999:13).
	½	In the absence of the : 1) children (Hassan, 2005f:36, Al-Khin <i>et al.</i> , 2005:1092; Ullah, 1999:8; Coulson, 1971:41) or 2) son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1092; Ullah, 1999:8; Coulson, 1971:41).	
Wife	1/8	In the presence of the: 1) children (Hassan, 2005f:36; Ullah, 1999:8 and 13; Al-Khin <i>et al.</i> , 2005:1095; Coulson, 1971:41) or 2) son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1095; Ullah, 1999:8 and 13; Coulson, 1971:41). Where there is more than one wife, the wives will have to share the 1/8 among them (Hassan, 2005f:36; Ullah, 1999:9; Coulson, 1971:41).	Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38; Ullah, 1999:13).
	¼	In the absence of the: 1) children (Hassan, 2005f:36; Ullah, 1999:8 and 13; Al-Khin <i>et al.</i> , 2005:1095; Coulson, 1971:41) or 2) son's children (Al-Khin <i>et al.</i> , 2005:1095; Ullah, 1999:8 and 13; Coulson, 1971:41). Where there is more than one wife, the wives will have to share the 1/4 among them (Hassan, 2005f:36; Ullah, 1999:9; Coulson, 1971:41).	
Father	1/6	In the presence of the: 1) son (Ullah, 1999:8; Coulson, 1971:43) or 2) son's son (how low soever) (Ullah, 1999:8; Coulson, 1971:43)	Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38; Ullah, 1999:13).
	1/6 plus residue	When there is a daughter or son's daughter (how low soever) and there is no son or son's son, the father is entitled to 1/6 through <i>faraid</i> . Balance will be distributed to other heirs through <i>faraid</i> . If there is balance after the distribution, then he is entitled to the whole balance through <i>asabah</i> (Al-Khin <i>et al.</i> , 2005:1101; Ullah, 1999:13; Coulson, 1971:43).	

Primary heirs	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Father	Residue	In the absence of the: 1) children (Ullah, 1999:13; Coulson, 1971:43) or 2) son's children (how low soever)(Ullah, 1999:13; Coulson, 1971:43).	Converted into residuary in the absence of children and son's children (Ullah, 1999:13; Coulson, 1971:43).
Mother	1/6	In the present of the deceased's : 3) children (Al-Khin <i>et al.</i> , 2005:1101; Ullah, 1999:8) or 4) son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1101; Ullah, 1999:8) or 5) two or more brothers and sisters whether germane, consanguine or uterine (Al-Khin <i>et al.</i> , 2005:1101, Ullah, 1999:8 and 14).	Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38; Ullah, 1999:14).
	1/3	In the absence of the: 1) children (Al-Khin <i>et al.</i> , 2005:1099; Ullah, 1999: 8 and 14) or 2) son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1099; Ullah, 1999: 8 and 14) or 3) two or more siblings (brother or sister whether germane, consanguine or uterine) (Al-Khin <i>et al.</i> , 2005:1099).	
	1/3 of the remaining estate	A case known as <i>Umariyyatain</i> or <i>Gharrawiyyatain</i> , when the mother co-exists with the father and there is a spouse of the deceased. In the absence of other heirs, then after the share has been allotted to the spouse the father and the mother take the residue as residuaries (Al-Khin <i>et al.</i> , 2005:1107; Ullah, 1999:14 and 24). There are two possible situations here (Al-Khin <i>et al.</i> , 2005:1107; Coulson, 1971:45): 1) Husband, mother and father. Husband takes 1/2 of the estate, mother takes 1/3 from the remaining estate and father takes the residue (1/6). 2) Wife, mother and father. Wife takes 1/4 of the estate, mother takes 1/3 from the remaining estate and father takes the residue (5/12).	
Daughter	1/2	1) She is the sole female heir (Al-Khin <i>et al.</i> , 2005:1092; Ullah, 1999:10 and 13; Coulson, 1971:41). 2) In the absence of the son (Al-Khin <i>et al.</i> , 2005:1092; Ullah, 1999:10 and 13; Coulson, 1971:41).	Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38; Ullah, 1999:13).

Primary heirs	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Daughter	2/3	<ol style="list-style-type: none"> 1) If there are two or more daughters, they will be entitled to two-thirds (Hassan, 2005f:36; Ullah, 1999:10; Al-Khin <i>et al.</i>, 2005:1096; Coulson, 1971:41). 2) In the absence of the son (Al-Khin <i>et al.</i>, 2005: 1096; Ullah, 1999: 10 and 1; Al-Khin <i>et al.</i>, 2005:1096; Coulson, 1971:41). 	Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38; Ullah, 1999:13).
	Residue	In the presence of a son or sons (Al-Khin <i>et al.</i> , 2005:1115; Ullah, 1999:13; Coulson, 1971:41).	Converted into residuary if there is a son or sons (Al-Khin <i>et al.</i> , 2005:1115; Ullah, 1999:13; Coulson, 1971:41).
Son	No specific share. He receives the residue through <i>asabah</i> . (Al-Khin <i>et al.</i> , 2005:1112)		Excluded by none (Al-Khin <i>et al.</i> , 2005:1121; Coulson, 1971:38).

Table 4.2: Substitute Heirs and Their Quantum of Shares

Substitute heirs	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Son's son (how low soever)	Portion and position as son (Coulson, 1971:52).		Excluded by son (whether his own father or his paternal uncle) but not by any other relative (Al-Khin <i>et al.</i> , 2005:1122; Coulson, 1971:52).
Son's daughter (how low soever)	1/2	<ol style="list-style-type: none"> 1) If there is only one son's daughter (Ullah, 1999:10; Al-Khin <i>et al.</i>, 2005:1093). 2) In the absence of the deceased's son or daughter (Ullah, 1999:13; Al-Khin <i>et al.</i>, 2005:1093). 3) In the absence of the son's son (Ullah, 1999:13, Al-Khin <i>et al.</i>, 2005:1093). 	Excluded by any of these heirs; son, son's son of higher grade, two or more daughters, two or more sons' daughters of higher grade or by one daughter together with two or more son's daughters of higher grade (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:13).

Substitute heirs	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Son's daughter (how low soever)	2/3	Two or more son's daughters share 2/3 in the absence of the : 1) son (Ullah, 1999:13; Al-Khin <i>et al.</i> , 2005:1096) or 2) daughter (Ullah, 1999:13; Al-Khin <i>et al.</i> , 2005: 1096; Coulson, 1971:55) or 3) son's son (Ullah, 1999:13; Al-Khin <i>et al.</i> , 2005: 1096).	Excluded by any of these heirs; son, son's son of higher grade, two or more daughters, two or more sons' daughters of higher grade or by one daughter together with two or more son's daughters of higher grade (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:13).
	1/6	The son's daughter takes 1/6 (to total 2/3) (Al-Khin <i>et al.</i> , 2005:1104) when: 1) there is one daughter only (Ullah, 1999:10; Al-Khin <i>et al.</i> , 2005:1103; Coulson, 1971:55). Where there are two or more daughters, they take nothing (Ullah, 1999:10; Coulson, 1971:55). 2) there is no son (Al-Khin <i>et al.</i> , 2005:1103). 3) there is no son's son who converts them to residuaries (Al-Khin <i>et al.</i> , 2005: 1103).	
	Residue	In the presence of the: 1) son's son (Al-Khin <i>et al.</i> , 2005:1096 and 1114; Ullah, 1999:13) or 2) son's son of the lower grade (Al-Khin <i>et al.</i> , 2005:1096 and 1114; Ullah, 1999:13).	
Agnatic grandfather (how high soever)	1/6	1) In the presence of the children or son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1102; Ullah, 1999:14). 2) In the absence of the father or nearer agnatic grandfather (Al-Khin <i>et al.</i> , 2005:1102; Ullah, 1999:14). Agnatic grandfather has the same position as father (Al-Khin <i>et al.</i> , 2005:1102). Coulson (1971:53) says the agnatic grandfather is entitled to 1/6 in the presence of a son or agnatic grandson.	Excluded by the father (Al-Khin <i>et al.</i> , 2005:1102; Ullah, 1999: 9 and 14).
	1/3 of the remaining estate	In the presence of the: 1) germane brother of germane sister (Al-Khin <i>et al.</i> , 2005:1106) or 2) consanguine brother or consanguine sister (Al-Khin <i>et al.</i> , 2005:1106).	
	1/6 plus residue	In the presence of the: 1) daughter (Ullah, 1999:14; Coulson, 1971:53) or 2) son's daughter (Ullah, 1999:14; Coulson, 1971:53)	

Substitute heirs	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Agnatic grandfather (how high soever)	Residue	In the absence of the: 1) children (Ullah, 1999:14; Coulson, 1971:53) or 2) son's children (how low soever) (Ullah, 1999:14; Coulson, 1971:53) or 3) father (Ullah, 1999:14; Coulson, 1971:53).	Converted into residuary in the absence of children, son's children or father (Coulson, 1971:53; Ullah, 1999:6 and 14).
True grandmother (maternal and paternal how high soever)	1/6	In the absence of the: 1) mother (Al-Khin <i>et al.</i> , 2005:1102; Ullah, 1999:14) or 2) nearer true grandmother (Al-Khin <i>et al.</i> , 2005:1102; Ullah, 1999:14). Two or more true grandmothers of equal degree divide the 1/6 equally (Ullah, 1999:10).	True grandmothers are excluded from participating in the inheritance by the mother while only paternal true grandmother is excluded by a father (Al-Khin <i>et al.</i> , 2005:1122; Ullah, 1999:9–10 and 14). Paternal true grandmother excluded by the father or by agnatic grandfather. Any true grandmother, either maternal or paternal, is excluded by mother or by nearer true grandmother (Ullah, 1999: 14).

Table 4.3: Secondary Heirs and Their Quantum of Shares

Secondary heirs (group brothers of the deceased)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Uterine brother	1/6	1) In the absence of children or son's children (how low soever) or father or agnatic grandfather (how high soever) (Al-Khin <i>et al.</i> , 2005:1105; Ullah, 1999:11; Coulson, 1971:67). 2) If there is only one uterine brother (Al-Khin <i>et al.</i> , 2005:1105; Ullah, 1999:15; Coulson, 1971:67).	Excluded by the son, daughter, son's children, father or agnatic grandfather (how high soever) (Al-Khin <i>et al.</i> , 2005:1124; Coulson, 1971:67; Ullah, 1999:15).
	1/3	If there are two or more of the uterine siblings (regardless of sex) then, they are entitled to the maximum collective share of 1/3 of the estate and divided equally among them (Coulson, 1971:67; Al-Khin <i>et al.</i> , 2005:1105 and 1100; Ullah, 1999:11 and 15).	Not a residuary (Ullah, 1999:15).
Germane brother	No specific share, inherit in the capacity as residuary.	In the absence of the: 1) son (Coulson, 1971:67) or 2) son's son (Coulson, 1971:67) or 3) father (Coulson, 1971:67) or 4) agnatic grandfather (Ullah, 1999:19).	Excluded by the son or son's son or father (Al-Khin <i>et al.</i> , 2005:1123; Coulson, 1971:67; Ullah, 1999:19) or agnatic grandfather (Ullah, 1999:19)
Consanguine brother	No specific share, inherit in the capacity as residuary.	In the absence of the: 1) son (Coulson, 1971:67) or 2) son's son (Coulson, 1971:67) or 3) father (Coulson, 1971:67) or 4) agnatic grandfather (Ullah, 1999:19) or 5) germane brother (Coulson, 1971:67).	Excluded by the son or son's son or father or germane brother (Al-Khin <i>et al.</i> , 2005:1123; Coulson, 1971:67; Ullah, 1999:19) or agnatic grandfather (Ullah, 1999:19)
Secondary heirs (group sisters of the deceased)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Germane sister	1/2	1) In the absence of children or son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1093; Ullah, 1999:10 and 14). 2) In the absence of the father or agnatic grandfather (Al-Khin <i>et al.</i> , 2005:1093; Ullah, 1999:10 and 14). 3) She is the remaining only heir (Al-Khin <i>et al.</i> , 2005:1093; Ullah, 1999:10 and 14). 4) In the absence of the germane brother who converts her to residuary (Al-Khin <i>et al.</i> , 2005:1093, Ullah, 1999:10 and 14).	Excluded by the son or son's son (how low soever) or father (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:14; Coulson, 1971:67) or agnatic grandfather (Ullah, 1999:14).

Secondary heirs (group sisters of the deceased)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Germane sister	2/3	<p>If two or more germane sisters, they are entitled to 2/3 (Hassan, 2005f:36; Al-Khin <i>et al.</i>, 2005:1097) in the absence of:</p> <ol style="list-style-type: none"> 1) germane brother who converts them to residuary (Al-Khin <i>et al.</i>, 2005:1097; Ullah, 1999:14). 2) children (Al-Khin <i>et al.</i>, 2005:1097; Ullah, 1999:14). 3) father (Al-Khin <i>et al.</i>, 2005:1097; Ullah, 1999:14). 4) agnatic grandfather (Al-Khin <i>et al.</i>, 2005:1097) 5) son's children (how low soever) (Ullah, 1999:14). <p>2/3 is divided equally between them (Ullah, 1999:10).</p>	Excluded by the son or son's son (how low soever) or father (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:14; Coulson, 1971:67) or agnatic grandfather (Ullah, 1999:14).
	Residue	<p>A daughter takes 1/2 and a germane sister takes the residue which is also 1/2 (Coulson, 1971:72).</p> <p>When there are two or more daughters, the daughters take 2/3 and the germane sister takes the residue which is 1/3 (Al-Khin <i>et al.</i>, 2005:1116; Ullah, 1999:15).</p>	Converted into residuary by germane brother (Ullah, 1999:15; Coulson, 1971:69) or by a daughter or son's daughter (Al-Khin <i>et al.</i> , 2005:1116; Ullah, 1999:15 and 24; Coulson, 1971:71) subject to not being excluded.
Consanguine sister	1/2	<ol style="list-style-type: none"> 1) In the absence of children or son's children (how low soever) (Al-Khin <i>et al.</i>, 2005:1093; Ullah, 1999:11 and 15). 2) In the absence of the father or agnatic grandfather (Al-Khin <i>et al.</i>, 2005:1093; Ullah, 1999:11 and 15). 3) She is the only heir left (Al-Khin <i>et al.</i>, 2005:1093; Ullah, 1999:11 and 15). 4) In the absence of the consanguine brother who converts her to residuary (Al-Khin <i>et al.</i>, 2005:1093; Ullah, 1999:11 and 15). 5) In the absence of the germane sister and germane brother (Al-Khin <i>et al.</i>, 2005:1094; Ullah, 1999:11 and 15). 	Excluded by son or son's son or father or germane brother (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:15; Coulson, 1971:67) or by two or more germane sisters. (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:15) or agnatic grandfather (Ullah, 1999:15).

Secondary heirs (group sisters of the deceased)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Consanguine sister	2/3	<p>If two or more they take 2/3 to be divided equally between them (Ullah, 1999:11) in the absence of the:</p> <ol style="list-style-type: none"> 1) children or son's children (how low soever) (Al-Khin <i>et al.</i>, 2005:1097; Ullah, 1999:11 and 15). 2) father or agnatic grandfather (Al-Khin <i>et al.</i>, 2005:1097; Ullah, 1999:11 and 15). 3) consanguine brother who converts them to residuary (Al-Khin <i>et al.</i>, 2005:1097; Ullah, 1999:11 and 15). 4) germane sister or germane brother (Al-Khin <i>et al.</i>, 2005:1097). 	Excluded by son or son's son or father or germane brother (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:15; Coulson, 1971:67) or by two or more germane sisters. (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:15) or agnatic grandfather (Ullah, 1999:15).
	1/6	<ol style="list-style-type: none"> 1) In the absence of the son or the son's children (how low soever) (Al-Khin <i>et al.</i>, 2005:1104). 2) In the absence of the father or agnatic grandfather (Al-Khin <i>et al.</i>, 2005:1104). 3) In the absence of the germane brother (Al-Khin <i>et al.</i>, 2005:1105). 4) There is only one germane sister (Al-Khin <i>et al.</i>, 2005:1105). 5) In the absence of the consanguine brother who converts her to residuary (Al-Khin <i>et al.</i>, 2005:1105) <p>If there be only one germane sister, she will take 1/2 leaving only the remainder of the maximum collective share ($2/3 - 1/2 = 1/6$) for the consanguine sister whether one or more (Hassan, 2005f:36; Ullah, 1999:11 and 15).</p>	
	Residue	<p>A daughter takes 1/2 and a consanguine sister takes the residue which is also 1/2 (Coulson, 1971:72).</p> <p>When there are two or more daughters, the daughters take 2/3 and the consanguine sister takes the residue which is 1/3 (Al-Khin <i>et al.</i>, 2005:1116).</p>	

Secondary heirs (group sisters of the deceased)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Uterine sister	1/6	In the absence of the: 1) children or son's children (how low soever) (Al-Khin <i>et al.</i> , 2005:1105; Ullah, 1999:11). 2) father or agnatic grandfather (Al-Khin <i>et al.</i> , 2005:1105; Ullah, 1999:11).	Excluded by the son or daughter or son's children or father (Al-Khin <i>et al.</i> , 2005:1123; Ullah, 1999:1 and 15; Coulson, 1971:67) or agnatic grandfather (Ullah, 1999:15).
	1/3	If there are two or more uterine siblings (either among uterine brothers or sisters or mix between of them) then, they are entitled to the maximum collective share 1/3 of the estate (Al-Khin <i>et al.</i> , 2005:1105; Ullah, 1999:11 and 1; Coulson, 1971:67).	
Secondary heirs (all other male agnate relatives)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Lines of the male descendants of the germane and consanguine brothers. (Germane brother's son, how low soever and consanguine brother's son, how low soever).		Only inherit in the absence of the previous heirs above.	Excluded by the previous heirs above.
Lines of the male descendants of the agnatic grandfather. (The deceased's germane paternal uncle, consanguine paternal uncle and their issue, how low soever).			

Secondary heirs (all other male agnate relatives)	Share	Conditions under which the share is inherited	Whether excluded or converted into a residuary
Lines of descendants of the great agnatic grandfather and higher grandfathers in ascending order. (The deceased's great uncles and their issue).			

4.2.1.2 Outer family

4.2.1.2.1 The distant kindred (*Zawil Arham*)

Table 4.4: Distant Kindred Heirs

Classes in order	People in the group
1. The descendants (Coulson, 1971:98; Ullah, 1999:42).	a. Daughters' children (how low soever) (Al-Khin <i>et al.</i> , 2005:1208; Ullah, 1999:44). b. Sons' daughters' children (how low soever) (Al-Khin <i>et al.</i> , 2005:1208; Ullah, 1999:44).
2. The ascendants (Coulson, 1971:98; Ullah, 1999:42).	a. Falsegrandfathers. b. False grandmothers.
3. The descendants of the praepositus' parents (Coulson, 1971:98) / the descendants of parents (Ullah, 1999:42).	a. All kinds of sisters' children or grandchildren (Al-Khin <i>et al.</i> , 2005:1209). b. All kinds of brothers' daughters or grandchildren (Al-Khin <i>et al.</i> , 2005:1209). c. Uterine brothers' children (Al-Khin <i>et al.</i> , 2005:1209).
4. The descendants of the praepositus' grandparents (how highsoever) (Coulson, 1971:98)/ the descendants (how low soever) of ascendants (how high soever) (Ullah, 1999:42)	a. Uterine paternal uncles ²⁶ (Al-Khin <i>et al.</i> , 2005:1209). b. Paternal aunts (Al-Khin <i>et al.</i> , 2005:1209). c. All kinds of paternal uncles' daughters and their progeny (Al-Khin <i>et al.</i> , 2005:1209). d. Maternal uncles and their progeny. (Al-Khin <i>et al.</i> , 2005:1209). e. Maternal aunts and their progeny (Al-Khin <i>et al.</i> , 2005:1209).

²⁶ The uterine paternal uncle is one's father's uterine brother. Those paternal uncles who are the father's brothers by the same father and mother or by the same father only are *asabas*.

The distant kindred are those relations of the deceased who are neither sharers nor residuaries. They are entitled to take the whole estate in the absence of Qur'anic heirs or residuaries. In the presence of the husband or wife only, distant kindred take the residue after deducting the share of the spouse (Ullah, 1999:3 and 42).²⁷ Table 4.4 below describes who they are in detail.

4.2.1.2.2 *Baitul Mal*²⁸

In default of all previous classes of heirs, *Baitul Mal* is entitled to the remaining estate (Hassan, 2005f:37; Ullah, 1999:3–4).

4.2.2 Bequest

A bequest in Islam is called *wasiyyah* (Hussain, 2005:393; Rasban and Mohd, 2006:26) or *wasiyya* (Coulson, 1971: 215). At a glance, bequest in Islam has the same meaning as a conventional bequest, as it is defined as a testamentary power on which the transfer of a gift only becomes effectual on the death of the testator (Coulson, 1971:215; Rumsey, 1971: 218; Marican, 2008:132; Tanzil-ur-Rahman, 1980:175). Conversely, the Muslim testate succession system is however, subject to the two principal restrictions imposed on it.

The first restriction concerns the quantum of bequests, in which a testator is entitled to dispose his property only up to one-third²⁹ (Coulson, 1971:213; Haqq *et al.*, 1995:36)

²⁷ Under Maliki law distant kindred are never admitted to inheritance. In default of any surviving primary, substitute and secondary heirs, the *Baitul Mal* succeeds as a residuary heir (Coulson, 1971:91).

²⁸ According to Ullah (1999:3–4) the classes of heirs in order are as follows: the sharers which are the Qur'anic heirs, the residuaries, the distant kindred, successors by contract, acknowledged kinsmen, universal legatee and finally in the absence of all previous classes of heirs the inheritance devolves upon the *Baitul Mal*. Under the Shi'i law, *Baitul Mal* has no right to take the rest of the estate, but according to the respective law, the estate should be liquidated among the poor.

²⁹ Coulson (1971:213), Haqq *et al.* (1995:36) and Marican (2008:136) clearly state that this rule is derived from the following *Hadith*; Amir b. Sa'd reported on the authority of his father (Sa'd b. Abi Waqqas): Allah Messenger (may peace be upon him) visited me in my illness which brought me near death in the year of *Hajjat-ul-Wada'* (Farewell Pilgrimage). I said: Allah's Messenger, you can well see the pain with which I am afflicted and I am a man possessing wealth, and there is none to inherit me except only one daughter. Should I give two-thirds of my property as *sadaqa*? He said: No. I said: Should I give half (of my property) as *sadaqa*? He said: No. He (further) said: Give one-third (in charity) and that is quite enough. To leave your heirs rich is better than to leave them poor, begging from people; that you would never incur an expense seeking therewith the pleasure of Allah, but you would be rewarded therefore, even for a morsel of food that you put in the mouth of your wife. I said: Allah's Messenger. Would I survive my companions? He (the Holy Prophet) said: If you survive them, then do such a deed by means of which you seek the pleasure of Allah, but you would increase in your status (in religion) and prestige; you may survive so that people would benefit from you, and others would be harmed by you. (The Holy Prophet) further said: Allah, complete for my Companions their migration, and not cause them to turn

after any debts and expenses have been paid (Haqq *et al.*, 1995:36; Al-Khin *et al.*, 2005:1054–1055; Tanzil-ur-Rahman, 1980:302). The Shafi’is view that a bequest which is less than one-third is supererogatory (Al-Khin *et al.*, 2005:1053–1054).

The proper time for the calculation of one-third is different in the eyes of the various schools: the Shafi’is, Hanbalis and Shi’i say it should be calculated at the time of the death of the testator with justification that this is the time when the legal heirs obtain and will be able to exercise their rights (Coulson, 1971:235; Al-Khin *et al.*, 2005:1054; Marican, 2008:139). According to the Malikis it is supposed to be at the time of the legatee’s acceptance; whereas the Hanafis view it should take place at the time of the distribution of the estate (Coulson, 1971:236).

The second restriction pertains to the recipient of bequests where the law requires that such disposition is not allowed to be made in favour of legal heirs³⁰ (Al-Khin *et al.*, 2005:1056; Coulson, 1971:214; Marican, 2008:132; Tanzil-ur-Rahman, 1980:262). The status as an heir may change between the time the bequest is made and the time it becomes effective, but the main rule is that the latest status determines whether the ban operates or is removed. Therefore, a bequest in favour of a person who is an heir of the testator at the time the bequest is made, but due to supervening circumstances is not his heir at the time of his death, does not constitute an *ultra vires* disposition (Al-Khin *et al.*, 2005:1057; Coulson, 1971:241; Tanzil-ur-Rahman, 1980:262). Allowing a legal heir to acquire a benefit indirectly through a non-heir who receives the bequest is accepted by the most schools except the Hanbalis (Coulson, 1971:240).

The bequest is valid provided that conditions imposed on the legatee and the bequest are fulfilled. In regards to the legatee, he should be a person capable of owning property or it must be an institution which actually or legally exists at the time of the testator’s death (Coulson, 1971:227–228; Al-Khin *et al.*, 2005:1047; Tanzil-ur-Rahman, 1980:262).³¹

back upon their heels. Sa’d b. Khaula is, however, unfortunate. Allah’s Messenger (may peace be upon him) felt grief for him as he had died in Mecca. See also al-Bukhari (1983:3).

³⁰ Al-Khin *et al.* (2005:1056), Coulson (1971:214) and Marican (2008:132) say this rule is derived from the *Hadith* which Abu Imama reported: “I heard the Prophet say: Allah has already given to each entitled relative his proper entitlement. Therefore, no bequest in favour of a legal heir”.

³¹ It is valid to make a bequest for a child in the womb on condition that the minimum gestation period allowed is six months (Coulson, 1971:23 and 227; Al-Khin *et al.*, 2005:1047). There are two exceptions to this general rule; first is bequests made for a general and continuing charitable purpose like the poor or the sick; and second is bequests in favour of legatees that are described as members of a restricted class or

The bequest itself should not be made with religious or charitable purposes that are opposed to the tenets of Islam (Coulson, 1971:227). Either corpus (*'ain*) or usufruct (*manfa'a*) of property can be bequeathed as long as it is legal according to the *Shari'ah* and need not necessarily be in existence at the time of the testator's death (Al-Khin *et al.*, 2005:1050; Coulson, 1971:218–220).

Perpetuate entitlement to bequest is only given to a bequest in favour of a general class of person whose extinction is inconceivable or for public charity.³² However, this is different in the case of a usufructory bequest in favour of a particular individual or a limited group of particular individuals whereby it has different views. The first argument is related to the issue of the inheritance of the usufructory bequest. The Hanafis hold that a usufructory right is not inheritable, while other schools share the view that the right will be passed to the legatee's heirs in perpetuity. The second argument is related to the issue of the existence of the particular legatee. The Hanafis, Shafi'is and Hanbalis agree that the particular legatee must be in existence at the time of the testator's death whereas according to the Malikis the usufructory bequest is valid even when it is in favour of persons who do not exist at the time of the testator's death but are born subsequently such as a series of generations or beneficiaries (Coulson, 1971:220–221).

The completion of the bequest in favour of specific individuals is accomplished by an acceptance either expressed verbally or through actions indicative of consent provided that the legatee is an adult and sane, whereby the same requirement is not necessary in other cases of bequests (Coulson, 1971:231–232).³³ From the Sunni point of view, acceptance or refusal of a bequest is only valid and final after the testator's death. Accordingly, in the view of Sunni majority and the Shi'a, in the event of failure to accept or reject it due to the death of the legatee the option is passed to the legatee's heirs. The Hanafis, however rule that the failure to refuse automatically implies the

group who may come into existence after the testator's death. The former is only valid in the eyes of the Malikis and certain Shafi'is (Coulson, 1971:228).

³² Such as the poor or the sick.

³³ The acceptance of bequests on behalf of minor, children in embryo and interdicted persons can be carried out by their guardian. The guardian does not possess authority to refuse the bequest. The traditional Hanafis are of the view that a minor who has reached the age of seven or the age of discrimination is able to accept the bequest by himself (Coulson, 1971:231–232).

acceptance of the bequest. As a result of the legatee's failure to refuse it thus the bequest becomes part of the legatee's estate and passes to his heirs (Coulson, 1971:232–233).³⁴

Bequest can be categorized into five types. Firstly, it could be a general bequest or secondly, a specific bequest. The difference between these types of bequest is that the general bequest consists of a share of the testator's property but is not specifically distinguished. On the other hand, specific bequest is characterized by its distinction stated by the testator to distinguish it from other testator's property within the same kind. The third type of bequest is a joint bequest in which it is actually a bequest of a certain sum made jointly to two or more beneficiaries, or for several different purposes, without obvious expression mentioning the allocation of the amount of the bequest between these beneficiaries. There are two different principals enforced for this particular bequest in which sharing equal proportion is the rule for the joint bequest in favour of different beneficiaries or purposes. Conversely, joint bequest is made exclusively for various pious and charitable purposes is exceptional by which the performance of the religious duty will be given priority over the other. The fourth category is a contingent bequest that would not become operative, unless and until a specified event takes place or condition imposed is fulfilled. The fifth type of bequest is the conditional bequest under which the particular bequest is binding by conditions specified on how the bequest should be enjoyed. However, any condition which is deemed invalid will be ignored and the bequest will remain valid (Coulson, 1971:218–222).

When these restrictions are disregarded, the status of the disposition turns to be an ultra vires bequest. The acquisition of the heir's consent is strongly required in order to enforce the bequest (Coulson, 1971:243; Al-Khin *et al.*, 2005:1054 and 1056; Tanzil-ur-Rahman, 1980:274).³⁵ From this point, there are two main aspects of the heir's consent

³⁴ According to the Hanbalis and Shafi'is, there is an exceptional case whereby a legatee who has accepted a bequest of fungible goods has a right to refuse it before he takes delivery of the goods on the grounds that ownership becomes established in property of this type only when it is taken into possession by the transferee (Coulson, 1971:232).

³⁵ A bequest of more than one-third is still invalid even in the absence of legal heirs on the grounds that it belongs to the Muslim people (Al-Khin *et al.*, 2005:1054). Accordingly, persons under interdiction on account of either total incapacity – which includes minority, lunacy, prodigality – or partial incapacity – which refers to death-sickness – cannot validly ratify an ultra vires bequest. But the Malikis add three further type of total or partial incapacity to ratify an ultra vires bequest. Firstly, a woman does not acquire a legal capacity to deal with her property until she has consummated her marriage and two qualified

that need to be discussed: the valid time for the heir's consent; and the forms of ratification. In regards to the former, the majority of schools share the similar opinion that the consent of heir only exists and is valid after the testator's death. While the Malikis, on the other hand, hold that the consent of heir is valid when given either after the testator's death or during his death-sickness (Coulson, 1971:246–248).³⁶

With regard to the latter, the ratification can appear in three different forms. Firstly, a partial ratification in which some of the testator's heirs ratify the bequest and others reject it. Secondly, the heirs ratify part only of the bequest. Thirdly is a combination of these two situations. Only those who ratify it will anticipate the changes in their share of inheritance (Coulson, 1971:252–253). The rejection may be reflected by the verbal expression or from their failure to fulfil the conditions of ratification or from a combination of both circumstances (Coulson, 1971:250). In default of ratification, a bequest in favour of legal heirs is completely prohibited. While a bequest that exceeds the bequeathable third will be valid only to the extent of the bequeathable third (Coulson, 1971:250; Haqq *et al.*, 1995:36).

The bequest made by the testator may fail for the following circumstances: the expression of revocation by the testator himself;³⁷ the loss of the subject matter of the bequest;³⁸ the loss of the testator's capacity;³⁹ or the legatee predeceasing the testator (Coulson, 1971:225–226, Al-Khin *et al.*, 2005:1058).

witnesses have testified that she is a prudent person capable of managing her own affairs. Secondly, because it is pre-eminently patriarchal in outlook, Malikis law allows a husband a limited measure of control over his wife's dealing with her property. A Maliki wife may not dispose gratuitously of more than one-third of her property without the consent of her husband. Thus, in appropriate circumstances, the validity of her consent to an ultra vires bequest will be dependent upon ratification by her husband. Thirdly, bankruptcy is, of course, a ground for interdiction according to all schools of law, and any transaction by a bankrupt with his own property, particularly any purported gift thereof, is a nullity unless his creditors agree to it. It follows that under Maliki law the assent of a bankrupt heir to an ultra vires bequest is void failing ratification by the creditors (Coulson, 1971:245–248).

³⁶ Acceptance after refusal, according to the Malikis, is only effective with the consent of the testator's heirs but the transaction established here is no longer a bequest but a new transaction of gift between the heirs and the legatee (Coulson, 1971:232–233 and 244).

³⁷ Only legal written document is acceptable by modern legislation (Coulson, 1971:225).

³⁸ It could appear in several different forms such as if the bequest subject is totally lost, destroyed or consumed either by an act of the testator or someone else, alienation of the property by the testator through sale, gift or any other means, and substantial change in the character of the property bequeathed (Coulson, 1971:225).

³⁹ According to Hanafis law, lunacy which lasts for a month or more implies the revocation of the bequest even when the testator recovers sanity before death. Other schools do not subscribe to this doctrine (Coulson, 1971:226).

4.2.3 Gift (*Hibah*)

Gift in Arabic termed as *hibah* is precisely defined as a contract to transfer ownership of existent and deliverable property voluntarily without compensation involved between living individuals whereby the intention and the action of giving the gift and property transfer must be portrayed clearly in the contract language (Al-Zuhayli, 2003:539; Jantan, 2001:42; Tanzil-ur-Rahman, 1980:1). The Malikis permit giving gifts with a stipulated condition that the donee must give the donor compensation with a similar value of the gift (Al-Zuhayli, 2007:560). Based on the definition, loans, non-valued properties, undeliverable objects, legal obligation such as *zakah*, alimony and spousal expenses as well as commutative and sales contracts are excluded from being a gift (Al-Zuhayli, 2007:539; Jantan, 2001:42).

Three components comprising offer, acceptance and receipt constitute the main features of the gift contract (Al-Zuhayli, 2007:552; Tanzil-ur-Rahman, 1980:2), for which there is no divergence of views among jurists on the first and second cornerstone, receipt as a third component is treated differently. Receipt as a 'bindingness' condition for the gift contract is a view shared by the Hanafis and Shafi'is, since for them a new ownership is not established without such receipt. Hence, a gift becomes binding upon receipt. However, the Hanbalis favour the view that receipt is a validity condition for goods measured by weight and volume. For items not measured by weight or volume, the Hanbalis rule that the gift becomes binding immediately following the conclusion of the contract. It means ownership of the gift is established prior to receipt. Meanwhile, the Malikis view receipt is neither a validity condition nor a binding condition. Receipt in fact is regarded as a condition for the full effects of the contract to be achieved (Al-Zuhayli, 2007:552–553).

The receipt can be either on behalf of oneself or on behalf of another. A receipt by a sane and discerning person is valid when he/she receives the gift for himself/herself whereas children and insane individuals are not entitled to receive gifts for themselves. Receiving gifts on the behalf of a young child who does not have the legal right to take receipt on his/her own can be done by his/her legal guardian⁴⁰ (Al-Zuhayli, 2007:556)

⁴⁰ The Hanafis list the legal guardians in the following order which begins with the father, a legal guardian commissioned by the father, the grandfather and a legal guardian commissioned by the grandfather and in the absence of these four persons, the other relatives and whoever is taking care of the

Looking in more detail on the Islamic view on types of gift, some gifts can be regarded as restricted gifts; gifts with certain conditions attached to them and there are three types of them. The first type of restricted gift is a temporal gift or a lifetime-gift called *'umra*. In a very simple description, "it is a contract of gift during the life of the donor or donee with condition that if the donee dies first, the gift is to be returned to the donor" (Rasban and Mohd., 2006:68). Al-Zuhayli (2003:542–543) describes that:

"a temporal condition imposed on the gift is normally stated as if the gift was given for the duration of the recipient's life, then it would be returned to the donor or his heirs upon the recipient's death and if the gift was given for the duration of the donor's life, then it must be returned to the donor's heirs upon his death."

Tanzil-ur-Rahman (1980:56) defines it as "gift of property made for life of the donee." According to Rasban and Mohd. (2006:68–69), there are three types of *'umra*. Firstly, *mua'bbadah*, which is *'umra* forever for the donee. For example, the donor says, "I give this land to you forever or throughout your life. Should you die then your legal heirs will have this land". Secondly, *mutlaqah*, which is *'umra* that is not tied to any condition and is not limited. For example the donor says, "I give this land to you". Final results of *mua'bbadah* and *mutlaqah* imply that the donee's legal heirs will inherit the estate should the donee die. Thirdly, *muqayyadah*, such as, the donor says, "I give this land to you while you are alive, but if you predecease me, the land must be returned to me, and if I die after you then the land must be given to my legal heirs".

The second type of restricted gift is a conditional gift (*ruqba*), whereby the donor lays down that the gift will belong to the donee if the donor dies first. Tanzil-ur-Rahman (1980:62) defines it as "a contingent gift on the death of the donor or donee". On the other hand, if the donee predeceases the donor then the gift must be returned to the donor. It can be understood that, at the end of the day, the surviving party will own the estate. For example, the donor says, "I give this land to you while you are alive, but if you predecease me the land must be returned to me, and if I predecease you, the land is for you".

child will take the obligation to receive the gift instead of postponing the receipt. It is permissible for a legal guardian to keep the gift that he has given to the child in his own possession. This act implies the receipt on the behalf of the child (Al-Zuhayli, 2003:556).

The four Sunni school of laws unanimously agree on the validity of the *'umra* and *ruqba* conditions. Regarding the validity of *'umra*, Abu Yusuf, the Shafi'is and the Hanbalis invalidate any temporal constraints on the gift (Al-Zuhayli, 2007:543). To the Malikis, the *'umra* condition is valid on the grounds that it is a gift of *manfa'ah* (usufruct) of the object for the duration of the donee's life (Al-Zuhayli, 2007:544). Al-Zuhayli (2003:542–543) says that Prophet (pbuh) invalidated the temporal component of those gifts on the grounds of the following *Hadith*: “Keep your properties rather than giving them as temporal gifts. If you give something as a temporal gift, it becomes the recipient's property permanently”. Abd. Ghaffar (2005:72) and Tanzil-ur-Rahman (1980:57) agree that condition of *'umra* is void. Meanwhile, Ismail (2008:146) cites that some of the jurists allow it. Accordingly, to sum up, the gift is valid but most of the jurists agree the condition is void.

Turning to *ruqba*, Abu Yusuf, the Shafi'is, the Hanbalis, the Malikis, Abu Hanifa and Muhammad also invalidate any conditional constraints on the gift. Abu Hanifa and Muhammad say that such conditional gift is actually a contract of loan (*'ariyyah*) which allows the donor to ask for the return of the property whenever he wishes (Al-Zuhayli, 2007:543–544; Tanzil-ur-Rahman, 1980:62). However, Ismail (2008:148) claims that *ruqba* is valid without providing a sound foundation for his argument.

The last type of restricted gift is usufruct gift. According to the Hanafis, it depends on whether or not the object itself survives after the donee collects its usufruct. Usufruct of non-fungible objects is considered as a type of loan to the donee. Usufruct of fungible objects where the usufruct derived can only be used by consumption is tantamount to a full gift (Al-Zuhayli, 2007:542–544).

There are three different views regarding gifts given to the offspring. The Hanafis jurists Abu Yusuf, the Malikis and Shafi'is share the opinion that there should be equal treatment among children regardless of gender;⁴¹ however, this should be interpreted as a recommendation rather than an obligation (Al-Zuhayli, 2007:569). In contrast, a few

⁴¹Al-Zuhayli (2003:569) says it is based on *Hadith*, “When giving gifts, give all your children equal amounts. In fact, if I were to give unequal amounts, I would give more to the women”. A version of this *Hadith* in Al-Bukhari was narrated as follow; “Be wary of Allah and be fair to your children”.

jurists, including Ahmad, Al-Thawri, Tawus and ‘Ishaq, hold that equality in gift distribution among children is obligatory. Jurists have dissimilar opinions over the definition of equality in which some say that equality entails equal shares for males and females alike. According to Ahmad, the exceptional case of unequal distribution is permissible provided that there is strong reason for this such as chronic illness, indebtedness, the size of his family or occupation with his religious studies (Al-Zuhayli, 2007:570). The issue of to the extent of the permissibility of giving unequal gifts to children was answered by the fatwa issued by the committee of Al-Azhar. First, unequal gifts among children are allowed as compensations on the grounds that a father spends different amounts of money for education and providing comfort for each child. Second, it is permissible provided that a legal justification exists. The legal justification here includes a handicap that affects the child’s earning ability, blindness, paralysis, other impediments to earning a living and occupation with religious studies (Al-Zuhayli, 2007:570–571). The third opinion is from the Hanafi jurist Muhammad and the Hanbalis who they view that a father should follow the laws of inheritance which rule the male gets twice the share of the female (Al-Zuhayli, 2007:571). Apart from these, equality is recommended when giving gifts to parents and siblings although it is permissible to give more to the mothers and oldest sibling (Al-Zuhayli, 2007:571).

With regard to recalling the gift and voiding the contract, the Hanafis is the only school that permits recalling the gift and voiding the contract on the grounds that the status of the gift contract is non-binding (Al-Zuhayli, 2007:561; Tanzil-ur-Rahman, 1980:82), while other jurists share a view that disallows recalling the gift and voiding the contract as they consider it is binding except for a father giving a gift to his child⁴² (Al-Zuhayli, 2007:561; Jantan, 2001:45) as long as his child still owns the property (Jantan, 2001:45). The Shafi’is extend this permission from the father, grandfathers and great grandfathers (how high soever) who are the child’s paternal lineage (Al-Zuhayli, 2007:560–561). However, they differ on the time that the father is allowed to do so. The Malikis permit rescinding the gift before receipt only while the Shafi’is and Hanbalis permit a father to rescind the gift before or after receipt (Al-Zuhayli, 2007:561). The difference appears because the Malikis rule that ownership of the gift object is established through the contract and the contract becomes binding through receipt. As a

⁴² Al-Zuhayli (2003:560) says it is derived from the *Hadith* saying “Nobody is allowed to give a gift and then rescind it except for the father’s right to rescind gifts given to his child”.

result it is generally not permissible for the donor to rescind the gift after receipt (Al-Zuhayli, 2007:559). In addition, the Malikis add that rescinding is allowed provided that the following five conditions are not violated: the gift is not given for the purpose of charity and religion, the son must not have married after the gift was given, the son must not have a deferred debt in point of time, the object of the gift must have remained unchanged and neither the donor nor the donee should have fallen sick (Al-Zuhayli, 2007:559–560). As previously mentioned, since the Malikis allow the donor to stipulate the condition of demanding compensation for the gift given, if he does not receive the appropriate compensation he may rescind the offer (Al-Zuhayli, 2007:560). According to Tanzil-ur-Rahman (1980:80–81), the donor is entitled to revoke his gift at any time before transfer the possession of the property. The donor is also entitled to revoke his gift even after making over possession of the gift property except for the following circumstances: gift from husband to wife and vice versa, the donee is the blood relation within prohibited degree,⁴³ the donee is dead, the gift property is no longer in the possession of the donor, the gift property has physically changed, something is combined with the gift property and it is impossible to separate the gift property from its original form or structure and the gift is with exchange. For the rest of this discussion, this study will use word ‘*hibah*’ instead of ‘gift’.

After discussing in detail the legal and regulative aspect of inheritance system, since *wasiyyah* and bequest are related to wealth and its management, it is important that these issues should be explored in detail as well. Therefore, the following section is dedicated for such a discussion.

⁴³ See Tanzil-ur-Rahman (1980:82–83).

4.3 THEORETICAL FOUNDATION OF WEALTH, WEALTH MANAGEMENT AND WEALTH PLANNING: A LITERATURE REVIEW

4.3.1 Wealth from the Islamic Point of View

4.3.1.1 The meaning of wealth

The Arabic word *mal* implies the meaning of wealth or property while its plural form *amwal* bears the meaning of goods, possessions and belongings (Turner, 2006:59). To Turner (2006), the dissimilarity between *mal* and *amwal* is that *mal* correlates in part with a more abstract idea of wealth and *amwal* denotes for the most part the kind of tangible possessions that are subject to legislation such as moveable wealth and taxable goods (Turner, 2006:61). However, the divergence of jurisprudential definitions of the word *mal* should be given a close concern here as it can give a broader understanding towards *mal*.

Generally, there are two dominant definitions of *mal*; the first is the definition of the Hanafi school and the other is that of the majority which refers to the non-Hanafi school (Islam, 1999:362). The former characterizes *mal* as something that human instinct inclines to, it should be a physical material, capable of being stored, possessed and having value (Islam, 1999:362–363). However, the definition was challenged as it is not comprehensive⁴⁴ and consequently, it was redefined by the contemporary jurists. Islam (1999:363) selects Al-Hawi al-Qudsi's definition as relatively more comprehensive, accurate and acceptable by other jurists, in which he defines “*mal* as non-human things, created for the interest of human beings, capable of possession and transaction therein by free will”.

From the whole definitions, obviously that *mal* for the Hanafi jurists should have two elements. Firstly, it should be a material that is capable of being possessed and protected. In other words, *mal* is only a material or thing, which has tangible substance or corpus (Islam, 1999:363–364 and 366). Secondly, it should be capable of beneficial use according to the prevailing customs (Islam, 1999:363–364). The following implications arise due to the requirements imposed. First the abstract human attributes such as knowledge, health, dignity, intelligence, usufructs, debts, rights (either property

⁴⁴ Something that is beneficial but cannot be stored such as vegetables and fruits and something that humans dislike are not *mal* based on the Hanafis definition (Islam, 1999:363).

rights or mere rights) are not considered as *mal* as these by their nature are not capable of being possessed (Islam, 1999:363–364 and 367). Second, things which are impossible to own such as free air and heat of the sun are also excluded from the definition of *mal*. Finally, things which are not beneficial such as poisonous items or items capable of beneficial use but not accorded thus use by the customs of the people, such as a single wheat cereal, are not regarded as *mal* because they are worthless when they come in a small unit (Islam, 1999:363–364).

A broader definition of *mal* is given by the non-Hanafi jurists, whereas Shafi'i jurists consider *mal* consisting of material objects (*'ayn*) or usufruct (*manfa'ah*), which has its own value with which it is exchangeable and entitled to compensation in the event of destruction. The Hanbali jurists place emphasis on the criterion of benefits gained from the things in order to consider them as *mal*. In addition, the benefits should not result from the pressing need or necessity and are permissible in the eyes of law. Within this definition then, something beneficial but legally prohibited such as wine, or the consumption of something due to a situation of pressing need such as consuming a carcass in a survival situation, are excluded from the status of *mal* (Islam, 1999:365). On the other hand, the Maliki jurists place stress on the ownership right that binds the thing and the person so that it can be regarded as *mal* (Islam, 1999:364–365).

From all of the definitions given by different schools of jurisdiction, then, a set of characteristics had been composed for a thing to be qualified as *mal*: it must be naturally desired by human beings, have commercial value, be capable of being owned and possessed, be capable of being stored, be beneficial in the eyes of the *Shari'ah* and the ownership of the thing must be assignable and transferable (Islam, 1999:365). Regarding the status of usufructs and rights within this issue at hand, from the view of the majority non-Hanafi jurists, they firmly agree that both usufructs and rights are qualified to be *mal* even though by virtue of their own nature they are incapable of being possessed. In addition, usufruct and rights are widely accepted as properties in a modern society and have been legally recognized (Islam, 1999:366–367).

As jurists differ in recognizing usufructs and rights within the group of *mal* or vice versa, then, it is not a surprise to find the divergence of two dominant opinions in the issue of inheritable usufruct and rights. The Hanafi jurists rule that leasing contracts and

rights in sale contracts end in the event of the death of the lessee or the person who is involved in that particular sale contract, as benefits and rights in their opinion are not *mal* and thus are not inheritable. While the non-Hanafi jurists view that the remaining period of usufruct in lease contracts and rights in sale contracts are inheritable (Islam, 1999:368 and 425).

Within the scope of these definitions, therefore *mal* can be translated into an English word of ‘wealth’ which “may express either anything that one owns which has economic utility or an abundance of material possessions and resources depending on the context” (Turner, 2006:60).

4.3.1.2 Rights to wealth

In the Qur’an, it is undoubtedly stated that all wealth belongs to Allah in the form of trust or *amanah*. Human beings are considered to be trustees who hold the property and are conferred with the rights to wealth. Again in the Qur’anic verse (24:33), man can find acknowledgment of the individual’s right to own property (INCEIF, 2006:5). In other verses (Quran, 51:19, 4:32, 4:2, 4:7) the right of man to own, inherit and sell his property as and when he likes is explicitly cited (AfzalurRahman, 1988: 290).

Man has two simultaneous capacities – his capacity as an independent individual and his capacity as a member of the community – and therefore, along the way of seeking and accumulating wealth, man is reminded that Islam sets some limitations in the sense that it aims to harmonize the relationship between man and society.

As a result, Islam recognizes and has set a pattern of private ownership that is compatible with public interest in which it allows utilisation of knowledge, skill and labour through means that are not antisocial or immoral to create as much wealth as possible, it prohibits all means that lead to the concentration of wealth in a few hands, it does not favour the expansion of private property to an extent that may endanger the very foundation of the Islamic system and thus destroy its real object, it gives freedom for man to use and benefit from his property, provided that in the enjoyment of his rights, he does not intrude upon others’ rights or damage the common good of society (AfzalurRahman, 1988: 288–293). Rights of others in one’s wealth are highlighted in the Qur’an (9:60, 51:19, 70:24–25, 3:180). Islam imposes a compulsory levy of *zakah*

on all surplus wealth for the use of the poor and the destitute. The law of inheritance further helps by spreading wealth among the relatives of the deceased (AfzalurRahman, 1988: 292–293).

Al-Zuhayli (2007:421) divides the ownership into two types: total ownership and partial ownership. Holding the ownership of both a property and its usufruct is total ownership, while possessing either one of them is partial ownership. The right to extract the usufruct can be gained through five means: simple loan, lease, mortmain (*waqf*), bequeathed usufruct and permission (Al-Zuhayli, 2007:423).

4.3.2 Islamic Wealth Management and Islamic Financial Planning

4.3.2.1 Qur’anic discourse on financial planning and wealth management

Individual human being’s love and desire towards different forms of wealth are not denied as stated in the Quran (3:14). To a large extent, man is afflicted by an inordinate love of wealth, which he often abuses with apparent impunity (Quran, 89:19–20, 100:8). Furthermore, the following verses elaborate man’s views on wealth in detail, in which man is created with a love for a quick return (Quran, 21:37, 70:20), pride in wealth (Quran, 3:14, 89:15), desire to insure for old age (Quran, 2:266, 4:9), desire to insure for prosperity (Quran, 2:266, 4:9), fear of depletion of resources (Quran, 17:100, 47:37) and wealth is the key to self-esteem and a indicator of social status (Quran, 2:247, 23:33, 25:7–8, 34:35, 34:37, 68:10–14, 89:17).⁴⁵ These attitudes may lead to ingratitude (Quran, 22:38, 22:66, 30:33–34, 39:49, 42:48, 100:6), vanity (Quran, 39:49, 17:83, 68:10–14), stinginess (Quran, 17:100, 70:21), grudge and envy (Quran, 17:100, 42:48, 70:21, 89:16), transgress all bounds by looking beyond the riches of the world (Quran, 42:27, 96:6–7) and divert them from the remembrance of Allah (Quran, 63:9). Apparently the duty of Muslims to manage their wealth is driven by their awareness that all wealth belongs to Allah (Quran, 22:64, 24:33), their consciousness towards wealth as a trial (Quran, 3:185–186, 6:165, 8:28, 18:7, 39:49, 64:15, 89:15) and their understanding that

⁴⁵Turner (2006) breaks down the wealth verses into three categories which are definitional, condemnatory and prescriptive. He names these verses as definitional verses of wealth in which exemplify the attitude and behaviour of believers with respect to wealth while the condemnatory verses are those in which unregenerate man is denounced either on account of his failure to understand the true nature and function of *mal* or as a result of his blatant abuse of wealth and position. However, the grouping of the verses is according to HasanuzZaman (1999: 94–100).

wealth is a trust for them (Quran, 2:29, 24:33, 33:72, 45:13) that will be questioned in the hereafter.⁴⁶

The significances of managing wealth are to avoid any difficulties between the owner of the property and the public which may arise due to improper wealth management and to ensure the circulation of wealth in the community, thus stimulating the growth of the wealth and ensuring a better distribution of the wealth among society (Muda *et al.*, 2006:11). General guidelines of wealth management are as follows: it should not harm the owner, others and the environment; no total privatization as certain properties belong to the public ownership and society has rights towards individual's property (Muda *et al.*, 2006:11–12). Dividing the forms of wealth management into three groups (Muda *et al.*, 2006:12) and looking at the verses corresponding to following types of wealth management, in general, provides Muslims with broad foundations of the concepts concerning the proper use of wealth.

- (i) Managing wealth for the individual's and family's necessities as well as mandatory social obligations.

Wealth must be managed in a highly responsible manner to benefit not only its owner and family, but the community as a whole. With the purpose of ensuring the fulfilment of basic necessities, then the management of wealth at this individual stage consists of several subgroups; the first subgroup is the management of cash and saving. The guidelines of managing cash and saving can be derived from verses stating that there should be no wastage of wealth (Quran, 2:205, 4:5, 17:31), verse avoiding extravagance, squandering or spendthriftness and being moderate in expenses (Quran, 17:27, 7:31, 25:67), that there should be no withholding (Quran, 9:34, 70:18), and that a minor is not suppose to handle the wealth (Quran, 4:5). The management of cash and saving to a large extent is crucial in order to carry out the responsibilities of paying tax and state duty (NikYusoff, 2001:108) as well as the obligations of a Muslim man as a husband in terms of giving dowries when marrying and for financial support thereafter (Quran, 4:24, 4:34, 4:4). Secondly, as extension from the management of cash and saving, *zakah* management should be a part of the process (Qur'an, 2:177, 51:19). In addition,

⁴⁶Justification of the wealth management verses revealed in the Quran is clarified in a magnificent way by Turner (2006) as he presents a coherent explanation on the society's attitudes during the pre and post *Hijra*. Turner groups these verses as prescriptive verses in which the correct uses of wealth are laid out.

protection of wealth of orphan is given special consideration and Muslims are instructed how to deal with the wealth of orphan (Quran, 4:2, 4:5–6). Finally, Islam places emphasis on estate planning which should cover the will and testaments (2:180–181, 2:240, 5:106) as well as inheritance (4:7, 4:10–12, 4:176). One should be aware that wealth must be accumulated in permitted manners in the sense that wealth gained through the means of *riba* (interest) (Quran, 2:275) and bribes (Quran, 2:188) are totally prohibited.

(ii) Managing wealth for other people's necessities.

Taking into consideration that Muslims are educated to manage their wealth not only for themselves but for others as well, thus leads them to allocate a part of their wealth for the purpose of charity in the forms of the donation, gift or *waqf*. Charitable giving is encouraged in which Muslims could spend out of their wealth on their kinfolk, orphans, the needy, the wayfarer and those who ask, and for the ransom of slaves (Quran, 2:177).

(iii) Managing wealth for public and general welfare.

In a broader scope, wealth could be channelled for *jihad* or *infaq fisabilillah* (in the way of Allah) (Quran, 9:20), such as financing certain construction projects of mosques or hospitals for the purpose of the public and general welfare.

4.3.2.2 Financial Planning From the Conventional and Islamic Points of View

Financial planning is a process of meeting an individual's financial goals. In order to accomplish his financial goals, a set of strategies or future plans is structured and tailored in line with the individual's abilities and needs. Financial planning involves six steps: it begins with establishing the realistic goals and objectives; gathering the data and information needed; compiling and analyzing data; developing solution and presenting the plan of action; implementing the plan; and monitoring and reviewing the plan periodically. A comprehensive financial planning encompasses a number of critical personal financial areas such as cash flow planning, tax planning, investment management, risk management, retirement planning, estate planning, special circumstances planning, employee benefits and educational planning (Altfest, 2007:6–10). Purpose, timescale and risk are three main factors in financial planning which an individual needs to set up realistically. In order to establish a proper plan easily, the

purpose should be more specific taking into account the interconnection of the time scale and expected future risk (Gilchrist, 1980:2–7).

Dividing financial planning according to the stages of the individual's lifespan will target the specific financial planning needed at certain points of time as the individual enters certain age categories. The first stage of the personal financial planning starts at the age of 20 to 40, at this point of life people are likely to be making very important financial decisions as they tend to spend the majority of their income on marriage, raising their children and purchasing a house. Therefore, at this stage, financial planning focuses on the security of income, house purchasing, saving from income and pensions (Gilchrist, 1980:9).

People are expected to find between the ages of 40 and 60 is a period of increasing wealth as they are likely to receive promotion and their children begin moving towards independence. At the same time, capital is accumulated through inheritance, previous savings, business profit and premium bonds (Gilchrist, 1980:86). While the same emphasis is given to security of income, house purchase, and saving from income and pensions, taking into account the changes in income and wealth people at this stage also start to look for opportunities to invest capital, receive fringe benefits and may consider the transfer of wealth (Gilchrist, 1980:56–99).

The final stage of a life cycle is age 60 plus. At this point of life some people have almost or entirely paid off the original mortgage loan, but there are some strategies available that can be considered in respect of the mortgage such as offsetting mortgage interest with investment income and earning income tax liabilities. With regards to pensions, additional voluntary contribution is one of the solutions for inadequate pension provision.

Elderly people usually try to maintain their previous standard of life by investing their capital and increasing their income by taking annuities. However, it should be noted here that investment of capital by elderly people very likely faces some problems such as paying high marginal rates of tax on investment income, however, using tax-efficient investments could minimize the problems. Annuities should only be used at ages upwards of 70 years. Elderly people should consider the retirement choices available to

them and any self-employment arrangements. The process of transferring wealth is still emphasized here as many elderly people hold onto their assets until very old age or death. Among the estate planning strategies which could be considered are business exemptions available for business people in deciding on the transference of business assets to their children, estate equalization and the use of life insurance policies written under trust to provide tax-free sums outside the estate (Gilchrist, 1980:104–124).

Financial planning for Muslims in some ways has several distinctions from conventional financial planning. For instance, it should be free from the life-cycle effect whereby Muslims should not wait until they reach a certain age to begin their financial planning as uncertainty and death are not definite. This actually can be observed from the following *Hadith* narrated by al-Hakim and al-Baihaqi:⁴⁷

“Grab five things before another five come. When you are young before you get old, when you are healthy before you fall ill, when you are rich before you become poor, when you are free before you get busy, when you are still alive before you die.”

In addition to this, Billah (n.d.a) stresses that Muslims should not ignore the importance of financial planning even though they do not possess any form of wealth to ensure they would not leave any debts to their loved one. Rasban (2006:207–208) elaborates on the flaws of modern financial planning which make it a poor fit with Muslim circumstances. His arguments can be split into two: flaws arising from the conceptual form of modern financial planning; and the consequences of the lack of capability of financial planners. The former reflects that the current main focus in modern financial planning is towards wealth enhancement and protection. Besides that, the hereafter is not taken into consideration in which certain holistic features are missing throughout the process resulting in a lack of understanding of individual religious obligation in wealth creation, protection, purification and wealth transfer. This could be seen from the absence of *zakah* planning as part of the financial planning process and the absence of the cleansing process of non-Islamic revenues as required by *Shari'ah*. In addition, pertaining to estate distribution, he contends that today's financial planning is not suited to advising Muslims due to the complexity of the system itself. Regarding the latter, he argues that

⁴⁷ See al-Bakri (2007).

most financial planners today are seriously incompetent in advising their Muslim clients on Islamic matters, especially in the matter of *zakah* and estates.

4.3.2.3 Wealth Management From the Conventional and Islamic Points of View

Wealth management consists of wealth creation/wealth accumulation, wealth enhancement, wealth protection/wealth preservation and wealth distribution. Wealth creation or wealth accumulation is the beginning of wealth management because wealth management does not exist without creating wealth. As the most important function of wealth management, it engages with the activity of identifying the various means of creating and accumulating wealth. A few features appear to differentiate wealth accumulation in the view of conventional and Islam. It begins with the replacement of wealth accumulation with an alternative concept called ‘wealth generation’ suggested by INCEIF (2006:16) to give a precise scope of definition of wealth creation. With respect to the means of generating wealth, Islam stresses that it should be honest and lawful. There are several channels of generating wealth such as in compensation of work or services rendered, a purchasing transaction, receiving a gift, inheriting an estate (Billah, n.d.a; Rasban, 2006:25–28; INCEIF, 2006:10 and 16–19).

Wealth enhancement is the second component of wealth management which encourages Muslims to find ways to enhance their wealth possession. Efficiency in harnessing and allocating funding is not neglected but it must be in line with *Shari’ah* requirements. Methods of enhancing wealth are quite similar to the methods in creating wealth, but with addition of another method – investment. This includes *Mudharabah* current account, *Mudharabah* investment account, Islamic Unit Trust, *takaful* with saving element and *Sukuk*⁴⁸ (Billah, n.d.a; Rasban, 2006:165–173).

People encounter risks in their daily lives. With respect to wealth management, such risks may cause them to lose the ability to generate wealth or may wipe out the value of the accumulated wealth. However, wealth preservation is about preserving wealth from being lost under all circumstances and referring to the protection of the accumulated wealth against every conceivable financial risk and threat by means of insuring it

⁴⁸ Some authors view instruments for the wealth enhancement are instruments for the wealth creation. According to Iqbal and Wilson (2006:1), wealth creation results from savings and investment. In addition to this, Lewis (2006) views *takaful* as a means of harnessing savings through *riba*-free investments. For further information, see Iqbal and Wilson (2005).

through various types of insurance. It should be noted that in Islam, *takaful* replaces the function of conventional insurance to preserve wealth (Billah, n.d.a; Rasban, 2006:108–112; Iqbal and Wilson, 2005:2).

Wealth management in Islam does not ignore the obligation to ensure the wealth is circulated as widely as possible and inheritance matter. This is actually the function of wealth distribution, the final stage of wealth management, with the purpose of seeking the proper planning to distribute the wealth through estate planning, business succession planning, charitable and *zakah* planning. There are plenty of mechanisms for this purpose such as *zakah*, will, *faraid*, bequest, *hibah* and *waqf*, trust, *sadaqah* (donations), *infaq* (gift to Islamic cause), *hadiyah* (present, gift), *nazar* (vow) and statutory disposition (Billah, n.d.a; Rasban, 2006:191–199).⁴⁹ It can be seen that wealth management in Islam covers a wide spectrum in the sense that it brings benefits not only for the individual and the family, but also to society.

4.3.2.4 Estate planning from the conventional and Islamic points of view

4.3.2.4.1 The conceptual form of estate planning

From the conventional viewpoint, the justifications of establishing estate planning for an individual are actually for the protection and assurance of the continuous benefits of others that he loves upon his death or in the event of disability as well as for himself while he is still living. Thus, estate planning from the conventional point of view is defined as a process of establishing a comprehensive estate or legacy plan of an individual after taking into consideration his financial goals. Such comprehensive estate planning is established efficiently with the aims of achieving the following financial goals: paying as little taxes as possible in order to distribute the maximum possible to the beneficiaries, matching the amount and type of assets to be apportioned to beneficiaries according to the individual's circumstances and wishes, minimizing conflicts between heirs whenever possible and protecting the person himself while he is still alive (Altfest, 2007:411–412).

⁴⁹ Statutory disposition is a mechanism which Singaporean Muslims have to deal with during the estate transfer process. The estate will be transferred to one party upon the death of the owner of the assets according to the laws of Singapore. For example, property-owned between a husband and a wife, under joint-tenancy contract governed by the CPLA which implies that whoever the survivor they will automatically inherit the deceased's share of the property (Rasban and Mohd., 2006:77–79). This is similar to jointly own asset in the United Kingdom (Ahmad *et al.*, 2010:208).

Estate planning steps begin with the understanding of what estate planning is all about. It is important to have a general idea of the estate planning. An individual should understand that estate planning is “a process of analyzing and deciding on how his assets are to be managed and apportioned to others in the event of his death” (Altfest, 2007:412). Such arrangement is structured to maximize assets left to the beneficiaries and achieve his other wishes in an efficient way. Then it is followed by identifying objectives and assets. During these stages, an individual should make clear the types of assets to be left behind and to whom, when he wants the beneficiaries to receive the assets and he needs to compile all his assets. The next steps are establishing and considering other estate planning tools to meet objectives, evaluating obstacles and solutions, familiarizing with all types of relevant taxes, determining available financial-planning strategies, incorporating estate risks, considering separate estate planning for minors, assessing anticipated resources, finalizing the estate planning, implementing the plan and finally reviewing the plan periodically (Altfest, 2007:412). Preparing a will is the simplest structure of estate planning that a person can do, but this can be extended to include other mechanisms or tools which benefit the person in terms of minimizing taxes and strengthening his ability in the mission of achieving his objectives. Among other estate planning tools a person should consider are trusts, gifts, titling or transferring assets and life insurance (Altfest, 2007:412, 415–421).

Based on the following *hadith* “To leave your heirs rich is better than to leave them poor, begging from people”,⁵⁰ it is clear that Islam places emphasis on estate planning. For Muslims, the justification and the process of estate planning from the conventional viewpoint can be accepted and adapted in their Islamic estate planning. However, the process and objectives of Islamic estate planning should be confined to certain boundaries set up by the *Shari’ah*. Another consideration which has to be taken into account is the differing legislations or conflicting laws across Muslim societies all over the world. As a result, some mechanisms are not relevant to other Muslims living in other countries. For example, in the United Kingdom it is crucial for any estate planning to mitigate inheritance tax and *faraid* together (Ahmad *et al.*, 2010:193).

⁵⁰See also al-Bukhari (1983:3).

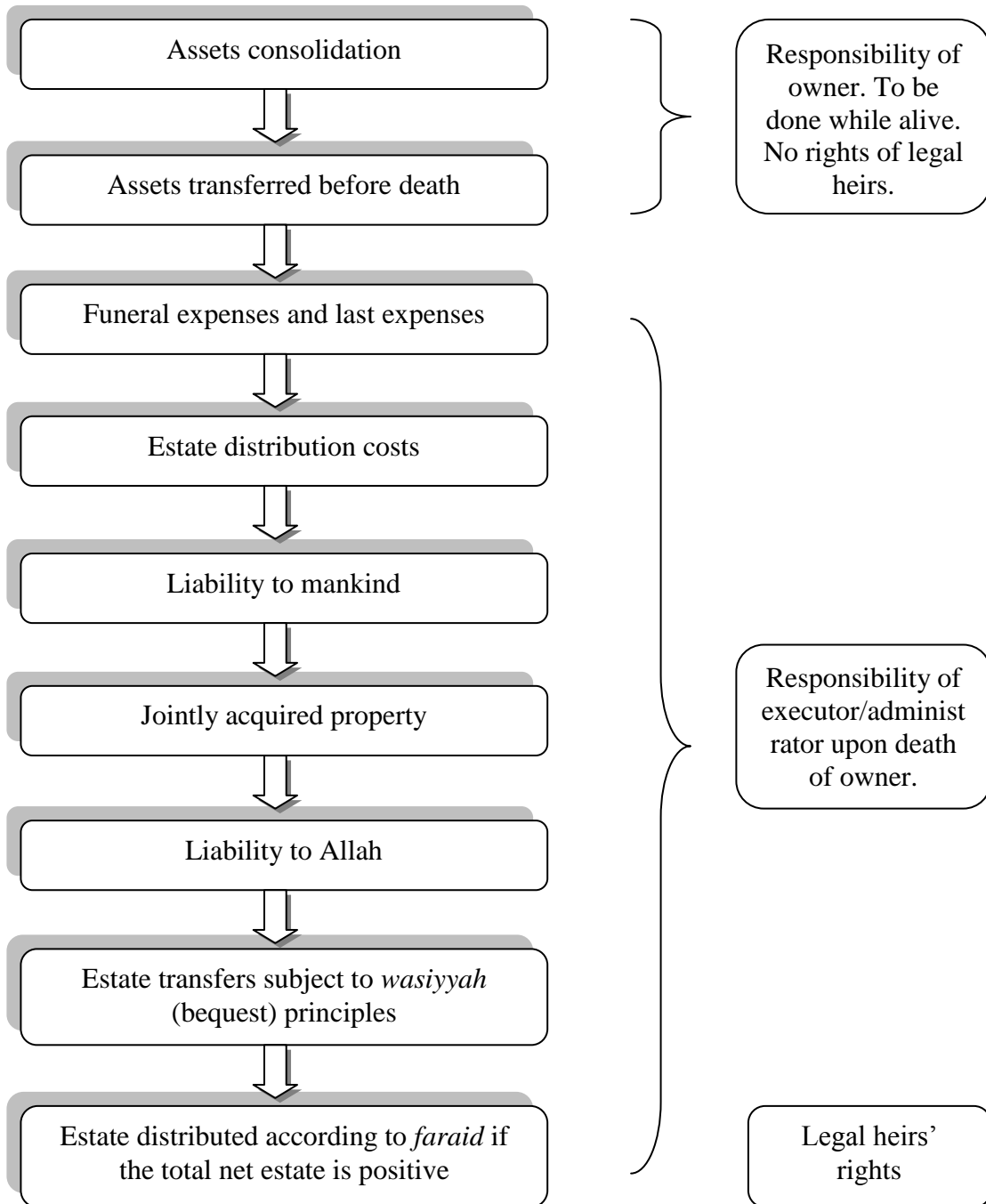
However, the general concept of Islamic estate planning is applicable for all Muslims. To start with, Islamic estate planning can be defined as a process whereby an individual's personal and financial goals are achieved through the development and implementation of a comprehensive estate plan based on Islamic principles (Omar, 2006:15). The estate planning should be prepared for two elements of time, covering planning during the lifetime and planning upon death (Muda *et al.*, 2006:13; Omar, 2006:15; INCEIF, 2006:258). Table 4.5 summarizes the instruments of the estate planning in Islam during the lifetime and upon the death.

Table 4.5: Instruments of Wealth/Estate Transfers for Muslims

Wealth Transfer While Alive	Estate Distribution Upon Death
<ul style="list-style-type: none"> • Instruments: <ol style="list-style-type: none"> 1) <i>Hibah</i> 2) <i>Sadaqah</i> 3) <i>Waqf</i> 4) Trust 5) <i>Nazar</i> 6) <i>Iqrar</i> 7) Jointly acquired property 	<ul style="list-style-type: none"> • Instruments which are subject to bequest rules: <ol style="list-style-type: none"> 1) <i>Hibah</i> 2) <i>Sadaqah</i> 3) <i>Waqf</i> 4) Trust 5) <i>Nazar</i> 6) Bequest 7) Obligatory bequest (<i>Wasiyyah wajibah</i>)
<ul style="list-style-type: none"> • There is no limit on shares imposed on any of the instruments above 	<ul style="list-style-type: none"> • Instruments which are not subject to <i>wasiyyah</i> (bequest) rules: <ol style="list-style-type: none"> 1) Statutory disposition 2) <i>Faraid</i> 3) <i>Iqrar</i> 4) Jointly acquired property

Source: Rasban (2006:193) with some modifications by the researcher.

Figure 4.1: The Process of Wealth and Estate Transfer



Source: Rasban and Mohd. (2006:194–195) with some modifications by the researcher.

Rasban and Mohd. (2006:194–195) provide a process chart of wealth and estate transfers for a Muslim as presented in Figure 4.1. The process starts with the consolidation of all of the deceased's assets. The next step is to segregate the assets that have been categorized as estate that the deceased had given or entrusted away while he was alive. Then the total estate is obtained. The following items are deducted from the total estate: funeral and last expenses costs, estate distribution costs, debts to humans, claims on jointly acquired property, debts to Allah such as *zakah* and pilgrimage, bequest and other transfers included in the will (provided that they are limited to one-third and made in favour of non-heirs). The balance will be the total net estate. If there is any surplus, the estate will be distributed according to *faraid* to the eligible heirs.

The following discussion integrates the Islamic inheritance system which thoroughly discussed previously with the conceptual form of Islamic estate planning. According to INCEIF (2006:281) and Ismail (2007:102), the distinguishing features of estate planning for Muslims can be observed through its four dimensions of estate planning; *faraid*, bequest, *hibah* and *waqf*⁵¹. Apart from this, the ultimate distinction between non-Muslim and Muslim estate planning is the function of *faraid* as the essential foundation of estate planning in Islam. In the absence of a consensus among heirs regarding estate distribution, the distribution of estate definitely follows what has been prescribed in the Quran (4:11–12, 4:176). The other beauty of the Islamic inheritance system is that every dimension of estate planning has its own justifications. *Faraid* protects heirs' rights with prescription of the fixed entitlements of eligible heirs, whereas bequest allows Muslims to bequeath up to one-third of the estate to non-heirs and they may opt for *hibah* if unlimited devolution is their main concern. *Waqf*, on the other hand is a means for Muslims devoting their faith to Allah thereby gaining continuous rewards in the hereafter. Therefore, bequest, *hibah* and *waqf* are estate planning tools which Muslim can use them to accommodate the laws of inheritance. The succeeding discussion examines them in detail within the context of estate planning.

⁵¹ Even though there is a plenty of other mechanisms in Islamic estate planning, these four methods are the most commonly cited.

(a) *Faraid*

Prior to the revelation of the inheritance verses, the preliminary succession system in Islam began with the revelation of the *wasiyyah* (will) verses (Quran, 2:180, 2:240, 5:106), which denote the obligation of Muslims to prepare *wasiyyah* before dying. However, Muslim scholars are of the opinion that these verses were superseded and abrogated by the later Qur'anic inheritance verses (Coulson, 1971:213; Al-Khin *et al.*, 2005:1042). Nevertheless, the abrogation of the *wasiyyah* verses does not imply the significance of *wasiyyah* should be abandoned by Muslims.⁵² This can be observed from the following *Hadith*; "It is not permissible for any Muslim who has something to will to stay for two nights without having his last will and testament written and kept ready with him".

There are four successive duties, which need to be performed before distributing the estate according to *faraid*. They begin with the payment of funeral expenses for the burial of the deceased paid from the estate of the deceased, then followed by the payment of debts. The next step is the settlement payment of legacies pursuant to the deceased's wishes under a will and finally, the distribution of the remaining estate to the heirs according to the law of inheritance (Rumsey, 1971:11; Ismail, 2007:62). Eventhough the distribution of estate for Muslims is confined within its own system of *faraid*, there is some space for Muslims to plan their estate according to how they see fit through means of bequest, *hibah* and *waqf*.

(b) *Bequest*

Bequest is an essential means of channelling property to non-heirs who are disqualified from inheritance due, for example, to some impediment such as being of a different religion to the deceased or being barred from inheritance because of homicide. Accordingly in such instances their entitlements to inheritance are ceased permanently, however, besides *hibah*, the bequest of up to one-third could be another option to ensure they receive some of the estate left by the deceased (Coulson, 1971:242–243).⁵³ In some cases, bequest can be given to the relatives who are excluded from the inheritance under the rules of priority (Coulson, 1971:242–243; Al-Khin *et al.*, 2005:1041). The rule of

⁵²See also al-Bukhari (1983:1).

⁵³ Some jurists place a total ban on a killer from taking a legacy from his victim either in the form of inheritance or bequest, but according to Malikis and Shafi'is law, the killer is entitled to take a bequest made to him by the deceased (Coulson, 1971:229–230 and 242).

priority in succession by degree implies that a son of the deceased excludes his own children, his nephews and nieces. This particular matter has highlighted the issue of providing the children of other predeceased children (grandchildren) of the praepositus with a disposal of the estate by means of an obligatory bequest.⁵⁴ On these grounds, some Muslim countries rule that eventhough the deceased who are their grandparents have left no will, the mandatory will or obligatory bequest (*wasiyyah wajibah*) is applied and the grandchildren receive the bequest within the limits of one-third of the estate.⁵⁵

(c) *Hibah*

As the third dimension in estate planning after *faraid* and bequest, *hibah* is a useful instrument in estate planning. Whereas bequest is limited to one-third, *hibah* appears as an alternative to Muslims providing more of their property to their heirs or non-heirs provided that it should be settled on their heirs or non-heirs during their lifetime so that the property is not subject to *faraid* (Ismail, 2007:98) In spite of this advantage of *hibah*, sometimes *hibah* is insufficient in solving inheritance matters as the receiver of the *hibah* may misuse or mismanage the property (Ismail, 2007:98).

(d) *Waqf*

Waqf is a permanent dedication by a Muslim of any property for any purpose recognized by *Shari'ah*. Abu Yusuf defines it as “taking the corpus of any property out of the ownership of one self, transferring it permanently to the ownership of God and dedicating its usufruct to other” (Tanzil-ur-Rahman, 1980:103). The purposes could be

⁵⁴ Syria and Morocco only allow the children of a predeceased son or agnatic grandson who should be excluded from inheritance to get either the share of the inheritance of their deceased father or one-third of the permissible amount of bequest, whichever is less. The equal treatment between the children of a predeceased son or daughter is given in Egypt and Tunisia, but within the maximum limit of one-third of the net estate. With regard to Egypt only, the children of an agnatic grandson or granddaughter (how low soever) are given the same rights of benefit (Coulson, 1971:144–145).

⁵⁵ The jurists clearly rest their view that the permissibility of obligatory bequest can be derived from the verse of the Quran 2:180. Eventhough most of the jurists agreed that this verse had been completely abrogated by the later Qur'anic verses of inheritance, however, there are two different opinions in this matter. Firstly, it is believed that bequest in favour of other close relatives who are not legal heirs is still encouraged and desirable. This is the view of a small but respectable minority including al-Shafi'i (Coulson, 1971:146). Secondly, a few jurists especially Ibn Hazm hold the view that it is an obligation and the court has right to exercise the obligatory bequest if the deceased had failed to do so (Coulson, 1971:146). The element of novel interpretation (*ijtihad*) is applied here in deriving the rule saying that only grandchildren are entitled to be considered as 'close relatives' and besides that the jurists follow the rules in laws of inheritance which says that 'the nearer in degree excludes the remotes' (Coulson, 1971:146).

for a charity, religious motive or perhaps for the benefit of the founder's descendants during his lifetime and upon his death (Carroll, 2001:255; Rasban and Mohd., 2006:41).

Waqf is valid provided that it is a permanent dedication of any durable properties made by a person possessing sound mind, *baligh* (puberty) and full rights of disposal over his property for the purpose recognized by Islam as religious, pious and charitable. There is no barrier either for a Muslim constituting a *waqf* for the non-Muslim poor or vice versa (Al-Khin *et al.*, 2005:999, 1004, 1006 and 1008, Jantan, 2001:99–100; Nasir, 1986:252). In relation to the matter of perpetuity as the condition for the validity of *waqf*, the Malikis have a different interpretation. One of their scholars, Ibn Arafah says that perpetuity means as long as the property lasts. Hence, the Malikis accept temporal and usufruct endowment. Apart from perpetuity, temporal and usufruct issues, most jurists share the same view that some mobile assets are acceptable to be endowed as exemption from the main rule (Al-Khin *et al.*, 2005:1009; Tanzil-ur-Rahman, 1980:116).

Creation of a *waqf* can be either verbal or in writing (Abd.Ghaffar, 2005:88). A *waqf* in terminal illness is subject to the same restrictions as *wasiyyah* (Al-Khin *et al.*, 2005:1005). There are two categories of *waqf*: a general or public charity *waqf* (*waqf am* or *waqf khairi*); and a specific or private *waqf* (*waqf khas*) (Abdul Ghaffar, 2005:92–93; Jantan, 2001:101). Family endowment (*waqf ahli* or *waqf al-awlad*) is a specific *waqf* (Ismail, 2007:104). For such *waqf* to function, its administration will be in the hands of a person known as the administrator who could possibly be the founder himself or anybody appointed by the founder. In the absence of an administrator appointed by the founder, after his death the judge may appoint an administrator, who shall preferably be a descendant or a relative of the founder. Otherwise, the judge may appoint a person who is not a blood relation, or the judge himself may hold the right of administration (Al-Khin *et al.*, 2005:1027–1028; Jantan, 2001:107–108).

A family endowment is the most important variation of a gift inter vivos according to Powers (1993:23). It is much more related to estate planning for several reasons. First, it provides the founder with a legal means to avoid the strict requirement of the law of inheritance by removing all or part of the patrimony from the effects of the Islamic law of inheritance and thus reduces the quantum of property available as an inheritance for

ascendants, collaterals and spouses. Second, it ensures the founder's descendants receive continuous benefits in terms of additional income or exclusive usufructory rights. Third, as the founder has an unlimited power of laying down the succession of beneficiaries, it clearly provides the founder with a means of ensuring that his property would remain intact for generations in perpetuity upon his death and fourth, to a large extent it provides a generational mechanism of capital accumulation (Powers, 1993:23 and 27).

Table 4.6: Comparison Between Trust and Waqf

Trust		Waqf	
1.	No particular motive is required.	1.	A religious institution which is made with religious, pious or charitable motive.
2.	The founder can be a beneficiary.	2.	The founder cannot be a beneficiary except in Hanafi law.
3.	A trust may be made for any lawful object.	3.	The ultimate objective must be some benefit to mankind.
4.	The property vests in the trustee.	4.	The property vests in God.
5.	A trustee has a larger power than <i>mutawalli</i> .	5.	A <i>mutawalli</i> is not more than a manager of the <i>waqf</i> .
6.	A trust is not necessarily perpetual, irrevocable or inalienable.	6.	A <i>waqf</i> is perpetual, irrevocable and inalienable.
7.	If the trust cannot not be executed, the property will be returned to the founder.	7.	The cypress doctrine is applied and the constitution of <i>waqf</i> will be executed using other similar property.
8.	It is regulated by the Trust Act.	8.	Trust Act cannot be applied on <i>waqf</i> .

Sources: Tanzil-ur-Rahman (1980:108) and Nasir (1986:252).

It should be noted that the family endowment was used extensively by Muslim proprietors in pre-modern times.⁵⁶ Currently, even in the West, people use family endowment as a means of their estate planning, although it usually appears in the form of family trusts and is granted with the tax privileges (Powers, 1993:23). Perhaps, it is important for this study to highlight the comparison between trust and *waqf* as presented in Table 4.6 below. The use of a family endowment with the intention of interfering in the Islamic law of inheritance indeed receives multi responses from Muslims jurists.

⁵⁶ One of the examples is the endowment made by Abu al-Qasim b. Bashir. He created an endowment of a garden outside of the Iron Gate of Fez for the use of his son and any later descendants (Powers, 1993:27).

Among those who go against it are Shurayh and Abu Hanifa (Powers,1993:23).⁵⁷ Such opposing arguments are rejected by the majority of Muslim authorities (Powers, 1993:23–24).⁵⁸

4.3.2.4.2 The position of a will in Islamic estate planning

To begin with, it is very important to clarify the issue of either a *wasiyyah* is a will or a bequest before justifying the roles of a will in Islamic estate planning. It can be confusing when English terminologies are used in reference to Muslim estate planning as both bequest and will are known as '*wasiyyah*'. Rasban (2006) calls will as '*wasiyyah*' that carries a meaning of 'an estate planning document'. Marican (2008:117 and 143) also call Islamic will as '*wasiyyah*' and stresses out that 'bequest' is one of the subject matters of an Islamic will. Thus, differentiating *wasiyyah* either as a bequest or a will could be achieved as follows – *wasiyyah* is a bequest when bequest is the only subject matter in the *wasiyyah*. If, however, the *wasiyyah* contains any other matters such as appointment of an executor, trustee or guardian then *wasiyyah* in this case is a will. For the rest of this discussion, the word '*wasiyyah*' is maintained, but it refers to an estate document as contended by Rasban and Mohd. (2006) and Marican (2008) to avoid confusion. This study will raise this issue again in Chapter 5 with regard to Malaysian circumstances.

After establishing the idea that a will in Islamic estate planning can be perceived as an estate document, the next task is addressing the issue the extent to which the roles of Muslims' wills differ from non-Muslims' wills and locating the position of Muslims' wills in Islamic estate planning. The importance of will writing for Muslims on the one hand is not much different from non-Muslims. Wills help Muslims to expedite the winding-up process, minimize legal problems and cost, reduce the likelihood of a prolonged estate administration case and avoids family disputes over rights of

⁵⁷Shurayh's position towards this issue is reflected in his words saying *la habs' anfara'id Allah* (no endowment in circumvention of God's shares). Abu Hanifa who objects to the inalienability of endowment property, considered *waqf* to be permissible but not binding (Powers, 1993:23).

⁵⁸ The Shafi'is view is on the grounds that family endowments do not constitute an evasion of the law of inheritance because the latter takes effect on property owned by the deceased at the time of his death or when he enters his final death sickness. Other legists refuted Abu Hanifa's position on the strength of the *sunna* of the Prophet. It is reported that 'Umar b. al-Khattab had approached Muhammad and asked him what he should do with property belonging to him in Khaybar; the Prophet responded, "Sequester (*ihbas*) the capital and distribute the revenues". This dictum is considered by the great majority of Muslim jurists to have established a precedent for the institution of religious endowment (Powers, 1993:23–24).

ownership to the estate. Having a will means that the testator through appointment of an executor is allowed to distribute his estate in accordance to his/her last wishes and may ensure that estates will be distributed based on *Shari'ah*. Apart from that, the appointment of guardians for any minors of the testator can be included in the wills as well. Using wills to provide instructions of making estate transfers upon death, however, are subjected to two bequest principles: amount of transfer is limited to one-third rule and not allowed to be given to heirs (Omar, 2006: 2 and 17; Haqq *et al.*, 1995:37; Rasban and Mohd., 2006:26–29 and 190). This instrument is very useful for those Muslims who want to give some of their estate to their non-Muslim parents, non-Muslim children, siblings, grandchildren, adopted children or organizations (Rasban and Mohd., 2006:31). In addition, the testator can incorporate his pledge on jointly acquired property for a spouse into the will. It will help the wife in the process of claiming the jointly acquired property upon the testator's death before distributing the estate based on *faraid*. Eventhough the will has nothing to do with the estate transfer, it can still be prepared to contain the wishes or advice of the deceased to the surviving family to submit to Allah and obey His commands (Rasban and Mohd., 2006:32).

In the absence of a will, wealth will be automatically distributed amongst those surviving relatives who are entitled to fixed shares in accordance with the *faraid* laws. In the absence of the heirs, then the estate will automatically go to the *Baitul Mal*. For Muslims staying in any country where the dominant law is not *Shari'ah* then dying intestate brings such big problems in the matter of estate disposition that the estate will probably go to the government in the absence of any surviving heirs (Haqq *et al.*, 1995:37). Hence, a will is considered the most important document in Islamic estate planning; leaving no will means that the estate disposition matter will be automatically managed under intestacy laws. Having said that, this however, is not necessary the case as for some Muslim countries, preparing a will for the purpose of avoiding problems due to intestate death is never been the issue, because their legislation does not make a provision for this, meaning that such a will is less important. However, for instance, for Muslims in Malaysia, Singapore and the United Kingdom, where the civil law takes precedence over other laws, a will containing the appointment of an executor is extremely crucial to avoid the intestacy problems.

Depending upon the individual situation, writing a will in Islam may become obligatory (*wajib*), supererogatory (*sunnah*), unlawful (*haram*), hateful (*makruh*) or permissible (*mubah*). When a person has any unfulfilled obligations whether related to the rights of the fellow humans (*huququlibaad*) such as debts or the rights of Allah (*huququl-lah*) for instance unpaid *zakah* or pilgrimage (*Hajj*) to be fulfilled, he then, is obliged to draw up a will and must declare these rights in his will. If he has absolutely nothing to declare in the will then, it will still be supererogatory for him to draw a will. Under this circumstance, writing a will is encouraged for the benefits mentioned previously. One should be aware that certain wills are forbidden and unlawful; firstly if it is meant to change the shares which the *faraid* has stipulated for the heirs or by disinheriting an heir then; secondly, making a bequest in favour of a perfectly legitimate object on the grounds that the testator's primary intention is to deprive his legal heirs of any rights on the property and thirdly, making bequest in favour of something forbidden by the law such as alcohols and gambling. Such wills are totally null and void. When the heirs are in need of the wealth, the will writing becomes hateful or giving bequest to someone who is known *fasiq* or has a tendency to use the property for illegal purposes. It could be permissible if the will is written in order to make a bequest to the poor, non-heir relatives and for the provision of public goods to the society. The category of will which is supererogatory would be useful for estate distribution as a complementary device to *faraid* in the sense that it allows Muslim to utilize the bequest as a substantial channel to fit the need of Muslims in deciding their estate allocation given by the different cases and situations arising among them (Al-Khin *et al.*, 2005:1044–1045; Tanzil-ur-Rahman, 1980:218; Coulson, 1971:224).

4.4 CONCLUSION

This chapter is unique in many respects. The chapter's style is lucid and clear in the sense that it has covered the Islamic inheritance system and theory of wealth in Islam and linked them with Islamic wealth management and financial planning before finally bringing the whole chapter to the issue of the estate planning in Islam. Much effort has been devoted in this chapter in attempting to provide sound arguments on Islamic wealth management, financial planning and estate planning due to the limited resources.

Chapter 5

ISLAMIC ESTATE PLANNING IN MALAYSIA

5.1 INTRODUCTION

The issue of Islamic estate planning in Malaysia should be analysed from the legal perspectives but also from institutional and the behavioural norms of Malaysian Muslims. Initially, the administration and distribution of Malaysian Muslims' estates in Malaysia were influenced by British laws with some modifications for the purpose of protecting the Malaysian religious and cultural norm namely the roles of the *Shari'ah* laws. Of course, these unique features led to the formation of several bodies in addressing the Muslims estates matters. Despite all of the provision of legislations and authorized institutions, the functions of Islamic estate planning in the case of Malaysian Muslims remain important. Thus, this chapter discusses the legal framework and institutions related to the Malaysian Muslims estate matters, followed by an overview of Islamic estate planning generally and *wasiyyah* (will) specifically. The products available in the market and issues related to the products are presented in the end of this chapter.

5.2 LEGAL FRAMEWORK RELATED TO THE ADMINISTRATION AND DISTRIBUTION OF ESTATES OF MUSLIMS IN MALAYSIA

This section aims in examining acts, statutes and enactments related to the administration and distribution of estates of Muslims in Malaysia.

5.2.1 The Small Estates (Distribution) Act 1955

A special legislation applicable for both Muslims and non-Muslims was designed in respect of small intestate estate matters in 1955.⁵⁹ Several special provisions are allocated only to Malays holding customary land in the state of Negeri Sembilan⁶⁰ and holders of native land in Sabah⁶¹ (Marican, 2008:39).

⁵⁹ Testate estates which are less than RM600,000 in total value are required to apply for a Grant of Probate from the High Court to be administered (Yaacob, 2006:173).

⁶⁰ Customary land is tribal land. These special provisions, called Enactment, are given to Negeri Sembilan and it is only applicable in the four *Adat Perpatih* districts of Jelebu, Kuala Pilah, Rembau and Tampin.

According to this act, a small estate is defined as “an estate of a deceased person consisting wholly or partly of immovable property situated in any state and not exceeding six hundred thousand ringgit in total value” (*Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:3). The administration and distribution process of a small intestate estate only begins when a petition is lodged by any person claiming to have an interest in the estate – probably a beneficiary, a creditor, a purchaser, the *Penghulu*⁶², a Settlement Officer of the district or locality in which any land of the deceased is situated or the Official Administrator. The Director-General of Lands and Mines afterwards may order that the petition shall be heard and determined by the Collector. The Collector of the district where the largest estates of the deceased are located has exclusive jurisdiction power to deal with the administration and distribution of the estates, but the Director-General of Lands and Mines may order the Collector of another district to carry out the duty regardless of whether all properties are situated in one state or scattered. After taking into account the five categories of religious or customary laws which relate to inheritance matters in Malaysia,⁶³ the Collector thereafter may distribute the residual estate⁶⁴ in the manner in which the estate has been agreed to be distributed (Marican, 2008:40-42; Nasohah, 2006:376-377; INCEIF, 2006:263-264; *Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:6-7,10-11,13,17).

The Enactment itself is able to overrule the Small Estates (Distribution) Act 1955 in the event of any conflict between both. The Enactment states that all tribal estates shall be deemed be the small estates at the time of death of the tribe’s member regardless their total value and every such person is deemed to have died intestate for the purpose of this Act to be exercised (Marican, 2008:39, *Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:18-19). For further information on customary land in Negeri Sembilan, Malaysia, see Hooker (1968).

⁶¹ Special provision is also given to the administration of the estate of any deceased person who at the time of his death was a native of Sabah in which an estate is deemed to be a small estate when it falls into the following categories. First, if it consists of immovable property which is held under Native Title regardless of its value. Second, if it is a movable property, the value of which does not exceed RM20,000. The Collector shall refer the petition for the administration to the appropriate Native Court constituted under the Native Court Ordinance of Sabah unless according to his discretion the petition should be dealt under the Probate and Administration Act 1959. Accordingly, the Collector shall refer such case to the High Court (*Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:21).

⁶² *Penghulu* is the chieftain of the village.

⁶³ The five categories of religious or customary laws refer to the Muslim law, *Adat Perpatih*, the civil law, the native law of Sabah and the native law of Sarawak (Marican, 2008: 42).

⁶⁴ The Collector may order provisions for several items such as provision for the payment out of the estate of the estate duty, the funeral expenses, debts of the deceased, repayment to any person of any fees paid by that person under this Act, due payments to the *Baitul Mal* and claims of purchasers (*Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:11).

5.2.2 The Probate and Administration Act 1959

The Probate and Administration Act 1959 underlines the procedural rules with regards to the administration of non-small estate matters, provided that the deceased died testate and the value of the estates is more than RM600,000. The obtaining of Grant of Probate or a letter of administration from the High Court is the first requirement for such estates to be administered. The appointed executor or administrator by a will is entitled to apply for a Grant of Probate by way of a petition filed at the High Court. In the absence of any executor appointed by will, letters of administration with the will annexed may be granted to the person or persons that the High Court deems fittest to administer the estate; this could be a lawful beneficiary or a creditor of the deceased. In addition, the statute defines and clarifies the obligations of an executor and an administrator. With regards to the executor and his responsibilities, the statute also states that a trust corporation⁶⁵ can be appointed as an executor in a will either alone or jointly with another person (Marican, 2008:11; Disa, 2007:42; Nasohah, 2006:377; INCEIF, 2006:262; *Probate and Administration Act 1959 (Act 97) & Regulations*, 2006:7, 11-12).

5.2.3 State Islamic Administration Enactments

The State Islamic Administration Enactments have jurisdiction over the application for inheritance certificate from the *Syariah* Court or the *Syariah* Subordinate Court. The inheritance certificate notifies and certifies the eligibility of the heirs and the shares to which such persons are respectively entitled; it does not, however, give power for the distribution of the deceased's estates to take place (*Administration of Islamic Law (Federal Territories) Act 1993 (Act 505) & Rules*, 2006:22-23; Disa, 2007:44, Hassan and Yusop, 2006:153; Marican, 2008:19). The authority to distribute the estates is in the hands of the person who obtains the Grant of Probate or letter of administration (Marican, 2008:19).

⁶⁵ Trust corporation refers to Amanah Raya Berhad (ARB) (*Probate and Administration Act 1959 (Act 97) & Regulations*, 2006:5).

5.2.4 Muslim Will Enactments

Laws pertaining to Muslim wills in Malaysia in particular only exist in three states: Selangor (Hassan, 2005e:38 & 42; Disa, 2007:55; Hassan and Yusop, 2006:157, Mohd. Awal, 2007:127), Melaka and Negeri Sembilan (Disa, 2007:55). However, State Islamic Administration Enactments have generally provided a certain jurisdiction power for the *Syariah* Court to deal with Muslim wills (Disa, 2007:55; Hassan and Yusop, 2006:157).

5.2.5 The Public Trust Corporation Act 1995

In regard to the estate administration, the Public Trust Corporation Act 1995 empowers ARB to administer the movable estate where the value of which is not more than RM600,000 whether a person dies testate or intestate. Such estate has to go through different procedures depending on the value of the estate. If the value does not exceed RM50,000 in cash, ARB will issue the Order and deliver it to the heirs. On the other hand, if the value exceeds RM50,000 but is less than RM600,000, a Declaration will be issued and afterwards, the assets will be pooled together. After the net estates of the deceased have been determined, ARB will proceed with the distribution according to *faraid* (ARB, 2006:41; Abdul Rahman, 2007:21; *Public Trust Corporation Act 1995 (Act 532)*, 2008:82-83; Yaacob, 2006:173-174).

5.3 INSTITUTIONAL STRUCTURE FOR THE ESTATE ADMINISTRATION AND DISTRIBUTION PROCESS IN MALAYSIA

After examining the related acts, statutes and enactments, this section proceeds with the discussion on the authorized bodies engaging with the administration and distribution of estates of Muslims in Malaysia.

5.3.1 High Court

The jurisdiction power of the High Court related to Muslim estate matters is greater than the *Syariah* Court on the grounds that the procedural aspects of the administration of Muslim estates, either testate or intestate, and the authority to issue probate and letters of administration, regardless of the types and the values of the estates, are placed in the Federal List and come within the jurisdiction of the High Court. While the *Syariah* Court's jurisdiction power is restricted to *Shari'ah* matters pertaining to Islamic laws of succession, testate or intestate, and issuance of inheritance certificates (Marican, 2008:17 & 48; *Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:5;

INCEIF, 2006:262; Abdul Rahman, 2007:25; Hassan and Yusop, 2006:153-154; Disa, 2007:45).

5.3.2 Department of Director General of Lands and Mines

The Department of Director General of Lands and Mines is the only authority granted an exclusive jurisdiction power in dealing with the administration and distribution of small estate matters and the Collector of Land Revenue (the Collector) of the district in which the greater part, in value, of the property is located is the person in charge of this matter, wherever the estate is situated (INCEIF, 2006:263-264; *Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:4; Abdul Rahman, 2007:21-22; Yaacob, 2006:173). Dealing small estate matters at the Department of Director General of Lands and Mines is easier and faster as lawyers' advice and services are not needed. The distribution process normally takes time between six months to one year (Yaacob, 2006:173; ZAR Perunding Pusaka, 2004:8).

5.3.3 Syariah Court

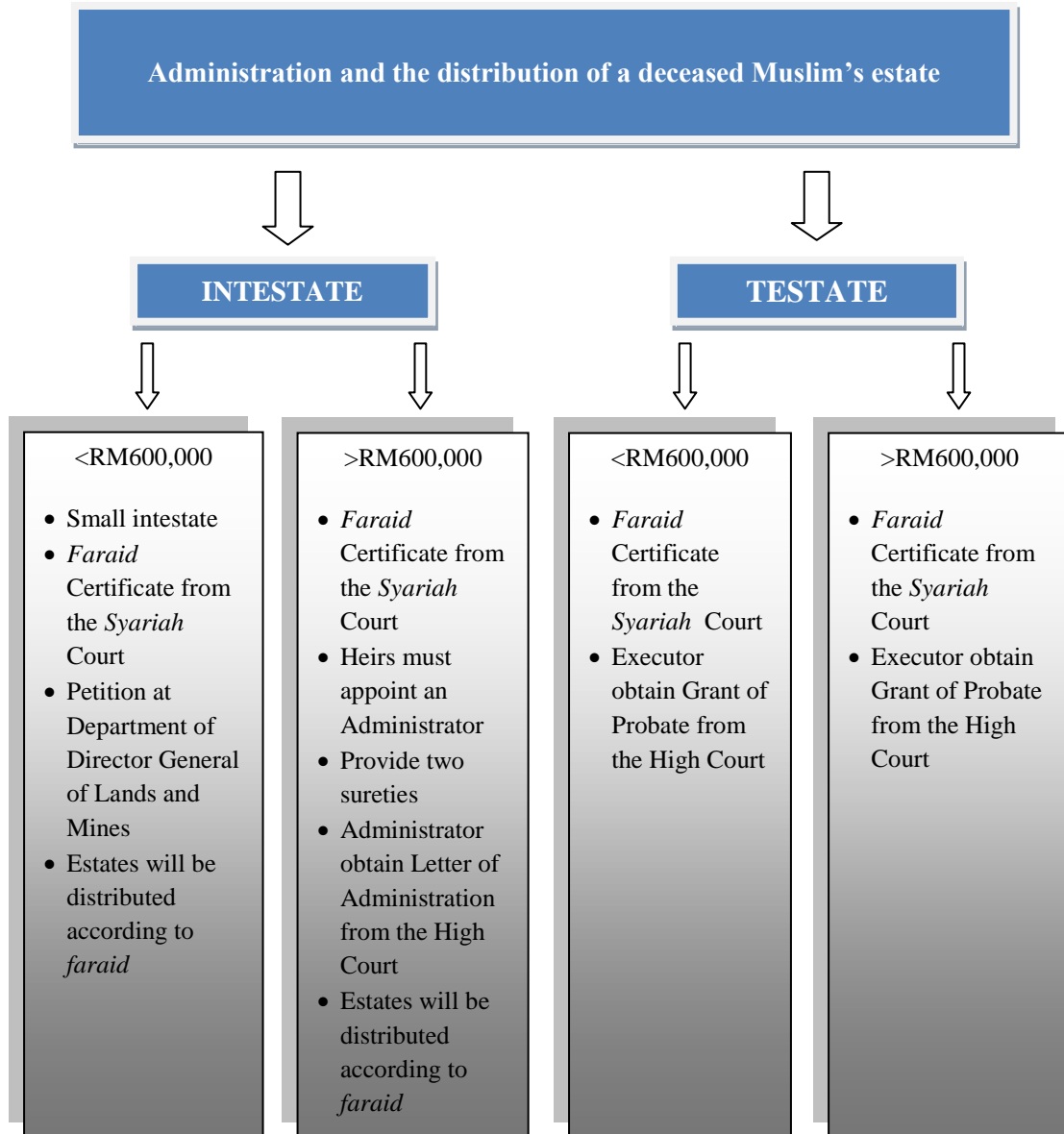
Syariah Court jurisdiction power only applies to Muslims. In regards to Islamic laws of succession, as can be found in the Islamic law administration statutes of states in Malaysia, a *Syariah* High Court in its civil jurisdiction is authorized to hear and determine all actions and proceedings pertaining to the wills, death-bed gifts, testate or intestate property, to determine the eligible heirs and certify their shares by issuing inheritance certificate. The *Syariah* Subordinate Court has similar jurisdiction power but is limited to cases in which the amount or value of the subject-matter in dispute does not exceed RM50,000 or is not capable of estimation in terms of money (Abdul Rahman, 2007:25; Marican, 2008:18; Hassan and Yusop, 2006:153; *Administration of Islamic Law (Federal Territories) Act 1993 (Act 505) & Rules*, 2006:22-23).

5.3.4 Amanah Raya Berhad (ARB)

As a public sector institution, the power of ARB to act as an executor, administrator, a trustee or guardian either alone or jointly with any person or body of persons is provided in the Public Trust Corporation Act 1995. It is also provided under the Small Estates (Distribution) Act 1955 that ARB can act on behalf of the person claiming the estate and ARB is required to attend the hearing in front of the Collector (Abdul Rahman, 2007:83; Marican, 2008:12; *Public Trust Corporation Act 1995 (Act 532)*, 2008:78).

5.4 THE ADMINISTRATION AND DISTRIBUTION OF ESTATES OF MUSLIMS IN MALAYSIA

Figure 5.1: Administration and Distribution of A Deceased Muslim's Estate in Malaysia



Sources: Omar (2006:4-5); Omar (2009:12-14 & 21) with modifications by the researcher.

A glimpse at the administration and distribution of a deceased Muslim's estate in Malaysia is illustrated in Figure 5.1 below. The process starts with the determination of whether the deceased died intestate or testate. Accordingly, small intestate matters⁶⁶ are handled by the Department of Director General of Lands and Mines after a petition is lodged by any person claiming to have an interest in the estate. When there is a *wasiyyah* left, the administration and distribution of an estate less than RM600,000 goes to the High Court. However, estates where the value is more than RM600,000 regardless of whether the deceased died intestate or testate have to go through the High Court.

The difference between both processes is that an executor is required to obtain a Grant of Probate, while an administrator is required to obtain a Letter of Administration. In the absence of a *wasiyyah*, heirs must provide two sureties for estates where the value is more than RM600,000. The *Syariah* Court only has rights in this matter to determine the eligible heirs and certify their shares by issuing the inheritance certificate (Abdul Rahman, 2007:21-22 & 25; Marican, 2008:18; Yaacob, 2006:173; INCEIF, 2006:263-264; *Administration of Islamic Law (Federal Territories) Act 1993 (Act 505) & Rules*, 2006:22-23; *Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:4).

In addition to what has been illustrated in Figure 5.1, ARB has an authority to administer the movable estate where the value is not more than RM600,000 whether a person dies testate or intestate. Such estate has to go through different procedures depending on the value of the estate. If the value does not exceed RM50,000 in cash, ARB will issue the Order and deliver it to the heirs. On the other hand, if the value exceeds RM50,000 but is less than RM600,000, a Declaration will be issued and afterwards, the assets will be pooled together. After the net estates of the deceased have been determined, ARB will proceed with the distribution according to *faraid* (ARB, 2006:41; Abdul Rahman, 2007:21; *Public Trust Corporation Act 1995 (Act 532)*, 2008:82-83; Yaacob, 2006:173-174).

⁶⁶ A small estate is defined as “an estate of a deceased person consisting wholly or partly of immovable property situated in any state and not exceeding six hundred thousand ringgit in total value” (*Small Estates (Distribution) Act 1955 (Act 98) & Regulations*, 2007:3).

5.5 ISLAMIC ESTATE PLANNING IN MALAYSIA

This section presents several segments covering the foundation of a complete understanding of the current practices in Islamic estate planning in Malaysia. It goes further by discussing the significances of Islamic estate planning for Malaysian Muslims and tries to rationalize the current scenario. Finally, it provides a review of the current Islamic estate planning industry in Malaysia.

5.5.1 The Three Main Components of Islamic Estate Planning in Malaysia

From a different angle, Hassan and Yusop (2006:157) propose that the attainment of a complete understanding of, and success in, Islamic estate planning relies on a combination of the following three main components: *Shari'ah* laws pertaining to inheritance; civil law; and financial planning. Notwithstanding the existence of civil law as the legacy of the British administration (Hassan, 2005d: 67; Muhamad, 2007:64), *faraid* still stands up as the cornerstone of Islamic estate planning, while the rest of the tools are intended to accommodate the estate planning process (Hassan, 2005d:67). Interestingly, in Malaysia, civil law regulates the procedures of estate administration and settlement which brings significant impacts on estate planning. For instance, dying intestate and testate are dealt with differently, and under such circumstances, Malaysian Muslims should anticipate the consequences and the authorized bodies that they should engage with. Islamic estate planning is incomplete without knowledge of financial planning, as estate planning is a fundamental component of it (Hassan, 2005d: 67-68).

5.5.2 Current Practice of Islamic Estate Planning

In general, Islamic estate planning among Malaysian Muslims is not widely practiced. According to Hassan (2005c:78), Malaysian Muslims do not view estate planning seriously. Even when it has been agreed verbally among involved parties, with the absence of any written agreement, family disputes and arguments often arise. Some Malaysian Muslims do plan their estate, but they do not necessarily follow approved or recognized procedures (Hassan and Yusop, 2006:156; Abdul Rahman, 2007:7; ZAR Perunding Pusaka, 2004b:8; Muhamad, 2007:66). Nordin Manan offers a concrete insight in which he says that the low level of awareness in Islamic estate planning in Malaysia is a consequence of a low level of Islamic financial planning itself (Poh, 2009:31).

5.5.3 Current Practice of Leaving *Wasiyyah*

The rationalization of *wasiyyah* practice in the Malaysian Muslim community, as contended by Yaacob (2006:171), is actually driven by their intention either to protect adopted children or for the reason of good deeds in the hereafter. Therefore, he concludes that Malays are most likely less concerned with estate planning matters when compared to the non-Malaysian community. On the other hand, Muhamad (2007:63-64) assumes that non-Malays practice will-leaving so that their estates are sorted more quickly, while Malays prefer to continue using traditional means of estate distribution, such as adhering to *faraid* or consensus among heirs.

ARB (n.d.a) argues that “generally the level of Malaysian awareness with respect to the importance of will is relatively very low and the evidence comes from the fact that 90 percent of Malaysians currently do not have a will”. In supporting this, Jin (n.d.:2) also admits that many Malaysians do not have a will. However, neither ARB (n.d.a) nor Jin (n.d.) differentiates between the likelihood of leaving *wasiyyah*/wills between Malaysian Muslims and non-Muslims. Hence, the number of *wasiyyah* made by Muslims, which have been kept under ARB, might usefully indicate the consciousness of Malaysian Muslim people towards the importance of leaving *wasiyyah*.

As can be seen in Table 5.1, from 1998 until 2005, the number of *wasiyyah* made by Muslims is repetitively low when compared to the number of wills made by non-Muslims. However the number of *wasiyyah* made by Muslims increased rapidly within the next five years, and in fact, for each consecutive year, the number of *wasiyyah* exceeds the number of wills. This growing trend could possibly be due to a growing demand and a need for financial planning products; and aggressive educational as well as promotional activities undertaken by *wasiyyah* writing providers (ARB, n.d.a).⁶⁷ Despite the large number of *wasiyyah* made with ARB, this is actually not an enormous achievement after taking into account that Islam is the main religion in Malaysia, and Malays are the largest ethnic group.

⁶⁷ Researcher has confirmed these figures with the interviewee from ARB. He stated that the number of *wasiyyah* has increased rapidly because ARB has appointed several partners. Banks, partners of ARB, are the largest contributors to the increasing number of *wasiyyah*. *Wasiyyah* is bundled up with the loan package and banks' clients are required to make a *wasiyyah* to get their loans approved.

Table 5.1: Number of Wills/*Wasiyyah* at ARB

Year	Muslims (<i>Wasiyyah</i>)	Non-Muslims (Wills)
Pre-1980	-	1,024
1980–1997	-	646
1998–2000	13	281
2001	1	108
2002	4	110
2003	131	223
2004	221	652
2005	666	968
2006	8,278	1,595
2007	11,535	2,710
2008	121,731	11,606
Jan 2009	4,987	338
Feb 2009	9,015	855
March 2009	7,321	491
April 2009	12,767	855
TOTAL= 199 132	176,670	22,462

Source: Omar (2006:17) and Omar (2009:3).

5.5.4 The Significances of Islamic Estate Planning and *Wasiyyah* in the Malaysian Muslim Case

At a glance, the provision of several legislations and the existence of various authorized bodies seem sufficient for catering to the different cases and different needs of Malaysian Muslims, unfortunately these do not fully guarantee the smooth processing of the estate administration and settlement. Therefore, with this issue in mind, the crucial roles of Islamic estate planning and *wasiyyah* are fully recognized. The significances of Islamic estate planning and *wasiyyah* on Malaysian Muslims are not very different from discussions in the previous chapter; viewing these significances from the Malaysian Muslims' standpoint, these significances can be elaborated further as follows:

Losing economic value and problems arising from frozen estates have been cited as common consequences when Malaysian Muslims do not concern themselves with planning their estates and leaving *wasiyyah*. Loss of economic value is obvious in the case of landed properties which are divided into many portions according to the shares that each heir is entitled to. Hence, in such cases, when the *faraid* is followed closely, the landed properties are converted to uneconomic land tracts and all parties lose out (Hassan, 2005c:78, Hassan and Yusop, 2006:154). The most popular example usually cited is Kampung Baru, Kuala Lumpur in which a 809.345 square meters piece of land,

valued at RM1000 per square meter, is inherited by 141 heirs, resulting in individual shares of only RM13.35 (Hassan and Yusop, 2006:150).

Problems arising from frozen estates refer to delays of the settlement period, to the extent it may take years to sort it out. Several statistics have been issued in regard to this matter. First, until mid-2009, ARB claim that there has been about RM40 billion of frozen estates (Azizi and Abdul Rahman, 2010). Second, to April 2007 there were 16,771 pending cases of estate settlement at the Department of Director General of Lands and Mines. Of this number, 5,200 cases have been underway for more than two years (Muhamad, 2007:68-69). A general assumption by Muhamad (2007:63) states that 90 percent of application for estates administration and settlement comes from Malaysian Muslims.⁶⁸ It should be noted here that the period of extracting a Grant of Probate for testate estates at less than six months is shorter than the period for extracting a letter of administration for intestate estates, meaning that the testate estate is unfrozen faster (Hassan and Yusop, 2006:154; Hassan, 2005b:79-80). On the other hand, some cases may take about three to ten years to be settled and it is possible to reach more than twenty years (Yaacob, 2006:172-173). It is very clear here that leaving a *wasiyyah* helps heirs from experiencing extensive estate administration procedures and thus minimizes hassle.

Another significance of Islamic estate planning and *wasiyyah* in Malaysia is to avoid problems caused by heirs. For example, there may be a lack of consensus among heirs to that extent they are reluctant to give cooperation, some heirs are untraceable due to a lack of information, some heirs may be too busy to sort out the estate distribution matter, some heirs may refuse to continue the process of administration of the estates if a great many barriers occur along the process, some heirs hold to a very old perception that estates⁶⁹ cannot be sold as a solution for the distribution of the estate (Muhamad, 2007:66-69; Hassan, 2008:28-29). By taking Kampung Baru as an example again, it is obvious that an early application for the distribution of the estate is crucial to avoid any increase of the number of substitute and untraceable heirs (Muhamad, 2007:68; ARB, n.d.b).

⁶⁸ This trend actually is not in line with the race ratio between Malays and non-Malays of which 45 per cent of the total Malaysian population are non-Muslims and it supports Muhamad's (2007) view that non-Muslims are more likely to utilize the function of will in their estate planning.

⁶⁹ Especially houses and lands.

Another area of significance lies in the regulations and existence of various bodies to address the estate matters which inevitably lead to overlapping the power of duties and public confusion towards the responsibilities of each bodies. For example, some cases have been brought to the wrong authority and then have subsequently been transferred to the right institutions, reflecting the inefficiency of the estate distribution system in Malaysia (Muhamad, 2007:65).

There is also a clear link between the delay of the settlement period and the status of estates. Any cases which involve estates without certificate of the title, where the certificate of the strata title⁷⁰ has not yet been issued or only a hire purchase agreement is available, have a strong possibility that such estates will go through a complicated administration procedure or will remain pending (Muhamad, 2007:68). The cost factor may play a part in the delay of the settlement especially when a huge value of estate is involved. Beneficiaries who claim the estates are required to present two guarantors and each of them should possess properties that have an equal value to the estates. Most of the time, they fail to meet this requirement and the High Court will appoint the ARB to administer the estates only with the agreement of heirs (Yaacob, 2006:174-175). A long processing period tends to increase the number of heirs, again leading to a loss of economic value.

Disputes over estate matters may arise due to several problems related to the nominees; such problems are quite relevant in the case of the insurance policies, *Tabung Haji* saving and Employment Provident Fund (EPF) saving. A *fatwa* on EPF saving was issued stating that the EPF saving of any deceased Muslims is an estate which is obligatory to be distributed according to *faraid* and the person who has the obligation to do so is the nominee who also acts as an executor. With regards to the *Tabung Haji* saving, the nominee or anybody who is entitled to the shares of the money in the absence of the nominee also acts as executor (Muhamad, 2007:72; Saidali, 2007:101-102). A *fatwa* was also issued regarding the nominee of the insurance policy in which the effect that takes place is similar to the EPF saving (Osman, 2007:112). Such *fatwas*, however, do not guarantee that the estates will be distributed according to the *faraid*. For example, some cases involve nominees who are relatives to the deceased but are

⁷⁰ Certificate of the strata title is given to the owner of the house living in the apartment and flat.

non-Muslims,⁷¹ nominees who do not understand the concept of *faraid* and nominees who in the end do not carry out their duty as entrusted to them (Osman, 2007:108-111; Mohd. Awal, 2007:133; Hassan, 2008:29; Awang, 2006:449-450).

Problems could come from the family structure itself in the sense that adopting children,⁷² practicing polygamy and having another marriage secretly are quite common in Malaysian Muslim culture, which ultimately create problems in the administration and settlement of the estate. As has been discussed previously, adopted children are not entitled to inheritance and without stating a bequest out of the one-third will leave nothing for them. An unregistered marriage, on the other hand, places the wife and the children in difficulty in claiming their rights over the estates of the deceased due to the absence of legal documents verifying the marriage, while being polygamous without settling jointly acquired properties among his wives in advance may lead to dissatisfaction among them (Hassan, 2005c:78; Mohd. Awal, 2007:132).

Taking into account the following cases related to women, Islamic estate planning and leaving a *wasiyyah* is strongly encouraged. Firstly, the current and modern situation in which a wife provides more to family financial matters. If she dies first, she ends up leaving half or a quarter of her estate to her husband according to the *faraid* and sometimes the situation creates unhappiness among other heirs particularly when she leaves no children. Secondly, when a mother re-marries and they have children from different marriage ties and the couple does not plan their estates wisely, the same outcome happens. Thirdly, a husband dies leaving his wife and children who are minor. Fourthly, a wife who does not have information about her husband's loans, assets and nominees (Mohd. Awal, 2007:129-133). A glimpse at women's rights in Malaysia with respect to inheritance matters indicates that the right of claiming jointly acquired property is provided by the state Islamic Family Law Enactment. The *Syariah* Court is the institution that has the jurisdiction power to hear and decide such cases (Lembut, 2007:8).⁷³ Jointly acquired property is defined as "property jointly acquired by both

⁷¹ This commonly happens when the deceased was someone who converted to Islam and left his/her ex-spouse, parents and children who are not Muslims.

⁷² Maeda (1975:164) proves that Malays frequently practice adoption or fostering.

⁷³ EPF is not a jointly acquired property and therefore the provision in the Muslim Family enactment does not apply here (Lembut, 2007:36).

husband and wife during the subsistence of a marriage in accordance with the conditions stipulated by *Shari'ah*" (Kamaruddin, 2004:21; Hassan, 2005c:78; Lembut, 2007:8). Sadly, Malaysian Muslim women have been identified as being less knowledgeable about the procedures of estate distribution and settlement; to a large extent they do not even take initiative to obtain information regarding these procedures and their rights over the estates (Mohd. Awal, 2007:129& 132-134).

The fact that Malays' privileges are protected through the several provisions of special legislations is an interesting point to be elaborated here; one of them is related to the Malay reservation lands under the Malay Reservations Enactment. The implication of this enactment on the settlement of the estates is implied by its banning of the transfer of Malays' lands to non-Malays regardless of whether the parties involved are Muslims (Disa, 2007:57; Ahmad and Ibrahim, 2006:159).

From the government's point of view, development projects which involve inherited lands technically have to go through a long period of settlement dealing with a large number of heirs. Based on this experience, for instance, 10 to 20 percent of the landlords had already passed away ages ago and some of them died before the Japanese occupation during the Second World War. These lands have still not been transferred to their heirs. Apparently, these are huge losses to the country as they actually could be developed if they were quickly transferred to the heirs. Negotiating and taking over these inherited lands can be time consuming in order to achieve a consensus among heirs (Muhamad, 2007:66).

5.5.5 The Reasons Behind the Low Practice of Islamic Estate Planning and *Wasiyyah*

The lack of awareness is one of the factors that contribute to the poor practice of Islamic estate planning and *wasiyyah*. Malaysian Muslims do not actually fully realize the significances (ZAR Perunding Pusaka, 2004, July:8) and methods (Hassan and Yusop, 2006:156) of Islamic estate planning and to a large extent they are not aware of the significances of *wasiyyah* writing as the main tool in Islamic estate planning itself (Mohyin, 2004:10). Lack of awareness then can also be associated to the lack of knowledge among Malaysian Muslims, which is explained in detail below.

Omar (2009:2) claims that Malaysian Muslims, particularly Malays, do not really want to write *wasiyyah* for three reasons: they are not really knowledgeable about *wasiyyah* and its significances; they are reluctant to write *wasiyyah* eventhough they are well informed about it; or they cannot afford to draw up a *wasiyyah* eventhough they are well informed about it. In relation to the first reason, it might be more precise to claim that the insufficient knowledge is reflected by their misunderstanding of the concepts of Islamic estate planning, *faraid* and *wasiyyah*. Malaysian Muslims hold a perception that the function of Islamic estate planning only comes into play when there is an intention and planning to make a *wasiyyah* for the purpose of charity or for non-heirs (Ahmad and Pyeman, 2008:39 and 56). The importance of Islamic estate planning seems only relevant to those leaving estates and probably receiving an inheritance (ZAR Perunding Pusaka, 2004b:8; ZAR Perunding Pusaka, 2004c:11). This perception goes deeper to the extent that they believe the *faraid* system is already provided to ensure entitlement to shares and that it is obligatory in the sense that the provision in *faraid* should be strictly followed; therefore, estate planning is not necessary for Muslims and leaving *wasiyyah* or not will not have any impact on the distribution (ZAR Perunding Pusaka, 2004b:8; ZAR Perunding Pusaka, 2004c:11; Hassan and Yusop, 2006:155; Omar, 2009:2).

On top of this, engaging with multiple definitions of *wasiyyah* probably contributes to the problems. The issue of the multiple definitions used in society is addressed in Abdullah (2005:131-132), Harun (1994:17) and Hassan (2005b:80). Their contentions imply that *wisayah* or *wisoyah* is a trusteeship, a correct terminology to represent an Islamic will which contains the appointment of an executor. A *wasiyyah*, however, is actually a bequest. Marican (2008:117) points out, however, that Malaysian expression of *wasiyyah* is '*wasiat*'. Such expression has different implications depending on how an individual interprets it. When it carries the meaning of a bequest, people do not see any reason for them to leave a '*wasiat*' to non-heirs if the potential estates to be left were enough for the needs of the family (Hassan and Yusop, 2006:154). With regard to '*wasiat*' as '*wasiyyah*' or a will, Ahmad and Pyeman (2008:39, 52-53 and 56) contend that Malaysian Muslims are aware of and familiar with the term of *wasiyyah* but they do not have a clear idea or enough understanding about *wasiyyah* and they claim this is a result of the lack sufficient knowledge of *wasiyyah*. In other words, Malaysian Muslims fail to understand the significances of having *wasiyyah* which carries the meaning of a

will especially for the purpose of estate administration and settlement in the future as they interpret it in the wrong way.

With regard to the second reason mentioned by Omar (2009:2), for some people, eventhough there is some level of awareness and knowledge, they on the other hand, take this matter lightly and keep postponing drawing up a *wasiyyah*. This is perceived to be more related to the attitudinal factor. The third reason implies that cost is the main consideration for some people and this is reinforced by their lack of knowledge on the actual charge imposed by ARB and other *wasiyyah* writing providers.

The major cause for this lack of sufficient knowledge could lay in the Malaysian education system particularly on Islamic studies, which in Malaysia is compulsory for Malaysian Muslims and it runs from primary education until higher level of education. After leaving school, Islamic studies continue in higher level education. However, in Islamic studies emphasis is given more on the *tawhid* (faith), *fiqh* (rulings) and *ibadah* (worship). Those who go to Islamic secondary school have the opportunity to get a basic knowledge of Islamic inheritance, while in depth studies on this subject are only available for those who specialize in Islamic studies at college or university. The other means of obtaining such knowledge is by attending sermons at mosques, a series of lectures, talks or courses run by individuals or private companies.

The lack of awareness and knowledge is also correlated to the institutional factor due to the lack of dissemination or promotion from corresponding institutions (Ahmad and Pyeman, 2008:39, 52-53 and 56). Cultural values are also an important aspect of the underdevelopment of will writing. To put into a context, Maeda (1975:166) describes the Malay culture in the following way: “Malays try to get along with other people without directly pointing out their faults or hurting them publicly. Malay courtesy is an attitude of tolerance towards others, of compromise.” In other words, Malays are brought up to be courteous and well mannered. The upbringing of Malays, accordingly makes them either reluctant to discuss or to take a very cautious manner with respect to estate matters (Hassan, 2005e:78; Wan Harun, 2008:332-333; Abdul Rahman, 2007:118-123; ZAR Perunding Pusaka, 2004b:8; ZAR Perunding Pusaka, 2004d:8).

5.6 THE ISLAMIC ESTATE PLANNING SERVICE IN MALAYSIA⁷⁴

This section presents a range of Islamic estate planning products specifically designed to suit the objectives of estate planning and the viability of these products. At the end of this section, arguments on the viability of these products are brought together into discussion.

5.6.1 Products Offered by Islamic Estate Planners in Malaysia

The industry of Islamic estate planning has recently shown a growing trend in Malaysia and as a result more players are entering into this industry. Yet, ARB is well known as the established and the only public authorized agency that has offered a range of comprehensive Islamic estate planning since 1995.⁷⁵ Several banks such as Bank Muamalat, CIMB and BMB as well as private *wasiyyah* writing providers including ZAR Perunding Pusaka, *Wasiyyah* Shoppe, As-Salihin Trustee Berhad and Amanah *Hibah* are heading towards grabbing the potential market. Below are the details about products of Islamic estate planning in Malaysia:

5.6.1.1 *Wasiyyah* writing

Drawing up a properly designed *wasiyyah* and appointing an executor could be seen as the essential product of Islamic estate planning as it is the main procedure a Muslims should prepare before proceeding with other means of estate planning. At ARB, a client who would like to make a *wasiyyah* is required to make a basic *wasiyyah* first at a cost of RM350, followed by a comprehensive *wasiyyah*. The basic *wasiyyah* is a document declaring the appointment of ARB as the executor while a comprehensive *wasiyyah* contains clauses mentioning the client's specific assets, instructions for distribution and bequests (ARB, n.d.e). ZAR Perunding Pusaka calls the document for appointing an executor the *Wisoyah* Document or Islamic Will Document and the *wasiyyah* document as Islamic Bequest Document (Hassan, 2005b:80).

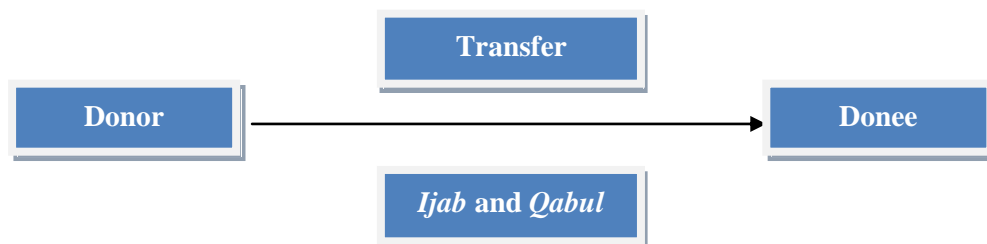
⁷⁴ This section is based on secondary data as a review. The analysis of the primary data on the subject can be found in Chapter 9.

⁷⁵ It used to be one of the government agencies known as *Jabatan Pemegang Amanah Raya dan Pegawai Pentadbir Pusaka Malaysia* founded in 1921 (Bakar, 2006:133).

5.6.1.2 Hibah

Applying *hibah* into a client's estate planning can be either in the form of Direct *Hibah* or Trust *Hibah*⁷⁶. The structure of the Direct *Hibah* is simpler than the Trust *Hibah*; it is validated and concludes with the acceptance of the gift by the donee followed by the technical procedure transferring the property right between parties involved as shown in Figure 5.2. Trust *Hibah*, however, is the modification and combination between *hibah* and trust features (Yaacob, 2006: 191-194). Accordingly, some restrictions in *hibah* can be eliminated and its application is more flexible in the sense that this new form of *hibah* is now allowed to be given conditions either *'umra* or *ruqba* (Yaacob, 2006:184-185). Indeed, Trust *Hibah* is now more efficient in terms of legal procedures, cost and time as there is no longer a requirement for the application of the letter of administration, Grant of Probate or Order from any of the various authorized bodies while at the same time bringing down the costs and time for such settlement (Yaacob, 2006:197).

Figure 5.2: Direct *Hibah*



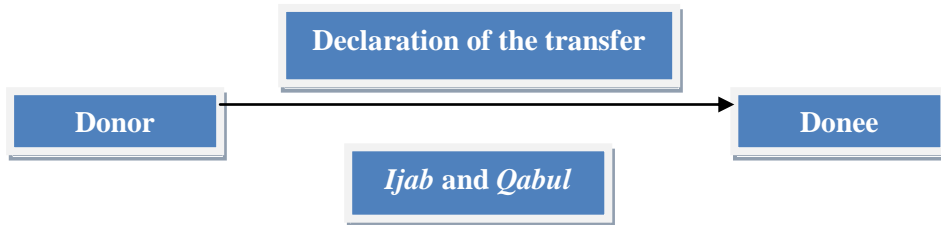
Sources: Yaacob (2006:200-201); Warisan Mukmin (n.d.) and Zulhazmi (2006).

⁷⁶ Trust *Hibah* is also called Trustee *Hibah*.

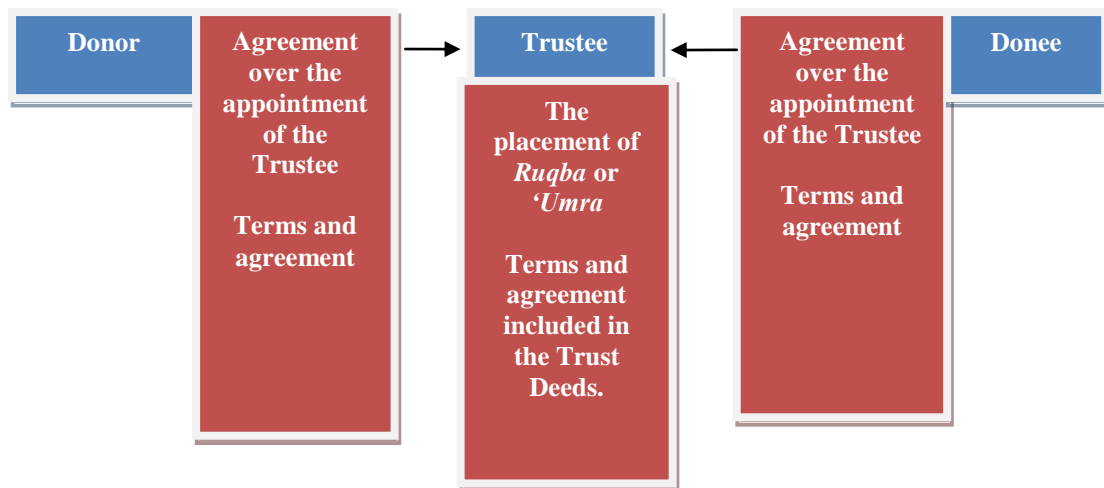
As illustrated in Figure 5.3, the construction of the Trust *Hibah* comprises two stages. After completing the first stage which is exactly identical to the Direct *Hibah*, the second stage is the procedure that involves the assets to be entrusted to a trustee for a certain time frame according to the Trust Deed which is agreed between the donor and the beneficiary. The declaration of the Trust *Hibah* takes place during the lifetime of the donor, however, the transfer of ownership of the assets is after the demise of the donor. Between the two periods, the termination of the Trust *Hibah* is allowed except for a contract that involves a gift from a husband or wife (Yaacob, 2006:193-194; ARB, n.d.d).

Figure 5.3: Trust *Hibah*

Step 1: Declaration of the transfer



Step 2 (Immediately after Step 1: Setting up Trust Deeds Among Parties)

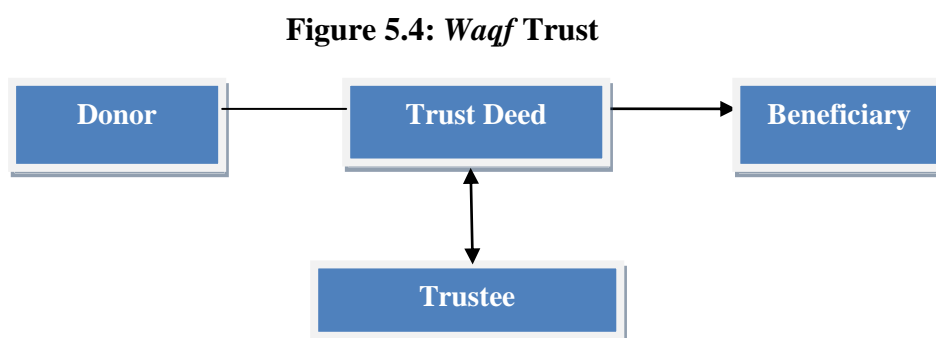


Sources: Yaacob (2006:200-201); Warisan Mukmin (n.d.) ; Zulhazmi (2006) and with some modifications by the researcher.

Either moveable or immovable assets may be placed under Trust *Hibah* and most of Islamic estate planning agencies place a condition that the properties cannot be encumbered property because in such cases involving landed properties the transfer of ownership cannot be completed as according to the Land law in Malaysia, (ARB, n.d.d; Hassan and Yusop, 2006:163). Despite this constraint, ZAR Perunding Pusaka has targeted to tap the ‘*hibah* of encumbered property’ market which allows a Muslim to give away property during his or her lifetime although it is still charged to the bank (The Edge Daily On-Line, 2007).

5.6.1.3 *Waqf*

Waqf can be made directly in an old fashioned way. However, nowadays, it can appear in the form of *waqf* trust as offered by the BIMB Trust Limited. The product structure is shown in Figure 5.4 starting with the appointment of a trustee via a Trust Deed by the donor. Then, the *waqf* asset for the benefit of the named beneficiary will be handed from the donor to the trustee followed by the signing of the Trust Deed by the trustee for the constitution of the trust to be accomplished (Zulhazmi, 2006; BIMB Trust Limited, n.d.).



Source: Zulhazmi (2006)

5.6.1.4 Trust account

Trust account is another option offered and it has several features which make it more attractive. First, if the donor has been declared as bankrupt, all the trust assets will be kept safe from creditors. Second, the trustee has control over both processes to ensure the account is safe for the long-term for the benefits of the beneficiaries. The purpose of the trust account is to ensure the beneficiary's benefits will be taken care of continuously through a responsibility created between donor and trustee as they agreed in the Trust Deed. The immovable and moveable assets⁷⁷ can be deposited in a trust account (ARB, n.d.c). According to As-Salihin Trustee Berhad, a trust can exist in any one of three forms. Firstly, a testamentary trust which is created after the lifetime. It can be stated in the *wasiyyah* and takes effect on the death of the testator. Secondly, a statutory trust which is automatically created by law to protect the interests of the particular party such as in the event of the intestacy. Thirdly, a living trust which is created during the lifetime of the settler and takes effect immediately after completion of the process (As-Salihin Trustee Berhad, n.d.). A trust account for individuals can be assigned for the following purposes namely charitable, family, education and maintenance (ARB, n.d.c; As-Salihin Trustee Berhad, n.d.).

5.6.1.5 Other products

Other services available in the industry are Mutually Acquired Property Document for the purpose of the claims of the jointly acquired property and *Faraid* Value Distribution Document. Claims over jointly acquired property can be carried out at the *Syariah* Court even without the Mutually Acquired Property Document, however, early and proper preparation can speed up the settlement period as well as reducing the legal cost. The product enables the client to declare and allocate to each spouse by way of a written declaration of this right to their jointly acquired property provided that the spouse's share in the document should not exceed half of the value of the estates (Hassan, 2007:163).

⁷⁷ EPF without nominee can be placed under Trust Account (ARB, n.d.c).

For any client who would like to protect their assets from being split into many portions hence diminishing the assets' value, *Faraid* Value Distribution Document⁷⁸ could be the solution. The procedures begin with the identification of the heirs, their entitlement shares and is followed by the determination of the assets that will be given to the heirs which equal their entitlement shares. However, it should be noted here that jurists differ in this matter in the sense that they argue either the document is a trust that should be carried out or it should obtain consent from the heirs before proceeding (ZAR Perunding Pusaka, 2004a:8; Hassan and Yusop, 2006:165-167).

5.6.2 Viability of the Products

As suggested throughout the discussion above, *wasiyyah* could be the best solution to the Malaysian Muslims' estates problems. Ironically, not all *wasiyyah* writing providers agree with this contention. Without denying the function of *wasiyyah* itself in this matter, ZAR Perunding Pusaka and *Wasiyyah* Shoppe are among those who hold different opinions when it comes to the issue of which is the most efficient method Malaysian Muslim should use to distribute their estates. ZAR Perunding Pusaka views that the only remedy to the Malaysian Muslims' estates problems is *faraid*. It suggests that by having a thorough understanding of the *faraid* concept, knowing the quantum of share that each eligible heir is entitled to and engaging *faraid* into the estate planning will definitely solve the problems (Hassan, 2008:33). In contrast, *Wasiyyah* Shoppe believes *hibah* is the most efficient way for someone to ensure his/her estate is to be distributed according to his/her intentions upon death (Sabirin, 2009:60). Abdullah (2008:38; 2005:176-181), as can be extracted from his studies, however, is sceptical about *hibah* product attached with *'umra* or *ruqba* condition. His concerns can be listed as follows: firstly, he does not agree with the modes of operation of Trust *Hibah*, he questions the validity of such product as he thinks it is against the *Shari'ah* rules and he even claims that the Fatwa Council of the Federal Territory of Kuala Lumpur made a mistake in endorsing the Bumiputra-Commerce Trustee Berhad's *Hibah Harta* back in 2000.⁷⁹ Secondly, he says such product portrays that *faraid* is now perceived as optional rather than mandatory. Finally, he is concerned that it could lead to a circumstance in

⁷⁸ This document should be prepared together with the *Wisoyah* Document and only executed with the heirs' consent. It should be noted here that ZAR Perunding Pusaka is the only agency that uses the *Wisoyah* term while other use *Wasiyyah* term.

⁷⁹ This *Hibah Harta* has similar features as Trust *Hibah* product. For further information regarding this issue, see Abdullah (2005).

which people try to find ways to avoid *faraid* to the extent they may not even be bothered to learn *faraid*.

Awang (2006:442-443) argues that Trust *Hibah* has been promoted by *wasiyyah* writing providers and Islamic estate planners in Malaysia as an instrument of estate planning and yet, there is no consensus regarding the issue of *'umra* and *ruqba*. In fact, there is no provision in terms of legislation for the product. The jurisdiction of the *Syariah* Court on Trust *Hibah* is something that can be easily contested since only the Civil Court has jurisdiction on trust. The combination of *hibah* and trust in this product has a tendency to create a conflict between the *Syari'ah* Court and Civil Court. Despite the divergence of their opinions, each *wasiyyah* writing provider or Islamic estate planner has a *Shari'ah* panel to review and assure their products are *Shari'ah* compliant before they are launched in the market.

5.7 CONCLUSION

Given the findings from the previous research and observations from credible people who have actively involved in Muslim estate administration and Islamic estate planning service, it is not surprising that Malaysian Muslims are still far behind in this particular matter in terms of knowledge and implementation. In the presence of existing legislations and authorized institutions, they do not seriously consider preparing themselves with the knowledge of Islamic estate planning. Their ignorance finally leads to the emergence of estate administration and settlement problems. Eventhough the Islamic estate planning service has grown rapidly recently with various types of product, there is still lot that needs to be addressed in the future and educating the public should be a priority.

Chapter 6

RESEARCH METHODOLOGY AND DESIGN

6.1 INTRODUCTION

The research methodology chapter is an essential part of any research as it identifies what has been done in tackling the research questions established at the beginning of the research. Thus, this chapter describes the research process by outlining the research design and methodology used in this study. In a very simple description, this research is identified as a combination of an exploratory and explanatory study taking the route of inductive and deductive approach. Nevertheless, it also can be considered as a case study as it investigates the subjects of interest within Malaysia. Data were collected in a means of a mixed method research consisting of the self-administered questionnaire, semi-structured interview and literature based research. This study also benefited from both quantitative and qualitative methods including mean scores, chi-square, ordered probit model, multinomial logit model and narrative approach.

6.2 RESEARCH METHODOLOGY

Research methodology is simply about “an approach used to systematically collect and analyze empirical data and carefully examine the pattern in them to understand and explain social life” (Neuman, 2000:122). There are two types of research methodology – qualitative or quantitative. Qualitative research usually emphasizes “words rather than quantification in the collection and analysis of data” while a quantitative research emphasizes “quantification in the collection and analysis of data” (Bryman, 2008:21). This implies that quantitative researchers place greater emphasis on measuring variables and testing hypotheses in order to figure out the causal explanation while qualitative researchers rely more on interpretive or critical social science (Neuman, 2000:122). Unlike most quantitative research, such as an experiment, which is not at all naturalistic, “a qualitative research is naturalistic preferring to study people, things and events in their natural settings” (Punch, 2005:141). However, Punch (2005:141) clarifies further as follows:

“Even though some quantitative research can be naturalistic in which it studies people in their natural settings without artificially contriving situations for research purposes, such as observational studies and correlational surveys, but they are likely to have a prefigured conceptual framework and design, with prestructured data. While qualitative designs are more likely to delay conceptualizing and structuring of the data until later in the research.”

With respect to this study, the research methodology involved in this study is qualitative on the ground that this study engaged with the investigation of human attitudes and behaviours. It explored and explained a particular phenomena through the perceptions of the stake holders. Secondly, there was no existing conceptual framework or prestructured data that this study could rely on to begin with. Conceptualizing and structuring of the data was completed once patterns, themes and categories had been established through inductive analysis. In addition, since this research is an explorative research, it has to be designed within the qualitative research methodology framework.

6.3 RESEARCH DESIGN

Research design is a general plan of a research on how it will be carried out in order to answer the research questions (Saunders *et al.*, 2007:131). In other words, a research design provides “a framework for the collection and analysis of data” (Bryman, 2008:31). According to Sekaran (2003:117), identifying the most suitable research design for a particular research is done after locating the area of research interest, gathering preliminary data, defining the research problem, identifying variables and generating hypotheses. Exploratory study, explanatory study, descriptive study and hypotheses testing are among research designs listed by Sekaran (2003), Saunders *et al.* (2007) and Zikmund (1994). Bryman (2008), however, categorizes research designs into five groups namely experimental, cross-sectional, longitudinal, case study and comparative.

The research aim of this study identified two particular dimensions which the researcher intended to investigate. With regard to the investigation of awareness of *wasiyyah* and its practice, an exploratory research design is considered as the best research design. Before substantiating the reasons for asserting that part of this research is explorative in nature, it is important to understand the definition and features of exploratory studies. Exploratory study can be defined as an initial research which aims to find out what is

happening or to clarify and define the nature of the problem (Sekaran, 2003:119; Saunders *et al.*, 2007:133; Zikmund, 1994:33). Exploratory study has its own distinctive features. According to Sekaran (2003:119–120), Neuman (2000:21), Bryman (2008:53) and Zikmund (1994:88–91), a particular research is exploratory research if: it is conducted on a new issue or conducted at a starting level; researchers have written little on it; there is limited information about it; only some facts are known; further information is required which calls for more preliminary work; the goals of such research are to help more rigorous and more conclusive studies to be conducted in the future; to formulate more precise questions that future research can answer and find answer to ‘what’ question. In essence, several features of this research are similar to the features listed above. Some facts related to the issue were known from newspapers, magazines, books and limited studies conducted in such area but, this researcher, in fact, relied heavily on the empirical studies of ‘will practice’ in the United Kingdom to produce an empirical study on *wasiyyah*. This research is important to find answers to a bulk of ‘what’ questions, in order to develop a good understanding of the *wasiyyah* matter.

As mentioned above, this study also entails the investigation of another particular issue that it is closely related to *wasiyyah* topic: the attitude among Malaysian Muslims to leaving a bequest. There have been several theories developed to understand bequest transfers. Therefore, to robustly say that the whole study is a purely exploratory one is probably incorrect. Perhaps, it is more explanatory on the part of bequest investigation. Saunders *et al.* (2007:134) simply defines explanatory study as a type of study that “establishes causal relationship between variables”. With regard to the features of the explanatory study, Neuman (2000:22-23) explains this in the following manner:

“It is a research with the aim of getting answer to ‘why’ question; it builds on exploratory and descriptive research and goes on to identify the reason something occurs; it tests a theory’s predictions or principle; it elaborates and enriches to new issues or topics; and finally it extends a theory to new issues or topics.”

The explanatory element can be easily observed from the beginning of the study. This study aims also to answer the ‘why’ question – why Malaysian Muslims want to leave, or not to leave a bequest, which reflected from their bequest motives. With the presence

of subsequent theories, factors expected to contribute to such attitudes were easily identified. Consequently, hypotheses were soundly developed and tested to see whether they explain Malaysian Muslim society's behaviour towards bequest. However, the exploratory element also appears in the bequest investigation, as the study also aims to explore the perceptions of the participants as to what types of bequest society has made and would plan to make in the future, but again, with the objective of substantiating the answer to the research question mentioned above. In sum, this research was developed within exploratory and explanatory research design frameworks. It should also be noted that since this study focuses on Malaysia, it should be considered as a case study as well.

6.4 RESEARCH STRATEGY

Research strategy tells the relationship between theory and research. To be precise, it prescribes the nature of the relationship between theory and research in whether “theory guides research (known as deductive approach) or whether theory is an outcome of research (known as an inductive approach)” (Bryman, 2008:4–5). Sekaran (2003:32) defines the deductive approach as “the process of arriving at conclusions by interpreting the meaning of the results of the data analysis”, while Patton (2005) says “it is the process where the data are analyzed according to an existing framework”. The process starts with the hypotheses derived from the theory, followed by data collection and analysis. Findings are then used to confirm or reject the hypotheses and finally the corresponding theory is revised (Bryman, 2008:10). An inductive approach, on the other hands, differs from the deductive approach. As outlined by Bryman (2008:385 and 387) and Neuman (2000:49), the inductive approach begins with the observations, refining the concepts, forming generalizations and ideas, identifying preliminary relationships and finally building the theory from the ground up. Bryman (2008:11) simplifies that “the process of induction involves drawing generalizable inferences out of observations”.

It should be noted that in responding to two dimensions of the research both strategies were utilized. An inductive approach is in the investigation of the *wasiyyah* as this dimension was entirely based on exploring the field through measuring perceptions with the objective of developing some patterns that governed the sample. Consequently, in this particular part of the study, this research aims at testing hypotheses rather than

generating hypotheses. The deductive approach can be seen in the investigation of attitudes to leaving a bequest, which started with the theoretical underpinning followed by developing the hypotheses derived from the literature review, which then were tested. The analysis of the data provided the empirical findings which finally helped this study to relate it back with the theories used.

With regard to developing hypotheses, some people might argue that a research is supposed to use an inductive approach when hypothesis testing is involved. However, Sekaran (2003:31) views that this is not necessarily the case. According to Sekaran (2003:31), there are circumstances in which hypotheses are not originally generated through the process of induction. The hypotheses are developed and tested after the data are obtained and when some creative insight occurs. Sekaran (2003:31) says further that, “Generally, in research, hypotheses testing through deductive research and hypotheses generation through induction are both common”. Therefore, the application of both inductive and deductive approach in this research is firmly justified.

6.5 RESEARCH METHODS

Research methods are techniques used for collecting and analysing data. Techniques for data collection could be by means of questionnaire, a structured interview schedule and participant observation (Bryman, 2008:31). With regard to this research, data collection methods were quantitative (survey), qualitative (interview) and with the descriptive earlier chapter. Such combination of techniques is called mixed method or triangulation. It is defined by Burns (1997:324) as “the use of two or more methods of data collection in the study of some aspect of human behavior”. It should be noted that triangulation is “widely used nowadays to refer to research that combines methods associated with both quantitative and qualitative research” (Bryman, 2008:23). Eventhough this research is qualitative research, Patton (2005:5) confirms that “qualitative findings may be presented alone or in combination with quantitative data”. Patton (2005:5) says further “at the simplest level, a questionnaire or interview that asks both fixed-choice (closed) questions and open-ended questions is an example of how quantitative measurement and qualitative inquiry are often combined”.

The benefits of applying a triangulation technique are mentioned by several authors: “Quantitative and qualitative research is combined to triangulate findings in order that they may be mutually corroborated” (Bryman, 2008:608). In other words, the findings from a particular method are cross-checked with another findings generated by other method. Secondly, it improves the internal validity of the data and could be seen as part of a strategy to strengthen and enhance the research as it offsets the weakness of other methods applied in the research (Burns, 1997:324; Bryman, 2008:603 and 611). This research used the triangulation method purely for the benefits listed above. Exclusive reliance on one method probably leads the researcher to underestimate the reality of phenomena of interest. As a result, this researcher interrogated data collection from questionnaires against data from semi-structured interviews. Findings from both of questionnaires and semi-structured interviews were verified and contextualized against data from descriptive analysis in earlier chapters (Chapter 3-5) to increase the robustness of the findings.

6.5.1 Primary data collection methods

With the respect to the data collection approach, a mixed or triangulation method was used. The quantitative research is represented by the collection of data through questionnaires which were quantified before they were analysed, while qualitative research is characterized by the collection of data through semi-structured interviews.

6.5.1.1 Questionnaire

Primary data for this research in the form of survey data were obtained by means of questionnaire, which is defined as “a series of pre-determined questions that can be either self administered, administered by mail or asked by interviewers” (Burns, 1997:472) or “a preformulated written set of questions to which respondents record their answers, usually within rather closed defined alternatives” (Sekaran, 2003:2366). In the situation that data collection tries to reach a large scale of respondents in different geographical regions but facing time and budget constraints, the questionnaire has its own advantages that make it the most appropriate method of data collection. The advantages of this method are as follows:

- (i) Information can be fairly and easily obtained at cheaper cost; easy to administer (Sekaran, 2003:249; Bryman, 2008:217).

- (ii) The questionnaire responses are easily coded, prompt quick responses and avoid tendency of rambling (Sekaran, 2003:249; Bryman, 2008:217-218).
- (iii) “When well-validated instruments are used, the findings of the study benefit the scientific community since the results can be replicated and additions to the theory base made” (Sekaran, 2003:249).
- (iv) In the absence of the interviewer and where confidentiality is guaranteed, it is convenient for respondent to answer the question in their own time and pace without fear and embarrassment, As a result, more truthful responses can be obtained (Burns, 1997:482).

The disadvantages of using this method are also noticeable and listed below:

- (i) A very limited number of questions can be asked (Bryman, 2008:218).
- (ii) High tendency of missing data (Bryman, 2008:219).
- (iii) Lower response rates (Burns, 1997:483; Bryman, 2008:219).
- (iv) Ambiguity and vagueness in understanding and answering certain questions cause poor responses and inaccurate information (Burns, 1997:483).
- (v) There is no room for further prompting and probing (Bryman, 2008:218).
- (vi) “Sampling problem – when all questionnaire are not returned, the likelihood of biased sampling exists” (Burns, 1997:48).

6.5.1.1.1 Questionnaire design

The questionnaire used for this research was designed in such a way to respond to the already defined research questions. As such, it consisted of six parts: respondent’s background, *wasiyyah* practice, practice and attitudes towards leaving a bequest, motives of leaving a bequest, respondent’s knowledge on Islamic estate planning and *wasiyyah* and *wasiyyah* writing provider. Noting the flaws of applying the questionnaire method, accordingly the construction of the questionnaires was based on previous studies which were carried out within the same area of interest, thus helping to avoid the interviewer from asking unrelated and ambiguous questions. Therefore, for the purpose of investigation awareness and *wasiyyah* practice, most of the questions were developed with the help of existing studies such as Ahmad and Pyeman (2008), Muda *et al.* (2008), Brooker (n.d.), Finch and Mason (2000), Rowlingson and McKay (2005) and SCC (2006). In addition, the construction of the questionnaire with the aim to investigate bequest behaviour and motives benefited from the studies such as Rowlingson and

McKay (2005), Kao *et al.* (1997), Light and McGarry (2004), Villanueva (2005), Horioka *et al.* (2000) and Laitner and Ohlsson (2001). For simplicity, most of the questions were close-ended. A close-ended question is defined as a question that comes together with a set of alternative answers from which respondents are to select one or more. The researcher limited the choices given to the respondents because it helps respondents to make quick decision and was easier to code (Sekaran, 2003:239; DeVaus, 1996:86).

It should be mentioned that variables that involve the measurement of attitude, perception, emotion or knowledge require a meticulous conduit so that they can be described in a format that can be analysed. Brace (2004:78) expresses this as “helping respondents to express their attitudes by itemizing the rating scale of the attitudes”, which is supported Bryman (2008:142) who states that “the questions are prepared in a way that the data can be quantified”. Therefore, this study applied a common technique used in the research which is known as the Likert scale. The Likert scale provides a straightforward way of asking attitudinal information that is easy to analyse (Bryman, 2008:146; Brace, 2004:79).

6.5.1.1.2 Translation

Although English can be commonly used in Malaysia, to make sure that the entire sample were able to understand the questions, translation of the questionnaire was essential. The translation from the English version of the questionnaire to the Malay version was completed through a process called parallel translation. This translation technique requires the source questionnaire to be translated by two independent translators and the final version of the questionnaire was developed immediately after the researcher made comparisons (Saunders, *et al.*, 2007:376). One of the translators was a lecturer with an Islamic studies background while the other was a lecturer who had research methodology teaching background.

6.5.1.1.3 Sampling

Realistically, covering a wide latitude of respondents was difficult to achieve in the presence of the two major obstacles for this study, namely time and funding. As a result, from the beginning, the researcher intended to use a purposive sampling method for both the survey and the semi-structured interviews. Purposive sampling is defined as an

“acceptable kind of sampling for special situations which uses the judgment of an expert in selecting cases or it selects cases with a specific purpose in mind” (Neuman, 2000:198).

With regard to the survey via questionnaire, the sample used is representative of a group of civilian Muslims, age 18 and above, who lived in Malaysia when the survey began. The aim of obtaining a sample of 300 respondents coming from each state of Malaysia seemed to be impossible and as a result, the states were divided according to regions: 14 states constitute Malaysia and the researcher had noticed in the beginning that this survey would not be able to get respondents from East Malaysia (comprising of Sabah and Sarawak) due to the constraints mentioned earlier. The remaining 12 states in Peninsular or West Malaysia are normally categorized as follow: East Coast States, West Coast States, North States and South States. Similarities in terms of cultures and accents exist among states within the same regions.

However, this study encountered a problem of a biased sample due to using the non-probability sampling method because it does not represent the population from which the sample was selected and it eliminates equal opportunity of the members of the population to be selected (Bryman, 2008:169). The researcher was aware that it is impossible to remove bias altogether and to derive a truly representative sample. Thus, Bryman’s (2008:169) remark was observed, in which he says that necessary steps should be taken to keep bias to an absolute minimum (Bryman, 2008:169). The succeeding part is the explanation on how this study engaged itself with the various guidelines provided by many authors in substantiating the action of choosing purposive sampling.

To begin with, the researcher believes the choosing of purposive sampling among the various types of the non-probability sampling was made carefully. First, purposive sampling is used extensively, especially in exploratory research. Second, in spite of all flaws associated to purposive sampling, it is claimed to be appropriate in the following circumstances:

“to select unique cases that are especially informative, to use on specific types of people who can provide the desired information because they are the only one who have it; to use on group of people with certain criteria

set by the researcher; to select members of a difficult-to-reach or specialized population and when a researcher wants to identify particular types of cases for in-depth investigation” (Sekaran, 2003:277; Neuman, 2000:198).

It is true that this study was required to obtain information from specific target groups on the ground that they had information that researcher looked for. This matter, in fact, was given a huge consideration in Finch and Mason (2000) during their process of construction of variable and sampling. Consequently, it helped this study to justify which ‘specific groups’ it tried to achieve. These specific target groups were actually those who have made a *wasiyyah*, who have experience of receiving an inheritance, non-Malay Muslims, having non-Muslim parents, having non-Muslim children and having adopted children. The researcher made herself very clear about her decision in selecting these variables in Section 6.7.3 (Definition and identification of the variables). For the reasons provided earlier and because it is also a requirement of the econometric models used in the research to have enough cases for certain variables in order to avoid the empty cells⁸⁰ problem, this study was required to ensure that the sample contained a large number of respondents possessing these features. However, these groups of respondents could be considered to be a difficult-to-reach or specialized population as highlighted by Neuman (2000) as relatively difficult to reach by using other sampling methods.

After making a decision of which sampling design to use, the second consideration was the decision of the sample size. Roscoe (1975) as cited in Sekaran (2003:294–295) provides the following rule of thumb for determining sample size:

- (i) “Sample sizes larger than 30 and less than 500 are appropriate for most research.”
- (ii) “In multivariate research, the sample size should be several times (preferably 10 times or more) as large as the number of variables in the study.”

These suggestions were observed when determining the sample size of this research. The sample size for the survey obtained by this research was 314 and so within the rules of thumb as outlined above.

⁸⁰Empty cell or zero cell occurs when cell is empty or extremely small (Menard, 2001:78).

6.5.1.1.4 Administration of the questionnaire

Data collection for this study took place from April to June 2009. Prior to the actual data collection, a pilot study was conducted to check the validity of the questionnaire. Several key amendments were made after reviewing the feedback from the pilot study. The pilot test was carried out using the English version of the questionnaire. During the pilot test, it was found that some respondents had different interpretations of *wasiyyah* in which some of them thought it referred to a will while others thought it referred to a bequest. Due to the double meanings of *wasiyyah* in Malaysian Muslim culture and by taking into account that they were more familiar with the Malay interpretation of *wasiyyah* as '*wasiat*', therefore, only the Malay version of the questionnaire was used. After the first amendment, a second pilot study using the Malay version of questionnaire was conducted. It should be noted that a question asking "Why did you decide to make a *wasiyyah*?" gave the information whether the respondents' *wasiyyah* can be considered as a will or a bequest.

Initially, some of the questionnaires were also distributed through email. However, due to a very slow response rate via email, the rest of the questionnaires were hand distributed to the respondents. Some 500 questionnaires were distributed, but only 397 were returned. The response rate is 79.4 per cent. Out of this number, 317 were usable for the preliminary analysis. After the first screening of the respondents' answers, three were eliminated from further analysis leaving only 314 questionnaires.

6.5.1.2 Semi-structured interview

Interview is one of the data collection methods – by means of asking questions and receiving answers – which is very suited to being employed to access people's perceptions, meanings, definitions of situations and constructions of reality (Punch, 2005:168-169). An interview could appear in three different forms namely: unstructured, semi-structured or structured (Punch, 2005:169). In an unstructured interview, there is no a planned sequence of questions and no categorization imposed prior to the interview which might limit the field of inquiry. It is also called a non-standardized interview (Punch, 2005:169 & 172; Sekaran, 2003:225). The objective of conducting an unstructured interview "is to bring some preliminary issues to the surface so that the researcher can determine what variables need further in-depth investigation" (Sekaran, 2003:225).

By contrast, a list of predetermined questions has been established in a structured interview, with preset response categories. Such questions minimize the flexibility and variation in response. The questions are likely to focus on factors that had been identified during the unstructured interviews and are considered relevant to the problem. This type of interview is also known as standardized interviews (Punch, 2005:169-170; Sekaran, 2003:227).

A semi-structured interview is the combination of both unstructured and structured interview. According to Burns (1997:330):

“Rather than having a specific interview schedule or none at all, an interview guide may be developed for some part of the study in which, without fixed wording or fixed ordering of questions, a direction is given to the interview so that the content focuses on the crucial issues of the study.”

The advantages of the semi-structured interview are listed as follows:

- (i) Interviewees enjoy greater flexibility in answering the questions (Burns, 1997:330; Bryman, 2008:438).
- (ii) Interviewees are able to express their perception using language natural to them (Burns, 1997:331).
- (iii) The researcher is able to ask relevant questions which are not prepared in the interview from the very beginning and permits new factor to be identified throughout the interview process, resulting in a deeper understanding (Sekaran, 2003:227; Bryman, 2008:438).

This study also aimed at exploring the perceptions of the supply side and the semi-structured interview was used to gather data from the *wasiyyah* writing providers. The rationale behind choosing the semi-structured interview was mostly influenced by the advantages mentioned above. In addition, Bryman (2008:438) believes that some specific issues need to be addressed in a different way and interviews provide such an opportunity. The researcher strongly agrees that the opinions from *wasiyyah* writing providers required gathering exclusively through semi-structured interview because some of the information could not be gathered by the questionnaire (Bryman, 2008:438).

Semi-structured interviews used in the related literature, such as Shafii (2007) collected data from financial planners in Malaysia, and Finch and Mason (2000) collected data from solicitors and will advisers. Shafii (2007) aimed at obtaining financial planners' views on the financial planning behaviour in Malaysia in terms of the household demand for financial assets, while Finch and Mason (2000) were interested in locating the perspectives of solicitors and wills advisers on the process and practice of making a will and its relationship to kinship. Therefore, whenever necessary, this study took into account both studies when designing the questions for interview.

6.5.1.2.1 Sampling

In relation to the sampling for the semi-structured interview, the researcher tried to get as many as respondents as possible from all the big *wasiyyah* writing providers. Most of the big *wasiyyah* writing providers were the people who have written much about Islamic estate planning in magazines, books and conference papers. Therefore they were easily identified and fortunately, since they are in the same field, they knew each other very well and helped the researcher to get her potential interviewees. Finally, 15 *wasiyyah* writing providers from various big *wasiyyah* writing provider and solicitors were willing to participate.

The same justifications provided in the above section regarding the choosing of purposive sampling in questionnaire also apply in the case of the sampling for the semi-structured interview. *Wasiyyah* writing providers selected for interview were those well-known professional people who the researcher believes possessed the needed facts and could give the information sought via in-depth investigation. The small number of interviewees is not a problem as according to Sekaran (2003:296), the semi-structured interview uses a small sample size because of its intensive nature.

6.5.1.2.2 Administration of the semi-structured interview

The semi-structured interviews were carried out face to face in Malaysia as well. Respondents participating in the semi-structured interview session were the persons responsible for dealing with the clients for Islamic estate planning or *wasiyyah* writing service. Prior to the actual interview, initial invitations to participate were made through email and fax followed by telephone calls to those companies/individuals for the purpose of identifying the person in charge of the services from the identified

organizations/companies. Once the person was identified, a call was made to confirm the date, time and venue. The semi-structured interviews were also undertaken from April through June 2009.

6.6 MODELLING THE ATTITUDES TO LEAVING A BEQUEST

Since the investigation of attitudes to leaving a bequest is designed through the deductive method, econometric techniques were used to analyse these data. In selecting the model for econometric analysis, the literature survey played an important role, as there have been well-established theories of bequest which are widely used in the previous studies. As a result, an econometric model for analysing the attitudes to leaving a bequest was developed, which is defined in detail in the following section.

6.6.1 Theoretical Underpinnings: Life-Cycle, Altruism, Dynasty, Islamic Theory of Wealth

Many researchers such as Horioka *et al.* (2000), Jurges (2001), Kao *et al.* (1997), Laitner and Ohlsson (2001), Light and McGarry (2004), McGranahan (2000), Nordblom and Ohlsson (2002) and Villanueva (2005) have sought to understand the motivations behind bequests for both close and more distant relation family members as well as for outsiders. Three theories namely life-cycle, altruism and dynasty models have been put forth to address the presence of bequest motives from the conventional point of view. This study engaged with several previous researches quite a lot to understand the methodologies and theories used in explaining bequest motives. The previous researches are beneficial in guiding this study in selecting the theory precisely. Taking into account all the information from the previous studies, this study was based on the life-cycle, altruism and dynasty models. With regard to the life-cycle model, there are three situations that are expected to occur: not leaving a bequest at all, leaving a bequest with exchange motive or leaving a bequest with strategic motive.

The selection of the theoretical models was carried out thoroughly. The choice of these three theories and not holding on one particular theory was partly due to the fact that these three dominant models have been discussed extensively in studies of this field. In addition, it is common for previous studies to have either tested several bequest motives or have shown interest only in testing one particular theory. This study, however, was meant to test all the relevant models to explain Malaysian Muslims' behaviour.

However, due to the multicultural nature of Malaysian society, a different contextual form of bequest between Muslims and non-Muslims has directed this research to the cross-examination of the selected theories. As far as the religious factor is concerned, the limitation on the definition of bequest from the Islamic point of view was also taken into consideration. Bequest in Islam is limited up to one-third and only allowed to be given to those who are not entitled to get any shares from *faraid*. At first glance, it seems that none of the theories are relevant with the peculiarities of Muslim people because by definition, children are perceived as not entitled to the bequest while corresponding theories are mainly concerned with the motivation of leaving a bequest to the children. One could argue that a bequest from a Muslim to his/her children is not totally deniable. The altruism model is still applicable for explaining the Muslim attitude of leaving a bequest to their children in the case of giving a bequest to children who are non-Muslims and children who are barred from inheritance due to homicide. The dynastic bequest motive, therefore, can be extended in the situation of leaving bequest to siblings or grandchildren who are excluded from the inheritance by a son. Pertaining to the charity bequest, consider the following remark from McGranahan (2000:1274) on the theory explaining the motive of making a charity bequest:

“While the accidental model may explain why people die with wealth, the theory offers no explanation as to why individuals would care enough about the posthumous distribution of their goods to write a will when will writing is costly and therefore entails the for-going of consumption. Similarly, while the exchange model provides a consistent explanation as to why individuals would give to their children, it offers no clear reason why individuals would make donations to as nebulous a group as ‘the poor’, who could offer nothing in exchange for the gifts they received.”

Using this as a starting point, charity bequest is partly driven by the altruism model as proposed by McGranahan (2000:1270), and this can be applied to Muslims as well. In addition, the Islamic theory of wealth could be a theoretical foundation, which explains Muslim behaviour towards leaving a bequest out of the one-third portion. If the Islamic theory of wealth is visualized in one’s consumption therefore the life-cycle model is assumed to be the least dominant in Muslims lives. In one sense, bequest is not necessarily for the children, but it can be made to poor people and relatives as long as they are not entitled to shares provided by the *faraid*. In conclusion, the selection of the

three models was maintained and the Islamic theory of wealth was added as one of the theoretical underpinnings of this research.

6.6.2 Empirical modelling

6.6.2.1 Ordered probit model

Modelling for the analysis of attitudes for leaving a bequest was linked to a wide range of explanatory variables using an ordered probit model, which is one of the econometric models developed for research in which the regressand itself is qualitative in nature. This model is an extension of the probit model and it was applied in this study due to the fact that the response variable or regressand have more than two outcomes and there is an ordering to the categories associated with the dependent variable. The responses were coded as follow:

“Would not leave a bequest ($ALB = 0$)”

“Probably leave a bequest ($ALB = 1$)”

“Would leave a bequest ($ALB = 2$)”

To begin with, consider a latent regression model:

$$ALB_i = x_i' \beta + \varepsilon_i \quad (6.1)$$

Since ALB_i is an unobserved index of attitudes to leaving a bequest, the study constructed the following conditions:

$$ALB_i = 0 \text{ if } ALB_i \leq \gamma_0 \quad (6.2)$$

$$ALB_i = 1 \text{ if } \gamma_0 \leq ALB_i < \gamma_1 \quad (6.3)$$

$$ALB_i = 2 \text{ if } \gamma_1 \leq ALB_i \quad (6.4)$$

It is assumed that the random error, ε_i , is normally distributed across observations; β is a vector of parameters, and x is the vector of explanatory variables. This vector includes all the factors, which were expected to influence the attitudes to leaving a bequest. These variables are described in full in the succeeding subsection (see Section 6.7.3).

With normal distribution, the following probabilities calculated as follows:

$$Prob(ALB = 0|x) = \Phi(\gamma_0 - x'_i\beta) \quad (6.5)$$

$$Prob(ALB = 1|x) = \Phi(\gamma_1 - x'_i\beta) - \Phi(\gamma_0 - x'_i\beta) \quad (6.6)$$

$$Prob(ALB = 2|x) = 1 - \Phi(\gamma_1 - x'_i\beta) \quad (6.7)$$

where Φ denotes the standardised cumulative normal distribution function.

6.6.2.2 Multinomial logit model⁸¹

The multinomial logit model is the last resort for the problem of the failure of the ordered probit model. It was run using Stata. It can be considered as “simultaneously estimating binary logits for all comparison the dependent categories” (Long and Freese, 2001:172). In this model, the errors are not assumed to have a normal distribution (Menard, 2001:83). Group 0 (‘Would not leave a bequest’) is the reference category, and hence the base outcome or comparison group and its coefficients were set to zero. Since there are three outcomes available, only two binary logits need to be estimated. Equation 6.8 is the logarithm of the ratio of the probability of outcome bequest=1 to that of outcome bequest=0, while equation 6.9 is the logarithm of the ratio of the probability of outcome bequest=2 to that of outcome bequest=0 (Borooah, 2002:48; Long and Freese, 2001:172-175).

$$\log \left(\frac{Pr(\text{bequest}=1)}{Pr(\text{bequest}=0)} \right) = \beta_{10} + \beta_{11}age + \beta_{12}marital + \beta_{13}gender + \beta_{14}ethnic + \beta_{15}edu + \beta_{16}adpchild + \beta_{17}gchild + \beta_{18}sibling + \beta_{19}health + \beta_{110}disability + \beta_{111}job + \beta_{112}income + \beta_{113}assetvalue + \beta_{114}aminherit + \beta_{215}imbeq + \beta_{116}charity + \beta_{117}law + \beta_{118}religiosity \quad (6.8)$$

$$\log \left(\frac{Pr(\text{bequest}=2)}{Pr(\text{bequest}=0)} \right) = \beta_{20} + \beta_{21}age + \beta_{22}marital + \beta_{23}gender + \beta_{24}ethnic + \beta_{25}edu + \beta_{26}adpchild + \beta_{27}gchild + \beta_{28}sibling + \beta_{29}health + \beta_{210}disability + \beta_{211}job + \beta_{212}income + \beta_{213}assetvalue + \beta_{214}aminherit + \beta_{215}imbeq + \beta_{216}charity + \beta_{217}law + \beta_{218}religiosity \quad (6.9)$$

⁸¹ In the multinomial logit model, several variables were dropped and new codings of the variables were introduced. Further discussion on this can be found in Chapter 8.

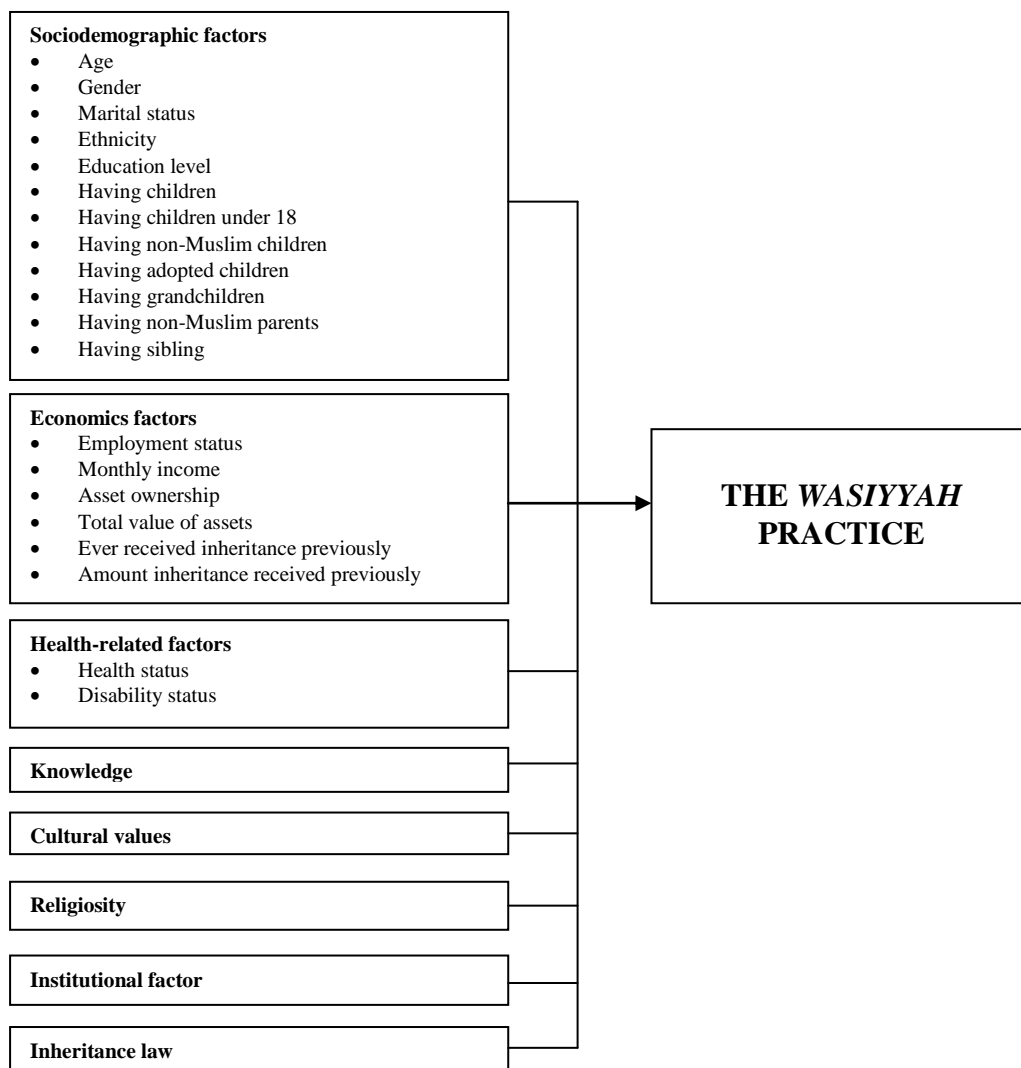
6.7 OPERATIONALISING THEORETICAL FRAMEWORK

After presenting the theoretical framework and its rationale in the previous section, this section aims at presenting how the theoretical framework is operationalised in relation to each of the main research questions.

6.7.1 *Wasiyyah* Practice

The *wasiyyah* practice section of the research takes into account a number of variable clusters: sociodemographic factors, economic factors, health-related factors, knowledge, cultural values, religiosity, institutional and inheritance law. The detailed breakdowns of variables related to each of these research clusters can be seen in Figure 6.1.

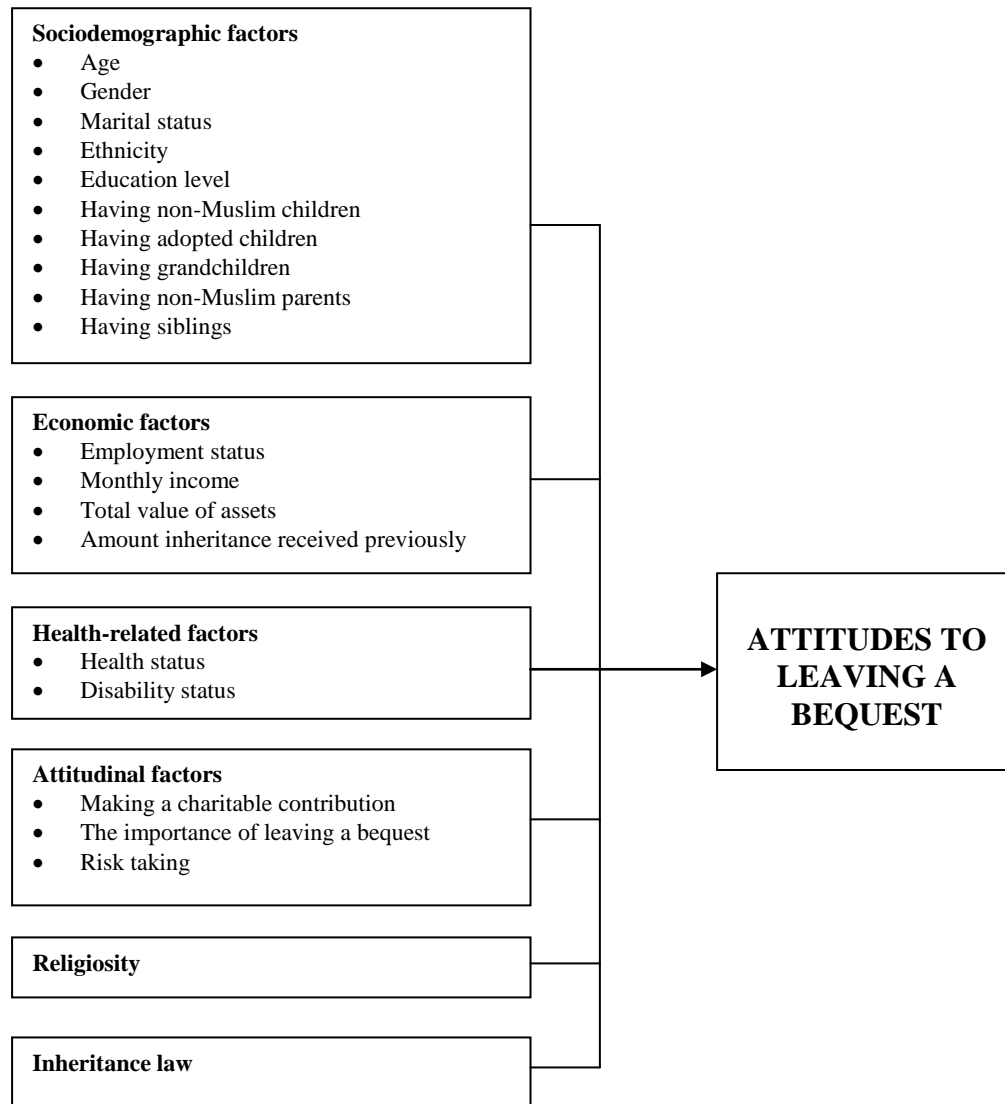
Figure 6.1: Theoretical Framework for the Investigation of the *Wasiyyah* Practice



6.7.2 Attitudes to Leaving a Bequest

As can be seen in Figure 6.2, variables used to investigate the attitudes to leaving a bequest were segregated into the following groups: sociodemographic factors, economic factors, health-related factors, attitudinal, religiosity and inheritance law.⁸²

Figure 6.2: Theoretical Framework for the Investigation of the Attitudes to Leaving a Bequest



⁸² In the analysis of data gathered to investigate the attitudes to leaving a bequest, three dependent variables were dropped namely non-Muslim children, non-Muslim parents and risk taking. This was due to the failure of the ordered probit model, multicollinearity problem in multinomial logit model and the recoding process.

6.7.3 Definition and Identification of Variables

Investigating human behaviours in order to see how they engage in the practicing of a particular behaviour and attitude requires precise proxies to resemble the kind of behaviours and attitudes the study would like to explore. In the course of the following analysis, this study constructed variables in relation to the chosen models and from the data available. An existing set of behaviour and attitude dimensions within the study of inheritance, will and bequest facilitated this study in determining and developing the range of variables that are relevant to the study and research questions. These variables stemmed mainly from similar work carried out previously with some modifications, so that they could typify the Malaysian Muslims' attributes. The following section discusses what variables that had been selected and how they were measured in detail.

6.7.3.1 Awareness of *wasiyyah*

The need to establish the extent to which Malaysian Muslims were aware of *wasiyyah* at the broadest level was achieved by creating indicators of awareness level. Constructing such indicators for awareness requires the subject matter to be well defined. Stein *et al.* (2000:266) define awareness as the self-reported presence of particular things. In explaining this, Meager *et al.* (2002:11) contend that an individual is considered to possess awareness if he/she has some idea of the particular subject or in other words, he/she has been informed about the existence of the subject. These definitions confirm that awareness can be accessed through questions to confirm whether a person has known about or experienced the particular subject and used or heard or seen it previously.

The indicators of awareness level of *wasiyyah* making were made up of four questions accessible through the survey and each of them was designed to capture a specific scope of awareness. With the aim to investigate the awareness of *wasiyyah* as part of Islamic estate planning, respondents were asked the following question; "Have you ever heard about Islamic estate planning?" There are another three questions: "Do you know Islamic ruling on *wasiyyah*?" which intends to capture the awareness of *wasiyyah* ruling; "Do you know any organization involved in preparing *wasiyyah*?" aiming to capture the awareness of *wasiyyah* writing by professional means; and "Have you or has someone you know, experienced problems sorting out the affairs of someone who died

without a *wasiyyah*?" aiming to locate the awareness of the consequences of dying intestate.

Respondents' knowledge on Islamic estate planning and *wasiyyah* were also measured. Firstly, 13 statements covering the basic knowledge of Islamic estate planning, and knowledge in particular with *wasiyyah*, were given and respondents were then asked to position themselves using a defined rating scale. Secondly, there was a question asking about Islamic ruling of *wasiyyah*. Thirdly, they were asked a question related to their knowledge on the existence of *wasiyyah* writing providers, and finally if they had any idea of the cost of preparing a *wasiyyah* at the ARB was also enquired.

6.7.3.2 Wasiyyah practice

6.7.3.2.1 Dependent variable

The practice of *wasiyyah* is the dependent variable used to investigate the *wasiyyah* writing behaviour among Malaysian Muslims and the question constructed for such practice is "Have you made a *wasiyyah*?"

6.7.3.2.2 Independent variables

(i) Sociodemographic factors

A range of the respondents' characteristics was observed from the previous studies. In the same line, this research was designed to probe the significance of the sociodemographic factors on *wasiyyah* practice and explored how it varied across these factors. To begin with, the age variable is identified as the most significant factor as suggested in Brooker (n.d.), SCC (2006), Rowlingson and McKay (2005), Finch and Mason (2000) and McGranahan (2006). Therefore, it was included in this research and ranged from 18 years and above since according to the legislation, only those above 18 years old are eligible to make a *wasiyyah*. With regards to the gender variable, there is a possibility that men view *wasiyyah* differently from women and on the ground that gender seems to make a significant difference in will practice as suggested by Rowlingson and McKay (2005), therefore the gender variable is included in this research as one of the essential variables.

The effects of changes in family formation are perceived by Hancock *et al.* (2002) to be one of the themes that influence attitudes towards inheritance from the perspective of the donor. Experience of entering into a marriage or divorce, having children and having children of the predeceased children (grandchildren) might change the person's perception. In addition, being childless or vice versa according to Rowlingson and McKay (2005) is a huge driving factor for people to leave a will. This study anticipated that these experiences could be significant on *wasiyyah* practice and consequently, independent variables marital status and children were included. The variable 'children' however was expanded to include adopted children, children under 18 and non-Muslim children.

In addition, other relevant variables such as non-Muslim parents, grandchildren and sibling were also included. The importance of distinguishing between biological children, adopted children, non-Muslim children and the exigency of including the variable non-Muslim parents, grandchildren and sibling in the research of *wasiyyah* practice opens up the possibility that people treat their children differently or people perceive making a *wasiyyah* to be more important when they have family members who are excluded by *faraid*. For these variables, respondents were required to provide answer either 'yes' or 'no' to the question asked.

Eventhough Malays constitute the majority of the Malaysian Muslims, it is necessary to take into account that Malaysian Muslims could also be someone who is Chinese, Indian or another race, therefore, the variable race (implying ethnicity) was included. In rationalizing this, it should be noted that the strong relationship between will making and ethnicity is discovered in Brooker (n.d.) and Rowlingson and McKay (2005).

In addition, the divergence of perceiving and practicing *wasiyyah* among individuals is probably due to the different levels of education as suggested in Ahmad and Pyeman (2008). To respond this, the corresponding variable education was then split into five categories namely primary school, secondary school, Bachelor/Diploma level, Master/PhD level, and vocational.

(ii) Economic factors

Will making is also linked to economic characteristics as stated by Brooker (n.d.), Rowlingson and McKay (2005), SCC (2006) and McGranahan (2006). The economic characteristics were portrayed by the employment status, monthly income level, having property or not, total asset values, having ever received inheritance previously and the amount of inheritance received previously. For the employment status, there were four types of jobs namely civil servant, private sector employee, self-employed and retired. Receipt of inheritance previously is considered an important factor in terms of developing adaptive behaviour and hence creating positive impact on the attitudes of the individuals towards *wasiyyah* practice. The respondents therefore were required to state whether they had ever received inheritance previously. The monthly income level, total value of assets and amount of inheritance received previously were valued in Malaysian Ringgit and there were four categories provided for each variable.

(iii) Health related factors

This variable was included on the ground that disabled and having poor health are expected to trigger people to leave a *wasiyyah*. Respondents were required to self-report their health status and to confirm whether they have any disability or not. With regard to the former, four options were given to the respondents to choose from in indicating their health status, namely excellent, good, fair and poor.

(iv) Knowledge

The independent variable of 'knowledge' is identified by Ahmad and Pyeman (2008) as playing a crucial part in creating greater awareness and increasing the practice of leaving a *wasiyyah*. They include this variable in investigating the awareness and *wasiyyah* practice in Malaysia. On this ground, a number of dimensions-attitude statements were designed to indicate the general understanding towards several aspects of knowledge that covered the basic knowledge of Islamic estate planning, significances and objectives of Islamic estate planning and *wasiyyah* in Malaysian Muslims lives. The responses to these questions were using a five-point scale representing a grading from positive to negative given in the Likert scale style.

(v) Cultural values

Behavioural norms were proxies used for cultural values. The environment and the way in which an individual is brought up are expected to play important roles in shaping the individual perception towards estate matters. Malays probably differ from non-Malays in the issue of having open discussion on inheritance matters to the extent someone can be regarded as being disrespectful for asking or advising elderly people to leave a *wasiyyah*. Thus, three questions were developed to reveal respondents' perspectives: "What would be your response if your children would wish to discuss and advise you to prepare your *wasiyyah* as soon as possible?"; "Why are you reluctant to discuss it with your children?" and "What would be your response on how if someone from *wasiyyah* writing provider approached you and asked to discuss and advise you to prepare your *wasiyyah* through a proper channel as soon as possible?". For each questions, several options of potential answers were provided to choose from.

(vi) Religiosity

Considering that leaving *wasiyyah* is encouraged in Islam, then any good Muslims should be able to observe this Islamic teaching in their lives. The mechanism used to measure religiosity could be a controversial issue for certain people, and therefore this study could not simply adapt the techniques used in other studies related to other religions. However, a study by Krauss *et al.* (2006) in the context of Malaysian Muslims is available as a guideline, which was fully utilized in this study as an approach to gauge religiosity. As suggested by Krauss *et al.* (2006), the religiosity was assessed from two dimensions: the 'Islamic worldview' and the 'religious personality'. The former is related to the *tawhidic* (divine unity) and *aqidah* (articulation of Islamic creed) of Muslims, while the latter is the manifestation or reflection of the former which appears in the form of *akhlaq Islamiyyah*, or the moral and etiquettes of Islamic manner.

For Islamic worldview, three statements relating to *tawhid* and *aqidah* were given and the extent to which the respondents agreed with the statement were then codified in the Likert scale ranging from (1) Strongly agree to (5) Strongly disagree. Also, four statements related to *ibadat* (ritual worship) and four statements related to daily *mu'amalat* (religiously-guided behaviours towards human) were given to assess the respondents 'religious personality'. Their responses to the statements in relation to *ibadat* or the practice of worshipping were denoted using a five-point scale ranging

from (1) I always do this to (5) I never do this. Respondents were required to place themselves using a five-point scale ranging from (1) extremely influential to (5) Not at all influential, for each statement pertaining to daily *mu'amalat*.

(vii) Institutional factor

This study included an 'institutional factor' on the ground that Muda *et al.* (2008) contend that it is one of the factors affecting Malaysian Muslims' perspective on *wasiyyah*. *Wasiyyah* writing providers across Malaysia have been promoting themselves to the public so that people know they are available in the market to assist them in sorting out their *wasiyyah* matter. The following questions were formed to provide data for the institutional variable: "Do you know any organization involved in preparing *wasiyyah*?", "Please provide their names" (asking the names of *wasiyyah* writing providers if they knew any) and "How much do you think it would cost now to have a basic *wasiyyah* drawn up by ARB or its partners?"

(viii) Inheritance law

Horioka *et al.* (2000) and Pestieau (2000) argue that inheritance law play an important role in shaping the bequest transfers. Since *wasiyyah* practice and bequest transfer are linked to each other, therefore this variable was included in this research, in the part of *wasiyyah* investigation. The following question represented this variable: "How much is a Muslim allowed to bequeath?".

6.7.3.3 Attitudes to leaving a bequest

It should be noted that most of the variables used in this section are similar to the variables used in the investigation of *wasiyyah* practice.

6.7.3.3.1 Dependent variable

Those who have made a *wasiyyah* but have not made bequest and those who have not made a *wasiyyah* were pooled together. They were asked again their likelihood to leave a bequest. According to their answers, they were regrouped into three cohorts. Using this information, a dependent variable was constructed and coded from 0 to 2 (0=Would not leave a bequest; 1=Probably leave a bequest; 2=Would leave a bequest).

6.7.3.3.2 Independent variables

(i) Sociodemographic factors

Age, gender, marital status, ethnicity, education level, non-Muslim children, adopted children, grandchildren, non-Muslim parents and siblings represent the sociodemographic factors.

(ii) Economic factors

The variables related to economic factors include employment status, monthly income level, total value of assets and amount of inheritance received previously.

(iii) Health-related factors

Health related variables were introduced in this section of the enquiry in the same manner as described above.

(iv) Attitudinal factors

Since attitudes and perceptions of the respondents are essential to this study, particular attention was paid to defining the attitudinal factors. Attitudinal factors were designed exactly in the same way as Kao *et al.* (1997) and Rowlingson and McKay (2005) do. First, the attitude of making a charitable contribution was used as a proxy of attitudinal factors. Respondents were asked to provide an overall attitudinal score using the itemized rating scale. A second proxy was the attitude towards the importance of leaving a bequest in which the respondents were required to rate their attitude using a five-point scale. Finally, respondents were required to indicate their willingness and to what extent they tolerate risk-taking when making a financial investment decision by placing themselves on the five-point scale using 'I will take a risk', 'I will avoid risk', 'Indifferent', 'Average' and 'None of the above'

(v) Religiosity

The same measurements in the previous section were used in this part as well.

(vi) Inheritance law

The same measurements in the previous section were used in this part as well.

6.7.4 Hypotheses Development

In operationalising the research questions, the following hypotheses were developed according to the individual research question:

6.7.4.1 Awareness of *wasiyyah*

H₁₀: There is no significant level of awareness level of *wasiyyah*;

H₁₁: There is a significant level of awareness level of *wasiyyah*.

6.7.4.2 *Wasiyyah* practice

H₂₀: There is no significant level of *wasiyyah* writing practice;

H₂₁: There is a significant level of *wasiyyah* writing practice.

H₃₀: There is no significant relationship between age and the *wasiyyah* practice;

H₃₁: There is a significant relationship between age and the *wasiyyah* practice.

H₄₀: There is no significant relationship between gender and the *wasiyyah* practice;

H₄₁: There is a significant relationship between gender and the *wasiyyah* practice.

H₅₀: There is no significant relationship between marital status and the *wasiyyah* practice;

H₅₁: There is a significant relationship between marital status and the *wasiyyah* practice.

H₆₀: There is no significant relationship between ethnicity and the *wasiyyah* practice;

H₆₁: There is a significant relationship between ethnicity and the *wasiyyah* practice.

H₇₀: There is no significant relationship between education level and the *wasiyyah* practice;

H₇₁: There is a significant relationship between education level and the *wasiyyah* practice.

H₈₀: There is no significant relationship between having children and the *wasiyyah* practice;

H₈₁: There is a significant relationship between having children and the *wasiyyah* practice.

H₉₀: There is no significant relationship between having children under 18 and the *wasiyyah* practice;

H₉₁: There is a significant relationship between having children under 18 and the *wasiyyah* practice.

H₁₀₀: There is no significant relationship between having non-Muslim children and the *wasiyyah* practice;

H₁₀₁: There is a significant relationship between having non-Muslim children and the *wasiyyah* practice.

H₁₁₀: There is no significant relationship between having adopted children and the *wasiyyah* practice;

H₁₁₁: There is a significant relationship between having adopted children and the *wasiyyah* practice.

H₁₂₀: There is no significant relationship between having grandchildren and the *wasiyyah* practice;

H₁₂₁: There is a significant relationship between having grandchildren and the *wasiyyah* practice.

H₁₃₀: There is no significant relationship between having non-Muslim parents and the *wasiyyah* practice;

H₁₃₁: There is a significant relationship between having non-Muslim parents and the *wasiyyah* practice.

- H₁₄₀: There is no significant relationship between having sibling and the *wasiyyah* practice;
- H₁₄₁: There is a significant relationship between having sibling and the *wasiyyah* practice.
- H₁₅₀: There is no significant relationship between employment status and the *wasiyyah* practice;
- H₁₅₁: There is a significant relationship between employment status and the *wasiyyah* practice.
- H₁₆₀: There is no significant relationship between monthly income and the *wasiyyah* practice;
- H₁₆₁: There is a significant relationship between monthly income and the *wasiyyah* practice.
- H₁₇₀: There is no significant relationship between asset ownership and the *wasiyyah* practice;
- H₁₇₁: There is a significant relationship between asset ownership and the *wasiyyah* practice.
- H₁₈₀: There is no significant relationship between total value of assets and the *wasiyyah* practice;
- H₁₈₁: There is a significant relationship between total value of assets and the *wasiyyah* practice.
- H₁₉₀: There is no significant relationship between previously received inheritance previously and the *wasiyyah* practice;
- H₁₉₁: There is a significant relationship between previously received inheritance previously and the *wasiyyah* practice.

- H₂₀₀: There is no significant relationship between amount of inheritance received previously and the *wasiyyah* practice;
- H₂₀₁: There is a significant relationship between amount of inheritance received previously and the *wasiyyah* practice.
- H₂₁₀: There is no significant relationship between health status and the *wasiyyah* practice;
- H₂₁₁: There is a significant relationship between health status and the *wasiyyah* practice.
- H₂₂₀: There is no significant relationship between disability status and the *wasiyyah* practice;
- H₂₂₁: There is a significant relationship between disability status and the *wasiyyah* practice.
- H₂₃₀: There is no significant relationship between knowledge on Islamic estate planning and the *wasiyyah* practice;
- H₂₃₁: There is a significant relationship between knowledge on Islamic estate planning and the *wasiyyah* practice.
- H₂₄₀: There is no significant relationship between cultural values and the *wasiyyah* practice;
- H₂₄₁: There is a significant relationship between cultural values and the *wasiyyah* practice.
- H₂₅₀: There is no significant relationship between religiosity and the *wasiyyah* practice;
- H₂₅₁: There is a significant relationship between religiosity and the *wasiyyah* practice.

H₂₆₀: There is no significant relationship between institutional factor and the *wasiyyah* practice;

H₂₆₁: There is a significant relationship between institutional factor and the *wasiyyah* practice.

H₂₇₀: There is no significant relationship between inheritance law and the *wasiyyah* practice;

H₂₇₁: There is a significant relationship between inheritance law and the *wasiyyah* practice.

6.7.4.3 Attitudes to leaving a bequest

H₂₈₀: Life-cycle, altruism, dynastic bequest models and Islamic theory of wealth do not coexist in Malaysian Muslims' attitudes to leaving a bequest;

H₂₈₁: Life-cycle, altruism, dynastic bequest models and Islamic theory of wealth coexist in Malaysian Muslims' attitudes to leaving a bequest.

H₂₉₀: There is no significant relationship between age and the attitudes to leaving a bequest;

H₂₉₁: There is a significant relationship between age and the attitudes to leaving a bequest.

H₃₀₀: There is no significant relationship between gender and the attitudes to leaving a bequest;

H₃₀₁: There is a significant relationship between gender and the attitudes to leaving a bequest.

H₃₁₀: There is no significant relationship between marital status the attitudes to leaving a bequest;

H₃₁₁: There is a significant relationship between marital status the attitudes to leaving a bequest.

- H₃₂₀: There is no significant relationship between ethnicity and the attitudes to leaving a bequest;
- H₃₂₁: There is a significant relationship between ethnicity and the attitudes to leaving a bequest.
- H₃₃₀: There is no significant relationship between education level and the attitudes to leaving a bequest;
- H₃₃₁: There is a significant relationship between education level and the attitudes to leaving a bequest.
- H₃₄₀: There is no significant relationship between having non-Muslim children and the attitudes to leaving a bequest;
- H₃₄₁: There is a significant relationship between having non-Muslim children and the attitudes to leaving a bequest.
- H₃₅₀: There is no significant relationship between having adopted children and the attitudes to leaving a bequest;
- H₃₅₁: There is a significant relationship between having adopted children and the attitudes to leaving a bequest.
- H₃₆₀: There is no significant relationship between having grandchildren and the attitudes to leaving a bequest;
- H₃₆₁: There is a significant relationship between having grandchildren and the attitudes to leaving a bequest.
- H₃₇₀: There is no significant relationship between having non-Muslim parents and the attitudes to leaving a bequest;
- H₃₇₁: There is a significant relationship between having non-Muslim parents and the attitudes to leaving a bequest.

- H₃₈₀: There is no significant relationship between having sibling and the attitudes to leaving a bequest;
- H₃₈₁: There is a significant relationship between having sibling and the attitudes to leaving a bequest.
- H₃₉₀: There is no significant relationship between employment status and the attitudes to leaving a bequest;
- H₃₉₁: There is a significant relationship between employment status and the attitudes to leaving a bequest.
- H₄₀₀: There is no significant relationship between monthly income and the attitudes to leaving a bequest;
- H₄₀₁: There is a significant relationship between monthly income and the attitudes to leaving a bequest.
- H₄₁₀: There is no significant relationship between total value of assets and the attitudes to leaving a bequest;
- H₄₁₁: There is a significant relationship between total value of assets and the attitudes to leaving a bequest.
- H₄₂₀: There is no significant relationship between amount inherited previously and the attitudes to leaving a bequest;
- H₄₂₁: There is a significant relationship between amount inherited previously and the attitudes to leaving a bequest.
- H₄₃₀: There is no significant relationship between health status and the attitudes to leaving a bequest;
- H₄₃₁: There is a significant relationship between health status and the attitudes to leaving a bequest.

H₄₄₀: There is no significant relationship between disability status and the attitudes to leaving a bequest;

H₄₄₁: There is a significant relationship between disability status and the attitudes to leaving a bequest.

H₄₅₀: There is no significant relationship between making a charitable contribution and the attitudes to leaving a bequest;

H₄₅₁: There is a significant relationship between making a charitable contribution and the attitudes to leaving a bequest.

H₄₆₀: There is no significant relationship between the importance of leaving a bequest and the attitudes to leaving a bequest;

H₄₆₁: There is a significant relationship between the importance of leaving a bequest and the attitudes to leaving a bequest.

H₄₇₀: There is no significant relationship between risk-taking and the attitudes to leaving a bequest;

H₄₇₁: There is a significant relationship between risk-taking and the attitudes to leaving a bequest.

H₄₈₀: There is no significant relationship between religiosity and the attitudes to leaving a bequest;

H₄₈₁: There is a significant relationship between religiosity and the attitudes to leaving a bequest.

H₄₉₀: There is no significant relationship between inheritance law and the attitudes to leaving a bequest;

H₄₉₁: There is a significant relationship between inheritance law and the attitudes to leaving a bequest.

6.8 RESEARCH METHOD: PRIMARY DATA ANALYSIS

This section aims to present the particular data analysis methods used to analyse the primary data assembled through questionnaire and the semi-structured interviews.

6.8.1 Analysing Questionnaire Data

Since the questionnaire provides quantitative data, data analysis benefits from a quantitative method in the form of statistical techniques. For this, the relevant techniques for each section of the questionnaire are identified and presented in the following section.

6.8.1.1 Quantitative methods related to the awareness and *wasiyyah* practice

(i) Reliability and validity test: Cronbach's alpha

It is important to check the reliability of the questionnaire data to establish consistency and reliability of the data (Rani, 2004:56; Sekaran, 2003:307). Cronbach's alpha is a common test for this purpose. A computed alpha coefficient equals to 1 denotes perfect internal reliability and 0 denotes no internal reliability. A rule of thumb outlines that 0.8 is an acceptable level of internal reliability, but despite that, a slightly lower figure is commonly found acceptable by many researchers (Bryman, 2008:151). On the other hand, validity is "the ability of a scale or measuring instrument to measure what is intended to be measured" (Zikmund, 1994:290). There are a few approaches suggested to measure validity such as criterion validity, content validity and construct validity. However, according to De Vaus (1996:57), there is no ideal way of determining the validity of a measure as it varies across circumstances. De Vaus (1996:57) says further:

"If a good criterion exists use it; if the definition of the concept is well defined or well accepted use this approach; if there are well-established theories which use the concept which we wish to validate, use this approach."

De Vaus's (1996) suggestions were observed and taken into account in this study. As mentioned earlier, based on the previous studies, concepts were easily well defined, variables and the ways to measure them were carefully selected and established and finally in regards to bequest, several established theories were chosen. Most importantly, the questionnaire and semi-structured interview questions were developed according to the previous studies as explained in section 6.5.1.1.1 and 6.5.1.2. Consequently, the validity issue was resolved.

(ii) *Descriptive statistics*

In a very simple definition, descriptive statistics are “statistical methods used to describe data that have been collected” (Mason and Lind, 1990:7). It is actually carried out in order to understand the characteristic of data by the way of summarizing a set of data in a frequency table which consists of frequency, percentage and probability (Rani, 2004:76; Mason and Lind, 1990:27). In making a comparison, cross-tabulation was employed as this is also one of the useful methodologies in analyzing large data by groups, categories and classes (Rani, 2004:80). Then, the other analysis method to measure central tendency is the mean value, which was only used for particular variables namely age, monthly income, total value of assets and amount of inheritance received previously (Rani, 2004:85; Mason and Lind, 1990:120 and 114).

(iii) *Chi-Square (χ^2) test*

This is the goodness-of-fit test with the purpose to determine “how well an observed set of data fits an expected set of data” (Mason and Lind, 1990:576). χ^2 test was used in testing hypotheses and observing the impact of the independent variables on *wasiyyah* practice (Mason and Lind, 1990:349 and 400–401).

6.8.1.2 Quantitative methods related to the attitudes to leaving a bequest

(i) *Estimation of the model: Maximum Likelihood Estimation (MLE)*

The parameters of the ordered probit model and multinomial logit model were estimated using maximum likelihood estimation (MLE). Gujarati (2003:115) describes MLE as a method used to “estimate the unknown parameters in such manner that the probability of observing the given Ys is as high or maximum as possible”. This is the most suitable technique for such models and has several benefits. Firstly, it guarantees consistent parameter estimates and correct large-sample statistics. Secondly, it allows a standard normal test to be applied to test the significance of individual coefficients (Pindyck and Rubinfeld, 1998:321, 323 and 329–330).

(ii) *Goodness-of-fit*

For goodness-of-fit purpose, as suggested by Greene (2003:683) and Pindyck and Rubinfeld (1998:275–276) two methods were used:

(a) Likelihood ratio (LR) and Wald test

Likelihood ratio (LR) statistics is equivalent to the F test in the linear regression analysis used to test the null hypothesis that all the slopes coefficients in the model are simultaneously zero (Gujarati, 2003:606). The Wald test is also used for the same purpose (Long and Freese, 2001:112 and 183). For both tests, if the coefficient for the particular explanatory variable is significantly different from zero, then it can be said to have a significant contribution to the prediction of the outcome (Y).

(b) Pseudo R^2

The conventional measure of goodness of fit, R^2 is not particularly meaningful for ordered probit and multinomial logit model. Pseudo R^2 is an analog to the R^2 in a conventional regression, defined as $1-L_1/L_0$ and it ranges between 0 and 1 (Gujarati, 2003:605-606; Borooah, 2002:20). According to Borooah (2002:20), “a 0 value corresponds to all the slope coefficients being zero and a value of 1 corresponds to perfect prediction (that is, to $L_1 = 0$)”.

(iii) *Diagnostic tests*

Diagnostics tests for multinomial logit involved the test for the Independence of Irrelevant Alternatives (IIA), multicollinearity and outliers (Pallant, 2007:167; Sarkisian, n.d.a:9-10; Long and Freese, 2001:188).

(a) The Independence of Irrelevant Alternatives (IIA)

IIA as a property assumes that the log risk-ratios of choosing between two alternatives; outcome A or B are a function of the attributes associated with A and B. Other alternatives available are not relevant and do not influence the probability of choosing outcome A or B. Therefore, adding or deleting outcomes do not bring any substantial change in the parameter estimates (Long and Freese, 2001:188; Beck, n.d.; Questions of Statistical Analysis and Discrete Choice Model, n.d.; Borooah, 2002:72). The standard procedure to test the IIA is the Hausman test. There are also other methods used known

as Small and Hsiao test and suest-based Hausman test (Long and Freese, 2001:188–189; Sarkisian, n.d.b:8).

(c) Multicollinearity: The variance inflation factor (VIF)

In the absence of formal way to check multicollinearity for a multinomial logit model, there are two references that stress such diagnostic with statistical estimation software Stata can be undertaken by running OLS and obtaining VIF values afterwards (Sarkisian,n.d.b:14; Logistic Regression in Stata, n.d.). Below are a few guidelines from Field (2005:196) to understand the result of VIF:

- If the largest VIF is greater than 10 then there is cause for concern.
- If the average VIF is substantially greater than 1 then the regression may be biased.
- Tolerance below 0.1 indicates a serious problem.
- Tolerance below 0.2 indicates a potential problem.

(d) Outliers: Scatterplot

In order to ensure the fit of a regression model, Scatterplot was used to identify the outliers. Residuals indicate to what extent the observed outcome for each observation in the sample fit into the model's predicted. Cases that fit poorly, having large residuals, being very different from the rest of the data or being not well explained by the model are outliers. They could be influential when they have a large effect on the estimated parameters and can bias the model fit to the data (Long and Freese, 2001:112; Field, 2005:74; Pallant, 2007:167; Sarkisian, n.d.b:15).

6.8.2 Analysing the Semi-Structured Interview Data

Data assembled from semi-structured interview is more difficult to assess compared to a questionnaire in which the data coding of responses is done relatively easy (Burns, 1997:330). Therefore, data from semi-structured interviews were treated differently by using the narrative analysis. There are four model of narrative analysis – thematic analysis, structural analysis, interactional analysis and performing analysis. Finally, thematical analysis was chosen on the ground that this method mainly places emphasis on the content of the response by keeping the language of the response as far as possible. Main themes were constructed from the answers provided according to the questions given. Segregating the main themes into several subthemes helps to analyse

these responses in detail by placing responses which are similar under the same theme (Bryman, 2008:553–555 and 560). The narrative technique is used in Finch and Mason (2000:165), who justify their methodology as follows:

“We have used the concept of narrative as a methodological and analytical device to illustrate some of the consistencies in our interview data but, more than that, to communicate accounts and scenarios that people recognize and, most notably, that they fear. In a sense, the narrative is an expression of people’s attempts to connect their own experiences and reasoning to something that they perceive to be more generalized, and the significant point is that many people do this. The narratives we have used tend to be expressions of what people think should not happen, or what they do not want for their own families, and are scenarios that they actively try to avoid.”

This argument very much explains the reasons of choosing the narrative analysis by this study in analyzing the data collected through interviews.

6.9 LIMITATIONS AND DIFFICULTIES IN DATA COLLECTION

Respondents from lower educated backgrounds and from mainly rural areas were less likely to participate in this study. In addition, as expected, finding non-Malay Muslim respondents was extremely difficult. However, the researcher made contacts with several potential places in getting access to such type of respondents, for instance visiting States Islamic Religious Councils, which constantly organize Islamic studies programmes for those who converted to Islam. The researcher tried to get them to participate before or after they attended the religious classes. Such efforts were made, but most of them were reluctant to take part in the questionnaire. In addition, limited time and a language barrier were among problems that the researcher encountered with regards to the respondents from the non-Malay Muslim group. It should be noted that most of the questionnaires distributed were self-administered. However, in certain circumstances when the respondents were illiterate, and new-Muslims or those converted to Islam who had problems of understanding the layman language used in the questionnaire or who were more comfortable using their accents, personal contact and meetings were utilized to assist them.

Another vexing problem appears in terms of getting commitment and participation from Islamic estate planning providers. Due to the time and cost constraints in relation to travelling to other parts of the country, most of the respondents were those from West Coast Malaysia covering Kuala Lumpur and Selangor as this region is close to the researcher's residential area. Pertaining to the sampling issue, it leads to another problem which is 'generalization' of the findings. According to Bryman (2008:168), "in order to be able to generalize the findings from the sample to the population from which it was selected, the sample must be representative" and to this extent using purposive sampling was definitely a barrier for this study.

Chapter 7

LOCATING AND PROFILING THE BEHAVIOURAL PATTERNS ON WASIYYAH AWARENESS AND PRACTICE: AN EMPIRICAL PERCEPTION ANALYSIS

7.1 INTRODUCTION

This chapter presents an analysis of the data assembled from the questionnaire by focusing on *wasiyyah* awareness and practice. The findings presented in this chapter begin with the descriptive statistics of the sample with respect to the profile of respondents. The following sections present the reliability and validity tests followed by an extensive analysis conducted on the data which demonstrates the patterns related to awareness but also the existing practice in the community. The level of awareness, number of people making and not making a *wasiyyah*, reasons for making and not making a *wasiyyah*, methods of making a *wasiyyah* are elaborated in detail. It should be noted that the analysis also provides correlations between several control factors and *wasiyyah* practice. In the penultimate section of this chapter, findings on respondents' sources of knowledge are presented. Results regarding the perception on the current publicity and exposure of the *wasiyyah* writing can be found in the last section.

7.2 PROFILE OF RESPONDENTS

The following sections present the key characteristics of respondents by focusing on regional distribution, demographic, occupational, financial, health and family backgrounds before proceeding with reliability test and further analysis.

7.2.1 Regional Distribution

The profile of the sample's regional distribution is shown in Table 7.1. Respondents were drawn from all states in Peninsular Malaysia which were then divided into four main regions namely West Coast, East Coast, Northern and Southern. It should also be noted that the respondents were mainly from urban and sub-urban sections in Kuala Lumpur and Selangor (about 33 per cent of respondents) as they were more accessible for the researcher.

Table 7.1: Regional Distribution of Respondents

Region	State	Frequency	Percent
West Coast	Kuala Lumpur	47	15
	Selangor	56	17.8
	Total	103	32.8
East Coast	Kelantan	28	8.9
	Terengganu	25	8
	Pahang	28	8.9
	Total	81	25.8
Northern	Penang	10	3.2
	Perlis	10	3.2
	Kedah	27	8.6
	Perak	19	6.1
	Total	66	21.1
Southern	Negeri Sembilan	11	3.5
	Melaka	9	2.9
	Johor	44	14
	Total	64	20.4
TOTAL		314	100

7.2.2 Demographic Profile

Respondents were asked detailed questions about their demographic profile including their gender, age, marital status, ethnicity and education level. Table 7.2 depicts the respondents' characteristics in relation to these variables. As can be seen in Table 7.2, of the respondents aged between 18 and above, 53.5 per cent were male and hence 46.5 per cent were female. Furthermore, in terms of age, the majority of respondents fell in the range 41 to 56 years of age (37.6 per cent). A mean value of age indicates that the average age of respondents was about 41 to 56 years old. As regards to ethnic background, Table 7.2 shows that about 93.9 per cent of respondents were Malays and 6.1 per cent were non-Malays. This is unsurprisingly as Malay is the largest ethnic group and constitutes a majority of Muslims in Malaysia. In terms of the marital status, the sample population are predominantly married people (77.7 per cent), with just 14.3 per cent of the population being single people. With respect to the education level, the results report that a majority of respondents were well educated with more than 41.7 per

cent of them having secondary school education and about 36 per cent held a diploma or bachelor degree.

Table 7.2: Demographic Backgrounds of Respondents

		Frequency	Percent
Gender	Male	168	53.5
	Female	146	46.5
Age	18–25	36	11.5
	26–40	92	29.3
	41–56	118	37.6
	57 and above	68	21.7
Mean = 2.69			
Marital status	Single	45	14.3
	Married	244	77.7
	Divorcee	9	2.9
	Widow/widower	16	5.1
Ethnicity	Malay	295	93.9
	Chinese	14	4.5
	Indian	1	0.3
	Others	4	1.3
Education level	Primary school	55	17.5
	Secondary school	131	41.7
	Diploma/Bachelor	113	36
	Master/PhD	11	3.5
	Vocational	4	1.3

7.2.3 Occupational Backgrounds

Respondents' occupational backgrounds and their monthly incomes are shown in Table 7.3. A majority of respondents were employed (78.3 per cent). Out of this, those who were working within government is the largest group with 31.2 per cent of respondents, followed by those who were working in the private sector (22.9 per cent) and 24.2 per cent were self-employed. As far as the income level of the participants is concerned, the results show that 38.5 per cent of respondents earned between RM1,001–RM2,999 per month and a substantial number of them earned RM1,000 and below (33.4 per cent). Combined together, the respondents in these two income groups represent

approximately 71.9 per cent of the total sample. A mean value of monthly income of 2.02 indicates that the average monthly income of respondents was about RM1,001–RM2,999.

Table 7.3: Occupational Backgrounds of Respondents

		Frequency	Percent
Types of job	Government servant	98	31.2
	Private sector	72	22.9
	Self-employed	76	24.2
	Housewife	29	9.2
	Unemployed	14	4.5
	Retired	25	8.0
	Monthly income	RM1,000 and below	105
	RM1,001–RM2,999	121	38.5
	RM3,000–RM4,999	66	21.0
	RM5,000 and above	22	7.0
Mean = 2.02			

7.2.4 Other Financial Profiles

In addition to the above-mentioned financial matters, the respondents were further questioned about their other financial profiles, which are presented in Table 7.4. As part of their wealth, it is found that a vast majority of respondents had properties (96.2 per cent). In relation to their wealth, the respondents were asked the detailed value of their assets and amount of inheritance if they ever have inherited previously. Findings indicate that 31.2 per cent of respondents' total value of assets fell within the range RM50,000 or below. The findings also show that only 33.8 per cent of respondents have received some kind of inheritance at any time in their lives. Most inheritances involved relatively small amounts around RM50,000 or below (25.2 per cent). The mean value of the total value of assets of 2.30 indicates that the average total value of assets was about RM50,001–RM100,000, while a mean value of amount of inheritance received of 1.37 reflects that the average amount of inheritance received was about RM50,000 or below.

Table 7.4: Other Financial Backgrounds of Respondents

		Frequency	Percent
Properties	Yes	302	96.2
	No	12	3.8
Total value of assets	RM50,000 or below	98	31.2
	RM50,001–RM100,000	73	23.2
	RM100,001–RM300,000	84	26.8
	RM300,001–RM600,000	35	11.1
	More than RM600,000	12	3.8
Mean = 2.30			
Ever received inheritance previously	Yes	106	33.8
	No	208	66.2
Amount of inheritance received	RM50,000 or below	79	25.2
	RM50,001–RM100,000	19	6.1
	RM100,001–RM300,000	6	1.9
	RM300,001–RM600,000	0	0
	More than RM600,000	2	0.6
Mean = 1.37			

7.2.5 Health Backgrounds**Table 7.5: Health Backgrounds of Respondents**

		Frequency	Percent
Health status	Excellent	65	20.7
	Good	201	64
	Fair	47	15
	Poor	1	0.3
Disability	Yes	5	1.6
	No	309	98.4

Since this research aims at locating the attitudes of the respondents towards *wasiyyah* and bequest, data regarding respondent's health information were also collected, the summary of which is shown in Table 7.5. The data suggests that the large percentage (98.4 per cent) of respondents did not have any disability and overall, 64 per cent of respondents reported good health status.

7.2.6 Family Backgrounds

Table 7.6: Family Backgrounds of Respondents

		Frequency	Percent
Children	Yes	254	80.9
	No	60	19.1
Children under 18	Yes	200	63.7
	No	114	36.3
Non-Muslim children	Yes	4	1.3
	No	310	98.7
Adopted children	Yes	15	4.8
	No	299	95.2
Grandchildren	Yes	81	25.8
	No	233	74.2
Non-Muslim parents	Yes	15	4.8
	No	299	95.2
Siblings	Yes	302	96.2
	No	12	3.8

In searching for *wasiyyah* and bequest attitudes, it is also important to find the family backgrounds of participants, which can be deterministic factors in respondents' attitudes towards *wasiyyah* and bequest. For each participant, their family information was gathered as shown in Table 7.6. Most of respondents had children (80.9 per cent), which is not unexpected as respondents were predominantly married people. Investigating more about their children indicates that 63.7 per cent of respondents had children under 18; 1.3 per cent had non-Muslim children; and only 4.8 per cent had adopted children. In terms of further family backgrounds, 74.2 per cent of respondents did not have grandchildren, only 4.8 per cent of them had non-Muslim parents and 96.2 per cent of participants had siblings. These categories have important implications on behavioural

norms towards *wasiyyah* and bequest as far as Islamic inheritance law and intestacy legislation in Malaysia are concerned, and therefore their inclusion is important.

7.3 RELIABILITY AND VALIDITY TEST

To ensure that the questionnaire was indeed accurate to measure all the construct variables for religiosity and knowledge of Islamic estate planning and *wasiyyah*, Cronbach’s alpha test in SPSS was performed to test for the reliability of instruments. According to Nunnally (1978) as cited in Smith (1999:113) and Churchill (1979:68), the reliabilities of 0.5 and 0.6 will suffice for early stages of basic research. As this study involves exploratory features in the part of *wasiyyah* investigation within Malaysian Muslims, a lower alpha value is therefore acceptable. Results in Table 7.7 confirm that items in the questionnaire relating to all construct variables are all consistent across time. An alpha value of 0.611 means that 23 items constructed to measure religiosity and knowledge are positively correlated to one another.

Table 7.7: Results of the Reliability Test

	Cronbach’s Alpha	Number of items
Religiosity and knowledge	0.611	23

It should be noted that an attempt was made to find the reliability of the entire set of variables; however, because the majority of questions were not designed as Likert scale based and provided options to choose more than one answer, the reliability test did not produce an efficient result. This is related also to the fact that the nature of the questions left plenty of null values or empty cells, which consequently resulted in an inefficient test result. With respect to the validity issue, sound justifications have already been provided in Chapter 6, Section 6.8.2. It also should be noted that the particular model and variables used in this study have already been tested as literature demonstrates, which provide an adhoc validity. After establishing that the data set used in this study is reliable, the proceeding sections aim to present detailed analysis for important variables of the study after brief descriptive results on profile related issues.

7.4 LOCATING THE AWARENESS OF WASIYYAH AMONG PARTICIPANTS

Table 7.8: Awareness of Wasiyyah

Questions	Have you ever heard about Islamic estate planning?		Do you know Islamic ruling on wasiyyah?			Do you know any organization involved in preparing wasiyyah?		Have you or has someone you know, experienced problems sorting out the affairs of someone who died without a wasiyyah?	
	Yes	No	Yes, very knowledgeable	Yes, I'm aware	No	Yes	No	Yes	No
Frequency	238	76	29	228	57	158	156	193	121
Percentage	75.8	24.2	9.2	72.6	18.2	50.3	49.7	61.5	38.5
GENDER (%):									
Male	55.5	47.4	65.5	56.1	36.8	61.4	45.5	56.5	48.8
Female	44.5	52.6	34.5	43.9	63.2	38.6	54.5	43.5	51.2
AGE GROUPS (%):									
18–25	13	6.6	10.3	13.2	5.3	7.6	15.4	6.7	19
26–40	28.2	32.9	27.6	29.4	29.8	30.4	28.2	29.5	28
41–56	37.8	36.8	41.4	37.3	36.8	36.1	39.1	38.9	35.5
57 and above	21	23.7	20.7	20.2	28.1	25.9	17.3	24.9	16.5
MARITAL STATUS (%):									
Single	14.7	13.2	13.8	14.5	14	10.1	18.6	10.4	20.7
Married	78.2	76.3	79.3	80.3	66.7	82.9	72.4	81.9	71.7
Divorcee	2.1	5.3	0	2.6	5.3	1.9	3.8	2.1	4.1
Widow/widower	5	5.3	6.9	2.6	14	5.1	5.1	5.7	4.1
ETHNICITY (%):									
Malay	95	90.8	100	93.4	93	94.9	92.9	94.3	93.4
Non-Malay	5	9.2	0	6.6	7	5.1	7.1	5.7	6.6
EDUCATION LEVEL (%):									
Primary school	18.1	15.8	13.8	16.2	24.6	14.6	20.5	20.2	13.2
Secondary school	39.5	48.7	31	42.1	45.6	41.8	41.7	39.4	45.5
Diploma/Bachelor	38.2	28.9	51.7	36.8	24.6	38	34	35.2	37.2
Master/PhD	2.9	5.3	3.4	3.9	1.8	4.4	2.6	4.1	2.5
Vocational	1.3	1.3	0	0.9	3.5	1.3	1.3	1	1.7
EMPLOYMENT STATUS (%):									
Government employee	34.9	19.7	37.9	32.9	21.1	34.2	28.2	30.1	33.1
Private sector	22.7	23.7	17.2	25.4	15.8	25.3	20.5	22.3	24
Self-employed	21.4	32.9	17.2	22.4	35.1	20.3	28.2	28	18.2
Housewife	8.4	11.8	3.4	8.8	14	4.4	14.1	8.3	10.7
Unemployed	5	2.6	10.3	3.9	3.5	3.8	5.1	3.6	5.8
Retired	7.6	9.2	13.8	6.6	10.5	12	3.8	7.8	8.3
MONTHLY INCOME (%):									
RM1,000 and below	31.9	38.2	37.9	29.8	45.6	25.9	41	33.2	33.9
RM1,001–RM2,999	38.7	38.2	24.1	40.8	36.8	40.5	36.5	34.2	45.5
RM3,000–RM4,999	22.3	17.1	31	21.1	15.8	24.7	17.3	25.4	14
RM5,000 and above	7.1	6.6	6.9	8.3	1.8	8.9	5.1	7.3	6.6

Results for the four specific questions designed to capture the awareness level are presented in Table 7.8. As can be seen, responses to the first question ‘Have you ever heard about Islamic estate planning?’ is quite striking, as 75.8 per cent stated that they had heard about Islamic estate planning. Pertaining to the question whether they knew the Islamic ruling on *wasiyyah*, the majority of them were aware of it (72.6 per cent), while only 9.2 per cent of respondents stated that they were very well informed. However, it is also important to state that the rest of the respondents (18.2 per cent) did not know anything about the ruling. As far as knowledge related to *wasiyyah* writing providers is concerned, findings indicate that more than half of the respondents (50.3 per cent) knew about *wasiyyah* writing providers. The results also demonstrate that 61.5 per cent of respondents had experienced or happened to know someone who had experienced problems associated to dying intestate.

As can be seen in Table 7.8, there is a similar pattern of variation across demographic variables with regard to these three questions indicating that males, those who were working, government servants, those aged 41–56, married people, those with Malay ethnic background, those with secondary education, diploma or bachelor holders and those with income RM2,999 and below were more likely to come across the subject matter and therefore to have a certain level of knowledge.

The research also attempted to distinguish between those with simply an awareness or ‘sense’ of their entitlements and those who had specific knowledge of their rights. A list of statements comprising general knowledge of Islamic estate planning and significances of *wasiyyah* was given to further test their knowledge. Respondents were also asked several questions regarding bequest amount limitation, names of *wasiyyah* writing providers that they knew, the cost of preparing a *wasiyyah* at ARB and its partners and what kind of intestate problems they had encountered. This enabled the nature of their knowledge to be cross checked.

Table 7.9: Respondents' Knowledge on Islamic Estate Planning and *Wasiyyah*

Statements given	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	Mean score*
a) General knowledge of Islamic estate planning						
We are still able to plan our estate during the lifetime but must take into account <i>faraid</i> as well.	39.5	45.9	9.2	5.1	0.3	1.81
Estate planning is only for rich people who have huge estates to leave.	8.3	45.2	11.1	22.6	12.7	2.86
Estate planning is not needed as Muslims are obliged to follow the fixed rules of <i>faraid</i> .	4.8	26.8	18.8	32.2	17.5	3.31
b) Significances and objectives of <i>wasiyyah</i>:						
Assuming that I would like to plan my estate for my heirs or make <i>waqf</i> , the first thing that I should do is prepare a <i>wasiyyah</i> .	24.8	58.3	11.5	4.1	1.3	1.99
I need to leave <i>wasiyyah</i> to ensure my estate distribution will be speeded up and that no legal problems will arise during the process of the distribution.	24.8	56.1	12.4	6.1	0.6	2.02
<i>Wasiyyah</i> is strongly required to be made if we want to appoint trustees for children who are minors.	18.2	65	12.1	4.5	0.3	2.04
If you want to let your heirs know your intention to equally distribute your estates, then you have to prepare <i>wasiyyah</i> .	15.6	64	10.2	9.6	0.6	2.16
No need to make <i>wasiyyah</i> as <i>faraid</i> is already available.	2.9	32.2	27.1	25.2	12.7	3.13
<i>Wasiyyah</i> is only relevant for those who have potential to leave a huge estate.	11.5	27.7	6.1	46.2	8.6	3.13
<i>Wasiyyah</i> is only significant for those who are married, having family, and not for a single person.	5.7	18.8	13.4	52.5	9.6	3.41
<i>Wasiyyah</i> is only relevant for those who are practicing polygamy.	8.9	14	8.9	55.1	13.1	3.49
<i>Wasiyyah</i> is only relevant for old people.	3.8	14.6	7.6	61.5	12.4	3.64
<i>Wasiyyah</i> is only relevant for those who are really sick.	24.8	58.3	11.5	4.1	1.3	3.68

Note: (*) Ratings are based on a five-point scale, where 1= Strongly agree and 5=Strongly disagree.

For this, respondents' knowledge on Islamic estate planning and *wasiyyah* were tested and the mean score was used for the purpose of the analysis. A total of 13 statements were given and respondents were asked to give a score based on Likert-scale. Since there were two types of knowledge tested, statements given were divided into two groups: one group aims to investigate respondents' basic knowledge of Islamic estate planning in general and the second group aims to explore their knowledge in particular

with *wasiyyah*. The frequency distribution of respondents answering each item correctly and mean score are listed in Table 7.9.

As can be seen in Table 7.9, there were three statements pertaining to a basic knowledge of Islamic estate planning and respondents showed a mixed degree of knowledge of the subject matter, as indicated by a mean score of 1.8–3.3. Respondents generally ‘strongly agreed’ or ‘agreed’ that there is nothing wrong regarding a Muslim planning his/her estate during the lifetime but that *faraid* must be taken into account. In addition, respondents disagreed that estate planning is not necessary for Muslim people as estate distribution is already fixed by *faraid*. It should be noted that respondents expressed relatively neutral views about ‘estate planning is only for those who are rich and have huge estates to leave’.

Mean scores on the items of the knowledge of *wasiyyah* ranged from 2–3.7. The strongest agreement expressed by the respondents was with the statement that *wasiyyah* is the first mechanism that should go through in estate planning. Their level of agreement dropped gradually for the items which imply that *wasiyyah* is prepared to avoid legal problems and ensure a smooth estate distribution process, to appoint a trustee and to tell the heir the intention of the testator to equally distribute his/her estates. Respondents were found to be neutral with the statements indicating that *wasiyyah* is only relevant for those who have potential to leave a huge estate, *wasiyyah* is not necessary as Muslims already have *faraid* and *wasiyyah* is only for married people, having family and not for a single person. On the other hand they disagreed with the statements indicating that *wasiyyah* is only for those practising polygamy and for old and sick people.

Table 7.10: Respondent s' Knowledge of the Amount Allowed to Bequeath

	How much is a Muslim allowed to bequeath?				
	No limited amount	1/2 of the estates	2/3 of the estates	1/3 of the estates	Don't Know
Frequency	57	5	3	97	152
Percentage	18.2	1.6	1.0	30.9	48.4
GENDER (%):					
Male	54.4	60	66.7	64.9	45.4
Female	45.6	40	33.3	35.1	54.6
AGE GROUPS (%):					
18–25	3.5	20	33.3	13.4	12.5
26–40	31.6	20	0	24.7	32.2
41–56	33.3	20	66.7	43.3	35.5
57 and above	31.6	40	0	18.6	19.7
MARITAL STATUS (%):					
Single	10.5	20	66.7	14.4	14.5
Married	82.5	60	33.3	82.5	74.3
Divorcee	1.8	0	0	1	4.6
Widow/widower	5.3	20	0	2.1	6.6
ETHNICITY (%):					
Malay	96.5	100	66.7	94.8	92.8
Non-Malay	3.5	0	33.3	5.2	7.2
EDUCATION LEVEL (%):					
Primary school	28.1	20	0	5.2	21.7
Secondary school	38.6	40	66.7	40.2	43.4
Diploma/Bachelor	26.3	40	33.3	48.5	31.6
Master/PhD	5.3	0	0	5.2	2
Vocational	1.8	0	0	1	1.3
EMPLOYMENT STATUS (%):					
Government employee	15.8	40	33.3	38.1	32.2
Private sector	29.8	20	33.3	19.6	22.4
Self-employed	24.6	20	0	19.6	27.6
Housewife	12.3	20	0	4.1	11.2
Unemployed	1.8	0	33.3	10.3	1.3
Retired	15.8	0	0	8.2	5.3
MONTHLY INCOME (%):					
RM1,000 and below	38.6	40	100	28.9	32.9
RM1,001–RM2,999	38.6	20	0	36.1	41.4
RM3,000–RM4,999	15.8	40	0	24.7	20.4
RM5,000 and above	7	0	0	10.3	5.3

As mention above, the knowledge of the participants was cross-checked through additional questions. Pertaining to the question on Islamic ruling of *wasiyyah*, they were asked the amount of bequest allowed in Islam. The right answer is one-third and surprisingly, as shown in Table 7.10, only 30.9 per cent of the respondents could answer correctly. A large number of respondents (48.4 per cent) stated that they did not know.

Table 7.11: Respondents' Knowledge on *Wasiyyah* Writing Providers

	Frequency	Percent
Names of <i>wasiyyah</i> writing providers (if they knew any)		
a) Correct answers given by respondents		
ARB	141	89.2
Solicitor	10	6.3
Banks		
• General	4	2.5
• Bank Rakyat	4	2.5
• Bank Islam Malaysia Berhad (BIMB)	1	0.6
<i>Wasiyyah</i> Shoppe	4	2.5
OSK	2	1.3
As-Salihin Trustee Berhad	1	0.6
Rockwills	1	0.6
Islamic financial institution	1	0.6
ING	1	0.6
<i>Shari'ah</i> lawyer	1	0.6
b) Incorrect answers given by respondents		
State Islamic Religious Council	4	2.5
Tabung Haji	1	0.6
Land Office	1	0.6
Insurance company	1	0.6
Reclassification of respondents who said they knew an organization involved in preparing <i>wasiyyah</i> after taking into account the names of <i>wasiyyah</i> writing providers given		
Respondents who gave valid names of <i>wasiyyah</i> writing providers	151	95.6
Respondents who gave invalid names of <i>wasiyyah</i> writing providers	3	1.9
Respondents who gave mixed answers of the names of <i>wasiyyah</i> writing providers	4	2.5

In addition, to ensure whether what they had in their mind about *wasiyyah* writing providers was actually correct or incorrect, those who said they knew an organization involved in preparing *wasiyyah* were asked to provide the name of the *wasiyyah* writing provider. After taking into account their answer to this question, the researcher found that out of 158 respondents who said they knew an organization involved in preparing *wasiyyah*, only 95.6 per cent of them were able to provide names of *wasiyyah* writing

providers correctly. However, four respondents (2.5 per cent) gave more than one answer and one of them was wrong. It should be noted that ARB appeared the most well-known institution involved in the *wasiyyah* writing service, as indicated by 89.2 per cent of respondents. It is observed that respondents were quite familiar with the function of solicitor as *wasiyyah* writing providers, as 6.3 per cent of respondents mentioned solicitor while 0.6 per cent of respondents specifically referred to *Shari'ah* lawyer. The rest of the *wasiyyah* writing providers were not really common among respondents as each of them were cited by less than 3 per cent of respondents.

The whole results are presented in Table 7.11 above. Results from this section of the analysis raised an interesting point to be highlighted here, in which a few respondents gave wrong answers when they named State Islamic Religious Council, Tabung Haji, Land Office and insurance company as *wasiyyah* writing providers.

To cross-checking awareness issues among the participants, respondents were asked to state the cost of making a *wasiyyah* with ARB. The right answer is RM350. Given the fact that a large number of respondents knew ARB, they were expected to give the correct answer for this question. However, only 6.4 per cent of respondents gave the right answer and 45.5 per cent of respondents claimed that they did not know the cost of preparing a *wasiyyah* with ARB. Table 7.12 gives details of the findings.

It should be stated that in terms of awareness, this study assumes that for some people, a particular experience had sparked their awareness. Therefore, those who stated that they had gone through some experiences or knew someone who experienced some problems as a consequence of dying intestate were required to mention the types of such problems. Table 7.13 shows the most cited problems were related to the time, effort, relationship and pressure: 74.6 per cent of respondents agreed that dying intestate results in the procedure taking a long time and much effort to sort out, and 74.1 per cent recognized that it can create a relationship problem within the family members or relatives. Furthermore, 52.8 per cent of respondents stated that the person who is responsible for distributing the estate would find himself/herself under a lot of stress to sort out this matter.

Table 7.12: Respondents' Knowledge of Cost of Making *Wasiyyah*

	How much do you think it would cost now to prepare a <i>wasiyyah</i> by ARB and its partners?					
	Less than RM100	RM101–RM200	RM201–RM300	RM301–RM400	RM401 and more	Don't know
Frequency	71	39	28	20	13	143
Percentage	22.6	12.4	8.9	6.4	4.1	45.5
GENDER (%):						
Male	54.9	71.8	53.6	35	84.6	47.6
Female	45.1	28.2	46.4	65	15.4	52.4
AGE GROUPS (%):						
18–25	14.1	5.1	7.1	10	7.7	13.3
26–40	25.4	28.2	28.6	50	23.1	29.4
41–56	36.6	43.6	21.4	25	53.8	39.9
57 and above	23.9	23.1	42.9	15	15.4	17.5
MARITAL STATUS (%):						
Single	19.7	2.6	14.3	15	0	16.1
Married	69	89.7	71.4	85	100	76.9
Divorcee	5.6	0	3.6	0	0	2.8
Widow/widower	5.6	7.7	10.7	0	0	4.2
ETHNICITY (%):						
Malay	95.8	94.9	96.4	95	84.6	93
Non-Malay	4.2	5.1	3.6	5	15.4	7
EDUCATION LEVEL (%):						
Primary school	19.7	15.4	39.3	10	7.7	14.7
Secondary school	43.7	48.7	35.7	30	38.5	42
Diploma/Bachelor	31	28.2	25	55	46.2	39.2
Master/PhD	2.8	5.1	0	5	7.7	3.5
Vocational	2.8	2.6	0	0	0	0.7
EMPLOYMENT STATUS (%):						
Government employee	21.1	33.3	21.4	25	46.2	37.1
Private sector	22.5	25.6	10.7	30	7.7	25.2
Self-employed	26.8	25.6	42.9	15	30.8	19.6
Housewife	9.9	7.7	10.7	15	7.7	8.4
Unemployed	5.6	2.6	7.1	10	0	3.5
Retired	14.1	5.1	7.1	5	7.7	6.3
MONTHLY INCOME (%):						
RM1,000 and below	3.8	33.3	57.1	30	0	30.1
RM1,001–RM2,999	46.5	33.3	25	30	38.5	39.9
RM3,000–RM4,999	12.7	23.1	14.3	40	46.2	21
RM5,000 and above	2.8	10.3	3.6	0	15.4	9.1

Table 7.13: Problems Related to Intestate Death

Problems related to intestate death	Frequency	Percent
Things took a lot of time and effort to sort out	144	74.6
It put relationship with family or relatives under strain	143	74.1
It was stressful for the person responsible for distributing the estate	102	52.8
Expensive to sort things out	77	39.9
It caused problems about who was responsible for looking after the children	77	39.9
The estates, were divided into small portions in order to comply with the <i>faraid</i> shares entitled by each heir	73	37.8
The estates, or part of the estate went to someone who the deceased wouldn't have wanted it to go	62	32.1
Others		
<ul style="list-style-type: none"> • Problems in handling collateralized estates 	1	0.5

7.5 FINDINGS OF WASIYYAH PRACTICE

The proceeding sections are findings obtained from the survey questionnaire concerning the respondents' practice of making a *wasiyyah*. Respondents were categorized into two groups: those who have made a *wasiyyah* and those who have not made a *wasiyyah*.

7.5.1 Number of Respondents Making a *Wasiyyah*

The first step of analysis of *wasiyyah* practice started with a total of 317 respondents. Out of this, a total of 50 respondents or 15.8 per cent were identified having made a *wasiyyah* as presented in Table 7.14 below. Interestingly, three people out of those who have made a *wasiyyah*, actually had not made a *wasiyyah* as what they thought. These three persons mentioned about making a *wasiyyah* at the Land Office, EPF and by writing a nominee on the insurance policy. The researcher assumed that the person who listed making a *wasiyyah* at EPF actually referred to a naming a nominee on the EPF form. It was already mentioned in the previous chapter that the Land Office is actually the place where people deal with small intestate matters and the person in charge in the Land Office can raise the matter of *wasiyyah* made by the deceased to clarify and smooth the estate distribution process.

Table 7.14: Number of Respondents Making a *Wasiyyah*

	Initial Answers		Adjusted Responses	
	Frequency	Percent	Frequency	Percent
Yes	50	15.8	47	15
No	267	84.2	267	85
Total	317	100	314	100

These three people were not excluded from the beginning as this was actually the first signal which indicated that people did not clearly know what a *wasiyyah* was and misunderstood the functions of various organizations involved in the estate distribution process in Malaysia. Nevertheless, it should be noted that it is premature to verify the assumption. Consequently, these three respondents were then dropped from the initial total of respondents on the grounds that their answers could not be taken into account for further analysis. As a result, the total number of respondents for the following analysis remained at 314. The fact that only a minority of people have made a *wasiyyah* remains, as only 47 respondents or 15 per cent of them stated that they have done so as shown in Table 7.14 (please refer to to the adjusted responses).

The next steps of analysis were carried out to see the extent to which *wasiyyah* practice varied across demographic, financial, health, family backgrounds, knowledge, cultural values, religiosity and institutional factors. A Chi-square test was used to determine the significance of the relationship between *wasiyyah* practice and these identified control factors. These results are presented in Table 7.15.

As can be seen in Table 7.15, with respect to gender, males were more likely to have made a *wasiyyah* than females (61.7 per cent versus 38.3 per cent), but there was no significant relationship between gender and *wasiyyah* making. It appeared that *wasiyyah* making was increasing with age and this is statistically significant at the 5 per cent level. The results also demonstrate that younger people were less likely to have made a *wasiyyah*. Consequently, it was found that age group 18–25 was most unlikely to make a *wasiyyah*, as only 2.1 per cent of the respondents in this age group stated that they had made one. However, this rose to 23.4 per cent in the 26–40 age group, 40.4 per cent in

the 41–56 age group and 34 per cent in the 57 and above age group. Married people (89.4 per cent) and Malays (93.6 per cent) were more likely to have made a *wasiyyah*. However, neither marital status nor ethnicity was statistically significant.

The findings show that having higher education made people more likely to have made a *wasiyyah*. Eventhough it is not statistically significant, results show that those who did not get official education (vocational) were reluctant to have made a *wasiyyah* (2.1 per cent). The trend however changed with further education. Those who had education till secondary level were most likely to have made a *wasiyyah* (48.9 per cent) and *wasiyyah* making among those who were diploma and bachelor holders were reasonably high (31.9 per cent).

As depicted in Table 7.15, employment was proved to have an impact on *wasiyyah* ownership and the Chi-square test value shows that it is statistically significant at the 1 per cent level. Working people and those who used to work were more likely to have made a *wasiyyah* than others (93.7 per cent versus 6.4 per cent). As expected, unemployed people were most unlikely to have made a *wasiyyah* and the result shows that none of them had done so.

The survey reveals that monthly income had a significant role to play in influencing *wasiyyah* practice with those who had higher incomes being more likely to have made a *wasiyyah* than those who had lower incomes. Some 70.2 per cent of respondents with a monthly income between RM1,001–RM4,999 being reported to have made a *wasiyyah* while only 17 per cent of respondents with monthly income RM1,000 and below having done so. This relationship was proved to be statistically significant at the 5 per cent level, as expected.

As the results indicate, other financial factors such as having properties, total value of assets and whether respondents had received inheritance previously had no significant relationship with the *wasiyyah* practice. However, the amount of inheritance received previously definitely had a significant impact on *wasiyyah* ownership and it is statistically significant at the 10 per cent level. Results obtained from the data were quite interesting as the variations imply that those with a total value of assets below RM300,000, those who had not received inheritance and those who had received

inheritance around RM50,000 and below were more likely to have made a *wasiyyah* (76 per cent, 59.6 per cent and 63.2 per cent respectively).

The Chi-square test shows that health status had a significant impact on *wasiyyah* practice at the 10 per cent level. The noticeable trend is that those who have good health status were most likely to have made a *wasiyyah* than others (61.7 per cent). Disability on the other hand was found not to have a significant relationship with *wasiyyah* practice and only those who had no disability have made a *wasiyyah*.

The results also show that people with children were much more likely to have made a *wasiyyah* than others (91.5 per cent versus 8.5 per cent) and there is a significant relationship explaining this finding in which it is statistically significant at the 5 per cent level. However, having children under 18, non-Muslim children, non-Muslim parents and siblings were found not to be the significant determinants of, or motivating factors for, *wasiyyah* practice. In spite of the insignificant findings, the variations show that those who had children under 18, those who did not have non-Muslim children and non-Muslim parents, as well as those who had siblings, were more likely to have made a *wasiyyah* (63.8 per cent, 100 per cent, 93.6 per cent and 97.9 per cent respectively). Significant relationships between *wasiyyah* making practice with those who had adopted children and grandchildren were confirmed by the findings, revealing 12.8 per cent of those who had adopted children and 42.6 per cent of those who had grandchildren have made a *wasiyyah*. Both are statistically significant at the 1 per cent level.

As the results in Table 7.15 depict, those who were more knowledgeable about Islamic estate planning and *wasiyyah* were more likely to have made a *wasiyyah*, while those who were less knowledgeable about this particular subject were least likely to have made a *wasiyyah*. This result was found to be statistically significant at the 5 per cent level. Unexpectedly, religiosity did not influence *wasiyyah* practice as this was not statistically proved. Variations, however, show that religious people were more likely to have made as *wasiyyah*.

Table 7.15: Number of Respondents Making a *Wasiyyah*: Variation Across Control Variables

	Have you made a <i>wasiyyah</i> ?		Chi-square	p-value
	Yes	No		
Frequency	238	76		
Percentage	75.8	24.2		
DEMOGRAPHIC				
GENDER (%):			1.494	0.222
Female	38.3	47.9		
Male	61.7	52.1		
AGE GROUPS (%):			8.894	0.031**
18–25	2.1	13.1		
26–40	23.4	30.3		
41–56	40.4	37.1		
57 and above	34	19.5		
MARITAL STATUS (%):			6.209	0.102
Single	4.3	16.1		
Married	89.4	75.7		
Divorcee	4.3	2.6		
Widow/widower	2.1	5.6		
ETHNICITY (%):			0.011	0.918
Malay	93.6	94		
Non-Malay	6.4	6		
EDUCATION LEVEL (%):			2.062	0.724
Primary school	12.8	18.4		
Secondary school	48.9	40.4		
Diploma/Bachelor	31.9	36.7		
Master/PhD	4.3	3.4		
Vocational	2.1	1.1		
OCCUPATIONAL				
EMPLOYMENT STATUS (%):			18.336	0.003*
Government employee	21.3	33		
Private sector	29.8	21.7		
Self-employed	21.3	24.7		
Housewife	6.4	9.7		
Unemployed	0	5.2		
Retired	21.3	5.6		
MONTHLY INCOME (%):			8.150	0.043**
RM1,000 and below	17	36.3		
RM1,001–RM2,999	44.7	37.5		
RM3,000–RM4,999	25.5	20.2		
RM5,000 and above	12.8	6		

Have you made a wasiyah?				
	Yes	No	Chi-square	p-value
FINANCIAL				
ASSET OWNERSHIP (%):				
Yes	97.9	95.9	0.432	0.511
No	2.1	4.1		
TOTAL VALUE OF ASSETS (%):				
RM50,000 and below	21.7	34.4	5.716	0.221
RM50,001–RM100,000	23.9	24.2		
RM100,001–RM300,000	30.4	27.3		
RM300,001–RM600,000	15.2	10.9		
More than RM600,000	8.7	3.1		
EVER PREVIOUSLY RECEIVED INHERITANCE (%):				
Yes	40.4	32.6	1.099	0.295
No	59.6	67.4		
AMOUNT OF INHERITANCE RECEIVED (%):				
RM50,000 and below	63.2	77	6.771	0.08***
RM50,001–RM100,000	36.8	13.8		
RM100,001–RM300,000	0	6.9		
RM300,001–RM600,000	0	0		
More than RM600,000	0	1.9		
HEALTH				
HEALTH STATUS (%):				
Excellent	17	21.3	6.734	0.081***
Good	61.7	64.4		
Fair	19.1	14.2		
Poor	2.1	0		
DISABILITY (%):				
Yes	0	1.9	0.894	0.344
No	100	98.1		
HAVING CHILDREN (%):				
Yes	91.5	79	4.016	0.045**
No	8.5	21		
HAVING CHILDREN UNDER 18 (%):				
Yes	63.8	63.7	0	0.963
No	36.2	36.3		
HAVING NON-MUSLIM CHILDREN (%):				
Yes	0	1.5	0.713	0.398
No	100	98.5		

Have you made a wasiyyah?				
	Yes	No	Chi-square	p-value
HAVING ADOPTED CHILDREN (%):			7.755	0.005*
Yes	12.8	3.4		
No	87.2	96.6		
HAVING GRANDCHILDREN (%):			8.108	0.004*
Yes	42.6	22.8		
No	57.4	77.2		
HAVING NON-MUSLIM PARENTS (%):			0.313	0.576
Yes	6.4	4.5		
No	93.6	95.5		
HAVING SIBLING (%):			0.432	0.511
Yes	97.9	95.9		
No	2.1	4.1		
KNOWLEDGE	-	-	42.127	0.042**
CULTURAL VALUES (%)				
When children wish to discuss or advise to draw up a <i>wasiyyah</i>			0.724	0.395
• I am quite/very open-minded	70.2	76		
• I am reluctant to discuss it with my children	29.8	24		
When <i>wasiyyah</i> writing providers approach, want to discuss and advise to draw up a <i>wasiyyah</i>			3.948	0.139
• I am quite/very open-minded to discuss this matter but I still refuse to do it	21	10.5		
• I am quite/very open-minded to discuss this matter and will consider making a <i>wasiyyah</i> in the future.	87.2	82.8		
• I am reluctant to discuss this matter	10.6	6.7		
RELIGIOSITY	-	-	20.032	0.393

Have you made a <i>wasiyyah</i> ?				
	Yes	No	Chi-square	p-value
INSTITUTIONAL (%)				
Knowing the existence of a <i>wasiyyah</i> writing provider (after taking into account the names of <i>wasiyyah</i> writing providers that they provided for Question 42)			20.9	0.000*
• Those who had given valid answer	78.7	42.7		
• Those who had given invalid	21.3	55.8		
• Those who had given mixed answers	0	1.5		
Knowing the cost of preparing a <i>wasiyyah</i> (after taking into account their answer for Question 46)			1.621	0.203
• Those who had given right answer (RM301-RM400)	4.3	1.5		
• Those who had given wrong answer	95.7	98.5		
INHERITANCE LAW (%)				
Knowing the limited amount of bequest allowed (after taking into account their answer for Question 36)			10.148	0.001*
• Those who had given right answer (1/3 of the estates)	48.9	72.3		
• Those who had given wrong answer	51.1	27.7		

Note: Significance levels are: (*) denotes $p < 0.01$ (1 per cent); (**) denotes $p < 0.05$ (5 per cent); (***) denotes $p < 0.1$ (10 per cent)

As regards to institutional factors as a determinant variable, it is found that knowing a *wasiyyah* writing provider could influence people to have made a *wasiyyah* and it is statistically significant at the 1 per cent level (78.7 per cent versus 21.3 per cent). Knowing the cost of preparing a *wasiyyah* at ARB however, it is not statistically significant and findings interestingly show that those who gave incorrect answers were more likely to have made a *wasiyyah* (95.7 per cent versus 4.3 per cent).

Further delving into legal knowledge issues, as shown in Table 7.15, indicates that fixed inheritance law, which allows up to one-third of the bequest amount, is an important determinant of *wasiyyah* practice and is statistically significant at the 1 per cent level. Some 48.9 per cent of those who knew this rule have made a *wasiyyah*. With regard to cultural values, behavioural norms of Malaysian Muslims towards *wasiyyah* was used as

proxy for this variable. Results show that those who could discuss openly and at ease about *wasiyyah* with their children and those who were open-minded and gave consideration to a *wasiyyah* writing provider's advice were more likely to have made a *wasiyyah* (70.2 per cent and 87.2 per cent respectively). However, none of these are statistically significant.

Table 7.16: Respondents' Responses Towards Questions Associated to Cultural Values

	Frequency	Percent
Question 18: What would be your response if your children would wish to discuss and advise you to prepare your <i>wasiyyah</i> as soon as possible?		
I am quite/very open-minded	236	75.2
I am reluctant to discuss it with my children	78	24.8
Reasons for being reluctant to discuss about <i>wasiyyah</i> making with their children		
I think it is rude for children to talk with the elderly about inheritance matters	49	62.8
It's none of their business	38	48.7
They don't have the right to interfere	23	29.5
Other		
• I don't want my children quarrel over the properties	1	1.3
• I don't want them to be greedy	1	1.3
• I'm not very close to them as I am rarely at home	1	1.3
• I've got too many children	1	1.3
• It's my personal matter	1	1.3
• It's useless to discuss since I only have a small property	1	1.3
• It's going to take a long time if I want to discuss it with children	1	1.3
• It's not the time yet to discuss	3	3.9
• It's up to me to decide	2	2.6
• Children should obey and accept my decision	1	1.3
• Let Allah cater everything, just follow <i>Al-Quran</i> and <i>Hadith</i>	1	1.3
• They are still small	1	1.3
• To avoid disagreement	1	1.3
Question 20: What would be your response if someone from a <i>wasiyyah</i> writing provider approached you and asked to discuss this matter and advised you to prepare your <i>wasiyyah</i> through proper channel as soon as possible?		
I am quite/very open-minded to discuss this matter and will consider making a <i>wasiyyah</i> in the future	262	83.4
I am quite/very open-minded to discuss this matter but I still refuse to do it	29	9.2
I am reluctant to discuss this matter	23	7.3

In further analysing the impact of the cultural value factor on *wasiyyah* practice, Table 7.16 reveals in detail the responses towards several questions asked to capture the respondents' reactions if someone approached them with the intention to discuss and advise them to prepare their *wasiyyah* as soon as possible.

Two scenarios were given to respondents. As can be seen in Table 7.16, a majority of respondents were quite/very open minded if their children wished to discuss and advise them to prepare their *wasiyyah* (75.2 per cent). Those who were reluctant to do so were asked to provide their reasons. Apparently, most of them (62.8 per cent) considered it was rude for children to talk with the elderly about inheritance matters. A majority of respondents were also quite/very open-minded to discuss this matter with a representative of a *wasiyyah* writing provider and would consider making a *wasiyyah* in the future (83.4 per cent).

7.5.2 Reasons For Not Making a *Wasiyyah*

In addition to explaining *wasiyyah* making behavioural norms, this survey also offers insight into the perplexing problem of as to why Malaysian Muslims have not made a *wasiyyah*. Table 7.17 and Table 7.18 illustrate the percentage of respondents with various reasons for not making a *wasiyyah*. As the results in Table 7.17 show, respondents most often cited that they have not got round to it yet (44.6 per cent). Variation across several demographic factors shows that males (55.5 per cent), those aged 41–56 (42.9 per cent), married people (83.2 per cent), Malays (94.1 per cent), those who had education till secondary school (45.4 per cent), government servants (30.3 per cent), those with incomes less than RM2,999 (71.5 per cent), those with good health status (67.2 per cent) and those with children (89.1 per cent) were more likely to cite this reason. In addition, those who had children under 18 (75.6 per cent), adopted children (4.2 per cent), non-Muslim parents (5 per cent) and those whose total value of income was more than RM100,000 (42.8 per cent) have not got round to settling their *wasiyyah*.

The second most common reason why people did not make a *wasiyyah*, as can be seen in the results, was because they have never thought about it. Younger people tend to cite this reason (19.3 per cent aged 18–25 and 25 per cent aged 25–40). Surprisingly, results also revealed that 13.6 per cent of respondents who were older people aged 41 to 56 (42

per cent), 57 and above (13.6 per cent) also cited this reason. Having nothing to leave or a small estate to leave was cited by at least 31.8 per cent of respondents. It is not a shocking result to figure out that those who had small and medium incomes which was RM2,999 and below (83.5 per cent) as well as those who had a total value of assets less than RM100,000 (79.5 per cent) were more likely to cite this reason.

There was a great tendency to stress the reason that ‘they thought it would go to the right person according to *faraid*’ (22.5 per cent) for not making a *wasiyyah*. It could be more meaningful to see its variation across those who had relatives excluded by *faraid*. Among those who had relatives excluded by *faraid*, only one respondent (1.7 per cent) who had adopted children and two respondents (3.3 per cent) who had non-Muslim parents cited this reason.

Some people did not make a *wasiyyah* because they opted not to do it: 21 per cent of respondents were certainly sure that they have not made a *wasiyyah* on the grounds that they wanted to leave it up to *faraid*; while only 3.7 per cent of respondents said they did not need it because they did not have any bequest to make. The reason ‘too young to think about it’ was cited by at least 22.1 per cent of respondents. The most striking result to emerge from the data is that the tendency to give the reason that they were too young to think about it was highest among the young group of people. At least 42.4 per cent of those aged 18–25 and 32.2 per cent of those aged 26–40 cited this reason.

The following two reasons could be associated to the institutional factor: 18 per cent of respondents said that they have not made a *wasiyyah* because they did not know how to do it; whereby only 1.9 per cent of respondents said it was too expensive (1.9 per cent). It is worth noting that these reasons are only relevant for those who thought about making a written *wasiyyah* in a formal way: 16.5 per cent of respondents thought that there were no major changes in their family formation that required them to prepare a *wasiyyah*. This was most prevalent among the respondents who were single (49.2 per cent), young people aged 18–25 (42.4 per cent) followed by married people (47.2 per cent) and those aged 26–40 (32.2 per cent).

Table 7.17: Reasons for Not Making a *Wasiyyah*

Reasons	Frequency	Percent
Haven't got round to it yet	119	44.6
Never thought about it	88	33
I have nothing to leave/my estate isn't large enough to distribute	85	31.8
No need to make a <i>wasiyyah</i> – my assets will go to the right person according to <i>faraid</i>	60	22.5
Too young to think about it	59	22.1
Because I want my estate to be divided according to <i>faraid</i>	56	21
I don't know how to do it	48	18
There are no major changes in my family formation that require me to prepare a <i>wasiyyah</i>	44	16.5
Still healthy; <i>wasiyyah</i> is only relevant for those who are seriously ill	14	5.2
Other	12	4.5
Because I don't have any bequest to make	10	3.7
It is not an obligation in Islam	10	3.7
It's too expensive	5	1.9
Don't like thinking about dying	4	1.5

Table 7.18: Other Reasons Mentioned for Not Making a *Wasiyyah*

Other reasons mentioned by the respondents	Frequency	Percent
Properties have already been transferred	3	1.1
All of my insurance policies have nominees	1	0.4
Because I want my estate to be equally distributed.	2	0.8
I don't know the benefits of making <i>wasiyyah</i> as no agencies have come to approach me	1	0.4
I don't think it's important	1	0.4
It is not part of Malay culture	1	0.4
My children are still small	1	0.4
Need time and effort to identify the properties and their values	1	0.4
Properties are still under financing	1	0.4

A small number of respondents (5.2 per cent) thought that *wasiyyah* was not necessary as they were still healthy and that it was only relevant for those who were seriously ill: 21.4 per cent of such respondents were those who had excellent health status while 78.6 per cent of them were those who had good health status; only 3.7 per cent of respondents cited 'it is not an obligation in Islam' whereby overall, 1.5 per cent said in

explaining their actions of not making a *wasiyyah* that they did not like thinking about dying.

It should also be mentioned that 4.5 per cent of respondents cited other reasons. Out of this figure, which can be seen in Table 7.18, three respondents (1.1 per cent) said that they did not need a *wasiyyah* as their properties had already been transferred and two respondents (0.8 per cent) said they want their estates to be equally distributed. The following reasons were each cited by only one respondent; ‘insurance policies already had nominees’, ‘had no idea about the benefits of making a *wasiyyah* as no *wasiyyah* writing provider explain to him/her before’, ‘did not think it is important’, ‘it is not part of Malay culture’, ‘children were still small’, ‘needed more time to identify their properties’ and ‘the total of value of their assets and properties are still under financing’.

7.5.3 Reasons for Making a *Wasiyyah*

Table 7.19: Reasons for Making a *Wasiyyah*

Reasons	Frequency	Percent
I want to make sure that my family is provided for when I die	37	78.7
Peace of mind about what will happen to my estate when I die	32	68.1
Because there is promotion/publicity about <i>wasiyyah</i> undertaken by Amanah Raya Berhad (ARB)/other companies	29	61.7
Self-awareness	29	61.7
I would like my estate to be distributed as what I intend – I do not want to follow the <i>faraid</i>	14	29.8
Because of my health factor (e.g I'm too old, I'm sick)	13	27.7
Because Islam encourages us to do so	12	25.5
I want to appoint an executor because I do not want any problems to arise during the process of distribution which would then cause difficulties to my heirs (e.g legal problems)	10	21.3
I want to appoint a trustee (e.g For my children who are minor, so that they will be taken care of properly when I die)	8	17
There is/are change/s in my family formation	6	12.8
Friends/family recommend/advise me to do so	5	10.6
The value of my estate increased suddenly	5	10.6
Because I've embraced Islam	3	6.4
I have bequest to make (such as bequest for <i>waqf</i> , bequest for my grandchildren)	2	4.3
Other	0	0

The analysis so far shows that there were a number of reasons that appear to influence *wasiyyah* making, the results of which presented in Table 7.19. The two most primary reasons respondents cited were to make sure that their family was provided for when they died (78.7 per cent), and peace of mind about what will happen to their estate when they die (68.1 per cent). In addition, 61.7 per cent of respondents indicated that there was a promotion/publicity about *wasiyyah* undertaken by ARB/other companies and this has motivated them. Interestingly, there appears to be a consistency of variations in gender, age and education for these three reasons in which males, those aged 41 and above, and those with secondary school education were more likely to cite these reasons. Almost two-thirds of the respondents (61.7 per cent) expressed that they did it because of their self-awareness. There was no difference in gender in the proportions of respondents who expressed this reason. Younger people aged 26–40, diploma and bachelor holders and those who were working in the private sector were more likely to cite this reason.

What is interesting in this data is that some respondents were quite certain that they have made a *wasiyyah* because of the inheritance law requirements. This might be explained by the following reasons cited by the respondents: 29.8 per cent of respondents have made a *wasiyyah* as they wanted their estate to be distributed as they intended and did not want to follow the *faraid*; 21.3 per cent of respondents have made a *wasiyyah* because they wanted to appoint an executor in order to avoid any problems such as legal problems during the process of distribution which would then cause difficulties to their heirs; 17 per cent of respondents have made a *wasiyyah* as they wanted to appoint a trustee; 4.3 per cent of respondents have made a *wasiyyah* because they have made bequest and lastly, 6.4 per cent of the respondents have made a *wasiyyah* because they have embraced Islam.

It should be noted that this survey investigated *wasiyyah* per se and did not go to the extent of checking the contents of the *wasiyyah* itself to confirm whether it was valid or invalid. Accordingly, in respect of those who said that they have made *wasiyyah* because they wanted to distribute their estate as they intended and those who said they have made a *wasiyyah* because they have made bequest, their *wasiyyah* cannot be considered invalid even though they violated the rule of one-third. If each heir reaches a

consensus to allow it to be enforced, then the particular *wasiyyah* are considered to be valid.

As can be seen in Table 7.19, the results suggest that some respondents have made a *wasiyyah* because of the religious factor in which they understood that Islam encourages them to prepare it (25.5 per cent). In addition, reasons related to changes in family formation were cited by 12.8 per cent of respondents. Furthermore, making *wasiyyah* after getting a recommendation from friend or family and because the estate value had increased, were each cited by 10.6 per cent of respondents.

7.5.4 Methods of Making a *Wasiyyah*

This research also aims at locating the methods of making a *wasiyyah* as part of related behavioural issues. The results are depicted in Table 7.20. People have many options to choose from in preparing their *wasiyyah*. Obviously, making a *wasiyyah* with ARB was the most popular means among the respondents (31.9 per cent). Nobody cited that they had made a *wasiyyah* with the banks which were the ARB's partners.

Table 7.20: Methods of Making a *Wasiyyah*

	Frequency	Percent
ARB	15	31.9
Handwritten themselves	11	23.4
Verbal	10	21.3
Solicitor	8	17
Handwritten themselves and verbal	2	4.3
Other agencies which ARB's partner	1	2.1
Total	47	100

As expected, having a handwritten and verbal *wasiyyah* was quite common among the respondents (23.4 per cent and 21.3 per cent respectively). Some of them, apart from having a handwritten *wasiyyah*, had also made a verbal one (4.3 per cent). Only one respondent cited that he/she had made a *wasiyyah* with another agency which was ARB's partner (2.1 per cent). As participants preferred to state the parent agency (ARB) instead of mentioning the partners, caution should be taken in interpreting this figure in terms of ARB's role. Apart from this, it is also observed that a quite a large number of

respondents have made a *wasiyyah* with their solicitor (17 per cent).

The results indicate that male respondents were found to be more likely to have made a *wasiyyah* at ARB (34.5 per cent) while female respondents were more likely to have made a verbal *wasiyyah* (33.3 per cent). Within age groups, younger people aged 18 to 40 were more likely to have made a *wasiyyah* at ARB (100 per cent for age group 18–25 and 54.5 per cent for age group 26–40). Older people aged 41–56 were more likely to have made a handwritten and verbal *wasiyyah* (54.5 per cent and 50 per cent respectively). The oldest age group which is 57 and above was more likely to have made a *wasiyyah* with solicitor (31.2 per cent) or verbal *wasiyyah* (31.2 per cent).

Despite that the majority of the respondents were Malays, it is still relevant to investigate the variations across ethnicity. This survey tells that methods of making a *wasiyyah* among Malays were more widespread than non-Malays. Non-Malays were found to have made a *wasiyyah* only through either solicitor or ARB (two people used their solicitor and one person used ARB).

Variations across education and types of job are other striking observations to emerge from the data comparison. Those who had higher education and those who were government servants were more likely to deal with a *wasiyyah* writing provider to prepare their *wasiyyah*: 40 per cent of respondents who were diploma/bachelor holders, 100 per cent of respondents with master/PhD and 40 per cent of respondents working as government servants had made their *wasiyyah* with ARB. Conversely, those who had lower education had made their *wasiyyah* in the traditional way: 50 per cent of those who had education till primary school had made verbal *wasiyyah*; whereby 30.4 per cent of those who had education till secondary school had made a handwritten *wasiyyah*.

7.5.5 Methods of Making a *Wasiyyah* in the Future

In further delving into behavioural issues, those respondents who did not have *wasiyyah* were also asked their potential method of making a *wasiyyah* in the future and their answers were compiled in Table 7.21. ARB was top of the list, as 93.1 per cent of respondents indicated their willingness to remain writing their *wasiyyah* with ARB in the future. Breaking down this figure into the following groups, it becomes obvious that more than half of the respondents would opt for making their *wasiyyah* with ARB

directly in the future (59.6 per cent) and 33.5 per cent would do it indirectly through ARB's partners (20.1 per cent said that they would do it through companies which are ARB's partners, while another 13.4 per cent said that they would do it through banks which are ARB's partners). Either doing it directly or indirectly with ARB, the variations across gender, age, types of job and education were similar in which males (50.3 per cent to 58.7 per cent), those aged 26–56 (66.6 per cent to 87.8 per cent), government servants (33.3 per cent to 39.7 per cent) and those with secondary school education and diploma/bachelor holders (71.4 per cent to 83.4 per cent) were more likely to opt for these methods. A significant number of respondents would make a *wasiyyah* through their solicitor in the future (45.9 per cent). Here again, the groups most prone to say this included those who were male (53.5 per cent), those aged 26–56 (68.8 per cent), government servants (31.2 per cent) and those with secondary school education and diploma/bachelor holders (79.9 per cent).

It seems that handwritten *wasiyyah* themselves and verbal *wasiyyah* remain part of the Malaysian Muslims' options (25.8 per cent and 19.4 per cent respectively). More males than females would make handwritten *wasiyyah* in the future (53.1 per cent versus 46.9 per cent), while on the other hand, more females than males would make a verbal *wasiyyah* in the future (52.5 per cent versus 47.5 per cent). For either handwritten or verbal *wasiyyah*, those with secondary school education were more likely than others to choose these methods (43.2 per cent and 52.5 per cent respectively). The researcher also found that a quite small number of younger people aged 18–25 would also consider making a handwritten (14.8 per cent) or verbal (13.1 per cent) *wasiyyah*. Within types of job, self-employed people were more likely to make a verbal *wasiyyah* (32.8 per cent) while government servants were more likely to make a handwritten *wasiyyah* (43.2 per cent) in the future.

As the results show not many respondents would do their *wasiyyah* outside of the ARB in the future. Only 5.4 per cent said that they would do it through companies which are not ARB's partners whereby 2.9 per cent said that they would do it through banks which are not ARB's partners. Only 2.2 per cent of respondents opted for making a *wasiyyah* using *wasiyyah* templates available on the internet. Slightly more males than females stated that they would choose all previous methods of making a *wasiyyah* in the future, however, in the case of making a *wasiyyah* using internet, there has been a notable shift

in their gender composition (male 85.7 per cent versus female 14.3 per cent). Not surprisingly, young people were more likely to choose this method (42.9 per cent of those in the 26–40 age group). Only one respondent (0.3 per cent) stated that he/she would make his/her *wasiyyah* through his/her religious teacher.

Table 7.21: Methods of Making a *Wasiyyah* in the Future

Methods to be used in the future	Frequency	Percent
ARB	187	59.6
Solicitor	144	45.9
Handwritten themselves	81	25.8
Company which is ARB's partner	63	20.1
Verbal	61	19.4
Bank which is ARB's partner	42	13.4
Companies which are not ARB's partner	17	5.4
Banks which are not ARB's partner	9	2.9
Internet	7	2.2
Other method		
• Through religious teacher	1	0.3
Other Answer Given to the Question Concerning Future Methods of Making a <i>Wasiyyah</i>		
Not making a <i>wasiyyah</i> at all. Distribute according to <i>faraid</i>	1	0.3
Will not make a <i>wasiyyah</i> at all	1	0.3
Not sure yet	2	0.6
Not sure yet until I get advice from Islamic Religious Department	1	0.3

As can be seen in Table 7.21, there were two respondents (0.6 per cent) who said that they were not going to make *wasiyyah* at all, while three respondents (0.9 per cent) were not sure yet, with one of them stating he/she would get advice from the Islamic Religious Department before he/she would do so.

7.5.6 Factors Influencing Methods of Making a *Wasiyyah* in the Future

Table 7.22: Factors Influencing Methods of Making a *Wasiyyah* in the Future

Factors	Frequency	Mean value*
Credibility of a well-known <i>wasiyyah</i> institution	119	2.39
Credibility of the <i>wasiyyah</i> institution that belongs to the government	73	2.87
Trustworthiness towards individual that I deal with	42	3.53
Types and quality of services offered	21	4.02
Cost/price to pay	32	4.07
Possess capability to write own <i>wasiyyah</i>	40	4.45
Possess qualification to write own <i>wasiyyah</i>	13	5.02
Positive recommendation from people	8	5.46

Note: (*) Score closest to 1 is the most ranked one.

This section dealt with the analysis of factors delineating respondents' selection criteria of choosing a particular method of making a *wasiyyah* in the future. To achieve this, mean scoring was used and results were illustrated in Table 7.22.

There was a tendency for respondents to make a *wasiyyah* with *wasiyyah* writing providers, which have a strong and sound credibility. With regard to this credibility factor, credibility as a well-known *wasiyyah* writing provider institution was identified to be the most important factor with the mean value 2.39, followed by the credibility as a *wasiyyah* writing provider institution that belongs to the government with a mean value of 2.87. The findings also suggest that the respondents were quite conscious about the individuals that they deal with in preparing their *wasiyyah* and for that reason trustworthiness towards these individuals had come third on the list with a mean value of 3.53. The results signify that types, quality of services and cost were not really important factors in influencing their decisions of choosing particular *wasiyyah* writing providers in the future. It is noted that possessing the capability or qualification to write their own *wasiyyah* did not appear to be the primary criterions. Furthermore, positive recommendation from other people was cited as the least influential factor in choosing a particular *wasiyyah* writing provider.

Table 7.23: Other Factors Influencing Methods of Making a *Wasiyyah* in the Future

Other factors	Frequency
Trust the knowledge that religious teacher possesses	1
Trust religious people more than others	1
Don't know where should I go to make <i>wasiyyah</i>	1

It is also found that only three respondents provided other reasons, as shown in Table 7.23. One respondent would write his/her own *wasiyyah* as he/her did not know where to go to make a proper one. While one respondent mentioned that he/she would not make any *wasiyyah* until he/she received some advice from the State Islamic Religious Council as he/she trusted religious people more than others; one respondent would make a *wasiyyah* through his religious teacher because he/she trusts the knowledge that the religious teacher possesses.

7.6 RESPONDENTS' SOURCES OF KNOWLEDGE

In order to further understand the behavioural patterns, this survey also explores the sources of the respondents' knowledge and the results are presented in Table 7.24. As can be seen in Table 7.24, this survey confirms that the mass media were the main medium of knowledge of Islamic estate planning, Islamic ruling on *wasiyyah* and *wasiyyah* writing providers.

Pertaining to the knowledge of Islamic estate planning, electronic media (comprising television and radio) played the most important role here (59.2 per cent) and printed media came second in the list (52.5 per cent). Only 17.6 per cent learnt it from the internet. It was also found that 42.9 per cent of respondents heard it from their friends/family/relatives, 37.8 per cent from talks/series/workshops that they attended and 22.7 per cent from individuals who were involved in offering consultation/services on Islamic estate planning/*wasiyyah* writing. In addition, 26.9 per cent of respondents heard about Islamic estate planning because they learnt it at secondary school and 13.4 per cent of respondents learnt it at college/university. Furthermore, one respondent (0.4 per cent) learnt it from an exhibition and two respondents (0.8 per cent) learnt it from their working experience.

Findings related to the respondents' knowledge on the Islamic ruling on *wasiyyah* and the organization/institution involved in *wasiyyah* writing services, thus, show that the most frequent source respondents reported hearing about the ruling on *wasiyyah* and related organizations/institutions was the printed media (52.1 per cent and 60.8 per cent respectively); electronic media (47.9 per cent and 57 per cent respectively) came second in the list.

Table 7.24: Sources of Knowledge on Islamic Estate Planning and *Wasiyyah*

	Frequency	Percent
Sources of knowledge of those who have heard about Islamic estate planning:		
TV/radio	141	59.2
Newspaper/magazine/book	125	52.5
Friends/family/relatives	102	42.9
Talks/series/workshop	90	37.8
Learnt at secondary school	64	26.9
From individual involved in offering consultation/services on Islamic estate planning/ <i>wasiyyah</i> writing	54	22.7
Internet	42	17.6
Learnt at college/university	32	13.4
Others	5	2.1
• Exhibition	1	0.4
• Working experience	2	0.8
Sources of knowledge of those who were knowledgeable or aware of the Islamic ruling on <i>wasiyyah</i>:		
Newspaper/magazine/book	134	52.1
TV/radio	123	47.9
Talks/series/workshop	106	41.2
Friends/family/relatives	101	39.3
Learnt at secondary school	87	33.9
From individual involved in offering consultation/services on Islamic estate planning/ <i>wasiyyah</i> writing	51	19.8
Learnt at college/university	42	16.3
Internet	42	16.3
Others		
• Own experience	1	0.4
Sources of knowledge of those who said they knew an organization involved in preparing a <i>wasiyyah</i>:		
Newspaper/magazine/book	96	60.8
TV/radio	90	57
Friends/family/relatives	72	45.6
Talks/series/workshop	54	34.2
From individual involved in offering consultation/services on Islamic estate planning/ <i>wasiyyah</i> writing	48	30.4
Internet	34	21.5
Learnt at secondary school	19	12
Learnt at college/university	12	7.6
Others	0	0

7.7 RESPONDENTS' PERCEPTION ON THE PUBLICITY AND EXPOSURE OF WASIYYAH WRITING

This section presents findings related to the respondents' perception towards the current publicity and exposure of *wasiyyah* writing. As can be seen in Table 7.25, the findings indicate that a majority of respondents considered that *wasiyyah* writing providers did not offer enough exposure in terms of publicity about the *wasiyyah* writing itself (85 per cent versus 15 per cent). The survey identified several ways in which respondents believed *wasiyyah* writing providers should do to overcome the problem. A large number of respondents agreed that promotion through mass media was the best solution (91.8 per cent) followed by giving more talks/seminars to the public (75.3 per cent). In addition, more than half of respondents believed that direct promotion could be part of the means to tackle the problem (71.5 per cent). Furthermore, six respondents (2.2 per cent) suggested the utilization of the roles of mosques such as through the authority of the *imam* in giving advice and talks, two respondents (0.7 per cent) mentioned using billboard and only one respondent (0.4 per cent) mentioned increasing publicity through the Internet.

Table 7.25: Respondents' Views on Publicity/Exposure About *Wasiyyah* Writing and Possible Mechanisms to Increase Exposure Among the Public.

	Frequency	Percent
Do you think there has been enough publicity/exposure about <i>wasiyyah</i> writing?		
Yes	47	15
No	267	85
Mechanisms to solve the problem:		
Promotion through mass media	245	91.8
Talks/seminars	201	75.3
Face-to-face promotion (e.g. agents) – direct promotion	191	71.5
Other mechanisms:		
• Maximize the roles of mosque (e.g. via imam)	6	7.2
• Billboard	2	0.7
Internet	1	0.4

7.8 CONCLUSION

This chapter aimed at locating the determinant factors of behavioural patterns regarding *wasiyyah* making among the participants of this study. Throughout this chapter, the issues of *wasiyyah* in terms of its awareness and practice were firmly substantiated according to the perceptions of the participants. More importantly, the analysis provides a valuable source of information from the data revealing Malaysian Muslims' perceptions towards various aspects of *wasiyyah* issues. To sum up, several key findings can be highlighted as follows; firstly, awareness of *wasiyyah* in Malaysia was very low; secondly, *wasiyyah* making was a minority activity; thirdly, several factors such as age, employment status, monthly income, amount of inheritance received, health status, having children, having adopted children, having grandchildren, knowledge, institutional and inheritance law were identified to significantly influenced *wasiyyah* practice; fourthly, making a *wasiyyah* with ARB, verbal and handwritten were among the most popular methods of preparing their *wasiyyah*; fifthly, mass media was the most powerful medium of the respondents' knowledge and finally, there was not enough exposure of *wasiyyah* writing.

Chapter 8

SEARCHING FOR MOTIVES AND THE ATTITUDES TO LEAVING BEQUEST: AN EMPIRICAL PERCEPTION ANALYSIS

8.1 INTRODUCTION

An important aim of this research is also to locate the attitudes of bequest as the extension of *wasiyyah* awareness and practice by utilizing data from a similar source, namely the questionnaire. This chapter begins with the descriptive statistics of the bequest pattern as drawn from the questionnaire survey, and afterwards uses econometric methods to comprehend the attitudes toward leaving a bequest. Both descriptive and empirical results help the researcher to come up with sound findings of bequest motives.

8.2 PROFILING BEQUEST MAKING

Following the discussion from the earlier chapter, where those who have made a *wasiyyah* were asked whether they also have made a bequest. It was found that that out of 47 respondents who have made a *wasiyyah*, 63.8 per cent of them have not made a bequest. However, the sample of those who have made a *wasiyyah* but have not made a bequest and the sample of those who have not made a *wasiyyah* were also asked to state if they would consider making bequest. Findings on making a bequest in the future indicated that in total, 201 respondents would or probably make a bequest in the future – comprised of 23 of those who have made *wasiyyah* but have not made a bequest and 178 of those who have not made a *wasiyyah*. However, 96 respondents would not consider it in the future either – comprised of 7 of those who have made a *wasiyyah* but have not made a bequest and 89 of those who have not made a *wasiyyah*.

Table 8.1: Number of Respondents Who Have Made a Bequest, Plan to Make a Bequest or Did Not Plan to Make a Bequest in the Future

		Frequency	Percent
If you have made a <i>wasiyyah</i> , did you state any bequest in it?	Yes	17	36.2
	No	30	63.8
	Total	47	100
If you have made a <i>wasiyyah</i> , but have not made any bequest, do you plan to leave a bequest in the future?	Yes	3	10
	Probably	20	66.7
	No	7	23.3
	Total	30	100
If you have not made <i>wasiyyah</i> , do you plan to leave a bequest in the future in your <i>wasiyyah</i> ?	Yes	49	18.6
	Probably	129	48.3
	No	89	33.3
	Total	267	100

It should be noted that in Chapter 7, Table 7.19 shows that only two respondents (4.3 per cent) cited that they have made a *wasiyyah* because they wanted to make a bequest. However, the results in Table 8.1 contradict the result presented in Table 7.19 in which only 17 respondents (36.2 per cent) who have made a *wasiyyah* claimed that they have made a bequest. Finally, the answer is accepted as given in Table 8.1 for the purpose of analysing their attitudes to leaving a bequest. As can be seen in Table 8.1 above, the majority of participants have not made a bequest and opted for ‘probably’ as an option for future.

8.3 TYPES OF BEQUEST MADE AND TO BE MADE IN THE FUTURE

It was mentioned in the beginning that when the respondents were asked whether they have made a *wasiyyah*, they were not asked about the details of their *wasiyyah* in terms of the bequest content. However, by answering this part of the question regarding the bequest, this survey managed to determine the bequest contents. However, to avoid receiving a multitude of answers which were not relevant to the objectives of this study, this survey specifically asked the participants to state the given types of bequest that they have made as presented in Table 8.2.

Table 8.2: Types of Bequest Made and Types of Bequest Planned to be Made in the Future

	Frequency	Percent
Types of bequest made:		
Bequest for charity purpose	14	82.3
Bequest to siblings	8	47.1
Bequest to grandchildren	5	29.4
Bequest to adopted children	3	17.6
Bequest to non-Muslim children	0	0
Bequest to non-Muslim parents	0	0
Types of bequest planned to be made in the future:		
Bequest for charity purpose	167	83.1
Bequest to siblings	81	40.3
Bequest to grandchildren	63	31.3
Bequest to non-Muslim parents	10	5
Bequest to adopted children	9	4.5
Bequest to non-Muslim children	2	1

As can be seen in Table 8.2, 82.3 per cent of respondents have made a bequest for charity purposes; nearly half of respondents also made a bequest to their siblings; 29.4 per cent of respondents have made a bequest to their grandchildren; while 17.6 per cent of them gave a bequest to their adopted children; no respondents have made a bequest to their non-Muslim children or to their non-Muslim parents. As far as the future is concerned, a large number of respondents would make a bequest for charity purposes (83.1 per cent); followed by making a bequest to their siblings (40.3 per cent); and grandchildren (31.3 per cent). Leaving a bequest to non-Muslim parents (5 per cent); adopted children (4.5 per cent); and non-Muslim children (1 per cent) were the bottom

three. These results are not surprising as most respondents had siblings and grandchildren.

Table 8.3: Reasons for Making Bequests

Reasons	Frequency	Percent
I know the necessity and importance of making a bequest.	12	70.6
Because of my health (e.g. I'm too old, I'm sick).	7	41.2
Because Islam encourages us to do so.	6	35.3
I've been advised by the <i>wasiyyah</i> writing provider about the significance of making a bequest.	4	23.6
Because I don't want all my estate to fall into <i>faraid</i> .	3	17.6
Friends/family recommend/advise me to do so.	2	11.8
I have several family members who are excluded from inheritance according to <i>faraid</i> .	2	11.8
Because I've embraced Islam.	1	5.9

After establishing the pattern in bequest making, reasons for making bequest were also questioned. As listed in Table 8.3, a number of potential answers regarding the motivational factors triggering the respondents to have made a bequest are presented. Some respondents already knew the necessity and importance of making a bequest and reason tops the table (70.6 per cent), while the second main reason was because of their poor health condition (41.2 per cent). The third main reason mentioned by respondents was because they knew Islam encourages making a bequest (35.3 per cent). Furthermore, a small number of respondents made a bequest after receiving advice from a *wasiyyah* writing provider (23.6 per cent) or from their friends/family (11.8 per cent). Making a bequest because of Islamic inheritance laws was reported by just a few respondents: three people said they did it because they did not want all their estate to fall into *faraid* (17.6 per cent); two people said they made a bequest to family members who were excluded from inheritance according to *faraid* (11.8 per cent) and two people said they had made a bequest because they had embraced Islam (11.8 per cent).

8.4 BEQUEST MOTIVES

It should be noted that it is possible to determine the bequest motive directly from the types of bequest. With reference to the bequest theories discussed in Chapter 2 and Chapter 3, those who did not plan to make a bequest at all could possibly be driven by the pure life-cycle model (leaving no bequest at all) or leaving an accidental bequest. In addition, the altruism motive could possibly lead respondents to make a charity bequest. While the remaining bequest making could possibly be driven by one or more of the following bequest motives: exchange, strategic, altruism or dynasty. Table 8.4 present the expected request motives based on the types of bequest as observed in the literature.

Table 8.4: Expected Bequest Motives Based on the Types of Bequest According to the Literature Review

Types of bequest	Bequest motives
Bequest for charity purpose	Altruism
Bequest to siblings	Life-cycle, altruism or dynasty
Bequest to grandchildren	Life-cycle, altruism or dynasty
Bequest to non-Muslim parents	Life-cycle, altruism or dynasty
Bequest to adopted children	Life-cycle, altruism or dynasty
Bequest to non-Muslim children	Life-cycle, altruism or dynasty

However, determining the bequest motives from the types of the bequests is not visible enough. This survey provided the respondents with a list of possible responses implying specific bequest motives for them to choose. A methodological problem should be noted at this point. In certain cases when participants revealed their preferences, as experienced by Light and McGarry (2004: 1675–1676), the researcher encountered a problem of identifying the most precise category of bequest motive that each response should be placed in, as a certain inevitable level of ambiguity restricted the analysis. The possibility that the responses could be placed in a different category was unavoidable although each response was classified into the category that appears the most probable based on the researcher’s inference.

Tables 8.5, 8.6 and 8.7 present descriptive analysis of the bequest motives, carried out on two different samples: a sample of 314 respondents and a sample of 297 respondents. The sample of 314 respondents was the initial sample used in the analysis of *wasiyyah* in Chapter 7. The sample of 297 respondents comprised those who certainly or probably

would leave a bequest and those who did not want to leave a bequest in the future. However, only the sample size of 297 respondents was used to compare with the result obtained using multinomial logit model, because those who have made a *wasiyyah* and have made a bequest were excluded from the sample used to analyse the attitude toward leaving a bequest. This was due to the econometric model applied and the way the questions were developed to fit into the model.

As can be seen from the results, with regards to making a bequest to family members who are excluded by *faraid*, the dynastic motive appeared as the strongest motive for both samples (14.3 per cent and 14.4 per cent respectively). For the sample of 314 respondents, an altruistic bequest motive was the second strongest motive (13.7 per cent) followed by the exchange bequest motive (13.1 per cent). On the other hand, for the sample of 297 respondents, both altruistic and exchange bequest motives appeared to be the second strongest motives cited by respondents (12.8 per cent each). The strategic bequest motive was the weakest bequest motive for both samples (4.8 per cent and 4.7 per cent respectively).

Bequests to adopted children were dominantly driven by the exchange motive (0.6 per cent) for the sample of 314 respondents. In contrast, none of motives stood out to be dominant over the others for the sample of 297 respondents. Exchange, strategic or altruistic bequest motives, each was cited once only (0.3 per cent). This study, however, proved that a large number of people make bequests to their adopted children as a sign of their love towards them (3.2 per cent for 314 sample of respondents and 2.4 per cent for 297 sample of respondents). Lastly, bequest for charity was obviously driven by an altruistic bequest motive for both samples (19.7 per cent and 18.5 per cent respectively). In spite of this, the majority of respondents in both samples cited that they have made or they planned to make a bequest for charity to ensure their rewards in the hereafter (53.2 per cent and 52.5 per cent respectively).

Table 8.5: Motives for Making Bequests to Family Members Who Are Excluded by *Faraid*

Motives		Sample of respondents = 314		Sample of respondents = 297	
		Frequency	Percent	Frequency	Percent
Dynastic	To perpetuate my dynasty/family line	39	12.4	38	12.8
	Because of the blood relationship	1	0.3	1	0.3
	Because of the sibling's relationship	3	1	3	1
	To ensure the relationship remains	1	0.3	1	0.3
	Because they are my grandchildren from predeceased children	1	0.3	-	-
Altruism	To make them equally well of	43	13.7	38	12.8
Exchange	As rewards for taking care of me	41	13.1	38	12.8
Strategic	To ensure they will take care of me	15	4.8	14	4.7
Reason unclassified	For rewards in the hereafter	77	24.5	70	23.6
	To help them regardless of their economic status.	66	21	59	19.9
	To get approbation from friends/families/public	5	1.6	4	1.3
	Because of love/bonding	1	0.3	1	0.3
	Because they are excluded by <i>faraid</i>	1	0.3	1	0.3
	Sharing what we've been given by Allah	1	0.3	1	0.3
	To avoid any disagreement and dissatisfaction in the future	1	0.3	1	0.3
	To ensure the estate distribution will be carried out smoothly	1	0.3	1	0.3

Table 8.6: Motives for Making Bequests to Adopted Children

Motives		Sample of respondents = 314		Sample of respondents = 297	
		Frequency	Percent	Frequency	Percent
Exchange	As rewards for taking care of me	2	0.6	1	0.3
Strategic	To ensure they will take care of me	1	0.3	1	0.3
Altruism	To help them because they are poor/have low income	1	0.3	1	0.3
Reason unclassified	A sign of my love towards them	10	3.2	7	2.4
	To help them regardless of their economic status.	6	1.9	4	1.3
	For rewards in the hereafter	4	1.3	3	1

Table 8.7: Motives for Making Bequests to Charity

Motives	Sample of respondents = 314		Sample of respondents = 297	
	Frequency	Percent	Frequency	Percent
Altruism	62	19.7	55	18.5
Reason unclassified				
Because of the altruism motive	167	53.2	156	52.5
To get approbation from friends/families/public	3	1	3	1
Because it is my responsibility as a Muslim	2	0.6	2	0.6
Because of Allah	1	0.3	1	0.3
Help to upgrade the Muslim society's economy	1	0.3	1	0.3
Helping each other	1	0.3	1	0.3
Sharing what we've been given by Allah	1	0.3	1	0.3
A sincere desire to do it	1	0.3	1	0.3
To help the needy	1	0.3	1	0.3

8.5 ATTITUDES TO LEAVING A BEQUEST

In this section, two econometric models – namely ordered probit and multinomial logit models – were used to analyse the attitudes of Malaysian Muslims to leaving a bequest. However, further tests comprising of goodness of fit and diagnostic tests were only carried out on results produced by the multinomial logit model, as the ordered probit model violated the parallel lines assumption.

8.5.1 Results of the Ordinal Regression: Ordered Probit Model

Only 297 questionnaires were suitable for this analysis. It should be noted that in Chapter 6, Section 6.6.2.1 mentioned that the responses for this part of the analysis were coded as follows:

“Would not leave a bequest (ALB = 0)”

“Probably leave a bequest (ALB = 1)”

“Would leave a bequest (ALB = 2)”

Therefore, respondents were divided into three groups. The first group was those who said they would not leave a bequest at all in the future (96 respondents). The second group was those who said they probably leave a bequest (149 respondents) and the third

group was those who reported their intention to leave a bequest in the future (52 respondents). At the beginning, an ordered probit model was chosen due to the categorical outcomes having an ordinal nature and more than two outcomes.

Initial data with 21 independent variables were analysed with SPSS16 as Stata does not run a parallel line test for the ordered probit.⁸³ In practice, this is one of the appropriate methods most commonly used in social sciences research (Borooah, 2002:5-6). Having said that, poor results indicated flaws associated with this particular model. The parallel lines assumption was violated and held to be invalid. The implication here was that the slope coefficients were different across the different outcomes. Table 8.8 presents the results of the parallel lines test. The null hypothesis was that all the slope coefficients were simultaneously equal to zero and the p value required here was >0.05 (Chan, 2005:265-266). The test rejected the null hypothesis indicating that this model violated the parallel lines assumption. Further examinations on this model indicated the essential problem with the models was due to the sample size and the number of independent variables included in the models. According to Chan (2005:265-266), “the p value of the parallel line test is sensitive to the sample size and the number of independent variables included into a model. Most of the time it has $p < 0.05$ ”. In addition to this, there were too many blank cells due to many categorical independent variables and continuous independent variables which enlarged the subpopulation.

Table 8.8: Results of Parallel Lines Test for Ordered Probit Model

Test of Parallel Lines	Ordered probit model
-2 Log Likelihood	284.924
Chi-Square	114.167
Df	51
Sig.	0.000

Alternatively, the multinomial logit was considered as the last resort despite the ordinal nature in the dependent variable (Borooah, 2002:6; Chan, 2005:266). The researcher had to tolerate several downsides when the model was switched. First, losing information contained in the ordering meaning that the model itself suffered a loss of efficiency (Borooah, 2002:6; Long and Freese, 2001:170). Having said that, Borooah (2002:6-7)

⁸³ Stata runs a test called the Brant test for the purpose of checking a parallel line assumption. Unfortunately, this is only possible for an ordered logit model.

contends that multinomial logit “is unlikely to bias the estimates. In the face of these two possible errors, the loss of efficiency is a less serious error to make than that of biased estimates”. This is line with Long and Freese (2001:170) in which they argue “in general, if there are concerns about the ordinality of the dependent variable, the potential loss of efficiency in using models for nominal outcomes is outweighed by avoiding potential bias”. Second, as a result of the previous flaw and because they do not depend upon the other choices, this model assumes that none of these categories can be substitutes to the others (Borooah, 2002:48; Multinomial Logit Models, n.d.). Third, original data gained from the original research question had to be modified and required merging with the aim of reducing the number of empty cells as suggested by Menard (2001:79). Fourth, a multicollinearity problem appeared as another problem that the researcher had to struggle with: several combinations of coding were tried since Stata automatically dropped variables with multicollinearity problems from the model. Hence, following the new coding of the independent variables as listed down in Table 8.9 successfully solved the multicollinearity problem. For this, each independent variable was split into two categories. However, the researcher had to remove the variable ‘risk’ as a decision could not be made as to which group of those who opted for the answer ‘none of the above’ should be placed.⁸⁴

The results and model were reviewed again afterwards due to another a new problem found regarding the intercept/constant term. A number of attempts were made to select the best performing and efficient model and in the final model, the variables ‘non-Muslim parents’ and ‘non-Muslim children’ were removed. Omitting these two variables did not affect the efficiency of the results as their mean values were statistically insignificant numbers.

⁸⁴ There were five answers provided to the respondents to indicate the extent of their willingness to take the risk. One of the answers was ‘none of the above’. This variable was split into two categories; those willing to take the risk and those who avoided the risk. It was problematic for the researcher to decide which group those who opted ‘none of the above’ should belong to.

Table 8.9: Definition and New Codifications of Explanatory Variables for the Multinomial Logit Model

Independent variables	Definition
Demographic	
Age	1 if above 40; 0 otherwise
Gender	1 if female; 0 otherwise
Marital status	1 if married; 0 otherwise
Ethnicity	1 if Malay; 0 otherwise
Education	1 if having Diploma/Bachelor/Master or PhD; 0 if vocational/primary school/secondary school
Family	
Adopted children	1 if having adopted children; 0 otherwise
Grandchildren	1 if having grandchildren; 0 otherwise
Sibling	1 if having sibling; 0 otherwise
Economic	
Employment status	1 if working; 0 otherwise
Monthly income	1 if above RM3,000; 0 otherwise
Total asset value	1 if above RM100,000; 0 otherwise
Amount inherited previously	1 if above RM100,000; 0 otherwise
Health	
Health status	1 if fair/poor; 0 if excellent/good
Disability	1 if having disability; 0 otherwise
Attitudinal	
Charity	1 if always, usually or sometimes do this; 0 if rarely or never do this
Importance of bequest	1 if very important, important or fairly important; 0 if not important or not important at all
Religiosity	
Inheritance law	Mean values (1= not religious at all) 1 if know the amount allowed to bequeath

8.5.2 Results of the Multinomial Logit Model

8.5.2.1 Interpretation of the results

The results of the multinomial logit model are presented in Table 8.10. In the analysis, Group 0 (Would not leave a bequest) was the reference category, base outcome or comparison group and its coefficients were set to zero. There were two results obtained: first was the result for group 1 (Probably leave a bequest) versus the reference category and second was the result for group 2 (Would leave a bequest) versus the reference

category. The coefficients of these two outcomes were defined with respect to the probability of the base outcome (Borooah, 2002:48; Long and Freese, 2001:174-175).

As can be seen in Table 8.10, only a few explanatory variables are significant. Variables such as 'education', 'grandchildren' and 'law' could differentiate between categories of 'probably leave a bequest' and 'would not leave a bequest' while other variables did not appear to be able to differentiate between any categories. Variables of 'education' and 'law' are significant at the 5 per cent level while variable 'grandchildren' is significant at the 10 per cent level. When comparing categories between 'would leave a bequest' and 'would not leave a bequest', five explanatory variables are significant: 'ethnicity', 'grandchildren', 'employment', 'importance of bequest', and 'religiosity'. 'Ethnicity' and 'employment' are significant at the 10 per cent level while 'grandchildren' and 'importance of bequest' are significant at the 5 per cent level. The variable 'religiosity' however is significant at the 1 per cent level. Furthermore, six explanatory variables could differentiate between categories 'probably leave a bequest' and 'would leave a bequest', which are age, 'employment', 'monthly income', 'total asset value', 'importance of bequest', and 'religiosity'. It should be noted that 'monthly income', 'total asset value' and 'importance of bequest' are significant at the 10 per cent level, 'age' and 'employment' are significant at the 5 per cent level and 'religiosity' is significant at the 1 per cent level.

There are several ways of interpreting the preceding results instead of presenting the coefficients in a very straightforward way as that of a linear regression coefficient. Accordingly, the relative risk ratio or probabilities are the two most commonly used. The interpretations were adapted from Sarkisian (n.d.a and n.d.b), Long and Freese (2001:133), Borooah (2002:56 and 64), Stata Annotated Output: Multinomial Logistic Regression (n.d.) and Stata Data Analysis Examples: Multinomial Logistic Regression (n.d.).

8.5.2.1.1 Relative risk ratio

Regular coefficients in multinomial logit do not tell the size of the impact of the explanatory variables (Sarkisian, n.d.a:16). Hence, relative risk ratio is commonly used. All the relative risk ratios are presented in Table 8.10. The risk ratio or sometimes called the relative risk is calculated from the log risk-ratio by taking its exponential – denoted

as $\exp(b)$ (Borooah, 2002:48; Multinomial Logit, n.d.a). It compares the likelihood of an event between two groups: the outcome group and the referent group. Similar to the odds ratio, the relative risk ratio is equal to 1 if there is no effect. It is smaller than 1 if the effect is negative indicating that the outcome event is less likely. It is larger than 1 if it has positive effect indicating that the outcome event is more likely (Borooah, 2002:51; Sarkisian, n.d.a:17; Stata Annotated Output: Multinomial Logistic Regression, n.d.)

Stata allows the researcher to obtain the relative risk ratio of being in group 1 (Probably leave a bequest) rather than group 2 (Would leave a bequest) or vice versa easily. Since the coefficients for being in group 1 rather than group 2, and being in group 2 rather than group 1 are identical in magnitude but opposite in sign (Multinomial Logit, n.d.a), thus the researcher presented the coefficient and relative risk ratio for 1 versus 2 only. Stata also allows the researcher to obtain the percentage change of the relative risk ratio easily. The following interpretations of the significant explanatory variables include this percentage change as they were not presented in Table 8.10.⁸⁵

The relative risk for the variable 'ethnicity' (0.2454143) indicates that Malays that Malays were 0.25 times less likely than non-Malays in choosing 'would leave a bequest' over 'would not leave a bequest'. This implies that the likelihood of Malay individual in leaving a bequest decreases by 75.5 per cent.

Being above 40 years old and those who had total asset value above RM100,000 were more likely to choose 'probably leave a bequest' rather than 'would leave a bequest'. Relative risk ratios for these variables (2.5013 and 2.2349 respectively) imply that age and asset value increased the probability of choosing 'probably leave a bequest' by more than double (increased by 150.1 per cent and 123.5 per cent).

The results also show that those who had higher education were more likely to choose 'probably leave a bequest' over 'would not leave a bequest'. The relative risk ratio for education (2.31261) implies those with higher education was 2.3 times higher than those who had lower education to choose 'probably leave a bequest' over 'would not leave a

⁸⁵ Appendix 3 shows the initial results of the percentage change obtained from Stata.

bequest' (their probability to choose 'probably leave a bequest' increased by 131.3 per cent).

The relative risk ratio for the variable 'law' is 0.4705619, indicating that the ratio of the probability of being in the group of saying 'probably leave a bequest' to the probability of being in the group of saying 'would not leave a bequest' would be lower for those who knew how much the allowable amount to bequeath was than those who did not know (decreased by 52.9 per cent).

Results in Table 8.10 also show that those who had an income greater than RM3,000 were 0.39 times less likely (relative risk ratio was 0.3876) than those who had income below RM3,000 to choose 'probably leave a bequest' over 'would leave a bequest' (decreased by 61.2 per cent).

As can be seen in Table 8.10., the relative risk ratio for the variable 'grandchildren' (0.500554) shows those who had grandchildren were 0.5 times less likely than those who had no grandchildren to choose 'probably leave a bequest' over 'would not leave a bequest' (decreased by 49.9 per cent). While the relative risk ratio for the same variable (0.2953119) indicates that those who had grandchildren were 0.3 times less likely than those who had no grandchildren to choose 'would leave a bequest' over 'would not leave a bequest' (decreased by 70.5 per cent)

The relative risk ratio for the variable 'employment' (0.3810782) shows that those who were working were 0.38 times less likely than those who were not working to say they 'would leave a bequest' over 'would not leave a bequest' (decreased by 61.9 per cent). In other words, working participants were more likely to be in the position of saying 'would not leave a bequest' rather than 'would leave a bequest'.

The findings also show that those who were working preferred to choose 'probably leave a bequest' over 'would leave a bequest'. The relative risk for this variable is 3.0385, indicating that those who were working were 3.04 times higher than those who were not working to say they 'probably leave a bequest' over 'would leave a bequest' (increased by 203.8 per cent).

In addition, those who were more religious and perceived leaving a bequest as important were more likely to choose 'would leave a bequest' over 'would not to leave a bequest'. Relative risk ratio for the variable 'religiosity' is 7.861229 indicating that one unit change in the variable religiosity made participants 7.86 times higher to say they 'would leave a bequest' over 'would not to leave a bequest' (increased by 686.1 per cent). On the other hand, relative risk ratio for the variable 'importance of bequest' is 17.27138 implying that those who perceived leaving a bequest as important were 17.27 times higher than those who did not perceive leaving a bequest as important to choose 'would leave a bequest' over 'would not to leave a bequest' (increased by 1627.1 per cent).

When comparing between 'would leave a bequest' over 'probably leave a bequest', being more religious and perceiving leaving a bequest as important were more likely to choose 'would leave a bequest' over 'probably leave a bequest'. Relative risk ratio for the variable 'religiosity' is 0.1358 reflecting that one unit change in the variable 'religiosity' made participants 0.14 times less likely to say they 'probably leave a bequest' over 'would leave a bequest' (decreased 86.4 per cent), while relative risk ratio for the variable 'importance of bequest' is 0.1218 indicating that those who perceived leaving a bequest as important were 0.12 times less likely than those who did not perceive leaving a bequest as important to choose 'probably leave a bequest' over 'would leave a bequest' (decreased 87.8 per cent). It should be highlighted again here that despite the dissimilar results, as mentioned earlier that none of these groups can work as substitutes to others in comparison.

8.5.2.1.2 Probabilities

To further the analysis, it is possible to generate the predicted probabilities of belonging to the three different groups of attitudes to leaving a bequest for a given value of particular independent variables, which are shown in Table 8.11. In this discussion, the researcher only presented predicted probabilities for independent variables, which were significant for the model. It can be seen from the table that overall, despite the differences in age, ethnicity, education, employment status, asset value, income and knowledge of bequest law, respondents' attitudes toward leaving a bequest were more likely in the category of 'probably leave a bequest'. Those who had grandchildren and perceived 'leaving a bequest was not important' were also more likely to choose 'probably leave a bequest', while those who had no grandchildren and perceived leaving

a bequest was important were more likely to choose 'would not leave a bequest'. With respect to predicted probabilities for religiosity, those who were less religious (with lower mean values) were more likely to be in the group of saying 'would not leave a bequest' in contrast to those who were more religious were more likely to say that they would 'probably leave a bequest'.

Table 8.10: Multinomial Logistic Regression Results for the Attitudes of Leaving a Bequest

Variables	Probably leave a bequest versus Would not leave a bequest	Relative risk ratio	Would leave a bequest versus Would not leave a bequest	Relative risk ratio	Probably leave a bequest versus Would leave a bequest	Relative risk ratio
Intercept	-1.269975 (2.022426)		-9.927864 (3.363638)			
Age	0.167283 (0.369505)	1.182089 (0.4367877)	-0.7495225 (0.4923355)	0.4725922 (0.2326739)	0.91681**	2.5013
Gender	0.2383812 (0.3111873)	1.269193 (0.3949567)	0.1174877 (0.4165654)	1.124668 (0.4684976)	0.12089	1.1285
Marital status	-0.4381991 (0.3964619)	0.6451973 (0.2557962)	-0.565524 (0.500802)	0.5680624 (0.2844868)	0.12732	1.1358
Ethnicity	-0.2238776 (0.6837193)	0.799413 (0.5465741)	-1.404807*** (0.8003735)	0.2454143 (0.1964231)	1.18093	3.2574
Education	0.8383767** (0.3906875)	2.31261 (0.9035078)	0.3116778 (0.5190489)	1.365715 (0.7088727)	0.52670	1.6933
Adopted children	-0.2950457 (0.7545687)	0.7444976 (0.5617746)	0.5444013 (1.004702)	1.723576 (1.731681)	-0.83945	0.4319
Grandchildren	-0.6920398*** (0.3938399)	0.500554 (0.1971381)	-1.219723** (0.5897954)	0.2953119 (0.1741736)	0.52768	1.6950
Sibling	0.8222419 (0.747987)	2.275596 (1.702116)	0.6992068 (0.979585)	2.012156 (1.971078)	0.12304	1.1309
Employment status	0.1466029 (0.3899693)	1.157894 (0.4515431)	-0.9647506*** (0.5386965)	0.3810782 (0.2052855)	1.11135**	3.0385

	Probably leave a bequest versus Would not leave a bequest	Relative risk ratio	Would leave a bequest versus Would not leave a bequest	Relative risk ratio	Probably leave a bequest versus Would leave a bequest	Relative risk ratio
Monthly income	-0.3824976 (0.4309031)	0.6821555 (0.2939429)	0.5651677 (0.5714343)	1.759743 (1.005578)	-0.94767***	0.3876
Total asset value	0.2341375 (0.3239257)	1.263818 (0.4093832)	-0.5700551 (0.4554313)	0.5654943 (0.2575438)	0.80419***	2.2349
Amount inherited previously	-0.7721591 (0.8701537)	0.4620145 (0.4020236)	-0.7202551 (1.27069)	0.4866281 (0.6183535)	-0.05190	0.9494
Health status	0.6925469 (0.4366414)	1.9988 (0.8727588)	0.3017397 (0.6198639)	1.352209 (0.8381857)	0.39081	1.4782
Disability	-0.9995972 (1.132493)	0.3680276 (0.4167889)	-0.5400429 (1.475444)	0.5827233 (0.8597759)	-0.45955	0.6316
Charity	0.6353272 (0.5468717)	1.88764 (1.032297)	-0.0889117 (0.8060687)	0.9149264 (0.7374935)	0.72424	2.0632
Importance of bequest	0.7436736 (0.4661761)	2.103649 (0.980671)	2.849051** (1.139389)	17.27138 (19.67882)	-2.10538***	0.1218
Religiosity	0.0651098 (0.4098404)	1.067276 (0.4374129)	2.061943* (0.6561209)	7.861229 (5.157917)	-1.99683*	0.1358
Inheritance law	-0.7538277** (0.3449124)	0.4705619 (0.1623027)	-0.3438628 (0.4670956)	0.7090262 (0.331183)	-0.40996	0.6637
Overall model evaluation:						
Log-likelihood	-267.20152	Df	36			
LR Chi-square	69.21	Pseudo R ²	0.1147			
Probability > Chi-square	0.0007	Sample size (n)	297			

Notes: Standard errors are reported in parentheses. Significance levels are: (*) $p < 0.01$ (1%); (**) $p < 0.05$ (5%); (***) $p < 0.1$ (10%)

Table 8.11: Predicted Probabilities

Variables		p0 ^a	p1	p2
Age	Above 40	0.2601626	0.5121951	0.2276423
	Below 40	0.3678161	0.4942529	0.137931
Ethnicity	Malay	0.2941176	0.4117647	0.2941176
	Non-Malay	0.325	0.5071429	0.1678571
Education	Diploma/Bachelor/Master/PhD	0.396648	0.4469274	0.1564246
	Vocational/primary/secondary school	0.2118644	0.5847458	0.2033898
Grandchildren	Having grandchildren	0.2755556	0.5288889	0.1955556
	Not having grandchildren	0.4722222	0.4166667	0.1111111
Employment status	Working	0.3387097	0.4516129	0.2096774
	Not working	0.3191489	0.5148936	0.1659574
Asset value	Above RM100,000	0.32	0.4742857	0.2057143
	Below RM100,000	0.3278689	0.5409836	0.1311475
Income	Above RM3,000	0.3348624	0.5	0.1651376
	Below RM3,000	0.2911392	0.5063291	0.2025316
Importance of bequest	Important	0.5	0.4642857	0.0357143
	Not important	0.3048327	0.5055762	0.1895911
Law	Know the amount allowed to bequeath	0.2022472	0.6179775	0.1797753
	Did not know the amount allowed to bequeath	0.375	0.4519231	0.1730769
Religiosity ^b	2.272727251	0.7333596	0.2646402	0.0020002
	2.909090995	0.8413216	0.1574313	0.0012472
	3.181818246	0.5741163	0.4061615	0.0197222
	3.454545497	0.3963541	0.5404286	0.0632173
	3.636363744	0.4040436	0.5703454	0.0256111
	3.727272748	0.3117365	0.6169439	0.0713196
	3.818181753	0.3902103	0.5276835	0.0821062
	3.909090995	0.3555788	0.5478578	0.0965634
	4	0.3997997	0.4611083	0.1390921
	4.090909004	0.367343	0.5417493	0.0909076
	4.181818008	0.3099231	0.5147634	0.1753134
	4.272727489	0.3143266	0.5626115	0.1230619
	4.363636493	0.2907772	0.5823903	0.1268325
	4.454545497	0.3250539	0.4948138	0.1801323
	4.545454502	0.3561005	0.4997351	0.1441645
	4.636363506	0.3015411	0.4910327	0.2074262
	4.727272510	0.3043034	0.4989911	0.1967055
	4.818181991	0.2971595	0.4755367	0.2273038
	4.909090995	0.300938	0.4226591	0.2764029
	5	0.2836117	0.481078	0.2353104

^a Indicates predicted probabilities of being in corresponding category.

^b Religiosity was a continuous variable. Therefore Stata produced a long list of predicted probabilities for this variable.

8.5.2.2 Goodness of fit

Measuring the goodness of fit of the model was the next step carried out by the researcher. In the light of this purpose, as suggested by Greene (2003:683), two methods were used and explained as follows:

8.5.2.2.1 Likelihood ratio (LR) and Wald test

For the purpose of comparison, the results of the LR and Wald tests are presented in Table 8.12. With respect to the LR test, the degrees of freedom (df), which is 36 (see Table 8.10), equals the number of slope coefficients estimated in this model. The LR χ^2 value 69.21 (see Table 8.10) was defined as $2(L_1 - L_0)$ where L_1 was the log-likelihood function for the full model with all predictors included and L_0 was the value of the log-likelihood function when the only explanatory variable was the constant term or in other words the ‘null’, ‘empty’ or ‘restricted’ model. Since the $p > \chi_2$ was 0.0007 (see Table 8.10), the null hypothesis could be rejected. The implication here was that the explanatory variables had greater explanatory power in this model than an ‘intercept only’ model (Borooah, 2002:57; Greene, 2003:683; Long and Freese, 2001:182; Stata Annotated Output: Multinomial Logistic Regression, n.d.)

In practice, many statisticians prefer the LR test. However, it should be noted here that there is no statistical theory saying the LR test is more appropriate than the Wald test or vice versa, in particular with regard to categorical outcomes, even though the LR test is generally considered superior (Long and Freese, 2001:112 and 183). According to Long and Freese (2001:112), “LR and Wald test are asymptotically equivalent but their values differ in finite samples”. As can be seen in Table 8.12, the Wald and LR tests produced similar results in which six variables were found to be significant. Further, with regard to the LR test, even though only six independent variables were significant, together all the regressors had a significant impact on the attitudes to leaving a bequest as the LR statistic is 69.21, whose p value is about 0.0007 which indicates high significance (Gujarati, 2003:606).

Table 8.12: LR and Wald Test

	LR Test			Wald Test		
	χ^2	df	P > χ^2	χ^2	df	P > χ^2
Age	4.490	2	0.106	4.321	2	0.115
Marital	1.666	2	0.435	1.633	2	0.442
Gender	0.599	2	0.741	0.598	2	0.741
Ethnicity	3.385	2	0.184	3.596	2	0.166
Education	5.100	2	0.078***	4.938	2	0.085***
Adopted child	0.667	2	0.717	0.694	2	0.707
Grandchild	5.581	2	0.061***	5.401	2	0.067***
Sibling	1.286	2	0.526	1.313	2	0.519
Health	2.685	2	0.261	2.599	2	0.273
Disability	0.772	2	0.680	0.780	2	0.677
Job	4.940	2	0.085***	4.971	2	0.083***
Income	3.783	2	0.151	3.704	2	0.157
Asset value	3.819	2	0.148	3.697	2	0.157
Amount inherited	0.855	2	0.652	0.868	2	0.648
Importance of bequest	10.851	2	0.004*	7.300	2	0.026**
Charity	1.677	2	0.432	1.630	2	0.443
Religiosity	13.932	2	0.001*	11.388	2	0.003*
Law	5.165	2	0.076***	5.026	2	0.081***

Note: Significance levels are: (*) $p < 0.01$ (1 per cent); (**) $p < 0.05$ (5 per cent); (***) $p < 0.1$ (10 per cent).

8.5.2.2.2 Pseudo R^2

There are many types of pseudo R^2 but Stata presents the McFadden R^2 . As can be seen in Table 8.10, the pseudo R^2 is 0.1147. For several strong reasons this was not considered a serious problem. Firstly “goodness of fit is of secondary importance in the case of binary regressand models” (Gujarati, 2003:606); secondly “it has no natural interpretation although it has been suggested that pseudo R^2 value increases as the fit of the model improves” (Greene, 2003:683; Borooah, 2002:57) and thirdly, Gujarati (2003:606) argues that “what matters is the expected signs of the regression coefficients and their statistical and practical significance”. Even though other alternatives are suggested, Borooah (2002:57) asserts that “in models of the multinomial probit or logit type, only the McFadden measure seemed worthwhile”. Furthermore, Maddala and Lahiri (2009:340) explain why the pseudo R^2 is often not a very good measure by arguing that it might not have enough discriminatory power. They give examples of three different binary models: linear probability model, logit and probit and prove that pseudo R^2 does not appear to help as much in

discriminating between the three models as the conventional R^2 does in linear regression. As a consequence, to claim that this model is not appropriate and the findings are not credible enough due to the low pseudo R^2 is basically fragile.

8.5.2.3 Diagnostics tests

In the case of multinomial logit, expectation of the residuals to be normally distributed is not a requirement (Sarkisian, n.d.a:8; Garson, 2009). However, beyond normality, there are other diagnostic tests available for the multinomial logit model namely the Independence of Irrelevant Alternatives (IIA), multicollinearity and outliers (Pallant, 2007:167; Sarkisian, n.d.a: 9-10; Long and Freese, 2001:188). These were tested to search if the results of this study are independent of such problems.

8.5.2.3.1 The IIA test

Stata produces IIA tests using three different methods and accordingly, the researcher presents all of them in Tables 8.13, 8.14 and 8.15 below. The IIA tests have received some negative feedback. The Hausman test has been said to give differing results of the IIA test depending on which base category is used to estimate the model (Long and Freese, 2001:188). A further comment from them (2001:191) elucidates that all three tests are known for their inconsistency and provide little guidance to violation of the IIA assumption. Despite the flaws associated with these methods, the researcher depended heavily on the references available to her to justify the IIA test results obtained for the model.

Table 8.13: Hausman Tests of IIA Assumption

Ho: Odds(Outcome-J vs Outcome-K) are independent of other alternatives.

Omitted	chi2	df	P>chi2	evidence
1	74.042	19	0.000	against Ho
2	-0.777	19	---	---
0	-1.998	19	---	---

Note: If $\text{chi}2 < 0$, the estimated model does not meet asymptotic assumptions of the test.

Table 8.14: Suest-based Hausman Tests of IIA Assumption

Ho: Odds(Outcome-J vs Outcome-K) are independent of other alternatives.

Omitted	chi2	df	P>chi2	evidence
1	10.504	19	0.939	for Ho
2	6.842	19	0.995	for Ho
0	9.528	19	0.964	for Ho

Table 8.15: Small-Hsiao Tests of IIA Assumption

Ho: Odds(Outcome-J vs Outcome-K) are independent of other alternatives.

Omitted	lnL(full)	lnL(omit)	chi2	df	P>chi2	evidence
1	-145.143	-38.238	213.809	18	0.000	against Ho
2	-102.203	-66.667	71.071	19	0.000	against Ho
0	-138.122	-47.915	180.413	19	0.000	against Ho

As shown in Table 8.13, the first test of the Hausman test rejected the H_0 that IIA holds. The other two test statistics were negative, which Long and Freese (2001:189) argues is very common. According to them, (2001:189) a negative result is considered as evidence that IIA was not violated. However, the Suest-based Hausman test in Table 8.14 produced contradicting results in which none of the tests rejected the H_0 . On the other hand, Small-Hsiao tests, as can be seen in Table 8.15 are similar to the Hausman test whereby all the tests successfully rejected the H_0 . In conclusion, this model was independent of the IIA or the omitted variable problem.

8.5.2.3.2 Multicollinearity

As can be seen from the results in Table 8.16, multicollinearity was not a problem since the VIF values were less than 10 and the average VIF was not substantially greater than 1 (Field, 2005:196; Pallant, 2007:156).

Table 8.16: VIF Values

Variables	VIF	1/VIF
Age	1.65	0.605652
Marital	1.34	0.745282
Gender	1.23	0.810628
Ethnicity	1.10	0.910322
Education	1.74	0.573233
Adopted children	1.09	0.914310
Grandchildren	1.59	0.628226
Sibling	1.08	0.927139
Health	1.18	0.844601
Disability	1.05	0.952721
Employment status	1.31	0.762149
Income	1.69	0.591769
Asset value	1.33	0.750817
Amount inherited	1.12	0.889038
Importance of bequest	1.08	0.928580
Charity	1.21	0.824910
Religiosity	1.34	0.746168
Law	1.19	0.839308

8.5.2.3.3 Outliers**Table 8.17: Codification of the Binary Model for the Purpose of Checking Outliers**

Dependent Variable	Coding
Bequest A	0 (Would not leave a bequest); 1 (Probably or would leave a bequest)
Bequest B	0 (Probably leave a bequest); 1 (Would not or would leave a bequest)
Bequest C	0 (Would leave a bequest); 1 (Probably or would not leave a bequest)

In furthering the search for an efficient result, another diagnostic test was carried out to check the outliers. The only way to test the outliers for multinomial logic with Stata is to run OLS on separate binary models (Sarkisian, n.d.b:15). Hence, in this case, the researcher had three different binary model sets, which were renamed and recoded as presented in Table 8.17. Each set was run as a logit model using the same independent variables. Once the results were obtained, standardised residuals and

predicted probability were computed for each model. The residuals were sorted by the predicted probability using Scatterplot to identify the presence of the outliers as shown in Figure 8.1 to Figure 8.3 (Long and Freese, 2001:114-115; Sarkisian, n.d.b:15 and n.d.b: 10-12).

It should be noted that “there is no hard-and-fast rule” and “no absolute standard developed to determine large residuals and outliers in the binary regression model” (Long and Freese, 2001:115). The basic rule says that:

“In the Scatterplot of the standardised residuals, the residuals should be roughly rectangularly distributed, with most of the scores concentrated on the centre (along the 0 point). Deviations from a centralised rectangle suggest some violation of the assumptions” (Pallant, 2007:156).

Pallant (2007:156-157) citing Tabachnick and Fidell (2007) defines outliers “as cases that have a standardised residual of more than 3.3 or less than -3.3”. Using this scale as the guideline, several residuals in the Scatterplot for Bequest C below stood out as being large relative to the others and needing further examination.

Figure 8.1: Scatterplot of Standardised Pearson Residuals Indicating Outliers for Bequest A

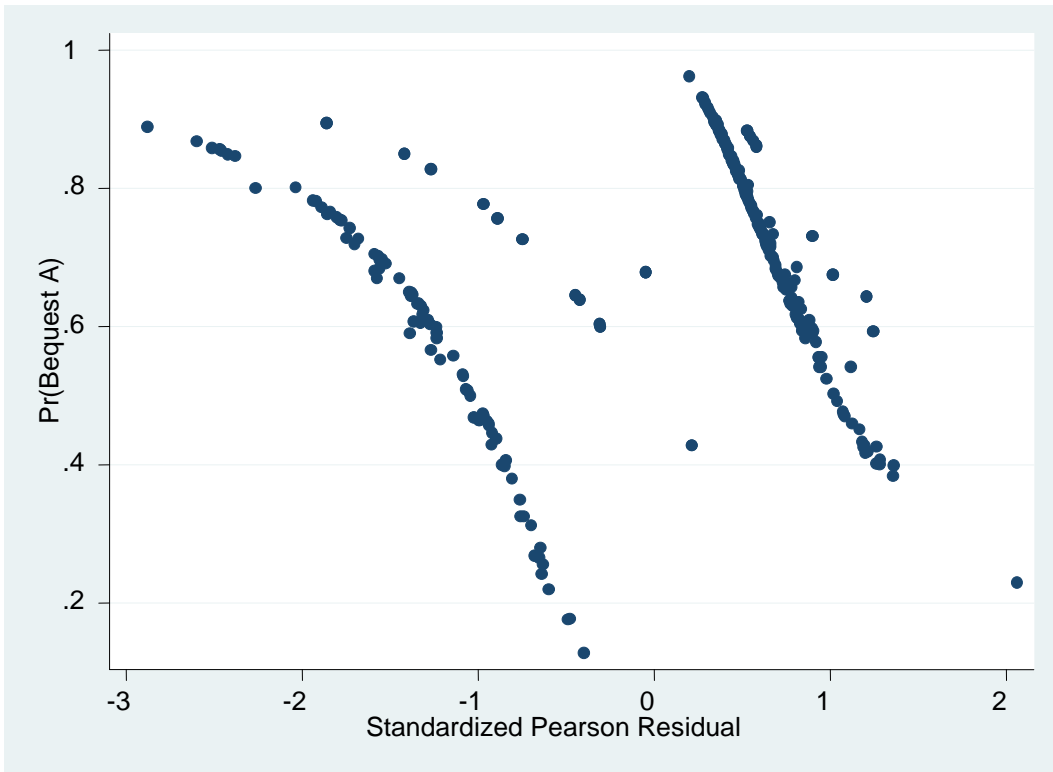


Figure 8.2: Scatterplot of Standardised Pearson Residuals Indicating Outliers for Bequest B

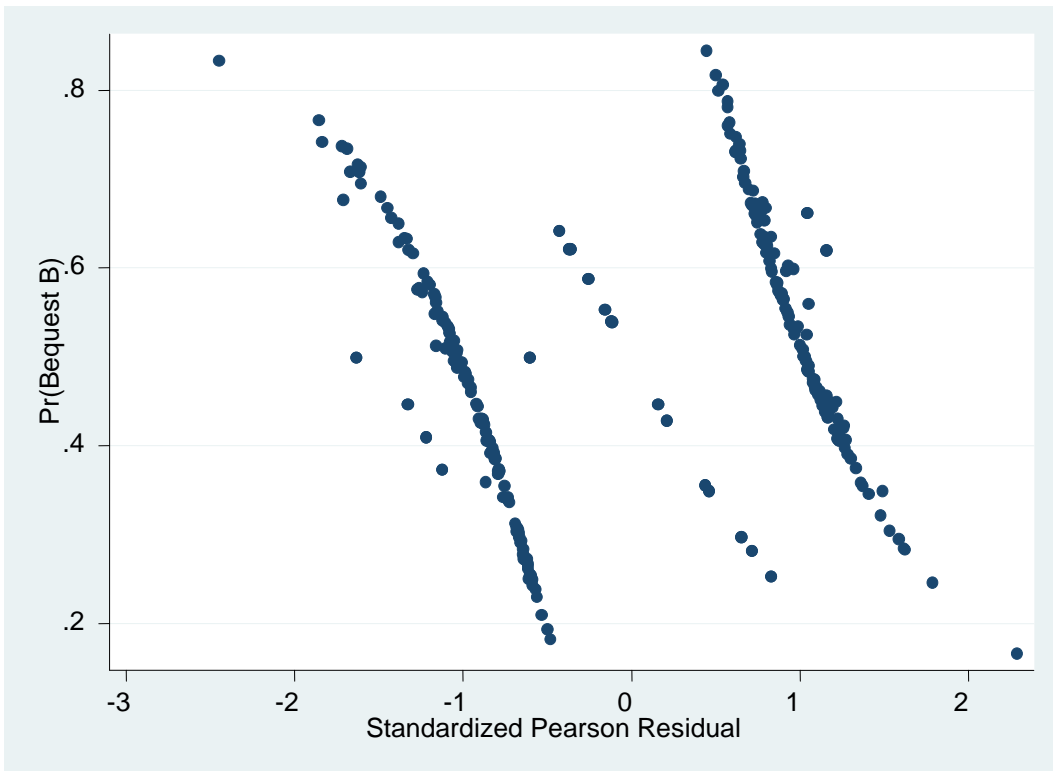
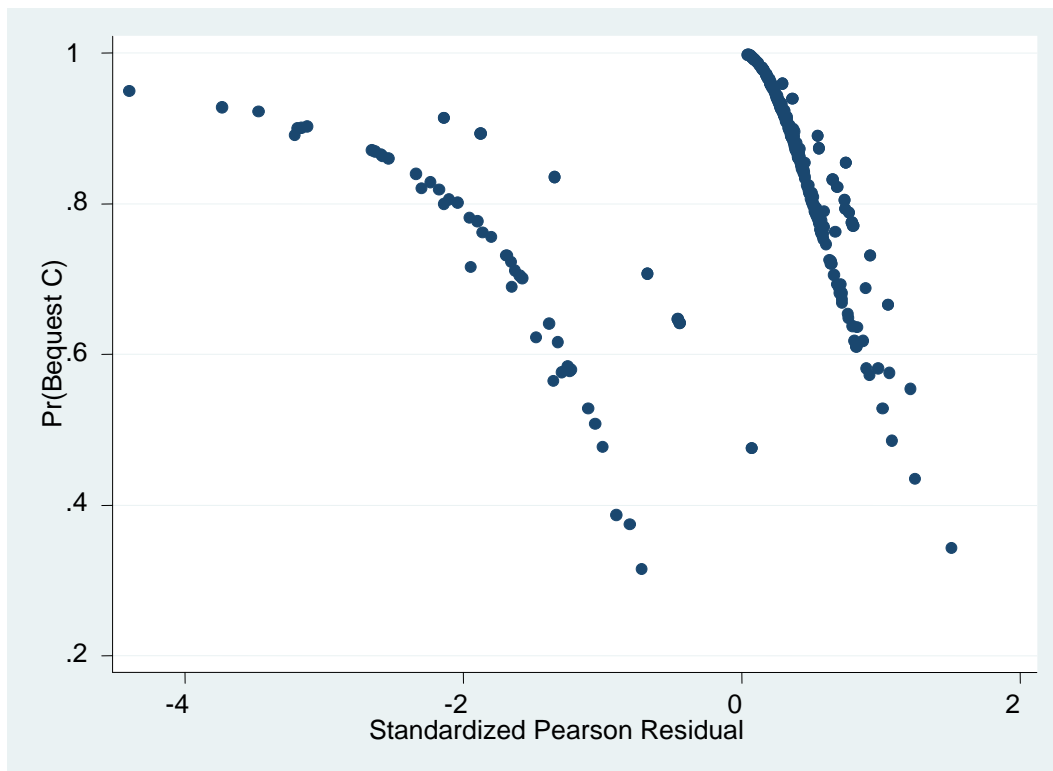


Figure 8.3: Scatterplot of Standardised Pearson Residuals Indicating Outliers for Bequest C



Dealing with the outliers led the researcher to two options: either to remove the cases or keep them in the analysis (Field, 2005:78). Finally it was decided not to remove them for several strong reasons. Firstly, these cases were from the population that the researcher intended to sample (Field, 2005:78). Secondly, cases with large positive or negative residuals should not simply be discarded from the analysis but should be examined to determine why they fit the model so poorly (Long and Freese, 2001:116). Thirdly, large residuals do not necessarily have a strong influence on the estimated parameters (Long and Freese, 2001:116). Fourthly, the impact of the outliers on the mean value will not be visible if the numbers of the outliers are limited in terms of frequency (Pallant, 2007:156-157) and finally, outliers are inevitable with large samples (Pallant, 2007:156-157).

Long and Freese (2001:116-117), Sarkisian (n.d.a:11) and Menard (2001:84–86) contend that in order to check whether the outliers are influential or not, a number of leverage statistics should be obtained by examining the change in the estimated $\hat{\beta}$

(dbeta) that occurs when the i^{th} observation is deleted. According to Menard (2001:86), influential points which are called high-leverage points indicated by a dbeta greater than 1. Figures 8.4 to 8.6 show cases which have dbeta greater than 1. However, the researcher did not remove these cases from the sample for the reasons mentioned earlier. For these influential outliers, their number of cases, standardized residual values and dbeta values are presented in Tables 8.18, 8.19 and 8.20.

Figure 8.4: Graph Indicating Influential Outliers for Bequest A

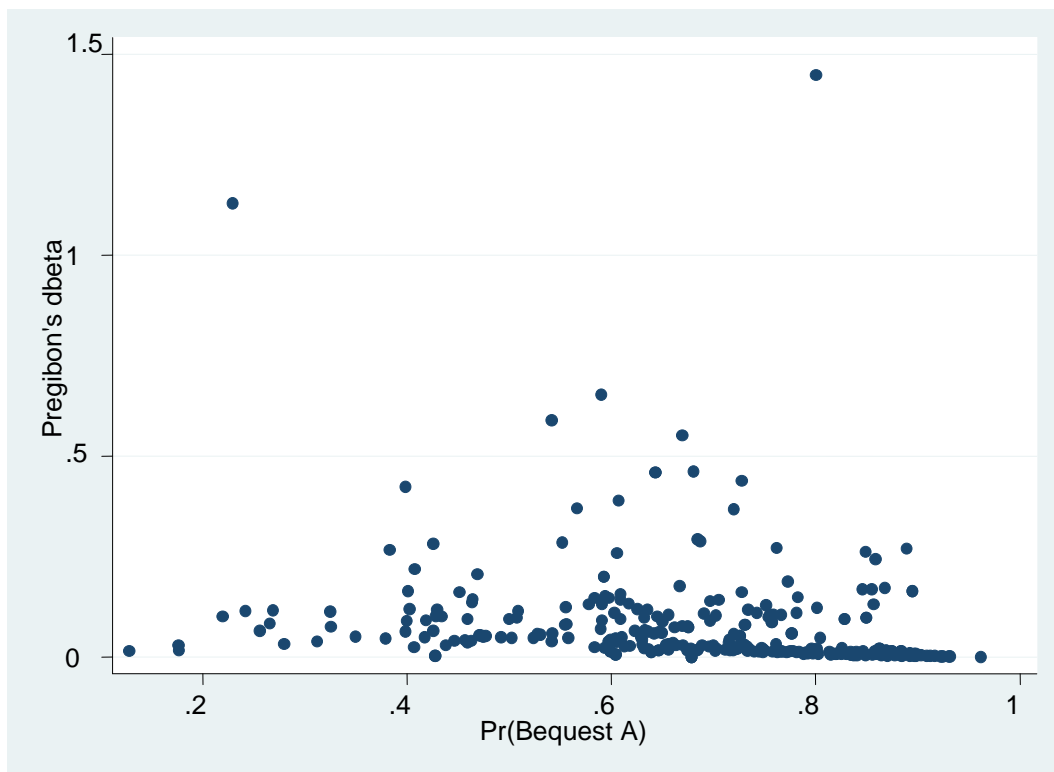


Figure 8.5: Graph Indicates Influential Outliers for Bequest B

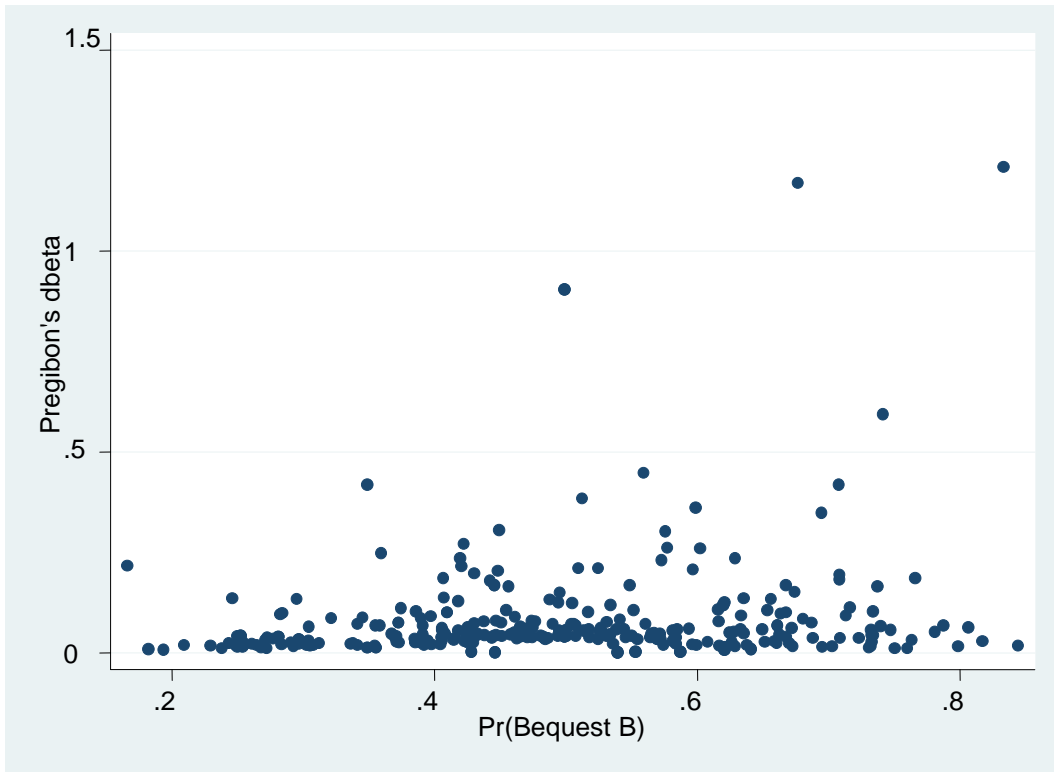


Figure 8.6: Graph Indicating Influential Outliers for Bequest C

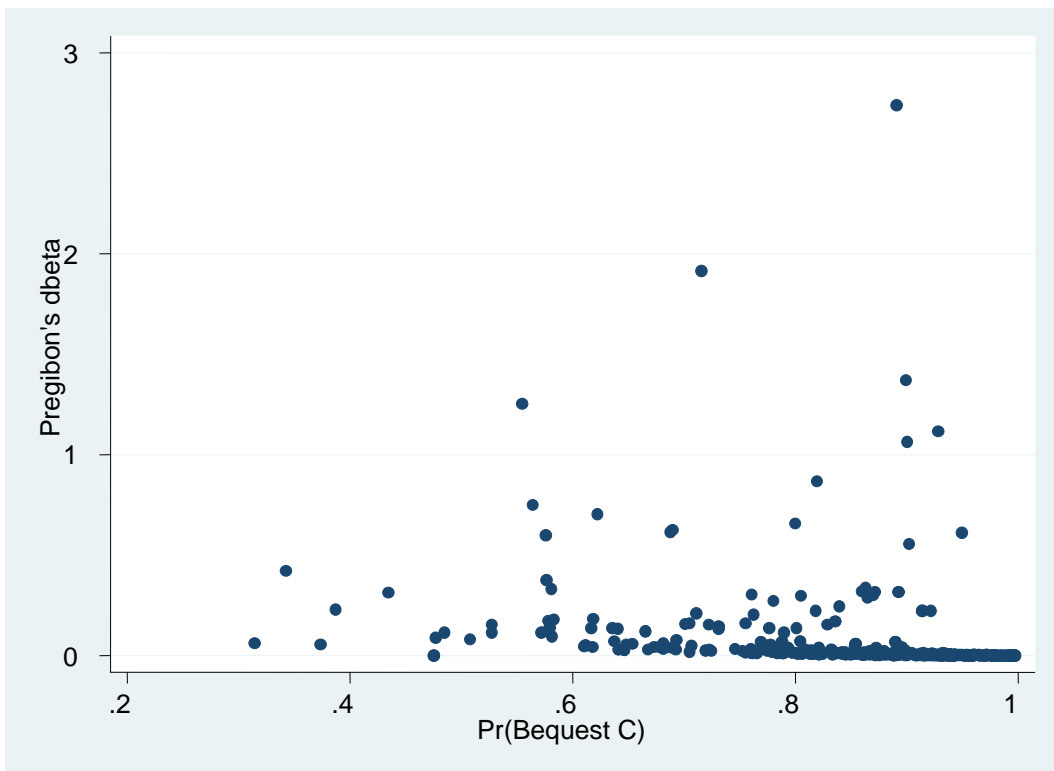


Table 8.18: Case Number of the Influential Outlier and Its Standardised Residual and dbeta Value for Bequest A

Case number	Standardised residual	dbeta
75	-2.267556	1.448536
124	2.060241	1.128809

Table 8.19: Case Number of the Influential Outlier and Its Standardised Residual and dbeta Value for Bequest B

Case number	Standardised residual	dbeta
464	-1.710894	1.169376

Table 8.20: Case Number of the Influential Outlier and Its Standardised Residual and dbeta Value for Bequest C

Case number	Standardised residual	dbeta
75	1.217085	1.251539
78	-3.192848	1.370634
226	-3.166055	1.06346
336	-3.737352	1.113719
457	-3.211919	2.738997
463	-1.946153	1.914369

8.6 BEQUEST MOTIVES: ANALYSIS FROM THE MULTINOMIAL LOGIT MODEL

Turning to the problem of discriminating bequest motives, this study provided evidence for a mixture of bequest motives in terms of estimated coefficient signs. Life-cycle theory posits the absence of bequest motives and this is portrayed by the negative signs of the significant coefficients and relative risk ratio less than 1 when comparing the probability of respondents choosing between ‘probably leave a bequest’ or ‘would leave a bequest’ over ‘would not leave a bequest’ (see Table 8.10). The negative signs of the significant coefficients show that respondents were more likely to choose not to leave a bequest at all or leaving an accidental bequest. It should be noted that, the life-cycle model at the same time posits that people might leave a bequest but with some strategic and exchange features. The existence of

these two types of bequest motives is explained together with altruistic and dynastic bequest motives below by contextualising the results.

With reference to Table 8.10 again, the variables age, education, employment status, asset value and importance of leaving a bequest with positive signs and relative risk ratio larger than 1 could possibly show some supports for altruistic, dynastic, strategic or exchange bequest motives as hypothesized in previous research. However, locating which bequest motive was dominant over others has been solved by means of analysis of the verbatim responses in Section 8.4. The religiosity variable with a positive sign also shows some support for having an altruistic bequest motive in the attitude toward leaving a bequest. It is hard to decide which bequest motives could appear when comparing the group ‘probably leave a bequest’ versus ‘would leave a bequest’. Despite the signs of the coefficients for the variable monthly income, the importance of leaving a bequest and religiosity were negative, they still indicate that respondents still tended toward leaving a bequest. This positive attitude toward leaving a bequest was a sign that the likelihood not to leave a bequest did not appear and the evidence for altruistic, dynastic, strategic or exchange bequest motives remained.

8.7 CONCLUSION

At the end of this chapter, it can be seen that considerable work in this area has been undertaken during the study. Efforts at data collection and analysis could be perceived as steps towards identifying the most promising methodological approaches to answering issues surrounding bequest within the Malaysian Muslim contextualization. To conclude, the main findings can be highlighted as follows; firstly, a majority of respondents have a positive tendency towards making a bequest in the future; secondly; several explanatory variables significantly influenced the attitudes to leaving a bequest namely education, grandchildren, inheritance law, ethnicity, employment status, importance of bequest, religiosity, age, monthly income and total asset value; and finally, a mixture of bequest motives appeared in the respondents’ attitudes to leaving a bequest. It should be noted here that econometric problems associated to the model used in this research such as

goodness of fit, the IIA test, multicollinearity and outlier were elaborated and solved.

Chapter 9

ANALYSING THE SUPPLY SIDE PERCEPTIONS ON WASIYYAH AND BEQUEST: FINDINGS FROM THE INTERVIEWS WITH WASIYYAH WRITING PROVIDERS

9.1 INTRODUCTION

Following concerns arising from the recent emerging growth of the *wasiyyah* writing service in Malaysia, an investigation into the supply-side of *wasiyyah* by means of semi-structured interviews was undertaken after analysing the perceptions and opinions of the participants as presented in the previous chapter. These interviews were conducted with the *wasiyyah* writing service providers. The structure of the interview questions utilized by this study was unique in several ways. The structured interview questions included general questions asking about the awareness level of *wasiyyah*, current practice of *wasiyyah*, bequest practice, reasons and other issues related to the topic. Alongside these general questions, other questions were designed carefully and specifically to obtain the percentage of clients, clients' likelihood and client's level of knowledge. Thus, this part of the analysis could benefit more from such structured interview questions in the sense that the quantitative method of analysis could be integrated into qualitative method of analysis.

9.2 FINDINGS RELATED TO THE WASIYYAH WRITING PROVIDERS

This section presents the profile of interviewees. Their companies' identity, nature of the companies and products are revealed. On top of that, this section also locates the interviewees' profile in terms of their qualifications, demographic, knowledge and working profile.

9.2.1 Comprehensive Profile of *Wasiyyah* Writing Providers

Data were available for 15 *wasiyyah* writing providers in Malaysia who agreed to be interviewed. Their profiles were collected and depicted in Table 9.1 and Table 9.2. The *wasiyyah* service providers included several big names in Malaysia which comprised ARB, As-Salihin Trustee Berhad, ZAR Perunding Pusaka, *Wasiyyah* Shoppe and CIMB Investment Bank Berhad. In addition to the service providing companies, one interviewee was a *Shari'ah* lawyer who offered a *wasiyyah* writing service independently through his law firm while the other solicitor was a partner of *Wasiyyah* Shoppe.

The nature of the companies was actually derived from the observations on the companies' status whether they were independent companies, parent companies or having business links or collaborations with other *wasiyyah* writing providers. This suggested that the particular *wasiyyah* writing providers could have a single or variety of approaches, different targeted groups and offer a limited or a wide range of selection of Islamic estate planning products.

Operating as *wasiyyah* writing providers did not require them to have a particular professional certificate in related field. Nonetheless, big *wasiyyah* writing companies provided their partners with the necessary training course which could be obligatory or voluntary. Four interviewees (26.7 per cent) attended a course/courses organized by ARB, three interviewees (20 per cent) attended courses organized by As-Salihin Trustee Berhad, while one interviewee attended courses run by *Wasiyyah* Shoppe. It is perhaps not surprising that people with law backgrounds operated as *wasiyyah* writing providers on the ground that *wasiyyah* is very much close to the *Shari'ah* law and civil law in Malaysian legislation. In this study, four of them possessed a law background (26.7 per cent). A small number of interviewees also had extra professional qualifications because they worked beyond *wasiyyah* writing providers: three of them had CFP (20 per cent), two interviewees had IAL/IRL, two had RFP, two had IFPC (13.3 per cent for each), one had STEP and one was a member of MFPC.

Table 9.1: Names of *Wasiyyah* Writing Providers and their Companies

Name of the company	Number of interviewee from the corresponding company	Nature of the company
ZAR Perunding Pusaka	1	Have their own Islamic estate planning products; deal with other big <i>wasiyyah</i> writing providers if requested by their clients.
Moreclass (M) Sdn. Bhd.	2	Partner of ARB, partner of the As-Salihin Trustee Berhad.
<i>Wasiyyah</i> Shoppe (Bandar Baru Bangi, Selangor Branch)	1	Have their own Islamic estate planning products.
CIMB Invesment Bank Berhad	2	Bank; have their own Islamic estate planning products.
El Hegira Management Services	1	Partner of As-Salihin Trustee Berhad.
Warisan Mukmin	1	Partner of ARB and have their own Islamic estate planning products.
Konsortium Usahawan Asnaf Teras Sdn. Bhd	1	Partner of ARB.
Bank Islam Malaysia Berhad (BIMB)	1	Bank, partner of ARB.
Asset Protection Advisory Service	1	Deal with other <i>wasiyyah</i> writing providers as requested by their clients.
ARB	1	Have their own Islamic estate planning products.
<i>Shari'ah</i> lawyer, Shahrman & Associates	1	Have their own Islamic estate planning products.
Solicitor, Leena Fauziah & Associates	1	Partner of <i>Wasiyyah</i> Shoppe.
Seruan Makmur Enterprise	1	Partner of ARB.

Table 9.2: Profiling *Wasiyyah* Writing Providers

		Frequency	Percent
Qualification	Certified Financial Planner (CFP)	3	20
	Investment Advisory Licence (IAL)/Investment Representative Licence (IRL)	2	13.3
	Registered Financial Planner (RFP)	2	13.3
	Fellow Chartered Financial Practitioner (IFPC)	2	13.3
	Other		
	• Attended a course/courses run by ARB	4	26.7
	• Possess law background	4	26.7
	• Certificate of Islamic Estate Planner from As-Salihin Trustee Berhad	3	20
	• Certificate in Foundation of Trust and Estate Practitioners (STEP)	1	6.7
	• Attended course, 23 modules, run by the <i>Wasiyyah</i> Shoppe	1	6.7
	• Member of Institute of Professional Willwriters, UK & Member of Malaysian Financial Planning Council (MFPC)	1	6.7
Age	25–30	2	13.3
	31–35	2	13.3
	36–40	3	20
	41–50	5	33.3
	50 and above	3	20
Gender	Male	12	80
	Female	3	20
Year of service	Less than a year	2	13.3
	1–2 years	4	26.7
	3–5 years	4	26.7
	5 years and above	5	33.3
Status of job	Full time	11	73.3
	Part time	4	26.7
Number of clients	Less than 10	2	13.3
	10–20	2	13.3
	21–40	1	6.7
	More than 50	10	66.7
Relationship with client	Less than a year	7	46.7
	1–2 years	3	20
	3–5 years	4	26.7
	5 years and above	1	6.7
Knowledge on Islamic estate planning concepts	Posses understanding on the basics of the particular concepts	5	33.3
	Well versed	10	66.7
Knowledge on Islamic estate planning products	Posses understanding on the basics of the particular products	3	20
	Well versed	12	80
Knowledge on <i>wasiyyah</i>	Posses understanding on the basics of <i>wasiyyah</i>	1	6.7
	Well versed	14	93.3

As regards to the age profile of interviewees, as can be seen in Table 9.2, 73.3 per cent of interviewees fell in the range 36 and above years of age: five interviewees were from age group 41–50; three interviewees were from age group 36–40 and three interviewees were from age group 50 and above. In addition, regarding the other profile issues, a substantial majority of them were males (80 per cent versus 20 per cent); working as full time *wasiyyah* writing providers (73.3 per cent versus 26.7 per cent); and had more than 50 clients (66.7 per cent versus 33.3 per cent). Only five interviewees (33.4 per cent) had been working for 5 years and above.

This study also sought information regarding the interviewees' knowledge on this particular subject of *wasiyyah*, Islamic estate concepts and products. None of them considered themselves as 'not really familiar' in those three particular subjects. More than half of them rather rated themselves as well versed and only a few said that they understand the basic knowledge.

As can be seen in Table 9.2, nearly half of the interviewees had a relationship with their client of less than a year (46.7 per cent). This was very much related to the nature of the companies. *Wasiyyah* writing providers who operated as partners to the other parent companies had a duty to get as many as clients they could and earned commission. Further inquiries and amendments after the *wasiyyah* was completed would be directly conveyed to their parent companies. They would have a longer relationship if their client wanted other estate planning products.

9.2.2 Islamic Estate Planning Products Offered by the *Wasiyyah* Writing Providers

In Chapter 5 previously, the researcher gathered information from secondary sources regarding Islamic estate planning products in Malaysia, and divided them into three groups: *wasiyyah*, *hibah* and *waqf*. In this chapter, after analysing the data gathered from the interviewees, these Islamic estate-planning products were classified according to their purposes and summary of the products can be found in Table 9.3.

Table 9.3: Products of Islamic Estate Planning in Malaysia

(i) Product for the purpose of the appointment of an executor (*Wasi*)

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
<p>Basic <i>wasiyyah</i> (RM350) in which clients agree to:</p> <ol style="list-style-type: none"> 1) appoint ARB as their executor. 2) distribute estate according to <i>faraid</i>. <p>After a client writes a basic <i>wasiyyah</i>, ARB will register his/her name</p>	<p>Known as <i>Wisoyah</i> document (RM350)</p> <p>Executor will be other party, not ZAR Perunding Pusaka.</p>	<p>Basic <i>wasiyyah</i> (RM560): Writing = RM380 Custody = RM100 Safe-keeping cost = RM80/per year</p> <p>Comprehensive <i>wasiyyah</i> (up to RM2,100 but normal charge is RM1,200- RM1,800). Lifetime custody which is RM800 only offered to</p>	<p>Same as ARB (Partner of ARB).</p> <p>But for the comprehensive <i>wasiyyah</i> to be completed, ARB will contact the corresponding client.</p>	<p>Known as the Document of Appointment of Executor (Free of charge provided that clients subscribe for the estate management product that will charge the clients as follows):</p> <ol style="list-style-type: none"> 1) Estate >RM600,000 = RM400 for 17 years 	<p>Same as ARB (Partner of ARB).</p> <p>But for the comprehensive <i>wasiyyah</i> to be completed, ARB will contact the corresponding client.</p>	<p>Basic <i>wasiyyah</i> (From RM390, charge for the writing of the <i>wasiyyah</i>).</p> <p>Comprehensive <i>wasiyyah</i> (from RM500, and the highest charge so far is RM1,000)</p> <p>Plus the following cost:</p> <ol style="list-style-type: none"> 1) Appointment CIMB as 	<p>A complete consultation on estate planning (RM6,000).</p> <p>Then clients would be proposed the best products that suit them taking into account the clients' demands. These can be ARB's, As-Salihin</p>	<p>Regardless the content of the <i>wasiyyah</i> : Writing=RM200 Safe-keeping cost = RM250</p> <p>Upon the death of the testator, this <i>wasiyah</i> writing provider can carry out estate distribution process (1% and up to 5% of the estate's value. There were</p>

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
<p>and ask them to make a comprehensive <i>wasiyyah</i> at no additional fee (if he/she has any special requests or instructions to make).</p> <p>Executor must be the ARB itself. ARB will carry out the estate distribution process upon the death of the testator and charges depend on the estate's values.</p>		<p>those who opt for comprehensive <i>wasiyyah</i>.</p> <p>Upon the death of the testator, the estate distribution process will be carried out (Charges vary between 1%–2% depending on the estates' value and type of the estates).</p>		<p>2) Estate <RM600,000 = RM150 for 17 years</p> <p>Executor either AM Trustee Berhad or any family members. No charge paid by the heirs upon the death of the testator for the estate distribution process because the testator has subscribed to the estate management product of this company during his/her lifetime.</p>		<p>executor= RM200</p> <p>3) Lifetime custody= RM500</p> <p>Executor is either CIMB itself or other parties.</p>	<p>Trustee Berhad's or other overseas estate planning provider's products (charges vary).</p>	<p>some cases where clients could not afford to pay a high fee, this <i>wasiyyah</i> writing provider charged them below RM1,000).</p>

(ii) Products for the purpose of making bequests (up to 1/3 to non-heirs)

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
Included in the comprehensive <i>wasiyyah</i> .	In <i>wasiyyah</i> document (RM500).	Can be either in basic or comprehensive <i>wasiyyah</i> .	Included in the comprehensive <i>wasiyyah</i> .	This is included in the estate management product which is subscribed to by the client.	Included in the comprehensive <i>wasiyyah</i> .	Can be either in basic or comprehensive <i>wasiyyah</i> .	Please refer to the previous information.	Included in the <i>wasiyyah</i> .

(iii) Products for the purpose of making *hibah*

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
Temporarily suspended.	Direct <i>Hibah</i> (Fixed charge RM3,000)	<i>Hibah</i> Declaration: a) Up to 3 properties to be declared (RM900) b) 4–5 properties (RM1,200) c) 5–7 properties (RM1,500)	These are their own product (collaboration with their partners who are actually solicitors). Clients who have a daughter/daughters only or adopted child/children are encouraged to take these products. Costs are as follows:	Direct <i>Hibah</i> (Charge depends on property's value. Minimum charge is RM3,000). However, the modes of operation are similar to the Trust <i>Hibah</i> .	NA	Trust <i>Hibah</i> only (charge depends on property's value)	Please refer to the previous information.	Direct <i>Hibah</i> (Depends on the asset's value but however minimum charge is RM500).

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
			<p>1) Direct <i>Hibah</i>: (<RM150,000 = RM1,875 does not include cost of the name transfer)</p> <p>2) Trust <i>Hibah</i>: (<RM150,000 = RM1,875 does not include cost of the name transfer)</p> <p>It is up to the clients to appoint anybody as the trustee but they are encouraged to appoint family member as the trustee.</p>					

(iv) Products for the purpose of making *waqf*

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
Stated in comprehensive <i>wasiyyah</i> .	NA	Amount of <i>waqf</i> mentioned in the comprehensive <i>wasiyyah</i> . However, <i>waqf</i> in terms of movable assets (e.g: cash) is preferable)	Client is advised to deal with the State Islamic Religious Councils.	Client is advised to deal with the State Islamic Religious Council.	Under its subsidiary, Bank Islam Trustee Berhad.	NA	Please refer to the previous information.	Direct <i>waqf</i> . A document will be prepared and clients need to deal with the State Islamic Religious Council for the next procedures (RM300).

(v) Trust Account

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
No fixed price. Clients can have it in their wills. Case by case basis.	Do not offer trust account but prepare trust document and trustee is an individual.	Cost to set up account RM1,000. No minimum amount set up to be placed in the trust account. Annual fee applies (not less than RM2,000).	NA	Minimum amount to open account is RM100,000 (RM2,000 fixed charge) for the case where the cash money/savings comes from any sources except money comes from ASB/ASN.	NA	No fixed price. Case by case basis.	Please refer to the previous information.	NA

(vi) **Mutually Acquired Property**

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shari'ah Solicitor, Shahrman & Associates
NA	RM2,000 (Fixed charge)	Minimum cost is RM900 for 3 properties that will be declared.	NA	RM500	NA	NA	Please refer to the previous information.	NA

(vii) *Faraid* Value Distribution Document

Amanah Raya Berhad (ARB)	ZAR Perunding Pusaka	As-Salihin Trustee Berhad (Information gathered from Moreclass (M) Sdn. Bhd., El Hegira Management Services, Asset Protection Advisory Service)	Warisan Mukmin	Wasiyyah Shoppe (Information gathered from Leena Fauziah & Associates and Wasiyyah Shoppe, Bandar Baru Bangi Branch)	BIMB	CIMB Malaysia Berhad	Asset Protection Advisory Service	Shariah Solicitor, Shahrman & Associates
NA	This is only available at ZAR Perunding Pusaka.	NA	NA	NA	NA	NA	NA	NA

9.2.2.1 Appointment of an executor (*Wasi*)

Terminologies used for the document of the appointment of an executor were different among *wasiyyah* writing providers as they differed in defining the word ‘*wasiyyah*’ itself. However, generally most of them used terminology of ‘*wasiyyah*’ to refer to the document of the appointment of an executor while a few others such as ZAR Perunding Pusaka strongly believed that the correct terminology to be used was ‘*wisoyah*’ instead of ‘*wasiyyah*’, because for them the word ‘*wasiyyah*’ actually refers to the ‘bequest’. The corresponding interviewee explained as follows about the significance of the document:

“The first document that Muslims should prepare is *wisoyah* document; the appointment of the *wasi* to expedite the estate distribution process. The problem now is that people make their *wasiyyah* document not for this purpose.”

Wasiyyah Shoppe also stressed that ‘*wasiyyah*’ means ‘bequest’ and that it was not the terminology that should be used when referring to the appointment of an executor in a will. Accordingly, *Wasiyyah* Shoppe preferred to name the document for such purpose as ‘Document of Appointment of Executor’. In the matter of a basic or a comprehensive *wasiyyah*, other *wasiyyah* writing providers did not differentiate between these two types of *wasiyyah* as ARB did. For them, the only difference was just a matter of the exclusiveness of a *wasiyyah*. Drawing up a *wasiyyah* with ARB did not give a client any other option to appoint another party to be the executor apart from ARB itself. Meanwhile, other *wasiyyah* writing providers gave full authority to the client to choose anybody or any trustee company to be appointed as an executor. Cost of writing a *wasiyyah* varied across the *wasiyyah* writing providers from as low as RM200. *Wasiyyah* Shoppe offered this service at no cost, provided that the clients subscribed to its estate management product with an annual fee applied. On top of that, other costs such as custody and safe-keeping costs were imposed by certain *wasiyyah* writing providers. *Wasiyyah* writing providers which were appointed as trustee would carry out the estate distribution process upon the death of the clients. The cost paid for such purpose was generally between 1 per cent to 2 per cent of the total value of the estate. Again, *Wasiyyah* Shoppe was the exception, for its clients’ heirs did not have to pay for the estate distribution process because the clients themselves had subscribed to the estate management product during their lifetime.

9.2.2.2 Allocation for bequest

As can be seen in Table 9.3, allocation for bequest could be included and mentioned in the client's *wasiyyah* (either in the basic or comprehensive *wasiyyah* depending on the *wasiyyah* writing provider that the client chose to draw up the will) at extra charge or at no additional fee at all.

9.2.2.3 Hibah

Table 9.3 depicts that all *wasiyyah* writing providers except ARB and BIMB offered either direct or trustee *hibah*, with a few of them offering both types of *hibah*. With regard to ARB, this company actually temporarily suspended its *hibah* product. Some companies imposed a condition that the trustee appointed was none other than the agency itself while another gave flexibility to the clients to appoint any favoured individual according to their preferences. An interviewee from Warisan Mukmin clarified that there were three circumstances when *hibah* can either be revoked or not: *hibah* from father to children and grandfather to grandchildren are revocable, *hibah* between spouse and mother to children are not to revocable. In the bequest writing, as the findings indicate, charges could be fixed or depend on the *hibah* property's value.

It was found that one interviewee had a different perception towards *hibah* as one of the viable Islamic estate planning products. His responses were given below:

“I do not agree with the definition of the Trust *Hibah* because ‘trust’ is civil law document while ‘*hibah*’ is *Shari’ah* law document. If we used Trust *Hibah* and suddenly there was a dispute, which court it would go to? Civil or *Shari’ah* Court? Making a hybrid and mixed product like this one, legislation is one of the issues. Secondly, people actually have changed the original *hibah*. For me, for those who study law, in a trust there are three parties involved; creator, trustee and settler. In *hibah*, there are two parties involved; donor and donee. However, in Trust *Hibah* there are three parties involved; donor, trustee and beneficiary. I do not agree mixing up these terms. I think the document is not valid.”

“There is no legislation for *hibah* [he actually is talking about Trust *Hibah*] in Malaysia....”

“There are two types of *hibah*. *Hibah* which does not require the change of the name and *hibah* which requires the change of the name on the *hibah*

property. There are two opinions; Shafi'i school and Hanafi school. Shafi'i school is strict. If I gave you this pen, there must be a transfer of the possession. If I do not let go my possession, therefore that *hibah* is not valid. Hanafi school however say, if there was a clear intention and with the presence of witness, when I died, this pen is no longer my estate. Again, this issue must be clarified in terms of its legislation. Otherwise, if there was a dispute to determine whether it was an estate or not, and in the *Syariah* Court, one lawyer might use opinion from Shafi'is and the other lawyer might use opinion from Hanafis which depending which side they are supporting."

For a temporary solution, he suggested as follows:

"Better follow ARB, because it is an institution. It has its *Shari'ah* committee."

A remark from one interviewee indicates that *hibah* should not be used to circumvent *faraid*:

"*Hibah* cannot be used to circumvent *faraid*, to deny the rights of the heirs."

Another interviewee informed how his clients were advised when they decided to use this *hibah* product:

"In the case of irrevocable *hibah*, an individual who would like to make this type of *hibah* must think carefully and make a clear decision. There are clients who would like to transfer all of their properties through *hibah*. We provide guidelines to our clients so that they take into account that human nature; which can always change."

9.2.2.4 Waqf

For the purpose of *waqf*, a separate document could be prepared upon request from the client and some agencies preferred to put a clause of this matter in the *wasiyyah* document. In Malaysia, administration of *waqf* properties are under state government which make the *waqf* itself as not really preferable to be suggested to the client as one of the potential Islamic estate planning products that should be utilized to accommodate other products. For this, many *wasiyyah* writing providers were reluctant to offer a viable *waqf* product

that could be fully integrated into Islamic estate planning. However, they advised their clients to deal directly with the Islamic State Council or suggested to the clients to make cash *waqf* rather than opting for the types of *waqf* that involved landed properties.

9.2.2.5 Trust accounts

In relation to trust accounts, it was found that a minimum amount to open trust accounts, annual fees and fixed charges could be imposed and these varied across *wasiyyah* writing providers. Regarding the price, ARB and CIMB did not have a fixed price for this product because it was on a case by case basis.

9.2.2.6 Mutually acquired property

The data gathered from the *wasiyyah* writers shows that the cost for this product could vary from RM500 up to RM2,000. Making a document of mutually acquired property with As-Salihin Trustee Berhad required the clients to include at least three properties for such purpose.

9.2.2.7 Faraid value distribution document

The *Faraid* Value Distribution Document as a product was exclusively developed by ZAR Perunding Pusaka. The interviewee from ZAR Perunding Pusaka explained the motivation for helping him to come up with this product:

“I propose the estate distribution will be carried out according to the testator’s intention which is still based on the entitled *faraid* value. If the testator did not do this, probably a single property has all the heirs’ names.”

It should be noted that due to a technical problem, this product has never been sold to the clients. His following response implied this:

“We would like to propose this product but feedback from our *Shari’ah* advisors indicated that this document, at the end of the day, upon the death of the testator should obtain consents from all heirs for it to be enforced. That is why we did not sell this product and we never launched it eventhough we think it was a viable one.”

9.3 FINDINGS RELATED TO AWARENESS AND PRACTICE

This section was specifically designed for the analysis of the awareness level of making a *wasiyyah* and the extent to which it has been practiced. Reasons for the stated awareness level and practice are provided. The *wasiyyah* practice was also located by means of examining the perceptions of the *wasiyyah* writing providers in relation to the clients they have served in terms of profile of clients and clients' likelihood to make a *wasiyyah*, exploring the analysis of the percentage of clients coming back to take up a *wasiyyah* and investigating the percentage of the market that has not yet been tapped. On top of that, the extent to which bequest has been practiced and clients' level of knowledge can be found in this section. At the end of this section, mechanisms to increase awareness and *wasiyyah* writing practice were discussed.

9.3.1 Awareness Level of Making a *Wasiyyah* and Reasons

Constructing an idea of *wasiyyah* awareness among Malaysian Muslims was drawn from some useful insights gathered from the interviews. The key point as so far established is Malaysian Muslims were aware of the *wasiyyah* making. There are two other issues surrounding the matter of awareness. Firstly, what kind of *wasiyyah* people were aware of, and secondly, the level of their awareness. Pertaining to the former, only one interviewee reserved his opinion about the awareness of the making verbal *wasiyyah* but not the awareness in making a written *wasiyyah*. This could be derived from the following response:

“Awareness is there, but most Malays are aware of the verbal *wasiyyah*.”

It should be noted that the level of awareness was stressed by the interviewees' differently and stated awareness levels were compiled in Table 9.4. A conclusion at this point was that the awareness level about making a *wasiyyah* was between very poor to average. Perhaps this view could be seen from their answers in which three interviewees stated that it was very low (20 per cent), two stated it was quite low (13.3 per cent), one stated it was poor and six stated it was low (40 per cent). Only one said it was not very low.

One interviewee did not agree with the statement that the awareness level is very low on the grounds that the number of *wasiyyah* writing providers available in Malaysia has been increasing in recent times. A possible explanation for this was deliberately expressed as follows:

“Two or three years back, we could say the level was very low. Now, it is low because nowadays we have more *wasiyyah* writing providers.”

One interviewee stated that it was between poor to average level but there was only one interviewee who thought the awareness level was average.

Table 9.4: Awareness Level of *Wasiyyah*

Stated awareness level by interviewees	Frequency	Percent
Very low	3	20
Quite low	2	13.3
Poor	1	6.7
Low	6	40
Not very low	1	6.7
Poor to average	1	6.7
Average	1	6.7

A number of reasons behind the low level of awareness were also postulated with the interviewees. There were three main reasons extracted from interviewee feedback. Lack of knowledge was by far the most popular reason reported by nine interviewees (60 per cent). In addition, two interviewees (13.3 per cent) gave extra information regarding the lack of knowledge that should be highlighted here. They further said that knowledge was very low in the sense that people did not know what a *wasiyyah* was and having a thought that planning prior to death was useless as *faraid* was fixed and nothing could change it. Moreover, misleading information such as *wasiyyah* is always associated with rich people has been delivered through television.

Moreover, attitude was ranked as the second most important reason that contributed to the low level of awareness. Such attitudes appeared in the form that people did not take this matter seriously, they were not sensitive, did not make effort to find the information about *wasiyyah* and kept postponing their actions in sorting out a *wasiyyah*. Only two interviewees (13.3 per cent) accurately recognized the institutional factor as a cause of low awareness. Their statements reflect that existing institutions did not undertake dissemination and advertisement to the public.

9.3.2 *Wasiyyah* Practice

9.3.2.1 Level of *wasiyyah* practice and reasons

Table 9.5: Level of *Wasiyyah* Practice

Level of <i>wasiyyah</i> practice	Frequency	Percent
Slow/low/poor.	12	80
Very low	3	20

When asked about their opinion on *wasiyyah* practice, similar remarks as above were given by 12 interviewees (80 per cent) indicating that *wasiyyah* practice was slow, low or poor. Only three of them (20 per cent) stated that it was very low. These can be seen in Table 9.5. A broad range of ideas of what could be the reasons for the poor practice of making a *wasiyyah* were pinpointed by the interviewees. This could be associated with the following factors: attitude, misconception of *faraid*, low awareness, cost, tradition and institutional factor.

Attitude was by far the most popular reason reported by the interviewees. Passive and negative attitudes of Malaysian Muslims towards *wasiyyah* writing could be observed throughout the feedback given. Most people were not interested in making *wasiyyah*. Even though they were aware of inheritance issue, they had not seriously taken in to account the implication of dying intestate especially younger people. This was because they thought they were still young and they insisted to write *wasiyyah* themselves rather than making

their *wasiyyah* by professional means. In some cases, husband did not allow his wife to proceed with her intention to write a *wasiyyah*.

It should be noted that poor *wasiyyah* practice and its relation with the problem of having misconceptions towards *faraid* was pointed out by five interviewees (33.3 per cent). They were of the opinion that such misconceptions could appear in the form of belief that *faraid* was available to solve estate matters and therefore, *wasiyyah* was not essential.

Alongside these two major factors, cost, tradition or culture and institutional factor were other factors that contributed to the low practice of *wasiyyah* making. Not being able to afford to pay, eventhough they were aware was one of the examples mentioned by the interviewees in relation to cost factor. Encountering a culture which made *wasiyyah* a sensitive issue to talk about as it was related to death, engaging with a tradition *wasiyyah* for a long period and it was very hard to break such mentality were parts of the cultural factor. The existing glitches of institutional functions were also identified in the interviewees' responses. With reference to this problem, interviewees stressed that such flaws could be associated to the weak implementation of law and the absence of publication of testimonial cases to the public.

Appart from that, there was also a connection between low awareness and low *wasiyyah* practice as contended by one interviewee. In addition, one interviewee who believed that this was just a time matter problem, as the market was not mature enough yet.

9.3.2.2 *Wasiyyah* making: profile of clients and their likelihood to make a *wasiyyah*

This researcher collected data on the profiles of interviewees' clients and their likelihood to make a *wasiyyah*. Table 9.6 summarizes the results. It was difficult to understand the clients' profiles by comparing the percentages of interviewees' clients without taking into consideration their clients' likelihood of making a *wasiyyah*. Understanding the clients' profile using percentages could be misleading. The clients' likelihood in making a *wasiyyah* must be taken into account. Hence, it should be noted that if the tendency to make a *wasiyyah* for one particular group was high, it would not necessarily be portrayed by a high percentage of the clients.

In addition, this study suggests that the nature of the companies could possibly influence the number of clients they had in several ways. For instance, offering limited products or being a partner to only one big *wasiyyah* provider could limit the number of clients that they could have. In addition, targeted groups of clients varied and were different among these *wasiyyah* writing providers. For example, banks that sold *wasiyyah* writing products within the loans package concentrated on younger age groups, as they usually constitute the majority of clients of the banks who are entitled to get loans. Hence, it would be sensible for the banks to cite that they had many clients coming from these younger age groups. On the other hand, focusing on only certain groups of prospective clients such as high net worth individuals and offering tailor made products would lead the interviewee to have more clients from a high level of income and older age groups, as people from these age groups were financially stable. The researcher was also notified by one interviewee that gender was a significant factor in getting more clients from the same gender group. She clarified her points by stating that female clients were more comfortable to talk to the female *wasiyyah* writing providers.

There were two interviewees (13.3 per cent) who stated that there was no difference in the likelihood of making a *wasiyyah* across different groups of clients. They argued that all group of clients were fairly likely to make a *wasiyyah* after consultation but there were several factors that appeared to stop them from executing their intentions to make a *wasiyyah*. These factors are discussed in detail in this section.

The extent to which the clients differed by age was revealed by the following findings. As can be seen in Table 9.6, results reveal that more than half of the interviewees' clients were from age group 41 to 56 (50.9 per cent). The second largest group of clients was those in age group 26 to 40 (24.9 per cent) and the third largest group was those in age group 57 and above (21.8 per cent). As expected, it was very rare to get clients from age group 18 to 25 (1.7 per cent). The likelihood trends show a similar pattern. People who differed most were those aged 18 to 25 with the highest mean score 4.12 indicating they were not very likely to make a *wasiyyah*. On the other hand, the other age groups were fairly likely to make a *wasiyyah*. In understanding why most clients were older people, a statement from one interviewee rationalized this trend by stating that older people usually

had experience of sorting out their parents' estates. Hence, it could be understood that previous experience triggered positive attitudes of *wasiyyah* making among older people.

One interviewee mentioned that those aged 18 to 25 were most likely to be single people and for this reason they were reluctant to write a *wasiyyah*. The interviewees stated that there was a possibility that older people refused to write a *wasiyyah* for a few reasons including older people could not be bothered to write a *wasiyyah* as they were old, wanted everything sorted out according to *faraid*, let their children settle the estate matter and have transferred their properties prior to death. Interviewee from one particular bank stressed that they did not really have many clients from age group 57 and above since this age group did not apply for loans which required them to make a *wasiyyah* as part of the loan package. A general conclusion could be made here that older clients were markedly more likely to make and to have made a *wasiyyah* but in certain circumstances, the very young and the very old could also have similar attitudes in terms of being reluctant in arranging a *wasiyyah*.

As regards to the distribution of the respondents according to their gender, the percentage of female clients exceeded the percentage of male clients (50.3 per cent versus 49.7 per cent). However, whether male or female, both groups were fairly likely to make a *wasiyyah* even though mean scores in the analysis of the clients show that females were more likely than males to make a *wasiyyah*. It should be mentioned that useful insights, thus, were provided by the interviewees in explaining the trend across gender. One interviewee stated that female clients were usually single parents. This may be due to the fact that women were typically more alert to the consequences of dying intestate. One interviewee said that it was much easier to convince females than males. Having lots of debt was among common reason given by males when they were advised to make a *wasiyyah*. Two interviewees (13.3 per cent) mentioned that husband and wife usually came together to get their *wasiyyah* completed. During the process, response from the husband's side would affect the wife's final decision in making a *wasiyyah* in the sense that a wife who received a support from her husband was more likely to proceed with her *wasiyyah* making.

The findings demonstrate that the interviewees' clients were mostly Malays (85.1 per cent). In terms of likelihood, throughout interviewees' observations, all groups of ethnicity were fairly likely to make a *wasiyyah*. Despite what the results revealed, one interviewee mentioned that Malays were known to be less likely to make a *wasiyyah* as they were really hard to convince and this was very much related to cultural factors. In addition, corresponding interviewee elaborated that cultural transformation would be very difficult unless right approach was used such as stressing on the importance of leaving a *wasiyyah* rather than focussing on the negative perceptions on *wasiyyah*.

It was revealed that there was a clear pattern of different attitudes between clients who had children and clients who had no children. Interviewees had more clients with children (48.9 per cent were older people who had children and 44.5 per cent were young people who had children). Generally, either young or old, having children or childless were fairly likely to make a *wasiyyah*. In spite of this, a conclusion could be made that those who had children had a better tendency to make a *wasiyyah* than the rest of the group. A sensible justification was given by an interviewee in explaining why older people who were childless were less likely to make a *wasiyyah*, implying that this group of people were those who were normally financially stable and thus, were more likely interested making *hibah* over *wasiyyah*.

The same pattern of likelihood found for those who had children under 18 and those who had no children under 18 in which both groups were fairly likely to make a *wasiyyah*. When comparing the differences in the percentage and likelihood, the data show that there was little difference between these two groups. Those who had children under 18 usually appointed family members as the trustee as mentioned by one of interviewee.

The findings show some differences between clients with and without adopted children. The majority of interviewees' clients were those who had no adopted children (79.5 per cent). On the other hand, as expected, the likelihoods indicate that those who had adopted children were very likely to make a *wasiyyah* while those had no adopted children were fairly likely to make a *wasiyyah*. One interviewee mentioned that those who had adopted

children make a *wasiyyah* because they want to make a bequest as a sign of their love towards their adopted children.

Looking at the pattern by marital status, the findings from the interview analysis demonstrate that married people constituted the largest segment of the clients (84.9 per cent). Even though the likelihood to make a *wasiyyah* for all groups of marital status were similar, in which they were fairly likely to make a *wasiyyah* but apparently, single people were found to be the least likely to make a *wasiyyah* compared to the other groups and married people were most likely to make a *wasiyyah*. One interviewee mentioned that single people came to make a *wasiyyah* normally because they were seriously ill and one interviewee mentioned that divorcees, widows, widowers came to make a *wasiyyah* because they had children.

As for the different levels of income, it was found that making a *wasiyyah* was highest for those who were from a higher income group. Combining their clients from higher income and medium upper income groups resulted that the total of clients from these groups was larger than medium lower income (54 per cent versus 40.4 per cent). Only 5.6 per cent of their clients were those from lower income group. The likelihood reveals that those with higher incomes were more likely to make a *wasiyyah* than those with lower incomes. Interviewees revealed that lower income people were not interested to make a *wasiyyah* because the majority of them did not have insurance, or were perhaps housewives who depended on their husbands to make the decision. For one particular case, clients from medium lower income group dominated this *wasiyyah* writing provider's database because their *wasiyyah* product was bundled up with loan package, and their loan package has received higher demand from this group of people. Observations such as above were exceptional for some people from the high income groups, as high net worth people were more interested with trust account and *hibah*, rather than making a *wasiyyah* or did not feel comfortable to talk about *wasiyyah* making except with their lawyers, which is evidenced from one interviewee's response.

Table 9.6: Profile of Interviewees' Clients and Their Clients' Likelihood in Making a *Wasiyyah*

Groups		Percent*	Mean score**
Age	18–25	1.7	4.12
	26–40	24.9	2.13
	41–56	50.9	1.53
	57 and above	21.8	1.62
Gender	Male	49.7	2.07
	Female	50.3	1.53
Ethnicity	Malays	85.1	2
	Chinese Muslims	8.3	1.78
	Indian Muslims	2.9	1.88
	Other Muslims	3.7	1.83
Having children	Older people who are childless	2.1	1.78
	Older people who have children	48.9	1.67
	Young people who are childless	5	2.2
	Young people who have children	44.5	2
Having children under 18	Having children under 18	59	1.8
	Not having child under 18	41	1.73
Having adopted children	Having adopted children	13.4	1
	Not having adopted children	79.5	1.86
Marital status	Single	5.5	2.14
	Married	84.9	1.67
	Divorcee	4.6	1.9
	Widow/widower	5.4	1.75
Monthly income	High income	27.3	1.67
	Medium upper income	26.7	2
	Medium lower income	40.4	1.93
	Lower income	5.6	2.8
Types of job	Government servant	21.7	2.25
	Private sector	31.7	1.86
	Self- employed	21.7	1.71
	Retired	14.3	1.8
	Housewife	9.9	2.33
	Unemployed	0.7	4.67

Notes: (*)Average value; (**)Ratings are based on a five-point scale, where 1= Very likely to make a *wasiyyah* and 5= Not at all likely to make a *wasiyyah*

As can be seen in Table 9.6, findings show that there were differences between unemployed people and those who were working in terms of *wasiyyah* making. Noticeably, unemployed people were not very likely to make a *wasiyyah* with the highest mean of 4.67, and this group made the tiniest fraction of clients that the interviewees had (0.7 per cent). The largest group of clients that the interviewees had was those who were working in the private sector followed by those who were working in the government sector. Overall, the other working groups were found to be fairly likely to make a *wasiyyah*. A distinctive finding observed here was that self-employed people were found to be the most likely to make a *wasiyyah* followed by the retired group. The disparities in attitudes to make a *wasiyyah* across types of job were reflected in the responses given by the interviewees and such disparities in attitudes were due to the nature of the employment itself. For example, self-employed people usually had small businesses and thus, making a *wasiyyah* for them was more important for their business survival and teachers were the most difficult group of government servants to convince as they thought they knew better. In addition, one interviewee also mentioned that housewives could be so secretive and came over for a consultation without being accompanied by their husband. On the other hand, there was a positive trend among husbands who worked as government servants as they normally brought their wives together to sort out the *wasiyyah* matter.

9.3.2.3 Percentage of client coming back to take up a *wasiyyah*

Interviewees were also asked about percentage of clients coming back to take up a *wasiyyah* with the objective of locating the impact of the advice they receive from the providers. Results are summarized in Table 9.7. As can be seen in Table 9.7, one interviewees stated that this was 1 per cent, which was the lowest percentage given; two interviewees (6.7 per cent) gave a rate between 3 per cent to 5 per cent; five interviewees (33.3 per cent) stated 10 per cent to 20 per cent. A range of responses reflected the reasons for the low percentages, including wrong approach used such as selling concept which apparently was not preferable and *wasiyyah* writing provider was the one who took first step to approach the client. Pertaining to one interviewee from one particular bank who offered *wasiyyah* product which was bundled up with loan product, the interviewee said that people did not come to make a *wasiyyah*, but they came to get loans. He further said

that they sometimes get clients who walk in to make a *wasiyyah* but it is very rare. Therefore this question was not significantly relevant to his circumstances.

Table 9.7: Breakdown of Client Coming Back To Make a *Wasiyyah*

Percentage of client coming back to make a <i>wasiyyah</i>	Frequency	Percent
2	1	6.7
2-3	1	6.7
5	1	6.7
10	2	13.3
20	3	20
50	3	20
80	1	6.7
99	2	13.3
100	1	6.7
1	1	6.7

A few interviewees had different opinions in which they gave a quite high percentage rate of clients coming back to take up a *wasiyyah*: 100 per cent was the highest percentage given by one interviewee; three (20 per cent) stated that it was 50 per cent; one said it was 80 per cent; and two (13.3 per cent) stated that it was 99 per cent.

It should be noted that the two interviewees who said it was 99 per cent did not give any reason for their answers. Taking into account that they were from the same companies and taking into account the nature of the company itself, their responses were predictable. This was due to the fact that their company's target group of clients were high net worth individuals and the products offered were tailor made. Interviewees who stated the rate of clients coming back was 50 per cent consisted of one solicitor and two *wasiyyah* writing providers from the same companies. In regard to the solicitor, this person had very close relationships with the clients in the sense that the relationships were actually developed for a quite long period before the *wasiyyah* writing took place. By giving talks at mosques and several other places, potential clients easily identified this person as one of the trusted people who could help them in *wasiyyah* matters. The other two interviewees from the same company did not give any reason for their answers but throughout the interview the

researcher found that this company was one of the top Islamic estate planning companies in Malaysia. The interviewee who said the percentage of clients coming back was 100 per cent stated as follows:

“When the client comes for consultation, they have already accepted the importance of the *wasiyyah*. They come for details. But if I talked for a lecture to create awareness, let us say to 15 people, probably 10 will come back and express their desire.”

It should be noted that the researcher could understand the reason behind the statement given, even though it was not explicitly mentioned during the interview. The percentage was high because the clients had received consultations from the interviewee’s partners prior to their final decisions to make a *wasiyyah* directly with this interviewee’s company. The interviewee also confirmed that the number of Muslim individuals making a *wasiyyah* had increased as a result of the adaptation of a new marketing strategy. This new marketing strategy referred to the appointment of a large number of partners and banks was confirmed to be the largest contributor to the increasing number of clients. Feedback from another interviewee supported this statement in which the researcher was informed that banks could get 100 to 1,500 *wasiyyah* writing applications in a month. Another statement from the one interviewee suggests that when the willingness to obtain information or consultation was initiated by the clients then the percentage could be higher.

9.3.2.4 Percentage of market that has not been tapped

Table 9.8: Percentage of Market That Has Not Been Tapped

Estimated market given by the interviewees	Frequency	Percent
70	1	6.7
80	1	6.7
90	2	13.3
95	1	6.7
98	1	6.7
10	2	13.3
6 million of the working population more than 90	1	6.7
	6	40

In order to gauge the potential of the market, interviewees were also required to give an estimation on what percentage of the market remains untapped. The results are presented in Table 9.8.

As can be seen in Table 9.8, 12 interviewees (80 per cent) said it was about between 70 per cent and above, while two interviewees (13.3 per cent) stated that it was about 10 per cent, and one stated that it was about 6 million of the working population. Despite the large market to tap, one interviewee did not see it as an important matter as the interviewee thought this was not the time to force people to write a *wasiyyah* but it was the time to educate then the importance of writing a *wasiyyah*.

9.3.3 Making Bequest

Table 9.9: Interviewees' Clients in Making Bequest

10

Types of bequest	Mean score*
Bequest to adopted children	1.08
Bequest for charity purpose	1.43
Bequest to grandchildren	2.3
Bequest to siblings	2.4
Bequest to non-Muslim parents	2.56
Bequest to non-Muslim children	2.57

Note: (*) Ratings are based on a five-point scale, where 1= Very likely to have made this type of bequest and 5= Not at all likely to have made this type of a bequest

The research also aimed at finding the interviewees' perceptions on bequest related issues, the findings of which are presented in Table 9.9. As can be seen in Table 9.9, as regards to the motivation of making a bequest, Malaysian Muslims were very likely to have made a bequest to adopted children and for charity purpose (mean value 1.08 and 1.43 respectively). Between these two types of bequest, bequest to adopted children was the type of bequest that people most were likely to have made. Clients were fairly likely to have made a bequest to their other family members. Clients preferred to have made a bequest to grandchildren as opposed to their siblings but there were no huge differences in these types of bequest making (mean value 2.3 versus mean value 2.4). For those who had

non-Muslim parents or children, there were also no huge differences in terms of their bequest making (mean value 2.56 and 2.57 respectively).

In addition to tracking the clients' attitude to leaving a bequest, interviewees were asked about their clients' reaction to their consultation for leaving bequest. The results for this are presented in Table 9.10. More than half of interviewees (60 per cent) said that clients were willing to leave bequests after briefing, while 40 per cent said the opposite. Apart from this, 33.3 per cent of interviewees said that their clients were not willing to leave a bequest unless it was significant to their circumstances.

Table 9.10: Interviewees' Clients Attitudes to Leaving a Bequest

Attitudes to leaving a bequest	Frequency	Percent
Willing after briefing	9	60
Not willing after briefing	6	40
They are not willing to leave bequest unless it is significant to their circumstances	5	33.3

10.2.1 Clients' Level of Knowledge

Interviewees were asked to rate their clients' level of Islamic estate planning knowledge and Table 9.11 presents the mean scores obtained for a list of areas of Islamic estate planning knowledge that was provided in the structured interview questions. As can be seen, the results showed that none of these areas of knowledge stood out to be excellent. Their clients had poor levels of knowledge for all areas given on the list excepting their knowledge regarding *wasiyyah* writing providers available in the market. As a result of aggressive campaigning and promotions, most clients had some idea about ARB as mentioned by five interviewees (33.3 per cent), who also knew of the existence of Rockwills and As-Salihin Trustee Berhad as mentioned by one interviewee. This justified as to why their clients' knowledge about *wasiyyah* writing providers in the market was rated medium with a mean score of 2.13.

Table 9.11: Clients' Level of Knowledge

Areas of knowledge	Mean score*
Methods of Islamic estate planning	1.2
Legal aspects and proper procedures associated to <i>wasiyyah</i> in the context of Malaysian legislation	1.2
Concept of <i>wasiyyah</i> according to the <i>Shari'ah</i> law	1.27
Types of <i>wasiyyah</i>	1.27
Concept of Islamic estate planning	1.33
Cost of preparing a <i>wasiyyah</i>	1.4
Significance/purpose of leaving a <i>wasiyyah</i>	1.47
Other Islamic estate planning products available in the market	1.47
Allocation of one-third	1.87
<i>Wasiyyah</i> writing providers available in the market	2.13

Note: (*) Ratings are based on a three-point scale, where 1=poor, 2=average and 3=excellent

It seemed that clients had the poorest level of knowledge about methods of Islamic estate planning and legal aspects associated to *wasiyyah* in the context of Malaysian legislation, with a mean score 1.2 for each. Pertaining to the former, two interviewees (13.3 per cent) mentioned that *faraid* was the only method that their clients knew well and one interviewee said that clients did not bother to learn any other methods of Islamic estate planning as the *Syariah* Court, Land Office and *faraid* were available to solve estate administration related problems. It was noted that the latter received quite similar responses from the interviewees. Land Office (mentioned by 6.7 per cent of interviewees) and *faraid* (mentioned by 13.3 per cent of interviewees) were the only two items related to Malaysian legislation that clients were aware of. Apart from this, the findings show that the clients did not understand the significance of making a *wasiyyah* from the point of view of Malaysian legislation. This is evidenced in the response from one interviewee saying that people did not understand why making a *wasiyyah* was important.

Apparently the clients of the interviewees did not understand *wasiyyah* within the *Shari'ah* law contextual form, as evidenced by the low mean score of 1.27. Instead, they had a tradition and concept applied to *wasiyyah* which have been passed down to the next

generation such as *wasiyyah* could be made verbally, house should be given to the youngest child, *wasiyyah* would automatically override *faraid* and did not understand what would happen in the absence of a son. This interview analysis demonstrates that interviewees believed clients also had limited knowledge about the types and cost of *wasiyyah*, as can be seen with mean scores of 1.27 and 1.4 respectively. For example, interviewees further said that people perceived *wasiyyah* was expensive as they thought *wasiyyah* only could be made through solicitors and some of them did not know that *wasiyyah* could be amended. As can be seen, with a mean score of 1.33, a poor understanding about the concept of Islamic estate planning appeared in the form of belief that the concept of Islamic estate planning was simply about dividing their estates; unknowingly they actually had given a wrong definition to it.

It should be noted that knowledge about the significance of leaving a *wasiyyah* and other Islamic estate planning products available in the market were also poor with the same mean score of 1.47, which can be seen in Table 9.11. In spite of the findings with regard to the clients' knowledge about other Islamic estate planning products, one interviewee gave a contradicting comment implying that the client's knowledge was not that poor because ARB has aggressively promoted the *wasiyyah* writing. The other interviewee said that his clients had better knowledge about other Islamic estate planning product because he would contact them again to explain and offer other products.

It is also noted from the interview data as depicted in Table 9.11 that there was a slight increase in the level of knowledge in relation to bequest allocation with a mean score of 1.87. Despite this, a few remarks from the interviewees demonstrate how poor the clients' knowledge was regarding this matter. They said that clients had an understanding within the wrong contextual form for which they had a thought that such allocation was for children or heirs, and to some extent, they thought there was no limited amount of bequest imposed.

10.2.2 Mechanisms to Increase Awareness and *Wasiyyah* Writing Practice

The research delved into the potential mechanisms to increase awareness and *wasiyyah* writing practice in the interviews with the service providers. As can be seen in Table 9.12, 13 interviewees (86.7 per cent) perceived education as the best way to increase awareness and *wasiyyah* writing practice among Malaysian Muslims. A few of them (20 per cent) elaborated further by stating that education was the best mechanism for a long term solution. In addition, one interviewee stated that this subject must be included in the Islamic studies modules. Using mass media or organizing talks to promote *wasiyyah* writing were also favoured (33.3 per cent and 26.7 per cent respectively). However, pertaining to the mass media, one interviewee stressed that this should mainly be carried out by the government and one interviewee stated that it was just a short-term solution. Furthermore, direct advice or consultation was the next popular mechanism suggested by three interviewees (20 per cent), while one of them stated that this method was time-consuming.

Table 9.12: Mechanisms to Increase Awareness and *Wasiyyah* Writing Practice

Mechanisms	Frequency	Percent
Education	13	86.7
Mass media	5	33.3
Talks etc.	4	26.7
Direct approach	3	20
Other mechanisms	3	20
• The government should play an important role	2	13.3
• Academia should play their roles through writings	1	6.7
• Through mosque	1	6.7

Moreover, other mechanisms were called for to achieve greater awareness, including roles that could be played by government, academia and mosques; two interviewees (13.3 per cent) pointed out that important roles were the responsibility of the government but they did not elaborate on this. Lastly, interviewees stated that the contribution that academia could make in addressing the low awareness was mainly through their academic writings in identifying the conceptual and practical issues. In relation to the roles of mosque,

interviewees stated that mosques had a responsibility to deliver the right information about *wasiyyah* to the Muslim community beyond the *hukm* (rulings) point of view.

10.3 OTHER ISSUES

This section represents a collective input on a variety of other issues which the interviewees thought should be emphasized here as interviewees were given freedom at the end of the structured interview schedule to express their concerns in relation to *wasiyyah* and bequest.

10.3.1 Further Comments on *Wasiyyah* Related Issues

A wide range of views was proposed in various contexts pertaining to *wasiyyah*. Firstly, one interviewee explicitly showed his concern regarding the current stage of *wasiyyah* practice and estate problems in Malaysia which has now reached the value of RM40 billion. Secondly, three interviewees (30 per cent) expressed their concerns about problems which resulted from the current approaches used to get people to make a *wasiyyah*. The existing situations were quite devastating from their point of views. Their feedback reflects the importance of delivering a good service in terms of ensuring clients get what they have paid for, clients must be clearly informed when their documents are ready, what are the next steps to do, person to contact, how their children's welfare will be taken care of.

In addition to that, interviewees were concerned about the current marketing technique used by banks to increase the number of people making a *wasiyyah*. On the customers' side, they made a *wasiyyah* to get their loan approved, but on the banks' side their target was to get as much as people making a *wasiyyah* on top of getting more clients applying for loans. Even though making maximum profit was the companies' aim, educating their clients should be the companies' priority. Moreover, the important of *faraid* seemed to be of less concerned in the current approach. These *wasiyyah* writing providers, after all, did not explain about *faraid* unless they were asked. People also have been told by the *wasiyyah* writing providers that they could let their heirs be informed about how they wanted their estates to be distributed in the *wasiyyah*. This was a wrong idea given to the

people which then led to the assumption that Muslims were also able to make distribution in the similar way to the non-Muslims. Therefore it could be understood here that people made a *wasiyyah* not to speed up the estate distribution process but with the intention to avoid *faraid*. A few recommendations were proposed in regard to this matter including publishing cases that ARB dealt with and making *faraid* as the pillar of the Islamic estate planning, educating the public so that they understand what *faraid* was all about in terms of its value and significance.

In addition, three interviewees (30 per cent) repeated the significances of *wasiyyah*, which implied their concerns that people were not fully aware of these. They emphasized that eventhough the testator had no intention to bequeath, *wasiyyah* was necessary for the following purposes – the loved ones’ interests were ensured upon the demise if they were excluded by *faraid*, to tackle frozen estate problems and speed up the estate distribution process. Furthermore, one interviewee emphasized that there was an intention to form a centralized *wasiyyah* record system in Malaysia.

Moreover, issues regarding misconceptions about *wasiyyah* caused by the incorrect information through media and *wasiyyah* writing providers were also raised by the same interviewee. For this, he stated that media has been delivering misleading information and unaccurate picture of *wasiyyah* outside the *Shari’ah* and *Wasiyyah* Act such as *wasiyyah* overrides *faraid*.

Lastly, two practical pieces of advice from one interviewee were very helpful in regard with the selection and appointment of the trustee. He suggested that clients should consider several factors, which very much relate to the estate distribution process upon the death before finalizing their decision. These included costs that the clients’ heirs had to bear and the process that they would go through. Therefore, clients should also consider naming two trustees in their *wasiyyah*. This was because by appointing a single trustee, heirs would be put in a position of having no other option. Whether the estate distribution process was fast or late, heirs did not have any other option rather than waiting for it to be sorted out.

Finally, only one interviewee raised the issue of *wasiyyah wajibah* and the necessity of establishing understanding, standardization of provision for all states in Malaysia and emphasizing its enforcement. It should be noted here that in Malaysia, only Selangor Muslim Will Enactment has made a provision of *wasiyyah wajibah*. Such comments were made by the interviewee due to his concern regarding the significance of leaving one-third bequest.

10.3.2 Further Comments on Bequest Related Issues

There were four additional issues drawn from the interviewees' responses. Firstly, which groups of people should be more aware of the significance of bequest was raised by one interviewee. According to the interviewee, making a bequest was important for four groups of people; those who had adopted children, those who had non-Muslim children, those working women having daughters only and those who had grandchildren from predeceased children. However, people did not really understand the issue of one-third allocation to the extent that they did not know that their estates could be given to *Baitul Mal* or to their rich siblings.

Secondly, interviewees raised the issues related to the utilization of the bequest especially for the following groups of people – family members for their well being, charity bequest and adopted children. The problems of misunderstanding the bequest were also stressed by two interviewees (13.3 per cent), who mistakenly thought that bequest was for heirs such as their children or wives and did not know that bequest made for the entitled heir was only allowed with the consent of all heirs.

Finally, two interviewees (13.3 per cent) raised the issue of the best way of making a bequest. One of them clearly stated that their clients were advised to make one-third of bequest out of certain property or cash and not out of general property. Otherwise upon the death, it would be very difficult for heirs to determine from which assets the bequest should be taken out and properties could be divided into small proportions. This particular remark signifies the interviewee's concern regarding the protection of the economic value

of the property. Such suggestions were forwarded to the clients in order to avoid their estates from being split into uneconomic size.

10.4 CONCLUSION

As the discussion in this chapter demonstrates, people from the industry who have been involved in *wasiyyah* writing services were engaged in this study in gathering the primary data to investigate the issues related to their industry, but also to reveal their perceptions and opinions on *wasiyyah* and bequest related issues. Overall, findings obtained from this particular research method signify that Malaysian Muslims had a lack of awareness of *wasiyyah* and knowledge which was then reflected by their poor *wasiyyah* practice. Findings on bequest practice imply that the situation was much the same. However, it was common practice to make a bequest for adopted children. *Wasiyyah* writing providers in Malaysia seemed to have diverging opinions about the concept of *wasiyyah* within Malaysian legislation and Islamic estate planning products. Other findings indicate that there is still a large market of *wasiyyah* writing service to grab, issues related to legislation remain unsolved and for a long term solution education was perceived as the best approach in tackling the problem. This chapter benefits from their overwhelming responses and explanatory thoughts. Their experiences in this field for many years contribute to this study and enrich and strengthen its findings in a convincing manner to construct new ideas.

Chapter 10

CONTEXTUALISING THE FINDINGS: AN INTERPRETATIVE DISCUSSION

10.1 INTRODUCTION

The empirical analyses of the data were discussed separately in a total of three chapters: Chapter 7 presents the analysis of the *wasiyyah* related data gathered from a questionnaire survey; Chapter 8 focuses on the analysis of the bequest motives and attitudes to leaving a bequest by using similar data from the aforementioned survey, and Chapter 9 presents the analysis of the semi-structured interview data to reveal the opinions and perceptions of the industry representatives. All previous findings are integrated in this chapter to produce an in-depth and critical discussion of the analysis in accordance with the aims and the objectives of the study as described in Chapter 1 through contextualizing the findings with an interpretative discursive approach. This provides an opportunity to give further meaning to the data. In a more structured manner, the following sections aim to substantiate whether this study's findings would be able to reject or accept the hypotheses developed in preceding chapters, providing reasons for such acceptance and rejection and integrating the researcher's inferences into it by contextualizing the findings developed in the empirical chapters but also by benefiting from the foundational or literature review chapters. Deluges of further significant findings are deconstructed under separate headings of discussions.

10.2 DISCUSSING THE WASIYYAH RELATED FINDINGS

This initial section aims to present a discussion on the *wasiyyah* related findings by giving further meaning to the findings through a structured response.

10.2.1 Awareness of *Wasiyyah*

This research investigated awareness of *wasiyyah*. It is known that experience and knowledge are associated with the creation of awareness. Hence, the awareness of the participants was revealed from their answers to several questions reflecting their experience and knowledge of Islamic estate planning and *wasiyyah* (see Table 7.8). At the beginning, respondents could be considered to have a significantly high level of awareness as more than half of them had heard about Islamic estate planning; were at least aware of the *wasiyyah* ruling; knew an organization involved with preparing *wasiyyah*; knew someone who had died intestate or was involved in sorting problems related to an intestate death.

The experience and knowledge of the participants were filtered with further related questions. Several statements related to the subject matters were given to the respondents (see Table 7.9). Not surprisingly, respondents' knowledge of *wasiyyah* went hand-in-hand with their knowledge of Islamic estate planning. This was expected because *wasiyyah* is part of the Islamic estate planning. Generally, respondents answered some items correctly such as items pertaining to the necessity of preparing a *wasiyyah* in order to avoid estate distribution problems, appointing a trustee, and preparing a *wasiyyah* as the first step in the Islamic estate planning. On the other hand, they tended toward agreement or were very close to the neutral position with most of the statements that portray *faraid* and estate planning as complementary to each other or dominant over the other and statements portraying *faraid* colliding with *wasiyyah*. It seems that the respondents would put *faraid* in first place over estate planning and *wasiyyah*. These findings seem to support the statements made by some and empirical findings reached by other studies such as ZAR Perunding Pusaka (2004b), ZAR Perunding Pusaka (2004c), Hassan and Yusop (2006) and Omar (2009).

Further investigation of their knowledge about *wasiyyah* ruling demonstrated that even though 81.8 per cent of respondents stated that they either were knowledgeable or aware of *wasiyyah* ruling, in fact only 30.9 per cent of respondents could provide the right answer to the question asking them the amount allowed to bequeath in Islam (see Table 7.10). The investigation was extended to the awareness of the existence of *wasiyyah* writing providers. Findings as regards to the *wasiyyah* writing providers are not very encouraging. Initially, 158 respondents (50.3 per cent) cited that they knew an organization involved in preparing *wasiyyah* but actually, less than 50 per cent of respondents definitely knew an organization involved in preparing *wasiyyah* as only 151 respondents were able to give valid names of *wasiyyah* writing providers. These figures were obtained after the researcher took into account valid answers given for the question asking respondent to list any *wasiyyah* writing provider(s) that they knew (see Table 7.11). The researcher asked another question related to the cost of *wasiyyah* writing at ARB and its partner, for which only 6.4 per cent of respondents provided the right answer (see Table 7.12). Responses given to the question pertaining to problems related to intestate death indicate that respondents realized that dying intestate brings difficulties in sorting out matters of estate (see Table 7.13). The entire findings from the analysis of the questionnaire, thus, lead to the conclusion that Malaysian Muslim society seemed to overestimate themselves in regard to *wasiyyah*. It is true that they might be aware of it, but it reflected the inadequate exposure of the *wasiyyah* ruling, professional means of *wasiyyah* writing and the importance of *wasiyyah* in estate planning.

In the quest of a concrete justification to accept or to reject the hypothesis, interview analysis findings were taken into account. The majority of interviewees were of the opinion that the awareness level was low (see Table 9.4), mean scores of their clients' levels of knowledge produced the same benchmark which ranged between poor to average (see Table 9.11) and people were aware of verbal *wasiyyah* as opposed to written *wasiyyah*. These findings strongly support the results obtained from the survey. In conclusion, findings indicate that awareness level of *wasiyyah* was rather limited even though Malaysian Muslims believed they were fully aware of the subject matter.

Consequently, this part of the analysis helps to respond to the first hypothesis that there is a significant level of awareness on *wasiyyah* among Malaysian Muslims.

Hypothesis 1 **Reject H_0 : There is no significant level of awareness level of *wasiyyah*.**

10.2.2 *Wasiyyah* Practice

Previous studies (Brooker, n.d.; SCC, 2006; Rowlingson and McKay, 2005; Finch and Mason, 2000) suggest that will making is a minority activity. With reference to the Malaysian case, Yaacob (2006), Muhamad (2007), ARB (n.d.a), Omar (2006) and Omar (2009) are of the opinion that *wasiyyah* writing practice is relatively very low among Muslim people. This study attempted to observe such attitudes within the Malaysian Muslim community. By means of a survey, it was found that only 15 per cent of respondents have made a *wasiyyah* (see Table 7.14). The majority of interviewees even agreed that *wasiyyah* practice was slow/low/poor (see Table 9.5). As a result, it was established, based on the findings from survey and interview (which are apparently consistent with the previous literature) that a small number of Malaysian Muslim people in Malaysia have made a *wasiyyah*. Hence, this study is able to reject the null hypothesis that there is no significant level of *wasiyyah* writing practice.

Hypothesis 2 **Reject H_0 : There is no significant level of *wasiyyah* writing practice.**

For concreteness, cross checking between the findings from the survey and the interview was carried out to validate the impacts of several factors which presumably influence *wasiyyah* practice. The succeeding discussions on this are as follows:

With regard to age factor, this study shares one common feature with the previous studies – a similar connection between age and *wasiyyah* making, in which making a *wasiyyah* was more common with increasing age with result significant at the 5 per cent level (see Table 7.15). This finding is in line with Brooker (n.d.), SCC (2006), Rowlingson and

McKay (2005), Finch and Mason (2000), McGranahan (2006), Ahmad and Pyeman (2008). However, the several plausible explanations given in previous studies in elaborating such relationship did not seem to be very relevant in Malaysian Muslims' case. This is because three main reasons given by the respondents –namely: to ensure family are provided for upon the death, peace of mind about what will happen to the estate upon the death and because of the promotion/publicity made by *wasiyyah* writing providers (see Table 7.19) –did not intensely reflect ‘the importance of life stage’ that is supposed to trigger the decision to make a will as suggested by Brooker (n.d.:3) and ‘the fact that older people are more likely to die’ as suggested by McGranahan (2006:23). Respondents were even at the neutral level with the statement indicating that *wasiyyah* was only for married people, those who have family and not for single people. The connection between age and *wasiyyah* ownership as a reflection of the importance of life stage was clearly addressed by one of the interviewees confirming that there is no urgent need for younger people to make a *wasiyyah* as they are largely single and not married. Findings from the interviews also provide a new insight that the tendencies of younger and older people did not differ in this matter but it was a very minority opinion. To conclude, the results reflect the pressing need of making a *wasiyyah* due to the age factor did exist in Malaysian Muslim community, and therefore the third null hypothesis can be rejected.

Hypothesis 3 **Reject H_0 : There is no significant relationship between age and the *wasiyyah* practice.**

As far as the impact of gender on *wasiyyah* making is concerned, the absence of any significant relationship between *wasiyyah* making and gender in the survey (see Table 7.15) is consistent with the finding from interviews. This insignificant result is in line with Finch and Mason (2000). However, a few remarks from interview are rather different and help this study to locate the extent to which females differed from males in the matter of *wasiyyah* making. Females were found to be much easier to convince than males because of their positive attitude towards *wasiyyah*. For married women, husbands came into play in their final decisions making, which in turn could be the rejection of the *wasiyyah* making if their husbands did not support their action to make a *wasiyyah*. It is

understandable that because of the traditional nature of women, they are more willing to listen and consider, which explains as to why they have a greater tendency to make a *wasiyyah*.

In addition, from the point of view of the researcher, the presence of a distinctive disparity across gender was the result of the modernization process which has brought equal opportunities among gender in Malaysia. Having their own personal jobs and careers and accessibility to the information has transformed Malaysian women into independent women, and thus given them authority in making judgments and decision. In support of this, the changes in Malaysian women's employment and empowerment are proven in a study undertaken by the Malaysian Ministry of Women, Family and Community Development and United Nations Development Programme (UNDP) (2007:17-18), which indicates the rising trends in female labour force participation are in parallel with the high economic growth rates of the 1980s and 1990s. Despite such developments, there are still such Malaysian women who are heavily dependent on their husbands in terms of financial matters and consider themselves not to have sole authority in decision making. Despite the paradoxical results above, the null hypothesis cannot be rejected based on the findings from the survey.

Hypothesis 4 **Accept H_0 : There is no significant relationship between gender and the *wasiyyah* practice.**

The impact of marital status was searched on the *wasiyyah* practice, which the finding from the survey is not significant (see Table 7.15). Furthermore, it is supported with findings from interview, which produced similar results (see likelihood of the interviewees' clients in making a *wasiyyah* across marital status in Table 9.6). Only through analysis on a number of the interviewees' clients (see Table 9.6) and several interviewees' verbatim responses gave a clue to the researcher that single people were less likely than others to make a *wasiyyah* and married people were the group most likely to make a *wasiyyah*. Taking into account that *wasiyyah* making is certainly linked to the age factor, there is no doubt that single people were less likely to make a *wasiyyah* while

married people were more likely to make a *wasiyyah*, which as a finding is in line with Brooker (n.d.). Apart from the age factor, *wasiyyah* making should be seen as the outcome of particular life events. The only plausible explanation for this comes from the interviewees' further responses which confirmed that marriage is one of the important life stages that triggers the decision of *wasiyyah* making as claimed by Brooker (n.d.:3). In responding to the null hypothesis below, it can be concluded that null hypothesis cannot be rejected based on findings from survey.

Hypothesis 5 **Accept H_0 : There is no significant relationship between marital status and wasiyyah practice.**

Eventhough Malays were more likely to have made a *wasiyyah* than non-Malays as the finding from the survey implies, ethnic origin was found not to be relevant or significant to *wasiyyah* writing (see Table 7.15). Thus, the null hypothesis below cannot be rejected. To provide further evidence, the results from the semi-structured interviews were interrogated against results from the survey. Eventhough interviewees' clients were mostly Malays (85.1 per cent) (see Table 9.6), this however, could not be a good indicator to conclude that Malays were more likely to have made a *wasiyyah* on the grounds that the number of clients from non-Malays Muslim ethnics was somewhat underrepresented. This was mainly due to the fact that this research focuses on the Islamic aspects of *wasiyyah* and hence through purposive sampling, Malays and Muslim *wasiyyah* writing providers were sampled. In spite of this, results from the survey, which imply that ethnicity was not a significant factor of *wasiyyah* practice, can be supported with one finding observed from the semi-structured interview in which all groups of ethnicity had similar likelihood levels of making a *wasiyyah* (see Table 9.6). Again, one interviewee's verbatim response assists to validate the assumption saying that there is a strong connection between cultural values and *wasiyyah* practice. This suggests that due to the cultural difference, Malays are known to be more sensitive to the issue of *wasiyyah* making. This result corresponds to the findings of other studies such as Hassan (2005c), Wan Harun (2008), Abdul Rahman (2007), ZAR Perunding Pusaka (2004b) and ZAR Perunding Pusaka (2004d). However,

this is a very minority opinion and caution should be taken in the interpretation, as the justification is fragile.

Hypothesis 6 **Accept H_0 : There is no significant relationship between ethnicity and the wasiyyah practice.**

There is nothing in the evidence from the survey to suggest that there was a significant impact of level of education on *wasiyyah* practice (see Table 7.15). Interviewees were not asked about their clients' attitudes across different education attainments when the researcher conducted the interview. The result from survey is not significant even though it tells a positive relationship between education level and *wasiyyah* practice. Thus, the null hypothesis then cannot be rejected.

Hypothesis 7 **Accept H_0 : There is no significant relationship between education level and the wasiyyah practice.**

In the following section, seven family-feature related issues were examined namely 'having children', 'having children under 18', 'having non-Muslim children', 'having adopted children', 'having grandchildren', 'having non-Muslim parents' and 'having siblings'. As the findings indicate (see Table 7.15), only three variables were significant: 'having children' (at 5 per cent level); 'having adopted children' (at 1 per cent level) and 'having grandchildren' (at 1 per cent level). Therefore the null hypotheses for these three variables can be rejected while the null hypotheses for other variables remain. Hence, this study found strong evidence supporting the hypotheses that some family features had significant relationship with the *wasiyyah* practice.

It should be noted that the several previous findings are similar to these findings: the significant relationship between 'having children' and will making is suggested by Brooker (n.d.) and the insignificant relationship between 'having children under 18' and 'sibling' with will making are found in McGranahan (2006). A strong relationship between 'having children' and 'having children under 18' was also stressed in interview

(see Table 9.6) but variations across another family features namely ‘having grandchildren’, ‘non-Muslim children’, ‘non-Muslim parents and sibling’ were not investigated by means of interviews.

Two pragmatic explanations could be established to understand how these significant family features influence *wasiyyah* practice: firstly having children was also part of the life events which influenced the decision of making a *wasiyyah* as marriage did; and secondly concerning the exclusion of adopted children and grandchildren from inheritance had also triggered Malaysian Muslim people to make a *wasiyyah*. Associations between ‘having non-Muslim children’ and ‘non-Muslim parents’ with *wasiyyah* practice are not explicitly investigated in the previous research because these types of family features with regard to the *wasiyyah* practice are only relevant in a Muslim society.

With regard to the insignificant relationships found between ‘having non-Muslim children’ or ‘non-Muslim parents’ with *wasiyyah* practice (see Table 7.15), these were probably due to two reasons: firstly, the survey had a very small number of respondents who had these family characteristics, and secondly, findings from interviews in relation to bequest indicates that people did not consider allocating a bequest to their non-Muslim children and non-Muslim parents as important as making a bequest to charity and their siblings (see Table 9.9).

Hypothesis 8 **Reject H_0 : There is no significant relationship between having children and the wasiyyah practice.**

Hypothesis 9 **Accept H_0 : There is no significant relationship between having children under 18 and the wasiyyah practice.**

Hypothesis 10 **Accept H_0 : There is no significant relationship between having non-Muslim children and the wasiyyah practice.**

Hypothesis 11 **Reject H_0 : There is no significant relationship between having adopted children and the wasiyyah practice.**

Hypothesis 12 **Reject H_0 : There is no significant relationship between having grandchildren and the wasiyyah practice.**

Hypothesis 13 **Accept H_0 : There is no significant relationship between having non-Muslim parents and the wasiyyah practice.**

Hypothesis 14 **Accept H_0 : There is no significant relationship between having siblings and the wasiyyah practice.**

The null hypothesis for ‘employment’, ‘monthly income’ and ‘amount of inheritance received previously’ can be rejected, as these variables are significant: ‘employment’ is significant at the 1 per cent level, ‘monthly income’ is significant at the 5 per cent level and ‘amount of inheritance received previously’ is significant at the 10 per cent level (see Table 7.15). Findings from interviews also confirm that ‘monthly income’ and ‘employment’ influenced *wasiyyah* practice (see Table 9.6). Reassuringly, the finding in relation to employment variable is broadly consistent with those of previous studies, such as Brooker (n.d.) and SCC (2006).

On the other hand, the null hypotheses for the variables ‘asset ownership’, ‘total value of assets’ and ‘previously received inheritance’ cannot be rejected, as the findings are not significant (see Table 7.15). With regard to the variable ‘previously received inheritance’, the implication of this is that experience of receiving inheritance did not trigger Malaysian Muslims to make a *wasiyyah*. This evidence is inconsistent with the theory assuming it should have a positive relationship on the grounds that those who had experience of sorting out inheritance matters would give more attention to preparing a *wasiyyah* as soon as possible. By contrast, the amount of inheritance received previously was found to be a significant determinant factor of *wasiyyah* practice, even though the experience of receiving an inheritance did not have any impact on the practice.

However, it is much easier to comprehend the whole of the findings in looking at how social status affected *wasiyyah* making, since ‘employment’, ‘monthly income’, ‘total value of assets’ and ‘amount of inheritance received previously’ are correlated factors determining individuals’ social status. Logically, people from a lower social status group are largely unskilled and semi-skilled employees, who have the lowest tendency to make a *wasiyyah* for reasons such as having a small income and less property. Apart from this, it

makes sense here to claim that age is a relevant factor on the grounds that older people are more likely to have more property as suggested by Brooker (n.d.:5) as well as by life-cycle hypothesis.

Hypothesis 15 **Reject H_0 : There is no significant relationship between employment status and the wasiyyah practice.**

Hypothesis 16 **Reject H_0 : There is no significant relationship between monthly income and the wasiyyah practice.**

Hypothesis 17 **Accept H_0 : There is no significant relationship between asset ownership and the wasiyyah practice.**

Hypothesis 18 **Accept H_0 : There is no significant relationship between total value of assets and the wasiyyah practice.**

Hypothesis 19 **Accept H_0 : There is no significant relationship between previously received inheritance and the wasiyyah practice.**

Hypothesis 20 **Reject H_0 : There is no significant relationship between amount of inheritance received previously and the wasiyyah practice.**

One can argue that making a *wasiyyah* is more important for people with poor health status or those who have a disability but the result shows the reverse trend: those with good health status were more likely to have made a *wasiyyah*. This finding is significant at the 10 per cent level (see Table 7.15), and thus, null hypothesis 21 can be rejected. This was not investigated in the interview. However, illness was mentioned by an interviewee as a reason which triggers single people to make a *wasiyyah* quickly. In addition, disability did not appear to be significant and therefore a null hypothesis is accepted for hypothesis 22. Regarding the variable disability, only a very small number of respondents had a disability making a sound result improbable in terms of implying its impact on *wasiyyah* ownership.

Hypothesis 21 **Reject H_0 : There is no significant relationship between health status and the wasiyyah practice.**

Hypothesis 22 **Accept H_0 : There is no significant relationship between disability status and the wasiyyah practice.**

As regards to the impact of knowledge on *wasiyyah* making, the null hypothesis is rejected as knowledge was found to be significant in influencing *wasiyyah* practice at the 5 per cent level (see Table 7.15). This was also investigated in interview (see Table 9.11). This evidence is consistent with the earlier literature such as Ahmad and Pyeman (2008:55). It should also be mentioned that Omar (2009), ZAR Perunding Pusaka (2004b), ZAR Perunding Pusaka (2004c) and Hassan and Yusop (2006:155) observe that one of the reasons behind the poor practice of Islamic estate planning and *wasiyyah* is the lack of knowledge and also the misunderstanding towards the concept of Islamic estate planning, such as *faraid* and *wasiyyah*. A detailed discussion of the knowledge was presented in the previous section where arguments were provided as to how knowledge could spark awareness and thus, it is reasonable to claim that making a *wasiyyah* is the final result of the process of knowing the related issues to develop an awareness.

Hypothesis 23 **Reject H_0 : There is no significant relationship between knowledge on Islamic estate planning and the wasiyyah practice.**

As regards to the cultural impact on the attitude towards making a *wasiyyah*, in order to measure this impact two questions were asked to capture the behavioural norm which was used as proxy to the cultural values. The questions were intended to determine whether the respondents would become offended if either their children or *wasiyyah* writing provider confronted them with the issue of *wasiyyah* making. Cultural values were found not to be significant in the survey analysis (see Table 7.15). As a result, the null hypothesis 24 cannot be rejected. The argument that Malays are harder to convince to make a *wasiyyah* due to the cultural factor is only supported by statements from interviewees. It should be noted that this finding from the interviews is in line with Brooker's (n.d.) earlier study. However, it seems that there is one explanation regarding this factor: from the researcher's

point of view, this assumption might have been true in the past but is less relevant nowadays as the community is becoming more mature due to increasing knowledge and exposure.

Hypothesis 24 **Accept H_0 : There is no significant relationship between cultural values and the wasiyyah practice.**

Although *wasiyyah* is a religiously constructed practice in Islam, the finding evidences that religiosity was not a significant factor in influencing *wasiyyah* practice (see Table 7.15). Therefore, a null hypothesis cannot be rejected. It should be noted that this finding is in line with McGranahan's (2006:26) earlier study.

Hypothesis 25 **Accept H_0 : There is no significant relationship between religiosity and the wasiyyah practice.**

Since 'institution' is considered as important determinant factor in developing such a practice, there were two questions asked to capture the impact of the institutional factor: 'the knowledge on the existence of the institutions' and 'cost of making a *wasiyyah*'. It was apparent that knowing any *wasiyyah* writing organization had a significant impact on *wasiyyah* making and this finding is significant at the 1 per cent level (see Table 7.15). On the other hand, knowing the cost of making a *wasiyyah* was not significant determinant factor affecting *wasiyyah* practice (see Table 7.15). The evidence presented here is supported by three interviewee statements: firstly, an increasing number of *wasiyyah* writing providers has brought the awareness level from very low to low and hence a slight betterment; secondly, a high percentage of clients coming back to take up a *wasiyyah* was as a result of the new marketing approach; and thirdly, interviewees' clients had average levels of knowledge about *wasiyyah* writing providers available in the market (see Table 9.11). These findings are similar to the finding in Ahmad and Pyeman (2008) which claims that the institutional factor plays an important role in increasing *wasiyyah* practice through aggressive disseminations. This research finally rejects null hypothesis 26 based

on the significant result obtained for the question that identified the impact on *wasiyyah* making of knowing an existing *wasiyyah* writing provider.

Hypothesis 26 **Reject H_0 : There is no significant relationship between institutional factor and the *wasiyyah* practice.**

As regards to the role of inheritance law, the finding in this study proves that inheritance law was a significant factor at the 1 per cent level, and therefore the null hypothesis is rejected (see Table 7.15). This implies that people reacted to the rule of inheritance law by way of making a *wasiyyah* if they were knowledgeable about the allowable amount for bequest in Islam.

Hypothesis 27 **Reject H_0 : There is no significant relationship between inheritance law and the *wasiyyah* practice.**

10.2.3 Discussing the Findings on Further Issues Related to the Awareness of *Wasiyyah* and *Wasiyyah* Practice

10.2.3.1 Misunderstanding of *wasiyyah*: A problem of definition and conceptualization

Findings show that the key problem for *wasiyyah* practice in Malaysia begins with confusion over the range of definition and conceptualization. In Malaysia, *wasiyyah* is misunderstood and confused with the (non-Muslims) will, which is used to instruct heirs on how estates should be distributed. This wrong conceptualization of *wasiyyah* is being spread to ordinary people through television soaps and movies, this was identified during the analysis of the interviews. Thus, the current conceptualization of *wasiyyah* fails to take into account Malaysian legislation in relation to estate distribution matters. Eventhough *wasiyyah* bears several definitions and each definition indicates that a *wasiyyah* is actually made for the final messages, instructions to bequeath or expressing the testator's intention of how he/she wishes the estate to be distributed, but most importantly a *wasiyyah* should

be drawn up with the objective of appointing an executor in order to avoid frozen estate problems.

In addition to the findings from interview, the confusion over the definition and conceptualization was also established through the analysis of the questionnaire, as depicted in Table 7.19, which shows that 47 respondents have made a *wasiyyah* but only ten of them have both made their *wasiyyah* and appointed an executor. The rest of them have a huge possibility of dying intestate regardless that they have made a *wasiyyah* as no executor had been appointed. Somehow, this number of respondents who have made a *wasiyyah* and have appointed executors did not match with the number of respondents who have made their *wasiyyah* by professional means. Table 7.20 shows that a total of 24 respondents have made their *wasiyyah* by professional means which eliminated the uncertainty of the validity of their *wasiyyah* in regards to the matter of being intestate or testate (15 respondents have made their *wasiyyah* with ARB, eight respondents have made a *wasiyyah* with a solicitor and one respondent had made a *wasiyyah* with ARB's partner). This raises the question of whether they really understood what they have written in their *wasiyyah*. It should be mentioned that confusion over the nature and content of *wasiyyah* practice was also established by other studies such as Ahmad and Pyeman (2008) which was discussed in Chapter 5.

10.2.3.2 Misunderstanding the roles of nominees and authorized bodies engaging with Muslims' estates distribution in Malaysia

With the reference to the findings in Table 7.14, initially three respondents mentioned making a *wasiyyah* at the Land Office, EPF and by writing a nominee on the insurance policy. These findings quickly provide indications that for some people, they were confused, and misunderstood the roles of nominees and the co-existence of several authorized bodies engaging with the process of Muslim estate distribution in Malaysia. Obviously, Muhamad's study (2007) about such incidence reflects the inefficiency of the estate distribution system in Malaysia, which is similar with the findings established in this study.

10.2.3.3 Means of making a *wasiyyah*: Current practice and potential methods for the future

It was mentioned in the previous chapters that the assimilation of verbal *wasiyyah* practice among Malaysian Muslims was observed. The problem with such practice is that there is a possibility that it cannot serve the most important purpose of a *wasiyyah* from the legal jurisdiction point of view – to expedite the estate distribution process. According to Finch *et al.* (1996:3), “this is an important issue point because many people do not leave a will which admitted to probate”. Applying this to Malaysian Muslims case, the findings at this study proved that making a *wasiyyah* which had disputable validity in the eyes of Malaysian’s legislation was quite common as reflected by the number of verbal *wasiyyah* or handwritten *wasiyyah* in Table 7.20. It appears that people were less concerned about the fragility of these two types of *wasiyyah*.

This study, thus, can conclude that the common practice of making a handwritten *wasiyyah* has not been given enough attention in the newspaper, magazine articles and previous studies in Malaysia. Such practice indeed can be argued is insufficient unless the testators are well-informed regarding the testamentary legislation. Despite this, finding shows that people have gradually accepted more professional means of making a *wasiyyah*. This argument is supported by a majority of respondents who have made their *wasiyyah* with a well-established Islamic estate planner company – ARB (see Table 7.20). However, this research, could not confirm that banks were the largest contributor to the increasing number of *wasiyyah* via its survey as found in interview. In relation to this, there were two situations that this survey encountered. First, respondents who have made a *wasiyyah* through banks which could be ARB’s partners might cite that they have made a *wasiyyah* with ARB instead of the banks. Second, respondents only mentioned that they have made a *wasiyyah* with banks in general without giving specific name of the banks and this did not allow the researcher to cross check with ARB’s list.

This positive trend continues when respondents showed their preference of selecting professional channels of making a *wasiyyah* over other means (see Table 7.21). However, quite a large number of respondents kept choosing to make a written *wasiyyah* by

themselves and verbal *wasiyyah* (see Table 7.21). Apart from this, a few isolated cases suggested that people put their trust on Islamic religious teachers to help them to draw up a *wasiyyah*. Hence, this research provides a signal that there is a huge possibility that the current practices remain significant in the future. Their considerations on preferring one particular method over the other are totally dissimilar. Some groups of the population placed the credibility of a well-known institution or government institution as a very significant worth in their decision making. This explains why a majority of respondents intended to choose or remain with ARB in the future, an institution that belongs to government. On the other hand, there were two principled reasons for insistence on adhering to non-professional methods of *wasiyyah* making; having the capability and qualification to prepare own *wasiyyah* (see Table 7.22). These two reasons were not strong enough to validate their action because their capabilities and qualifications could be somewhat questionable. It is obvious that there was a large market for *wasiyyah* writing providers to grab (see Table 9.8). In the previous discussion, the institutional factor was a significant determinant of *wasiyyah* practice, implying that dissemination of the existence of the institutions or companies, so far, has brought a positive impact on the awareness and *wasiyyah* practice. Nevertheless, as found in the survey, respondents knew such institutions existed but they did not know much about the products and costs. Therefore, taking into account the challenges listed above, the *wasiyyah* writing providers have to work harder to break such mentality and increase promotions to grab the market.

10.2.3.4 Low *wasiyyah* ownership has not been a serious problem

Brooker (n.d.) raises the issue as to whether low will ownership is a problem. It would be a good initiative to raise the same issue with respect to *wasiyyah* writing in Malaysian Muslim society and utilize this present study's findings in order to find the extent to which Brooker's arguments relate to Muslims people in Malaysia. It should be noted that *wasiyyah* should be seen within a broader picture in addressing the issue above rather than simply admitting that low *wasiyyah* ownership as a problem. Types of *wasiyyah*, content of the *wasiyyah* and circumstances of the testator yield different answers to the question.

Whether *wasiyyah* making is low or high comes second to explicating which types of *wasiyyah* constitute the number of the *wasiyyah* ownership. Indeed it can be argued that an escalating figure of *wasiyyah* ownership is not an impressive achievement if a large number of verbal *wasiyyah* or handwritten *wasiyyah* dominate the figure. Apart from this, perhaps for those who view *wasiyyah* as of financial and economic significance, they might reckon that making a *wasiyyah* or not does not make any difference if the content is not associated with the transmission of property and administration of the estate or if it is not legally fulfilled.

It should be noted that not making a *wasiyyah* probably is not a serious problem. This is probably true for certain groups of people. In fact, this research finds that some groups of people made an active choice not to make a *wasiyyah* and they were those people with a small estate amount to leave and people who decided to let the existing system solve their estate distribution (see Table 7.17). Therefore, they assumed their rejection of making a *wasiyyah* should not be treated seriously.

Turning to the reasons for not making a *wasiyyah* shows that the reluctance to make a *wasiyyah* was linked to the behavioural factor based on the two top reasons cited: ‘have not got round to it yet’ and ‘never thought about it’. Both support Omar’s argument (2009) in which he says that Muslims in Malaysia are actually aware of *wasiyyah* but take the matter lightly. It is not a shocking result to find out that young people tended to cite that they never thought about it, but it is a surprise to find that older people also cited this reason. These findings imply that people could not be bothered to make a *wasiyyah* as soon they were able, even though they could be considered at the end of the lifespan. This negative attitude is a serious problem that needs a serious action to change it.

10.2.3.5 The importance of making a *wasiyyah* regardless of the circumstances

Some groups of people do not realize that their needs to make a *wasiyyah* are more pressing than others as a result of demographic changes or economic changes. It is quite devastating to find that those who had children under 18 (75.6 per cent), adopted children (4.2 per cent), non-Muslim parents (5 per cent) and those with total value of income of

more than RM100,000 (42.8 per cent) have not got round to settling their *wasiyyah* as the impacts of dying intestate are more serious for them than others (see Table 7.17). This does not, however, simply point out that *wasiyyah* is less important for younger people. This group of people may sometimes underestimate the importance of making a *wasiyyah* as they think, in their circumstances, the age factor is not as significant as for older people and the risk of dying is low. In fact, dying intestate has many ramifications such as economic and personal consequences, and it is also true that the impact differs across groups. This study's finding indicates that only 21.3 per cent of those who have made a *wasiyyah* realized that making a *wasiyyah* has the purpose of avoiding the human and economic costs associated with intestacy (see Table 7.19). People often overlook that no matter how major or minor the impact is, those who are left behind are the ones who will deal with it, not the deceased. Eventhough *wasiyyah* is not prepared for the administration of the estate, transmission of property and arrangements for the guardianship of children, it can be prepared for a final message in relation to the burial. Therefore, in order to overcome such undesirable consequences, everyone should consider making a *wasiyyah* regardless of their circumstances.

10.2.3.6 *Wasiyyah's limited role in solving estate problems comprehensively*

Wasiyyah practice's limited role in solving estate problems is very much connected to the arguments presented above. The previous discussion portrays that estate planning requires proper wealth management and estate planning. Making a written *wasiyyah* could be the minimum effort that any Muslim individual in Malaysia should do with the aim of solving the most common problem - frozen estate. If a person wants one complete solution that goes beyond this then the estate planning should be engaged with other products to tackle different problems.

10.2.3.7 *Wasiyyah and trust hibah cannot be used to avoid faraid*

This study established that *wasiyyah* and trust *hibah* cannot be used to avoid *faraid*, which is a remarkable finding raising two interesting main points to discuss: to what extent other means of estate distribution can be used to avoid *faraid*; and whether it is ethical enough to use them for such purpose. It is not an issue if *wasiyyah* is used to express the testator's

intention of equal estate distribution but the main problem with Malaysian Muslims' culture is that they believe such *wasiyyah* is mandatory and overrides *faraid*. This perception misleads them to another incorrect perception in which a *wasiyyah* can be used to avoid *faraid*. It should, however, be noted that the enforcement of such *wasiyyah* is only subject to heirs' consents.

There are two opinions regarding trust *hibah*: firstly, issue of circumventing of *faraid* by utilizing *hibah* does not exist, and secondly, it is unethical to use trust *hibah* to circumvent *faraid*. Some are of the opinion that *faraid* only apply upon death and therefore, during the lifetime, an individual can freely transfer his/her wealth to anyone he/she wants. Some do not agree that people can easily transfer their wealth during their lifetime simply because they do not favour *faraid*. This group of people is of the opinion that *faraid* is the underlying method of Islamic inheritance. On the grounds of this, one *wasiyyah* writing provider did not approve the trust *hibah* product while one *wasiyyah* writing provider showed his concern about giving reasonable advice to the client when they tend toward making a trust *hibah*.

10.2.3.8 Product variations and their viability

As far as *wasiyyah* writing is concerned, the difference between an expensive and cheaper cost rests on the exclusiveness of the *wasiyyah*, suggesting that people pay more for a tailor made *wasiyyah* and special consultation. On top of that, the researcher observed that there was a sort of trade off between the price of *wasiyyah* writing paid right away with the price of the estate distribution process paid later implying that paying more for a written *wasiyyah* now could end up with paying less for the estate distribution process and vice versa. Following the concern arising from the price difference led the researcher to browse through the results presented in Table 9.3 once again. It is obvious that some *wasiyyah* writing providers made themselves very clear from the beginning about other additional costs the clients have to pay such as the cost of the appointment as executor and safe-keeping cost. By contrast, a few of them did not disclose this to their clients unless the clients raised the issue themselves. Perhaps, those who charge their clients slightly more at the beginning of the process of *wasiyyah* writing will charge the clients' heirs less

for the estate distribution process afterwards. However, this circumstance is not always necessarily the case. The researcher is also of the opinion that the commission paid to the partner of the *wasiyyah* writing provider is also part of the cost, which means that the clients pay a slightly higher price for a written *wasiyyah*. It should be noted that the issue regarding fees is raised by Shafii (2007:268) in which she contends that giving some economic incentives such as a certain amount of commission is common practice for certain financial planners who have entered contracts with financial service providers to sell their products.

It should be stated that the variety of products is a unique feature of Islamic estate planning in Malaysia in addition to *wasiyyah* writing. However, problems arise from the different opinions among themselves on particular definitions and conceptualizations of the products. For instance, there was a disagreement on the modes of operation of Trust *Hibah* among Islamic estate planners. One issue from the marketing point of view which the researcher would like to raise is that in particular with a *wasiyyah* writing product offered by *Wasiyyah* Shoppe, the condition that a client has to subscribe to a wealth management plan and pay an annual fee could possibly restrict it from attracting more potential clients. It would be better marketing strategy for this company to give their clients two options: first having a *wasiyyah* drawn up free of charge provided that an estate plan is subscribed to, and second to pay for the *wasiyyah* writing if they do not want to subscribe to the plan. It should be noted that previous authors divide Islamic estate planning products as follows: *wasiyyah* (will and bequest), *hibah*, and *waqf*. In this research, the researcher had suggested the division of all the available products in Malaysian Islamic estate planning according to the purpose of the estate planning (see Table 9.3). The results presented in Table 9.8 prove that there was a large market for *wasiyyah* writing providers to grab. Therefore, product variation must contain features that are able to cater for the needs of Malaysian Muslim society.

10.2.3.9 Increasing awareness and education versus profit maximizing

The issue regarding fees as discussed above can be extended. According to Shafii (2007:268–269):

“the economic rewards in terms of commission can affect the professionalism of financial planner in recommending the best solution to their client’s financial objectives and situation. They might be attempted to sell financial products that offer them the highest amount of commission rather than the products that best suit the financial objectives and position of the clients.”

It is possible that this conflict of interest might appear among *wasiyyah* writing providers in the process of getting as many clients as possible. Profit seeking without emphasis on educating the client is not a good environment for the industry. This concern was pointed out by several *wasiyyah* writing providers, including making a *wasiyyah* to get their personal loans approved by corresponding banks and making a *wasiyyah* with a mistake intention of avoiding *faraid*. It is a sign that people did not possess a sound understanding of their action in making a *wasiyyah*.

10.2.3.10 Mechanisms to increase awareness and *wasiyyah* writing practice

Exposure on *wasiyyah* writing is still insufficient (see Table 7.25). The findings in this study demonstrate that the promotion through mass media was the most efficient way to increase the awareness and *wasiyyah* writing practice, while interviewees viewed education as the best way (see Table 7.25 and Table 9.12). Shafii (2007:278), however, finds most of her interviewees who are financial planners agree that direct communication with clients is the best way to promote Islamic financial planning. Her finding is still relevant for comparison purposes because Islamic estate planning is part of Islamic financial planning.

10.3 DISCUSSING THE BEQUEST RELATED FINDINGS

In this section, the discussion aims to evaluate the established hypotheses related to bequest.

10.3.1 Bequest Motives

There is nothing in the evidence suggesting the existence of a single theoretical bequest model being valid in the case of Malaysia. The empirical search for bequest motive models in the Malaysian Muslim community in this study finally reached a conclusion that various models of household behaviour coexisted in the Malaysian Muslim community (with no preference in order), namely pure life-cycle (with no intention of leaving a bequest at all or leaving an accidental bequest) or life-cycle with some strategic or exchange features), altruistic and dynastic bequest models. It should be noted that this finding is consistent with some of the previous studies identified in the literature: Horioka *et al.* (2000), Laitner and Ohlsson (2001) and Light and McGarry (2004).

Locating which type of bequest motive model appeared in the Malaysian Muslim case was carried out by means of interpreting the sign of the coefficient of the variables obtained from regression of the multinomial logit model (see Table 8.10). However, such efforts to determine which motives of bequest triggered Malaysian Muslims decisions to leave a bequest have met with decidedly mixed results. The only way to determine which motive had dominated over others was examination of verbatim responses and the following conclusions could be derived: Firstly, with regard to the motives for making bequests to family members who are excluded by *faraid*, the dynastic motive was more dominant over other motives (see Table 8.5). Secondly, in relation to bequest making to adopted children, this study found that exchange, altruistic and strategic bequests were equally prominent motives (see Table 8.6). The existence of exchange and altruistic bequest motives is similar to the findings established by Light and McGarry (2004) and Nordblom and Ohlsson (2002). Thirdly, making bequests for charity were mostly driven by an altruistic motive (see Table 8.7), which is in line with McGranahan (2000).⁸⁶ Finally, the positive attitude to leaving a bequest also reflected that their attitude to leaving a bequest, to some

⁸⁶ Researcher did not take into account unclassified reasons in these judgments.

extent, engaged with the Islamic theory of wealth. This is supported by the findings obtained from the analysis of the verbatim responses which shows that most respondents would leave a bequest for reasons such as to get rewards in the hereafter, because Allah encourages it and also because it is the responsibility of Muslims to help each other (see Table 8.5 to 8.7). In conclusion, the whole findings are able to reject the null hypothesis that life-cycle, altruistic, dynastic bequest models and Islamic theory of wealth do not coexist in Malaysian Muslims' attitudes to leaving a bequest in a varying degree.

Hypothesis 28 **Reject H_0 : *Life-cycle, altruistic, dynastic bequest models and Islamic theory of wealth do not coexist in Malaysian Muslims' attitudes to leaving a bequest.***

10.3.2 Attitudes to Leaving a Bequest

As regards to the attitudes to leaving a bequest, only one finding could be established related to age factor which significantly influenced the attitudes to leaving a bequest. It indicates that those over 40 years old were more likely to choose 'probably leave a bequest' rather than 'would leave a bequest' and this result is significant at the 5 per cent level (see Table 8.10), which implies, therefore, that the null hypothesis can be rejected. This finding is consistent with other studies such as Kao *et al.* (1997), Rowlingson and McKay (2004 and 2005) and Jurges (2001). Eventhough the result shows the positive attitudes of leaving a bequest, choosing 'probably' rather than 'would' leave a bequest is unexpected for those who were above 40 years old (see Table 8.10). This finding was cross-checked with the interview findings. The researcher assumed that those who were above 40 years old had a greater possibility of having experienced more life events which may have triggered the positive attitude to leaving a bequest. However, probably through their observations and experiences, leaving a bequest seemed insufficient. Therefore they preferred giving *hibah* over leaving a bequest as contended in the interview. It is very likely that such result was caused by behavioural or attitudinal factors as contended by interviewees in which people only leave a bequest when they understand what bequest is and only when it is significant with their circumstances.

Hypothesis 29 **Reject H_0 : *There is no significant relationship between age and the attitudes to leaving a bequest.***

In addition, the findings evidence that there was no significant relationship between gender and the attitudes to leaving a bequest (see Table 8.10). Therefore, the null hypothesis is accepted. The researcher believed that the same reasons as were elaborated in the previous part of *wasiyyah* practice are relevant here as well.

Hypothesis 30 **Accept H_0 : There is no significant relationship between gender and the attitudes to leaving a bequest.**

As regards to the impact of marital status on leaving a bequest, the finding shows that there was no significant relationship between marital status and the attitudes to leaving a bequest (see Table 8.10). Therefore, the null hypothesis is accepted. This insignificant result is in line with Laitner and Ohlsson's (2001) and Jurges's (2001) studies. It should be noted that married people in some of the studies in the literature are hypothesized to be more likely to anticipate leaving bequests within the confinement of the non-Muslim's circumstances. Married people are expected to leave a bequest to their spouses or their children. However, this study concluded that marital status was not a significant factor in Muslims' circumstances since spouse and children's allocation in inheritance are already pre-determined by *faraid*.

Hypothesis 31 **Accept H_0 : There is no significant relationship between marital status and the attitudes to leaving a bequest.**

In searching whether ethnicity has any impact on leaving a bequest, the finding demonstrates that ethnicity was an influential determinant. The relationship between ethnicity and the attitudes to leaving a bequest is significant at the 10 per cent level (see Table 8.10). Thus, a null hypothesis can be rejected. This significant finding indicates Malays were more likely to choose the 'would not leave a bequest' over the 'would leave a bequest' option. The researcher is of the opinion that there are three plausible explanations which are probably relevant: firstly, this was probably due to the sampling structure, which consisted of a large number of Malay respondents; secondly, adherence to the *faraid* system and thirdly, preferring *hibah* transfer over bequest transfer. It seems that

Malays did not utilize the provision of making a bequest. Perhaps, they rather chose either to distribute all their estates according to *faraid* or transfer their property during their lifetime so that not all of their estates fell under *faraid*.

Hypothesis 32 **Reject H_0 : There is no significant relationship between ethnicity and the attitudes to leaving a bequest.**

As regards to the impact of education on bequest leaving pattern, as documented by many studies such as Kao *et al.* (1997) and Laitner and Ohlsson (2001), education was a significant determinant factor of expectation to leaving a bequest. The finding of the study also shows that those who had higher education were more likely to choose ‘probably leave a bequest’ over ‘would not leave a bequest’ and this result is significant at the 5 per cent level (see Table 8.10). Therefore, a null hypothesis is rejected. This signifies having a better education is a key to the development of positive attitudes within themselves towards estate planning.

Hypothesis 33 **Reject H_0 : There is no significant relationship between education level and the attitudes to leaving a bequest.**

In looking for a potential relationship between ‘having adopted children’ and the ‘attitudes to leaving a bequest’, it should be noted that the findings of this study identifies that conflicts exist between the findings obtained from survey and interview. In the analysis of the survey, there was no significant relationship between having adopted children and the attitudes to leaving a bequest (see Table 8.10), while the findings from interview indicate such a relationship (see Table 9.6). Results from survey at the same time contradict the results of *wasiyyah* practice which proves that people were more likely to have made a *wasiyyah* when they had adopted children (see Table 7.15). It was probably due to two factors: it might be a result of different techniques of analysis in which chi-square test used to investigate factors influencing *wasiyyah* practice and the multinomial logit model used to investigate factors influencing the attitudes to leaving a bequest. Secondly, it may

be related to the fact that the sample used for this analysis is smaller than the sample used in the analysis of *wasiyyah*. Hence, it reduces the number of respondents having adopted children.

The researcher cross-checked these results with another result for the question: ‘which types of bequest do you plan to make in the future?’. Bequest to adopted children was the second to last choice on the list (see Table 8.2). For another question ‘which types of bequest have you made’ the results show bequest to adopted children was in fourth place on the list (see Table 8.2). Obviously, bequest to adopted children was not as important compared to other types of bequest. There is one plausible explanation for such results derived from the interview analysis which suggests that people were probably more likely to give a *hibah* over leaving a bequest. In responding towards hypothesis 34, based on the results in Table 8.10, the null hypothesis cannot be rejected.

Hypothesis 34 **Accept H_0 : There is no significant relationship between having adopted children and the attitudes to leaving a bequest.**

It is established that having certain family members could induce the arrangement of a bequest. As the findings show, those who had grandchildren were more likely to choose ‘would not leave a bequest’ over ‘probably’ (significant at the 10 per cent level) and ‘would leave a bequest’ (significant at the 5 per cent level) (see Table 8.10). Therefore, the null hypothesis pertaining to the variable grandchildren is rejected. This is very much consistent with the previous research such as McGranahan’s (2000) study. In addition, there was no significant relationship between having sibling and attitudes to leaving a bequest (see Table 8.10), and thus the null hypothesis is accepted.

With regard to the variables grandchildren and sibling, results from the interview imply that Malaysian Muslims preferred to have made a bequest to grandchildren as opposed to their siblings. However, respondents’ answers to the question types of bequest have been made and plan to be made in the future show that more respondents have made and plan to make a bequest to their sibling than to their grandchildren (see Table 8.2)

Hypothesis 35 **Reject H_0 : There is no significant relationship between having grandchildren and the attitudes to leaving a bequest.**

Hypothesis 36 **Accept H_0 : There is no significant relationship between having sibling and the attitudes to leaving a bequest.**

Regarding employment status, there are two significant results obtained in this study. First, those who were working were more likely to choose ‘would not leave a bequest’ over ‘would leave a bequest’ (significant at the 10 per cent level) and second, those who were working were more likely to choose ‘probably leave a bequest’ over ‘would leave a bequest’ (significant at the 5 per cent level) (see Table 8.10). The former is contradictory to the expectation that those who are working are more likely to leave a bequest as contended also by Kao *et al.* (1997) and Laitner and Ohlsson (2001). However, the latter is consistent with the expectation mentioned above.

Regarding the impact of total asset value and monthly income on leaving a bequest, the finding shows that those with a total asset value above RM100,000 (significant at the 10 per cent level) were more likely to choose ‘probably leave a bequest’ over ‘would leave a bequest’ (see Table 8.10). Those with a monthly income above RM3,000 were less likely than those who had a monthly income below RM3,000 to choose ‘probably leave a bequest’ over ‘would leave a bequest’ (significant at the 10 per cent level) (see Table 8.10). Therefore, with regard to these three variables, the researcher is able to reject the null hypotheses.

Results indicate that income was a significant factor affecting attitudes to leaving a bequest – similar to the previous studies, such as Laitner and Ohlsson (2001) and Villanueva (2005). Overall, those who were jobless, those with income less than RM3,000, those with asset value less than RM100,000 had a better positive attitude towards leaving a bequest, and leaving a bequest was viewed to be more significant in their circumstances. Perhaps for these groups of respondents, their propensities to leave a bequest had increased with the fear of instability and insecurity in the future. In relation to this, it should be noted that the argument from Villanueva (2005) who contends that “the

higher degree of wealth annuitization among elderly the weaker is the relationship between lifetime income and expected bequests” is quite relevant in the Malaysian case nowadays, Therefore, it makes sense to claim that in the Malaysian Muslim community nowadays, a so-called ‘family insurance’ as part of the tight family membership has been replaced with insurance and pensions, making leaving a bequest no longer as important as it used to be, except for those who were jobless or having low income. There is also a probability that transfers made by those who were working, those with income above than RM3,000, those with asset value above than RM100,000 could appear in other form of financial assistances such as investment on human capital rather than leaving them with a bequest.

With regard to variable amount inherited previously, there was no significant relationship between this variable and the attitudes to leaving a bequest. Thus, the null hypothesis is therefore, accepted. This insignificant result is in support of another study by Kao *et al.* (1997).

Hypothesis 37 **Reject H_0 : There is no significant relationship between employment status and the attitudes to leaving a bequest.**

Hypothesis 38 **Reject H_0 : There is no significant relationship between monthly income level and the attitudes to leaving a bequest.**

Hypothesis 39 **Reject H_0 : There is no significant relationship between total value of asset and the attitudes to leaving a bequest.**

Hypothesis 40 **Accept H_0 : There is no significant relationship between amount inherited previously and the attitudes to leaving a bequest.**

In looking for the impact of health and disability, neither health status nor disability status had any significant relationship with the attitudes to leaving a bequest. Both null hypotheses are therefore, accepted.

Hypothesis 41 **Accept H_0 : There is no significant relationship between health status and the attitudes to leaving a bequest.**

Hypothesis 42 **Accept H_0 : There is no significant relationship between disability status and the attitudes to leaving a bequest.**

As regards to the attitude of making charitable contribution and its impact on leaving a bequest, there was no significant relationship between making a charitable contribution and the attitudes to leaving a bequest (see Table 8.10). Hence, the null hypothesis 43 cannot be rejected. Those who perceived bequest was important however, were more likely to choose 'would leave a bequest' than 'would not leave a bequest', and this result is significant at the 5 per cent level. Another finding when comparing between 'probably leave a bequest' and 'would leave a bequest' implies those who perceived bequest was important were less likely to choose the former relative to the latter and it is significant at the 10 per cent level (see Table 8.10). These results are very much similar to the previous finding by Kao *et al.* (1997).

As regards to the impact of religiosity, there are two significant findings related to the religiosity factor. First, those who were more religious were more likely to choose 'would leave a bequest' relative to 'would not leave a bequest'. Second, those who were more religious were less likely to choose 'probably leave a bequest' relative to 'would leave a bequest' (see Table 8.10). These results are significant at the 1 per cent level and are in line with McGranahan's (2000) study.

Previous studies postulate that positive characteristics in making charitable donation, importance of bequest and religiosity should lead to a positive tendency of leaving a bequest. Eventhough the variable attitude of having made a charitable contribution was not a significant determinant; another to variables confirmed the assumption. According to

McGranahan (2000:1281 &1286), those who are more religious give more weight to the utility of the poor and those who have philanthropic behaviour care more about the poor, which also explains as to why making a charitable bequest was the largest type of bequest made and would also be made in the future by the respondents. In responding to the null hypothesis 44 and 45, it can be concluded here that significant results for the variable ‘the importance of leaving a bequest’ and ‘religiosity’ indicate that the null hypothesis 44 and 45 can be rejected.

Hypothesis 43 **Accept H_0 : There is no significant relationship between making a charitable contribution and the attitudes to leaving a bequest.**

Hypothesis 44 **Reject H_0 : There is no significant relationship between the importance of leaving a bequest and the attitudes to leaving a bequest.**

Hypothesis 45 **Reject H_0 : There is no significant relationship between religiosity and the attitudes to leaving a bequest.**

In relation to the hypothesis searching for a relationship between inheritance law and its impact on leaving a bequest, it is rejected at the 5 per cent level (see Table 8.10) and it indicates that those who knew the limitation were more likely to choose ‘would not leave a bequest’ over ‘probably leave a bequest’. The researcher is of the opinion that the limitation imposed on bequest had an important part to play in shaping the attitudes to leaving a bequest by means of avoiding bequest and replacing it with *hibah* transfer as respondents were not pleased with the limitation.

Hypothesis 46 **Reject H_0 : There is no significant relationship between inheritance law and the attitudes to leaving a bequest.**

10.3.3 Further Reflections on Findings on Bequest

10.3.3.1 Malaysian Muslims do not utilize bequest as part of the Islamic inheritance law

The findings show that Muslims underutilization of the allocation of bequest is the main concern. When one contemplates the substance of ‘bequest’, what lurks behind the allocation, one will find that making bequests is not limited to heirs excluded by *faraid*. In fact, it can be extended to making charitable bequests. Findings indicate that a majority of respondents did not know the exact amount of bequest allowed by Islamic inheritance law (see Table 7.10) and in fact Malaysian Muslims thought that it could be conferred to the heirs.

10.3.3.2 Making bequest is incredibly important for Muslims who have non-Muslim family members

In the foundation chapter’s *wasiyyah* section, it was established that there were insignificant relationships between the variable having non-Muslim children and non-Muslim parents with *wasiyyah* practice (see Table 7.15). Locating the reasons for this result suggests that there was a lesser motivation for respondents who embraced Islam to make a bequest to these two types of family members as presented in the analysis of bequest (see Table 8.2). This probably had a link to their poor knowledge, for instance having a very hazy idea of what *faraid*, *wasiyyah* and bequest actually were, hence leaving their non-Muslim family members vulnerable to intestate testamentary power as they are totally excluded from inheritance by *faraid* – which should be relatively easy to avoid by preparing a *wasiyyah* and declaring a bequest allocation for non-heirs.

10.4 CONCLUSION

To this end, this chapter has answered all the research questions of this study and substantiated all hypotheses. In addition, this discussion chapter portrays that each evidence, when possible, has been argued by means of triangulation method applied to this research. In turn, such technique has assisted this study in establishing reasonable justifications. The efforts of this study in locating the Malaysian Muslims’ perception

towards *wasiyyah* have come to the final conclusion that awareness of *wasiyyah* was low and *wasiyyah* practice was relatively poor. Such awareness existed within Malaysian Muslims and *wasiyyah* making was quite common but people were more aware of making verbal *wasiyyah* and having an incorrect contextualization of *wasiyyah* in their mind. However, the transition from a traditional method of making a *wasiyyah* to a professional one has been slowly taking place within the community. Bequest practice was not very much different and it has not been utilized.

Chapter 11

CONCLUSION AND POLICY IMPLICATIONS

11.1 INTRODUCTION

The central idea of this final chapter is to summarize the findings discussed in Chapter 7 to Chapter 10, and to establish the implications of the findings and close with directions for future research. This chapter begins with a summary of all significant findings on *wasiyyah* and bequest. Alongside this summary, the implications of the study are discussed by concentrating on two different but inextricably linked aspects, namely the implications on industry and for policymakers. To this end, directions for future research offer several contemplations on a larger scope of research and utilization of different types of data.

11.2 REFLECTING ON THE FINDINGS OF THE RESEARCH

This study has attempted to explore and analyse the myriad of issues of *wasiyyah* and bequest in Malaysian Muslim community within the contextual form of Islamic estate planning. The analysis of the relevant data provided the necessary evidence to argue and conclude that there was a low awareness of *wasiyyah* making among Malaysian Muslims; and also low *wasiyyah* ownership. In addition, the study concluded that attitudes to leaving a bequest, however, indicate the co-existence of several bequest motives.

As discussed in detail by the study, the low awareness of *wasiyyah* making can be explained as a consequence of lack of knowledge comprising of several dimensions: namely knowledge of *wasiyyah*, *faraid*, Islamic estate planning and organization involved in offering a *wasiyyah* writing service. The extent to which *wasiyyah* have been practiced was investigated thoroughly by means of investigating types of *wasiyyah* made and a detailed socio-economic picture of *wasiyyah* ownership. The first two results imply that

there was poor *wasiyyah* practice and people mostly have drawn a *wasiyyah* in a traditional way: either verbal or handwritten *wasiyyah*.

It should be stressed that low *wasiyyah* ownership is not only a problem of quantity but it also reflects a problem of transformation of methods of *wasiyyah* making. Clearly, this is just scratching the surface in understanding the issue of *wasiyyah* practice. Accordingly, this study identified the reasons as to why people prepared or did not prepare a *wasiyyah*, examined means of making a *wasiyyah*, and explored Malaysian Muslims' readiness to use other professional means of making a *wasiyyah* in the future. As the findings from the survey demonstrate, empirically, age, type of job, monthly income, amount of inheritance received, health status, having children, having adopted children, having grandchildren, knowledge, institutional factors and inheritance law, to different levels of statistical significance influenced *wasiyyah* practice. In addition, results from semi-structured interviews were almost similar but a few other factors were also given, namely low awareness, attitude, tradition and cost. The results of the study suggest that there is a need for a shift in preparing a *wasiyyah* in the future, from a traditional way to a professional one, especially with ARB on the grounds that this institution belongs to the government and hence fits the legal and institutional requirements well. Despite this, the findings imply that a verbal or handwritten *wasiyyah* will still remain significantly prevalent in society.

In the second stage of the research, attitudes to leaving a bequest and bequest motives were explored in detail. Throughout the investigation, data sets related to the types of bequests that have been made and would be made in the future were assembled. The analysis demonstrates that charity bequest was the most frequent type of bequest Malaysian Muslims have made and would make. As regards to the bequest motive, the uniqueness of this study lies in the multiple procedures used to examine bequest motives. There are two particular ways to check the existence of bequest motives: verbatim responses and multinomial logit analysis, which provide far more information than using a single method. As a whole, both methods exemplify the co-existence of several bequest motives namely life-cycle (pure life-cycle, strategic or exchange), altruistic and dynastic

bequest motives in the Malaysian Muslims' attitudes towards leaving a bequest. The findings, thus, can be summarized as follows: bequests for family members who are excluded by *faraid* were dominated by dynastic motive. Over the full sample of respondents, the exchange motive was dominant over other motives for bequests made or to be made to adopted children, but none of these motives stood out to be the most dominant bequest motive when the bequest data of only 297 respondents was analysed. The results demonstrate that charity bequests were dominated by altruism motive. This study also validated the applicability of the life-cycle model in the Malaysian case with the existing data, as there was a group of people who intended not to leave a bequest at all. It is worth noting here that the theory of Islamic wealth also appeared in their attitudes to leaving a bequest alongside the bequest motives mentioned above. This study provided certain evidence that suggests attitudes to leaving a bequest were influenced by several 'impact' factors on different levels such as level of education, having grandchildren, inheritance law, ethnicity, employment, importance of bequest, religiosity, asset value and age.

This study has brought to light other salient issues related to *wasiyyah* and bequest. A number of misconceptions are embedded within Malaysian Muslims: Firstly, this study found evidence indicating a misunderstanding of the roles of nominees, in which nominees were believed to be the beneficiaries. Secondly, there was also a misunderstanding of the roles of the authorized bodies engaging with Muslim estate distribution in Malaysia implying that the estate matters were brought to the wrong department or organization. Thirdly, the current conceptualization of *wasiyyah* and the main purpose of creating a *wasiyyah* contradicted each other. One should understand that the main purpose of making a *wasiyyah* from a Malaysian legal perspective is to avoid a frozen estate problem. Unfortunately, the customary practice in Malaysia indicates that people have made a *wasiyyah* without appointing an executor and thus, the purpose to expedite estate administration and distribution could not be achieved. Moreover, there are several issues related to the *wasiyyah* writing providers: the issue of services offered and the importance of educating clients. The former refers to the transparency issue in which the actual costs

must be clearly revealed while the latter implies that educating clients to increase their awareness should be the priority rather than making profit.

The ability of *wasiyyah* as a single instrument to solve estate problems and the viability of other products of Islamic estate planning to complement the *wasiyyah* product are merely relevant findings in relation to *wasiyyah*. A statement saying that *wasiyyah* can solve the estate problem entirely could be misleading. *Wasiyyah* making aims to avoid a frozen estate problem but it must be attached to other Islamic estate products to mitigate different sets of goals in estate planning. Nevertheless, it has been found that none of the estate planning products should be used to circumvent *faraid*. Furthermore, as an important finding, this study also reported that bequests allocation was not utilized enough, especially by those who had non-Muslim family members.

11.3 IMPLICATIONS OF THE FINDINGS

This study carries multiple caveats and recommendations both to industry and policymakers which relate to addressing the issue of misunderstanding the definition and concept of *wasiyyah*; product innovation and sufficiency in meeting market demands; divergence of opinion on particular trust *hibah* among a number of Islamic estate planners. As everybody is expected to bring in the yield, the following discussions identify what roles can be played by the stakeholders to contribute to the development of the practice but also of the awareness of the concept.

11.3.1 Implications For Industry

As this study shows those without a *wasiyyah* and those with a verbal *wasiyyah* or handwritten *wasiyyah* represent untapped business. The trend of drawing up a *wasiyyah* without first consulting an Islamic estate planner needs to be redirected to the right path. Without a doubt, it is the role of the Islamic estate planner to ensure people gradually move out of their old practice of making a *wasiyyah* for a more professional practice. Changing the mentality and encouraging *wasiyyah* making in a professional way are challenging tasks, which call for an integrated approach for a successful revamp. Such integrated approach could be explained as follows

11.3.1.1 Delivering the right information aggressively using the most efficient medium

The attitude of making a verbal and handwritten *wasiyyah* by individuals cannot be lessened until there is a paradigm shift in their perception and awareness. This can only be achieved through delivering right and precise information to the public through the appropriate means. The transmission of the wealth of information on *wasiyyah* writing in Malaysia works brilliantly through mass media as indicated by the findings established in this study despite of a range of information channels available for the industry to utilize. Therefore, *wasiyyah* writing providers should aggressively focus their efforts on expanding public awareness via this most efficient medium as it can easily reach a large percentage of the target population. Unlike other advanced countries, establishing the internet as the most efficient and influential information source of *wasiyyah* writing in Malaysia needs more time as the majority of the population has no access to internet services especially older people and those coming from the low-middle income group.

11.3.1.2 Strengthening the existing marketing strategy and introducing new ones

This research supports marketing strategies which have been used previously including providing some incentives and appointing partners or agents. Incentives such as giving a rebate from time to time and bundling up *wasiyyah* writing as part of a loan package should remain as important marketing strategies which increase the awareness as well as the practice. Regarding the latter, the issue of quality control as a result of profit seeking motivation among partners of the big *wasiyyah* writing providers calls for a solid solution which probably can be addressed by terminating the partnership license if quality of service is relatively poor. *Wasiyyah* writing providers play a pivotal role in educating their clients on the nature of, and reasons for, *wasiyyah* writing. One way out of this dilemma would be communicating accurate information to the public on Islamic estate planning rather than encouraging them to draw a *wasiyyah* without knowing the concept of the subject matter as a component of the Islamic estate planning process.

There is a clear need to consolidate previous marketing techniques while at the same time adapting new marketing strategies. Eventhough this study finds that the cost dimension of *wasiyyah* does not have a strong influence on people's decision making regarding choosing a particular method, considering instalment payments, for instance, will definitely encourage people from a lower income group to make a *wasiyyah*. Another major attempt to shore up the new marketing techniques is to actively adopt more innovative approaches to *wasiyyah* writing services such as aggressively promoting internet *wasiyyah* writing services among younger people and prompting people to make a *wasiyyah* following life events, such as marriage, having children and buying a home.⁸⁷

Since Malays constitute the larger population of Muslims in Malaysia, the 'right approach' for getting more Malays to make a *wasiyyah* needs further consideration. At this current stage, education is the first action to take in order to tackle the awareness issue. The next approach is persuading and prompting them to make a *wasiyyah* via professional means and must be initiated by the Muslim *wasiyyah* writing providers. Only when the Malay community is mature enough and willing to open this exclusive area of Islamic inheritance matters to non-Muslim *wasiyyah* writing providers and Islamic estate planners can the industry be considered ready to expand and move to another stage. There are a wide range of groups of people to approach, but focusing more on the younger generation of a managerial or professional social background will be a considerably easier task to accomplish since they are more exposed to the subject matter via internet access. In addition, products must comply with the *Shari'ah* rules in order for the larger Muslim population take up *wasiyyah* making.

11.3.1.3 Incorporating heirs into the process of an Islamic estate planning

In some cases, the process of establishing estate planning should not be so secretive, as the process aims to eventually meet the exigencies of the heirs. For that reason, incorporating heirs into the process should be considered. They also should be consulted about the division of an estate, and the fact that the transparency of estate planning can help to minimize potential conflicts by preventing any injustice.

⁸⁷ Brooker (n.d.:1) suggests these approaches in promoting people to make a will.

11.3.2 Implications for Policy Maker

Although internal initiatives and reforms are possible, the roles of the state in transforming Islamic laws of inheritance and practices remain significant to the process of change in a positive direction. Without a doubt, the government must work closely with the industry and such roles are reflected in the following supportive measures:

11.3.2.1 Educational programs

11.3.2.1.1 Creating awareness via formal education: Engaging Islamic wealth management and financial planning into Islamic studies modules

Education as a mechanism to create awareness at early age is an important part of the learning process, which is necessary for a long term solution. It is the time to embrace a modification of the syllabus – an engaging of Islamic financial planning and wealth management into Islamic studies modules. This should begin at secondary school level and be continuously upgraded at college and university level. In addition, occasional learning programmes can be instituted at secondary school level to provide the young with information on financial and banking matters including *wasiyyah* issues. Financial planning and wealth management related courses including Islamic financial planning and inheritance should be made available to the larger public beyond schools. The modern financial system requires such effective participation from the individual members of the society.

11.3.2.1.2 Creating awareness via educational campaigns: Utilizing ARB

This study is of the opinion that organizing talks and campaigns through government agencies will create awareness among government staff and is another proactive action that should be regularly held. The connection between government staff and ARB perhaps is much stronger in the sense that ARB is a public trust and also one of the government agencies. This will not guarantee a positive acceptance, but at minimum, this approach gives them a rough idea of *wasiyyah* writing.

11.3.2.2 The role of mosques

Some people put great trust on religious teachers in Islamic matters, including inheritance. One way to create awareness among the public is to enhance the role of mosques for this purpose. Sermons, in fact are not necessarily limited to *tawhid* (faith) and *ibadah* (worship), they can be expanded to cover Islamic estate planning as well as important social and financial matters.

11.3.2.3 Tougher enforcement via law

In collaboration with ARB and other *wasiyyah* writing providers, there is a room for enforcing *wasiyyah* making as mandatory for government staff, in which all government employees should have a *wasiyyah* by the time they retire. Considering that ARB is a public sector agency, such a policy shift could be possible. However, applying this suggestion to the whole community is probably too extreme a regime.

11.3.2.4 Guaranteeing a conducive environment for the industry to grow

It is a fact that a conducive environment for industry is a pre-requisite for a steady growth, to increase competition and to spur product innovations. What the industry needs is an appropriate statutory regulation of these *wasiyyah* writing providers and consumer protection safeguards as proposed by Broker (n.d.:1) especially if internet *wasiyyah* writing services are actively offered in the marketplace. In addition, an enactment to regulate and protect the validity of the trust *hibah* product is at an urgent stage since such product has been offered in the market for such a long time. Consumers are increasingly turning to the multiple sources available in the market other than solicitors to make their *wasiyyah*. With many *wasiyyah* writing providers to choose from, this study supports a proactive solution of appointing a single registry for *wasiyyah*. For this, again ARB can be utilized considering its vast experience in the field. It should be noted that this probably can provide standardization but also can enhance the seriousness of the matter in the perceptions of ordinary people.

11.3.2.5 Government spending

Wasiyyah and bequest have a social and economic value when they are used as mechanisms for transmitting property from one person to another and from one generation to the other. As discussed in the previous chapter, inheritance is about intergenerational transfer which then makes them very much relevant to the macroeconomy of the country in terms of public policy. In the presence of bequest motives, government borrowing which has to be paid by the next generation will be offset by the bequests left by the current taxpayers as expected by the general equilibrium model (Menchik and Jianakoplos, 1998:56). Therefore, establishing a single registry for all bequest transfers can help the government to moderate its budget over the years.

11.3.2.6 Innovation in the Islamic inheritance system

Fixed rules of division and favouring of male agnatic relatives of the deceased over female agnates have been associated with *faraid*. For that reasons, *faraid* has been misunderstood to bring a gap between lower income and higher income groups, and contributing to widening the distribution of income and gender inequality. The mitigation of the principle of male agnatic succession is provided through the use of bequest and *hibah*, which unfortunately are not fully utilized. In some Muslim countries, the transformations of Islamic law have been motivated partly by the interactive relationship of legal texts and the changes of social norms (Bowen, 1998:383). A number of innovations have been made to the Islamic law of succession, which do not challenge the principle of male agnatic succession. Accordingly, introducing and enacting new legal codes in the context of the Malaysian Islamic inheritance law jurisdiction needs a quick response in order to develop a larger Islamic inheritance system.

11.3.2.6.1 Obligatory bequest (*Wasiyyah wajibah*)

Obligatory bequest, which provides an allocation up to one-third to orphaned grandchildren, in fact, is a reformation to Islamic inheritance law and has become a general trend in some Middle East countries (Bowen, 1998:386). In a situation where bequests are not fully utilized or necessary to accomplish certain objectives and desires, an obligatory bequest is then enforced automatically. In Malaysia, this is only provided in

Selangor Will Enactment. Extending this enactment to every state in Malaysia is considered incredibly important. Despite this modification, viewing it from the current legislation, an obligatory bequest is automatically conferred to orphaned grandchildren while other family members such as non-Muslim parents and non-Muslim children are excluded.

11.3.2.6.2 Limiting *hibah* transfer to one-third of an estate

The ability to make adjustments in the distribution of the estate by means of *hibah* is not restricted. A person may dispose of all of his/her wealth to anyone through *hibah*. The issue of exploiting *hibah* in a manner to completely avoid the law of succession calls for a consideration of a new rule of limiting *hibah*. This rule has been enacted in Indonesian Islamic law compilation (Bowen, 1998), according to which a one-third restriction on bequest has been applied to *hibah* to ensure the heir's welfare is protected.⁸⁸

11.3.2.6.3 Enhancing the administration of *waqf*

The viability of *waqf* in Malaysia as one of the estate planning products seems not to be promising due to the shortcomings of its administration. *Waqf* properties in Malaysia are entrusted in the State Islamic Religious Councils of each state. However, the functions of State Islamic Religious Councils have been undermined by the application of the federal and civil laws governing the administrations of *waqf*, which so far, have obstructed the State Islamic Religious Councils from executing their tasks as sole trustees of *waqf* properties.⁸⁹ In view of the above, the credibility of the State Islamic Religious Councils must be protected and should also be enhanced. Thus, the scepticism over the potential roles of *waqf* in estate planning could be eliminated.

⁸⁸ See Bowen (1998) for further discussion.

⁸⁹ See Mahamood (2006) for further discussion.

11.4 LIMITATIONS OF THE RESEARCH AND SUGGESTIONS FOR FUTURE RESEARCH

Islamic estate planning is a subject within the corpus of the Islamic inheritance system, which is a vast topic to discuss. One can view it from a religious studies perspectives and such a discussions will be more related to *hukm* (ruling) debates, or can delve into jurisprudence matters. This research, however, is aimed at specifically exploring and analysing *wasiyyah* and bequest through the Islamic financial planning and wealth management perspectives with empirical orientation.

As regards to the limitations of this study, a scarcity of existing empirical literature on *wasiyyah* and bequest within the Muslim contextual form was one of them. To the best understanding of this researcher, previous literature is very much devoted to the subject of *wasiyyah* and bequest from the religious and *Shari'ah* jurisprudence points of view. This study, however, has attempted to closely follow methodology applied in previous empirical studies of will and bequests undertaken within the contextual form of non-Muslims societies. In addition, whether the researcher should use the same contextual form of will and bequest was another formidable challenge. Taking a similar approach could be argued to be inappropriate since the contextual form of *wasiyyah* and bequest in Muslim community differs from the non-Muslim community. Nevertheless, this study did not see this as a major problem since previous studies carried out in the United Kingdom on will practice and leaving a bequest, for example, include the Muslim British community as respondents. After a significant number of considerations, this study used similar conceptualisation to begin the research but the theoretical forms applied in the study were restricted to Muslim bequest and inheritance rules which were carefully taken into account during the interpretation and discussion of the analysis.

One of the greatest challenges was choosing the scope of research with regard to *wasiyyah*, *wasiyyah* practice or *wasiyyah* writing, as limiting this research to *wasiyyah* writing would definitely exclude those who had made verbal *wasiyyah* from the sample of respondents. This research neither asked how respondents have prepared their verbal and handwritten *wasiyyah* by themselves nor the contents of the *wasiyyah*. Thus, the

possibility that they actually have not made a *wasiyyah* as what they thought was inevitable. This research, however, decided to limit the scope of *wasiyyah* to *wasiyyah* practice and include those who have made both verbal and handwritten *wasiyyah* by themselves with the group of those who have made a *wasiyyah* through professional means for two reasons: firstly, previous literatures (Broker, n.d.; SCC, 2006; Rowlingsons and McKay, 2005) do not go to that extent either except for McGranahan (2006) and Finch and Mason (2000), who have the opportunity to have access to wills documents; and secondly, these types of *wasiyyah* ostensibly carry the law if nobody contests in the court.

As regards to the issue of further research, there is room to fill the gap in the existing work and expand the issue of discussion to a larger dimension. It is true that research on *wasiyyah* making is extremely lacking juxtaposed to the empirical research of will and bequest in the eyes of non-Muslims. Only recently, a few attempts have been made to elicit the perception of Muslims in particular with *wasiyyah* and bequest matters. However, such attempts have very much concentrated on the Malaysian case. Divergence in case studies to enrich the literature is important in the sense that studies on different countries will help to shed light on whether such awareness and practice differ across Muslim countries.

There are plenty of issues in Islamic estate planning which are yet to be explored. Future studies should be more focused, for example, concentrating on practice or attitudes towards *wasiyyah* writing by professional means, practice or attitudes towards making a direct *hibah* versus trust *hibah* or impact of bequests on *hibah* transfers or human capital investments and vice versa.

The following are the other potential related subjects within the boundary of Islamic estate planning, which call for more attention: combination of a charitable gift and a life-gift (*'umra*), fictitious sale, *waqf-alal-awlad* (family endowment)⁹⁰, *hiba-bi'l-'iwad* (transaction comprised of two separate *hibah*).⁹¹ In fact, one can expand Islamic estate planning into the field of marketing research. It should be noted that efforts to investigate

⁹⁰ See Powers (1993) and Caroll (2001) for more information and further discussion.

⁹¹ See Caroll (2001) for more information and further discussion.

wasiyyah in terms of the clients' attitude received good feedback from the ARB during the interviews, while the other research interviewees were more interested by far on the roles of the institutions. This has thrown a light on the work related to the supply side of Islamic estate planning.

In addition, *wasiyyah* and bequest can be investigated further on their macroeconomic impacts. The particularly productive areas of such research can relate the subject matter with the public policy, for example government budget policy and income distribution. Research which benefits and spurs the growth of the industry is attainable by means of collaboration between industry and the academic sector, and of course by giving access to the industry-related literature such as market research reports. However, such research projects require funding, which is a major barrier for the expansion of the research in the field. Therefore, funding from various sources either from government or industry itself should be appropriated for this purpose.

This study investigated the Malaysian Muslims' attitudes through direct questioning of survey respondents. Future efforts in expanding potential research should consider using other types of data such as savings, gift transfers and money transfers related data. It would be useful to have an opportunity from government institutions to undertake a research on these particular topics on a large scale in the near future, since the sample size in this study was relatively restricted due to time and cost constraints.

11.5 EPILOGUE

This research aimed at locating the awareness and practice of *wasiyyah* within the context of Malaysian Muslims. In addition, it also aimed at locating the existence of bequest motives and investigating Malaysian Muslims' attitudes to leaving a bequest. As the progress of the research demonstrated in each chapter, this research was rigorously conducted and as a whole, it managed to meet its aims and objectives as outlined in the introductory chapter. It revealed challenges to some contemporary thinking around *wasiyyah* and bequest matters and offered some pragmatic solutions which are inextricably linked to the whole society after establishing various evidence through empirical research.

It is hoped that this study contributes to the relevant literature but also can help to affect the policies of various stakeholders and Muslims' perceptions towards *wasiyyah* and bequest.

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Appendix 1: Questionnaire

For Office Use Only:	
Respondent number :	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
Date of interview :	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> 0 9
Time of interview :AM/PM
Area code :	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>



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**A SURVEY OF
ISLAMIC ESTATE PLANNING: ANALYSING THE MALAYSIAN PERCEPTIONS ON
WASIYYAH (WILL) AND BEQUEST PRACTICES**

Information Sheet

Dear participant,
This research project hopes to explore *wasiyyah* (will) among Malaysian Muslim society in terms of their awareness and practice. Apart from that, it hopes to study their bequests practice. Should you decide to take part, you will be asked to complete a questionnaire that consists of six parts. It should take no more than 40 minutes. Your confidentiality, anonymity and comfort are priorities. Your name will never be attached to your responses and your responses are anonymous. Your honest and sincere responses are highly appreciated as they will be reflected into the accuracy of the study.

General Instructions and Information

1. All individual responses to this questionnaire will be treated as **CONFIDENTIAL**.
2. For most questions, please tick the box(es) most applicable to you. For some questions, you will be asked to rank your answer according to your preferences.
3. Please tick (✓) in an appropriate box. Your answers are very important to the accuracy of the study.

Part 1: Respondent's Backgrounds

- 1. Gender:
 - 1 Male
 - 2 Female

- 2. Age:
 - 1 18-25 years
 - 2 26-40 years
 - 3 41-56 years
 - 4 57 and above

- 3. Marital status:
 - 1 Single
 - 2 Married
 - 3 Divorcee
 - 4 Widow/widower

- 4. Race:
 - 1 Malay
 - 2 Chinese
 - 3 Indian
 - 4 Other (Please specify):.....

- 5. Education level:
 - 1 Primary school
 - 2 SPM/PMR/SRP/STPM/LCE/MCE
 - 3 Diploma/Bachelor
 - 4 Master/PhD
 - 5 Vocational

- 6. Type of job:
 - 1 Government employee
 - 2 Private sector
 - 3 Self-employed
 - 4 Housewife
 - 5 Unemployed
 - 6 Retired

- 7. Monthly income:
 - 1 RM1000 and below
 - 2 RM1001-RM2999
 - 3 RM3000-RM4999
 - 4 RM5000 and more

- 8. Your health status:
 - 1 Excellent
 - 2 Good
 - 3 Fair
 - 4 Poor

9. Do you have:
- | | Yes | No |
|---|----------------------------|----------------------------|
| a) Children? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| b) Children under 18? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| c) Children who are non-Muslim? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| d) Adopted children? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| e) Grandchildren? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| f) Living parents who are non-Muslims? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| g) Siblings? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| h) Disability? | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
| i) Properties? (E.g: Motorcycle, car, house, land, shares, savings either they are your own properties or are still under financing) (If 'No' go to <i>Question 11</i>). | <input type="checkbox"/> 1 | <input type="checkbox"/> 2 |
10. What is the estimated value of your total assets?
- 1 RM50,000 and below
- 2 RM50,001- RM100,000
- 3 RM100,001-RM300,000
- 4 RM300,001-RM600,000
- 5 More than RM600,000
11. Have you ever received inheritance previously?
- 1 Yes (Go to *Question 12*).
- 2 No (Go to *Question 13*).
12. If you ever received inheritance, please state the estimated amount received:
- 1 RM50,000 or below
- 2 RM50,001- RM100,000
- 3 RM100,001-RM300,000
- 4 RM300,001-RM600,000
- 5 More than RM600,000

Part 2: Wasiyyah Practice

NOTE: FARAID IS THE ESTATE DISTRIBUTION ACCORDING TO ISLAMIC RULES. E.G: MALE SHARER TAKES DOUBLE THE PORTION OF A FEMALE SHARER.

13. Have you made a *wasiyyah*?
- 1 Yes (Go to *Question 15 and 16*).
- 2 No (Go to *Question 14 and then go straight to Question 17*).
14. Why have you not made a *wasiyyah*? (Please tick as many reasons that apply from the list).
- a Haven't got round to it yet
- b Too young to think about it.
- c I don't like thinking about dying.
- d I've never thought about it.
- e I am still healthy; *wasiyyah* is only relevant for those who are seriously ill.
- f I have nothing to leave/I have small estates to leave.
- g No need to make a *wasiyyah* – my assets will go to the right person according to *faraid*.

- h I don't know how to do it.
- i Because I don't have any bequest to make.
- j Because I want my estate to be divided according to *faraid*.
- k It is not an obligation in Islam.
- l There is no major changes in my family formation that require me to prepare a *wasiyyah*. I've only have a typical family (e.g I don't have adopted children, I'm not divorced or re-married)
- m It's too expensive.
- n Other. (Please specify).....

15. Why did you decide to make a *wasiyyah*? (Please mention as many reasons as apply from this list).

- a Peace of mind about what will happen to my estate when I die.
- b I want to make sure that my family is provided for when I die.
- c Friends/family recommend/advise me to do so.
- d Self-awareness.
- e Because Islam encourages us to do so.
- f Because there is promotion/publicity about *wasiyyah* undertaken by Amanah Raya Berhad (ARB)/other companies.
- g I have bequest to make (such as bequest for *waqf*, bequest for my grandchildren).
- h I would like my estate to be distributed in line with my intention – I do not want to follow the *faraid*.
- i I want to make sure that my children who are minor will be taken care for properly when I die.
- j I want to appoint executor to carry out my estate distribution so that there will be no problems arise during the process of the distribution which then cause difficulties to my heirs (e.g legal problems).
- k Because of my health factor (e.g I'm too old, I'm sick)
- l There is/are change/s in my family formation (I've got married/ remarried, I've got divorced, I've children, I've children under 18, I've adopted children, I've got children who are non-Muslims, I've parents who are non-Muslims)
- m Because I've embraced to Islam.
- n The value of my estate increased suddenly (e.g just bought a home)
- o Other. (Please specify).....
.....

16. If you have *wasiyyah*, how was your *wasiyyah* prepared?

- 1 By a solicitor.
- 2 By Amanah Raya Berhad (ARB).
- 3 By other *wasiyyah* writing providers. (Please specify).....
- 4 By banks. (Please specify).....
- 5 Handwritten by myself.
- 6 I've made verbal *wasiyyah*.
- 7 Completed by myself on the internet.
- 8 Verbal and handwritten.
- 8 Other. (Please specify)

17. For the following questions and statements, could you please tick (✓) your answer based on the scales given.

a) Could you please tell, how often do you perform the following religious rituals?

	I always do this	I usually do this	I sometimes do this	I rarely do this	I never do this
	1	2	3	4	5
▪ Five times obligatory prayers.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Recommended prayers (<i>sunnah</i> prayers).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Complete obligatory fasting.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Giving donation (<i>sadaqah</i>).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

b) Please indicate, to what extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
	1	2	3	4	5
▪ All good deeds made will be rewarded in the life hereafter.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Islamic teachings can fulfil the needs of human beings' natural state (<i>fitrah</i>).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ All deeds (<i>shari'ah</i>) performed by Rasulullah were guided by revelation.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

c) Could you please tell, the extent to which your religious beliefs influence the following matters related to you?

	Extremely influential	Very influential	Fairly influential	Not very influential	Not at all influential
	1	2	3	4	5
<ul style="list-style-type: none"> ▪ To what extent do religious beliefs influence with whom you associate with? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ To what extent do religious beliefs influence what you eat and drink? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ To what extent do religious beliefs influence matters related to your financial transactions? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> ▪ To what extent do religious beliefs influence what you do with your wealth? 	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18. What would be your response if your children would wish to discuss and advise you to prepare your *wasiyyah* as soon as possible?

- 1 I am quite/very open-minded (Go to *Question 20*).
 2 I am reluctant to discuss it with my children (Go to *Question 19*).

19. Why are you reluctant to discuss it with your children? (Please indicate as many reason that apply from this list).

- a I think it is rude for children to talk with the elderly about inheritance matters.
 b It's none of their business.
 c They don't have the right to interfere.
 d Other. (Please specify).....
.....

20. What would be your response on how if someone from *wasiyyah* writing provider approached you and ask to discuss and advised you to prepare your *wasiyyah* through proper channel as soon as possible?

- 1 I am quite/very open-minded to discuss about this matter but I still refuse to do it.
 2 I am quite/very open-minded to discuss about this matter and will consider making a *wasiyyah* in the future.
 3 I am reluctant to discuss this matter.

Part 3: Practice and Attitudes to Leaving a Bequest

Those who have made *wasiyyah*, please answer Question 21. Those who have not made *wasiyyah*, please answer Question 23.

21. If you have made *wasiyyah*, did you state any bequest in it?
- 1 Yes (Go to *Question 24, 25, 27 and 28*).
 - 2 No (Go to *Question 22*).
22. If you have made *wasiyyah*, but did not make any bequest, do you plan to leave a bequest in the future?
- 1 Yes (Go to *Question 26, 27 and 28*).
 - 2 Probably (Go to *Question 26, 27 and 28*).
 - 3 No (Go to *Question 27 and 28*).
23. If you have not made *wasiyyah*, do you plan to leave a bequest in the future in your *wasiyyah*?
- 1 Yes (Go to *Question 26, 27 and 28*).
 - 2 Probably (Go to *Question 26, 27 and 28*).
 - 3 No (Go to *Question 27 and 28*).
24. What type of bequest did you make? (Please indicate as many types that apply from this list).
- a Bequest to my child/children who is/are non-Muslims.
 - b Bequest to my parents who are non-Muslims.
 - c Bequest to my siblings.
 - d Bequest to my grandchild/grandchildren.
 - e Bequest to my adopted child/children.
 - f Bequest for charity purposes (e.g. *waqf*).
25. Why did you decide to make a bequest? (Please mention as many reasons that apply from this list).
- a Friends/family recommend/advise me to do so
 - b I know the necessity and importance of making bequest.
 - c Because Islam encourages us to do so.
 - d Because of my health factor (e.g. I'm too old, I'm sick)
 - e I've got several family members who are excluded from inheritance according to *faraid* (e.g. adopted children, children who are non-Muslims, parents who are non-Muslims).
 - f I've been advised by the *wasiyyah* writing provider also about the significance of making bequest.
 - g Because I've embraced Islam.
 - h Because I don't want all my estates fall into *faraid*.
 - i Other. (Please specify).....
26. What types of bequest will you probably make in the future? (Please indicate as many types that apply from this list).
- a Bequest to my children who are non-Muslims.
 - b Bequest to my parents who are non-Muslims.
 - c Bequest to my siblings.
 - d Bequest to my grandchildren.
 - e Bequest to my adopted children.
 - f Bequest for charity purposes (e.g. *waqf*).
27. How important it is to you to leave a bequest?
- 1 Very important.
 - 2 Important.
 - 3 Fairly important.
 - 4 Not important.
 - 5 Not at all important.

28. To what extent are you willing to take a risk that will affect the return (E.g: in your investment):
- 1 I will take a risk.
 - 2 I will avoid risk.
 - 3 Indifferent.
 - 4 Average.
 - 5 None of the above.

Part 4: Motives of Leaving Bequests

Those who did not answer Question 24 or 26 in Part 3 (who have not made or have no intention to make bequests for *waqf*, donation or bequests for non-heirs), please leave the questions in this Part 4. Go straight to the questions in Part 5.

Those who answered question 24 or 26 in Part 3, please go through questions in this Part 4 one by one and answer questions that related to you.

29. If you have made a bequest or will probably make a bequest for your children who are non-Muslims, your parents who are non Muslims, siblings or grandchildren, could you please indicate the motives behind your bequests? (Please indicate as many reasons that apply from this list).
- a As a means to perpetuate my dynasty/family line eventhough we have different religion.
 - b They are poor/have low income/sick, therefore I would to see them equally well off.
 - c I would like to help them regardless of their economic status.
 - d As a reward for taking care of me (e.g visits, attention, provide services and assistances).
 - e To ensure that they will take care of me when I'm old/sick/in difficulties (e.g visits, attention, provide services and assistances).
 - f For the rewards in the hereafter.
 - g To get approbation from friends/families/public.
 - h Other. (Please specify).....
30. If you have made a bequest or will probably make a bequest to your adopted children, could you please indicate the motives behind your bequests? (Please indicate as many reasons that apply from this list).
- a As a sign of my love towards them eventhough they are not my biological children.
 - b I would like to help them because they are poor/have low income.
 - c I would like to help regardless of their economic status.
 - d As a reward for taking care of me (e.g visits, attention, provide services and assistances).
 - e To ensure that they will take care of me when I'm old/sick/in difficulties (e.g visits, attention, provide fservices and assistances).
 - f For the rewards in the hereafter.
 - g To get approbation from friends/families/public.
 - h Other. (Please specify).....
31. If you have made a bequest or probably make bequest for charity purposes (e.g *waqf*), could you please indicate the motives behind your bequests? (Please indicate as many reasons that apply from this list).
- a To get approbation from friends/families/public.
 - b Because of the altruism motive.
 - c For the rewards in the hereafter.
 - d Other. (Please specify).....

Part 5: Respondent's Knowledge on Islamic Estate Planning and Wasiyyah

32. Have you ever heard about Islamic estate planning?
 1 Yes (Go to *Question 33*).
 2 No (Go to *Question 34*).
33. Where did you ever hear it from? (Please mention as many options as apply from this list).
 a I learnt about it during my study at secondary school.
 b I learnt about it during my study at college/university.
 c TV/Radio.
 d Internet.
 e Newspaper/magazine/book.
 f Friends/family/relatives.
 g Talks/Series/Workshops.
 h From individuals who are involved in offering the consultation/services on Islamic estate planning/*wasiyyah* writing.
 i Other. (Please specify).....
34. Do you know Islamic ruling on *wasiyyah*?
 1 Yes, I am very knowledgeable about it (Go to *Question 35*).
 2 Yes, but I am only aware about it (Go to *Question 35*).
 3 No (Go to *Question 36*).
35. How did you learn about *wasiyyah*?
 a I learnt about it during my study at secondary school.
 b I learnt about it during my study at college/university.
 c TV/Radio.
 d Internet.
 e Newspaper/magazine/book.
 f Friends/family/relatives.
 g Talks/Series/Workshops.
 h From individuals who are involved in offering the consultation/services on Islamic estate planning/*wasiyyah* writing.
 i Other. (Please specify).....
36. How much is a Muslim allowed to bequeath?
 1 Any amount he/she wants to.
 2 ½ of the estates.
 3 2/3 of the estates.
 4 1/3 of the estates.
 5 Don't know.
37. Have you or has someone you know, experienced problems sorting out the affairs of someone who died without a *wasiyyah*?
 1 Yes (Go to *Question 38*).
 2 No (Go to *Question 39*).

38. What sort of problems were they? (Please mention as many options as apply from the list)
- a Things took a lot of time and effort to sort out.
 - b Expensive to sort things out.
 - c It was stressful for the person responsible for distributing the estate.
 - d It put relationships with family or relatives under strain.
 - e It caused problems about who was responsible for looking after the children.
 - f The estates, were divided into small portions in order to comply the *faraid* shares entitled by each heir.
 - g The estates, or part of the estate went to someone who the deceased wouldn't have wanted it to go.
 - h Other. (Please specify).....

39. Within the scale given, how far do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
	1	2	3	4	5
▪ Estate planning is not needed as Muslims are obliged to follow the fixed rules of <i>faraid</i> .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ We are still able to plan our estate during the lifetime but must take into account <i>faraid</i> as well.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ No need to make <i>wasiyyah</i> as <i>faraid</i> is already available.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Estate planning is only for rich people who have huge estates to leave.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ I need to leave <i>wasiyyah</i> to ensure my estate distribution will be speeded up and that no legal problems will arise during the process of the distribution.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Assuming that I would like to plan my estate for my heirs or make <i>waqf</i> , the first thing that I should do is preparing a <i>wasiyyah</i> .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ <i>Wasiyyah</i> is only significant for those who are married, having family and not for a single person.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ <i>Wasiyyah</i> is only relevant for those who are practicing polygamy.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ <i>Wasiyyah</i> is only relevant for old people.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ <i>Wasiyyah</i> is only relevant for those who are really sick.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ <i>Wasiyyah</i> is only relevant for those who have potential to leave a huge estates.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ <i>Wasiyyah</i> is strongly required to be made if we want to appoint trustees for children who are minors.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ If you want to let your heirs know your intention to equally distribute your estates, then you have to prepare <i>wasiyyah</i> .	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

40. How do you think the knowledge of Islamic estate planning and *wasiyyah* among Malaysian Muslims can be improved in the future? (Please indicate as many options that apply from the list).
- a Make it part of the syllabus in secondary school.
 - b Make it part of the syllabus in college/university.
 - c More exposures/promotions should be made by ARB/other *wasiyyah* providers.
 - d Islamic Religion Department should be more proactive/should organize more activities to provide more knowledge and increase more awareness among Muslims community.
 - e Other (Please specify)

Part 6: Wasiyyah Writing Provider

41. Do you know any organization involved in preparing *wasiyyah*?
- 1 Yes (Go to *Question 42 and 43*).
 - 2 No (Go to *Question 44*).
42. Please provide their names:
43. How did you learn about this/these *wasiyyah* writing provider/s? (Please indicate as many options that apply from the list).
- a I learnt about it during my study at secondary school.
 - b I learnt about it during my study at college/university.
 - c TV/Radio.
 - d Internet.
 - e Newspaper/magazine/book.
 - f Friends/family/relatives.
 - g Talks/Series/Workshops.
 - h From individuals who are involved in offering the consultation/services on Islamic estate planning/*wasiyyah* writing.
 - i Other. (Please specify).....
44. Imagine that you want to make a new *wasiyyah* in the near future. Which of the following ways of making *wasiyyah* would you use? (Please indicate as many options that apply from the list)
- a By a solicitor.
 - b By Amanah Raya Berhad (ARB).
 - c By other *wasiyyah* writing companies which are ARB's partners.
 - d By other *wasiyyah* writing companies which are not ARB's partners.
 - e By banks which are ARB's partners.
 - f By banks which are not ARB's partners.
 - g Handwritten by myself.
 - h Verbal *wasiyyah*.
 - i Completed by myself on the internet.
 - j Other (please specify)

45. Could you please rank the factors that influence your decision in choosing particular methods of preparing *wasiyyah* (as stated in Question 44 above) ? (1= the most important factor)

Factors	Ranking
Credibility of a well-known <i>wasiyyah</i> institution.	
Credibility of the <i>wasiyyah</i> institution that belongs to government.	
Trustworthiness towards individual that I deal with.	
Possess capability to write own <i>wasiyyah</i> .	
Possess qualification to write own <i>wasiyyah</i> .	
Cost/price to pay.	
Level of services offered.	
Positive recommendation from people.	
Other (Please specify).....	

46. How much do you think it would cost now to have a basic *wasiyyah* drawn up by ARB or its partners?

- 1 Less than RM100.
 2 RM101-RM200.
 3 RM201-RM300.
 4 RM301-RM400.
 5 RM401 and above.
 6 Don't know.

47. Do you think there has been enough publicity/exposure to attract people to make *wasiyyah* writing through proper channels?

- 1 Yes.
 2 No (Go to *Question 48*).

48. What do you think *wasiyyah* writing providers should do to improve the situation? (Please indicate as many options that apply from the list)

- a More promotion through mass media (radio/TV/newspaper/magazine)
 b More face-to-face promotion (e.g through agents)
 c Organize more talks/seminars/workshops.
 d Other (Please specify)

.....THANK YOU.....

Appendix 2: Semi-Structured Interview

For Office Use Only:					
Interviewee number :	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Date of interview :	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Time of interview :AM/PM				
Agency code :	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>



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A SEMI-STRUCTURED INTERVIEW

ISLAMIC ESTATE PLANNING: ANALYSING THE MALAYSIAN PERCEPTIONS ON WASIYYAH (WILL) AND BEQUEST PRACTICES

Information Sheet

Dear participant,

This research project hopes to explore *wasiyyah* among Malaysian Muslim society in terms of their awareness and practice. Apart from that, it hopes to study their bequests practice. Should you decide to take part, you will be asked to complete a semi-structured interview question that consists of two sections which cover some general information about yourself, the service that you provide and your clients. Your confidentiality, anonymity and comfort are priorities. Your name will never be attached to your responses and your responses are anonymous. Your honest and sincere responses are highly appreciated as they will be reflected into the accuracy of the study.

General Instructions and Information

1. All individual responses to this questionnaire will be treated as **CONFIDENTIAL**.
4. For most questions, please tick the box(es) most applicable to you. For some questions, you will be asked to rank your answer according to your preferences.
5. Please tick (✓) in an appropriate box. Your answers are very important to the accuracy of the study.

SECTION A: WASIYYAH WRITERS RELATED QUESTIONS.

A1: Backgrounds of the *wasiyyah* writing provider.

1. What qualification/s do you currently hold?
- a Certified Financial Planner (CFP).
 - b SC qualification as an Investment Advisory Licence (IAL)/ Investment Representative Licence (IRL).
 - c Registered Financial Planner (RFP).
 - d Fellow Chartered Financial Practitioner (FChFP).
 - e Islamic Financial Planning Certificate (IFPC).
 - f Other. (Please specify):

2. How many years have you operated as a *wasiyyah* writing provider?
- a Less than a year.
 - b 1-2 years.
 - c 3-5 years.
 - d 5 years and above.
3. You have been working as a:
- a Full time *wasiyyah* writing provider.
 - b Part time *wasiyyah* writing provider.
4. Your age is:
- a 18-24 years.
 - b 25-30 years.
 - c 31-35 years.
 - d 36-40 years.
 - e 41-50 years.
 - f 50 years and above.
5. You are:
- a Male.
 - b Female.

A2: Background of practice of *wasiyyah* writing providers.

6. With regard to the *wasiyyah* writing service, what type of *wasiyyah* you currently offer?
- a Basic *wasiyyah*. Please also specify the cost: _____
 - b Comprehensive *wasiyyah*. Please also specify the cost: _____
7. Apart from the *wasiyyah* writing service, what kind of other Islamic estate planning services do you currently offer?
- a *Hibah*. Please specify the types of *Hibah* offered and the cost as well:

 - b *Waqf*. Please specify the types of *Waqf* offered and the cost as well:

c Trust Account. Please specify the types of Trust Account offered and the cost as well:

d Other. Please specify the types of other services and the cost as well:

8. With regards to the *wasiyyah* writing service, how many individual clients are you currently managing at this point of time?

- a Less than 10.
 b 10-20.
 c 21-40.
 d 41-50.
 e More than 50.

9. With regards to the *wasiyyah* writing services, what is the average length of the relationship you have with your individual clients?

- a Less than a year.
 b 1-2 years.
 c 3-5 years.
 d 5 years and above.

10. How do you rate yourself on your knowledge of Islamic estate planning concepts?

- a Not really familiar.
 b Posses understanding on the basics of Islamic estate planning concepts.
 c Well versed on Islamic estate planning concepts.

11. How do you rate yourself on your knowledge of Islamic estate planning products?

- a Not really familiar.
 b Posses understanding on the basics of Islamic estate planning products.
 c Well versed on Islamic estate planning products.

12. How do you rate yourself on your knowledge of *wasiyyah*?

- a Not really familiar.
 b Posses understanding on the basics of *wasiyyah*.
 c Well versed on *wasiyyah*.

13. In your estimation, what percentage of individuals who come for advice finally take up *wasiyyah* writing services?

14. In your estimation, with respect to the *wasiyyah* writing practice, what percentage of the market that has not yet been tapped?

SECTION B: CLIENTS' RELATED QUESTIONS.

B1: Client's Demographics and Economics.

Questions 15 – 23 refers to the *wasiyyah* writing practice among your clients. They have been divided into groups based on demographic and economics features. Could you please estimate **PERCENTAGES** to the following group that you have been engaging with and these groups' **PROPENSITY IN MAKING WASIYYAH** based on your experience.

15.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's age	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Less than 25		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) 26-40		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) 41-56		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) 57 and above		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

16.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's gender	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Male		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Female		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

17.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's race	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Malay		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Chinese Muslims		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Indian Muslims		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Others (who are Muslims)		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

18.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's children	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Older people who are childless.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Older people who have children.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Younger people who are childless.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Younger people who have children.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's children under 18	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Having children under 18.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Having no children under 18.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

20.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Clients have/ have no adopted children	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Having adopted children.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Having no adopted children.		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

21.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's marital status	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Single		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Married		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Divorcee		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Widow/widower		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

22.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's level of income	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) High level of income		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Medium upper level of income		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Medium lower level of income		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Lower level of income		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

23.

		Propensity in making <i>wasiyyah</i>				
		1	2	3	4	5
Client's employment	Percentage (%)	Very likely to make <i>wasiyyah</i>	Fairly likely to make <i>wasiyyah</i>	Neutral	Not very likely to make <i>wasiyyah</i>	Not at all likely to make <i>wasiyyah</i>
a) Government servants		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Private sector		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Self-employed		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Retired		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Housewife		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Unemployed		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

B2: Client's Level of Knowledge.

24. In general, how did you find their level of knowledge on Islamic estate planning? Please estimate a score on the knowledge of your clients of major aspects of Islamic estate planning by ticking the appropriate boxes below. You can make your comment for each of the following items in the column provided on the right hand side.

Their knowledge on:	Poor	Medium	Excellent	Comment, if any.
a) The concepts of Islamic estate planning.				
b) The methods of Islamic estate planning.				
c) The concept of <i>wasiyyah</i> according to the Shari'ah law.				
d) The types of <i>wasiyyah</i> offered in the market.				
e) The cost of preparing <i>wasiyyah</i> .				
f) The significance/purpose of leaving <i>wasiyyah</i> .				
g) The legal aspects and proper procedures associated to <i>wasiyyah</i> in the context of Malaysian legislation.				
h) The allocation of 1/3 for the <i>bequests</i> .				
i) The <i>wasiyyah</i> writing providers available in the market.				
j) Other Islamic estate planning products available in the market.				

B3: Clients' Level of Awareness and Practice

25. What is your opinion on the **AWARENESS** level of the *wasiyyah* writing among Malaysian Muslims? Could you please provide the reasons behind your answer. You may write your opinion in the space below.

26. What is your opinion on the level of *wasiyyah* writing **PRACTICE** among Malaysian Muslims? Could you please provide the reasons behind your answer. You may write your opinion in the space below.

27. In your opinion, what is the best mechanism that can be used to increase the awareness and *wasiyyah* writing practice among Malaysian Muslims in the future?

- a Through education (schools and higher learning institutions).
- b Marketing through mass media.
- c Organize more talks/workshops/seminars.
- d Direct approach.
- e Others. (Please specify):

28. Are there any other issues you would like to highlight on the subject of *wasiyyah* writing? Please write your opinion in the spaces below:

B3: Clients' Practice and Attitudes to Leave Bequests.

29. Throughout your experience, how do you find the **PRACTICE** of Malaysian Muslims to leave bequests for the following purposes:

	Very likely	Fairly likely	Neutral	Not very likely	Not at all likely
	1	2	3	4	5
▪ Bequest to children who are non-Muslims.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Bequest to parents who are non-Muslims.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Bequest to siblings (e.g who are poor, sick, non-Muslims)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Bequest to grandchildren	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Bequest to adopted children	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
▪ Bequest for charity purpose (e.g <i>waqf</i>)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

30. Throughout your experience, how do you find the **ATTITUDES** of Malaysian Muslims to leaving a bequest? (Please mention as many answers as apply from the list):

- a They are willing to leave bequests without need to give them a brief in detail.
- b They are willing to leave bequest after giving them a brief in detail.
- c They are not willing to leave bequest even after giving them a brief in detail.
- d They are not willing to leave bequest unless it is significant with their circumstances (e.g embrace to Islam, having family members who are excluded from inheritance according to *faraid*, having adopted children)
- e Other. (Please specify):

31. What are other issues you would like to highlight on the subject of bequests? Please write your opinion in the spaces below:

.....THANK YOU.....

Appendix 3: Result of Multinomial Logit Model

```
. mlogit bequest age gender marital ethnicity education adpchild gchild sibling empl  
> oymnt income assetvalue aminherit health disability charity imbeq religiosity law,  
> base (0)
```

```
Iteration 0: log likelihood = -301.80835  
Iteration 1: log likelihood = -269.26244  
Iteration 2: log likelihood = -267.31519  
Iteration 3: log likelihood = -267.20351  
Iteration 4: log likelihood = -267.20152  
Iteration 5: log likelihood = -267.20152
```

```
Multinomial logistic regression      Number of obs   =      297  
LR chi2( 36)                       =      69.21  
Prob > chi2                         =      0.0007  
Pseudo R2                           =      0.1147  
Log likelihood = -267.20152
```

bequest	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
1						
age	.167283	.369505	0.45	0.651	-.5569335	.8914995
gender	.2383812	.3111873	0.77	0.444	-.3715346	.848297
marital	-.4381991	.3964619	-1.11	0.269	-1.21525	.338852
ethnicity	-.2238776	.6837193	-0.33	0.743	-1.563943	1.116188
education	.8383767	.3906875	2.15	0.032	.0726432	1.60411
adpchild	-.2950457	.7545687	-0.39	0.696	-1.773973	1.183882
gchild	-.6920398	.3938399	-1.76	0.079	-1.463952	.0798722
sibling	.8222419	.747987	1.10	0.272	-.6437856	2.288269
employment	.1466029	.3899693	0.38	0.707	-.6177228	.9109286
income	-.3824976	.4309031	-0.89	0.375	-1.227052	.462057
assetvalue	.2341375	.3239257	0.72	0.470	-.4007453	.8690202
aminherit	-.7721591	.8701537	-0.89	0.375	-2.477629	.9333109
health	.6925469	.4366414	1.59	0.113	-.1632545	1.548348
disability	-.9995972	1.132493	-0.88	0.377	-3.219244	1.220049
charity	.6353272	.5468717	1.16	0.245	-.4365217	1.707176
imbeq	.7436736	.4661761	1.60	0.111	-.1700147	1.657362
religiosity	.0651098	.4098404	0.16	0.874	-.7381626	.8683821
law	-.7538277	.3449124	-2.19	0.029	-1.429844	-.0778118
_cons	-1.269975	2.022426	-0.63	0.530	-5.233858	2.693908
2						
age	-.7495225	.4923355	-1.52	0.128	-1.714482	.2154374
gender	.1174877	.4165654	0.28	0.778	-.6989654	.9339408
marital	-.565524	.500802	-1.13	0.259	-1.547078	.4160299
ethnicity	-1.404807	.8003735	-1.76	0.079	-2.973511	.1638959
education	.3116778	.5190489	0.60	0.548	-.7056394	1.328995
adpchild	.5444013	1.004702	0.54	0.588	-1.424779	2.513581
gchild	-1.219723	.5897954	-2.07	0.039	-2.375701	-.0637454
sibling	.6992068	.979585	0.71	0.475	-1.220745	2.619158
employment	-.9647506	.5386965	-1.79	0.073	-2.020576	.0910751
income	.5651677	.5714343	0.99	0.323	-.554823	1.685158
assetvalue	-.5700551	.4554313	-1.25	0.211	-1.462684	.3225739
aminherit	-.7202551	1.27069	-0.57	0.571	-3.210762	1.770252
health	.3017397	.6198639	0.49	0.626	-.9131712	1.516651
disability	-.5400429	1.475444	-0.37	0.714	-3.431861	2.351775
charity	-.0889117	.8060687	-0.11	0.912	-1.668777	1.490954
imbeq	2.849051	1.139389	2.50	0.012	.6158905	5.082211
religiosity	2.061943	.6561209	3.14	0.002	.7759696	3.347916
law	-.3438628	.4670956	-0.74	0.462	-1.259353	.5716277
_cons	-9.927864	3.363638	-2.95	0.003	-16.52047	-3.335255

(bequest==0 is the base outcome)

```
. mlogit bequest age gender marital ethnicity education adpchild gchild sibling emplo
> yment income assetvalue aminherit health disability charity imbeq religiosity law, b
> ase (0) rrr
```

```
Iteration 0: log likelihood = -301.80835
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```

Multinomial logistic regression

```
Number of obs = 297
LR chi2( 36) = 69.21
Prob > chi2 = 0.0007
Pseudo R2 = 0.1147
```

Log likelihood = -267.20152

bequest	RRR	Std. Err.	z	P> z	[95% Conf. Interval]	
1						
age	1.182089	.4367877	0.45	0.651	.5729633	2.438784
gender	1.269193	.3949567	0.77	0.444	.6896752	2.335666
marital	.6451973	.2557962	-1.11	0.269	.2966358	1.403336
ethnicity	.799413	.5465741	-0.33	0.743	.2093092	3.053192
education	2.31261	.9035078	2.15	0.032	1.075347	4.973432
adpchild	.7444976	.5617746	-0.39	0.696	.1696576	3.267032
gchild	.500554	.1971381	-1.76	0.079	.2313203	1.083149
sibling	2.275596	1.702116	1.10	0.272	.5253001	9.857864
employment	1.157894	.4515431	0.38	0.707	.5391708	2.486631
income	.6821555	.2939429	-0.89	0.375	.2931555	1.587336
assetvalue	1.263818	.4093832	0.72	0.470	.6698206	2.384573
aminherit	.4620145	.4020236	-0.89	0.375	.083942	2.542915
health	1.9988	.8727588	1.59	0.113	.849375	4.703695
disability	.3680276	.4167889	-0.88	0.377	.0399853	3.387354
charity	1.88764	1.032297	1.16	0.245	.6462805	5.51337
imbeq	2.103649	.980671	1.60	0.111	.8436524	5.245455
religiosity	1.067276	.4374129	0.16	0.874	.4779914	2.383052
law	.4705619	.1623027	-2.19	0.029	.2393463	.9251386
2						
age	.4725922	.2326739	-1.52	0.128	.1800569	1.240404
gender	1.124668	.4684976	0.28	0.778	.4970993	2.544517
marital	.5680624	.2844868	-1.13	0.259	.2128691	1.515931
ethnicity	.2454143	.1964231	-1.76	0.079	.0511235	1.178092
education	1.365715	.7088727	0.60	0.548	.4937928	3.777245
adpchild	1.723576	1.731681	0.54	0.588	.2405617	12.34908
gchild	.2953119	.1741736	-2.07	0.039	.0929493	.9382439
sibling	2.012156	1.971078	0.71	0.475	.2950104	13.72416
employment	.3810782	.2052855	-1.79	0.073	.132579	1.095351
income	1.759743	1.005578	0.99	0.323	.5741739	5.393305
assetvalue	.5654943	.2575438	-1.25	0.211	.2316138	1.380677
aminherit	.4866281	.6183535	-0.57	0.571	.0403259	5.872331
health	1.352209	.8381857	0.49	0.626	.4012498	4.556937
disability	.5827233	.8597759	-0.37	0.714	.0323267	10.5042
charity	.9149264	.7374935	-0.11	0.912	.1884774	4.44133
imbeq	17.27138	19.67882	2.50	0.012	1.851304	161.13
religiosity	7.861229	5.157917	3.14	0.002	2.172698	28.44341
law	.7090262	.331183	-0.74	0.462	.2838375	1.771148

(bequest==0 is the base outcome)

. listcoef, help

mlogit (N= 297): Factor Change in the Odds of **bequest**

Variable: **age** (sd=.49340449)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	0.91681	2.075	0.038	2.5013	1.5720
1	-0	0.16728	0.453	0.651	1.1821	1.0860
2	-1	-0.91681	-2.075	0.038	0.3998	0.6361
2	-0	-0.74952	-1.522	0.128	0.4726	0.6909
0	-1	-0.16728	-0.453	0.651	0.8460	0.9208
0	-2	0.74952	1.522	0.128	2.1160	1.4475

Variable: **gender** (sd=.50002275)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	0.12089	0.319	0.749	1.1285	1.0623
1	-0	0.23838	0.766	0.444	1.2692	1.1266
2	-1	-0.12089	-0.319	0.749	0.8861	0.9413
2	-0	0.11749	0.282	0.778	1.1247	1.0605
0	-1	-0.23838	-0.766	0.444	0.7879	0.8876
0	-2	-0.11749	-0.282	0.778	0.8892	0.9429

Variable: **marital** (sd=.42087014)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	0.12732	0.286	0.775	1.1358	1.0550
1	-0	-0.43820	-1.105	0.269	0.6452	0.8316
2	-1	-0.12732	-0.286	0.775	0.8804	0.9478
2	-0	-0.56552	-1.129	0.259	0.5681	0.7882
0	-1	0.43820	1.105	0.269	1.5499	1.2025
0	-2	0.56552	1.129	0.259	1.7604	1.2687

Variable: **ethnicity** (sd=.2326909)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	1.18093	1.630	0.103	3.2574	1.3163
1	-0	-0.22388	-0.327	0.743	0.7994	0.9492
2	-1	-1.18093	-1.630	0.103	0.3070	0.7597
2	-0	-1.40481	-1.755	0.079	0.2454	0.7212
0	-1	0.22388	0.327	0.743	1.2509	1.0535
0	-2	1.40481	1.755	0.079	4.0747	1.3866

Variable: **education** (sd=.49016629)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e [^] b	e [^] bStdX
1	-2	0.52670	1.137	0.256	1.6933	1.2946
1	-0	0.83838	2.146	0.032	2.3126	1.5082
2	-1	-0.52670	-1.137	0.256	0.5906	0.7725
2	-0	0.31168	0.600	0.548	1.3657	1.1651
0	-1	-0.83838	-2.146	0.032	0.4324	0.6630
0	-2	-0.31168	-0.600	0.548	0.7322	0.8583

Variable: **adpchild** (sd=.18917131)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e [^] b	e [^] bStdX
1	-2	-0.83945	-0.830	0.407	0.4319	0.8532
1	-0	-0.29505	-0.391	0.696	0.7445	0.9457
2	-1	0.83945	0.830	0.407	2.3151	1.1721
2	-0	0.54440	0.542	0.588	1.7236	1.1085
0	-1	0.29505	0.391	0.696	1.3432	1.0574
0	-2	-0.54440	-0.542	0.588	0.5802	0.9021

Variable: **gchild** (sd=.42927286)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e [^] b	e [^] bStdX
1	-2	0.52768	0.920	0.358	1.6950	1.2542
1	-0	-0.69204	-1.757	0.079	0.5006	0.7430
2	-1	-0.52768	-0.920	0.358	0.5900	0.7973
2	-0	-1.21972	-2.068	0.039	0.2953	0.5924
0	-1	0.69204	1.757	0.079	1.9978	1.3459
0	-2	1.21972	2.068	0.039	3.3863	1.6881

Variable: **sibling** (sd=.18917131)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e [^] b	e [^] bStdX
1	-2	0.12304	0.125	0.900	1.1309	1.0235
1	-0	0.82224	1.099	0.272	2.2756	1.1683
2	-1	-0.12304	-0.125	0.900	0.8842	0.9770
2	-0	0.69921	0.714	0.475	2.0122	1.1414
0	-1	-0.82224	-1.099	0.272	0.4394	0.8559
0	-2	-0.69921	-0.714	0.475	0.4970	0.8761

Variable: **employment** (sd=.40710431)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	1.11135	2.212	0.027	3.0385	1.5721
1	-0	0.14660	0.376	0.707	1.1579	1.0615
2	-1	-1.11135	-2.212	0.027	0.3291	0.6361
2	-0	-0.96475	-1.791	0.073	0.3811	0.6752
0	-1	-0.14660	-0.376	0.707	0.8636	0.9421
0	-2	0.96475	1.791	0.073	2.6241	1.4811

Variable: **income** (sd=.44260642)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	-0.94767	-1.880	0.060	0.3876	0.6574
1	-0	-0.38250	-0.888	0.375	0.6822	0.8443
2	-1	0.94767	1.880	0.060	2.5797	1.5211
2	-0	0.56517	0.989	0.323	1.7597	1.2842
0	-1	0.38250	0.888	0.375	1.4659	1.1845
0	-2	-0.56517	-0.989	0.323	0.5683	0.7787

Variable: **assetvalue** (sd=.49280472)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	0.80419	1.912	0.056	2.2349	1.4863
1	-0	0.23414	0.723	0.470	1.2638	1.1223
2	-1	-0.80419	-1.912	0.056	0.4474	0.6728
2	-0	-0.57006	-1.252	0.211	0.5655	0.7551
0	-1	-0.23414	-0.723	0.470	0.7913	0.8910
0	-2	0.57006	1.252	0.211	1.7684	1.3244

Variable: **aminherit** (sd=.16216975)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	-0.05190	-0.041	0.968	0.9494	0.9916
1	-0	-0.77216	-0.887	0.375	0.4620	0.8823
2	-1	0.05190	0.041	0.968	1.0533	1.0085
2	-0	-0.72026	-0.567	0.571	0.4866	0.8898
0	-1	0.77216	0.887	0.375	2.1644	1.1334
0	-2	0.72026	0.567	0.571	2.0550	1.1239

Variable: **health** (sd=.35247393)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	0.39081	0.689	0.491	1.4782	1.1477
1	-0	0.69255	1.586	0.113	1.9988	1.2765
2	-1	-0.39081	-0.689	0.491	0.6765	0.8713
2	-0	0.30174	0.487	0.626	1.3522	1.1122
0	-1	-0.69255	-1.586	0.113	0.5003	0.7834
0	-2	-0.30174	-0.487	0.626	0.7395	0.8991

Variable: **disability** (sd=.12887015)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	-0.45955	-0.327	0.743	0.6316	0.9425
1	-0	-0.99960	-0.883	0.377	0.3680	0.8791
2	-1	0.45955	0.327	0.743	1.5834	1.0610
2	-0	-0.54004	-0.366	0.714	0.5827	0.9328
0	-1	0.99960	0.883	0.377	2.7172	1.1375
0	-2	0.54004	0.366	0.714	1.7161	1.0721

Variable: **charity** (sd=.26774115)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	0.72424	0.896	0.370	2.0632	1.2140
1	-0	0.63533	1.162	0.245	1.8876	1.1854
2	-1	-0.72424	-0.896	0.370	0.4847	0.8237
2	-0	-0.08891	-0.110	0.912	0.9149	0.9765
0	-1	-0.63533	-1.162	0.245	0.5298	0.8436
0	-2	0.08891	0.110	0.912	1.0930	1.0241

Variable: **imbeq** (sd=.29270563)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	-2.10538	-1.876	0.061	0.1218	0.5400
1	-0	0.74367	1.595	0.111	2.1036	1.2432
2	-1	2.10538	1.876	0.061	8.2102	1.8520
2	-0	2.84905	2.501	0.012	17.2714	2.3024
0	-1	-0.74367	-1.595	0.111	0.4754	0.8044
0	-2	-2.84905	-2.501	0.012	0.0579	0.4343

Variable: **religiosity** (sd=.39223206)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	-1.99683	-3.243	0.001	0.1358	0.4569
1	-0	0.06511	0.159	0.874	1.0673	1.0259
2	-1	1.99683	3.243	0.001	7.3657	2.1885
2	-0	2.06194	3.143	0.002	7.8612	2.2451
0	-1	-0.06511	-0.159	0.874	0.9370	0.9748
0	-2	-2.06194	-3.143	0.002	0.1272	0.4454

Variable: **law** (sd=.45888366)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	e^b	e^bStdX
1	-2	-0.40996	-1.005	0.315	0.6637	0.8285
1	-0	-0.75383	-2.186	0.029	0.4706	0.7076
2	-1	0.40996	1.005	0.315	1.5068	1.2070
2	-0	-0.34386	-0.736	0.462	0.7090	0.8540
0	-1	0.75383	2.186	0.029	2.1251	1.4133
0	-2	0.34386	0.736	0.462	1.4104	1.1709

b = raw coefficient
 z = z-score for test of b=0
 P>|z| = p-value for z-test
 e^b = exp(b) = factor change in odds for unit increase in x
 e^bStdX = exp(b*SD of X) = change in odds for SD increase in X

. listcoef, percent

mlogit (N= 297): Percentage Change in the Odds of **bequest**

Variable: **age** (sd=.49340449)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.91681	2.075	0.038	150.1	57.2
1	-0	0.16728	0.453	0.651	18.2	8.6
2	-1	-0.91681	-2.075	0.038	-60.0	-36.4
2	-0	-0.74952	-1.522	0.128	-52.7	-30.9
0	-1	-0.16728	-0.453	0.651	-15.4	-7.9
0	-2	0.74952	1.522	0.128	111.6	44.7

Variable: **gender** (sd=.50002275)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.12089	0.319	0.749	12.9	6.2
1	-0	0.23838	0.766	0.444	26.9	12.7
2	-1	-0.12089	-0.319	0.749	-11.4	-5.9
2	-0	0.11749	0.282	0.778	12.5	6.1
0	-1	-0.23838	-0.766	0.444	-21.2	-11.2
0	-2	-0.11749	-0.282	0.778	-11.1	-5.7

Variable: **marital** (sd=.42087014)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.12732	0.286	0.775	13.6	5.5
1	-0	-0.43820	-1.105	0.269	-35.5	-16.8
2	-1	-0.12732	-0.286	0.775	-12.0	-5.2
2	-0	-0.56552	-1.129	0.259	-43.2	-21.2
0	-1	0.43820	1.105	0.269	55.0	20.3
0	-2	0.56552	1.129	0.259	76.0	26.9

Variable: **ethnicity** (sd=.2326909)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	1.18093	1.630	0.103	225.7	31.6
1	-0	-0.22388	-0.327	0.743	-20.1	-5.1
2	-1	-1.18093	-1.630	0.103	-69.3	-24.0
2	-0	-1.40481	-1.755	0.079	-75.5	-27.9
0	-1	0.22388	0.327	0.743	25.1	5.3
0	-2	1.40481	1.755	0.079	307.5	38.7

Variable: **education** (sd=.49016629)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.52670	1.137	0.256	69.3	29.5
1	-0	0.83838	2.146	0.032	131.3	50.8
2	-1	-0.52670	-1.137	0.256	-40.9	-22.8
2	-0	0.31168	0.600	0.548	36.6	16.5
0	-1	-0.83838	-2.146	0.032	-56.8	-33.7
0	-2	-0.31168	-0.600	0.548	-26.8	-14.2

Variable: **adpchild** (sd=.18917131)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-0.83945	-0.830	0.407	-56.8	-14.7
1	-0	-0.29505	-0.391	0.696	-25.6	-5.4
2	-1	0.83945	0.830	0.407	131.5	17.2
2	-0	0.54440	0.542	0.588	72.4	10.8
0	-1	0.29505	0.391	0.696	34.3	5.7
0	-2	-0.54440	-0.542	0.588	-42.0	-9.8

Variable: **gchild** (sd=.42927286)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.52768	0.920	0.358	69.5	25.4
1	-0	-0.69204	-1.757	0.079	-49.9	-25.7
2	-1	-0.52768	-0.920	0.358	-41.0	-20.3
2	-0	-1.21972	-2.068	0.039	-70.5	-40.8
0	-1	0.69204	1.757	0.079	99.8	34.6
0	-2	1.21972	2.068	0.039	238.6	68.8

Variable: **sibling** (sd=.18917131)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.12304	0.125	0.900	13.1	2.4
1	-0	0.82224	1.099	0.272	127.6	16.8
2	-1	-0.12304	-0.125	0.900	-11.6	-2.3
2	-0	0.69921	0.714	0.475	101.2	14.1
0	-1	-0.82224	-1.099	0.272	-56.1	-14.4
0	-2	-0.69921	-0.714	0.475	-50.3	-12.4

Variable: **employment** (sd=.40710431)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	1.11135	2.212	0.027	203.8	57.2
1	-0	0.14660	0.376	0.707	15.8	6.1
2	-1	-1.11135	-2.212	0.027	-67.1	-36.4
2	-0	-0.96475	-1.791	0.073	-61.9	-32.5
0	-1	-0.14660	-0.376	0.707	-13.6	-5.8
0	-2	0.96475	1.791	0.073	162.4	48.1

Variable: **income** (sd=.44260642)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-0.94767	-1.880	0.060	-61.2	-34.3
1	-0	-0.38250	-0.888	0.375	-31.8	-15.6
2	-1	0.94767	1.880	0.060	158.0	52.1
2	-0	0.56517	0.989	0.323	76.0	28.4
0	-1	0.38250	0.888	0.375	46.6	18.4
0	-2	-0.56517	-0.989	0.323	-43.2	-22.1

Variable: **assetvalue** (sd=.49280472)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.80419	1.912	0.056	123.5	48.6
1	-0	0.23414	0.723	0.470	26.4	12.2
2	-1	-0.80419	-1.912	0.056	-55.3	-32.7
2	-0	-0.57006	-1.252	0.211	-43.5	-24.5
0	-1	-0.23414	-0.723	0.470	-20.9	-10.9
0	-2	0.57006	1.252	0.211	76.8	32.4

Variable: **aminherit** (sd=.16216975)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-0.05190	-0.041	0.968	-5.1	-0.8
1	-0	-0.77216	-0.887	0.375	-53.8	-11.8
2	-1	0.05190	0.041	0.968	5.3	0.8
2	-0	-0.72026	-0.567	0.571	-51.3	-11.0
0	-1	0.77216	0.887	0.375	116.4	13.3
0	-2	0.72026	0.567	0.571	105.5	12.4

Variable: **health** (sd=.35247393)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.39081	0.689	0.491	47.8	14.8
1	-0	0.69255	1.586	0.113	99.9	27.6
2	-1	-0.39081	-0.689	0.491	-32.3	-12.9
2	-0	0.30174	0.487	0.626	35.2	11.2
0	-1	-0.69255	-1.586	0.113	-50.0	-21.7
0	-2	-0.30174	-0.487	0.626	-26.0	-10.1

Variable: **disability** (sd=.12887015)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-0.45955	-0.327	0.743	-36.8	-5.8
1	-0	-0.99960	-0.883	0.377	-63.2	-12.1
2	-1	0.45955	0.327	0.743	58.3	6.1
2	-0	-0.54004	-0.366	0.714	-41.7	-6.7
0	-1	0.99960	0.883	0.377	171.7	13.7
0	-2	0.54004	0.366	0.714	71.6	7.2

Variable: **charity** (sd=.26774115)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	0.72424	0.896	0.370	106.3	21.4
1	-0	0.63533	1.162	0.245	88.8	18.5
2	-1	-0.72424	-0.896	0.370	-51.5	-17.6
2	-0	-0.08891	-0.110	0.912	-8.5	-2.4
0	-1	-0.63533	-1.162	0.245	-47.0	-15.6
0	-2	0.08891	0.110	0.912	9.3	2.4

Variable: **imbeq** (sd=.29270563)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-2.10538	-1.876	0.061	-87.8	-46.0
1	-0	0.74367	1.595	0.111	110.4	24.3
2	-1	2.10538	1.876	0.061	721.0	85.2
2	-0	2.84905	2.501	0.012	1627.1	130.2
0	-1	-0.74367	-1.595	0.111	-52.5	-19.6
0	-2	-2.84905	-2.501	0.012	-94.2	-56.6

Variable: **religiosity** (sd=.39223206)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-1.99683	-3.243	0.001	-86.4	-54.3
1	-0	0.06511	0.159	0.874	6.7	2.6
2	-1	1.99683	3.243	0.001	636.6	118.9
2	-0	2.06194	3.143	0.002	686.1	124.5
0	-1	-0.06511	-0.159	0.874	-6.3	-2.5
0	-2	-2.06194	-3.143	0.002	-87.3	-55.5

Variable: **law** (sd=.45888366)

Odds comparing Alternative 1 to Alternative 2		b	z	P> z	%	%StdX
1	-2	-0.40996	-1.005	0.315	-33.6	-17.1
1	-0	-0.75383	-2.186	0.029	-52.9	-29.2
2	-1	0.40996	1.005	0.315	50.7	20.7
2	-0	-0.34386	-0.736	0.462	-29.1	-14.6
0	-1	0.75383	2.186	0.029	112.5	41.3
0	-2	0.34386	0.736	0.462	41.0	17.1