

Full Length Research Paper

The agricultural land tenancy contract from the Islamic perspective and its practice among farmers: A study in Selangor, Malaysia

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In agricultural activities, there are times when farmers have to lease their land to increase the space area for the agricultural activities and sometimes, it is due to them not owning their own land. Land leasing is done by getting cash or by dividing the agricultural product between the land owner and the farmer at 1/2 or 1/4 profit sharing, depending on the agreement between the two parties. Payment for leasing land by the farmer is done via *ijarah* contract, whereas land leasing using the agricultural product as payment is done through the *muzara'ah* contract (sharecropping). Islamic scholars are unanimous in accepting the practice of land leasing through monetary means; nevertheless, they are mostly not in agreement in the case of land leasing through agricultural produce. Abu Yusuf and those who accepted the leasing of land by paying with agricultural produce are of the opinion that the *muzara'ah* contract (sharecropping) can be likened to the *mudarabah* contract carried out in the business. Whereas Abu Hanifah and those who rejected the *muzara'ah* contract felt that it contains elements of *gharar*. The *gharar* element existed because the agricultural produce used as payment for land lease does not exist yet when the contract is carried out. Islamic scholars are also not unanimous in determining whether it is the land owner or the farmer who must pay tithe for the produce gained from the leased land. A study was done in Selangor to see the land leasing practice among paddy or rice farmers. Four hundred and three (403) tithe payers were chosen as respondents in this study. The results showed that majority of the paddy farmers lease land using monetary payments compared to paying with their produce. The payment for land lease is done either prior to planting the crops, after harvesting or annually. The study found that the majority of respondents are of the opinion that the responsibility to pay the tithe is the land owner.

Key words: Land leasing, crop sharing (*pawah*), shared tenancy, *ijarah*, *muzara'ah*.

INTRODUCTION

Land is an important element in developing agricultural activities. However, not all farmers own land to work on, hence they lease land from other land owners. For farmers who own land, they too sometimes lease land from others to increase the space for their crops.

The issue of land leasing contract in the form of sharecropping (sharing of agricultural production between tenant and landlord) and cash lease gained attention from economists. Majority is of the opinion that leasing land using cash lease is better as opposed to leasing using sharecropping. Albeit the sharecropping contract receiving major criticism among several conventional economists, there are economists who believed that the sharecropping contract is more effective in producing better crops or agricultural products.

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A study by Fujimoto (1983) in Pulau Pinang and Kelantan, two of 14 states in Malaysia, found that paddy farmers practised five types of land leasing contracts ranging from paddy lease, cash lease, pawn lease, sharecropping and borrowed land without any payment. Paddy lease is a method in which the paddy farm rent is paid in kind, where paddy is used as a pay-out once the harvest season is over at a determined rate. There are also paddy farmers who pay with money at the same value as the total paddy rent. Cash lease is a paddy farm rent paid with money valued at the rate which has been determined. Generally, the crop types determine the rate of the land lease if money is the payment mode. Crops with high returns set a higher lease rate of a land. For example, in Kelantan, the rent for land planted with tobacco is set at RM 350 per acre which is much more higher compared to the rent for land used for rice planting which is only at RM 53.00 per acre (Fatimah Mamat, 2004).

Pawn lease is the renting of land for a long period of time and the money is paid prior to the agreement or earlier than the deal. On the other hand, sharecropping or known as *pawah*, in Malay language, is a sharing of yield between the land owner and the farmer, where the yield is divided into two or three (Fujimoto, 1983). The farmers get 2/3, if they have to prepare more or higher capital for paddy planting such as purchasing of fertilizers, pesticides and renting of machinery (Fatimah Halim, 1983). According to Huang (1973) the sharecropping for paddy land is practised more in the state of Kelantan compared to other paddy planting areas in the 1950s.

A study by Muhammad and Nor Aini (2007) at FELCRA Berhad Seberang Perak found that sharecropping has been implemented between FELCRA Berhad Seberang Perak and the participants. FELCRA (Federal Land Consolidation and Rehabilitation Authority) was established in the early 1970s to develop the agricultural sector. In practice, FELCRA manages the land and the agricultural output to be shared between the land owners.

The objectives of this study are two fold:

1. Investigate the practice of agricultural land tenancy among Muslim farmers in Selangor, Malaysia.
2. Determine the practice of paying crop (agricultural) tithe (*zakah*) among the land tenants.

This paper consists of the literature review and discussions among conventional economists on the types of agricultural land tenancy contracts followed by debates of Muslim scholars on sharecropping and cash rent, methodology and findings which is followed by the conclusion.

Conventional economists have differing opinions on land lease using fixed cash payments or payment using sharecropping. The discussions on land lease contract can be referred to the writings of Cheung (1969), Rao (1971), Newberry (1974, 1977), Bell and Zusman (1976),

Reid (1976), Ip and Stahl (1978), Roumasset (1979), Brown and Atkinson (1981), Barret (1984), Allen (1985), Eswaran dan Kotwal (1985), Braverman and Stiglitz (1986), Otsuka and Hayami (1988), Peach and Nowotny (1992), Arce (1995), and Datta (1986).

Views on sharecropping have been perpetually controversial among economists with two major opinion group. According to Garret and Xu (2003), Adam Smith and majority of classical economist argued that sharecropping is inefficient, while another group such as Johnson, Cheung, Reid and others believed that sharecropped farms yields as much output as rented or owner cultivated farms.

Garret and Xu (2003) on the other hand, tried to prove that sharecropping was desirable because sharecropped farms could be more productive owner-operated farms and perhaps more productive than rented farms. Cheung (1969) argued that sharecropping can create efficiency in resource allocation as he believed that sharecropping is different from the lease; based on fixed cash payment rate. This is because the farmers renting the land have to bear all risks resulting from the agricultural activities. For example, if the rent for an acre is RM 400; the land owner gets all the rent money. If, for various reasons, the crops failed, the land owner still gets the rent money but the farmer experiences total loss.

If the land owner chooses not to lease the land; instead operates the land on his own by using hired farm workers, the land owner has to bear the risks of wages and other expenses. This means that whether the crops materialise or not, the farm workers still get their wages, and if the crops failed to produce, the land owner will experience a loss. Therefore, for some land owners, it is preferable to undertake lease or sharecropping contracts compared to hiring of contract workers or land lease with fixed payments because the risks are borne by both the land owners and farmers working on the agricultural land (Cheung, 1969).

Rao (1971) argued that the incentive to lease out on a share basis would only exist if the landlords can expect that the share rents on the average would not be lower than the fixed rents or the net income from own cultivation with hired labour.

On the other hand, Allen (1985) is of the opinion that this contract is more in the form of a loan where farmers are given land to use and must pay the land owner in some payments in the form of crops or produce after the crop harvest.

Newberry (1974, 1977) defined the share-tenancy contract to be different from the fixed-rent contract in that, the tenant pays a stipulated fraction of the harvest to the landlord instead of a fixed rent per acre. Rent paid therefore depends upon the level of inputs applied by the tenant with the corollary that there is an incentive for the tenant to undersupply these inputs. According to Newberry (1974, 1977), there are two advantages of sharecropping. The first is that; share contracts enable

tenant to share the risk of agricultural production with the landlord rather than bearing them completely as fixed rents. The second benefit of sharecropping emphasises the disincentives provided by a share contract compared to a fixed-rent contract is misplaced, and that a share contract is usefully considered as labour-hiring contract which provides incentives for increased effort. He argued that if production is risky, it will be difficult for the landlord to deduce the size of the harvest, whether the worker was shirking or the weather was to be blamed, and thus difficult to enforce a simple wage contract. A share contract reduces the worker's incentive to shirk by rewarding him a share in the output he produces. Almost all share contracts are for one year or one crop season, they are likely to behave like labour contracts than fixed rent contracts, which are typically for a long period.

Otsuka and Hayami (1988) assumed that the basic assumption of the agency theory is that, the agent tries to maximize his utility with respect to his effort under given terms of contract, and that the principal tries to maximize his utility by manipulating contractual terms with consideration of the agent's 'reservation utility' that would mean the utility that the agent can obtain if he does not enter the contract.

With the vast literature on sharecropping and fixed rent by the economists and agricultural economists; this article will discuss the sharecropping and fixed rent of agricultural land from Islamic scholars view as well as the practice among the paddy planters (rice farmers) who pay paddy tithe in Selangor. We argued that while conventional economists are concerned about the efficiency or inefficiency of sharecropping, Muslim scholars however look at this issue from different perspectives. Muslim scholars are more concerned about the *maslahah* (public interest) of both parties and well-being of the contracted parties. Their concern was revealed by their opinion based on their *ijtihad*. There are also two opinions by the Muslim scholars on sharecropping; while one group is of the opinion that, it is allowed, the other group is of the opinion that it is prohibited. The reason for each opinion has been taken into consideration, that is, the *maslahah* and welfare of the *ummah*. Each of them supports their opinion based on the source of *sunnah* of the Prophet. This is the main criteria of the Muslim scholars methodology when giving opinion; in other words, supported by the sources of Al-Quran and *Sunnah* (Mahdi Zahraa, 2003).

In the Islamic contracts, leasing agricultural land with monetary via cash payment or other valuables is known as *ijarah* or *kira'*. Whereas, leasing agricultural land with payment from the crops is called *muzara'ah* contract. In agricultural land lease based on the *ijarah* or *kira'* contract, the payments are in the form of money or

valuables. The practice of renting land with monetary payments or valuables is accepted by the majority of Islamic scholars. *Ijarah* refers to the repayment, that is repayment for work and repayment for use of other tools, for example, the monetary payment for house rent privileges (Ibn Manzur, 1990).

From the aspect of terminology, *ijarah* is the contractual purchase (sell and buy) on the privileges of paying back. Payment for wages or rent is an example of the privileges received. Therefore, *ijarah* contract can be done through material benefits or work or service. The benefits received can be realized in various forms such as "accommodation or a place to live" for houses, "agriculture" for agricultural land, "transport" for vehicles, "service" for labour and so on (Al-Kasani, 1998). In *ijarah* contract, one party who pronounces the vows is entitled to material benefits and the other is entitled to receive repayment. The benefits received are the same as the materials or belongings owned when purchase is made (Ibn Qudamah, 1997). This material benefit, *ijarah* is the same as purchasing the material. The only difference is, *ijarah* regards to the purchase through vows (*akad* which is a verbal or oral exchange of contract for promise or deed to be done) whilst purchasing is when goods transfer in ownership. In *ijarah*, it is only using material benefit without transferring the goods ownership.

The majority of Islamic scholars such as Malik (1999), al-Syafi'i (2001) and Ibn Qudamah (1997) opined that renting land using gold and silver as payments is permissible. They are of the opinion that leasing land by paying in the form of money is based on several *hadiths* from the Rasulullah SAW (words from the Prophet) which means (Malik, 1999):

i Hanzalah bin Qais reported that Rafi' ibn Khadij related that the Prophet forbids leasing agricultural land. Hanzalah said "I proceeded to ask Rafi' ibn Khadij how about gold and silver? Rafi' ibn Khadij then said it is alright with gold and silver;

ii. Ibn Syihab said that he asked Sa'id bin Musayyab about leasing land with gold and silver and Sa'id bin Musayyab then said this type of rent can be done; and

iii. Ibn Syihab had asked Salim bin 'Abd Allah bin 'Umar about leasing agricultural land. He then said "it can be rented using/with gold and silver." Ibn Syihab then asked, "What do you think of the *hadith* mentioned by Rafi' ibn Khadij?" He said "Many are confused, if I have many agricultural lands, I would lease them with gold and silver".

According to Al-Syafi'i (2001), besides land lease payment using money, farmers can also pay land rent with other valuables like food. For example, the payment of land lease with dates and other fruits that could be traded. However, Malik (1999) thought that leasing land using food as payment such as dates or the agricultural produce from that land or other goods not produced from that land cannot be done.

¹According to Mazhab Maliki the term *kira'* is used for leasing of untransferrable goods such as house or land. See al-Dusuqi, Muhammad bin Ahmad (1996). Hasyiah al-Dusuqi, vol. 5. Beirut: Dar al-Kutub al-'Ilmiyyah, pg. 334.

Muslim scholars discussed several terms concerning land leasing to ensure that the importance of the land is preserved. According to Ibn Qudamah (1997), farmers must see the land they wish to lease to know the land condition, because the type, structure and condition of soil influences the suitability or compatibility of crops that can be planted on a piece of land. The land owners and farmers must conduct some research on the type of crop that will be planted on a particular land.

Farmers can plant different crops from those agreed with the land owners, as long as the crop does not lessen the fertility compared to the crop from which is supposed to be planted and agreed upon. If the crop can reduce the fertility of the land by planting a different crop than the crop which was supposed to be planted, the land owner has the right to ask the farmer to plant the crop agreed upon or other crops less damaging to the soil (Al-Syafii, 2001).

The duration for leasing of land must be clear between the farmer and land owner. In fact, the crop to be planted on the land must be suitable with the duration of the lease. According to Al-Syafii (2001), if a farmer rented land for a year and the farmer planted a crop which took more than a year to bear results or produce; this type of lease contract is considered *fasid*. If the farmer rented the land for certain number of years and the harvest could be collected earlier than the lease end date, the land owner cannot claim the land until the lease contract ends (Al-Syafii, 2001). While land is leased based on the *al-muzara'ah* contract, it involves payment of land rent with the harvest or crop produced, that is, planted by the farmer. Farmers and land owners are bound by several terms to work agriculture on that land.

Al-Muzara'ah in terms of language on *wazan mufaa'alah* is a verb that requires the involvement of both parties who expressed vows to execute the work; that is the cooperation between the land owner and the farmer to work on agriculture (Lane, 1956). In terms of terminology, Al-Dusuqi (1996) defined it as the incorporation of agriculture. It is an uncommon contract, if the land had not been planted with seeds and giving wages to farmers using the harvest. On the other hand, *al-muzara'ah* is permissible when putting land lease value with money or animals/livestock. However, if the rent for the land is determined in two forms, that is the harvest and money, then this contract is not permissible.

According to Mazhab Hanafi (*mazhab* is a religious sect or school of thought), this contract transpired between the land owner and the farmer working the land with payments to the farmer in the form of agricultural produce, or the land owner hired the farmer to plant for him on the land that he owned with the wage from part of the agricultural produce which will be planted. Based on Mazhab Hanafi's view, this contract occurred in two situations, that is, the farmer rents agricultural land and pays the rent price with agricultural produce. This contract also exists when the land owner hires the farmer

to work on his farm and the wage for the farmer is paid with the harvest gained from the land (al-Zaila'i, 2000). Mazhab Hanbali defined it as a contract whereby the land owner gives the agricultural land to the farmer to work on and the harvest or crop produce be divided between the two parties as mentioned in the contract (Ibn Qudamah, 1997). For Al-Syafii (2001), *al-muzara'ah* is the co-operation between the farmer and the land owner to work the farm, not planted with crops yet and the wages are based on the harvest or agricultural produce. This type of contract is not permissible because the wage to be paid to the farmer is not known as the crop or plant, which is the foundation of the division of produce is not there yet. The *al-muzara'ah* contract has created controversy among Islamic scholars. There are those who accepted it and a few rejected it. Based on the discussions among the Islamic scholars, it concluded that the primary question which became the issue in this contract is the determined or fixed payment of the farmers' wages and the payment of the agricultural land rent in the form of harvest or crop produced which is yet to exist.

In this agricultural industry contract, the land owner provides the land capital whereas the farmer contributes his labour or work force. As for seeds, they may be contributed by the land owner, farmer or both according to the agreement between the two parties. The harvest or crop produced will be divided between them at the rate of $\frac{1}{2}$, $\frac{1}{3}$ or $\frac{1}{4}$. The farmer will get part of the harvest as payment or wage for his work or labour and the land owner gets the harvest or crop as payment for leasing his land. The probability that the crop planted will grow and bear fruits or results or otherwise is something which is vague and undetermined (al-Nawawi, 1995).

Abu Yusuf (1933) reported that Abu Hanifah (who is the founder of Mazhab Hanafi) is of the opinion that the *al-muzara'ah* cannot be done. According to him, the *al-muzara'ah* vow that determines the division of produce as a quarter ($\frac{1}{4}$) or half ($\frac{1}{2}$) is null or void in terms of its rule (*hukum*). Abu Hanifah's reasoning is based on a *hadith* reported by Jabir as compiled by Ibn Hajar Al-Asqalani (1997), which mean that:

The people of Madinah (Medina) lease their lands with the agricultural produce/crops/harvest at the rate of a third ($\frac{1}{3}$), a quarter ($\frac{1}{4}$) and half ($\frac{1}{2}$). The Prophet (Rasulullah SAW) then said, those who own land must work on the land themselves or loan it to others to work on it. If the person does not do that, he must then keep it.

Al-Syafii (2001) also rejected the *al-muzara'ah* vow because the work wage using the harvest/crop/ agricultural produce which has not existed as yet is prohibited. Even the Prophet (Rasulullah SAW) himself prohibited the *al-muzara'ah* vow with payment of one third ($\frac{1}{3}$), one fourth ($\frac{1}{4}$) and so on from the harvest/

produce of that land as mentioned in the *hadith* reported by Jabir above.

According to those who rejected the *al-muzara'ah*, the object of the vow (*akad*) in *al-muzara'ah* had not existed and not clear in its rate. This is because the wage for the farmer is from the harvest that has not existed yet (*al-ma'dum*) and unclear (*al-jahalah*) in its measurement. Therefore, the profit to be divided from the beginning is unclear as yet at the initial stage. There is a possibility that the harvest may not materialise after the farmer works on the agricultural land. This will cause the farmer not to reap any rewards from his labour (al-Zaila'i, 2000). This *al-ma'dum* and *al-jahalah* nature to the vow (*akad*); causing the vow (*akad*) to be invalid. They debated that the Prophet's (Rasulullah SAW) *hadith* reported by a majority of *hadith* reporters told through Prophet's (Rasulullah SAW) practice with the people of Khaybar which has been used as an argument by the *fuqaha'* who accepted the *al-muzara'ah* not as the *al-muzara'ah* vow (*akad*), instead the practice is in the form of *al-kharaj al-muqasamah*, that determines the pawn which is supposed to be paid by the farmer to the Prophet (Rasulullah SAW) every harvesting season.

Abu Yusuf (1933) accepted the *al-muzara'ah* contract based on the fact that this contract is the same as the *mudarabah* contract in business or trade. According to him, in the *mudarabah* contract, capital provider gives the capital to the developer agreeing on a certain profit rate whether it is one out of two (1/2) or one third (1/3) and so on. In the contract, the capital provider and the developer cannot determine if that industry or collaboration will be profitable or not and the element of *gharar* existed on the possible amount of profit.

Although, an element of uncertainty existed on the profit and loss in that trade, the majority of the *fuqaha'* have accepted the *mudarabah* contract. Abu Yusuf (1933) made an analogy of the land to the position of capital in the case of *mudarabah*, and therefore the *al-muzara'ah* contract can be done. Abu Yusuf (1933) reinforced his arguments further based on the *hadith*:

Nafi' retold from 'Abd Allah bin 'Umar from 'Umar told that the Prophet (Nabi SAW) had an agreement with the people of Khaybar by allowing the people of Khaybar to work on the agriculture and date orchards by paying half of the harvest. He gave 100 *wasdaq* that is 80 *wasdaq* of dates and 20 *wasdaq sya'ir* to his wives taken from his share of the gains (that he gained) every year.

According to Mazhab Syafi'i (Al-Khatib al-Syarbini, 1997), the *al-muzara'ah* contract is illegal, unless the *al-muzara'ah* follows the *al-musaqat* contract. *Al-musaqat* happens when a farm owner hires a farmer to do watering or other tasks related to looking after the farm with a certain rate from the fruits earnings (Ibn Qudamah, 1997).

This means that; if the orchard owner hires the farmer to look after his orchard based on the *al-musaqat* contract and there are empty areas on the orchard land, the farmer then can plant crops on it based on the *al-muzara'ah* contract. This is due to the fact that the *al-muzara'ah* contract is not a standalone, but bound by the *al-musaqat* contract.

Ibn Qudamah (1997) is of the opinion that this contract should be done because it had been carried out by companions of the Prophet based on what was carried out by the Prophet (Rasulullah SAW) with the people of Khaybar. In fact, according to him, the soil is no longer beneficial unless it is being used to grow crop. If the land owner cannot grow crop and the farmer on the other hand does not have land, then the right thing for both parties to do is to help one another by having the *al-muzara'ah* contract.

The *al-muzara'ah* is permissible especially in a situation when the land owner has fertile land but he cannot engage in agriculture or work, the land as he could probably does not have the expertise, busy with his own job or the location of the land is far from his home or where he lives. On the other hand, the farmer has the expertise to develop agriculture but does not own land. In this case, both parties can work together to develop agriculture and divide the crop/harvest/agricultural produce between them at the rate of 1/2, 1/3/ 1/4 and so on (Al-Barr, 1986).

In the *al-muzara'ah* contract, the land owner and the farmer must work together to contribute to a particular crop planting project. The contribution can be done as follows (Al-Kasani, 1998):

- i The land owner has the land, seedling and tools. Whereas the farmer contributes labour to work and develop the crop. In this case, the land owner is the employer who hires the farmer.
- ii The land owner has the land. The seedling, tools and work labour comes from the part of the farmer.
- iii The land owner has the land and seedling whereas the farmer contributes labour and tools.
- iv The land owner prepares the land and tools, whereas the farmer prepares the seedling and labour.

For farmers working on leased land from the land owner, there are differing opinions among Islamic scholars on who should be paying tithe; whether it is the farmer or the land owner. The Islamic scholars have put forth two opinions, one says that tithe should be paid by the farmer and the other thinks that the land owner should be paying the tithe.

Abu Hanifah thinks that tithe is imposed on the land owner because it is part of his cost or sponsor. In addition, the proceeds gained are meaningful to the land owner because he gets the rent, as though he planted crops by himself (Al-Kasani, 1998).

Abu Yusuf (1933) thought that tithe is imposed on tenant

Table 1. Distribution of land ownership, land leasing and crop sharing land from others.

Farmers who own land	Frequency	Percentage
Farmers who own agricultural land and rent agricultural land from others.	98	28.8
Farmers who own agricultural land and crop sharing agricultural land from others.	10	2.9
Farmers who own agricultural land, rent and do crop sharing of agricultural land from others.	7	2.1
Farmers who own agricultural land, do not rent and do not do crop sharing of agricultural land from others	225	66.2
Total of farmers who own land	340	100.0
Farmers who do not own their own agricultural land		
Farmers who do not own agricultural land and rent agricultural land.	55	87.4
Farmers who do not own agricultural land and do crop sharing of agricultural land from others.	4	6.3
Farmers who do not own agricultural land, rent and do crop sharing of agricultural land from others.	4	6.3
Total of farmers who do not own land	63	100.0
Total of all respondents	403	100.0

Source: Study sample, 13 to 19th, October 2003.

farmers because tithe is compulsory on agricultural proceeds which belong to the tenant. In lieu of this, the tenant is obligated to produce tithe just like in the case of someone borrowing land for planting purpose. Al-Syafi'1 (2001) is also in agreement with Abu Yusuf that if a farmer rents or borrows the land to be planted with crops which tithe are imposed on, he is obligated to produce a tenth (1/10) of tithe. They are of the opinion that tithe must be paid by the tenant or borrower and not the land owner; because the obligation for tithe is on the crop proceeds and the tenant or the borrower is the owner of the harvest. Imposing tithe on the land owner is cruel because the tithe is imposed on the crop. The *dalil* (proof/reasoning) says that tithe is not compulsory if the land is not planted with crops and the obligation for tithe is related to the rate of crop (al-Bahuti, 1999).

METHODOLOGY

This study was conducted in Selangor from 13 to 19th, October 2003, mainly to observe the practice of land leasing and paying of tithe among the rice farmers (paddy planters). The data were collected through a set of questionnaires using the non-random sampling technique. A total of 403 respondents who were both paddy farmers and tithe payers were chosen as samples of this study. Three hundred and sixteen (316) respondents were located in Sabak Bernam while the remaining 87 respondents were in Tanjong Karang. Sabak Bernam and Tanjong Karang, both in the state of Selangor were chosen for the study, because these two paddy planting areas are gazetted under the Integrated Agricultural Development Area (IADA). These two rice planting areas are known to produce higher rice yields and these are also the only locations in the state of Selangor where paddy farmers pay their tithe. The researchers chose paddy tithe payers as the study samples because the objective of this study is to observe the practice of land leasing and that of paying crop tithe among land tenants.

FINDINGS AND DISCUSSION

Land ownership status among respondents

Based on the study samples, it was found that 340 respondents have their own agricultural land and 225 (66.2%) of them undertake paddy planting on their own land without renting or leasing agricultural land from others. A total of 98 (28.8%) respondents increased their land space for paddy planting by renting from other land owners, 10 (2.9%) respondents practice crop sharing and 7 (2.1%) respondents practice farm renting and crop sharing. In addition, 63 respondents do not own agricultural land and 55 (87.4%) of them rent agriculture land, 4 (6.3%) respondents rent or crop sharing agriculture land and 4 (6.3%) also rent as well as crop sharing agriculture land (Table 1).

The practice of crop sharing of agricultural land among paddy farmers

Table 2 shows that 25 respondents who practiced crop sharing for the land are male farmers from 3 villages in Tanjong Karang and 9 villages in Sabak Bernam. Most of the respondents (88.0%) practise crop sharing of land from one landlord whereas 2 respondents do crop sharing of land from 4 landlords. From the aspect of the relationship between farmer and landlord, 18 (72.0%) of them sublet land from their own family and 7 of them (28.0%) sublet land from their friends. All of them sublet agricultural land by dividing the sale of the paddy harvest between the landlords and the farmers as payment (Table 3).

Table 2. Respondents by district, gender and age.

District	Village	Male	Total
Tanjong Karang	Sawah Sempadan	3	3
	Sungai Tenggi Kanan	3	3
	Kunci Air Buang	1	1
Total respondent		7	7
Sabak Bernam	Parit 3 Timur,	2	2
	Parit 1 Barat	1	1
	Parit 14 Darat	2	2
	Peket 60	3	3
	Parit 3 Barat	2	2
	Peket 100 Sawah	1	1
	Sg. Nibong	3	3
	Parit 5 Timur	2	2
	Tali Air 10	2	2
Total respondent		18	18
Total respondent		25	25

Source: Study sample, 13 to19th, October 2003.

Table 3. Crop sharing on agricultural land.

Number of landlord doing crop sharing by a farmer	Frequency	Percentage
One land owner	22	88.0
Two land owners	1	4.0
Four land owners	2	8.0
Total	25	100.0
Relation between land owner and farmer		
Family	18	72.0
Friend	7	28.0
Total	25	100.0
Crop sharing rate		
Earnings divide by two	25	100.0
Has agreement letter on crop sharing		
Yes	1	4.0
No	24	96.0
Total	25	100.0
Sublet payment time		
Once a year / annually	1	4.0
Every harvest season	24	96.0
Total	25	100.0
Exclude paddy planting cost before dividing the earnings		
Yes	20	80.0
No	5	20.0
Total	25	100.0

Source: Study sample, 13 to19th, October 2003.

Table 4. Sharing of planting cost between the land owner and the farmer.

Planting cost	Paid by land owner	Paid by farmer	Shared between land owner and farmer	Not applicable	Total
Seed	2(50.0%)	-	2 (50.0%)	5	9
Fertiliser	-	1 (33.3%)	2 (66.7%)	6	9
Pesticide	-	-	3 (100.0%)	6	9
Scattering seeds	-	1 (100.0%)	-	8	9
Ploughing	1(33.3%)	-	2 (66.7%)	6	9
Transportation	-	1 (50.0%)	1 (50.0%)	7	9

Source: Study sample, 13 to19th, October 2003.

From the 25 respondents who do crop sharing of agricultural land from others, only one respondent (4.0%) has a letter of agreement about the use of the land compared to 24 (96.0%) who do not have any kind of documentation. As for the payment of crop sharing, 24 respondents (96.0%) settle it every harvesting season and only 4.0% pay annually to the landlord (Table 3). Table 3 also shows that 20 respondents (80.0%) exclude paddy planting cost at the initial stage before dividing the paddy earnings with the land owner. 20.0% of the respondents did not exclude the paddy planting cost before dividing the paddy earnings with the land owner.

A total of 9 respondents share the agriculture cost with the land owner to purchase paddy planting input materials and other agricultural costs. This planting cost is either fully borne by the land owner, farmer or shared between the land owner and the farmer. For example, there are two farmers who left the responsibility of buying seeds to the land owner, whereas two other respondents share the purchase of seeds with the land owner (Table 4).

The practice of renting agricultural land

The result of the study found that respondents also rent agricultural land from others to work on. A few statutory matters are satisfied here such as land lease agreement letters, land rent payment time and the land rent rate per acre.

From Table 5, it was found that 164 respondents (40.7%) have rented agricultural land that is 27 from Tanjong Karang and 137 from Sabak Bernam. A total of 120 (73.25%) rented land from one land owner and a total of 28 (17.1%) rented land from two land owners (Table 6).

For agricultural land rent, 115 respondents (70.1%) do not own agreement letters, compared to 49 respondents (29.9%) have land rent agreement letters. This situation is caused by the close relations among them. This relationship resulted in a strong trusting nature among them and they felt that an agreement letter is not an important matter to be drawn up. This is even more so if they rent land from their own relatives (Table 7).

Table 7 also shows that 143 respondents (87.2%) paid land rent every time after harvesting season, because at that time, they get money from the earnings of the paddy sales and subsidies. 15 respondents (9.1%) paid the field and 2 respondents (1.2%) paid land rent when asked by land, 4 respondents (2.4%) paid land rent once a year the land owner. A total of 93 respondents (56.7%) rent paddy whole sum of land rent at once before working on the at the rate of RM301 to RM400 per acre of the paddy field (Figure 1).

Respondents view concerning the responsibility of paying agricultural tithe for the land being rented

Although all respondents are paddy tithe payers, the researcher also analysed the perception of the respondents who rented or sublet paddy fields from others on their responsibility towards paying the paddy tithe. Table 8 shows that, 76.2% of the respondents thought that the tenant is responsible for paying paddy tithe, while 5.5% said that the land owners as well as farmers are all obligated to pay the paddy tithe together. However, 18.35 thought that the land owner is responsible for paying the paddy tithe.

For respondents who are subletting the land, Table 8 shows that 52.0% of the respondents said that the sharecroppers are responsible for paying the paddy tithe. 24.0% said that it was the responsibility of the land owner and 24.0% said that the land owner and the crop sharers are the ones responsible to pay the paddy tithe.

We conclude that the majority of the respondents are in the opinion that tenants or the borrowers should pay the tithe as opined by Abu Yusuf and Al-Syafi'i because tithe is imposed on the crop not on the land.

Conclusion

Although, Mazhab Syafi'i did not agree with the sublet contract in Malaysia, there are many farmers who practise that contract as a way for them to get the rights to use land for paddy planting. The results of this study found that they also share the costs of paddy planting

Table 5. Respondents according to district, gender and age.

District	Village	Male	Female	Total
Tanjong Karang	Sawah Sempadan	15	0	15
	Sungai Tenggi Kanan	9	1	10
	Kunci Air Buang	2	0	2
Total respondents in Tanjong Karang		26	1	27
Sabak Bernam	Parit 15	1	0	1
	Parit 3 Timur,	10	0	10
	Parit 2 Timur	10	0	10
	Parit 1 Barat	4	0	4
	Ban Sg Leman	1	0	1
	Parit 14 Darat	9	0	9
	Peket 60	8	0	8
	Parit 3 Barat	2	0	2
	Parit 3 1/2 Timur	7	3	10
	Peket 100 Sawah	4	1	5
	Sungai Leman	7	0	7
	Parit 4 Timur	3	2	5
	Sg. Nibong	23	0	23
	Sg. Hj Dorani	2	0	2
	Parit 5 Timur	7	0	7
	Tali Air 10	2	0	2
	Parit 10, Pasir Panjang	5	0	5
	Tali Air 11, Pasir Panjang	2	0	2
	Parit 8 Timur, Pasir Panjang	3	0	3
	Parit 9, Pasir Panjang	9	1	10
	Parit 11, Pasir Panjang	1	0	1
	Parit 10 Timur	2	0	2
	Desa Kasih	1	0	1
Parit 3 1/2 Barat	1	0	1	
Parit 7 Timur	0	2	2	
Parit 8 1/2 Barat	2	0	2	
Parit 5 1/2 Barat	2	0	2	
Total respondents in Sabak Bernam		128	9	137
Grand total respondents		154	10	164

Source: Study sample, 13 to19th, October 2003.

Table 6. Number of land owners whose land is rented by one respondent.

Number of land owner	1	2	3	4	5	6	8	10	Total
Number of tenant	120 (73.25%)	28 (17.1%)	4 (2.4%)	2 (1.2%)	5 (3.0%)	3 (1.8)	1 (0.6%)	1 (0.6%)	164 (100%)

Source: Study sample, 13 to19th, October 2003.

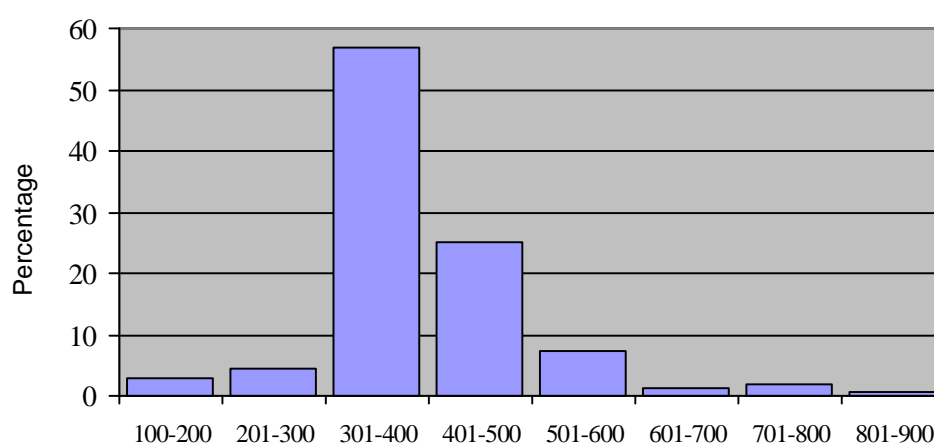
with the land owner contributed through the sharing of seeds, fertilisers, pesticides, transport and labour costs in seeding and ploughing as preconditioned by Mazhab Hanafi. However, it was found that the farmer has a tendency to rent land by cash at the rate between RM100 to RM900 per acre. The majority of farmers also did not

make sublet contractual agreement and cash rent in writing and leverage via verbal agreement; based on trust between the farmers and the land owners. As for paying tithe, all farmers pay the paddy tithe and in line with all the ulama' (religious experts) views that tithe is compulsory on crops; not on the agricultural land.

Table 7. Renting of agricultural land.

Having agreement letter	Frequency	Percentage
Yes	49	29.9
No	115	70.1
Total	164	100.0
Payment done		
Once a year / annually	4	2.4
Every harvest season	143	87.2
Paying the whole sum at once before starting work or planting paddy	15	9.1
Land owner request then give payment	2	1.2
Total	164	100.0

Source: Study sample, 13 to 19th, October 2003.

**Figure 1.** Paddy/rice field rent rate per acre (RM). Source: Study sample, 13 to 19th, October 2003.**Table 8.** Respondents' view on the responsibility of paying paddy/rice tithe.

If paddy/rice field is rented, who pays tithe	Frequency	Percentage
Land owner	30	18.3
Tenant	125	76.2
Land owner and tenant	9	5.5
Total	164	100.0
If paddy/rice field is through crop sharing who paid tithe		
Land owner	6	24.0
The one doing the crop sharing	13	52.0
Land owner and crop sharer	6	24.0
Total	25	100.0

Source: Study sample, 13 to 19th, October 2003.

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