

A Comparative Study on Legislative Provisions for Obligatory Bequest in Egypt and Malaysia

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Abstract

Originally, making a bequest is a voluntary act done out of one's own will and not a Shariah-mandated necessity. However, obligatory bequest has been introduced by government in certain countries based on *ijtihad* to resolve cases where a child is prevented from receiving their grandparent's inheritance through *faraid* due to the existence of other heirs. The implementation of obligatory bequest began in Egypt through a special law and subsequently, this measure was adopted by other certain countries, including Malaysia, which was first enforced in Selangor, then followed by five other states: Negeri Sembilan, Melaka, Kelantan, Pahang, and Sabah. This study aims to determine the significance of obligatory bequest, and compare the legal provisions of obligatory bequest in Egypt and Malaysia. This study will examine the similarities and differences between the two countries in terms of the legal provisions governing the obligatory bequest. This study is conducted through qualitative research method and thematic analysis approach by analyzing a collection of documents and data obtained from observations of the practice of the laws in Egypt and Malaysia. Six Muslim Wills (State) Enactments in Malaysia and Egyptian Law of Will 1946 are analysed. The findings of this study demonstrate the viability of obligatory bequest as a means of estate planning to supplement the prevailing instruments, particularly with regard to accommodating family members who are ineligible to inherit through *faraid*. The result of this study also show that both countries have mandated that the beneficiary of an obligatory bequest must be among the grandchildren. However, in Egypt, beneficiary can be extended to great-grandchildren, whereas in Malaysia it is limited to grandchildren only. To broaden the research further, one could conduct comparisons of practices across different countries, delve deeper into the calculation methodology, and analyze pertinent court cases.

Keywords: Law, Enactment, Obligatory, Bequest, Heirs

Introduction

Obligatory bequest which is well-known as *wasiyyah wajibah* is a new term popularized in the context of will and closely related to the Islamic inheritance legal mechanisms. Essentially, a

will is an act done by one's own choice, and not obligated by Islamic law. The obligatory bequest provides a way to manage the distribution of inheritance to grandchildren who have lost their father or mother before the death of their grandfather or grandmother. The practice of the obligatory bequest has been in place in Egypt for a long time through a legal provision, followed by other Arab countries such as Syria, Lebanon, Morocco, Kuwait, Libya, Pakistan, and several other Islamic countries. In Malaysia, all matters pertaining to wills and Islamic inheritance are subject to the State Jurisdiction (List II), as stipulated by the Federal Constitution's Ninth Schedule. Thus, all these matters are under the legal jurisdiction of each State. The discussion of the obligatory bequest began to acquire traction after the State of Selangor enacted a specific provision related to the obligatory bequest in Section 27 of the Muslim Wills Enactment (Selangor) 1999. Similar provisions were later included in the Muslim Wills Enactment (Negeri Sembilan) 2004, Muslim Wills Enactment (Melaka) 2005, Muslim Wills Enactment (Kelantan) 2009, Muslim Wills Enactment (Pahang) 2017, and Muslim Wills Enactment (Sabah) 2018. So far, only these six states have specifically provided for the obligatory bequest in their respective enactments.

Objectives

This research aims to

1	Determine the importance of obligatory bequest as an estate planning instrument.
2	Compare legal provisions of obligatory bequest in Egypt and Malaysia.
3	Provide some clarification on the legal provisions of obligatory bequest that are found in Egypt's law enforcement and states enactments in Malaysia

Research Methodology

A comparative analysis approach and thematic document analysis had been applied in this research. As stated by Engberg (2020), this methodology facilitates access to legal sources from various legal systems. Moreover, it assists in research by setting up links between diverse and foreign legal settings. The relevant documents were obtained from the official websites of relevant institutions. All data, which were primarily in Malay and Arabic, were then translated into English. This study also analysed legal provisions which were enacted in Malaysia and a Egyptian law which shed light on the obligatory bequest practice as follows:

1. Muslim Wills Enactment (Selangor) 1999 (Amendment 2016)
2. Muslim Wills Enactment (Negeri Sembilan) 2004
3. Muslim Wills Enactment (Melaka) 2005
4. Muslim Wills Enactment (Kelantan) 2009
5. Muslim Wills Enactment (Pahang) 2017
6. Muslim Wills Enactment (Sabah) 2018
7. Egyptian Law of Will 1946

The Significance of Obligatory Bequest

A specific provision for obligatory bequest is not originally featured in Islamic law. Asni and Sulong (2016) expounded upon two prominent groups among Muslim scholars affirm distinct perspectives with respect to this particular practice. Those who accept the obligatory bequest practice refer to Qur'anic verses: Surah al-Baqarah (2:180), and Surah an-Nisa (4:8). While those who disagree with the practice express a widely held view that these verses pertaining

to bequest have been revoked (*mansukh*) by the revelation of verses related to *faraid*, based on following Qur'anic verses, Surah an-Nisa (4:11–12). Added to that, there is a *hadith* of the Prophet Muhammad (pbuh): "There is no *wasiyyah* to the heirs" (Al-Naysaburi & Siddiqui, 2007). Notwithstanding, contemporary Muslim scholars have introduced the obligatory bequest principle through the assimilation of the *wasiyyah* and *faraid* verses, as a means of safeguarding the portion of heirs who are excluded from inheriting any assets (Setiawan, 2017 & Rahman et al., 2020).

The scope of the ordinary bequest is more comprehensive than obligatory bequest as it allows for the transfer of assets to any individual other than those who are entitled to inherit through *faraid*. Conversely, obligatory bequest is limited to particular beneficiaries and imposed as a legal obligation, irrespective of the will of the testator (Shesa, 2018). More specifically, obligatory bequest has been promulgated to provide the orphaned grandchildren who are left without parents. In the absence of obligatory bequest, the legal position was that surviving sons of a deceased parent would disinherit the grandchildren of that parent through a deceased son or daughter before the parent's demise. The obligatory bequest has garnered considerable support from those who contend that orphaned grandchildren who are excluded from inheritance live in adverse circumstances. The rationale for enforcing the obligatory bequest principle in this scenario can be attributed to two perspectives, namely, economic necessities and familial ties. This practice is perceived to be conducive to the well-being and advantage of the beneficiaries, particularly those who are afflicted with financial hardship and health issues. Hence, they would still require assistance (Setiawan, 2017 and Lestari & Wahyuningsih, 2018). Conversely, certain beneficiaries are financially secure with aid from their close relatives. This poses a challenge for the court to substantiate the necessity of the obligatory bequest enforcement (Noor et al., 2018).

From another standpoint, obligatory bequest is capable of preserving and reinforcing family ties, as it ensures that remote or disinherited beneficiaries are still entitled to a portion of the estate. In actuality, this is aligned with the underlying objectives of Islamic law (*maqasid al-Shari'ah*). The conservation of progeny is one of the fundamental objectives of the Islamic law. The imposition of obligatory bequest is contingent upon the requirements of the beneficiaries and the directive of the court (Hadi, 2017). In fact, in the sequence of estate management, the heirs are obliged to fulfill the obligatory bequest prior to executing the deceased's other bequests (Muda & Jusoh, 2008). On the contrary, ordinary bequest can only be implemented if the testator explicitly makes a testamentary disposition, whether orally or in writing. Furthermore, there have been proposals to broaden the scope of obligatory bequest beneficiaries to include *dhawi al-arham*, who are precluded from inheritance due to their distant familial relationship with the deceased (Setiawan, 2017; Shesa, 2018; Lestari & Wahyuningsih, 2018).

The Implementation of Obligatory Bequest in Egypt

Egypt is the first country to completely reform its laws and enact a number of laws, including the Egyptian Law of Will 1946. Almost all of the provisions of the Egyptian Law of Will 1946 regarding inheritance were taken from the Hanafi school of thought. However, in some cases, there are different laws that have been considered based on the Shafi'i and Maliki schools of thought (Muzdhar & Nasution, 2003). The obligatory bequest that stated in the Egyptian Law of Will 1946 is derived from one of the religious laws that must be complied with (*taklifi*). The heirs in title are then required to put into effect the law. If the heirs do not implement it, the will shall be executed according to the regulations established by the law.

Egypt was the first country to develop a new inheritance concept for orphaned grandchildren, also known as *dhawi al-arham*, who are prevented from obtaining their inheritance rights. With the Egyptian Law of Will 1946, orphaned grandchildren are now entitled to inheritance rights through *wasiyyah wajibah*. The concept of obligatory bequest for inheritance rights for orphaned grandchildren was not originally mentioned in classical Islamic jurisprudence books. Egypt then updated its laws by discovering new laws in order to find a solution to the inheritance problems that occurred in Egypt.

Qanun al-Wasiyyah 1946 states that if a person dies and leaves behind a child, then the child will replace the deceased father or deceased mother in inheriting the grandparents' property, or by obtaining an obligatory bequest that does not exceed one-third of the estate. The idea of *wasiyyah wajibah* was proposed by Egyptian scholars to uphold justice and help orphaned grandchildren. In Egypt, the rules regarding obligatory bequests apply to all grandchildren, whether they are from a deceased son or deceased daughter (Muzdhar 1998). The regulations regarding obligatory bequest in Egypt, as stated in the Article 76, 77, 78, and 79 of Egyptian Law of Will 1946, stipulate that

Table 1

76	<ul style="list-style-type: none"> • If the deceased did not assign a bequest to the branch of his son who died during his lifetime or died with him, even if he was legally entitled to a share in his estate, or if he was alive at the time of the deceased's death, then a bequest in favor of the branch is required in the estate, to the extent of this share within the limits of one-third, provided that the beneficiary is not an heir and the deceased did not give him anything as a gift through another means of disposition, equal to what he is entitled to. If what he gave him was less than what he is entitled to, then a will must be made to make up the difference. • And this bequest shall be for the first tier of the daughters' children and for the children of the sons of the sons, and they shall inherit as long as they are not excluded by the presence of any other branches. The share of each branch shall be divided among its members, and if the inheritance is divided, it shall be as if the original branch or branches that are represented by the deceased had died after him, and their deaths were arranged in the same order as the tiers.
77	<ul style="list-style-type: none"> • If the deceased bequeaths to someone who is entitled to a bequest more than their share, the excess is a voluntary bequest, and if he bequeaths to them less than their share, they are entitled to what makes up the difference. • If he bequeaths to some of those who are entitled to a bequest but not to others, those who have not been bequeathed will receive their share. • The share of those who were not bequeathed will be taken from the remaining one-third and the share of those who were bequeathed less than their due will be fulfilled from it. If that is not enough, then it will be taken from what is occupied by the voluntary bequest.
78	<ul style="list-style-type: none"> • The obligatory bequest takes precedence over other bequests. • If the deceased does not bequeath to those who are entitled to a will and bequeaths to others, each person entitled to a will shall receive their share from the remaining one-third of the estate, if available, otherwise from what remains of the estate and what was bequeathed to others.
79	<ul style="list-style-type: none"> • In all the cases set forth in the two preceding articles, the remainder of the voluntary bequest shall be divided equally among its deserving beneficiaries, taking into account the provisions of the voluntary bequest.

Source: *Egyptian Court of Cassation*

According to Ramulyo (1995), the Egyptian Law of Will 1946 appears to provide an opportunity to make a will to a person who is entitled to inherit without depending on the permission of the heirs, such as allowing a will to be made to someone who does not receive the inheritance or *dhawi al-arham*. Abubakar (1998) stated that the impetus to include the provisions of the Egyptian Law of Will 1946 was also due to the reality that children whose father had died did not receive an inheritance because they were shielded by their father's siblings. Even though someone intended to leave a bequest for the orphaned grandchild,

unforeseen circumstances, such as a sudden death, prevented the bequest from being conveyed. Thus, the obligatory bequest became necessary and crucial at such a time.

The Implementation of Obligatory Bequest in Malaysia

The Beneficiary of Obligatory Bequest

Based on the legislation in Malaysia, specifically under Section 27 of the Muslim Wills Enactment (Selangor) 1999, the Muslim Wills Enactment (Negeri Sembilan) 2004, the Muslim Wills Enactment (Melaka) 2005, Muslim Wills Enactment (Kelantan) 2009, Muslim Wills Enactment (Pahang) 2017, and the Muslim Wills Enactment (Sabah) 2018, the rightful beneficiaries of a obligatory bequest are the grandchildren, whether male or female, of the deceased father. In addition, the father must have predeceased his parents, or both the father and the grandparents must have died simultaneously in a way that it cannot be determined who died first (Mohamed et al., 2019; Muda et al., 2008; Muhamad, 2012).

The aforementioned enactments clearly provide that only grandchildren from the son's side are entitled to receive the obligatory bequest. However, the grandchildren from the daughter's side are not explicitly mentioned in detail. This is because grandchildren from the daughter's side are recognized as *dhawi al-arham*. Such an exception can cause confusion among the general public and lead them to have a biased view towards the management of Islamic inheritance. Additionally, this exception shows that the management of Islamic inheritance only focuses on one group and sidelines the others, even though they face the same difficulties and hardships (Mohamed et al., 2019). Therefore, this issue was resolved after an amendment was made in 2016 in Selangor, as shown in Table 2 below

Table 2

27 (1)	(1) Subject to the subsection (2), if a grandfather or grandmother died without leaving a will to the grandchildren of either sons or daughters who had died before or at the same time as the grandfather or grandmother, then the grandchildren have the right to receive obligatory bequest.
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Source: MyGovernment

Mohamed et al (2019) explain that the eligible beneficiaries to receive the obligatory bequest, based on the Muslim Wills Enactment (Selangor) (Amendment, 2016), are no longer limited to the grandchildren of the deceased father who has predeceased the grandfather or grandmother, but now also include the grandchildren of the deceased mother. This provision also enacted in Muslim Wills Enactment (Pahang) 2017. However, four other states, which are Negeri Sembilan, Melaka, Kelantan, and Sabah have not yet amended their existing provisions.

Furthermore, all the Muslim Wills Enactments in Malaysia do not provide detailed explanations regarding the eligibility of parents to inherit the blocked inheritance that has been hindered due to *mani'* (obstacles) such as the murder of the testator or apostasy. This matter has been discussed by the Islamic jurists and there are two points of view. The first view explains that grandchildren are not entitled to receive the obligatory bequest because they are in the line of descent from the hindered parent who cannot inherit the estate. On the other hand, the second view opposes the first one, arguing that the purpose of implementing the obligatory bequest is to protect the interests of heirs who are hindered from inheriting the estate, even if their lineage is not entitled to inherit the estate. Mohamed

et al (2019) agree that the second view is more appropriate because punishing children who have not committed any wrongdoing is unjust. However, the Muslim Wills Enactment (Selangor) 2016 only specifies the issue of revoking the entitlement to receive the obligatory bequest if the grandchild is hindered by certain obstacles. The provision is as shown in Table 3 below

Table 3

27 (1)	(2) The execution of obligatory bequest mentioned in sub-section (1) shall fulfill the following requirements: (c) The grandchild is not involved in the murder of the grandfather or grandmother.
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Source: MyGovernment

Mohamed et al (2019) stated that grandchildren who are involved in the murder of their deceased grandparents will be disqualified from being a beneficiary of the obligatory bequest based on the aforementioned enactment. Furthermore, this provision does not address the issue of the grandchild's eligibility to receive the obligatory bequest when their mother or father has lost the right to inherit the inheritance.

The Amount of Obligatory Bequest

The rate of obligatory bequest as provided in enactments in Malaysia is the portion of the inheritance received by the grandchild's mother or father if they are still alive from the inheritance of their deceased grandfather. The rate should not exceed one-third of the deceased grandfather's inheritance. In the provision under subsection 27A of Muslim Wills Enactment (Selangor) (Amendment) 2016, was stated that

Table 4

27A	<p>(1) The amount of obligatory bequest for the rightful grandchild shall be according to the <i>faraid</i> allotted amount that his father or mother would have received if they were still alive and shall not exceed one-third of the inheritance left by the deceased grandfather or grandmother.</p>
	<p>(2) The amount of obligatory bequest is as follows:</p> <p>(a) if the <i>faraid</i> allotted amount of the grandchild's father or mother is less than one-third of the inheritance of the deceased grandfather or grandmother, then the amount shall follow the <i>faraid</i> allotted amount;</p> <p>(b) if the <i>faraid</i> allotted amount of the grandchild's father or mother is more than one-third of the inheritance of the deceased grandfather or grandmother, then the amount shall be limited to one-third of the inheritance unless it is agreed upon by the heirs of the deceased grandfather or grandmother;</p> <p>(c) if the deceased grandfather or grandmother had willed to the grandchild according to subsection 27(4) with more than the <i>faraid</i> allotted amount of the grandchild's father or mother of the inheritance of the deceased grandfather or grandmother but not exceeding one-third of the inheritance, then the excess is considered as voluntary bequest which the grandchild has the right to receive without the agreement of the heirs of the deceased grandfather or grandmother; or</p> <p>(d) if the deceased grandfather or grandmother had willed or gifted assets through other forms of provision to the grandchild according to subsection 27(4) in an amount less than the <i>faraid</i> allotted amount of the grandchild's father or mother of the inheritance of the deceased grandfather or grandmother, then the amount shall follow that of obligatory bequest.</p>

Source: MyGovernment

The testator cannot dispose more than one-third of his property for the obligatory bequest as enacted in the provision of Muslim Wills Enactment (Selangor) (Amendment) 2016, as shown in the Table 5 below

Table 5

27 (1)	<p>(2) The execution of obligatory bequest mentioned in sub-section (1) shall fulfill the following requirements:</p> <p>(d) The grandchild has not received any assets from the deceased grandfather or grandmother either through <i>hibah</i> or bequest or other gifts as much as the amount of obligatory bequest that the grandchild deserves to receive.</p>
	<p>(4) Notwithstanding subsection (1), if the deceased grandfather or grandmother left a bequest, <i>hibah</i> or other gifts to the grandchild, the grandchild still has the right to receive obligatory bequest if he/she fulfills the requirements under (2)(a), (b) and (c).</p>

Source: MyGovernment

However, if there has been a voluntary gift of property, then the rate of the obligatory bequest for that grandchild is evaluated according to the portion of the inheritance that their mother or father is entitled to receive. On the other hand, if the deceased grandfather or grandmother has given property to their grandchild in the form of *mu'awadah* (exchange) such as sale and lease, then it does not prevent the execution of the obligatory bequest. Any deficiency must be added according to the rate of the obligatory bequest provided, while if there is an excess, permission from other heirs is required to be classified as a voluntary bequest (Mohamed et al., 2019).

Table 6

27 (1)	(3) The distribution of obligatory bequest under subsection (1) may be implemented after settling all matters regarding the funeral management, voluntary bequest and the deceased's debt (if any).
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Source: MyGovernment

In addition, if there is an encounter between the existence of an obligatory bequest and an voluntary bequest, then the voluntary bequest shall take precedence as provided for by the Muslims Wills Enactment (Selangor) (Amendment) 2016 and Muslim Wills Enactment (Pahang) 2017. This is because it represents the original intention of the deceased which must be fulfilled, and there is no obstacle to its performance. However, Mohamed et al (2019) argue that the obligatory bequest should be given priority in this case because it is required by the legislative authority.

The Comparison of Obligatory Bequest Practices in Egypt and Malaysia

The Beneficiary of Obligatory Bequest

Most Islamic countries such as Kuwait, Libya and Yemen, have limited to grandchildren tier only as eligible beneficiaries of the obligatory bequest. Nonetheless, while it differs significantly from Egyptian practice, it allows for the inclusion of the testator's great-grandchildren in addition to their grandchildren, but only through the testator's grandson.

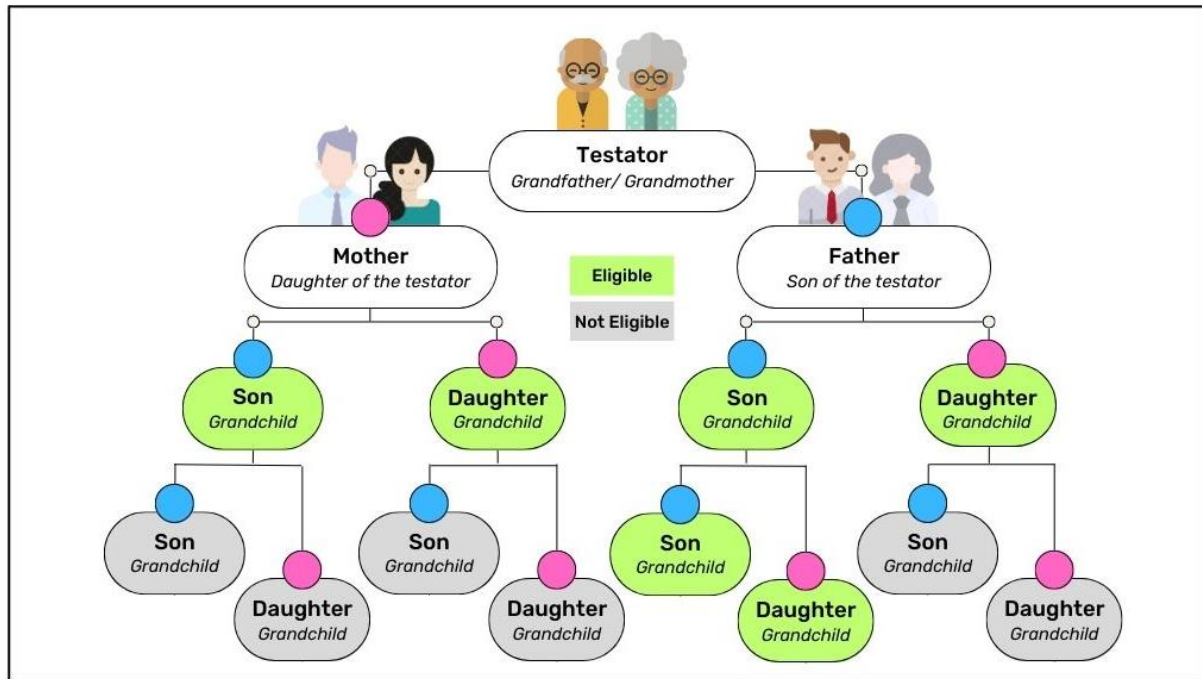


Figure 1: The beneficiaries according to Egyptian Wills Law of 1946

As per the laws practiced in Malaysia, specifically the Muslim Wills Enactments of Negeri Sembilan 2004, Melaka 2005, Kelantan 2009, and Sabah 2018, it is stipulated that a obligatory bequest is applicable to grandchildren, whether male or female from a son only, and does not extend further to lower generations on the same side. In addition, it can be understood that the children of daughters are not entitled to receive the obligatory bequest. This denial of rights to that group may be because the involved grandchildren are considered as *dhawi al-arham* who are not entitled to inherit as long as the deceased leaves heirs from *ashab al-furud* and *‘asabah*. However, in Section 27(1) of the Muslim Wills Enactment (Selangor) (Amendment) 2016, those who are eligible for the obligatory bequest are no longer limited to the grandchildren of the deceased father who has predeceased the grandfather or grandmother, but now also applicable to the grandchildren of the deceased mother as shown in Table 2 before. This provision also was adopted by Muslim Wills Enactment (Pahang) 2017. Figures 2 and 3 below present an apparent distinctions in term of beneficiary between the obligatory bequest practises of states in Malaysia.

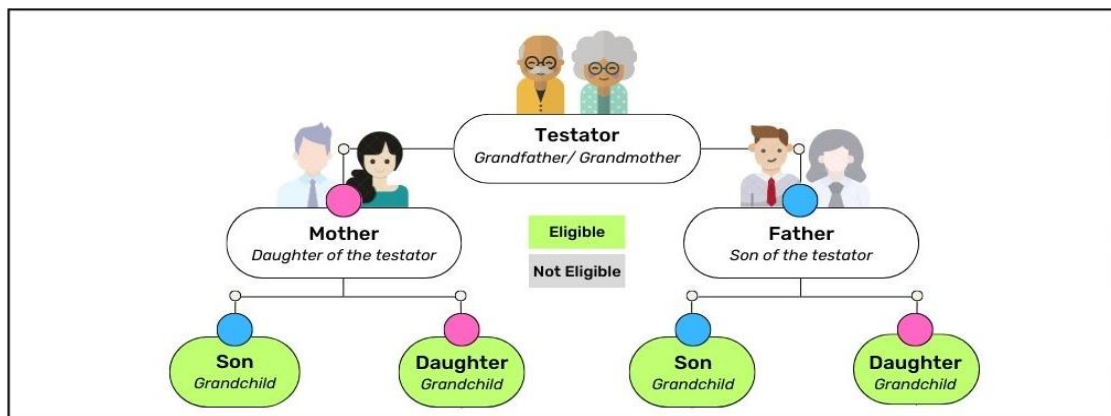


Figure 2: The beneficiaries according to Muslims Wills Enactment (Selangor) (Amendment) 2016 and Muslim Wills Enactment (Pahang) 2017

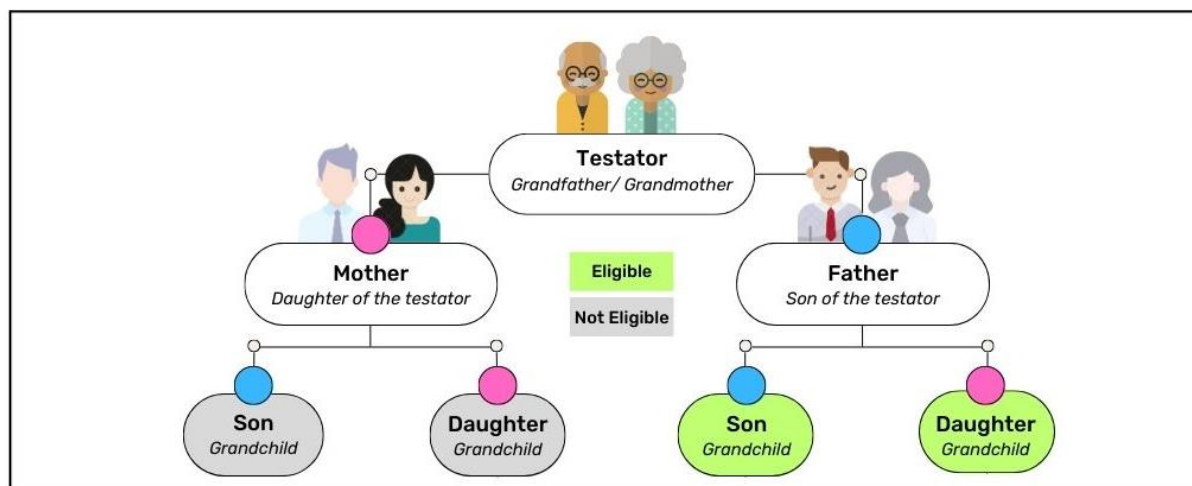


Figure 3: The beneficiaries according to Muslim Wills Enactments of Negeri Sembilan 2004, Melaka 2005, Kelantan 2009, and Sabah 2018

Muslim Wills Enactment in Malaysia did not indicate that *ashab al-wasiyyah al-wajibah* was entitled to great-grandchildren either through the deceased son or daughter, as practised in Egypt. The obligatory bequest is relevant exclusively to grandchildren only, and has no impact to the next generations after them.

The Amount of Obligatory Bequest

In determining the rate that must be given to the *ashab al-wasiyyah al-wajibah*, Muslim Wills Enactment in Malaysia specify that the rate should be up to what the father of the grandchild received from the inheritance of their grandfather, assuming that the father is still alive after the death of their grandfather or grandmother, and the rate should not be exceed than one-third limit of the deceased's estate. For instance, this provision can be seen in Section 27(2) of the Muslim Wills Enactment (Selangor) 1999, which provides that

Table 7

27 (2)	The obligatory bequest rate for children mentioned in subsection (1) shall be to the extent that the father is entitled to from his grandfather's estate if it is assumed that the father dies after the death of his grandfather: "Provided that the bequest does not exceed one-third of the estate of the deceased."
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Source: MyGovernment

This provision is also enacted in Muslim Wills Enactment (Negeri Sembilan) 2004, Muslim Wills Enactment (Melaka) 2005, Muslim Wills Enactment (Kelantan) 2009, Muslim Wills Enactment (Pahang) 2017, and the Muslim Wills Enactment (Sabah) 2018.

Based on the provision above, it is clear that the amount that must be given to the grandchild is as much as their father received if he is still alive after the death of their grandfather or grandmother, and the portion should not exceed one-third of the deceased's estate. If during their lifetime, the grandfather had given a portion of his property either through a voluntary bequest or as a gift to the grandchild, at a rate less than what the

grandchild is entitled to receive through the obligatory bequest, then the law or the judge shall complete the shortfall based on the provision of the obligatory bequest.

Article 76 of the Egyptian Wills Law of 1946 also provides that the eligible property rate for the obligatory bequest heirs is not exceed than one-third of the deceased's estate. Additionally, Article 77 states that if a testator gives a bequest to a person who is entitled to an obligatory bequest with an amount less than their rightful portion, the remaining portion shall be completed according to the rate that the bequest beneficiary should receive. If the property rate is more than the rightful portion, then the excess shall be considered as an additional (*ikhtiyariyah*) bequest. However, the Egyptian Wills Law of 1946 does not state the portion if there are mixed eligible beneficiaries to receive the obligatory bequest, unlike the provision mentioned under subsection 27B in Muslim Wills Enactment (Selangor) 1999 (Amendment) 2016

Table 8

27B	<p>The distribution of estate that has been determined under Section 27A shall follow the following rules:</p> <ul style="list-style-type: none"> (a) If there is only one grandchild, he or she shall be entitled to the entire obligatory bequest; (b) If there are more than one grandchild and they are all of the same gender, the obligatory bequest shall be divided equally among them; or (c) If there is a combination of male and female grandchildren, the distribution of the obligatory bequest shall be in accordance with the proportion prescribed by the Islamic law of inheritance for male and female children.
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Source: MyGovernment

This provision has only been stated specifically in Muslim Wills Enactment (Selangor) 1999 (Amendment) 2016 and Muslim Wills Enactment (Pahang) 2017, whereas the other states' respective enactments did not describe such provision.

The Priority of Obligatory Bequest

In Article 78 of the Egyptian Will Law, it is specified that obligatory bequests take precedence over other bequests, notably voluntary bequests, and should be given to the rightful beneficiary. According to the law, if there are two type of bequests, one with an obligatory bequest and one with a voluntary bequest, the distribution should prioritize the obligatory bequest. This means that the beneficiary of the voluntary bequest may not receive any portion if the obligatory bequest fullfill one-third of the estate, as the allowable limit, and has no remaining divided property. As for the context in Malaysia, all the enactments do not specify what will happen in the event of a conflict between a voluntary bequest and an obligatory bequest in a matter of inheritance.

Conclusion

This research presents the advantages of obligatory bequest as a complement to existing inheritance planning mechanisms in each country, particularly when addressing family members who are not entitled to inherit by *faraid*. Obligatory bequests practices in Egypt and states in Malaysia, are slightly different in terms of beneficiary, rate and position. In Egypt, the *ashab al-wasiyyah al-wajibah* are the grandchildren by way of both son and daughter of

the testator. On the other hand, most of the obligatory bequests practices in Malaysia which are from Negeri Sembilan, Melaka, Kelantan, and Sabah have restricted the beneficiaries to grandchildren of deceased father. Apart from that, the legal provisions in Selangor and Pahang outline that the beneficiaries are also entitled to grandchildren of deceased mother. Nevertheless, Malaysian legal provisions convey that obligatory bequest only pertains to grandchildren, and do not affect the next tier. As compared to Egyptian law, the beneficiary could possibly get to the great-grandchildren tier. In terms of rate, the beneficiaries shall be given to the extent that their deceased parents are entitled to from their grandparents estate if it is assumed that their parents die after the death of their grandparents, and it is provided that the bequest does not exceed one-third of the estate of the grandparents. In both countries, the beneficiary is restricted from receiving properties or any other bequests of the same value as one-third of the estate that the testator possessed during their lifetime, unless the other heirs give their consent. Even so, Egyptian law does not define the proportion of the obligatory bequest if there are mixed or a number of eligible beneficiaries, unlike to the provision mentioned in Selangor's legislation. If there are more types of bequests, obligatory bequests will take precedence over other bequests. This provision is only explicitly provided in Egyptian law, while the states legislation in Malaysia are silent on it. Muslim Wills Enactments in Malaysia should be enhanced and revised in order to elaborate more on this matter. Furthermore, the scope of this research can be extended by exploring other countries' practices, examine the calculation methodology in greater detail, and consider relevant court cases, using the same method utilised in this study.

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