

Family Fiqh in Malaysia

An Analysis of the Selected Issues

Editors

Sayed Sikandar Shah Haneef
Mek Wok Mahmud
Mohammed Farid Ali Al-Fijawi
Mohd Abbas Abdul Razak
Raudlotul Firdaus Fatah Yasin

Foreword by

Professor Emeritus Tan Sri Dato Dzulkipli Abdul Razak
Rector, International Islamic University Malaysia

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The discourse on family *fiqh* in Malaysia within the broader national agenda of “strengthening Islamic family values” to maintain its indigenous Islamic characteristics in the age of globalization is a part of larger scholarly discussion on constructing local *fiqh* (*al-fiqh al-mahalli*) for Muslims. For such *fiqh* to evolve, a broader understanding of multifaceted aspects of the local family institution, its current problems and concerns warrant serious academic researches and evidence-based analysis. Therefore, scholarly papers contained in this book will fulfil this need in several ways including: first, some studies outline the juristic framework for contextualizing local factors into the Islamic methodology of renewal and reform; second, other researches evaluate the existing family laws with the prime purpose of suggesting relevant legislative and policy recommendations; third, some other studies deliberate on enhancing financial and the economic wellbeing of the family by advocating the introduction of more family-oriented Shariah-compliant services and products; fourth, a few studies focus on the family health by proposing that the existing policies on vaccination and pre-marital HIV screening need further improvements; and lastly, one study calls for integrating more religiosity elements into policies on career-women to enable them to better cope with the double task of family commitments and job responsibilities.

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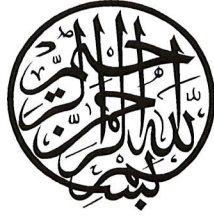
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Foreword

Islamic Law (*Shariah*) and its Science of Islamic jurisprudence (*fiqh*) have always taken cognisance of the time-space requirements of the Muslim Ummah via their numerous inbuilt methodological principles (*usul al-Fiqh*). This is befitting of a legal system the overall underlying objective of which is the preservation of holistic human wellbeing not only by regulating human behaviour but guiding, inspiring and encouraging righteous conduct amongst its adherents. This necessitates accommodation of local factors (*urf* and *adat*) not only for the actualization of *Shariah* objectives of creating wholesome individuals and society but also to reaffirm that *Shariah* is a mercy to mankind as it is neither a harsh system of sovereign legal commands (ordinances) in the Austinian sense nor is a law without a solid foundation, always in a state of flux, vacillating on the basis of human whimsical desires (*hawa*), as American Realists contend. A compassionate approach to any discourse in general and family matters, in particular, has always been a salient feature of *fiqh* where Islamic legal commands have negotiated their ways through customary practices and usages of every communities at both levels of juristic constructions and application. In fact, by accommodating the customary practices of a community in family matters, the *Shariah* takes into consideration the needs (*daruriyat*), interests (*masalih*), and protection from corruption (*dar' al-mafasid*) for the family

institution. This is the very substance of *Rahmatan lil-Alamin* (Mercy for all).

The family institution is the very backbone of any civilization including Islamic civilization. It not only lumps up communities to make cities, but also builds individuals who steer the rise of civilization. Like the mother who is the first teacher, the family is the first nurturer (*murabbi*) of an individual. The innate disposition instilled in them will decide in which direction individuals will turn the civilization. Imbalanced individuals as history have witnessed were instrumental in moral decadence of civilisations deteriorating it to the ground. For this reason, IIUM has taken the *Insan Sejahtera* framework seriously in order to develop holistic individuals who can excel in the sustainable development of the Ummah while maintaining the values of humanity. In view of the above, I believe that the initiative by the Contemporary *Fiqh* Research Unit of Islamic Revealed Knowledge and Human Science, to publish its Seminar papers which it organizes in collaboration with Kulliyah Ahmed Ibrahim Law and International Institute of Islamic Bank and Finance is a creative idea. The chapters are written by experts from *Fiqh*, law, banking and finance and other relevant fields who engage on discourses relevant to various themes of family *fiqh* with the prime purpose of underlining the paramount importance of evolving Malaysian family *fiqh*, on the face of erosive outside influences damaging to Islamic values of family, its enhancement and subsistence. I congratulate the authors and hope that the ideas raised in their papers not only educate the public but enlighten the stakeholders for policymaking to strengthen family institution to serve the national agenda of nurturing and building *insan sejahtera*.

Professor Emeritus Tan Sri Dato Dzulkifli Abdul Razak

Rector, International Islamic University Malaysia

Introduction

In the name of Allah, the Most Gracious, the Most Merciful.

The family institution stands as the most crucial pedestal for the creation, establishment and sustaining well balanced harmonious individuals and society from an Islamic perspective. The *Shariah* in the broad sense of a divine system of principles of belief, code of ethics and juridical-legal rules aims at realizing the overall wellbeing of humans and family. To actualise this, it regulates the minutest details of family issues and concerns primarily on the basis of mutual respect, care and sense of belonging as it is a private sphere whose smooth running requires more of moral commitment than coercive intervention by external parties on its domain unless it fails on its moral grounds. The Qur'an for instance, declares spousal mutual kind treatment (*mu'shirah bi al-ma'ruf*) as the bedrock of a fulfilling marital life and mandates benevolence (*ihsan*) as the core principle of fulfilling mutual expectations among family members without quantifying their amount but leaving them to what is customary (*bi al-ma'uruf*) and humanly possible in the circumstances. It is in this context that local customs (*urf/adat*) and usages occupy the most central positions in the juridical discourse on the legal formulation as well as judicial settlement of issues revolving around family. Consequently, practically local factors' presence in the *legal corpus* of Islamic family

jurisprudence, Islamic family law and Islamic finance continues to have their impacts on them in line with the established principles of legal theory and its supplementary legal principles. Therefore, being premised on this thesis, the chapters contained in this handbook offer a wealth of scholarly insights into various themes, encompassing financial mechanisms and institutions affecting family along with sociological factors which have strong bearings on women and children's wellbeing. These chapters, in a nutshell, being written by experts from multiple disciplines of *fiqh*, Islamic family law, Islamic banking and finance, economics and human sciences raise numerous *fiqhi* issues to enrich the local discourse on the development of family *fiqh* in Malaysia. The outlines of some of the crucial issues of family *fiqh* emerging from the chapters we thematically present here.

As a prelude to the pivotal place of *urf* in Islamic family *fiqh*, it is contended that custom must fulfil several mandatory juridical parameters to be assimilated into the body of Islamic family *fiqh*. It must be wholesome, rational and does not contravene fixed principles of family *fiqh* and their underlying philosophies and effects. To enunciate such a regulated use of *urf* in legal deduction and application, a selected sample of how the classical jurists pragmatically negotiated the way for the absorption of their local customs into family *fiqh* to establish and sustain a family and manage the aftereffects of its dissolution, featured in this book can be enlightening.

The applied family *fiqh* in Malaysia tends to be more pragmatic not only in terms of expanding the *Shariah* court structure, equipping it with modern technological facilities but also through judicial management of irregularities in the process of marriage, reconciliation, marriage dissolution and its aftereffects. Nevertheless, public perception of judicial management of family matter is a *fiqhi* point for clarification. For

Introduction

instance, matrimonial offences, such as non-registration of marriage and divorce or a husband's neglect to provide maintenance to his wife and children are seen as merely civil matters by the public. Hence, it is argued that legal authorities need to convince the public about *Shar'ī* bases of such criminalization.

Despite numerous milestones, critics, however, believe that *Shariah* courts and their laws are either slow in catching up with new requirements of families or they are not robust enough to minimize/overcome the problem of non-compliance with judicial procedures. For instance, it is argued that on account of the dichotomous position of the law and *Shariah* court practices on issues like non-legal recognition of extra-judicial *talaq* while still validating it subsequently, and its oppressive impact on women, there is a need for a consistent approach on the subject by abolishing the validation process of unilateral *talaq*. The process of reconciling quarrelling couples to save their marriage is another aspect which needs reform. It is contended that the current process is lengthy and involving family members in the process is also unnecessary. Hence, it is contended the courts need to involve professionals in the conciliation process and shorten the procedure in order to speedily dispose of the cases.

Likewise, the existing Laws and procedures for child protection in Malaysia are criticized as inadequate. For instance, although adoption laws declare “best interest of the child” as the paramount consideration in granting the application for adoption, its detailed elements need to be clearly spelt out to actualize it. The Islamic idea of *kafalah* to provide social placement for parentless children also needs to be incorporated in the present legislations on adoption as part of Islamization of the law, since adoption is unlawful in Islam. It is also contended that *kafalah* is important in ending the institutionalized child care system which is in vogue in Malaysia. This would serve better the

family needs of the child care which other mechanisms can not realise.

Technological advancement has both disruptive and positive effects on family values and its legal management. Its positive side to create healthy citizens such as the legal imposition of pre-marriage HIV screening on Muslims needs to be extended to all Malaysian citizens, regardless of their religious affiliation. However, some technological means are suspected to have negative effects on family wellbeing, such as immunization of children against serious preventable diseases through vaccination. For instance, it is found that 59% of parents in Malaysia do not prefer their children to be vaccinated, thus, it needs to be pragmatically resolved.

In addressing the problem of financial management of family wealth, it is argued that public education about prudent ways of managing family wealth and its finances in line with the hierarchies of *maqasid al-Shariah* would go a long way in saving families against lavish and unthoughtful spending as they can prioritize between necessities, needs and extravaganza on top of foreseeing the consequences of poor financial planning or not planning at all. This is particularly important for Malaysians as the present mismatch between the cost of living and family income makes it hard for families to counterbalance their incomes with what they spend.

The wellbeing of career women in the competitive global world is a subject of concern, especially where a working women has to balance between family and work responsibilities. The amount of stress and mental pressure on working women and their wellbeing has impelled the government in Malaysia to formulate several policies and enact laws to manage work-family imbalance. However, it is contended that ultimately it is the religious awakening as a measure of self-regulation which can preempt the

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occurrence of the phenomenon.

All in all, the foregoing deliberation leads us to conclude that local family *fiqh* in Malaysia at both theoretical and applied levels need not only has to strike a balance between the ideals of *fiqh* and pragmatic needs of its thoughtful application in real life but also has to take into consideration the dynamics of change in contemporary time. It has to reconstruct *fiqhi* postulates to solve practical problems of family anchored on Islamic framework for reform and renewal. It has to work out internal resistance mechanisms to sustain Muslim family institution against the destructive ideological and institutional onslaughts of ideologies alien to the Islamic conception of family and its wellbeing. This requires not only collaborative intellectual engagement amongst jurists and legal academics but also serious partnership with social scientists and finance experts.

Last but not least, we would like to record our heartfelt thanks to Professor Emeritus Tan Sri Dato Dzulkifli Abdul Razak, Honorable Rector of the International Islamic University Malaysia for penning a foreword to the book. We also express our thankfulness to International Book Trust for facilitating its publication. Last but not least, our thanks to the funder of the research grant project, Yayasan Bukhary, through our former Head of Contemporary *Fiqh* Research Unit, distinguished Professor Dato' Mahmood Zuhdi Ab Majid, can hardly be expressed in words without whose generous sponsorship of our research project on local family *fiqh* in Malaysia, this would not have been possible.

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Mohd Abbas Abdul Razak

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Family Wealth Management and Finance



Chapter 10

Family Financial Management: Organizing the Financial Aspects of the Family-based on *Maqasid al-Shariah*

Mohammad Shihan & Abdulhamid Mohamed Ali Zaroum



Chapter 11

Overview of the practice of *Hibah Amanah* by Islamic Banking and Financial Institutions in Malaysia and its Compliance with Islamic Legal System

Nor Azdilah Mohamad Zaizi & Rusni Hassan



Chapter 12

Economic Benefits of Online Marriage During Covid-19 Pandemic : A Maqasidic Analysis in the Malaysian Context

Nur Farhah Mahadi and Saidatolakma Mohd Yunus



Chapter 13

The Intention of Muslim Young Adults to Participate in Family *Takaful* Scheme

Omar Luqman Safuani and Rusni Hassan



Chapter 14

A Conceptual Study on Investment-linked *Takaful* Product: Protecting Life and Wealth for Family Institution

Mariam Abdul Aziz, Nur Harena Redzuan and Habeebullah Zakariyah



Chapter 15

Is Malaysia in the Middle-Income Trap? Symptoms, Challenges and Remedies

Salina Kassim, Norizan Satar and Habeebullah Zakariyah



Chapter 16

**Achieving Financial Inclusion: A Comparative Discourse
between Islamic and Conventional Finance Approaches**

Adi Saifurrahman and Salina Kassim

Family Financial Management: Organizing the Financial Aspects of the Family Based on *Maqasid al-Shariah*

Mohammad Shihan*
Abdulhamid Mohamed Ali Zaroum*

Introduction

Islamic *Shariah* is a way of life that directs humanity for the well-being in this world and the salvation in the hereafter. Thus, it is vital to understand anything from its comprehensive world view. Indeed, according to Islamic *Shariah* wealth is given by Allah and He is the sole owner of all wealth and he has given it to human beings as trust and for the test. Accordingly, this article aims to examine some notions related to family financial management. The two higher objectives of *Shariah*, namely preservation of family system and wealth, are interconnected and each depends on others. So, to understand the interconnection it is important to have a comprehensive idea about both objectives because it leads to comprehending the importance of having a

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proper method for financial management. Financial management is to enhance the prosperity of life in line with *Shariah* and pursue the satisfaction of Allah in the hereafter. A Muslim is accountable for all kinds of financial conduct as it is '*Amanah*' and test of this world. So, as a Muslim family, it is imperative to have a scientific system of financial management. Accordingly, *Shariah* encourages that everything should be in its due order and to function accordingly for the wellbeing of people. In another way, the family is a micro-society and its order and disorder in every realm have negative or positive impacts on society at large. Further, the lack of knowledge about managing financial activities leads to many disorders and problems in the family. The lack of literacy among Malaysians has a significant impact on their life. This will be discussed in this chapter. So, it is imperative to enhance the family's financial conduct based on principles and values for the sake of the community. The well-being of the family institution relies on financial management. This study aims to propose *Maqasid al-Shariah* based concepts to minimize the financial challenges and disturbances among Malaysians.

Meaning of Financial Management of the Family

Generally, there is no specific definition for family financial management. Nonetheless, financial management experts have found different definitions of financial management. Thus, financial management is a vital activity in any organization. It is the process of planning, organizing, controlling and monitoring financial resources to achieve organizational goals and objectives (Fundsforngo 2019, para 1). Also, financial management is a set of administrative functions in an organization which is related with the arrangement of cash and credit so that organization may have the means to carry out its objective as satisfactorily as possible (Howard and Opton 2019, Para 3). Furthermore, it is worth noting a definition which is defined in line with *Shariah*.

‘Financial planning or management is an area concerned with decisions and activities related to finance. Thus, the outlook of *Shariah* on wealth and finance is of crucial importance in Islamic finance. Further, in the *Shariah* viewpoint, wealth, material and mental resources are given to man is a trust which should be used for personal and social well-being’ (Zurina 2013, 137). From the above-mentioned definitions, it can be said that financial management aims to manage the activities of an organization related to financial conduct to achieve the intended objectives and goals. Accordingly, the financial activities of the family institution need some general principles to make their financial activities succeed.

The Meaning of *Maqasid al-shariah*

According to Imam Al-Gazali, ‘there are five objectives of *Shariah*, namely protection of faith, life, wealth, reason, and progeny. Hence, whatever leads to their preservation is termed as *Maslahah*. In contrast, ‘*mafsadah*’ means things that harm these five essentials, so it might be prevented and eliminated’ (Rysuni 2014, 90). For Imam Shātībī, every Qur’anic texts and Prophetic tradition that contain Islamic ruling must have a particular objective intended by the Lawgiver where that purpose (*maqsid*) must cause to achieve a benefit for humanity (*maslaha*) or prevent harm (*mafsadah*) (Yasir 2014, 39-60). In addition, to Ibn Ashur for the general objective of *Shariah* ‘*maqsad amm*’ of *Shariah* is the promotion of well-being and righteousness (*salah*) of human beings (Ibn Ashur 2006, 87). Accordingly, he notes that the overall objective of *Shariah* is to set things to rights and remove corruption in all kinds of human activities (Ibn Ashur, 88). Therefore, Nyazee notes that ‘*Maslahah* is the securing of objectives or values that the Lawgiver has determined for the *Shariah*’ (Nyazee 2003, 197). In this line, setting proper financial management for the family aims at the enhancement of the well-

being, benefit, advantages for the family and warding off evil, harms, loss, *etc.* from it. Thus, *Maqasid al-Shariah* proposes some principles to enhance financial management.

Interconnection between Preservations of Family Institution and Wealth

The stability of family institutions highly relies on its financial factor, particularly in the present context ever before in human history because all human conducts are mostly dependent on finance. If there is no money, then there is no prosperity in life. For example, poverty is measured based on individual income. *Shariah* has the utmost concern about the preservation of family institutions. Accordingly, one of the variables of *Maqasid al-Shariah* is the protection of progeny which is presently proposed as the preservation of the family institutions. In classic scholarships on *Maqasid al-Shariah*, the protection of family institutions was limited to the protection of progeny '*nasl*'. Hence, *Shariah* has sanctioned punishment for unfaithful partners to preserve the progeny (Zuhri 2019, 1983-1902). Ibn Ashur expanded preservation of *nasl* to preservation of the family institution (Ibn Ashur 2006, 241-263). Accordingly, Gamal Attia proposed seven objectives pertaining to the family among them the financial aspect of the family (Attia 2007, 124-131). Hence, the well-being of the family depends on family financial elements. All endeavours and activities of the family rely on financial elements such as basic needs food, home, health, education, security, and others.

The above shows that the well-being of the modern family largely depends on sound financial strength. In the classical view of the preservation of wealth, al-Juwayni and al-Gazali illustrated the protection of wealth from theft by cutting off the hands of thieves. Al-Shatibi views the preservation of wealth as the

prohibition against injustice, depriving orphans of their properties, wastefulness, envy, giving short measure and weight and corruption in the world. According to Ibn Ashur, the preservation of wealth means the protection of the wealth of the Ummah from being abandoned and from shifting to the hands of others without compensation (Ibn Ashur 1997, 38-349). Further, he pointed out that the preservation of the wealth of individuals leads to the preservation of the community's wealth. Because the preservation of all is achieved through preserving its constituent parts' (Ibn Ashur 2006, 117). Indeed, this view is vital lest an individual's property in the Muslim minority community is not undermined when it is destroyed intentionally or accidentally. Further, Attia said that the preservation of wealth means; not only the wealth of individuals but also the wealth of family and Muslim ummah (Attia 2007, 123). Umar Chapra makes a significant note that the importance of wealth is not less than all other essentials. But it is important as the other four primary *Maqasid* because without it other four may not function to ensure general well-being (Chapra 2008, 34). Accordingly, the preservation of wealth relies on one hand, by successful utilization and fair distribution on the other hand, by preservation from wastefulness. Therefore, the family institution needs some principles and methods for its successful wealth management.

Collation of the Financial Aspect of the Family as an Objective of *Shariah*

Islamic *Shariah* has more concern about the preservation of family institution thus, the Qur'an and Sunnah are filled with many different teachings. Furthermore, *Shariah* aims to direct the financial conduct of people properly to maintain good relationships among them (Ibn Ashur 2006, 279-296). Accordingly, *Shariah* has sanctioned different rules and regulations to organize financial assets such as rules of earning,

and rules related to inheritance (*mirath*), will (*wasiyyah*), and maintenance (*nafqat*). According to the Islamic worldview, as this world is a temporary station and test, achieving salvation (*falah*) is the main objective. Zurina defines *Falah* as success in this world and the hereafter, that means Muslims must struggle in the way of Allah with his wealth and self. So, having a proper financial plan in line with *Shariah* helps to achieve *Falah*. (Zurina 2013, 146).

It is important to propose some principles from *Maqasid al-Shariah* perspective to plan, organize and control and monitor the financial distribution of a Muslim family, hence avoiding harms and enjoyment of benefits can be realized. Even though the preservation of family and wealth are among the higher objectives of *Shariah*, scholars of *Shariah* have paid less attention to this vital area. The classical and modern *Maqasid* scholarships rarely discuss the financial aspect of the family. Particularly, Jamal Attia has proposed *Maqasid* related to the family where he brought collation of the financial aspect of the family as an objective of *Shariah* (Attia 2007, 130). The meaning of family financial management from *Shariah* perspective is to plan, organize, monitor and control the financial activities of Muslim families following the principles deliberated by *Shariah*. All this management is needed to enhance the well-being of the family in this world and the hereafter which is *Falah*. Therefore, *Shariah* has drawn three conditions related to the acquisition and distribution of wealth. First, wealth must be earned by righteousness means. Secondly, wealth must be managed in a highly responsible manner to benefit not only its owner and family but also the community at large. Thirdly, wealth does not distract Muslims from the remembrance of Allah (Zurina 2013, 11-12).

Islamic Perspective on Wealth Acquisition and Distribution

Islam always promotes moderation and its commands and prohibitions are based on the human natural disposition that means according to human nature. The Creator Almighty Allah knows human has needs. He has sanctioned a moderate life between human physical needs and spiritual needs. Thus, He states,

“And when the prayer is finished, then may ye disperse through the land, and seek of the bounty of Allah, and celebrate the praises of Allah often and without stint: that ye may prosper”—al-Qur’an 62:10.

Accordingly, *Shariah* possesses a moderate approach to worldly matters. Thus, Prophet said ‘The best among you are not those who neglect this life for the hereafter, nor those who neglect the hereafter life for the sake of this life. Rather, each of them serves as a path leading to come the other’ (Attia 2007, 212). At this juncture, it is clear that ‘*Zuhd*’ does not mean rejection of pleasure but it denotes a pious life by one’s ability to live moderately and within his mean. (Zurina 2013, 146). Accordingly, Rahman emphasized, “wealth is good and necessary to create a just, healthy and progressive social order but it cannot become the sole purpose of life” (Burhanuddin 2019, 59-82). Thus, Selamah Abdullah Yusuf defines ‘*Mal*’ in the Islamic perspective as all the resources which Allah has made subservient to His vicegerents and can be defined as anything that can be owned and has value, including the rights and benefits of ownership’. Further, he denotes that ownership of rights for human beings based on the concept of *Khilafah*, where Allah is the sole owner of wealth and human beings are trustees and custodians (Selamah 2018, 185-203). *Shariah* has given utmost importance to the preservation of wealth and it has drawn principles for its acquisition and distribution.

Financial Disorders among Malaysians

Presently, Malaysia is a significant Muslim majority country for its moderate approach towards Islam and leading position in education and economy. According to the research of Hussain Askari of George Washington University that Malaysia is seizing 38th place among all countries and the first place among traditional Muslim countries that apply Islamic principles in their daily life (Askari 2018, para 8). Nonetheless, government reports and news show that Malaysian family institution faces terrible challenges and problems presently, mainly the economic factor has a considerable impact on its stability. Accordingly, Syed ZulBakri said that lack of financial literacy is an issue among Malaysians and further he noted that it has been reported that an astounding 90% of rural households do not have any savings at all. For urban households, 86% have zero savings. He elaborates on the condition further saying that Malaysians are still unable to make responsible financial decisions for their well-being and they like to 'live for the moment' and do not practice long term financial planning (ZulBakri 2018, para 1-3). He revealed another important disorder related to financial conduct saying that Malaysians are not able to make rational financial decisions and are easily attracted to 'get rich quick' schemes. Thus, between 2015 to 2017, 1883 cases were recorded related to financial scams (ZulBakri 2018, para 5). It is important to make a note that the economic factor is the main reason for divorce, and it is said that nearly half of the marriages end in divorce due to the economic factor. The former Deputy Women, Family and Community Development Minister Hannah Yeoh said, yearly, financial issues rise to the top as the main reasons which causes divorce. Thus, for 2018, out of 6,901 cases which were referred to the tribunal, 2,971 cases were related to financial problems in the family (Nita Jay 2019, para 1-2). Also, Malaysians should learn to minimize their expenditures for their wedding. For example, Ruxana interviewed

a Malay woman who spent around 100 thousand ringgits for her Nikah and reception (Ruxana 2017, para 1) .

Khazanah Research Institute (KRI) found that Malaysians have the habit or addiction to high consumerism even though they do not have enough money. So, many households owning discretionary durable goods such as television, washing machines, refrigerators, cars, and motorcycles, despite their relatively low-income levels. But, most of them are not in affordable financial condition to buy all those high valued items with cash; so, they do it on credit (KRI, 2019 para 7-8). Azreen Hani worries that the uncontrolled credit card usage and excessive personal loan borrowings dragged thousands of Malaysians, many of whom are married, into bankruptcy and are adding a financial strain to families. Further, she pointed out that statistics from the Malaysian Department of Insolvency showed over 95,000 individuals have been declared bankrupt between 2014 and 2018 after failing to honor their borrowings with lenders (Hani 2019, para 1). She said, “Our survey shows that most Malaysians have the knowledge, but literacy or skills and education are areas that we can improve on’ (Hani 2019, para 10). Accordingly, the above-mentioned reports and research findings depict that the financial status has a great impact on the daily life of Malaysian even it is the main reason for divorce too. Further, as it is emphasized by some experts above the way to minimize the problem is to take some necessary measures to improve financial literacy among the citizens. Thus, the application of the following notions from *Maqasid al-Shariah* can largely help Malaysians to minimize their financial disturbances by organizing them properly.

Understanding the Levels of Needs

Understanding the levels of needs is an important factor in financial management particularly during the distribution of

portion for family needs and wants. So, family management should understand their level of needs to give due position. Thus, the classification of *Maqasid* based on the level of importance here largely helps to realize the family wants. Accordingly, Imam al-Gazali first proposed three levels of *Maqasid* namely essentials (*daruriyyat*), exigencies (*hajiyyat*) and enhancements (*tahsiniyyat*). This classification is based on the order of importance or in other words by the level of necessity (Najjar 2008, 46-48). It means the first level of necessity must be given precedence over the other two levels, the needs, and luxuries, respectively and in the same way the needs are preferred over the luxuries (Bin Bayyah 2012, 87). This applies to any situation to make effective decisions. Hence, it is important here to relate these three categories with family financial management mainly with the factor of distribution.

Level of Necessity or Essentiality

Essential means the things which are more essential and vital for survival or the absence of such things lead to the collapse of life. To simply understand this, in the *Maqasid* discourse, the essential includes preservation of life, religion, progeny, property, and intellect. These are the five essential interests (*masalih*) or objectives (*maqasid*) of life. Some jurists added the preservation of honor (*Ird*) as the sixth essential *maqasid* (Auda 2008, 4). Further, Acac Marybeth notes essential means ‘things which are essential for the accomplishment of human beings’ spiritual and material well-being’ (Acac 2015, 59-78). Another definition says ‘the essentials are the self-interests upon which people essentially depend’ (Dusuki and Abdullah 2007, 25-45). So, based on the definitions of essentials it can be derived that a family has many essential needs and requirements without them the institution will lose its stability, dignity and will collapse considerably. Accordingly, in present-day, a house, food, water, electricity,

toilet, and security are classified under the category of essentials, because, for these things, a family cannot depend on others. Attia said 'with the development of urban life, running water and electricity are raised to the level of essential' (Attia 2007, 71).

Level of Exigency

This is called *hajiyyat* which is complementary interest. In the words of Ibn Ashur⁶, this type of *Maqasid* consists of what is needed by the (community) family for its proper functioning and by lacking these *maqasid* the family (social) order will not collapse but will not function well (Ibn Ashur 2006, 119). Thus, it is defined as benefits that seek to remove severity and hardship that do not pose a threat to the very survival of normal order of life. For example, having enough rooms in a house for family members, having healthy food and the availability of running water supply. Further, Attia noted that the refrigerator, washing machine, and telephone, elevator in flats come under the level of exigency. Further, he added to the realm of diet availability of a verity of food, regular meals to the level of exigency (Attia 2007, 70-71).

Level of Embellishment/Enhancement

Kamali explains the third class of *Maqasid*, identified as *tahsiniyyat*, that they are desirability as they seek to attain refinement and perfection in the customs and conduct at all levels of achievement (Kamali 2008, 4). This kind of wants of the family is related to luxuries of life such as painting home, buying a sofa, maintaining the home garden, *etc.* According to Attia, things such as appliances, services, air-condition, private own vehicle, and eating with table etiquettes such as using plates, spoons, forks, and knives at the dinning-table are *tahsiniyyat* (Attia 2007, 70-71). An important point to be noted here is that these requirements and

wants at different levels might differ for each family, rather they are not built on stone. It is decided based on their income and established customs among them. Even this difference may occur based on the living area such as an enhancement in a rural area that can be an exigency in the urban area. For example, the dwelling with running water and electricity was considered under the level of exigency but with modern development, those things are elevated to the level of essentials (Attia 2007, 70-71). So, each family has its classification based on its needs. So, this general framework gives a common understanding of the level of importance. Thus, all levels are interconnected and mutually dependent. Further, flexibility and the mechanism of change in the decision-making process depends on different circumstances, time and space (Dusuki and Abdullah 2007, 25-45).

The Skill of Prioritization and Habit of Consultation

The skill of prioritization is closely related to the previous subject. Because emerging conflict of interest between family members (between spouses or parents and children) when they have different needs simultaneously is normal. Therefore, they might enhance the habit of consultation among them to solve different interests. This is incumbent for the well-being of a family. Thus, they have some principles and guidelines to be followed when they choose what is important for an occasion. Allah encourages consultation in family affairs and generally.

“Who conduct their affairs by mutual consultation”—al-Qur’an 42:38;

“Do consult them in affairs”—al-Qur’an 3:159.

Earlier we classified the family needs and wants to be based on three levels of importance. Accordingly, the skill of prioritization suggests proper knowledge and mutual understanding among family members to make a suitable decision for an occasion. This

is because acknowledging the need for prioritization in needs minimizes the conflict of interests among spouses and family members.

Planning Future and Looking for Consequences to Avoid Harms and Secure Benefits

Planning the future and looking into the consequences of today's financial activities are important. Thus, the notion of consequentialism derives from the direct text of the Qur'an. Thus, Allah says

“Revile not ye those whom they call upon besides Allah, lest they out of spite revile Allah in their ignorance”—al-Qur'an 6:108.

Furthermore, Prophet Muhammad himself took many decisions considering the consequence of a particular action following the Qur'anic principle to attain the objective of *Shariah* i.e. to avoid harm or to attain benefit. This principle applies to all kinds of human conducts to attain *maslahah*.

In this line, *Shariah* has paid attention to take care of the financial future of our children. Thus, Prophet said to Sa'd ibn Abi Waqqas 'To leave your heirs wealthy is better than leave them destitute and forced to beg from others' (Sahih al-Bukhari, vol. 2, 81, 1295). This Prophetic tradition directs us, on one hand, towards planning the future of economic condition and on the other hand, to avoid bad consequences in the family. So, the farsighted vision of the family is pivotal for its well-being. Further, there are many traditions of the Prophet urging Muslims to plan for future endeavours and to avoid bad consequences such as Prophet said, 'utilize five before five' and he supplicated for protection from poverty. Indeed, eradication and fight against poverty is pivotal because, it reduces the human dignity be it individual or family or community or nation to a low level, thus

he becomes unable to be a witness for Din and to perform his duty as a vicegerent of God (Hassan 2017, 56). To avoid such consequences, Muslim families must have proper financial plans for their future.

Allah said,

“Verily never will Allah change the condition of a people until they change it themselves”—al-Qur’an 13:11.

Further, Prophet guided a Bedouin Arab who left his camel untied to the will of Allah “Tie the camel and then leave it to the will of Allah” (Sunan al-Tirmizi, Vol.2 p-668, 2517). All the above discourse directs a Muslim to take proper and necessary arrangements for their future and the future of their children to avoid harms. For example, divide property among children to avoid conflict after death. In this line, scholars of *Shariah* encourage to have *Takaful* to protect the wealth even in their lifetime. Hence, Zurina tries to eliminate the misunderstanding among Muslims about the concept of fate. She said ‘Many Muslims believe that the future is in the hands of Allah. While it is true that only Allah knows about the future, believing that everybody’s future is fated by Allah is incorrect. So, Muslims are asked to work hard to change the condition’ (Zurina 2013, 184-185).

Moderation and Justice in Distribution

Another important principle which Islamic *Shariah* calls for its application is moderation in financial distribution and expenditures. Many Qur’anic texts advise moderate lifestyle free of corruption for the believers.

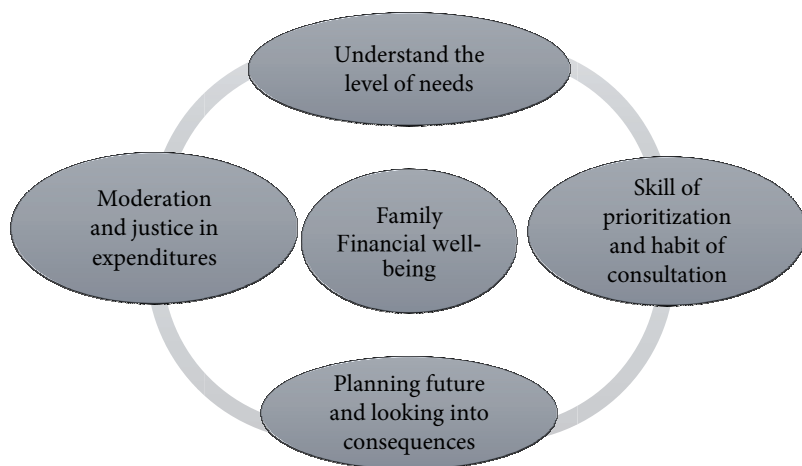
“Those who, when they spend, are not extravagant and not niggardly, but hold a just (balance) between those extremes”—al-Qur’an 25:67;

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“Make not thy hand tied (like a niggard’s) to thy neck, nor stretch it forth to its utmost reach, so that thou become blameworthy and destitute”—al-Qur’an 17:29;

“And spend of your substance in the cause of Allah and make not your own hands contribute to your destruction: but do good; for Allah loveth those who do good”—al-Qur’an 2:195.

So, *Shariah* does not encourage an excessive way of spending rather it condemns it because it brings *mafsadah* rather than *maslahah*. Besides, Prophet Muhammad ﷺ also directs people to moderate lifestyle. Further, the Prophet said on another occasion, ‘The best of all things is marked by moderation’ (Musannaf Ibn Abi Shaiba, Vol.7, p-179, 35128). Thus, all the above-mentioned texts of *Shariah* urge moderation and justice in all kinds of human conducts mainly in financial distribution. So, a family needs moderation in their financial management. Also, maintaining justice and fair treatment among wives and children are incumbent qualifications for the leader of the family.



Conclusion

The two higher objectives of *Shariah*, preservation of family institution and wealth, are interconnected while the former well-being largely depends on the latter. Accordingly, the researchers have traced the idea of financial management from Islamic viewpoint while explaining the view of *Shariah* about the acquisition and distribution of wealth. As the preservation of wealth and family institution are among the higher objectives of *Shariah*, the researchers shed light on both briefly. Accordingly, they extended the arguments that having a proper plan for the distribution of financial activities of the family is Islamically encouraged and helps to realize the well-being of the family. Meanwhile, two higher objectives of *Shariah* are interconnected, namely the preservation of wealth '*hifz al mal*' and the preservation of family Institution '*hifz al nas*'. The researchers have shed light on these two objectives briefly. Some crucial facts about the condition of Malaysian families related to financial matters were highlighted such as financial illiteracy. The lack of financial literacy among Malaysians caught the attention of many. Education is the way to solve this issue.

To organize the financial activities of the family institution the researchers elaborated some principles related to the *Maqasid al-Shariah*. The application of these principles largely helps to organize the financial activities of the family without scarifying greater financial interest for the lesser one and helps to eliminate the disorders and harms. Thus, understanding the levels of importance of essential, exigency and enhancement are explained with examples.

Occurrence of conflict of interests among the members of the family when they have different needs at different levels is unavoidable. So it is incumbent to instil the culture of consultation among them for the proper understanding of

prioritization. Also, there is no harm to plan the financial activities in the future and take some precautionary measures to avoid harms. So, the researchers presented some ideas about future planning to avoid bad and unexpected consequences. Eventually, the importance of maintaining moderation and justice in the financial activities of the family institution is elaborated. All these principles are proposed to align the financial aspect of the family with *Shariah*. Thus, the researchers strongly believe that paying attention to these principles can effectively assist Malaysians to minimize their financial stresses and secure the well-being of the family.

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