

BEQUEST TRANSFERS: LOCATING THE BEQUEST MOTIVE MODELS FROM THE ISLAMIC ECONOMICS POINT OF VIEW

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ABSTRACTS

Economists over the years have shown particular interest in exploring and analyzing the intergenerational transfers specifically on the bequest and inheritance with the aim to determine the household behavior for making bequests based on a number of competing bequest motives that have been proposed. Conventional economics posits that individual behaviors in making bequests are triggered by three dominant bequest motives models namely life-cycle (accidental, strategic and exchange bequest motives), altruism or dynasty bequest motive models. However, Muslims are strictly bound by Islamic inheritance law which imposed several restrictions on their bequests. Taking into account that bequest in Islam has different conceptual definition, therefore this study aims to find out to what extent the same bequest motive models can be applied in explaining Muslims behaviors in making bequests. Apart from that, it endeavors to delve the extent to which the Islamic theory of wealth could possibly influence the Muslims behaviors in making bequests and eventually influence their bequest motives as well.

Keywords: bequest; *wasiyyah*; bequest motives.

1. Introduction

Bequest is one of the main channel of the intergenerational transfers. Discussing the bequest transfers within the economics contextual form would lead us to the studies carried out to indentify bequest motives which have been explained very well from the conventional point of view. However, to simply apply the same theories to explain Muslims bequest motives should be given careful thought and consideration. The process of the study to explore the Muslims bequest motives is much harder due to the limitation of the previous research that related to the Muslims. This study therefore aims to locate the bequest motive models from the Islamic economics point of view. This study is sectionized into six parts; introduction, conceptual definitions of intergenerational transfers, literature review on bequest motives, bequests in the Islamic contextual form, Islamic theory of wealth focusing on the Islamic notion of wealth creation and theoretical underpinnings of the bequest motives for Muslims.

2. Intergenerational Transfers: Conceptual Definitions

The flow of the intergenerational transfer could be either from old to young generation or vice verca (Pestieau 2000). As the economists define wealth in a broaden view, hence, the intergenerational transfers may appear in five different forms namely tangible asset, financial asset, human capital that could be appear either in the forms of tangible social capital such as money and time spend for the education investment (Menchik & Jianakoplos 1998; Pestieau 2000; Nordblom & Ohlsson 2002) or intangible social capital which refers to the way the parents bringing up their children (Pestieau 2000), biological transfers of natural talents and

abilities to the descendants (Lainer & Ohlsson 2001; Nordblom & Ohlsson 2002) and finally assistances in the form of services that may be descending or ascending in nature for instance, providing accommodation or care to grandchildren or providing care, visits or accommodating elderly parents (Pestieau 2000).

“Inheritance in the strict sense is the transmission of relatively exclusive rights at death” (Menchik & Jianakoplos 1998). However, the time when the transmission takes place is what concerns the economists’ interest in inheritance matter (Menchik & Jianakoplos 1998). It could take place upon the death or between the living. The former is known as bequest while the latter is called inter vivos transfer (Menchik & Jianakoplos 1998). Transfer of tangible property and financial could be in the form of the inter vivos gifts or bequest (Nordblom & Ohlsson 2002). The central attention of this study is restricted to the transfers of tangible property and financial wealth in the form of post-mortem bequests to one’s heir.

3. Bequest Motives: A Literature Review

Economists have uncovered a great deal of information about behavior towards bequests at the individual-household level. A number of competing bequest motives provides answers for three crucial issues with respect to the bequests; what triggers the individuals’ decisions in making bequests; how the bequest motives shape the bequest distribution and to whom the bequests are made for. The three models of bequest motives that are commonly used by economist and dominant over the others are; the life-cycle model, altruism model and dynasty or lineal model.

3.1. Life Cycle Model

Given that the resources available over the individual lives are limited, a theory of spending proposed by Modigliani and Brumberg in 1954 posits that people make choices wisely on their spending which tailors to their need at different ages and allocate some provision for their retirement (Deaton 2005). At the core of the model, individuals are assumed to be utility maximisers, and therefore utility function totally is consisted of their current and future consumption. Throughout their lifetime, individuals simply spend a fixed fraction of their life income. Utility is maximized subject to the budget constraint that the present value of lifetime consumption is equal to the present value of lifetime income. Two types of bequests are consistent with the life-cycle model. First is unintended, unplanned or accidental bequests motive and second is exchange bequests motive.

3.1.1. Unintended, unplanned or accidental bequests motive

The life-cycle theory claims that the desire and intention to leave bequests do 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. The reasons behind the making of precautionary savings and deferred consumptions basically could be perceived as the response towards the uncertainty over one’s lifespan (Nordblom & Ohlsson 2002; Pestieau 2000; Davies 1981), the response towards the annuity market imperfections (Pestieau 2000; Davies 1981) and the impossibility of leaving a negative inheritance (Pestieau 2000). Apparently, in such circumstances the individuals are more carefully in running down their assests which eventually generate unintended, unplanned or accidental bequest in the future Davies (1981) while Pestieau (2000) in addition concludes that children inherit only because their parents

did not live as long as they had expected to and had not invested their savings in a life annuity.

3.1.2. Exchange bequest motives

When parents care about their old-age security in the sense of caring about the service or attention undertaken by their children and they value such service and attention by making certain amount of bequests, then these kinds of bequest fall in the exchange bequests category (Pestieau 2000; Laitner & Ohlsson 2001). 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 bequests motive namely bequest that arises because of deficiencies in the insurance market and strategic bequest.

3.2. Altruism Model

Altruism model enlightens that parents bequeath because they gain utility from the utility or lifetime resources respectively, of their children. Bequests are given as compensations in which parents will bequeath unequal amounts to their offspring, compensating children who have low earnings. Becker's and Barro's studies are among the most prominent work related to the altruism theory.

Becker (1974) and Barro (1974) present a version of bequest model that is driven by the altruism motive. Contradict to life-cycle model, altruism model enlightens 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 behavior is implied in the form of bequest transferred to the children. Within generation altruistic bequests are used when parents want all of their children to be equally well off in which the bequests equalize the opportunities among children who have differing abilities. Across generation, altruism is concerned with the well-being of parents relative to their children in the sense that the parents want to ensure that their children will enjoy the same relative status in life as the parents (Menchik & Jianakoplos 1998). Therefore, in altruism model, more bequests are given to the less able and less income children. Bequests are given as compensations in which parents will bequeath unequal amounts to their offspring, compensating children who have low earnings.

The altruism motive can be extended to the bequests used to perfectly equalize incomes of siblings. 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 investment (Laitner & Ohlsson 2001; Menchik & Jianakoplos 1998). Pestieau (2000) stresses out that altruism in the neoclassical sense of the term is not to be confused with generosity or disinterest. However, consider the following remark from McGranahan (2000) on the theory that explain the motive of making 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".

Starting from this point, charity bequest is partly driven by the altruism model as proposed by McGranahan (2000) and therefore to simply say that generosity or disinterest has nothing to do with altruism can be contested.

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 (Pestiau, 2000). Perhaps, a word of 'primogeniture'¹ could represent the nature of the dynastic bequests. The individuals who are responsible to make sure the system works are the family heads. Chu (1991) explains that in ancient times, the high mortality rate prevailing and the probability of extinction are factors that trigger the family heads to pay very much concerned about the perpetuation of the family line. Chu (1991) 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.

4. **The Concept of Bequest: Focusing on the Restrictions Imposed by Islamic Inheritance Law.**

A bequest in Islam is called *wasiyyah*.² In a glance, bequest in Islam has the same meaning as conventional ones in terms of the time which the bequest is to take place. It clearly means a gift of property which the transfer only becomes effectual on the death of the testator (Coulson 1971). Conversely, the Muslim testate succession system is however subjected to the two principal restrictions imposed on it. First restriction is concerning the quantum of bequests which a testator is entitled to dispose his property only up to one-third³ (Coulson 1971; Abdal-Haqq *et al.* 1995) after any debts and expenses have been paid (Abdal-Haqq *et al.* 1995:36; Al-Khin *et al.* 2005:1054-1055). The Shafi's view that a bequest which is less than one-third is supererogatory (Al-Khin *et al.* 2005).

In regards to the calculation of one-third, the proper time for the calculation is different in the eyes of the various schools in which the Shafi's, 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; Al-Khin *et al.* 2005). According to the Malikis it is supposed to be at the time of the legatee's acceptance

¹ The word 'primogeniture' here should be interpreted as 'on child receives most of the bequest'.

² In Islam, *wasiyyah* refers to either a will or a bequest.

³ 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 therefor, 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 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.

whereas the Hanafis view it should take place at the time of the distribution of the estate (Coulson 1971).

Second restriction pertaining to the recipient of bequests where the law requires that such disposition is not allowed to be made in favour of legal heirs (Al-Khin *et al.* 2005; Coulson, 1971). The status as an heir may change between the time of 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 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 decease, does not constitute an ultra vires disposition (Al-Khin *et al.* 2005; Coulson 1971). Allowing a legal heir to acquire a benefit indirectly through a non-heir who receives the bequest is accepted by the most of the schools except the Hanbalis (Coulson 1971).

The bequest is valid provided that conditions imposed on legatee and the bequest are fulfilled. In regards to legatee, he should be a person capable owning property or it must be an institution which actually or legally exists at the time of the testator's death (Coulson 1971; Al-Khin *et al.* 2005).⁴ 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.⁵ 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 legatee's heirs in perpetuity. The second argument is related to the issue of the existence of the particular legatee. The Hanafis, Shafi's 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 eventhough it is in favour of person 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).

5. Islamic Theory of Wealth: Islamic Notion of Wealth Creation

The process of the wealth creation is closely presented by Choudury (n.d) through his *tawhidi* framework. The transmission of *tawhid* (Ω) in bits takes place through the guidance given to the Prophet Muhammad (S). f_i conveys the i th relationship connecting the consciousness of (Ω , S) in the formation of i th form of wealth; $i = 1$ (Private), 2 (Social)

f_{ij} , $i, j = 1, 2$ denote the causal relationships between private and social variables of wealth. The components of wealth formation are denoted by ($\mathbf{X}_1(\theta)$, $\mathbf{X}_2(\theta)$). Since the Moral Law is unique to both components of wealth and their systemic interrelationships, therefore, a common knowledge-flow (θ) is derived from a set of discoursed values. θ -values represent know-how and ways and means of bringing about complementary relationships between the private and social kinds of wealth.

Thus the consensual (integrated) θ -value denotes the limiting value of many discursive θ -values over learning spaces by interaction. The formation of such a limiting θ -value also determines simultaneously the corresponding $\mathbf{X}(\theta)$ -vector. Choudury (n.d) then have the tuple

⁴ 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; Al-Khin *et al.* 2005). There are two exceptions to this general rule which first is the bequests made for a general and continuing charitable purpose like the poor or the sick and the second is the bequests in favour of legatees but the way in describing them is as members of a restricted class or 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's (Coulson 1971).

⁵ Such as the poor or the sick.

of the world-system pertaining to the theme of wealth. With $\mathbf{X}(\theta) = (X_1(\theta), X_2(\theta))$ and θ -value he denotes the learning tuple by $\mathbf{Z}(\theta) = (\theta, \mathbf{X}(\theta))$.

$$\mathbf{Z}(\theta) = (\theta, X_1, X_2, P_1, P_2, P_3, P_4, M_1, M_2, M_3)[\theta] \quad (1)$$

definition for each variable as follow:

- P_1 = trade.
- P_2 = spending in the good things of life.
- P_3 = charity.
- P_4 = the inversion of the rate of interest towards zero, resulting from the exercise of participatory development-financing instruments.
- M_1 = profit-sharing.
- M_2 = equity-participation.
- M_3 = trade financing and cost-plus financing contracts.
- M_4 = secondary Islamic financing instruments, e.g. unit trust shareholding.
- $[\theta]$ = means that each of the inner variables is induced by the limiting θ -value derived from the Moral Law of unity of knowledge through Shura discourse.

Menchik & Jianakoplos (1998: 48) state that wealth of the economy arises from two sources; wealth accumulated by previous generations and transferred to the current generation called inherited wealth and wealth accumulated by saving out of current income-life-cycle wealth. With regards to inheritance, in Muslims circumstances, there is no different view on this issue at hand in which Choudury (n.d) mentions that inheritance is another channel of private wealth creation and the distribution of assets among family members is introduced as additional variables in expression (1).

6. Theoretical Underpinnings of the Bequest Motives for Muslims

Many researchers have sought to understand the motivations behind bequests for the close or more distant relation family members as well as for outsiders. Three theories which are life-cycle, altruism and dynasty models have been put forth to address the presence of bequest motives from the conventional point of view. However, different contextual form of bequest between Muslims and non-Muslims has directed to the cross-examination of the selected theories. As far as the religious factor is concerned, the limitation on the definition of bequest from Islamic point of view is 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 the *faraid*. In a glance, it seems that none of the theories are relevant with Muslim people because by definition, children are perceived no longer entitled to the bequest while the corresponding theories are mainly concerned with the motivation of leaving bequest to the children. One could argue that bequest from a Muslim to his/her children is not totally deniable. The altruism model is still applicable for explaining the Muslims' attitudes of leaving bequest to their children in the case of giving bequest to children who are non-Muslims and children who are barred from inheritance due to the homicide. The dynastic bequest motive 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, for Muslims, altruism might not be the only reason. As a result, the Islamic theory of wealth could be a theoretical foundation which explains the Muslims behavior towards leaving charity bequest out of the one-third portion. If the Islamic

theory of wealth is visualized in his/her consumption and therefore the life-cycle model is assumed to be the least dominant in Muslims lives. In one sense, the charity bequest is not necessarily for the poor people only but it can be for relatives as long as they are not entitled to shares provided by the *faraid*. In conclusion, three bequest motive models can be applied in explaining Muslims bequest motives but Islamic theory of wealth should come together as one of the theoretical underpinning.

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