

Contemporary Challenges in The Implementation of Faraid Law: A Review in The Context of Nuclear Families and Modern Finance

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Abstract

Faraid law, as an Islamic inheritance distribution system, faces significant challenges in addressing contemporary socioeconomic realities, especially in the context of the nuclear family and the modern financial system. This study aims to critically analyze the obstacles to the implementation of faraid that stem from the dynamics of both contexts. Through a qualitative research method with a doctrinal content analysis approach, this study finds that small and isolated nuclear family structures tend to exacerbate inheritance conflicts. These conflicts often stem from perceptions of injustice in emotional relationships and material contributions to the deceased, which are difficult to measure with rigid faraid distribution. In addition, the existence of complex financial assets such as investment funds, insurance policies, and digital assets creates technical inconsistencies with traditional distribution frameworks, making accurate assessment and distribution difficult. In response to these challenges, this study proposes an integrated framework that includes strengthening faraid literacy among the community, active promotion of Islamic estate planning instruments such as hibah and wasiat to complement faraid, and integration of family mediation as an effective dispute resolution mechanism. In conclusion, adaptation and innovation in this implementation approach are important to maintain relevance, uphold the principles of justice, and preserve harmony among heirs in the modern era, while also ensuring the sustainability of the faraid law itself.

Keywords: Faraid Law, Nuclear Family, Modern Finance, Islamic Estate Planning, Inheritance Conflict.

Introduction

Faraid law is one of the important instruments in the Islamic system. Inheritance Islam which aims to ensure justice and balance in the distribution of inheritance among heirs. The principle of faraid is based on the decree of Allah SWT as enshrined in the Quran, particularly in Surah al-Nisa' verses 11 to 12, which details the share of each eligible heir. The implementation of faraid law not only has religious value, but also plays an important role in maintaining family harmony and economic stability among Muslims (Abdul Rashid, 2010).

However, in the context of an increasingly complex modern society, the implementation of faraid is faced with various new challenges. These include changes in family structure from extended families to nuclear families, increasing urbanization rates, and the influence of modern financial systems based on non-physical instruments such as bank accounts, shares, takaful and digital assets (Abdul Wahab, 2015). These challenges have made the process of property distribution more complicated because it requires a deep understanding of civil and Sharia law aspects, as well as documentation and property administration issues related to dealing with financial institutions.

In addition, the lack of public knowledge about faraid law, reluctance to manage inheritance immediately, and reliance on conventional legal procedures are also factors in the delay in the implementation of faraid (Naiimi, 2016). In the nuclear family, the relationship between heirs is smaller and less close, which leads to disputes or neglect of responsibility for the distribution of inheritance (Abu, 2022). Therefore, this challenge needs to be examined in depth to ensure that the implementation of faraid law continues to be relevant and efficient in the context of modern life.

This study was conducted to review contemporary challenges in the implementation of faraid law by focusing on two main aspects, namely the nuclear family structure and the modern financial system. This study also aims to identify the causes of difficulties in faraid management and propose improvement measures so that the Islamic inheritance system can be implemented comprehensively and effectively in line with the maqasid of Shariah.

Study Objectives

1. Identify the main challenges in implementing faraid law in the context of the nuclear family and the modern financial system.
2. Analyze the impact of changing family structures and modern forms of property on the understanding and implementation of faraid law in Islamic society.
3. Propose improvement measures to strengthen the effectiveness of the implementation of faraid laws in line with Sharia principles and current requirements.

In the context of nuclear families and contemporary finance, the implementation of faraid law faces various modern challenges that need to be thoroughly examined. In the era of globalization and rapid social transformation, the division of inheritance according to faraid law often faces various problems in its implementation, especially in nuclear families.

According to the study of Ahmad Tarmizi Jusoh. (2009). one of the important concepts in Islamic law is the inheritance of property by farāid, which is related to dividing the inheritance to the rightful heirs. The Qur'an outlines this idea and the hadith provides an explanation. However, society often does not understand and respect this law, which causes various problems in managing the inheritance.

"Farāid" is an Arabic word meaning "determination" or "part." In the context of inheritance, it refers to the law that determines how an inheritance is divided according to the teachings of the Quran. In Surah An-Nisa verse 4:11, Allah SWT says:

يُوصِيكُمُ اللَّهُ فِي أَوْلَادِكُمْ لِلذَّكَرِ مِثْلُ حَظِّ الْأُنثَيَيْنِ ۚ فَإِن كُنَّ نِسَاءً فَوْقَ اثْنَتَيْنِ فَلَهُنَّ ثُلُثَا مَا تَرَكَ ۚ وَإِن كَانَتْ وَاحِدَةً فَلَهَا النِّصْفُ ۚ وَلِأَبَوَيْهِ لِكُلِّ وَاحِدٍ مِّنْهُمَا السُّدُسُ مِمَّا تَرَكَ إِن كَانَ لَهُ وَلَدٌ ۚ فَإِن لَّمْ يَكُنْ لَهُ وَلَدٌ وَوَرِثَتْهُ أَبَوَاهُ فَلِأُمِّهِ الثُّلُثُ ۚ فَإِن كَانَ لَهُ إِخْوَةٌ فَلِأُمِّهِ السُّدُسُ ۚ

Meaning: Allah commands you concerning (the division of inheritance for) your children, that the share of a male is equal to the share of two females. But if there are

more than two females, then their share is two-thirds of what the deceased leaves behind. And if there is only one female, then her share is one-half of what the deceased leaves behind. And for the parents (of the deceased), each of them: one-sixth of what the deceased leaves behind, if the deceased has children.

This shows that the rights and position of the heirs determine how the inheritance is divided. In addition to children, elders such as parents and spouses also have the right to inherit property. To ensure a fair and equitable distribution of property, it is important to have a deep religious understanding of farāid law.

The Federal Constitution clearly divides powers between the responsible agencies. However, there are differences in the way these agencies carry out their responsibilities. This has caused the public to be frustrated because some aspects of estate management are not implemented properly. For example, sometimes heirs have to go through a long and complicated process to obtain their rights Mohd Borhanuddin Zakaria & Juairiah Hasan. (2012). In the context of law in Malaysia regarding faraid, although the Syariah Court has the power to determine issues related to estates, they do not have the obligation to conduct proceedings in every case. This can cause heirs to be unsure about obtaining their rights Mohd Ridzuan Awang. (2008).

The status of a nominee does not directly make him the full recipient of the deceased's property. In fact, the nominee only functions as an executor or administrator of the deceased's property. When a person dies naming someone as a nominee, the deceased's intention is to give the property to the nominee Ahmad Tarmizi Jusoh. (2009). This does not fall under the category of hibah because it is effective immediately whereas the objective of nomination is not to affect the transfer of property immediately. This also cannot be considered a will because a will is only valid for one third or 1/3 of the deceased's total property, so it does not harm other heirs.

The distribution of inheritance according to the faraid method of inheritance which is based on valid arguments from the Quran and the Hadith of the Prophet Muhammad, however, this method of distribution is not the correct method even though equal distribution, inequality is not a reality. Injustice because justice does not involve equal or equal distribution. For example, there are significant differences between the sexes of men and women. Men and women are not the same physically, biologically and emotionally. Islam gives more responsibilities to men than women. For example, a husband is responsible for providing food for his wife, as well as children Amir Bahari. (2012).

Overall, the distribution of inheritance according to faraid is a reasonable payment. Unfortunately, the wisdom of justice behind this divine law is not reflected in the lives of Muslims in the last days because most of them have abandoned the responsibility of taking care of their families. Nowadays, the relationship between family members is getting weaker. It is also necessary to understand the meaning more deeply regarding faraid and its law because in order to avoid each being selfish and wanting more wealth and as a result, many people think that the distribution of inheritance according to faraid is unfair, and many are looking for alternatives to avoid the distribution of the property that will be left behind according to faraid.

Methods

This study uses a qualitative method, focusing on an in-depth understanding of issues related to the implementation of faraid law in the context of nuclear families and modern

finance. This method was chosen because it is suitable for describing concepts, principles and problems of a legal and social nature, while allowing researchers to examine the phenomenon in more detail from a Sharia perspective.

A doctrinal content analysis approach is used to understand and evaluate the provisions of faraid as outlined in Islamic legal sources and the regulations for their implementation in the current system. Through this approach, researchers examine the content related to the implementation of faraid, including issues of family structure, estate administration, nominee status, and the existence of modern assets such as digital assets and contemporary financial instruments.

This method allows researchers to identify the main challenges that arise in the practice of faraid today and analyze their effects systematically. The results of the analysis of the content of this doctrine also serve as a basis for formulating more accurate and relevant recommendations, so that the implementation of faraid can be adapted to the needs of modern society without neglecting the basic principles of Sharia.

Results

General Introduction to Analysis

In the Islamic financial system, instruments such as zakat, faraid, wasiah, and waqf play an important role in ensuring socio-economic balance among Muslims through the redistribution of wealth based on justice and transparency. Although each instrument has different objectives and methods of implementation, they all complement each other in achieving the maqasid of Shariah, especially in safeguarding property (*hifz al-mal*) and social justice (Sahalan, 2023). However, in the context of nuclear families and modern financial systems, the implementation of faraid is often affected by factors such as changing family structures, civil legal systems, and new forms of property such as digital accounts and online investments. Therefore, this analysis discusses how these four instruments are applied and interact in facing these contemporary challenges.

Application of Faraid in Modern Context

Faraid is an inheritance distribution system that determines the rights of each heir according to Shariah provisions. In the context of modern, the challenges of implementing faraid largely stem from the complexity of modern assets such as joint savings accounts, shares, unit trusts, life insurance (or takaful), as well as digital assets such as cryptocurrencies.

For example, in the case of joint account management in Islamic banks, the determination of ownership after the death of one of the account holders often creates confusion as to whether the account balance becomes the absolute property of the surviving spouse or needs to be redistributed through faraid. According to the view of the Shariah Advisory Council of Bank Negara Malaysia, the balance can only become the property of the heirs through the faraid process unless there is evidence of a valid hibah intention or will (BNM, 2020).

Application of Wasiah (Will) as a Complementary Instrument of Faraid

Will or testament is an instrument that allows a person to bequeath a maximum of one-third of his or her property to non-heirs, provided that it does not conflict with Sharia law. In the context of the nuclear family and modern finance, wills play an important role in resolving specific needs that cannot be met by the faraid system alone.

For example, a person may bequeath a portion of their assets for the education of adopted children, non-Muslim parents, or Islamic charitable donations. In Malaysia, institutions such as Amanah Raya Berhad and As-Salihin Trustee offer Islamic will writing services to ensure that assets can be distributed more orderly and minimize disputes after death. Wills also play a role in reducing the risk of freezing of inherited assets, which is one of the main challenges in the implementation of modern faraid (Hassan, 2022).

The Role of Zakat in Balancing the Socioeconomic Impact of Faraid

Zakat, as the fourth pillar of Islam, functions to balance economic inequality and ensure a fairer distribution of wealth in society. Although zakat is not directly related to inheritance management, it has an indirect relationship with faraid in the context of wealth management and reducing social burdens after death.

For example, if the heirs receive a large inheritance, they are obliged to pay zakat on the property if they meet the conditions *nisab* And *haul*. This ensures that the property not only benefits the heirs but also contributes to the well-being of society (Abdullah, 2020). In the context of the modern nuclear family, zakat can be a socio-economic tool that stabilizes the financial balance of the family, especially when faraid distribution breaks up assets into smaller parts and reduces the economic value of the estate.

Waqf as a Long-Term Mechanism of Property Management

Waqf (endowment) is a form of permanent transfer of property for public benefit, and it has the potential to be a long-term solution to the challenges of faraid in the modern context. By giving away a portion of one's property during one's lifetime, one can reduce the potential for inheritance disputes after one's death while also earning ongoing rewards (*ongoing charity*).

For example, in Malaysia, there is an initiative WaqfCash by the State Islamic Religious Council which allows Muslims to digitally endow a portion of their bank savings or investment income with waqf. This measure not only reduces the burden of complicated faraid distribution, but also supports the continuous social and economic development of the ummah (Halim, 2023).

Synthesis Analysis and Discussion

Overall, the four instruments of zakat, faraid, wills, and waqf are interrelated in forming a comprehensive Islamic wealth management system. In the face of contemporary challenges, the implementation of faraid cannot be viewed in isolation, but rather needs to be supported by public awareness of the importance of comprehensive Islamic wealth planning. Practices such as hibah during life, writing valid wills, and Sharia-compliant investments should be encouraged to avoid disputes and freezing of assets after death. Therefore, a deep understanding of these four instruments is essential so that the maqasid of Sharia in wealth management can be achieved comprehensively in modern society.

Findings and Recommendations

This analysis has identified several critical challenges facing the implementation of Islamic inheritance law (Faraid) in the contemporary era. Based on these findings, a set of recommendations are formulated to improve the effectiveness and fairness of the system, while ensuring that it is in line with Maqasid al-Shariah.

Key Findings

This study found that Islamic wealth management systems face significant challenges in the modern context, but the interaction between faraid, wills, zakat, and waqf instruments offers a comprehensive solution. First, faraid faces the complexities of administering modern assets such as joint accounts and digital assets, where ownership status requires proof of a valid hibah or will to avoid the full faraid process (BNM, 2020). Second, wills act as a solution to the weaknesses of faraid by allowing the distribution of assets to non-heirs such as adopted children, thus reducing the risk of freezing inherited assets (Hassan, 2022). Third, zakat functions to offset the economic impact of faraid distribution through a mandatory wealth distribution mechanism that ensures that inherited assets also contribute to the well-being of society (Abdullah, 2020). Fourth, waqf has the potential to be a long-term mechanism to reduce inheritance disputes through the transfer of assets during life, with contemporary initiatives such as Cash Waqf implemented digitally (Halim, 2023). Overall, achieving the Shariah goals in wealth management requires the comprehensive integration of these four instruments, supported by high public awareness of proactive Islamic wealth planning.

Suggestions

Based on the latest research findings and references, the following recommendations are put forward to strengthen the implementation of Faraid in the modern socio-economic context:

Strengthening Regulation and Legal Harmonization

Civil and Sharia authorities should review and harmonize Faraid-related legislation with modern forms of property such as joint accounts and digital assets. Establishing clear guidelines on the ownership, freezing and distribution of such property is essential. As emphasized by Heriandita et al. (2023), strong legal guarantees are a prerequisite for ensuring social justice, especially for women, in the implementation of Faraid.

This effort requires the creation of a dynamic legal framework to address common property rights (*joint-accounts*) and digital assets such as cryptocurrencies and properties in the metaverse. Clear guidelines need to explain how these properties are frozen and valued before distribution. This harmonization of civil and Sharia law is important to avoid overlapping or conflicting powers. In doing so, it ensures that the Faraid process is more transparent, fair and enforceable. Ultimately, this will protect the rights of all heirs, especially women, from any form of injustice.

Increasing Awareness and Education of Islamic Estate Planning

Comprehensive educational programs and professional advisory services need to be intensified to increase public understanding of the integration of Faraid with estate planning instruments such as hibah, wasiat, waqf and zakat. This misunderstanding, as evidenced in the study of Ismail et al. (2025), is often the main cause of avoidable inheritance disputes.

This program should be delivered through easily accessible platforms such as social media, mosque talks, and workplace modules. Education should emphasize practical ways to integrate instruments such as hibah and wasiha without compromising the principles of Faraid. Professional advisory services can also help plan a more equitable and efficient distribution of assets according to specific family needs. By increasing Islamic financial literacy, the community can proactively plan their assets.

Strengthening Wills and Hibah Instruments as Proactive Mechanisms

The community should be actively encouraged to proactively use wills and hibah to manage assets during life. This practice can reduce conflicts and the burden of post-death asset freezing procedures. Halim et al. (2022) also confirmed that jurisdictional conflicts and weak implementation of wills have a significant negative impact on the inheritance distribution process.

This initiative requires an awareness campaign explaining the advantages of wills and hibah in protecting the rights of all heirs, especially spouses and children. The process of making wills and hibah needs to be simplified in terms of procedures and costs, with guidance from a certified Islamic property advisor. A clear explanation of the limits and conditions of the validity of these instruments according to Sharia law is important to prevent abuse. By planning ahead, individuals can ensure that critical assets such as businesses or homes can be inherited smoothly without going through the lengthy Faraid process.

Utilizing Islamic Socio-Financial Instruments (Zakat & Waqf)

Strategic collaboration between zakat, waqf and inheritance management agencies should be established to develop specific support programs. For example, the waqf mechanism can be optimized to accommodate fragmented assets after the distribution of Faraid, while zakat can be channeled to needy heirs. Darajat (2021) proves the important role of zakat and waqf in realizing a fairer distribution of wealth, especially in the digital era.

This collaboration can form a special team that coordinates immediate assistance through zakat for poor heirs after the death of the breadwinner. The waqf instrument can also be used as a trust to hold and manage assets such as shares or properties that are difficult to divide, where the heirs only receive the economic benefits. This indirectly solves the problem of idle assets and ensures that productive assets continue to grow for the common benefit.

Developing Technology and Governance

The development of a secure and robust digital platform and an effective governance framework is essential to manage and distribute modern assets such as digital assets and cash waqf in a transparent manner. Ali & Markom's (2020) study shows that governance weaknesses in the existing semi-digital waqf system hinder the full potential of this instrument.

This digital platform needs to be equipped with features such as a decentralized ledger (*blockchain*) to ensure transparency of every transaction and ownership. A strong governance framework must also include independent audits and data compliance to build public confidence. Integration with Sharia courts and financial institutions will facilitate the legal verification and implementation of property distribution. The comprehensive application of this technology will maximize the socio-economic impact of instruments such as waqf and ensure the continuity of its benefits for future generations.

Strengthening the Institution for the Implementation of Faraid

Specialization and capacity building of institutions that handle inheritance, such as the Syariah Court and Amanah Raya Berhad, is essential. Improvements in procedural efficiency, staff expertise in modern property, and collaboration between institutions can speed up and simplify the overall process of inheritance administration.

Conclusion

This study emphasizes that the implementation of faraid law in the modern era faces increasingly complex challenges due to changes in family structures, the development of financial technology, and a legal system characterized by dualism between Sharia and civil. In the context of the nuclear family, faraid practices are often not implemented comprehensively due to limited understanding of secondary heir rights and the tendency of society to delay the process of property distribution. At the same time, the emergence of new forms of property such as digital accounts, online investments and crypto assets demonstrates the urgent need to adapt faraid principles to contemporary financial realities. These challenges are not only technical, but also touch on aspects of awareness, compliance and public understanding of the maqasid of Sharia in property management.

Analysis and discussion show that the faraid system should not be viewed in isolation from other instruments such as wills, hibah, zakat, and waqf. These four instruments are actually complementary in creating a fair, integrated, and sustainable Islamic wealth management ecosystem. Faraid guarantees fairness in distribution after death, while wills and hibah provide flexible mechanisms for certain needs not covered by faraid. At the same time, zakat and waqf act as socio-economic complements to ensure that inherited wealth not only benefits the heirs, but also contributes to society at large. The combination of these instruments reflects the integrity of the principle of hifz al-mal (preservation of wealth) in the maqasid of Sharia.

The study findings also show that the main weaknesses in the implementation of faraid stem from three main aspects: first, legal and bureaucratic constraints between civil and Sharia jurisdictions; second, the still low level of awareness and literacy of Islamic finance; and third, weaknesses in adapting faraid law to modern forms of property. These factors have undermined the effectiveness of the faraid system as a tool for fair and efficient wealth distribution in contemporary Islamic society. Therefore, a new approach that is more inclusive and responsive to changing times needs to be devised to ensure that faraid remains relevant and functional in the modern financial world.

The proposals put forward emphasize the need for legal harmonization, strengthening of Islamic estate planning institutions, and the use of digital technology in the administration of faraid, waqf and wills. Islamic institutions such as the State Islamic Religious Council, Amanah Raya and zakat institutions need to play an active role in educating the public and providing user-friendly digital platforms to facilitate Sharia-compliant estate planning. Initiatives such as the integration of e-faraid and e-waqf systems can not only speed up the process of administering inheritance, but also ensure transparency and compliance with Islamic law in every transaction.

Overall, this study concludes that the challenges of implementing faraid law in the context of nuclear families and modern finance should not be seen as an obstacle, but as an opportunity to strengthen the Islamic legal system through innovation and education. Understanding of faraid principles must be balanced with awareness of the need for comprehensive estate planning based on the maqasid of Sharia. Only with synergy between law, education, and technology can the implementation of faraid be returned to its original goal of ensuring justice, harmony, and overall socio-economic well-being of Muslims in a dynamic modern world.

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