

**FAMILY BUSINESS SUCCESSION PLANNING: A CASE
STUDY OF MALAY LEGAL FIRMS IN MALAYSIA**

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DOCTOR OF BUSINESS ADMINISTRATION

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**FAMILY BUSINESS SUCCESSION PLANNING: A CASE STUDY OF
MALAY LEGAL FIRMS IN MALAYSIA**

By

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OTHMAN YEOP ABDULLAH GRADUATE SCHOOL OF BUSINESS
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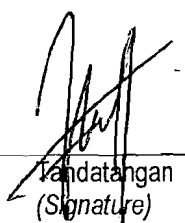
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ABSTRACT

This dissertation represents an attempt to study how Malay entrepreneurs in Malaysia, in particular the family legal firms, plan the succession of the business to the next generation to ensure its future sustainability. The justification for researching the succession of legal firms was the continuity of legal firms was restricted by the ruling of the Legal Profession Act 1976, in that the owner of legal firm must always be a practicing lawyer. In addition, the succession of legal firms also becomes more difficult as they cannot be corporatized into private limited companies and must always be maintained as either a sole proprietorship or a partnership. A qualitative method approach was applied in this research methodology. Data was collected by way of interview from ten (10) case studies comprising founders of ten (10) Malay family legal firms who have been in active legal practice for more than 20 years and were expected to retire within five to ten years time. The significant finding of this study was that SMEs, like professional services-based firms, were not perceived as businesses and therefore could not be family businesses. Further, in such firms, there may be restrictions to succession as only “qualified persons”, relevant to the profession would be able to inherit the shares in the firm. Theoretically, this research contributes to academic knowledge by extending the definition of family business to include “a business which must be inheritable to family members in that it should be automatically transferable to family members without restriction, upon the demise of the founder or the incumbent owner”. Practically, the research could facilitate the Malay legal firms to plan succession leading to future business sustainability, by recommending that they build size, implement best management practices and finally transform themselves into multi-ethnic legal firms in Malaysia. In conclusion, the objective of successful succession is to have intergenerational business sustainability. As such, the research provides new insights and informs about the successful succession of Malay family legal firms, in particular, and Malay SMEs in Malaysia, in general, with the hope of achieving the Malay Corporate Equity Ownership target of 30 per cent of the total corporate equity ownership in Malaysia.

Keywords: Family business, succession planning, management succession, ownership succession and business sustainability

ABSTRAK

Disertasi ini merupakan satu percubaan untuk mengkaji bagaimana usahawan Melayu di Malaysia, khususnya firma-firma guaman keluarga, merancang waris untuk memastikan kelestarian perniagaan pada masa hadapan untuk generasi akan datang. Justifikasi kajian tentang waris pengganti firma guaman adalah kerana kesinambungan sebuah firma guaman itu tertakluk di bawah Akta Profesion Undang-Undang 1976, iaitu pemilik firma guaman hendaklah seorang pengamal undang-undang pada bila-bila masa pun. Di samping itu, waris gantian sesebuah firma undang-undang juga menjadi lebih sukar kerana firma guaman tidak boleh dikorporatkan menjadi sebuah syarikat sendirian berhad dan hendaklah dikekalkan sebagai perniagaan milikan tunggal atau perkongsian. Pendekatan kaedah kualitatif telah digunakan dalam metodologi kajian ini. Data telah dikumpulkan daripada sepuluh (10) kajian kes yang terdiri daripada pengasas dan pemilik sepuluh (10) firma guaman keluarga Melayu yang aktif lebih daripada 20 tahun dan bakal bersara dalam masa lima hingga sepuluh tahun. Penemuan penting dalam disertasi ini adalah bahawa perniagaan berasaskan perkhidmatan profesional seperti firma guaman tidak dilihat sebagai suatu perniagaan dan oleh itu tidak boleh dikira sebagai perniagaan keluarga. Juga, dalam apa jua profesion, mungkin ada sekatan ke atas waris kerana hanya "orang yang berkelayakan", yang berkaitan dengan profesion tersebut akan dapat mewarisi saham dalam firma tersebut. Secara teorinya, penyelidikan ini menyumbang kepada pengetahuan akademik dengan cara meluaskan takrif "perniagaan keluarga" dengan mengambil kira "perniagaan yang mesti diwarisi kepada ahli keluarga dalam erti kata saham dipindahkan secara automatik kepada ahli keluarga tanpa sekatan apabila berlaku kematian pengasas atau pemilik". Secara praktikal, penyelidikan ini boleh membantu firma-firma guaman Melayu untuk merancang waris yang menjurus kepada kemampuan perniagaan masa hadapan, dengan mencadangkan bahawa mereka membina saiz, melaksanakan amalan pengurusan terbaik dan akhirnya berubah menjadi sebuah syarikat guaman multi etnik di Malaysia. Kesimpulannya, matlamat waris perniagaan yang berjaya adalah untuk mencapai kemampuan perniagaan masa hadapan. Oleh itu, disertasi itu memberikan pandangan baru mengenai warisan perniagaan firma guaman keluarga Melayu khususnya, dan PKS Melayu di Malaysia, secara umumnya, dengan harapan untuk mencapai sasaran Pemilikan Ekuiti Korporat Melayu sebanyak 30 peratus daripada jumlah keseluruhan pemilikan ekuiti korporat di Malaysia.

Kata kunci: Perniagaan Keluarga, Perancangan Warisan, Warisan Tadbir urus, Warisan Pemilikan dan Kelestarian Perniagaan.

DEDICATION

To my beloved wife, Noriazar.

This dissertation is dedicated to you,
for your unreserved moral support and encouragement,
through all the lonely days and nights that you have had to endure these last 5 years.

This dissertation is my wedding anniversary present to you.

Thank you for being my beloved wife for the last 31 years and till death do us part,
insyaAllah.

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CHAPTER ONE

INTRODUCTION

1.1 Background of Study

Business succession represents a major turning point for most family firms, as it involves a change in leadership which to a certain extent is determined by changes in ownership structure. It can determine whether the business survives or closes. Sustainability in businesses contributes to continuing economic growth and development. Family owned businesses, many of which are small medium enterprises (SME) are highly viewed as crucial for economic growth, and wealth creation. They are the back bone of the economy of many countries (Poutziouris, Steier and Smyrnios, 2004; Moha Asri, 1999). Businesses which lack sustainability will lead to a drop in business performance and reduction in profits and may ultimately lead to the folding up of the business.

Business closures will inadvertently affect wealth ownership in any country. During an economic downturn, millions of dollars are wiped out due to the fall in share prices of companies listed on the Stock Exchange. Further, some business closures cause a domino effect and cause other businesses strategically linked to it to also collapse leading to the latter's eventual closure. In the context of family businesses, in addition to the natural causes that lead a business to close, family businesses are further challenged due to leadership transitions and fragmented ownership when the business founder retires or ultimately dies.

Previous studies have shown that family businesses do not last three generations; in fact 70 percent of family businesses do not last after the first generation (Poza, 2010; Ward, 1987; Lansberg, 1988; Kets de Vries, 1993; Le Breton-Miller, Miller and Steier, 2004). Out of the balance that do survive to the second generation, only 30 percent last to the third generation, and only less 5 percent of the original figure carry on to the fourth generation (Ward, 1987; Le Breton- Miller *et.al.*,2004). This seems to prove true, the old adage “from shirtsleeves to shirtsleeves in three generations”.

Undoubtedly, there are numerous factors that contribute to the low rate of survival among family firms. In trying to clarify the high mortality rate among family firms, many business researchers identify succession planning, as a magic formula for successful succession in the family business (Lambrecht, 2005). It is generally assumed that one of the most significant factors determining the continuity of the family firm is whether succession is planned and how well it is planned (Kirby and Lee, 1996). There seems to be a consensus that good succession planning includes a comfortable time horizon the transition between generations. Schulman (1999) and Zaudtke and Ammerman (1997) suggest that families start planning for the transfer of ownership and managerial responsibility, five to ten years in advance of the anticipated event in order to achieve a successful succession. In fact, Motwani, Levenburg and Schwarz (2006), and Brockhaus (2004) went so far so as to conclude that succession planning was crucial for the long term survival of any family business.

Family businesses are omnipotent and can be seen all over the world. It is the most common form of enterprise around the world. According to the World Competitiveness Report in 2000 which is provided by the Lausanne Management Center, Switzerland, 80

percent of the enterprises around the world are family businesses. In the United States of America, family businesses account for over 80 percent of all firms and family businesses are present in one third of the listing of *Standard and Poor's 500* (Anderson and Reeb, 2003). Further evidence of the prevalence of family businesses has been provided by Klein (2000) in Germany, Morck and Yeung (2003) in Sweden and Astrachan and Shankar (2003) and Heck and Stafford (2001) in the United States of America.

The literature indicates that, as an area of academic research which only begun in the early 1980s, family business has attracted much attention. The ultimate aim of any research in family business is to inform, lead, enrich and guide managerial practice of family businesses. In such research, researchers would endeavor to understand the problems which are encountered by the management of family businesses, try to find out the root causes and the reasons affecting them and develop strategies to manage the problems (Zahra and Sharma, 2004).

La Porta, De-Silanes and Schleifer (1999) studied 20 largest publicly traded companies in the richest 27 countries worldwide and found that most companies are private and that ownership of listed companies are highly concentrated, thereby highlighting family ownership as significant corporations. As such, it can be argued that on the basis of the existing literature, family businesses are the primary engine of economic growth and vitality not only in the United States but in free market economies all over the world.

The evidence further states that U.S. companies with founding-family ownership perform better, on average, than non-family owned firms (Sraer and Thesmas, 2006; Farero,

Giglio, Honorati and Panuzi, 2006). In Asia, various literatures show that family firms reflect high performance in Taiwan, Australia, Hong Kong, Singapore and China (Filatotchev, Lien and Piesse, 2005; Chen, 2001; La Porta *et. al.*, 1999). In Malaysia, Claessens, Djankor and Lang (2001) found that most concentrated firms are dominated by family founders and their descendants and that family ownership constitutes 43 percent of the main board companies listed on the Kuala Lumpur Stock Exchange (Ibrahim and Samad, 2011).

1.2 Problem Statement

The story began in the study of the political history of Malaysia where the Malays, the largest indigenous group in Malaysia, who were acknowledged to be economically handicapped, due to the discriminatory policies by the British prior to the independence of Malaysia in 1957, were allowed to be positively discriminated by the Malaysian Government. To protect the special rights of the Bumiputra's (and the Malays) as provided for under the Federal Constitution of Malaysia, the Malaysian Government, in 1970, introduced the New Economic Policy (NEP), which had twin objectives of eradicating poverty and restructuring the society so that no particular race is identified with certain economic function. Under the second prong, the target was to achieve 30 percent effective Bumiputra corporate equity ownership in twenty years, by 1990 (Ariff and Abu Bakar, 2001). For the sake of easy reference, the researcher refers to this 30 percent Bumiputra corporate equity ownership target as the "Malay Corporate Equity Ownership Agenda".

It is acknowledged that the NEP did not meet its objective of satisfying the Malay Corporate Equity Ownership Agenda and its policies were continued by the National Development Policy (NDP), which lasted from 1991 to 2000. Prior to the NEP in 1970, the Bumiputra corporate equity ownership was 2.4 percent and by 1990, it had increased to 20.3 percent. By 1995, the Bumiputra corporate equity ownership had only marginally increased to 20.6 percent but subsequently declined to 19.1 percent in 1999. In 2004, the Bumiputra corporate equity share declined further to 18.9 percent but increased again to 19.4 percent in 2006 (MTR 9MP, 2008).

Hence, after more than 40 years of implementation since 1970, the New Economic Policy (NEP) and all subsequent government policies with the same broad intentions seem to have failed to achieve the Malay Corporate Equity Ownership Agenda. Now there are even fears among the Malays that whatever little that has been achieved may be lost again (Zainol and Ayadurai, 2011). Amongst the many factors identified to support this contention, was the lack of sustainability of Malay businesses which tended to be the small and medium size enterprises (SMEs) and more often than not, were small proprietorships, partnerships and private limited companies majority owned by an individual and sometimes together with family members (Hamidon, 2009).

The issue of sustainability may be related to various factors like lack of competitiveness and entrepreneurship culture amongst the Malay entrepreneurs but it is may also related to the issue of succession. This is due partly to the fact that the businesses of the successful Malay entrepreneurs, who had established their businesses, mostly SMEs, in the 1970s and the 1980s, with the full support of the NEP, were now 'ripe' for succession to the next family generation as the business founders would have been in their sixties

and seventies by now and would be due to retire, one way or the other, as one cannot live forever. Hence the lack of succession planning on the part of these successful Malay entrepreneurs may affect the future sustainability of their businesses and may erode the existing hard earned success already achieved under the Malay Corporate Equity Ownership Agenda. This issue is especially telling when it is read and analysed in the context of the existing literature that 70 percent of family businesses will not last more than one generation, as described earlier.

This dissertation represents an attempt to investigate how Malay SMEs, in particular the Malay family legal firms in Malaysia, plan their succession, to ensure the sustainability of the business to the next generation. The justification for selecting legal practitioners as research participants for the purposes of this study was because the business succession of legal firms are restricted by an industry barrier or a trade member restriction, in that the successor of the legal firm must be a qualified person under the Legal Profession Act 1976. To make things more difficult in terms of succession planning, contrary to other professional firms, legal firms cannot be corporatized into a private limited company and can only be maintained as a sole proprietorship or a partnership.

Amongst the research conducted on family businesses, the study of family business succession planning has dominated. This was found by Chrisman, Chua and Sharma (2003), in a survey of 190 family business articles published between 1996 and 2003, where research focusing on issues related to succession planning dominated with 22 percent of the total of all articles surveyed. Other main research issues included economic performance, firm governance, competitive advantage and conflict, entrepreneurship, culture, strategy formulation, internationalization and professionalization of the family business.

However, the review of literature reveals that research on family business succession planning mainly focused on management succession and research from the perspective of ownership succession remains scant and neglected (Swartz, 1996). This gap in knowledge pertaining to ownership succession in family business was glaringly evident in Handler (1994) where the comprehensive review of succession literature offered were mostly on management succession. This was further confirmed by Chua, Chrisman and Sharma (2003) who concluded that management succession was the most important concern of family businesses.

It is anticipated that the knowledge generated from this research would afford new insights and inform the successful succession of Malay family legal firms in particular, the Malay SMEs in general, which mostly comprised family businesses, and to a larger extent, Malay family businesses in Malaysia. Such successful succession may at least assist in ensuring that at least whatever wealth accumulated through business entrepreneurship will not be lost, whilst in the continued quest by the Malaysian Government to achieve the elusive Malay Corporate Equity Ownership Agenda. Further, in Malaysia, although some research studies has been conducted on entrepreneurship, research on family business in the context of succession planning, more so on ownership succession is relatively rare. Thus such an area remains unexplored and more research needs to be conducted (Abdullah, Hamid and Hashim, 2011). This research intends contribute to existing literature by studying business succession planning in the context of the Malay entrepreneur running a family business, particularly from the ownership succession perspective and filling in the research gap highlighted by Abdullah *et.al.*,(2011).

1.3 Research Questions

Based on the exploratory nature of the problem statement, the research questions are as follows:

1. How do owners of Malay family legal firms in Malaysia perceive the definition of the term “family business”?
2. How do owners of Malay family legal firms in Malaysia plan succession and continuity of their business?
3. How do owners of Malay family legal firms perceive ownership succession of their business?
4. How do owners of Malay family legal firms perceive successful succession of their business?

1.4 Objectives of the Research

The research objectives are based on the research questions and are as follows:

1. To understand the perception of owners of Malay family legal firms in Malaysia in relation to the definition of the term ‘family business’;
2. To investigate how succession planning is carried out by owners of Malay family legal firms in Malaysia.
3. To explore the perception of owners of Malay family legal firms in Malaysia regarding the ownership succession of their business.

4. To examine the perception of successful business succession amongst the owners of Malay family legal firms in Malaysia.

1.5 The Significance of the Study

Research indicates that the 30 percent Malay corporate equity ownership target by the Malaysian Government affirmative action strategy under the New Economic Policy (NEP) implemented from 1970-1990 has not been achieved. Now in 2013, 23 years on, under the continued implementation of the subsequent successors to the NEP, the target has yet to be achieved; in fact there are fears that whatever that has been achieved may even be eroded, what more to attain the seemingly mystical 30 percent target.

Hence this study is expected to contribute to the policy makers by making recommendations which will contribute to the business sustainability of the Malay entrepreneurs in general and the Malay family legal firms in particular. Such recommendations, it is hoped at best, will be able to assist the Government of Malaysia to achieve the mystical 30 percent target and at worst, will help to stem the possible erosion of whatever Malay corporate equity that has been achieved thus far.

From the theoretical significance perspective, it is expected that the study will contribute in terms of expanding the definition of the term 'family business', in the context of professional services based firms which may be different from the views from the current literature. As for the managerial significance perspective, the study hopes to contribute concrete ideas and strategies to Malay entrepreneurs in general and Malay family legal firms in particular, on how to plan succession, both from the management succession and

ownership succession perspective, with the aim of ensuring business sustainability to the next generation and beyond.

1.6 The Scope of Research

This research employed the qualitative multiple case study research approach to illustrate the phenomenon under examination. Participants of this research included a purposefully selected group of Malay legal firms who are all located in Kuala Lumpur, the commercial capital of Malaysia. All of them are senior legal practitioners of more than 20 years standing and are more than 50 years old. The age factor was important as they would be expected to hand over the leadership of their respective legal firms to the appointed successors. Since this research is by way of in-depth interviews of a multiple case study, the data gathering took about 3 months taking into account the appointments that had to be scheduled to accommodate everyone who was undoubtedly was very busy with the running of their legal firms. The raw data were then sent for transcription which took 2 months, after which the process of categorizing themes which emerged from the data collected and analyzing the findings was conducted. Conclusions were then made from the findings.

1.7 Operational Definition

Definitions in the realm of social sciences can be problematic, with few terms in the literature having universally accepted definitions (Hoy and Verser, 1994). It is therefore important to define the basic terms and to clarify the scope and objectives of the research. The critical terms that need to be defined are family business, family business succession,

family business succession planning, succession process, ownership succession, successful succession and business sustainability.

- Family business - a business where the controlling ownership is rested in the hands of an individual or of members of a single family (Barnes and Hershon, 1976);
- Family business succession - succession in a business owned by a family which involves both transfer of management of the business and transfer of ownership of shares in the business;
- Family business succession planning – the process of effecting transfer of ownership and management control from one family member to another;
- The succession process – the actions, events and developments that affect the transfer of control. It occurs over a long period of time. It is akin to a relay race;
- Ownership succession – it is the transfer of ownership of shares in the family business. It involves more than just a simple transfer of monetary wealth as “he who owns, control”;
- Successful succession – the subsequent positive performance of the family business and ultimately its continued sustainability;
- Business sustainability – the outcome of a successful succession in the context of a family business. It is a function of business success and family functionality.

1.8 Organization of the Dissertation

The presentation of this dissertation is in accordance with the University Utara Malaysia guidelines. The dissertation is divided into five chapters. Chapter 1 covers the introduction, the problem statement, the research questions, the research objectives of the study, the scope and limitation of the study, the significance of the study and the definition of terms. Chapter 2 offers the theoretical background of this study. It discusses the work of well known researchers in family business and succession planning, particularly ownership succession planning. Ownership succession which involves the transfer of ownership must be differentiated from management succession which involves transfer of leadership and control within the family business. Chapter 3 describes the research methodology used, the research participants interviewed under the case study approach and the protocol implemented to collect the data. Chapter 4 presents the findings obtained from the research. The findings are then analyzed and interpreted in relation to the research questions for discussion in the next chapter. Chapter 5 then discusses the findings of this study and provides an explanation to indicate the emergent pattern found when compared to previous studies in a similar research area. The summary of findings in respect of this research, recommendations for the industry practitioners, knowledge contribution and for policy makers and implications for future research in the areas of family business succession, are also offered in chapter 5.

1.9 Summary

The first chapter of this dissertation presents the introduction and background of this study, states the problem statement, identifies the research questions and specifies the research objectives. It then sets the parameters for the scope of the study, describes the significance of the study and highlights the structure of the study. It then concludes by listing the definition of terms regularly used in this dissertation and ends by giving an outline of this dissertation. The next chapter will discuss and review literature on family business succession.

CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

This chapter begins by highlighting the dominant role which family businesses play in the world today, surveys the multitude of definitions related to the term “family business” and continues by reviewing the literature which is related to family businesses. More specifically, it identifies the parameters of this proposed study and covers the literature in respect of succession, succession planning, succession process, ownership succession and successful succession in the Malay family legal firm in Malaysia. The chapter then proceeds to justify the literature by explaining the theories which supports them and thereafter propose a conceptual framework in respect of this study. Lastly, this chapter concludes with a short summary.

2.2 Malay Entrepreneurship

As the context of this study is in respect of Malay family legal firms in Malaysia, it is important to understand the background scenario in Malaysia so that the problem statement mentioned in Chapter 1 can be truly appreciated. Malaysia is a country with a population of approximately 23 million (Census, 2000), and is situated in Southeast Asia with its immediate neighbors’ Thailand in the north, Singapore in the south and the Indonesian island of Sumatera in the west. It is made up of Peninsular Malaysia (which comprises of eleven states) and East Malaysia (which is made up of two states, situated

on the northern part of the island of Borneo. Peninsular Malaysia and East Malaysia are separated by the South China Sea. In addition to the 13 states which are administered by individual state governments, there are 3 federal government administered territories namely Kuala Lumpur which is its capital, Putrajaya which is the administrative seat of the Government of Malaysia, and Labuan, a small island in the state of Sabah which is situated north of Borneo.

Malaysia is a parliamentary democracy and its constitution provides for a constitutional monarchy with its monarch, the King, being rotated among the existing nine state royalties in the country. The King is officially called the Yang Di Pertuan Agong and is elected for a period of five years at a special Conference of Sultans convened specially for this purpose. At the end of the 5-year term, the Sultans meet again to elect a new King for the next 5 years. The King is recognized not only as the symbolic Head of the nation but also as the titular Head of the military and Head of the Islamic religion. The actual political power lies with the parliamentary cabinet headed by the Prime Minister who is the leader of the political party with the majority number of seats in Parliament. Its parliamentary system consists of the House of Representatives (Dewan Rakyat), comprising Members of Parliament, elected by the people through a general election, and the Senate (Dewan Negara), and comprising Senators, appointed by the King. Islam is the official religion of Malaysia but other religions are allowed to be practiced in harmony with Islam under the Federal Constitution (Rashid, 1978).

The Census 2000 states the total population of Malaysia at 23,274,690, of which 94.1 percent were Malaysian citizens. The Bumiputras, as defined below, comprise 65.1 percent of the citizens; the Chinese were 26.0 percent, while the Indians were 7.7 percent

and others 1.2 percent (Census, 2000). The Malays together with the other indigenous groups of Malaysia (like the Kadazan and the Bajau in Sabah and the Iban, Bidayuh and Penan in Sarawak, both states of which are situated in East Malaysia) are recognized by the Federal Constitution of Malaysia as the Bumiputras or “sons of the soil” (Husin Ali, 2008) and are bestowed rights and privileges under the Federal Constitution which include employment in the Government service, entitlement to scholarships and education, and reservation of permits or licenses for trade and businesses (Federal Constitution, 2008). For the purpose of this study, the terms “Malay” and “Bumiputra” shall be interchangeably used and shall refer to the same person.

The issue of Malay entrepreneurship is closely linked to politico-economic considerations. Prior to independence from the British in 1957, the Malaysian business sector was largely monopolized by the Chinese and foreign business interests (Selvaraj and Muhamed, 2004). Despite the country’s independence, at that time, foreign interest dominated the ownership and accounted for 60.7 percent of the total share capital of limited companies in Peninsular Malaysia. In contrast, Malay interests only constituted 2 percent of the total with the Chinese owning 22.5 percent and the Indians 1 percent respectively (MTR 2MP, 1973). This was because prior to Merdeka, the independence of Malaysia from British rule, the Malays merely survived as farmers in rural areas and the Indians were mainly confined to the rubber plantations (Rani, 1991). The main bulk of the nation’s wealth was in the hands of foreigners and the Chinese who were involved in banking, commercial and trading activities which were hugely profitable.

According to Abdullah (1996) the bloody tragedy of 13 May 1969 was a catalyst to remedy the economic inequalities suffered by the Malays. This led to the establishment of the New Economic Policy (NEP:1970-1990) by the Malaysian Government, which had two pronged objectives of eradicating poverty and obliterating the strict lines identifying a particular ethnic group with a particular economic activity or occupation. Post May 13th it was argued by the Malaysian Government that the affirmative action strategies under the NEP, in favor of the Bumiputras, was not only a necessity, it was justifiable on the basis that as the economy developed and the country's financial structure became more sophisticated and the key element to reduce the imbalances would be through the ownership of the corporate and non-corporate sectors of the economy (MTR 2MP, 1973).

Under the NEP, emphasis was put on increasing effective Bumiputra corporate ownership and participation in the corporate sector, improving Bumiputra participation in high income occupations, as well as narrowing income inequality and eradicating poverty. The aim was to achieve at least 30 percent effective Bumiputra equity ownership by 1990 but this goal was extended to year 2010 as stipulated in the Third Outline Perspective Plan (OPP 3, 2001-2010). Embedded within these larger policies is the issue of creating a Bumiputra Commercial and Industrial Community (BCIC), which involves fostering Bumiputra entrepreneurs, professionals and creating a Bumiputra middle class (Economic Planning Unit, 2001). This has become the backbone of Malaysia's strategy for strengthening national entrepreneurship (Ariff and Abu Bakar, 2001).

As regards distribution of national wealth, when NEP started in 1973, Malay corporate ownership interests only constituted 2 percent of the total national wealth. The NEP then targeted that within one generation or about 20 years, the Malays would own and control

at least 30 percent of the country's economic wealth. However, at the end of the NEP period in 1990, Malay equity ownership in the corporate sector increased to only 20.3 percent, far short of the target of 30 percent, compared to the equity holdings of the non-Bumiputras which increased from 29 percent to 46.2 percent exceeding the 30 percent target set for them (Hamidon, 2009).

Notwithstanding the same, after the NEP, the Malaysian Government introduced the National Development Policy (NDP) in 1991, which covered a 10 year period from 1991 to 2000, to continue the two basic strategies of the NEP. The two pronged strategies were then continued by the National Vision Policy (NVP), which continued to make it a target for Bumiputra corporate equity ownership of 30 percent to be achieved by 2010.

Although the NEP was successful to some extent in convincing the Malays that the Government was making a considerable effort to help them improve the standard of living and their economic position (Sloane, 1999), the failure of the NEP to achieve the 30 percent corporate equity target was not received well by the Malay community. It was argued that 'to add salt to the injury', the situation was made worse by the fact that the above restructuring of equity ownership was based on ownership instead of effective control, and that such increase was attributed mainly to holdings acquired by Bumiputra trust agencies and other related Government related agencies, and not ownership by Malay entrepreneurs as individuals. In addition, the NEP was accused of favoring only certain politically "well-connected" Malays who were fake entrepreneurs and who were out to make a fast buck (profiteering) by taking advantage of their political connections. Known as the "Ali-Baba" practice, this was widespread amongst the joint Malay-Chinese

joint ventures as the Malays were merely passive partners and did not play an active role in the business (Yoshiro, 1988).

In fact, in 1999, the Bumiputra equity ownership in the corporate sector declined slightly to 19.1 percent and in 2004 dropped further to 18.9 percent. This downward spiral was attributed to the economic effects of the 1997 financial crisis. However, the Bumiputra equity ownership had improved slightly from 18.9 percent in 2004 to 19.4 percent in 2006 (MTR 9MP, 2008). According to Omar (2006), it was widely acknowledged by the Malaysian Government and the Bumiputra business leaders that despite an estimated RM600 million provided by MARA (the Council for Indigenous or Bumiputras of Malaysia) from 1966 to 1990 to an estimated 108,000 SMEs (Small and Medium Enterprises), the policies have not succeeded as planned. There are even fears that whatever that has been achieved in the last 20 years, may even be lost.

In a study of entrepreneurship amongst the Malays by Shukor (2006), it was suggested that the values and attitudes, entrepreneur skills, managerial skills and entrepreneurial characteristics are required and important for entrepreneurial success. Further, Shukor (2006) found that Malay participation in business, was still lagging behind the non-Malays and this was due to certain Malay cultural aspects and attitudes which were deemed to obstruct entrepreneurial growth. This conformed to Mahathir's (1970) argument about the Malays. Mahathir, the Prime Minister of Malaysia from 1981- 2003, had stated that the Malay culture had certain deficits that impede business growth, resulting in a poor rate of Malays' business success.

Based on the Mid Term Review of the Ninth Malaysia Plan (9MP) in 2006, Bumiputra corporate equity ownership was just 19.4 percent (Economic Planning Unit 2008) which was far below the targeted 30 percent as outlined in the NEP and other current policies such as the OPP3 (The Third Outline Perspective Plan of Malaysia (2001-2010)).

The question now being asked is whether the affirmative action in the form of ‘special privileges’ accorded to the Bumiputras has really helped them or whether it has merely enriched a few ‘cronies’ close to the ruling Government party, UMNO (the United Malays National Organisation) (Hamidon, 2009). In her doctoral thesis entitled “The Development of Malay Entrepreneurship in Malaysia”, Hamidon concluded that “state assistance in the form of affirmative action to an economically challenged sector of society (ie the Bumiputras) does little to create entrepreneurship; rather it challenges rival economic groups (ie the Chinese) to sharpen their own competitiveness”. As a counter argument, Zainol and Wan Daud (2011) argued that Bumiputras who received Government support tend to have more entrepreneurial qualities compared to those without. To them, such support have enabled the Bumiputra entrepreneurs to develop entrepreneurial traits such as locus of control, need of high achievement and the propensity to take risks, which in turn will make them more dynamic, progressive and competitive.

All said and done, despite all the initiatives made by the Government, to date there has not been any official confirmation that the target of Malay 30 percent corporate equity ownership has been achieved. In view of the imminent Malaysian Government’s policy to liberalize the services sector, as announced by the Prime Minister in 2009, it questionable whether the target under the NEP can ever be achieved, if at all.

This study now focuses on the impact of succession planning on wealth ownership amongst the Malay family legal firms and whether this will lead to a successful succession. Ultimately this may, to a certain extent, affect the Malay corporate equity ownership target of 30 percent being achieved, if at all.

2.3 The Family Business

The ultimate aim of the field of family business studies is to improve the functioning of family firms. This aim can be achieved by gaining deeper understanding of the forces that underlie these firms (Sharma, 2004). Creation and dissemination of usable knowledge is a painstaking effort that requires strategic thinking. In the early research days, such were the state of uncertainty which lie in the research of family business that Wortman (1994), after conducting a thorough review of the family business literature commented: “no one really knows what the entire field is like or what its boundaries are or should be and as such, the field of family business research was in need of a comprehensive framework”.

Sharma (2004) then commented that the state of the field of family business studies can be described using Jim Collin’s analogy (2001) of a huge heavy metal flywheel mounted horizontally on an axle. The aim of interested scholars is to turn this wheel of understanding of family firms fast and long.

With regards to the study of family businesses, it was given little attention by previous scholars and it was only in 1953 that early research documents showed that, Christensen made a study on business continuity. Apparently, the roots of family business succession planning were built on the study of kinship (Fox, 1967; Fortes, 1970; Parkin, 1997). The

serious research on family business only really started in 1975 when Dr. Leon Danco published his pioneering work, *Beyond Survival: A Guide for the Business Owner and His Family*. Prior to this, most research in family business did not stand on its own but came under the purview of entrepreneurship research or research in the field of psychology. Thereafter, two academic publications which specialized in family business research were launched namely, the *Organizational Dynamics Journal* special issue in 1983 and the *Family Business Review Journal* in 1986, which played a major role in turning the study of family business into a field by itself rather than as a spin off from the study on entrepreneurship or psychology. In 2010, another academic publication, *the Journal of Family Business Strategy* was launched.

Today, family businesses are considered by many scholars to be the cutting edge of corporate performance, job creation, return of investment, quality of product and service, flexibility, customization capability and speed to market. Thus far, the main reason provided by scholars for directing scholarly research towards family businesses has been largely because of the observed dominance of these businesses on the economic landscape of most nations (Astrachan and Shanker, 2003). Family businesses are not only important for what they represent to the economy but also due to the commitment that they show to the local communities, the long term stability that they bring, the responsibilities they feel as owners, and the values for which they stand. In the light of the recent financial crisis in most parts of the world, these are especially valuable characteristics and the ongoing crisis may be a good moment for family businesses to prove the importance of their family values in their business (Overview of Family Business, 2009).

Family businesses are omnipotent and are the most common form of enterprise around the world (Ibrahim and Abdul Samad, 2010). According to the World Competitiveness Report in 2000, provided by the Lausanne Management Center, Switzerland, 80 percent of the enterprises around the world are family businesses. In the United States of America, family businesses account for over 80 percent of all firms and family businesses are present in one third of the listing of *Standard and Poor's 500* (Anderson and Reeb, 2003). Further evidence of the prevalence of family businesses has been provided by Klein (2000) in Germany, Morck and Yeung (2003) in Sweden and Astrachan and Shankar (2003) and Heck and Stafford (2001) in the United States of America.

The evidence further states that U.S. companies with founding-family ownership perform better, on average, than non-family owned firms (Sraer and Thesmas, 2006; Farero, Giglio, Honorati and Panuzi, 2006). In Asia, various literatures show that family firms reflect high performance in Taiwan, Australia, Hong Kong, Singapore and China (Filatotchev, Lien and Piesse, 2005; Chen, 2001; La Porta *et. al.*, 1999).

2.3.1 Definitions of Family Business

Serious studies in social studies normally begin with a debate about definitions and family business research studies have not been an exception to this phenomenon. The focus of earlier research has been to differentiate family businesses from non-family businesses. However, none of these attempts have resulted in a generally accepted definition. Arguments still persist amongst academicians, practitioners and researchers as to the definition of family business (Handler, 1989; Stempler, 1988). One reason that

there are still definitional issues in family business studies is that the field itself is still relatively new and yet to be fully researched (Sharma, 2004).

An analysis of literature suggests three principal ways in which to consider the plethora of definitions: content, purpose and form. Most definitions and classifications focus on content (e.g., Handler, 1989; Heck and Scannell, 1999; Litz, 1995). However the definitions cited earlier in the literature, were mostly concern with ownership (e.g., Berry, 1975; Lansberg, Perrow and Rogolsky, 1988), ownership and management involving an owning family (Barnes and Hershon, 1976) and generational transfer (Ward, 1987). There was also the structure based approach by Berle and Means's (1934) and the intention based approach by Mintzner's and Water's (1985). After that there was the ownership evolution stage approach by Ward and Doolan (1998) and the F-PEC Scale of Family Influence approach involving power, experience and culture by Astrachan, Klein and Smyrnios (2002).

A recent study by Mandl (2008) confirms the absence of a single definition of a family business that would be "widely and exclusively applied to every conceivable area such as public and policy discussions, to legal regulations, as an eligibility criterion for support services, and to the provision of statistical data and academic research". The lack of a single definition for family business leads to other problems in addition to the absence of reliable and comparable data on family businesses in national economies. Related questions of concern relates to what defines successful business successions (Handler, 1989; Stempler, 1988).

Family firms have been defined in various ways by theorists in accordance with the study being undertaken at the time. Table 2.1 gives an overview of some of the family definitions that have been used in the literature as well as the fundamentals on which they are based. According to Poza (2010), the working definition of the family business is the synthesis of the following:

1. Ownership control (15 percent or higher) by two or more members of a family or a partnership of families
2. Strategic influence by family members on the management of the firm, whether by being active in management, by continuing to shape the culture, by serving as advisors or board members, or by being active shareholders
3. Concern for family relationships
4. The dream (or possibility) of continuity across generations

The following characteristics define the essence of the distinctiveness of family firms:

1. The presence of the family
2. The overlap of family, management, and ownership, with its zero-sum (win-lose) propensities, which in the absence of growth of the firm, render family businesses particularly vulnerable during succession
3. The unique sources of competitive advantage (like a long-term investment horizon) derived from the interaction of family, management, and ownership, especially when family unity is high
4. The owner's dream of keeping the business in the family (the objective being business continuity from generation to generation)

Table 2.1:
Overview of Family Firm Definitions

Author	Definition
Alcorn (1982, p. 23)	“A profit making concern that is either a proprietorship, a partnership, or a corporation...if part of the stock is publicly owned, the family must also operate the business.”
Barnes and Hershon (1976, p.106)	“Controlling ownership [is] rested in the hands of an individual or of the members of a single family.”
Barry (1975, p. 42)	An enterprise, which, in practice, is controlled by the members of a single family.
Beckhard and Dyer (1983, p. 6) <i>Interdependent subsystems business</i>)	“The subsystems in the family firm system... include (1) the business as an entity, (2) the family as an entity, (3) the founder as an entity, and (4) such linking organizations as the board of directors.”
Churchill and Hatten (1987, p. 52) <i>Generational transfer</i>	“What is usually meant by ‘family business’... is either the occurrence or the anticipation that a younger family member has or will assume control of the business from an elder.”
Donnelley (1988, p. 94)	A company is considered a family business when it has been closely identified with at least two generations of a family and when this link has had a mutual influence on company policy and on the interests and objectives of a family.
Dyer (1986, p. xiv)	A family firm is an organization in which decisions regarding its ownership or management are influenced by a relationship to a family (or families).
Lansberg (1988, p. 2)	A business in which members of a family have legal control over the firm’s ownership.
P. Davis (1986, p. 47)	It is the interaction between two sets of organization, family and business that establishes the basic character of the family business and defines its uniqueness.
Rosenblatt, de Mik, Anderson and Johnson (1985, p. 4-5)	Any business in which the majority ownership or control lies within a single family and in which two or more family members are, or at some time were, directly involved in the business.
Stern (1986, p. xxi)	“[A business] owned and run by members of one or two families.”
Ward (1987, p. 252)	“[A business] that will be passed on for the family’s next generation to manage and control.”

Source: Handler (1989a)

2.3.2 Research on Family Businesses

According to Sharma (2004), family business literature can be organized according to its focus on four levels of analyses: individual, interpersonal/group, organizational, and societal.

At the individual level, Freeman (1984) identified a total of 16 primary (those who affect the business objectives) and secondary (those who are affected by the business objectives) stakeholders. Sharma (2001) then extended this concept to family businesses by distinguishing between internal stakeholders (those involved internally with the family business like employees and shareholders) and external stakeholders (not linked to the family business but have the capacity to influence the survival and the long term prosperity of the family business). As regards internal stakeholders, there has been research in four categories: founders, next-generation members (potential successors), women and non-family employees. Here, founders and next-generation members have received the most attention, particularly research on the influence of founders on the family businesses during and after their tenures.

As regards the interpersonal/group level analyses, three topics that have been investigated are: nature and types of contractual agreements, sources of conflict and management strategies, and intergenerational transitions. In this context, the agency theory has dominated the research related to the nature of contractual agreements between family owners and family employees. As for research on the nature of conflict and resolution

strategies, it is still in its infancy although different types of conflicts have been highlighted in several studies with resolution mechanisms with varying degrees of effectiveness.

As for intergenerational transitions, significant research has been focused on the topic of succession (Ward, 1987; Handler, 1994; Dyer and Sanchez, 1998) which was continued in Sharma, Chrisman, and Chua (2003a) and Le-Breton-Miller (2004). These included efforts devoted to describe the phenomenon of succession process and observed best practices (Bird, Welsch, Astrachan, and Pistrui, 2002; Sharma *et al.*, 1996; Wortman, 1996).

At the organizational level of analysis, efforts have been largely directed toward the identification and the management of resources in family businesses by using the resourced based theory. Research at this level involves understanding the strategic decision processes of family businesses by incorporating the role of family beliefs and culture.

As for the societal level of analysis, the majority of the research efforts have been directed towards understanding the role of the family businesses and the extent of its economic importance to the various nations which they have dominated and influenced. Amongst the places in which the impact and dominance of family businesses have been studied are Germany (Klein, 2000), the Gulf region (J.A. Davis, Pitts, and Cormier, 2000), Italy (Corbetta, 1995), Spain, (Gallo, 1995), Sweden (Morck and Yeung, 2003) and the United States of America (Astrachan and Shanker, 2003; Heck and Stafford, 2001).

2.4 Family Businesses in Malaysia

In Malaysia, most of the family companies evolved from traditional family-owned companies. These firms do not embrace openness in the firms' practices and status quo is maintained as the businesses continue to be managed as if they are still owned by their founders (Ow-Yong and Cheah, 2000). The results of the World Bank (1999) study of a sample of firms comprising of more than 50 percent of the Bursa Malaysia market capitalization, corroborates that the five largest shareholders in these family firms owned 60.4 percent of the outstanding shares and more than half of the voting shares. Thus, family controlled firms seem to dominate and control the Malaysian capital market.

The above fact is further supported by Ibrahim and Abdul Samad (2011) who confirmed that in Malaysia, family firms constitute 43 percent of the main board companies of the Kuala Lumpur Stock Exchange. Abdul Rahman (2006) indicates that many listed firms in Malaysia are owned or controlled by business families. Claessens , Djanker and Lang(2000) found that most concentrated firms in Malaysia are dominated by founders and their family members.

The Genting Group is a story of a well planned succession. The late Tan Sri Lim Goh Tong appointed a successor to ensure his huge business empire will continue after him. Lim passed the baton to his second son, Tan Sri Lim Kok Thay, in December 2003. The Genting Group is involved in gaming, power generation, plantations, and oil and gas (Amran, 2011). Another Malaysian conglomerate, which Bloomberg values at USD19.4 billion, where the succession issue looms is the PBB group of companies owned by

Robert Kuok, the 89 year old Malaysian born, Hong Kong based entrepreneur, who is known in Malaysia as the ‘Sugar King’, and amongst others also owns Shangrila Hotels across Asia (Star, 2 February 2013).

Besides the PBB Group, the other family flagships are YTL Berhad, IOI Berhad, and Batu Kawan Berhad. There are also several successful northern Indian textile enterprises operating in Malaysia such as KAJ Chortimall, Globe Silk Store and P Lal Store. These companies are third generation family businesses. The Indian entrepreneurs remain fairly conservative and largely cautious of firm expansion due to highly competitive industry (Gomez, 2001).

Family businesses in Malaysia comprise of big, medium and small businesses. Most of the family businesses in Malaysia are actively involved in manufacturing, retailing and construction industries (Azrain, 2010). As highlighted above, the big family businesses are those which are listed on the Bursa Malaysia (formerly known as the Kuala Lumpur Stock Exchange). However, small and medium enterprises (SMEs) which constitute a significant proportion of family owned businesses in many countries including Malaysia are also viewed as crucial for economic activities, economic growth and wealth creation (Moha Asri, 1999). In Malaysia, a report of a national survey conducted by Grant Thornton and the Malaysian Institute of Management in 2002 (Shamsir Jasani, 2002) highlighted that the majority of family businesses in Malaysia are small scale industries employing less than 51 persons. It also found that 59 percent are still managed by the founder while 30 percent are run by the second generation the majority of whom are the founder’s children. Further, founders do not force the children to join the firms, unless the children themselves are willing to work with families.

In Malaysia, SMEs have been the backbone of economic growth of the economy in driving industrial development (Saleh and Ndubisi, 2006). According to SMIDEC (2002), SMEs accounted for 93.8 percent of companies in the manufacturing sector and contribute 27.3 percent of the total manufacturing output. Malaysian SMEs can be defined according to size, turnover and activity and fall into two broad categories: firstly, manufacturing, manufacturing-related services and agro-based industries which have either fewer than 150 full-time employees or annual sales turnover of less than RM25.0 million, and secondly, services, primary agriculture and information and communication technology (ICT), which have either fewer than 50 full-time employees or an annual sales turnover of less than RM5.0 million.

SMEs account for 99.2 percent of total establishments which mainly comprise the three (3) main economic sectors of manufacturing, services and agriculture. In the services sector, SMEs account for 99.4 percent of the total establishments. The profile indicates that 80.4 percent of the SMEs are characterized as micro, 17.6 percent as small and 2 percent as medium (Aris, 2006). More than half of the SMEs, about 55.3 percent are concentrated in the wholesale and retail sector, 14.5 percent in restaurants, 9.4 percent in professional services (which includes legal practitioners) and 6.2 percent in transport and communications (Aris, 2006).

2.4.1 The Malay Family Businesses

For the purposes of this research, the Malays were chosen because they are an indigenous group who have been given special privileges under the New Economic Policy (NEP) at its inception in 1970, and for which a minimum benchmark of 30 percent corporate equity ownership, which the researcher refers to as the “Malay Corporate Equity Ownership Agenda”, has been set as a target to be achieved. Since this research zeroes in on family businesses as an area of study, it is apt that the literature on Malay family businesses is highlighted. For the purposes of this research, the terms Bumiputra and Malay shall be used interchangeably and shall refer to the same thing.

Looking at the Malaysian context, the promotion of the Malay entrepreneurs into trade and industry was seen as a socioeconomic initiative by the Malaysian Government. The respective policies under the NEP and the National Development Policy (NDP) sought to enhance and intensify the participation of the Malay economic and business ventures. The NDP and its predecessor, the NEP are public policy instruments formulated to promote the Malay general economic well being which was incorporated into the Malaysian Government’s five year economic plans since 1970. After NEP did not meet its objective of securing the Malay Corporate Equity Ownership Agenda, the Government sought to continue the policies espoused by the NEP under the NDP, but with more specific emphasis by creating the Bumiputra Commercial and Industrial Community (BCIC), whose purpose was to promote Bumiputra involvement in the business and the commercial sector. To this extent, it was reported by Omar (2006) that from 1966 to 1990, MARA (the Council of Trust for Bumiputras of Malaysia) provided about

RM600.0 million loans to an estimated 108,000 small and medium-sized business enterprises.

As a result of better educational opportunities provided by the NEP, the Malays were able to obtain employment in the professional sectors like engineering, medical, legal and accounting and this helped to restore the confidence of the Malays as entrepreneurs and that they were intellectually on par with other races. This was evident when the proportion of Bumiputras in the professional and technical categories increased from 60.5 percent in 1990 to 63.8 percent in 2000. In fact, according to sources from the respective professional associations, from 1995 to 2008 there was a marked increase of percent Bumiputra membership share in the professional bodies : accountants, increased from 16 percent to 25 percent; architects from 28 percent to 60 percent; doctors, from 33 percent to 53 percent; engineers, from 38 percent to 52 percent; lawyers, 29 percent to 39 percent; dentists, 31 percent to 49 percent; veterinary surgeons, from 40 percent to 43 percent and surveyors, from 48 percent to 55 percent (Hamidon, 2009).

Amongst the notable Malay families today are the Melewar Group founded by the Tuanku Abdullah Tuanku Abdul Rahman (now deceased) and Sapura Holdings Berhad started by Tan Sri Shamsuddin Abdul Kadir. Both family businesses are now in their second generation (Ngui, 2002). Other Malay family businesses are Mydin Mohamed Holdings Berhad (Yu and Dahlan, 2012) and Habib Jewel Berhad (Amran, 2012). The latter was founded by Habib Mohammad in 1953 in Penang. In 1988, the founder passed the business to the son, Meer Sadik, who has been leading it ever since.

Notwithstanding the above, most Malay entrepreneurs who started their businesses during the NEP and the NDP periods were small and medium-sized businesses. According to

OPP3 (2001), there were about 697,900 Bumiputra sole proprietorships and partnerships registered with the Registrar of Business (ROB) and about 57,700 Bumiputra private limited companies registered with the Registrar of Companies (ROC) during the NDP period. After the NDP, the National Vision Policy (NVP) was introduced to continue the quest for the Malay Corporate Equity Ownership Agenda to be achieved by 2010, amongst other things. It is now 2013 and the Agenda still has not come to fruition. This research aims to find out whether it can be achieved in the near future, and what factors will enhance or hinder it.

For the record, prior to the NEP in 1970, the Bumiputra corporate equity ownership was only 2.4 percent but by 1990, it had increased to 20.3 percent. By 1995, the Bumiputra corporate equity ownership had only marginally increased to 20.6 percent but subsequently declined to 19.1 percent in 1999, due to the Asian financial crisis, raising concerns about the sustainability of Bumiputra businesses. In 2004, the Bumiputra corporate equity ownership share declined further to 18.9 percent but increased again to 19.4 percent in 2006 (MTR 9MP, 2008).

Hence, after more than 40 years of implementation since 1970, the NEP, the NDP, the NVP and all subsequent government policies with the same broad intentions seem to have failed to achieve the Malay Corporate Equity Ownership Agenda. There are even fears among the Malays that whatever little that has been achieved may be lost again (Zainol and Ayadurai, 2011). Amongst the many factors identified to support this contention, was the lack of sustainability of Malay businesses which tended to be the small and medium size enterprises (SMEs) and more often than not, were small proprietorships, partnerships and private limited companies majority owned by an individual and sometimes together

with family members (Hamidon, 2009). By this definition alone, most Malay SMEs were be categorized as family businesses, although there are no such statistics in Malaysia.

SMEs in Malaysia account for a large proportion of total business in various sectors and contribute a considerable share in terms of the Gross Domestic product (GDP). They are categorized according to the manufacturing sector and the services sector. According to the Malaysian Department of Statistics, there are 192,527 establishments in the services sector and 186,728 (or 96.7 percent) of these are made up of SMEs. Almost 90 percent of SMEs in this sector, comprise of the retail trade sector, is small in size and are mainly proprietorships and family run businesses. The professional services sector, comprising technical related services like architectural, engineering, surveying and other technical activities and non-technical related services like legal, accounting, business and management consultancy and advertising, comprise only 2.6 percent of the SMEs. Out of the legal firms involved in the data collection, 98.3 percent were SMEs (Saleh and Ndubisi, 2006). All these professional services providers contribute significantly to nation building by providing essential support services which are an essential part of any developing nation.

The issue of sustainability may be related to various factors like lack of competitiveness and entrepreneurship culture amongst the Malay entrepreneurs but it is may also related to the issue of succession. This is due partly to the fact that the businesses of the successful Malay entrepreneurs, who had established their businesses, mostly SMEs, in the 1970s and the 1980s, with the full support of the NEP, were now 'ripe' for succession to the next family generation as the business founders would have been in their sixties and seventies by now and would be due to retire, one way or the other, as one cannot live

forever. Hence it is possible that the lack of succession planning on the part of these successful Malay entrepreneurs may affect the future sustainability of their businesses and may erode the existing hard earned success already achieved under the Malay Corporate Equity Ownership Agenda. This issue is especially telling when it is read and analysed in the context of the existing literature that 70 percent of family businesses will not last more than one generation (Poza, 2010).

It is noted that family companies need to strategize to ensure that they survive for the next generation. However, to date there is lack of studies concerning family business succession in Malaysia (Amran, 2011). Similarly, according to Abdullah, Hamid and Hashim (2011), research on family owned businesses in Malaysia is relatively recent and remains unexplored.

2.4.2 The Malay Legal Practitioners

To practice law in Malaysia, one has to become a member of the Malaysian Bar Council. The Malaysian Bar Council is a creature of statute established under the Advocates and Solicitors Ordinance 1947, which Ordinance was subsequently repealed by the Legal Profession Act 1976. It is an independent Bar Council whose aim is to uphold the rule of law and the cause of justice, and protect the interest of the legal profession as well as that of the public. Each practicing lawyer, called an advocate and solicitor, is automatically a member of the Malaysian Bar so long as he or she holds a valid Practicing Certificate. To obtain their Practicing Certificates, lawyers must comply with a list of requirements set out by the Malaysian Bar Council (Legal Profession Act, 1976). According to the membership records of the Malaysian Bar, there are now approximately 12,000 practicing

lawyers, of which more than 60 percent are Malays, 25 percent are Chinese and the balance 15 percent are Indians. Incidentally, more than 70 percent of the practicing lawyers are age 40 years old and below.

Most Malay lawyers belong to the Muslim Lawyers Association (MLA), which was formed in 1988. One of its objectives of the MLA was to protect the interest of the Malay lawyers within the legal profession. At the same time, its membership was extended to anyone with legal qualifications whether they were in active legal practice or otherwise. However, since membership was not compulsory, not all Malay practicing lawyers became members of the MLA. At the same time the MLA extended its membership to include law lecturers, syariah law practitioners and lawyers working as legal officers in the corporate sector. Basically anyone who was a Malay (and a Muslim) and had legal or syariah law qualifications could become a member of the MLA.

The matter is further complicated for Malay legal practitioners who, as Muslims, need to take into account the Islamic law of inheritance when planning their estate. The basic principles of succession law known as the Faraid were revealed in the Holy Quran, more specifically, verses 4:11-12 and 4:176 of the Surah An nissa', and gives specific details of inheritance and their share distribution proportion (Hussein, 2005). Hence the challenge to the Malay Muslim legal practitioner is to distribute the shares to the legal firm not only to legally qualify family members but also to be in compliance with the Faraid, the Islamic law of inheritance. It is this gap which this research wishes to fill by understanding how ownership succession planning is done by Malay family legal firms in order to sustain the business for the future generations and whether succession planning is

critical to the sustainability of the family business (Mohd. Salim and Abdul Ghadas, 2012).

This dissertation represents an attempt to investigate how Malay SMEs, in particular the Malay family legal firms in Malaysia, plan their succession to ensure the future sustainability of the business, taking into account the potential barriers to the transfer of business to the next generation (Saleh and Ndubisi, 2006). The justification for selecting legal practitioners as research participants for the purposes of this study was because the business succession of legal firms are restricted by an industry barrier in that the successor of the legal firm must be a qualified person under the Legal profession Act 1976. In addition, contrary to other professional firms, legal firms cannot be corporatized into a private limited company and can only be maintained as a sole proprietorship or a partnership.

2.5 Family Business Succession

Succession is by definition an important issue in the family business domain. Chua et. al. (2003) found succession to be the number one concern of top executives in the family firms and Ibrahim, Soufani and Lam (2004) argue that it is the most critical issue facing family firms. However, past research suggest that only 30 percent of family businesses survive into the second generation of family ownership, and 15 percent into the third generation (Poza, 2010; Ward, 1987; Morris, 1997). Be that as it may, in Asia, many family businesses are still run by their founders but are increasingly facing the transition event (Phan, Butler and Lee, 2005). Interestingly enough, the average life span of a family business is 24 years, which coincides with the number of years that most founders

remain at the helm of the business (Beckhard and Dyer, 1983; Welles, 1995). In the Malaysian context, this is also true as being a young nation who had only achieved independence in 1957 and industrialization only came into Malaysia in the late 1970s and 1980s. It is pertinent to note that the family businesses set up then would be more than 30 years old and would be ready for transfer to the next generation.

Succession is an issue that requires analysis from the perspectives of family, management, and ownership systems in order to understand adequately the perspectives of the different stakeholders like the founder, the successor, the family members, the managers, and the owners. Succession can therefore be viewed as a strategic decision that impacts the longevity of the firm (Sharma, Chrisman, and Chua, 1997).

The study of succession, in respect of the family business, has dominated the research done on family businesses in general (Chrisman, Chua and Sharma, 2003). Succession is so central to the firm's existence that Ward (1987) chose to define family firms in terms of the potential for succession: “ .. we define a family business as one that will be passed on for the family's next generation to manage and control ...”. Succession can be achieved in two ways: transfer of ownership (ownership succession) and transfer of management responsibility (management succession) (Magrath, 1988). According to Barnes and Hershon (1976) since ownership transfers and management succession usually occur together, succession planning does not normally happen until the founder has reached sixty years old and may have a problem of “letting go” (Lansberg, 1988).

Succession generally refers to the passing of the leadership in the firm from one generation to the next. Morris, Williams, Allen, and Avilla (1997) and Handler (1994)

view succession as the most critical and important issue facing family firms. It is generally accepted that succession is a dynamic process that extends over time and needs to be carefully planned (Davis and Harveston, 1998) and it must also take into account the contextual variables within the family, industry and society (Le Breton- Miller *et. al.*, 2004). Succession research during the early days usually focused on preparation for succession at the end of one generation's tenure.

Undoubtedly, succession has been the most prolific area of research in the field of family business (Swartz, 1996). Succession and interpersonal family dynamics appeared to be the most frequently occurring topics in 1998 when the Family Business Review drew up a balance sheet of 10 years of research on family business (Dyer and Sanchez, 1998). Further, in Sharma, Chrisman and Chua (1996), succession was stated to be the focus of roughly 20 percent of family business literature and constituted the core of research in the field of family business. Even today, the impression remains that family business and succession are like a pair of Siamese twins (Lambrecht, 2005).

Handler (1994) offers a comprehensive review of the succession literature and categorizes succession literature in family firms into five main streams: (a) succession as a process, (b) the role of the founder, (c) the perspective of the next generation, (d) multiple levels of analysis, and (e) the characterization of effective successions. This typology provides an effective framework for organizing the literature related to succession.

Despite the abundant studies that exist on succession in family business, many family businesses still continue fail, either cease operation after being led by the successors or being sold to a third party when there is no successor to take over. As stated earlier only

30 percent of family businesses go beyond the first generation while only about 10 percent to 15 percent go beyond the third generation. Similarly, Lam (2009) reported that the effect of business discontinuation is devastating as it will lead to loss of jobs and family assets as well as deterioration of family relationships. Lorna (2011) has asserted that family business continuity is an important area related to succession which should not be neglected since it provides substantial proportion of employment in many countries.

Notwithstanding that family business sustainability may be dependent on a successful succession; there is a paucity of studies on how succession can lead to business sustainability (Lucky, Minai and Isaiah, 2011). Studies solely focusing on succession and how it affects continuity of the family business seems to be very limited and scarce and this where this research hopes to make a contribution to academic knowledge.

2.5.1 Succession Planning

The researcher then turned to what is already known about succession planning. Succession planning was referred to as the “deliberate and formal process that facilitates an effective transfer of ownership and management control from one family member to another“ (Sharma, Chrisman and Chua, 1997; Ward, 1987). Planning appeared to be the magic formula for succession in the family business. Attention was focused on a timely succession plan (Lambrecht, 2005). Many studies show that successions are not planned in time (Sharma *et. at.*, 2003); resulting in failed business transfers, which take jobs, assets and opportunities with them (Transfer of SMEs, 2002).

Succession planning is the single most lasting gift that one generation can bestow upon the next (Ayers, 1990). Literature on family firms have long stressed the importance of succession planning in ensuring the success of a business (Brockhaus, 2004; Morris, Williams, Allen and Avila, 1997; Ward, 1987). Lansberg (1988) identified the lack of succession planning as the main reason why up to 70 percent of the first generation family businesses did not make it to the second generation.

Owners should start succession planning as soon as the business passes the “fight for survival stage” (Lee, Jasper and Goebel, 2003). In Motwani *et. al.*(2006) succession planning was identified as the single most important topic requiring the attention of the firm’s leadership, as failure in succession represents a serious problem not only to family’s themselves but also to the health of the economy.

Despite all its advantages and significance, most family businesses still do not plan succession (Heck and Trent, 1997). This was concurred by Berman, Brown and Coverly (1999), who concluded that the family business owners did not face up to succession planning and the fact that they would eventually die. It appears to be left to chance by many family owned firms (Rue and Ibrahim, 1996). The apparent neglect of succession planning may be attributable to emotions generated by the succession process which forces business owners to face their mortality and makes other family members confront the need for change (Beckhard and Dyer, 1983; Lansberg, 1988).

2.5.2 The Succession Process

The researcher then looked into the process of succession. There is a significant overlap between activities considered by researchers to be components of the succession process and those activities considered to be parts of succession planning (Sharma *et. al.*, 2003). In any business, succession is a crucial phase in the firm's lifecycle, in addition to a business's creation and growth. Succession by definition involves the replacement of the founder or the incumbent management (Chrisman *et. al.*, 2003). In a family business, succession or transfer of power is further complicated by the demands of family relationships and the sheer potency of ownership (Poza, 2010).

Handler (1990) described the process of succession as a mutual role adjustment between the members of the incumbent and those of successor generations. Mutual respect and understanding between the generations are essential to the process. The growth and development of the successor in family business follows a series steps or milestones (Longenecker and Schoen, 1978). According to research, the successor must be fully committed to the succession process (Barach and Gantisky, 1995) to become a successful leader of the firm. Upon entering the family business, the successor becomes a student of the organization and so learns about the processes and people involved (Churchill and Hatten, 1987). Generally, he or she then moves into a lower management position. At this point, the successor may benefit from the assistance of a mentor, coach, or advisor (Handler, 1990). Over time, the successor rises in the company to a top management position, having won the approval of the incumbent generation. Finally, the successor obtains the ownership of the company. Then, after the death or retirement of the previous

generation, the successor becomes the incumbent and is thus ready to repeat the cycle again (Dyck, Mauws, Starke, and Mischke, 2002).

Succession in a family business is seen not as a onetime event but a lifelong continuing process to the next generation which involves cultural, financial, strategic and social issues involving the family and the business. Taking the perspective of succession as a process, researchers agree that succession occurs over a long period of time. It begins before the heirs even enter the firm and proceeds through the formal nomination of the successor, the transition phase and the actual take over (Handler, 1990; Le Breton-Miller *et. al.*, 2004). In fact according to Lambrecht (2005), succession is not about a process that can be tied up in a fixed time frame. It starts much earlier and never ends. It is not a single event but a complex process which is akin to a relay race that always takes time (Gersick, Davis, Hampton and Lansberg, 1997; Sharma, Chrisman and Chua, 2004).

Sharma, Chrisman, Pablo and Chua (2001) defines the 'succession processes' as the actions, events and developments that affect the transfer of managerial control from one member of the family to another. This includes the process that occurs from the time when the dominant coalition in the family business forms the intention for succession to the time when the incumbent relinquishes managerial control by 'passing the baton'.

Ibrahim *et. al.*,(2004) however, proposed a more detailed model which states that the succession process in the family business includes three steps : firstly, to prepare the offspring for future leadership role at an early stage prior to joining the family firm; secondly, to integrate the offspring into various job positions of the family businesses; lastly, to allow the offspring to take control of the family business.

According to Le Breton-Miller, Miller and Sheier (2004), succession is the process that aims at ensuring competent family leadership across generations. The process includes changes both at management level (Alcorn, 1982), involving the CEO and top management succession (Le Breton-Miller *et. al.*, 2004) and at ownership level (Barry, 1975). Both management succession and ownership succession may happen simultaneously (Barach and Ganitsky, 1995). Notwithstanding the above, there is however, little research based information about the succession process itself among family owned businesses (Lee, Jasper and Goebel, 2003).

2.5.3 Ownership Succession

Ownership succession involves more than just a simple transfer of monetary wealth. Inheritance of family business ownership may include an occupation and celebrity status in the community. The passing of ownership to the younger generation may also indicate “a coming of age” and a vote of confidence by the founder for the chosen successor to take over (Swartz, 1996). Although some researchers define family business from the perspective of management control, most researchers focus on the ownership structure as ultimately “he who owns, control”. For example Donckels and Frohlinch (1991) define a family business where family members owned at least 60 percent of the equity. Rosenblatt *et.al.* (1985) on the hand suggests that a family business is one where majority ownership lies within a single family. Hence sometimes a family business is referred to as a “family controlled firm” or a “family owned firm”. In Malaysia, Jasani (2002)

highlighted that the majority of family businesses in Malaysia are small scale enterprises and generally managed by the founder.

Ownership succession relates to the transfer of ownership within a family business. This must be differentiated from management succession which relates to transfer of leadership within a family business (Barry, 1989). At this juncture it is pertinent to understand the difference in objectives between estate planning and ownership succession planning. According to Swartz (1996), the primary objective of estate planning is to minimize taxes and maximize the level of intergenerational wealth transfer, whereas the main goal of ownership succession planning is to ensure a successful succession which leads to maintaining family harmony amongst family members, and business continuity and sustainability of the family business.

Cohn (1992) suggests that there are four legal strategies for transferring family business ownership. They are by way of lifetime gifting to family members (either directly or through a living trust), sale to family members or to unrelated third party and retention in the estate to be distributed after death, through inheritance. It is crucial for strategic planning purposes for the founder/business owner to decide whether he wants to keep the business in the family and, if so, to develop ownership transfer plans accordingly (Swartz, 1996).

Ownership succession issues involve transferring the ownership to the next generation and keeping the ownership within the family which may involve emotional decisions requiring balancing family issues and business development (Frishkoff, 1994). The motive behind this is to transfer ownership to a family member rather than selling off the

business or closing it down. Chua, Chrisman and Sharma (1999) believed that the essence of a family business lies in the family vision and leaving behind a legacy to secure a better future for the family across generations. Ownership succession is generally considered to be a unique, case-by-case process whereby a 'one size fits all' mentality is not appropriate (Sambrook, 2005).

Ward (1987) suggests that family firms evolve through 3 stages of ownership: the first stage, where the management and ownership are usually held by one person, the founder; the second stage is the 'sibling partnership' as the business is typically held among a group of siblings and the third stage which is the 'cousin consortium', which comprises children of the siblings. Gersick, Davis, Lansberg and McCollom(1999), who were strongly influenced by the research work of Ward(1994), offered a thorough examination of the ownership cycle of the family firm and suggests that in order to understand the importance of the ownership factors in the family firm, one must understand the marketability of the shares held, especially in the case of minority shareholders. Since the marketability of the minority shares is somewhat limited, majority ownership bestows strong psychological, financial and managerial powers to the holder.

Swartz (1996) in citing that Cohn (1992) offers a comprehensive examination of transfer strategies for family firms suggests several psychological and emotional barriers which inhibit the transfer of family business ownership. Firstly, the founder must have a clear vision for the family's role in respect of the business. This vision must be communicated and shared with family members so that it becomes their "shared dream". A lack of clear goals by the founder can lead to a confusion of purpose, insecurity on the part of the successor and no definite timeframe to achieve results. Secondly, conflict between the

family system and the business system may inhibit the effective transfer of ownership as both have differing objectives (Lansberg, 1983). The objective of the family system is to ensure family harmony whereas the main objective of the business system is to make profits. Resolving this conflict by improving the communication channels between them allows the family to select the best transfer strategy which addresses the needs of both the family and the business. Thirdly, problems can arise as a result of conflict between the life cycles of the senior and junior generations (Davis, 1982). This is normal as the senior generation want to take less risk and plan for their retirement whereas the junior generation is keen to grow the business and is willing to risk current earnings to finance future growth. Fourthly, a lack of mental and emotional commitment to business by the founder or the successor can inhibit the successful transfer of ownership. The founder must want to “let go” and be committed to the success of the successors and the successors must be passionate about the business and must want to “take the baton”. Family members must be aware and have an understanding of the emotional trauma that accompanies the passing of ownership.

Apart from the psychological and emotional barriers which can inhibit the transfer of ownership, there are also a number of other factors which can influence decisions regarding the transfer of family business ownership: firstly, recognition by the owner that their business is a family firm. Once the decision is made to become a family business, other important elements influence ownership structures and outcomes; secondly, societal views concerning ownership succession can influence a family firm’s decision about intergenerational transfer (Davis, 1995). Many countries have legal, social and religious guidelines that advocate specific inheritance procedures. In Malaysia, which is predominantly Muslim based the Islamic laws of inheritance known as the Faraid is

applicable (Mohd Salim and Abdul Ghadas, 2012); thirdly, family traditions can influence ownership transfer. Some families are committed to passing ownership control to one heir in the next generation, some believe in passing shares equally to all heirs, whilst others believe in passing voting shares only to active family members (Swartz, 1996). Fourthly, in certain industries especially those related to highly specialized professional skills there may be barriers to ownership transfers in that special professional licenses or qualifications are required to enter the industry. Hence any family business whose chosen successor does not have the relevant licenses or qualifications will be barred from taking ownership (the Legal Profession Act, 1976).

According to Swartz (1996), who wrote a doctoral thesis on ownership succession, whilst it is acknowledged that Handler (1994) offered a comprehensive review of succession literature, it demonstrated a glaring gap in knowledge pertaining to the ownership succession in family business transitions as most research focused almost exclusively on the management succession. This can be seen from Chua, Chrisman and Sharma (2003) who, in an extensive research of family business literature found that management succession was the most important concern of the family business and that it was also the most frequently researched topic (Brockhaus, 2004; Handler, 1992; Ward, 2004).

Swartz (1996) suggested that ownership succession is a crucial factor in family business dynamics since ownership is normally only limited to family members and because ownership bestows strong psychological, managerial and financial powers to the owner. Ownership of a family firm typically becomes diluted over generations due to inheritance and may ultimately affect the continuity and sustainability of the family business.

A clear theme in ownership succession is the dilemma faced by the founders as they decide on the future distribution of ownership (Swartz, 1996). This research proposes to extend this theme by examining how Malay Muslim family business owners plan ownership distribution especially in the context of the Faraid, the Islamic law of inheritance which already predetermines the succession of heirs and their distribution portions.

Salim and Abdul Ghadas (2012) posits that ownership succession is related to firm's performance as families are motivated to work efficiently when they hold more shares in the business. Having said that, they however suggest that the absence of ownership succession planning is not critical as the family ownership structure could still be maintained and sustainability of the family ownership be achieved, by application of the laws of inheritance.

Undoubtedly, the ownership structure of a family firm has a profound impact on the dynamics of the family business system. Unfortunately, the literature on family business ownership succession is scarce and this where this research hopes to make a contribution. The scarcity of literature concerning family business ownership succession may be due to the misconception of the apparent lack of influence of the ownership factor in the family business system model (Gersick, 1997). This lack of attention is unfortunate since a thorough understanding of family business dynamics requires sensitivity to ownership issues as well as family and business factors.

2.5.4 Successful Succession

What is successful succession will depend on the stakeholders of the family business itself. However, in general, successful succession involves the successful transfer of both management and ownership succession. One of the fundamental missions of a family business is to pass the business to subsequent generations (Davis, 1968) and as such, a successful succession is the keystone to survival in the family business (Cabrera-Suarez *et.al.*, 2001; Shepherd and Zacharakis, 2000; Davis and Harveston, 1998).

The family business literature considers the succession passage as one of the most important topics which affect the family firm (Handler, 1994). Succession is not just about the transfer from one generation to the next generation. It is about the transfer to the future generations, referred to as inter-generational succession. Although transfer of ownership is not a criterion for succession, it has been associated with successful succession. Ownership that is not transferred during or at the same time with management succession may indicate reluctance of the owner to let go and may ultimately affect the success of ownership succession.

Barach and Ganitsky (1995) presented a framework integrating 12 critical factors affecting succession and focuses on factors that can be controlled by core players, which comprise of the CEO (or founder), the offspring (or successor), other participants (stakeholders) and the firm itself. The framework can be used to assess the succession process and identify major conflicts.

Jasper and Goebel (1996), developed as a succession model in family owned businesses to explain succession planning among family business owners, especially regarding the factors which motivated them to actually begin succession planning. Among the factors that were taken into account was business characteristics (gross business income, number of employees, whether it was a start up or first generation business or home based), business owner characteristics (age, education, education level, gender, no. of children, marital and health status), level of engagement in financial planning (shared vision, meeting with external consultants and making a will) and attitudes about transferring ownership (treating children equally, getting children started in the business, keeping the business within the family and providing for financial security post handover). Further, De Massis, Chua and Chrisman (2008) believes that seeking to gain an understanding of the factors that prevent intra-family succession from succeeding will help to prevent succession failure.

In order to be successful, Habbershon, Williams and MacMillan (2003), suggests that succession, the owners and managers of the family firm must have the goal of trans-generational wealth creation. Successful succession can be defined as “the subsequent positive performance of the firm and ultimately the viability of the business” (Le Breton-Miller *et.al.*, 2004). In addition family harmony can help to smooth the path towards successful succession (Dyer, 1986).

According to Pyromalis and Vozikis (2009) the successful succession process focuses on five critical success factors that can influence the successful succession of the family business. They are: (1) the incumbent’s propensity to step aside, (2) the successor’s

willingness to take over, (3) positive family relations and communications, (4) succession planning and (5) the successor's appropriateness and preparation.

This study seeks to fill a gap in the family business succession literature by providing insights towards a better appreciation of related topics like ownership succession and succession failure.

2.5.5 Business Sustainability

In a family business, having a successful succession by itself is not sufficient. It must lead to business sustainability which is a function of business success and family functionality. Family business sustainability is therefore the outcome of a successful succession of a family business. In recent times, the family business sustainability has emerged as one of the highly concerned agenda in the global entrepreneurial development.

Stafford, Duncan, Dane and Winter (1999) introduced the Sustainable Family Business (SFB) model which comprise two components, a family side and a business side, which argues that the interplay between the two sides are essential to the survival of the family firm. However in SFB, it is recognized that while the business side is important for firm's survival, it is not acceptable to sacrifice the family for the good of the business. Both the family and the business must respond appropriately to external disruptions, so that the family business will be sustained. Lambrect and Donckels'(2006), analysis of 10 case studies revealed three reasons why families prefer to build sustainable family businesses : (1) the fulfillment of family values, (2) the preservation of the family name and a sense of reassurance, and (3) the exploitation of the advantages of a family business.

Today, most of the businesses seen are family businesses and these businesses have been noted to account for the largest percentage of businesses in many nations (Kuratko and Richard, 2004). However, although only roughly 20 percent of research on family businesses involved succession (Sharma *et. al.*, 2004), yet many family businesses continue to fail. Davis *et. al.*, (1998) reports that only 30 percent of family businesses survive to the second generation, while 10 percent to 15 percent go beyond the third generation. Notwithstanding the same, despite of the importance of succession to the continuity of the family business, studies solely focusing on succession and how it affects sustainability of the family business seem to be very limited and scarce (Lucky, Minai and Isaiah, 2011).

It is further argued that researching the issue of succession by itself is insufficient as the issue of how succession affects business continuity is crucial and must also be addressed. For example, Handler (1994) only reviewed past studies on family business succession and presented five major issues in family businesses which included the succession process, role of the founder, the views of the successor, multiple levels of analysis and characteristics of effective successions, but did not include issues relating to succession and continuity. Miller *et. al.*, (2003) on the other hand discusses intergenerational succession but failed to provide how it could lead to successful succession and business continuity. Lorna (2011) talks about the succession process but does not explain how the succession process can bring about the continuity of the family business. Lucky *et. al.*, (2011), focused on what is termed as “true succession” and how it could lead to family business continuity. True succession is determined by three factors namely, the role of the founder, the commitment of the successor and the environment. To ensure family business continuity, true succession will mediate the relationship between the founder,

the successor and the environment. However, Lucky *et. al.*, (2011) only limits itself to the trading sector and does not cover other sectors like manufacturing and the services sector. It is this gap that this research intends to fill as the data collected for this research is from the services sector.

2.6 Supporting Theories on Family Business Succession

Theory is an efficient tool that guides the development of knowledge because it helps make connections among observed phenomenon, thereby helping build conceptual frameworks that stimulate understanding (Sutton and Staw, 1995). It aids in building connections between the work at hand and pre-existing research, thus making use of our cumulative knowledge to reveal a range of alternatives for effective action (Lindblom and Cohen, 1979). Kurt Lewin's (1945) often quoted endorsement of theory, "there is nothing as practical as a good theory", suggests the key role of theory in guiding effective practice.

In this research, The Three Circle Model explains how the family intertwines with the business and the management. The Theory of Planned Behavior elaborates how essential it is in any planning environment, more so in succession planning. As for the Stewardship Theory, it suggests how family members think more for the family business over and above their personal interests

2.6.1 The Three-Circle Model

In the family business literature it is common to discuss the succession challenge using the Three-Circle model of ownership, family and the firm as point of departure. This model holds that there is an overlap between ownership, the family as a social unit, and the firm as a focal economic entity (Gersick, 1997; Le Breton-Miller *et. al.*, 2004; Ward, 1987). An important part of the relationship between private owners and their firm is how relationships between family members within the ownership group affect decisions about the firm's future (Aldrich and Cliff, 2003; Sharma, 2004; Stewart, 2003). The character and quality of the relationships between the owners and their family members are pivotal since they are likely to affect the extent to which important intangible resources such as knowledge and networks are transferred during a succession (Cabrera-Suarez, De Saa-Perez, and Garcia-Almeida, 2001).

The Three-Circle Model is the theoretical approach most often used in the scholarly study of family business. In the Three-Circle Model approach, the family firm is modeled as comprising the three overlapping, interacting, and interdependent subsystems of family, business and ownership (Taguiri and Davies, 1992).

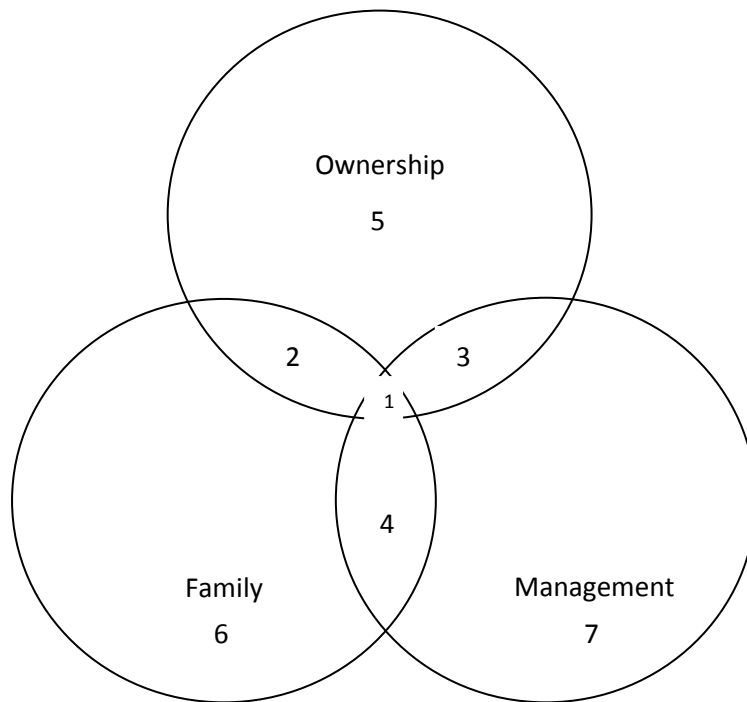


Figure 2.2 *The Three-Circle Model of Family Business*

Source: Taguiri and Davies (1992)

The Three-Circle model represented in Figure 2.2 above, describes the family business system as three independent but overlapping subsystems: business, ownership and family. Any individual in a family business can be placed in any of the seven sectors that are formed by the overlapping circles of the subsystems. For example, all owners (partners and shareholders) and only owners will be somewhere within the top circle. Similarly, all family members are somewhere in the bottom left circle and all employees, in the bottom right.

A person who has only one connection with to the firm will be in one of the outside sectors 5, 6, or 7. For example, a shareholder who is not a family member and not an employee belongs in sector 5 inside the ownership circle, but outside the others. A family member who is neither an owner nor an employee will be in sector 6. Individuals who

have more than one connection to the business will be in one of the overlapping sectors, which fall in two or three of the circles at the same time. An owner who is also a family member but not an employee will be in sector 2, which is inside both the ownership and the family circles. An owner who works for the company but is not a family member will be in sector 3. Finally an owner, who is also a family member and an employee, would be in the center sector 1, which is inside all three circles. Every individual who is a member of the family business system has one location, and only one location, in this model.

The reason that the Three-Circle model has met with such widespread acceptance is that it is both theoretically elegant and immediately applicable. It is a very useful tool for understanding the source of interpersonal conflicts, role dilemmas, priorities, and boundaries in family firms. Specifying different roles and subsystems help to breakdown the complex interactions within the family business and makes it easier to see what is actually happening, and why. (Gersick, Davis, Hampton and Lansberg, 1997).

2.6.2 The Theory of Planned Behavior

In psychology, one of the most influential and well supported theories for predicting human behavior is Ajzen's(1990) theory of planned behavior (TPB). In its original form, the TPB is a parsimonious model of the attitude-behavior relationship. The TPB states that the probability that a behavior will occur is dependent on the intention of an individual to engage in that behavior (Ajzen and Fishbein, 1980, Ajzen, 1987). The intention will depend on the individual's attitudes (Krueger and Carsrud, 1993) which include the perceived desirability of the outcomes to the initiator, the acceptability of the

outcomes according to the social norms of a reference group, and the perception that the behavior might lead to the desired outcome.

Sharma *et al.* (2003), applied the TPB to family business succession. According to her, firstly, the desirability of the founder to start the succession process is shown by his desire to keep the business in the family; secondly, the family's commitment to retain the business within the family is an indicator of the acceptability of succession to the family; thirdly, the propensity of a trusted capable successor to take over shows the feasibility of a successful succession.

2.6.3 The Stewardship Theory

Stewardship theory posits that many leaders and executives aspire to higher purposes at their jobs, that they are not merely self serving economic individuals, but often act with altruism for the benefit of the organization and its stakeholders (Davis, Schoorman and Donaldson, 1997; Donaldson and Davis, 1991; Fox and Hamilton, 1994). The belief is that stewards are intrinsically motivated by higher levels needs to act for the collective good of their firms. A key aspect of the stewardship perspective is altruism where they identify and align themselves with the organization; they embrace its objectives and are committed to make it succeed, even at personal sacrifice (Davis *et al.*, 2000). Such executives often commit deeply to the mission of the business, treasure its employees and stakeholders, and feel motivated to do the best for the organization. In the context of this research, the stewardship theory is seen to be applicable to explain the actions of certain

research participants who may have the traits of a steward when executing their succession plans ensure the business sustainability of their legal firm.

2.7 The Proposed Conceptual Framework

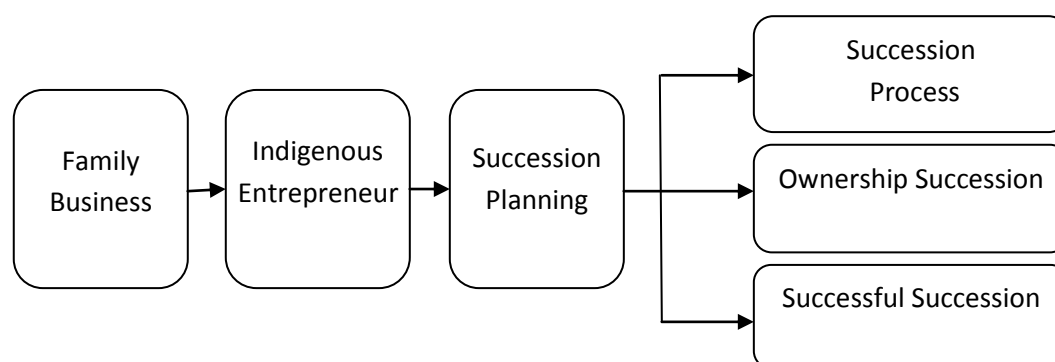


Figure 2.3 *Conceptual Framework*

Miles and Huberman (1994) defined a conceptual framework as a visual or written product, one that “explains, either graphically or in narrative form, the main things to be stated – the key factors, concepts or variables – and the presumed relationships amongst them”(p.18). It is a model out there that the researcher plan to study, and what is going on with these things and why. It is a “tentative” theory of the phenomena under investigation. The role of this tentative theory is to inform the rest of the researcher’s design – to help the researcher to assess and refine his goals, develop realistic and relevant research questions, select appropriate methods and identify potential validity threats to the researcher’s conclusions. It will assist the researcher “justifying’ his research.

In the context of this research, the researcher began by studying family businesses in general. He then continues by looking at family business from the perspective of the indigenous entrepreneur, the Muslim Malays in Malaysia and focuses on the legal

practitioners, one of the professional service providers amongst the Malay entrepreneurs. The research then looks at the succession planning part of the family business and zeroes in on the succession planning process, particularly ownership succession and concludes by defining the outcome of the succession planning process, which is referred to as the successful succession which ultimate outcome will be sustainability of the family business.

2.8 The Summary

The second chapter of this dissertation reviews the literature concerning the key components of this study namely family business, family business succession (which is sub-categorised under succession planning, the succession process, ownership succession, successful succession and business sustainability), and the supporting theories related to family business succession. Since this dissertation studies family business succession in the context of Malay entrepreneurship in Malaysia, this chapter also discusses Malay family businesses and Malay legal practitioners who comprised the unit of analysis in this study. The chapter concludes by proposing a conceptual framework upon which this study is designed on and from which the study is carried out.

CHAPTER THREE

METHODOLOGY

3.1 Introduction

This chapter explains the methodology adopted in this research. The chapter then goes on to explain the research design which encapsulate the research philosophy, the research approach, and the research method (or tradition) which is involved in this research. It further explained where the population samples for this research was obtained from, the research instruments used, how data was collected including the procedures followed. It then continued by elaborating on the technique of data analysis and highlighted the limitations of the research. The chapter then concluded with a summary.

3.2 Research Design

The decision to adopt a research design and subsequently the research approach depends on a range of factors, including the nature of the problem to be investigated, the circumstances of the research, the instruments available and the predispositions of the researcher. Research is a process of formulating questions to a research problem, collecting and interpreting the data collected to find an answer to the research problem (Nunan, 1992).

Miles and Huberman (1994) noted that the research questions are intended to explain the research that the researcher is engaging with. Specifically, the research questions played two functions; firstly, to help focus on the research problem, and secondly, to provide some guidance on how to conduct the research. In seeking to understand the family business succession phenomenon, the research addressed four research questions: (i) How do owners of Malay family legal firms in Malaysia perceive the definition of the term “family business”?; (ii) How do owners of Malay family legal firms in Malaysia plan succession and continuity of their business?; (iii) How do owners of Malay family legal firms in Malaysia perceive ownership succession of their business?; and (iv) How do owners of Malay family legal firms in Malaysia perceive a successful succession of their business?

Hence, due to the numerous “how “ nature of the research questions to be answered, the researcher felt that the appropriate research method would be a qualitative, rather than quantitative, in nature. In this context, when “how” and “why” questions are being posed, Yin (2009), suggests that in general, case studies would be the preferred method. A qualitative research method is largely an investigative process in which the researcher gradually makes sense of a social phenomenon, in this case the business succession in a Malay family legal firm, by contrasting, comparing, replicating, cataloguing, and classifying the object of study (Miles and Huberman, 1984). Marshall and Rossman (1989) suggested that this entails immersion in such a way that the researcher enters the world of the research participants and seeks their perspective and meaning.

Qualitative research focuses on the process that is occurring, not just the outcome. In this research, the researcher is concerned with the succession planning process which leads to

a successful succession and ultimately the sustainability of the family business as the outcome. Researchers are particularly interested in understanding how things occur (Fraenkel and Wallen, 1990; Merriam, 1988). A qualitative methodology therefore implies an emphasis on discovery and description, and the objectives generally focused on interpreting the meaning of experience (Denzin and Lincoln, 2003; Merriam, 1998). The intent of qualitative research is to understand a social situation event, role, group or interaction (Locke, Spirduso, and Silverman, 1987).

3.2.1 The Research Philosophy

An understanding of the issue that will be researched and how the researcher wants to acquire knowledge derived from the issue being studied, together with an understanding of the research stance of a particular research will keep the researcher on the right track (Remenyi *et. al*; 2004). The research design process began with certain philosophical assumptions which the researcher made consisting of a stance towards the nature of reality of the knowledge (ontology), how the reality of the knowledge was established (epistemology) and what values went into that knowledge (Creswell, 2003). In addition, researchers bring their own perspectives, worldviews, paradigms or sets of beliefs to the research which informs the conduct and the writing of the research (Denzin and Lincoln, 2005).

Epistemology is about how the world has been viewed in reality, be it based on positivism or interpretivism. It is a general set of undertakings and assumptions about how knowledge about this world is acquired and accepted (Sexton, 2008). It is important that the epistemological stance of the research needs to be looked at together with the

ontological assumptions and axiological purposes, as it is part of the philosophical branch of knowledge. It will help the researcher to better understand the research that they undertake, even from an early stage, in order to clarify objectives, as this will make a significant contribution to the body of knowledge. It is about understanding what knowledge is all about (Stake, 2010).

Ontology is an assumption that the researcher makes about the nature of reality (Sexton, 2008). It is the study of conceptions of reality and the nature of being. It seeks to describe or posit the basic categories and relationships of being or existence to define entities and types of entities within its framework. As a philosophical subject, ontology deals with the precise utilization of words as descriptors of entities or realities. The axiological purpose is an assumption about the nature of values and the foundation of the value judgments (Sexton, 2008). The nature of the value could be determined: either it is value free and unbiased or it is value laden and biased.

According to Guba and Lincoln (1994), a paradigm is a “basic belief system or worldview that guides the investigator, not only in the choices of method but in ontologically and epistemologically fundamental ways“. Further, Trochim (2006) concurs that within the research process, the beliefs that a researcher holds will reflect the way the research is designed, how data is both collected and analysed, and how the research results are presented.

3.2.2 The Research Approach

The research approach is the strategy taken towards data collection and analysis. In order to undertake the research, it depends on the research inquiry which could be a quantitative or a qualitative inquiry. Strategies of inquiry whether it is quantitative, qualitative or mixed methods, contribute to the overall research approach. As stated earlier, due to the numerous “how“ nature of the research questions to be answered involving the process of succession planning and ownership succession, the researcher felt that the appropriate research method would be a qualitative in nature.

In a qualitative research, the researcher used the interpretivist worldview whereby the objective of the research was to rely as much as possible on the research participants’ views of the situation. At the same time, the researcher recognized and acknowledged that their own background shaped their interpretation, and how their interpretation flowed from their own personal, cultural and historical experiences. (Miles and Huberman, 1994).

The intent of a qualitative research is to examine a social situation or interaction by allowing the researcher to enter into the world of others and attempt to achieve a holistic rather than a reductionist understanding (Maxwell, 2005; Merriam, 1998; Patton, 1990). Qualitative methodology implies an emphasis on discovery and description, and the objectives are generally focused on extracting and interpreting the meaning of experience (Denzin and Lincoln, 2003; Merriam, 1998). These objectives are contrasted with those of quantitative research, where the intention is the testing of hypotheses to establish facts and to designate and distinguish relationships between the variables.

Qualitative research takes place in the real world, rather than in the artificial world of the laboratory. It studies subjects in its natural setting and does not look at variables and causality. It is often concerned with the everyday life of the individuals, groups or organizations. Qualitative research gives detailed information about a small number of people or cases, which are selected purposefully, and tells a story (Patton, 2002). Often the researcher is the instrument of research, who seeks a holistic view of the situation and attempts to capture the inside story. In order to do this, he must practice reflexivity or self awareness in his research. Qualitative research typically asks open-ended questions and seeks rich descriptions that are full of detail.

3.2.3 The Research Method

Within the framework of a qualitative approach, there are five methods (or traditions) of research design namely: case study, biography, phenomenology, grounded theory and ethnography. However, the research method that was most suited for this research was a case study design due to the numerous “how” questions in the research questions which led to this research. The case study approach according to Yin (1989), “investigate the contemporary within its real life context, when the boundaries between the phenomenon and the context are not clearly evident”. The business succession phenomena in this research relate to the understanding of how owners of Malay family legal firms in Malaysia, plan the succession of their business after the retirement or demise of the business founder, to ensure the future continuity and sustainability of the business. It must be noted that, post independence, most early Malay businesses in Malaysia, family owned or otherwise, started in the 1970s and 1980s. After almost 30 years, they are now

‘ripe’ for succession as the founder generation, are already in their sixties. With the next generation of successors now in the mid thirties, they should be ready to succeed and take over the business.

Case study is also the best research method to answer the question of “how and why” whenever the researcher is not having control of the event. It is not merely an ideology but a methodological design, chosen for use because it fits the research questions (Platt, 1992). The thick rich descriptions of events in a qualitative case study helps develop context and describe situations, allowing the reader to understand the phenomena (Lincoln and Guba, 2002).

As a form of research methodology, case study is an intensive description and analysis of a phenomenon, bounded by time or place (Creswell, 1998; Merriam, 1998; Miles and Huberman, 1994). As a research method, the case study is used in many situations, to contribute to the knowledge of individual, group, organizational, social, political and related phenomena. The distinctive need for case studies arose out of the desire to understand complex social phenomenon.

Case study research has been used with interpretivist philosophical traditions (Cavaye, 1996; Doolin, 1996). Interpretivist research attempts to understand phenomena through accessing the meanings that the research participants assign to them (Orlikowski and Baroudi, 1995). The interpretivist researcher attempts to gain a deep understanding of the phenomena being investigated and acknowledges their subjectivity as part of their process.

As Merriam (1998) describes it, “A case study is employed to gain an understanding of the situation and meaning for those involved. The interest is in the process rather than the outcomes, in discovery rather than confirmation”. In brief, the case study approach allowed researchers to retain the universal and meaningful characteristics of real life events such as individual life cycles, small group behavior and organizational and management processes (Creswell, 1998; Miles and Huberman, 1994; Stake, 1994).

The essence of a case study centers on a single topic, person, event or organization (Stake, 2005). Usually the case is the person, place or thing under study. Stake defined case study as “both a process of inquiry about the case and the product of that inquiry” (p.144). A case study is both a research process and a research strategy (Yin, 2003).

Case study research may adopt single case or multiple case designs. A single case study is appropriate where it represents a critical case, where it is a unique case or where it is a revelatory case (Yin, 1994). Single cases also allow researchers to investigate phenomena in depth to provide rich description of a particular phenomenon (Walsham, 1995). Multiple case designs allow cross analysis and comparisons, and the investigation of a particular phenomena in diverse settings. Multiple cases may also be selected to predict similar results (literal replication) or to produce contrasting results for predictable reasons (theoretical replication) (Yin, 1994).

This research primarily used multiple case studies and the ‘in depth’ interview research approach. Single case designs are vulnerable, as they risk ‘putting all the eggs in one basket’ (Yin, 2003), so having two or more cases may give a substantial analytical benefit. Yin (2003) opines that the analytical conclusions coming from multiple cases

will obviously be more persuasive than those coming from a single case. Yin further justifies the selection of multiple case designs over single case design by stating that, the former will add a level of rigor to the research process.

The research issue will also be studied in depth comprehensively by replication, not simply picking by sampling logic. The replication logic is analogous and used in multiple experiments (Hersen and Barlow, 1976). It is like conducting a single experiment and then upon uncovering a significant finding from a single experiment later will replicate to conduct second, third and even more experiments for an immediate research goal. During the process, the replication could be altered out of necessity. Finally, with such replication the original finding can be considered as robust and worthy for continued investigation or interpretation (Herriot and Firestone, 1983). Due to above reasons, multiple case designs were preferable to a single case design.

The unit of analysis is one of the major entities that will be analysed in the research to be undertaken. The analysis that the researcher planned will determine what unit will be involved in the research issue. According to many researchers (Trochim, 2006, Yin, 2003b) the unit of analysis for a case study can range from an individual, to a group of people, to a process or relationships. Henceforth, this research principally concentrates on the founder or principal partner in the legal firm as the main unit of analysis for each case of the multiple cases study.

3.3 Instrumentation

For the purposes of this research, data collection came from multiple instruments like in-depth interviews, documents, and archival records. Although not all the instruments were critical in every case study, the importance of using multiple instruments of data collection, to the reliability of the research is well established (Stake, 1995; Yin, 1994). Yin (1994) suggested three principles of data collection for case studies: use of multiple instruments of data, create a case study data base and maintain a chain of evidence.

The rationale for using multiple instruments for the collection of data is the triangulation of evidence, which increases the reliability of the data. In the context of data collection, triangulation served to corroborate the data gathered from other instruments. Similarly, creating a case study data base and maintaining a chain of evidence helped to organize the data collected and enhanced the reliability of the research.

In this research, in-depth interview approaches (Patton, 1990), by way of “guided” conversation, were utilized with the research participants and was selected as the primary method of data collection. It consisted of semi-structured interviews guided by open-ended questions developed to ensure consistency, and flexibility for a free flowing, conversational dialogue between the researcher and the research participant being interviewed. Further it gave the researcher an opportunity to clarify statements and probe for additional information.

An essential purpose of the interviews was to elicit people’s experiences about their concerns regarding the family business succession process, particularly the ownership

succession, within the legal practice. The interviews were intended to lead to “thick and rich descriptions” (Rubin and Rubin, 1995) related to research questions. According to Creswell (1994), and Denzin and Lincoln (2003), a major advantage of in-depth interviews is that they offer the potential to capture an individual’s perspective of an event or experience.

As stated earlier, being a multiple case study research, in depth interviews were conducted on the founder or principal partner of the legal firm, as the unit of analysis. The questions asked may differ from one interview to another but the essence of the interview questions which is based on the research questions, remained the same.

3.3.1 In-depth Interview

Interviewing is not an easy task and standardizing the data collection procedure will help to increase credibility (Fowler, Jr., 2002). As a result, an interview guide (please refer to Appendix no.1) was an important preparation for the researcher before the interview process began. These procedures helped to prepare the researcher in advance when conducting the interview and ensured more productive interviews ensued.

This section briefly describes the kinds of information that is needed to answer the research questions and forms the basis on which the interview questions were structured on. Three areas of information are typically needed for most qualitative studies: contextual, demographic and perceptual.

Contextual information refers to the context within which the research participants work. It describes the culture and environment of the setting, be it an organization or institution. This is critical information as working culture or environment may influence behavior (Lewin, 1935). Lewin's fundamental proposition is that human behavior is a function of the interaction of the person and the environment. In this research, the context refers to the Malay legal practitioner, as an indigenous entrepreneurial grouping in Malaysia. Given the nature of the contextual information, such a review would provide knowledge about the grouping's overall background history and other relevant information.

Demographic information, on the other hand, describes the participants in the research for example where they are from, their background, education and personal information such as age, gender. It may also include their vision, objectives, products or services, operating principles, and business strategy. Review of demographic information may help to explain an individual's perception or more specifically, similarities or differences in perception between the participants. Demographic information is usually collected by asking the research participants to complete a personal data sheet (please refer to Appendix no. 4) before the interview take place.

Perceptual information refers to the research participants' perceptions related to the particular subject of inquiry. It is critical when analyzing content of interviews and helps to explain how experiences influenced the decisions made, when it is relevant. Perceptions are not facts but what people perceive as facts. They are neither right nor wrong but explain the story of why the participants believe certain things to be true or false. These perceptions are rooted in long held assumptions and one's own worldview or frame of reference.

3.4 Population and Samples

The population for this research was identified from the database of Malay legal practitioners derived from the membership of the Muslim Lawyers Association of Malaysia (the “MLA”) and the Bar Council of Malaysia (the “Bar Council”). According to the Malaysian Bar Council directory issued in 2010, there were approximately 12,000 practicing lawyers of which almost 60% percent were Malay lawyers. However, there are no existing statistics from the Malaysian Bar Council to confirm how many of the above Malay practicing lawyers were actually partners in the legal firm where they practiced or were merely salaried legal associates. There was also lack of legal information regarding the age demography of the Malay practicing lawyers. Although membership in the MLA was not compulsory to Malay legal practitioners, it is observed that most Malay legal practitioners joined the MLA as a member, as a show of support and solidarity amongst the Malay legal practitioners. The researcher observed that the almost 100 percent of the members in the MLA were Muslims as in Malaysia, due to the constitutional interpretation of Article 3 of the Malaysian Federal Constitution, Muslims were deemed Malays and vice-versa. The support from the Muslim Lawyers Association enabled easy access for data collection, and helped to get transparent and honest opinions from the research participants. This was important as it could maximize the richness of data being collected, which was part of the data collection strategy.

The selected case studies were based on the criteria firstly that the research participants were family businesses based on the definition listed in the literature. For the purposes of this research, the following definition by Barnes and Hershon (1975) was adopted: “A

family business is where controlling ownership is vested in the hands of an individual or the members of a single family”. Hence, the research participants selected were those who were in management control and who own more than 50 percent share in the legal firm. They were also senior legal practitioners who were at least 50 years old and expect to handover management control or transfer the ownership of their shares within the next 10 years. Due to time and cost constraints, the research participants were purposefully selected within the Klang Valley area, which comprises the Federal Territory Kuala Lumpur and the State of Selangor, which is the most economically developed state in Malaysia. According to the Malaysian Bar Council Directory of Advocates and Solicitors 2012 issue, approximately 80 percent of the practicing lawyers in Malaysia are based in the Klang Valley.

The legal firms chosen vary according to size. They had diverse legal specializations and expertise including corporate, conveyancing and land transactions, banking, litigation (both civil and criminal), mergers and acquisitions, probate, syariah matters and divorce matters. The size of the legal firms selected varies from 3 lawyers to 50 lawyers.

3.4.1 Case Study Screening and Selection

The case study screening is the initial step before taking further steps are taken towards data collection. The research participants were selected amongst the legal practitioners, as their position vis-à-vis other practicing professionals like architects, engineers and accountants were different in that a legal practice cannot be corporatized into a private limited company and must be maintained as a sole proprietorship or a partnership (Legal Profession Act 1976). In the context of succession planning, this would mean that a legal

practitioner would have limited choices compared to other practicing professionals who are allowed to corporatize and as such would have to plan the succession of their legal firms, more meticulously in order to ensure that it continues and sustains itself after the demise of the founder.

This case study research involves research on more than one case. Multiple cases add confidence to findings. Yin (2003) stated that multiple case studies are preferable because they avoid the risk of putting “all your eggs in one basket”. Yin (2003) also compared the addition of cases to the addition of experiments, looking for replication.

Membership of the Malaysian Bar Council was a prerequisite for legal practice as it was the professional body entrusted by the Legal Profession Act, 1976 to issue the Sijil Annual which was needed by the Advocate and Solicitor, before the yearly Legal Practicing Certificate can be issued by the High Court of Malaya. As stated earlier, although membership of the Muslim Lawyers Association was not compulsory, membership of the Malaysian Bar Council was a prerequisite to legal practice under the Legal Profession Act 1976.

Out of 20 invitations sent out to research participants based on the criteria indicated earlier, 12 responded positively and declared their readiness to be interviewed and participate in the research. In fact the positive response rate would have been much higher if not for the fact that the interviews were conducted in the month of December 2011 when most lawyers, depending on their practice areas would be most busy due to year-end related legal matters or would be on long leave with their families due to the school holidays and the long public holidays during Christmas and New Year. While

there is no ideal number of cases, Eisenhardt (1989) believed that between 4 and 10 cases is best. Hence 10 research participants were finally selected and appointments for interviews were requested and confirmed so that the interviews were conducted in the months of November and December 2011.

Prior to the interviews taking place, the research participants were requested to fill in an information sheet detailing the preliminary information regarding their legal practice (please refer to Appendix no.5), particularly the profile of the principal partner who will be interviewed, and a corporate profile of the legal practice which is a document given to potential clients to explain the background of the legal practice, who were the partners in the legal practice, when it was established, what were its practice areas and specialization and who were its past and existing clients. Hence, the corporate profile was a document which was used for business development and for marketing for new clients.

An informed consent form (please refer to Appendix no.6) was signed by each research participant and is kept at the researcher's office. The researcher earnestly informed the research participants of the purpose and parameters of the research (Seidman, 1998), and advised each research participant that confidentiality and secrecy will be maintained by the use of pseudonyms, and that they had the right to withdraw from the research at any time. Further, the research participants were advised that the interview would be taped but assured them that the contents would only be used for academic purposes only and would not be revealed to anyone for any other purpose without their express permission.

3.4.2 Profiling of research participant

The breakdown of the research participants can be categorized as follows: out of the 10 research participants, 1 comprise a female lawyer and the other 9 were male lawyers; 1 was a sole proprietorship and the 9 were partnerships; 2 were mid-size legal practice, comprising more than 10 lawyers in the legal practice and 8 were small legal practice which comprise less than 10 lawyers in their legal practice and lastly, 1 participant came from a multi-ethnic legal practice and the other 9 came from single ethnic Malay legal practice. The actual names have been hidden for confidentiality purposes and they have been given pseudonyms for the purposes of this research.

3.4.3 Case Study database

The case study databases were as follows:

Research Participant 1: (NR)

NR, age 51, is the only female research participant. She is a law graduate from the University of London in England and is also a holder of the professional Certificate in Legal Practice (CLP) from the University Malaya. She worked as a Legal Officer in an Islamic bank for 7 years before commencing active legal practice in 1992, where she worked for a small legal firm as a legal associate for 6 years. She then established her own legal firm in Kuala Lumpur, in 1998. Although she started the legal practice as sole proprietorship, it became a partnership in 2005 when another partner joined her and opened a branch office in Rawang, a small town in northern Selangor. As for practice areas, NR specialized in Islamic banking legal documentation, property transaction documents and corporate commercial matters. Together with herself and her partner, they

have another legal associate assisting them in the Kuala Lumpur office. NR is married with 6 children but none has so far indicated any interest in the legal line although there are still 2 children who have yet to complete secondary schooling.

Research Participant 2: (RH)

RH, age 54, graduated as a Barrister-at-Law from Lincoln's Inn, London, England in 1983. Being a scholar sponsored by the national petroleum company, PETRONAS, RH served out his sponsorship contract as a legal officer for 8 years until 1991. RH then proceeded to set up a partnership in Kuala Lumpur, with a non-Malay friend. However, the partnership ran into problems and was dissolved in 1999. He then continued as a sole proprietor, which became a partnership when RH's wife joined the firm as a partner in 2004. In addition, they have another 2 legal associates assisting them. Combined together, the total legal experience in RH and Associates amounted to almost 40 years. Amongst their practice areas are general corporate and property matters, probate and administration, privatization, commercial, banking, financial, corporate and litigation matters. RH has 2 children – 1 boy and 1 girl but so far no one has indicated any interest in the legal profession.

Research Participant 3: (KA)

KA, age 50, graduated from the Mara Institute of Technology with the Advance Diploma in Law in 1986. Subsequently, in 1995, he completed his Masters in Commercial Law from the University of Bristol, England. Upon his graduation from MARA, KA established a legal practice in partnership with 2 other friends. Unfortunately, the partnership ran into problems and was dissolved in 2003, after 16 years. After that, KA

set up a partnership with 2 other junior lawyers. The legal firm presently comprises 3 partners, 2 legal associates and 15 support staff. Among their practice areas are banking and finance, property and conveyancing, corporate commercial matters, computer contract and intellectual property and telecommunications.

Research Participant 4: (WH)

WH, age 60, graduated from the University of Malaya in 1976 with Bachelor of Economics, majoring in Business Administration. Upon graduation, he worked in an investment bank and a multinational corporation until 1980, when he decided to opt for a second degree and left to read law at the University of Buckingham, England. Subsequently, he graduated with the degree of Bachelor of Laws (Honours) in 1983 and the Barrister-at-Law degree from the Honourable Society of Lincoln's Inn in 1984. Upon his return to Malaysia, he joined 2 other friends to set up a legal firm in his hometown, Kota Baru, a small town in the eastern part of peninsular Malaysia. In 1990, WH decided to move to Kuala Lumpur and set up the Kuala Lumpur branch of the legal firm and then expanded the legal practice further by opening 2 more branches in Petaling Jaya and Subang Jaya.

In 2010, WH decided to withdraw from the partnership as 2 of his children had joined him in legal practice and he wanted to plan the succession of the legal firm to them. He then established his own legal firm, which is a partnership comprising himself and his daughter, who had been in active legal practice since 2001. His son, who is working as a legal associate in his legal firm, will be elevated to the status of a junior partner in July 2012. In fact, WH's family is a family of lawyers as his wife is also a lawyer and so is his younger brother.

WH legal firm's practice area encompasses every major area of corporate and commercial law, banking and finance (conventional and Islamic), secured lending and structured finance, privatization, infrastructure, highways, water and energy power projects, property development and finance, corporate and debt restructuring, take-over's, mergers and acquisitions, joint ventures and trade alliances, international trade and cross-border transactions, civil litigation, arbitration and dispute resolutions. Apart from WH and his 2 children, the legal firm is supported by 6 legal associates and 20 support staff.

Research Participant 5: (AA)

AA, age 52 graduated with Bachelor of Laws from the University of Malaya in 1984. Being a sponsored student of PETRONAS Berhad, the national petroleum company, AA served as a legal officer for 5 years until 1990. AA then joined a medium-sized legal firm as a Partner and headed the corporate commercial department. In 2000, AA had a falling out with his Partners and left to start his own legal firm, together with a few friends from his former legal firm. AA's legal firm is a full service corporate legal firm which has practice areas in mergers and acquisitions foreign investment and venture capital, Islamic banking and global financial services, capital and debt market services, corporate and commercial legal practice, which included corporate governance, corporate outsourcing, franchise and licensing transactors, employment and labour and government contracts, fund raising and debt re-structuring services, real estate and construction energy, oil and gas, litigation and arbitration and intellectual property, telecommunication, media and technology.

AA has built up his legal practice into a reputable commercial and corporate based boutique legal firm. It now comprises 9 partners, and 40 other lawyers comprising, counsel, senior associates and legal associates and almost 60 non legal staff. In addition, the legal firm that AA built has established international alliance with legal firms all over the world and has an International Law Division which provides corporate legal advice on foreign jurisdictions including the United States of America, Thailand, Singapore, Hong Kong, China and Indonesia. In addition, AA himself has been given public recognition of his contribution to expansion of knowledge to the legal and the general public by being appointed the Adjunct Professor of Law by one of the renowned universities based in Kuala Lumpur.

Research Participant 6: (HH)

HH, age 51 graduated with the Advanced Diploma in Law from the Mara Institute of Technology in 1987. After that he served as a Deputy Public Prosecutor (DPP) in the Attorney General's Chambers from 1987 until 1999. His practice of the law only commence in 2000 when he joined a mid-size legal firm as a legal associate heading the litigation department. He then proceeded to set up his own legal firm with his younger sister. They are supported by another legal associate and 5 clerical staff. Leveraging on his long experience with the Attorney General's Chambers as a Deputy Public Prosecutor, HH specializes in litigation, both civil and criminal. To augment his knowledge, he has completed his Masters in Law, specializing in Criminology and gives back to his alma mater, the MARA Institute of Technology University, by teaching part time at the law faculty there.

HH has ambitious plans for his legal practice and intends to expand the firm by bringing in one or two new partners who specializes in different practice areas from him especially

in the area of conveyancing and land related transactions. As he is so passionate about the practice of the law, he intends to persuade his children to study law and continue the practice from him upon his retirement or demise.

Research Participant 7: (YAR)

YAR, age 64, is the oldest amongst the research participants that were interviewed for this research. YAR graduated in 1974 with Bachelor of Laws from the University of Singapore. He then joined the Malaysian Judicial Legal Service and served as a Magistrate for about one year. Thereafter he joined the banking sector until 1990 when he set up a partnership; however due to personal differences, the partnership was dissolved in 1999. He then set up a sole-proprietorship; however, the sole-proprietorship became a partnership when two other lawyers joined him under a collaboration arrangement. YAR has a specialization in conveyancing and land related matters. He has conducted conveyancing and land practice courses for non-legal staff and also authored a book on the practical aspects and processes of conveyancing practice.

Research Participant 8: (AAB)

AAB, age 63, was admitted to the Malaysian Bar in 1985 after graduating from the University of Buckingham in 1983 and obtaining the Certificate of Legal Practice (CLP) from the University Malaya in 1985. He then completed his post-graduate in Diploma in Syariah Law and Practice (DSLPP) from the International Islamic University Malaysia in 1990.

Prior to his commencement of his professional legal career, he served in the Royal Malaysian Police Force for 17 years and retired as a Superintendent of Police (SP). Upon admission to the Malaysian Bar, he proceeded to set up a legal firm in 1986 under a sole proprietorship. The firm specializes in a wide variety of legal services particularly corporate, banking corporate, commercial and retail, conveyancing and litigation matters, both civil and criminal.

In 2008, AAB's son graduated as a lawyer from the International Islamic University and joined AAB in his firm as junior partner. Together AAB and his son are supported by two other legal associates and ten non-legal personnel. AAB has another son who earlier graduated as a lawyer but had chosen to join the Malaysian Judicial Legal Service and is presently serving as Deputy Public Prosecutor (DPP) with the Attorney General's Chambers. Both sons are married to lawyers who have chosen not to practice law but continue to work as legal officers in the private sector.

Research Participant 9: (AB)

AB, age 60, graduated with the Bachelor of Laws from the University of Buckingham in 1983 and obtained the Certificate of Legal Practice from the University of Malaya in 1985. However, he only ventured into legal practice in 1991. Prior to that, he was in the Royal Malaysian Police Force for 22 years and took early retirement as an Assistant Commissioner of Police (ACP). AB had also completed his post-graduate Diploma in Syariah Law and Practice from the International Islamic University Malaysia in 1991.

AB set up his legal practice together with two other lawyers, a Chinese lady and an Indian man. All of them had earlier studied law together at Buckingham University.

Hence, the firm was truly a multi-racial legal practice but was still known as a Bumiputra legal firm as AB had 51 percent partnership share of the firm. The legal firm had 2 branches, one in Kuala Lumpur and another in Seremban; another branch was also opened in Melaka but it was closed down due to administrative problems. The legal firm presently comprises of 3 partners, 10 legal associates and 15 clerical staff. The firm specializes in civil, litigation (corporate and commercial), conveyancing (retail and corporate), banking documentation including Islamic banking document, housing development contractual documentation, and bridging loan documents, industrial relations mediation and arbitration.

Research Participant 10: (RS)

RS age 60, graduated from the University of Buckingham in 1984 and Certificate of Legal Practice from University Malaya in 1986. Thereafter he completed the Post-graduate Diploma in Syariah Law and Practice from the International Islamic University in 1991. He then pursued his Masters of Comparative Law and Doctorate in Law from the same university in 1995 and 2002 respectively. Prior to legal practice, RS had served in the Royal Malaysian Police Force for 20 years and resigned from the Police Force with rank of Chief Police Inspector, before commencing his legal practice in 1987. RS's area of expertise is litigation, both civil and criminal. However, he is known more for his high profile cases in the Syariah Courts. He is assisted by his son who joined his legal firm about a year ago. The legal firm is supported by another legal associate and 5 clerical staff.

3.5 Data Collection Procedures

The process for requesting interviews began by sending a letter (please refer to Appendix no.3), addressed to the managing partner of the legal practice. Prior to sending the letter, an appointment was made to hand deliver the letter and explained the purpose of the research personally to the managing partner. Also, to facilitate the process, strong support for this research was obtained from the President of the Malaysian Muslim Lawyers Association.

The introductory letter explained the purpose of the research, how the research would be conducted and why the research would benefit the Malay legal practitioners in particular, and the Malay entrepreneurs in general. The letter also identified the proposed interviewee as a potential research participant and requested the privilege of audio taping the interview for the purposes of transcription and clarity. General interview questions (please refer to Appendix no.2) were also made available to the proposed interviewee, upon request. For the purposes of this research, it was indicated that other data collection instruments which could assist the research may include documents like letters, memoranda, agendas, research reports, or any items that could add to the data base; archival records include service records, maps, and charts, list of names, survey data, and even personal records such as diaries.

As stated earlier, 20 invitations for interviews were sent out based on the criteria for selection identified. Invitees for this research included a purposefully selected group of founder members of Malay legal firms who are all located in Kuala Lumpur, the

commercial capital of Malaysia. All of them are senior legal practitioners of more than 20 years standing and are more than 50 years old. The age factor was important as they would be expected to hand over the leadership of their respective legal firms to the appointed successors. Out of 20 invitations sent out, 12 responded positively and declared their readiness to be interviewed and participate in the research. Of those who responded positively, and based on Eisenhardt (1989), 10 research participants were finally selected and interviewed.

Following each interview, the researcher reviewed the recording machine and developed a written transcription of the information given by each research participant. The researcher then mailed the transcription back to the research participant so that he had the opportunity to verify its accuracy or to add further clarification to what was said. This also helped to enhance the validity of the data collected.

3.5.1 Pilot Study

Pilot studies act as trial runs for researchers to hone data gathering and analytical skills (Gilham, 2005). Acting as preparatory steps, pilot studies allow researchers time to perfect data collection and analytical techniques, while gathering and maintaining usable data. The pilot study allowed the researcher a chance to practice observation, interviewing, transcription, and analytical techniques, while determining process weaknesses.

A pilot study is a crucial element of a good study design as it increases the likelihood of success in the main research (Teijlingen and Hundley, 2011). By conducting a pilot

study, unnecessary risk could be avoided (Devaus, 1993). It can give the researcher a warning of where the main research project could fail and the limitations involved in the pilot study which has to be anticipated when conducting the main research. The pilot interviews also help to bring the issue into context as it helps to identify the practical problems in following the research procedures.

The pilot study in this case was conducted on a 'father and son' Malay family legal firm, who suggested minor changes in interview questions and observation procedures. The pilot study took up 1 ½ hours of interviewing, which in turn took 6 hours to transcribe personally. The results of the pilot were not included in the research findings.

3.6 Data Analysis Process

To begin with, the data analysis process was organized by having the full verbatim transcription of audio taped interviews. Out of 10 research participants interviewed in the actual data collection process for this research, the recorded interviews took an accumulated time of almost 10 hours. Some interviews took 40 minutes, most interviews took 50 to 55 minutes each and there were 2 interviews which slightly overshot 1 hour. However, the actual interview time could have been longer in some instances as the discussion sometimes continued after the recording machine was switched off. All these interview tapes were sent to the transcriber to be transcribed and came back in about 120 pages of transcribed notes. The transcription itself took about 1 month to complete (please refer to Appendix no.7).

After the interview was conducted, the tape recordings of interviews were sent for transcription. Upon its return the verbatim transcriptions were re-check with the audio recordings to re-confirm its accuracy and consistency with the interview data. Subsequently, the transcriptions were resent to the research participants for verification, clarification and for reliability purposes. Once all these procedures were done, the interview data was analyzed based on a research framework proposed which was guided by the Research Questions.

Initial verbatim transcriptions included the research participants' exact interview words and editing the initial transcripts was appropriate to correct grammatical errors (Stake, 1995) and removing statements that made the research participants uncomfortable (Rubin and Rubin, 2005). By using a data reduction strategy (Miles and Huberman 1994), a secondary transcription was completed, reducing the research participants' words to implied meanings by removing superfluous, redundant, repetitious speech of normal conversations (Gillham, 2005) and focusing on the context of the situation as well as the meaning of the conversation (Stake, 1995).

At the same time, the researcher identified quotations (please refer to Appendix no.8) from the second transcription data that could be useful in answering the research questions based on the framework proposed. Creation of categories allowed the researcher to identify patterns of occurrences appropriate for cross case analysis (Miles and Huberman, 1994).

3.6.1 Technique of Data Analysis

After the process was completed, the researcher proceeded to the integral part of the data analysis which is the coding exercise. Here, the researcher strategically employed a combination of “a priori codes”, which the researcher developed through his understanding of the literature, and “inductive codes”, which the researcher had identified as emerging from the research data being analyzed.

The major categories of the research were family business, succession planning, succession process, ownership succession and successful succession, with the context being from the Malay entrepreneurship perspective. As themes and patterns emerged, categories arose, and because the current research was emergent in nature, further appropriate subcategories surfaced during data analysis. It is not the intention of this research to make generalizations or inferences, given the qualitative nature of the study (Stake, 1995).

3.6.2 Validity and Reliability in Data Analysis

In quantitative research, validity represents the truthfulness of findings whereas reliability refers to the stability of findings. However, validity and reliability may not have the same meaning from the qualitative research perspective, which is employed in this study. According to Creswell (2007), “validation” in qualitative research is considered to be an attempt to assess the “accuracy” of the findings as best described by the researcher and the participants. Any report of research is therefore a representation by the researcher. Validation is therefore viewed as a distinct strength of qualitative research in that the account is made through extensive time spent in the field, the detailed thick description,

and the closeness of the researcher to the participants in the study all add to the value and the accuracy of the study. Creswell (2007) further suggests that his framework for thinking about validation in qualitative research is to suggest that researchers employ validation strategies to document the “accuracy” of their research findings.

To establish validity in a qualitative research, there are nine validity strategies (Creswell, 2007): a) triangulation, in which researchers search for convergence among multiple and different sources of information to form themes or categories in a study; b) disconfirming evidence, which a procedure closely related to triangulation and where researchers search for negative evidence (Miles and Huberman, 1994); c) this is a process whereby researchers self disclose their assumptions, beliefs and biases that may shape their inquiry. This will allow readers to understand the researchers positions and then to suspend their biases as the study proceeds; d) member checking, which consists of taking data and interpretations back to the participants in the study so that they can confirm the credibility of the information and narrative account; e) prolonged engagement in the field, which allows researchers to build trust and establish rapport with the participants, so that participants are comfortable disclosing information and for researchers to reciprocate by giving back to people being studied; f) collaboration, which helps to acquire credible data from the research participants; g) the audit trail, where researchers provide clear documentation of all research decisions and activities through journaling and memoing, and a research log; h) thick and rich description, where the purpose is that it creates truth-like statements which involves describing a small slice of interaction, experience or action to contextualize the people or sites being studied, in as much detail as possible so that the reader feels that they are transported into the setting or situation; i) peer review or inter-rater reliability, which involves the review of the data and the research process by

someone who is familiar with the research or phenomenon being explored. Peer reviewers can provide written feedback to researchers or simply serve as a sounding board for ideas (Cresswell and Miller, 2000).

As regards this study, validity concerns were taken into account from the first step in the research process beginning with the research questions. The methodology, data collection and analysis were carried out in way so as to minimize, as much as possible, the risk of interpreting data incorrectly. The validity concerns focused on face validity, content validity and context validity.

To address face validity concerns, substantiation that the research methodology had been set up correctly and the questions asked during the interviews were formulated and presented in a way to prevent bias in pursuit of the data to be collected. Since this study involved a multiple case study, the findings and information gathered from the multiple case studies will be strategically triangulated amongst themselves in order to confirm the validity of the findings to this study.

To address concerns about content validity, corroboration of the research methodology (case study) was pursued through a pilot study. This ensured that the interview questions and the data collected truly answered the research questions they were intended. Further, thick and rich descriptions were obtained from the in-depth interviews conducted. The interview transcripts were also returned to the research participant to confirm the veracity and accuracy of the contents. There was also friendly collaboration from the research participants in giving information to the legal practice industry as a whole. In addition,

peer reviews (based on interview quotation as per Appendix 8) or inter-rater reliability feedbacks were collected to ensure clarity of understanding.

To address concerns about context validity, the research procedures could be generalized to research on Malay entrepreneurs in Malaysia who were professionals, other than legal practitioners, as they share the same environment, social life style and culture.

As for reliability, one of the arguments against qualitative research approach is that it is difficult to determine the reliability. This is partly due to the subjectivity element of qualitative research as data collection may almost entirely depend on the researcher. The objectivity of quantitative research is apparently synonymous with good, reliable research and the inherent lack of objectivity within qualitative research is synonymous with sloppy and unreliable research (Maykut and Morehouse, 1994).

3.7 Limitation of the Study

Every research has its limitations. The primary limitation of this research was the small number of cases examined (LeCompte and Schensul, 1999b; Stake 1995). Notwithstanding the same, the research generated new knowledge. The use of multiple holistic in-depth case study methodologies provided new insights into the ownership succession strategies of Malay entrepreneurs including professional firms, especially the Malay family legal firms, in Malaysia. The second limitation was the inability to make generalizations based on the research findings, due to the qualitative nature of the research.

A third limitation was the inability to communicate the entire story of witnessed events as it is simply beyond human capability (Stake, 2005). The explanation and interpretation process of interviews were in writing. Writing itself is a form of translation and interpretation (Gillham, 2005). Telling the story is not the same as real life experience and can never be the same due the inability of the researcher to articulate experience effectively.

A fourth limitation was the subjective nature of qualitative research (Yin, 2003). Different readers may reach different conclusions after reading this research report due unlimited number of reasons like potential misinterpretations. Fifthly, as the researcher has also experiences similar to those of the research participants as a senior legal practitioner, his assumptions may have been similar thereby affecting the findings and creating bias (Miles and Huberman, 1994). Sixthly, a qualitative research is subject to time constraint and limited resources, financial and otherwise. Collecting a large amount of data and getting through the gatekeeper, would need a lot of time and would incur high cost.

3.8 Summary

This Chapter started with a discussion on the research design used in this research to investigate and analyse issues associated with the ownership succession of family legal firms in Malaysia. More specifically, the study has employed the multiple case study approach, with a single unit of analysis which is the business owner himself. The study also used other means of data gathering such as field observation and document searches.

The research participants were selected within a geographical area known as the Klang Valley, a commercial suburban area comprising the Federal Territory of Kuala Lumpur and the state of Selangor, which is the most economically, developed state in Malaysia. The research participants themselves comprise of 10 Malay senior legal practitioners, all of whom were business founders and principals of their legal practice.

A pilot study was conducted on another senior Malay legal practitioner prior to the commencement of the actual data collection exercise in order to help the researcher to test the interview questions, the interview procedures conducted and time taken to complete the interview. The pilot study also helped the researcher to gain more confidence in interviewing skills and to ascertain effective strategies to maximize opportunities for data collection.

The chapter concluded with the researcher highlighting the possible limitations of the study so the findings and conclusions in the later Chapters can be seen in its proper perspective. The next chapter will identify the findings which were obtained from the data collected from this research.

CHAPTER FOUR

RESULTS AND DATA ANALYSIS

4.1 Introduction

Chapter 4 aims to present the findings of the overall analysis of the raw data that has been collected. The purpose of this multiple case study was to investigate the phenomena of family business succession planning amongst Malay legal firms in Malaysia and to what extent it will lead to future sustainability of the business. To understand such a phenomena, the answers to the following research questions have been sought: firstly, how do owners of Malay family legal firms in Malaysia perceive the definition of the term “family business”; secondly, how do owners of Malay family legal firms in Malaysia plan succession and continuity of their business; thirdly, how do owners of Malay family legal firms in Malaysia perceive ownership succession of their business; and lastly, how do owners of Malay family legal firms in Malaysia perceive successful succession of their business.

Consequently, the research objectives of this research are as follows: - firstly, to understand the perception of the owners of Malay family legal firms in Malaysia, in relation to the definition of the term ‘family business’; secondly, to investigate how succession planning is carried out by owners of Malay family legal firms in Malaysia; thirdly, to explore the perception of the owners of Malay family legal firms in Malaysia regarding ownership succession of their business and lastly, to examine the perception of successful business succession amongst the owners of Malay family legal firms in Malaysia.

Accordingly, this chapter is structured in such a way that, the findings were presented based on the information collected from the in depth interviews conducted with the research participants, together with other data collection procedures. At the end of the chapter, a summary of the findings is given.

4.2 The Definition of Family Business

The first research objective was to seek to understand the perception of the Malay family legal firms in Malaysia in respect of the definition of the term “family business”. The significant finding here was that the majority of the research participants perceived that to constitute a family business, the legal firm, amongst others, must actually be a business, must be capable of being inherited by the next family generation, must identify a family successor who will be ready to take over when the time comes, and the majority equity share must be held by family members.

During the interview, the research participants were asked to provide their perceptions on family business based on their working experience as legal practitioners. From the responses given, two main categories of perceptions were identified: firstly, what factors constitute a family business and secondly, based on such factors, whether they perceived their legal firm as a family business or not.

According to the data collected, the majority of the research participants perceived that their legal firm was not a family business. This was reflected in the data collected when only two (namely WH and AAB) out of ten research participants perceived their legal

firm as a family business. The rest of the research participants thought that their legal firm did not constitute a family business.

The reasons were varied. Some thought that it was not a family business because it was not inheritable to family members; others thought the legal firm was not a business but a professional practice. Yet some others thought since none of their children was interested to become a lawyer, no family member could be identified as a successor and therefore, the legal firm could not be a family business. There also some who thought that the legal firm could not be a family business unless it was 100 percent owned by the family.

The tables below indicate the responses of the research participants. Each of the constituting factors will be further discussed:-

Table 4.1.1

Significant Factors that Constitute a Family Business

	(A)	(B)	(C)	(D)
Research Participants	The Legal Firm must be Inheritable	The Legal Firm must be a Business	Future Family Successor must be Identifiable	Majority Owned Family Legal Firm
RP 1 : NR	X	X	✓	X
RP 2 : RH	✓	X	✓	X
RP 3 : KA	X	X	X	X
RP 4 : WH	✓	✓	✓	X
RP 5 : AA	X	X	X	X
RP 6 : HH	✓	✓	✓	✓
RP 7 : YAR	X	X	X	X
RP 8 : AAB	✓	✓	✓	✓
RP 9 : AB	X	X	✓	X
RP10 : RS	✓	X	✓	✓

Legend	
✓	Agree
X	Disagree

Table 4.1.2

Cross Case Analysis of Significant Factors That Constitute a Family Business

	% of RP	% of RP
	Agree	Disagree
i. The Legal Firm Must Be Inheritable	50%	50%
ii. The Legal Firm Must a Business	30%	70%
iii.The Future Family Successor Must Identifiable	70%	30%
iv. Majority Owned by Family Business	30%	70%

Legend

RP – Research Participant

4.2.1 The Legal Firm must be a Business

This factor emerged as a significant reason if the legal firm was to be considered a family business. The perception that the legal firm must be a business to be a family business was supported by only 3 out of 10 research participants namely WH, HH and AAB and 7 research participants namely NR, RH, KA, AA, YAR, AB and RS thought that the legal firm was not a business.

The minority view, namely WH, HH and AAB, were of the view that the legal firm was a business and was an asset of value, the same as any other business. This meant that any lawyer wanting to become a partner must pay money value for the equity share in the legal firm. AAB said, “ .. I always treat the legal firm like a business entity...”. It is observed that RH, while commenting that he did not consider the legal firm as a business as stated above, nevertheless felt that it was an asset which had significant value. In fact, he said, “ .. I would estimate the value of the legal firm to constitute 60% of my total net worth ... the existing salaried partners taking over the practice must agree on the acquisition value as they are taking over the practice as a going concern”.

According to the majority view, the legal firm was a professional set up and since the equity share in the legal firm is ‘personal to holder’ and it will die with the person. ...”. In fact the Partnership Act 1961 explained that if there are no arrangements otherwise, the partnership will dissolve upon the demise of one of the partners.

KA said “I don’t think the legal firm is a business. It is purely a vehicle which I will work together with other lawyers for mutual benefit.... “. AA said “I do not consider the legal firm as a business ... the legal firm was created for the benefit of society at large. “.

Similarly RH said, “I do not see the legal firm like a commercial business but regard it as an economic necessity to help me earn an income to benefit my family. It is a vocation....”. RS commented, “the legal firm is not a business, it is a professional set up”.

4.2.2 The Legal Firm must be Inheritable

According to the Chambers English Dictionary, the word “inheritable” means capable of being passed on to family members. One of the main reasons why the legal firm was not considered a family business was because it was not inheritable unless it was transferred to a family member who was an active legal practitioner within the meaning of the Legal Profession Act 1963. Hence if there was no such family member, the legal firm was not inheritable and therefore could not be a family business. This “non-inheritable issue was considered as an industry barrier by the research participants and was perceived to be a restriction towards a successful succession of a legal firm.

As for the overall findings, there were five (5) research participants (namely RH, WH, HH, RS and AAB) who felt that the shares in the legal firm was inheritable and five (5) research participants (namely NR, KA, AA, YAR, and AB) who thought that the shares in the legal firm was not inheritable.

To the “non-inheritable” group, for something to be an inheritable family asset, it must first and foremost be considered an asset. To them, the legal firm is not an asset and

since they do not perceive the legal firm as an asset, it is not inheritable and cannot therefore be a business belonging to a family.

To RS, the legal firm was an asset which during his lifetime, he intended to give to his lawyer son and he planned to give other assets to his non-lawyer children. WH who was of the opinion that the shares in the legal firm were an inheritable family asset expounded “.... The legal firm is an asset and has to be valued like any other business. New partners (coming in) will have to pay for their share”. HH who also opined that the legal firm was an inheritable family asset said, “ In the event of death, the family of the deceased partner shall be paid off and the share will be redistributed to the surviving partners”. RH contributed by saying, “ ...yes, there is value in the legal firm. The successors are taking over the legal firm as a going concern with existing clientele and panel ships of financial institutions. There is no learning curve”

In justifying that it was inheritable, WH explained that, “.... The legal firm will be passed on to my lawyer children as partners because my non-lawyer children have been provided for, by giving other properties...”. To WH, wealth distribution was what was done during his life time and the legal firm was inheritable as he had children who were legal practitioners to pass it on to.

AAB, although supporting the view that the legal firm was only inheritable to lawyer children, opined that the lawyer children would actually be holding part of the share of the legal firm on trust for the non-lawyer children and therefore would not be theirs

alone. This matter was not dwelled upon in this study and may be the subject of future research.

According to KA, who was of the view that the legal firm was not inheritable, “... I disagree that the firm has value and is an asset. The legal firm is purely an income generating vehicle for the person running it and maximizing the return from it. NR remarked, “... I disagree that the legal firm has value as an asset; it is merely a service provider ...”. Similarly, AA commented by saying that, “.... although I own 90 % of the equity share in the legal firm, I do not consider the legal firm as a family business to be inherited by my family upon my death My daughter who is studying Law may come to the legal firm but she has to work herself up from within the firm like other lawyers. There is no issue of her inheriting my share””. By this argument, the share of any deceased partner will not go to the family as inheritance but will be redistributed amongst the surviving partners in the legal firm.

Some research participants like NR and YAR were of the opinion that only the bigger legal firms had goodwill and the goodwill(if any) of the smaller legal firms (less than 5 lawyers) normally died together with the founder upon his demise as the goodwill was based on the founder’s personal credibility. An example of this was AB, who said , “... although the legal firm has value because of the goodwill attached to the bank panel ships, it is not an asset of value that can be passed on to the family. Goodwill is not permanent; if the partners do not take care of the good name, it can disappear overnight.... “. Further, according to YAR, “... for the legal firm to be an asset, it must be a thriving practice with significant goodwill”. By that argument, since his legal firm

was not thriving, it was not valuable enough to be inheritable and therefore, cannot be a family business.

4.2.3 The Future Family Successor must be Identifiable

This factor was seen as a critical factor of what constituted a family business. Seven (7) research participants agreed that the availability of a family member as a future successor was crucial for a business to be considered to be a family business. This view was expressed by NR who said “I don’t really think that the legal firm is a family business because none of my children are in the legal line. None of them are interested ...”. This view was also supported by AB who said “No, I don’t consider the legal firm as a family business, since none of my children are interested to study law ...”.

Amongst the dissenters, KA and AA although agreeing that participation of family members was important, nevertheless felt that their legal firm was not a family business anyway. KA commented, “ ... I don’t have any family members in the legal firm but ironically even if there were, I still would not consider the legal firm as a family business..”. AA was very clear when he said, “ ...my third daughter is doing law. Hopefully she will become a lawyer. ... She may come to the firm but she has to work her way up within the legal firm like any other lawyer ... if she is good enough, she will make it... I do not consider the legal firm as a family business ... “. YAR actually had a lawyer daughter working in his legal firm but did not consider it a family business due to other reasons.

Out of the other 3 research participants who thought that the availability of a ready successor was crucial for the legal firm to be a family business, WH and AAB had no problems visualizing continued family management in the legal firm as they already had lawyer children who were ready, willing and able to take over from them once they retire from the legal firm .In contrast, there were others like RS who, although having lawyer children working in the legal firm but nevertheless felt that it was not a family business. To him, the legal firm was not a business but was a profession or vocation which is something that one does for non monetary reasons, whatever that may be.

4.2.4 Full Family Ownership of Legal Firm

The findings showed that 7 out of 10 research participants felt that a majority owned business was sufficient for it to be considered a family business. This was expressed by WH, who felt that although he presently owned 100 percent ownership now, as long as his children continued to hold at least 51 percent share and had management control, the legal firm could still be considered as a family business. Of the other 6, presently they were not 100 owned by family members anyway and full ownership was therefore not a critical issue for them.

From the balance of 3 research participants who thought otherwise, HH was the only research participant who felt that ownership had to be 100 percent by family members for the legal firm to be considered as a family business. Since he felt that since he had intentions to invite third parties who are non-family members to become equity partner, the legal firm was therefore not a family business. The other 2, namely, RS and AAB were of the opinion that full ownership should be held by family members for the legal

firm to be considered a family business; however whilst AAB considered the legal firm a family business, RS did not think so because he did not think that the legal firm was a business.

4.3 The Succession Planning Process

It is relevant to explain at this juncture that there is a significant overlap between activities considered by researchers to be the components of the succession process and those activities considered to be parts of succession planning. The second research objective was to understand how succession planning was carried out by owners of Malay family legal firms in Malaysia. For convenience, the relevant issues are described as the components of the succession planning process. The research finding here was that the succession planning process was different depending on whether the research participants perceived their business to be a family business or otherwise.

For those research participants who perceived the legal firm as a family business, they had a strategic succession plan which involved identifying and grooming a successor based on a targeted handover date and planning their eventual retirement after the handover. Whereas, for those research participants who perceived the legal firm as a non-family business, they had a less comprehensive succession plan, which may even be skeletal in nature. Out of this latter category, 2 groups emerged: the steward group and the non-steward group. The steward group normally had a partnership arrangement whereby the shares of the deceased partner would not be part of the estate but will be redistributed amongst the surviving partners to be held on trust for the future generation of partners. The non-steward group on the other hand did not have any specific

succession plan. Some of them plan to sell the legal firm and others felt that their partners who survive them will buy out their share of the legal firm upon death.

The components regarding the succession planning process are then broken down into 5 phases: Having a strategic succession plan, successor identification, successor grooming, target handover date and retirement of founder. The table below indicates the responses of the research participants regarding their perceptions of succession planning.

Table 4.2.1

Perceptions of Succession Planning Process

Research Participant	Strategic Succession Plan	Successor Identification	Successor Grooming	Target Handover Date	Retirement of Founder
A. Family Business					
WH	✓	✓	✓	✓	✓
AAB	✓	✓	✓	✓	✓
B1. Non-Family Business – Steward Group					
KA	✓	✓	✓	X	✓
AA	✓	✓	✓	X	✓
AB	✓	X	X	X	✓
B2. Non-Family Business – Non-Steward Group					
NR	X	✓	X	X	✓
RH	✓	X	X	X	X
HH	✓	✓	X	X	✓
YAR	X	X	X	X	✓
RS	✓	✓	✓	✓	✓

Legend

✓	Agree
X	Disagree

Table 4.2.2

Cross Case Analysis of Sub – Components of the Succession Planning Process

	Family Business		Non – Family Business			
			Steward		Non - Steward	
	% of RP	% of RP	% of RP	% of RP	% of RP	% of RP
	Agree	Disagree	Agree	Disagree	Agree	Disagree
i. Strategic Succession Plan	100%	0%	100%	0%	60%	40%
ii. Successor Identification	100%	0%	66.6%	33.3%	60%	40%
iii. Successor Grooming	100%	0%	66.6%	33.3%	20%	80%
iv. Target Handover Date	100%	0%	0%	100%	20%	80%
v. Retirement of Founder	100%	0%	100%	0%	80%	20%

Legend

RP – Research Participant

4.3.1 Having a Strategic Succession Plan

This stage is about thinking or planning the eventual succession and ultimate retirement of the research participant as the principal or majority share partner in the legal firm. It may be about having a plan to persuade one of the children to become a lawyer or making a partnership arrangement amongst the partners regarding the effect of death of any of the partners or even selling part of or all the equity share of the legal firm. The type of planning strategies will be dictated by whether they perceive their legal firm as a family

business or otherwise. Further, it was perceived not to be a family business, whether they were in the steward group or the non-steward group.

If the legal firm was perceived to be a family business, one of the succession planning strategies would be to persuade at least one of the children of the founder of the legal firm to study law and thereafter to continue the legal firm. In fact, most legal practitioners whether they perceived the legal firm as a family business or not, expressed a wish that one of their children would follow in their footsteps and pursue a legal career but would not force them into it. It is also related to the reason how they themselves were motivated to become lawyers in the first place.

From the data collected, 6 out of the 10 research participants, namely WH, AA, HH, YAR, AAB and RS, actually had children who pursued or intended to pursue legal studies in university. Of the balance 4 research participants, which were NR, RH, AB and KA, who did not have children who became lawyers, all expressed hope that their present school going children might be interested in studying law. In this context NR said, “...I tried to persuade and motivate them to become a lawyer but children don’t like ‘mugging’ subjects and in the case of KA, he said, “... Although I hope that they(my children) will take up law, I will not force my children and prefer to allow them to do what they want ...”. Similarly with RH who said, “... Although none of my two children chose to study law at University, I am still hopeful that they may pursue it as a second degree ...”. This consistent with the results of a research on Malaysian SMEs conducted by the accounting firm of Grant and Thornton in 2002, which found that most business founders will not coerce their children “to follow in their footsteps”.

Even planning to exit totally, by selling the legal firm is considered as having a strategic plan as the founder will want to get the best price for the effort that he has built into the goodwill of the legal firm and the legal firm itself on the basis that it will continue after him. As such the succession strategies may also include either disposing part or the entire equity share in the legal firm, during one's life time or after death. In RH's case, he said, "... If I have not made any preparation for the unexpected... she (my wife) may eventually sell the interest in the legal firm... The successors are taking over the firm as a going concern with existing clients and panel ships of financial institutions. In case of sale during my lifetime, there will be two issues (before the succession process can take place): firstly is the issue of capability or competency, and secondly the issue of valuation. They have to take over completely and manage it independently; once I know they are capable of running the firm independently, I must agree on the acquisition value. I would retire completely after handing over the firm to them... (after) I have received the total sale price.....".

HH also intends to sell part of his equity share in the legal firm to outsiders. However, he is not too concerned about the money (value of equity share), because what is important to him is the expected contribution (of the new partner) to the legal firm in terms of expertise in a new practice area. He said, "...The admission of a new partner is to expand the practice area of the firm from litigation to conveyancing ... to secure panel ship of financial institutions on a full panel basis ...".

When asked about relinquishing equity shares to outsiders, WH commented, "...yes, as long as they (the family members) are in control...the firm has to be valued like any other business ...new partners coming in will have to pay for the shares, although it can

be on a staggered basis and set off against future bonuses or profit, ...then, they don't feel the pain..."

As regards partnership agreements, RH, KA, YAR and AB confirmed that they had executed such documents amongst their partners which contained details of succession upon death. As for AA, the partners did not have a partnership agreement but they signed a document which they called the "Partnership Parameters" which is a governing constitution of their legal firm. It states that the practice was established as a vehicle to develop corporate law knowledge amongst the Bumiputra community and as a platform to provide learning opportunities for aspiring lawyers. If any partner dies, his share will not pass to his estate but will be redistributed amongst the existing partners. For as long as the partner continue working in the firm, he can continue earning an income which is based on a reward system specifically designed to compensate and motivate the partners to create long term stability and continuity in the firm.

It is significant to note from Table 3 above that there were 2 research participants namely NR and YAR who did not have any strategic plan at all partly because they felt that the matter was not urgent or critical. NR said, "... I don't have an exit strategy at the moment ... I have no plans to retire yet and therefore have not seriously thought about who will take over and when there is no partnership agreement between the partners as our relationship is based on trust and understanding ...". YAR said, "...succession planning is about handing over the legal firm to the next generation but it all depends on how valuable the legal firm is; If the legal firm is not thriving, there is not much purpose in having a succession plan. ... ". Notwithstanding the same, they were happy

working as a legal practitioner and wanted to continue working until age 70, health permitting.

4.3.2 Successor Identification

Succession planning is also about setting the criteria which needs to be fulfilled by a candidate before he can be identified as a potential successor. The research participants, who considered their legal firms as family businesses, had a strategic plan in mind where successor identification was concerned. This was evident in both WH and AAB who considered themselves as family businesses. WH said, "... I will give all my equity share in the firm to (my lawyer children) ..". Whereas AAB commented, "...I have my lawyer son with me now and I am going to teach everything (to him)...I need to train my son to be successful ...".

For the others who did not consider their legal firm as a family business, RH said that the logical succession choice would be the existing lawyers in his legal firm. KA also had similar thoughts by saying, "... I have set my mind that there one or two salaried partners in the firm that are now being trained and will take over in 5 or 6 years' time. That person will have to be loyal and committed to the firm; he must be honest and genuine to run the firm, not only for his benefit but also for those working in the firm",

YAR said, "... The running of the legal firm will pass on to the surviving partners ". As for RS, although he did not consider the legal firm as a family business, he said, "... My succession plan is to pass the legal firm to my lawyer son". AB was very clear when he said, "... Succession planning in the firm is about replacing me as the principal

partner ... “. AB had very specific criteria to select successors. He said, “... since the firm is known as a Bumiputra Company... my successor must be a Malay Muslim... the potential successor must be a practicing lawyer with at least 10 years experience. Preferably he will be at least 35 years old. He must be matured and have good marketing skills and excellent public relations. He must also be a person with a high level of integrity with a vision to bring the firm to the next level....”. According to AB, it does not matter whether the successor came from within or outside as long as he fulfilled the criteria.

4.3.3 Successor Grooming

Amongst all the research participants only the ones which had children practicing in the legal firm, namely WH, AAB and RS , irrespective of whether they felt they were family businesses or not, had initiated the grooming of the successor to takeover.

According to WH, “... I started grooming (my daughter) when she joined me 4 years ago. She was exposed to various aspects of the legal firm including administration of the legal firm, making her an all rounder....”. As for AAB, he commented that his lawyer son was being groomed by continuously giving advice as follows, “...always treat the legal firm like a business entity.... You must go out, meet people bring in the legal firm, go to court and he prepared... it boils down to management. If you can manage the legal firm you can be successful ... I have no fixed date for retirement... maybe another two or three years “.

RS, while not considering the legal firm as a family business, chose to groom his lawyer son by, "...advising him to do general practice and after a few years, he must decide his practice area of legal specialization. If he is interested in litigation, he will follow me to court and see me in action. Then I will slowly push him into action from the lowest court to the highest court. He will be shown how to do getting up, how to handle clients, how to manage cash flow and overheads and how to handle the staff. This grooming process can take as long as 7 years ..."

The other research participants had not initiated the grooming process as they were still in the process of successor identification. However, some of them had already made plans about the grooming process of all the potential candidates. For example KA said, "... the salaried partners will be trained and developed to become future full partners and to have the partner mentality and will take partner responsibility in terms of management, income and collection. They will be expected to do day to day management and marketing (business development) and resolving management related problem in the firm. I want to inculcate the culture of openness so that the same approach will be applied to identify and groom future partners of the legal firm".

In AB's case, "...once the person is identified, we will interview him and discuss with him our expectations of him. Once the terms are agreed, he will be offered a place in the legal firm as a legal assistant with a view of being promoted as a partner and eventually a managing partner..... the process can be anything from 6 months to 1 year but there is no hard and fast rule as we must be absolutely sure that he is the right person to lead the firm. In essence he must show that he is committed to the legal firm and care for the staff. The potential successor must duplicate me by being a pillar to the legal firm".

YAR, on the other hand, did not think that a grooming period was necessary. He said, "...we do not have a grooming period or transition period for handover. We are not a large firm. The lawyers learn from their own initiative and gain knowledge from their own experience...".

4.3.4 Target Handover Date

Amongst the research participants, 5 research participants (namely WH, AAB, AB, RS and KA) had indicated the tentative timing date for handover to the successor whereas the other 5 research participants had not fixed any time, partly because the successor had not been identified and therefore there was no sense of urgency. In the case of WH, he mentioned the exact date which was 1 July 2012. AAB indicated 2-3 years time and indicated that at 63 years old, he was getting old. AB indicated that once he had identified the successor, the handover would be between 6 months and 1 year although there was no 'hard and fast rule'. RS planned to handover the running of the legal firm to his lawyer son, who would be completing to his Masters in Law from the UK in 9 months time. KA mentioned "5 to 6 years time ..".

4.3.5 Retirement of Founder

The issue here is whether the research participant would retire immediately after handover or whether he would continue working, mentoring the successor, until a certain age, after handing over. From the data collected, it would seem that most of the research participants, whether they considered themselves family businesses or otherwise, had no set retirement age and was prepared to continue working until they were 70 years of age.

In this respect, NR said, “..I don’t mind becoming a consultant, which is a very senior lawyer, who relinquishes ownership but continuing to practice notwithstanding. RH commented, “. .. given the choice, I will retire completely after handing over the firm to them(the successor purchase)” KA said, “..assuming that I am fit and healthy, I see myself playing the role of an advisor, ...not involve in management or decision-making process ...”. WH said, “... I will not completely retire but will be a consultant doing selected legal work. I want to keep myself challenged, intellectually ...”. AA commented that there was no set retirement age in the legal firm. As for HH, he said, “... I plan to work until my 70th birthday, health permitting. YAR also said that he will probably work until he is 70 years old. RS just mentioned that he will continue as a consultant after the handover but did not specify for how long. As for AB, he had no retirement plans and plan to work for as long as he can. He said, “... Even after the successor is found, I will continue to work and to mentor him...”. The only exception was RH, who was keen to retire and handover management as soon as he could get a buyer for his legal firm, as he had business plans to pursue after the sale of his legal firm.

4.4 Ownership Succession

The third research objective was to seek to understand the perception of owners of Malay family legal firms in Malaysia regarding ownership succession of their business. According to WH, the term ‘ownership succession’ is about passing on an asset to the next generation whilst ensuring the continuity of the legal firm.

The finding here was that the perceptions regarding ownership succession were also different depending on whether the legal firm was perceived to be inheritable or otherwise. If the legal firm was perceived to be inheritable, then the ownership of the legal firm could be distributed to the successor either during the lifetime or after death (through the estate) at the option of the legal firm owner. However most research participants who considered the legal firm inheritable and had family members who were lawyers, chose to transfer ownership during their lifetime as being Muslims, the legal firm ownership would be subject to Faraid, the Muslim Law of Inheritance, if it were to be transferred after death. If, on the other hand, the legal firm was perceived as not inheritable, some of the research participants considered themselves as stewards, of the legal firm, to hold on trust for the future partners to continue the legal firm after their retirement or demise.

Based on the above finding, the perceptions about ownership succession of the shares in the legal firm can be categorized into two: one category who felt that the legal firm was an inheritable and the other category who felt that the legal firm was not inheritable. For the first category, the asset can be distributed and this can be done either during the lifetime of the founder or upon his demise by way of death distribution. For the second category, the legal firm cannot be distributed to family members since it is not inheritable. It will then be subject to the terms of the Partnership Agreement between the parties. However for the purposes of the findings, the non inheritability issue is further sub-categorized into the professional services provider and the stewardship proponent. The table indicates the responses of the research participants about the perceptions of ownership succession of their legal firm.

Table 4.3.1

The Perceptions about Ownership Succession of the Legal Firm

Research Participant	The Legal Firm is Inheritable Category		The Legal Firm is not Inheritable Category	
	Life Time Distribution Planning	After Death (Estate) Distribution Planning	Professional Service Provider	Stewardship Proponent
NR	X	X	✓	X
RH	X	✓	X	X
KA	X	X	✓	✓
WH	✓	X	X	X
AA	X	X	X	✓
HH	X	✓	X	X
YAR	X	X	✓	X
AAB	X	✓	X	X
AB	X	X	X	✓
RS	✓	X	X	X

Legend

✓	Agree
X	Disagree

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Table 4.3.2

Cross Case Analysis of Ownership Succession Perceptions

	% of RP	% of RP
	Life Time Distribution Planning	After Death (Estate) Distribution Planning
Legal Firm is Inheritable Category	40%	60%
	Legal Firm is Professional Service Provider	Legal Firm is Stewardship Proponent
Legal Firm is Not Inheritable Category	60%	40%

Legend

RP – Research Participant

4.4.1 The Legal Firm is Inheritable

Amongst the research participants who perceived that the legal firm was inheritable were 5 research participants namely, WH, AAB, RH, HH and RS. Out of these, only WH and AAB perceived that their legal firms were family businesses. The rest did not perceive so although they perceived that their legal firms were inheritable.

RH felt that the legal firm was not a family business because none of his children were interested in pursuing legal studies and continuing the legal firm. HH on the other hand felt that to be a family business because it had to be controlled 100% by the family and as he had committed to accept a non-family member as a partner and equity shareholder in the partnership, the legal firm could not therefore be a family business from his perspective. In RS's case, although inheritable, he did not consider the legal firm as a family business as he only wanted to pass the legal firm to his lawyer son in its entirety to the exclusion of his other children.

4.4.1.1 Life time Distribution of the Legal Firm

Although there were five (5) research participants (namely WH, RS, RH, HH and AAB) who perceived that the legal firm was inheritable, only two (2) of the research participants had planned distribution of the shares of the legal firm during their lifetime. WH and RS, both of whom have lawyer children who are already practicing in their legal firm, have identified their successor, groom them and in WH's case, had even chosen the

date for total handover of management control to them. In order to be fair to their non-lawyer children, they had planned to give other assets to them as compensation.

4.4.1.2 Death Distribution of the Legal Firm

As for RH, HH and AAB, they had not planned life time distribution and transfer of assets to their children. If nothing is done, distribution will normally be by way of death distribution through the Estate, which is according to Faraid, the Islamic Law of Distribution or any arrangement mutually agreed by the heirs. Whilst RH would prefer to sell his legal firm during his lifetime rather after death, HH and AAB the administrator of their estate who would be a lawyer would hold on trust the legal firm on trust for the non-lawyer family members.

4.4.2 The Legal Firm is Not Inheritable

Among the research participants who perceived that the legal firm is not inheritable are NR, KA, AA, YAR and AB. The perception regarding the legal firm not being inheritable can be divided into 2 categories: firstly, that it is merely a professional services provider which generates income for as long as one is working, and secondly, that the existing partners are stewards who are in the legal firm not merely for the income but for a higher moral purpose, which is to take care of the staff and contribute to society. They are known as stewardships proponents and are driven by more than just economic self-interest.

4.4.2.1 The Legal Firm is a Professional Services Provider

There were three (3) research participants, namely NR, KA, and YAR who perceived that the legal firm was not inheritable but was merely a professional services provider. NR said, “ ... I disagree that the legal firm has value as an asset. It is merely a service provider ...”. According to KA, “ ... the legal firm ... will not be part of my estate upon my death. ... It is purely an income generating vehicle for the person running it and maximizing the return from it ...”. YAR commented, “ ...No, the legal firm cannot be passed to family members as part of the estate. It is just a vehicle to earn income ...”. Having said that, RS whilst he agreed that the legal firm was a professional services provider, he also opined that the legal firm was inheritable and could be gifted away or sold.

4.4.2.2 Stewardship Proponent

Out of the 5 research participants who perceived that the legal firm was not inheritable, 2 research participants, namely AA and AB, promoted a stewardship proponent concept that the legal firm was more than just a mechanism to earn an income but was an obligation entrusted upon them for the future generation of partners in the legal firm in particular and society in general. It is important to note that although none amongst KA, AA or AB actually referred to the term “stewardship”, the researcher views that their altruistic and noble intentions fit in to the stewardship concept.

According to AA, “...although I own 90% of the equity share I do not consider the legal firm as a family business, to be inherited by my family upon my death. The legal firm was created for the benefit of society at large and the ownership is not ‘personal to holder’. Partnership is open to anyone. Whenever any partner leaves, no goodwill payment is made; any incoming partner also need not pay anything.... The legal firm

was established as a vehicle for the development of corporate law knowledge amongst the Bumiputra community. It is also a platform to provide learning opportunities for aspiring lawyers. If I die, my equity share in the legal firm will not pass to my estate but will be distributed amongst my existing partners. This is provided for in the Partnership Parameters, the governing constitution which governs the legal firm and is signed by all partners...”

AB, on the other hand, promoted multiracialism in the legal firm. He said, “... I believe in the multiracial business model. I call this the AliBaba Positive Model. Under the AliBaba Positive Model, the Malay, Chinese and Indians do business together as partners. The Malays have their strong points; the Chinese have their strong points and similarly the Indians have their strong points. No one takes advantage of the other. Everyone works hard to survive, respect each other’s abilities and learn from each other. We are truly multiracial and embody the ‘1 Malaysia’ concept promoted by our Prime Minister ...”

4.5 Successful Succession

The fourth research objective was to seek to understand the perception of successful family business succession amongst the owners of Malay family legal firms in Malaysia. The finding here was that the perceptions of successful successions were dependant on factors which can be categorized into founder related factors, successor related factors and succession related strategic factors. Some factors maybe enablers and help towards a successful succession whilst others may be blockers and if present, may make successful succession more difficult to achieve.

The above factors which affect the perception of successful succession were further sub-categorized into different types of related factors. Many of the related factors actually overlapped with the other factors identified under earlier findings and as such to avoid repetition, only factors not highlighted earlier will be discussed. The table below indicates the responses of the research participants, in respect of such related factors.

Table 4.4.1

Significant Factors Affecting Successful Succession

Research Participant	Founder Related Factors			Successor Related Factors	Succession Related Strategic Factors	
	Founder's Vision	Successor Grooming	Selecting Suitable Successors	Successor Commitment and Loyalty	Size of legal firm	Best Management Practices Relevant
R1:NR	X	X	X	X	X	✓
R2:RH	X	X	X	X	✓	✓
R3:KA	✓	X	X	X	✓	✓
R4:WH	✓	✓	✓	✓	X	X
R5:AA	✓	✓	✓	✓	X	X
R6:HH	X	✓	X	✓	✓	✓
R7:YAR	X	✓	X	X	X	✓
R8:AAB	X	✓	✓	✓	X	X
R9:AB	✓	X	✓	X	X	X
R10:RS	X	✓	✓	✓	✓	✓

Legend

✓	Agree
X	Disagree

Table 4.4.2

Cross Case Analysis of Significant Factors Affecting Successful Succession

	% of RP	% of RP
	Agree	Disagree
<u>Founder Related Factors</u>		
i. Founder’s Vision	30%	70%
ii. Succession Grooming	60%	40%
iii. Selecting Suitable Successors	50%	50%
<u>Successor Related Factors</u>		
i. Successor Commitment and Loyalty	50%	50%
<u>Succession Related Strategic Factors</u>		
i. Size of Legal Firm	50%	50%
ii. Best Management Practices Relevant	60%	40%

Legend

RP – Research Participant

4.5.1 Founder Related Factors

Founder related factors are factors for which the success or otherwise, of the succession of the legal firm relate to the founder. Among the factors are:-

4.5.1.1 The Founder's Vision

A vision needs to be acknowledged and shared by the stakeholders before it can be accepted as a shared dream. It has to start from the founder. A vision is what he visualizes for the future of the legal firm and what it can be after a certain period of time, maybe after one or two generations. Most of the research participants did not have a vision to pass on to the next generation with the exception of AA, KA, WH and AB.

AA had a mission statement to actualize his vision. His vision was for the legal firm to become a vehicle for development of corporate law knowledge amongst the Bumiputra community, whereas AA's mission statement was to be "... a premier, client centric, corporate commercial law firm, providing innovative solutions to whilst synergizing human capital with technology and best management practices for clients globally.

As for KA, he had advised his potential successors that, "...the legal firm will have to evolve and grow; more partners may have to be accommodated.... The incoming partners must subscribe to the same values such as the firm is not an asset for family distribution but a vehicle to practice law and earn an income."

WH, while agreeing that a shared dream was important, described it as follows, “.... A good succession plan must have a clear vision. The vision should be the starting point but should not bind the successor who should be free to follow, modify, improve or even abandon it and pursue a totally different vision..... Further, if one inculcates all the Muslim values in the legal firm, there is no reason why the Malay entrepreneur cannot succeed”.

AB’s vision was to show that multi-ethnic business model was a pre-requisite for success in modern, progressive and united Malaysian community where all the major ethnic races in Malaysia worked together for a common cause.

4.5.1.2 Selecting and Grooming Suitable Successors

The suitability of successors is dependent on the criteria imposed by the founder on potential successors. This was clearly evident in the case of AB who set the criteria as follows: - “... The potential successor must be male Malay of at least 35 years of age and must have practiced law for at least 10 years. He must be matured, have good marketing skills and excellent public relations. He must also be a person with high level of integrity with a vision to bring the legal firm to the next level “. The reason that the successor must be male Malay was because since the legal firm was represented to the world at large that it was a Bumiputra the legal firm; therefore to maintain the status quo, the successor to AB must also be Malay ...”

In most cases where the legal firm was a partnership, the issue of successor does not arise as the surviving partner will take over. This was evident in cases involving NR, AA,

HH, and YAR and even in the case of AB when he said, “.... JL (the Chinese partner) will take over if I die before the Malay successor is identified...However, she must continue to look for a Malay successor.”

As for RH and KA, although their the legal firm was a partnership, it was a partnership in name only as the partners were merely “salaried partners” which was a position given to non partners for public relations and marketing purposes especially to secure panel ships of the financial institutions who insisted that amongst other conditions, only partnerships could apply to be emplaced on their panel of solicitors for outsourcing of legal work. In fact RH went so far as to say, “ ... although this firm is a partnership, I view it more like a sole proprietorship as everything is dependent on me ...”. KA commented as follows, “...My legal firm is a partnership; however, I owned 100% of the practice and my other 2 partners are merely salaried partners ...”.

As for grooming the successor by the founder, this involves both ‘technical know who’, which means intimate knowledge of your potential clients and ‘technical knowhow’, which means technical knowledge of completing the task assigned. According to RS, the grooming process can take as long as 7 years, for a lawyer to be competent. He will hand over the running of the legal firm to his son ... but will continue practicing law as a consultant and will advise him to enjoy ‘lawyering’ as “...pleasure in the job, puts passion in the work.”

As for WH, he started grooming his daughter when she joined him in the legal firm 4 years ago. She was exposed to various aspects of the legal firm including administration

of the firm ...”. As for AA, the grooming process of the potential successor in his legal firm will be via a governing committee, and may take up to 7 years. Due to the unique reward system which is implemented in his legal firm, every lawyer will be loyal to the practice and will have strong desire to become a partner. This structure will help (in the long term) to build a premier legal firm ...”. In the case of KA, he opined that his salaried partners were being trained and the process may take, “... 5 or 6 years”.

4.5.2 Successor Related Factors

These factors relate to the successor who is the person identified to lead and manage the legal firm on the retirement or ultimate demise of the founder. Among the factors are:

4.5.2.1 Successor Commitment and Loyalty

This factor is significant as although the successor is identified as suitable, there is still no guarantee to a successful succession unless the successor is committed to the succession process. In this context, KA was clearly concerned when he said, “...the problem may arise if the targeted successor suddenly decides to quit the legal firm and the whole process of identifying, selecting and grooming the successor will have to start all over again from scratch”

This was echoed by NR when she lamented, “... how can I stop the potential successor from resigning? It all depends on the honesty and commitment of the potential successor ...” For RH, “.... You cannot predict whether they (the potential successor) will stay on long term as they may decide to leave anytime ...”

Initially, it was thought that this worrying scenario only applied to research participants who had no family successor. However, this was not true when RS commented, “... people change situation change and scenario change. My son might decide not to go into the legal firm and go into corporate or even (full time) politics. He may even want to work overseas. These are all possibilities which cannot be discounted. You can only plan so much ...”

4.5.3 Succession Related Strategic Factors

These factors, which may affect the successful succession, are those are not directly dependent on the founder or the successor. Amongst the factors are:-

4.5.3.1 Size of the Legal Firm

According to AA, size of the legal firm does matter. He said, “.....to compete on a long term basis (business continuity), the Bumiputra Law Firm needs to consolidate and build size..... When we were established in 2000, there were 4 partners, now there are 10 partners. Earlier we started with 10 lawyers, now we have almost 50 lawyers in the legal firmThis relates to the issue of reputation and credibility of the legal firm.”

4.5.3.2 Best Management Practices

AA was also of the opinion that best management practices were critical to enable the legal firm “to complete on a long term basis”. He said, “.....for any Malay legal firm to survive, it must have a proper system and structure in place. They need to have a reward

system (which motivates partners and legal associates to work hard), an IT infrastructure, human capital development, and business strategy... At the same time to ensure continuity and sustainability, it is important to create a career path for their employees for long term stability. For as long as there is growth, there will be profits to share which leads to continuity prosperity....”.

AAB had this to say, “... I always treat the legal firm as a business entity....you must go outmeet people....bring in the legal firm ...go to court,.... You must be prepared, everything you must do....at the end of the day, it all boils down to the work habits, the right attitude and the to manage....”.

WH commented, “.... To have a successful succession, the administration must be run properly. It must be well organized with no hidden problems and should be financially sound with reserves for a rainy day... It all boils down to the work habits, the right attitudes and the self discipline. High benchmarks must be set, time must be managed and integrity must be beyond question.

4.6 Summary

Four major findings emerged from this research:

1. To constitute a family business, the legal firm, must be capable of being inherited by the next family generation, must actually be a business, must be continuously managed by a family member, a successor who can already be identified and ready to take over when the time comes, and the majority of the equity share must be owned by family members;

2. The succession planning process is different depending on whether the research participant perceived their legal firm to be a family business or otherwise:-
 - a. Those perceiving the legal firm as a family business, had a strategic succession plan, had already identified and groomed a successor and had a targeted handover date;
 - b. Those perceiving the legal firm as a non-family business on the other hand, only had a skeletal succession plan, if at all; most of them had not identified a successor and as such was in no position to set a target date for handover.

3. The perceptions regarding ownership succession were also different depending on whether the legal firm was perceived to be inheritable or otherwise:-
 - a. If the legal firm was inheritable, then the ownership of the legal firm could be distributed to the successor either during the lifetime or after death (through the estate) at the option of the owner. However most research participants who considered the legal firm inheritable chose to transfer ownership during their lifetime because being Muslims, ownership of the legal firm, would be subject to Faraid, the Muslim Law of Inheritance, if it were to be transferred after death.
 - b. If the legal firm was not inheritable, some of the research participants considered themselves as stewards, of the legal firm, to hold on trust for the future partners to continue the legal firm after their retirement.

4. The perceptions of successful successions were dependant on factors which can be categorized into founder related factors, successor related factors and succession

related strategic factors. If all these factors were present, the chances of successful succession would be higher than if they were absent.

Having presented the findings from the data collected, the final chapter will discuss and analyse these findings in relation to the study's research questions, make conclusions and suggestions for future research.

CHAPTER FIVE

DISCUSSION AND RECOMMENDATIONS

5.1 Introduction

The previous chapter presented the findings from the in-depth interviews with the research participants in this study. The purpose of this chapter is to discuss and summarize these findings in relation to the research questions. The objectives of this study was to understand the perception of owners of Malay family legal firms in Malaysia in relation to the definition of the term ‘family business’, to investigate how succession planning is carried out by them, to explore their perception regarding ownership succession of their legal firms and to examine their perception of a successful business succession to the next generation to ensure the future sustainability of their legal firms.

The study was based on the following research questions:-

1. How do owners of Malay family legal firms in Malaysia perceive the definition of the term “family business”?
2. How do owners of Malay family legal firms in Malaysia plan succession and continuity of their business?
3. How do owners of Malay family legal firms perceive ownership succession of their business?
4. How do owners of Malay family legal firms perceive successful succession of their business?

The Chapter concludes by making recommendations for the contribution of academic knowledge, to the Malay legal practitioners in general, to the policy makers and suggests implications for future research based on the discussion of the research findings.

5.2 Discussion

Qualitative research begins with questions, and its ultimate purpose is learning. To answer the research questions, the researcher collects data. Data are like building blocks that when grouped into patterns become information, which in turn, when applied or used, becomes knowledge. Qualitative findings are judged by their substantive significance (Patton, 2002). As Patton explains, in determining substantive significance the researcher must address the following issues:

1. How solid and consistent are the findings?
2. To what extent and in what ways do the findings increase understanding of the phenomena under study?
3. To what extent are the findings consistent with the existing body of knowledge?
Do they support or confirm what is already known about the phenomenon?
4. To what extent are the findings useful in terms of contributing to academic knowledge, government policy or industry practice?

Hence, in qualitative research the emphasis is on understanding. The researcher is not seeking to determine any single causal explanation, to predict or to generalize. The goal of the researcher is to tell a richly detailed story that takes into account and respects a

context that connects research participants, events, processes, activities and experiences to larger issues or phenomena.

5.2.1 Definition of the term ‘Family Business’

What is meant by the term ‘family business’? In a comprehensive study of family businesses, Chrisman, Chua and Sharma (1996) found 21 different definitions of family business in their review of 250 research articles. However Mandl (2008) confirms the absence of a single definition of a family business that would be “widely and exclusively applied to every conceivable area such as public policy discussions, to legal regulations, as an eligibility criterion for support services and for the provision of statistical data and academic research. The lack of a single definition for family business leads to problems of identifying reliable and comparable data on family business in different world economies”.

Family businesses come in many forms which includes incorporated companies and unincorporated entities like partnerships, which is the focus of this research. In the context of Research Question 1, the significant finding here was that 7 of the research participants perceived that to constitute a family business, there were 4 relevant factors: firstly, the legal firm must be intended to be a business as opposed to being a profession. If the legal firm was perceived as a profession and not a business, logically it cannot therefore be a family business.

The ultimate objective of a business is to make a profit whereas the ultimate objective of a profession is to serve the client and the services rendered are usually more personalized in nature compared to a commercial service which is normally not so personalized and

which is meant solely for profit. In this research, only 3 research participants felt that the legal firm was a business compared to 7 research participants who perceive that the legal firm was not a business. To the latter group, the legal firm is intended to be a professional set up and the equity share in the legal firm is 'personal to holder'. In fact the Partnership Act 1961 explained that if there are no arrangements otherwise, the partnership will dissolve upon the demise of one of the partners.

The intentions of the parties are important. If the parties intended their business to be a family business, then it will be a family business and vice-versa, pursuant to the intention based approach in Mintzner and Water's (1985). In this research 7 research participants felt that their legal practice was not a family business. It is argued that the findings of this research in relation to the definition of family business is supported by the literature as presented in Mintzner and Water's (1985) and Litz (1995). In this context the theory of planned behavior is applicable as it states that the probability that a behavior will occur will depend on the intention of the individual to engage in that behavior (Ajzen, 1987; Sharma et. al., 2003).

Secondly, it must be inheritable (or capable of being transferred) upon death to a family member without restriction. If there is a restriction or a barrier preventing the family member from inheriting the legal firm upon death, then the legal firm cannot be a family business. It may possibly be a business but by definition it cannot be family business. According to the Legal Profession Act 1976, only legally qualified persons who complied with other procedural requirements were entitled to become partners in a legal firm. Hence this restriction was perceived by some as an industry barrier or a trade entry restriction to the issue of inheritability and successful succession of the legal firm. From

the data gathered, 5 research participants perceived the legal firm as inheritable and therefore capable of being a family business whereas the other 5 research participants thought that it was not inheritable and therefore could not be a family business.

It is argued that the 'automatic transfer upon death' finding of this research in relation to the definition of family business do not support the present literature. Although 34 definitions of family business were compiled by Sharma (2004), there were only two definitions which were related to generational share transfer. Berry (1975) talks about ownership whereas Ward (1987) discusses the definition of family business from the generational transfer perspective. In fact upon closer scrutiny, the findings attempt to describe what is 'not a family business' rather than what is. In other words this research argues that a business cannot be a family business if the business is not automatically transferable to the family members upon death of the incumbent owner or founder.

Therefore, the business of most professional service providers like lawyers, accountants, engineers, architects and the like should not be included as a family business, if the finding in this research is to be accepted. Hence, the issue of whether professional firms cannot be perceived as a business and cannot therefore be considered a family business is an emergent one and the researcher finds no existing literature which has conducted research on this issue.

Thirdly, there must be an identifiable family successor ready to take over the legal firm when the time comes. This factor is significant as seven of the research participants felt that if there was no family successor that can be identified to take over when the time comes, then the legal firm cannot be a family business. The findings in this research is

consistent with the present literature as is reflected in Ward(1987) who defined a family business as a business that will be passed on for the family's next generation to manage and control. This finding is also consistent with the Three Circle Model of Family Business which states that the family business system must consist of three overlapping subsystems: business, ownership and family (Taguiri and Davies, 1992). Hence if there is no family member ready to take over, there will not be a family business in place.

Fourthly, according to seven research participants, the majority ownership in the legal firm must be held by family members. Only three of the research participant felt that to be a family business, it must be wholly owned by business owner. This is consistent with Poza (2010) who proposed a working definition of a family business of at least 15 percent ownership to be control by two or more family members.

5.2.2 How do owners of Malay family legal firms in Malaysia plan succession and continuity of their business?

In a family business, succession or transfer of power is further complicated by the demands of family relationships and the sheer potency of ownership (Poza,2010). Hence, a better understanding of the succession processes can potentially increase the future prospects of long term survival and business continuity.

In the context of Research Question 2, the significant research finding was that the succession process is different depending on whether the research participant perceived their legal firm to be a family business or otherwise. For the research participants who perceived the legal firm as a family business, the components regarding the succession

planning process were found to be broken down into 5 phases: Firstly, having a strategic succession plan; secondly, successor identification; thirdly, successor grooming; fourthly, target handover date and fifthly, retirement of founder. The above research finding is supported by Ibrahim, et.al.,(2004). Although Ibrahim, et. al.,(2004) had only 3 steps compared to 5 components in the research finding, the processes mirrored each other to a large extent.

However, it is argued that researching the issue of succession by itself is insufficient as the issue of how succession affects business continuity is crucial and must also be addressed. For example, Handler (1994) only reviewed past studies on family business succession and presented five major issues in family businesses which included the succession process, role of the founder, the views of the successor, multiple levels of analysis and characteristics of effective successions, but did not include issues relating to succession and continuity.

Miller *et. al.*, (2003) on the other hand discusses intergenerational succession but failed to provide how it could lead to successful succession and business continuity. Lorna (2011) talks about the succession process but does not explain how the succession process can bring about the continuity of the family business. However, Lucky, Minai and Isaiah (2011) only limit itself to the trading sector and does not cover other sectors like manufacturing and the services sector. It is this gap that this research intends to fill as the data collected for this research is from the services sector.

This research can also be viewed as an extension of the research conducted by Abdullah, Hamid and Hashim (2011) where research was done on succession planning of family

businesses in Malaysia but limited to the practices and approach in the context of manufacturing businesses. The said research was carried out by way of a survey amongst 126 business owners and focused on three succession issues: succession dilemma, successor attributes and succession plan. Further, this research is conducted by using a different methodology than the research conducted by Abdullah *et. al.*,(2011).

However, for those who perceived the legal firm as a non-family business, 2 groups emerged from the research findings: the steward group and the non-steward group. The steward group had a partnership arrangement which detailed out the succession process within the legal firm upon the retirement or death of the partners. In such situations, the shares of the deceased partner would not be part of the estate but will be redistributed amongst the surviving partners to be held on trust for the future generation of partners. This finding is consistent with the Stewardship Theory whereby the members of the steward group are deeply committed to the vision and mission of the legal firm, treasure its employees and are motivated to do the best for the sustainability of the legal firm (Davis, Schoorman and Donaldson, 1997).

On the other hand, the non-steward group did not have a strategic succession plan. They had not identified their successor nor had plans of grooming one. Obviously there was no target handover date or specific retirement date. What was consistent amongst them was that they planned to work as long as their health permitted them. Some planned to sell the legal firm and others felt that their partners who survive them should buy out their share for a token sum of the legal firm upon their retirement or death. There also one research participant who felt the legal firm may be closed down after his demise if there was no one to continue the legal firm.

In respect of the succession planning processes, the Malay family SMEs is mostly consistent with the processes which are highlighted in the literature. Ibrahim *et.al.*,(2004) had proposed a succession process involving the successor before joining the firm, integrating the successor into various management positions to familiarize him with the family business and lastly when he is ready, to hand over control of the family business to the successor. However, Heck and Trent (1997) confirms that most family business owners do not plan succession as it involves admitting to their own mortality and therefore left succession to chance.

5.2.3 How do owners of Malay family legal firms perceive Ownership Succession of their business?

The term ‘ownership succession’ is about passing on an asset to the next generation whilst ensuring the continuity of the business. However, it involves more than just a simple transfer of monetary wealth. Swartz (1996) suggested that ownership succession is a crucial factor in family business dynamics since ownership is only limited to family members and because ownership bestows strong psychological, managerial and financial powers to the owner. Ownership of a family business typically becomes fragmented and diluted over generations due to inheritance, and may ultimately affect the continuity and sustainability of the family business.

The significant finding here was that the perceptions regarding ownership succession were different depending on whether the business was perceived to be inheritable (capable of being transferred to a family member without restriction) or otherwise. The findings showed that 5 of the research participants perceive their legal firm to be

inheritable but from that only 2 of the research participants actually perceive their legal firm to be a family business. The balance 3 research participants were of the opinion that although their legal firm was inheritable, they were not family businesses. Therefore, strategies formulated were dependent on whether the legal firm was perceived to be inheritable or otherwise:-

- a. If the legal firm was considered inheritable, then at the option of the owner, the ownership of the legal firm could be distributed to the successor either during the lifetime or after death (through the estate). These strategies would be consistent with Cohn (1992) which suggested four legal strategies for ownership transfers. However according to Sambrook (2005) ownership succession is a unique case-by-case process and a one-size-fits-all mentality will not be appropriate. However, since most research participants are Muslims, the business ownership would be subject to Faraid, the Muslim Law of Inheritance, if it were to be transferred after death. It is observed in this research that the Muslim research participants prefer to plan their ownership succession so that the transfer of shares is done before death thereby circumventing the impact of Faraid.
- b. In the situation where the legal firm was considered not inheritable, there were two groups of research participants: one group which considered themselves as stewards of the legal firm (which were the same group as the steward category under the discussion of Research Question 2) , to hold on trust for the future partners to continue the business after their retirement or demise, and the other group which merely agreed amongst them that the surviving partner will 'inherit' the share of the deceased

partner. Salim and Abdul Ghadas(2012) suggests that performance is directly to ownership as the “more you own, the harder you will work”. However, the findings in this research show that this is not necessarily true as the research participants who consider themselves as stewards are equally highly motivated to work hard.

5.2.4 Successful Succession

Recent research has demonstrated that family businesses are top performers and that they outperform their nonfamily counterparts. Few businesses of any type enjoy long, successful lives today. According to Bain and Co, the average U.S. Corporation now has a 14 year life expectancy. Family businesses are extremely important to the economic well being of the United States and other free economies of the world. Between 80 and 95 percent of businesses in the United States and Latin America and over 80 percent of businesses in Europe and Asia remain family-owned. However, most family businesses (approximately 67 percent) do not survive after the first generation under the control of the same owning family, and only about 12 percent make it to the third generation (Poza, 2010).

The significant findings here were that, successful successions were dependant on factors which can be categorized into founder related factors (planned handover, shared vision and encouragement to their children to study), successor related factors (suitable and sufficiently groomed successors with loyalty and succession) and strategic factors related to succession (size of legal firm, best management practices and multi-ethnic practice). Some of these factors maybe enablers and help towards a successful succession whilst others may be blockers which may make successful succession more difficult to achieve.

The findings in this research support the literature in Barach and Ganitsky (1995) and is consistent with Massis et. al.,(2008).

As regards the founder related factors, the most significant factor was whether the founder had 'encourage' their children to study law so that they would be in a position to continue the legal practice as a legal practitioner. This was related to the issue of the availability of a future successor when the time comes. According to the findings, seven of the research participants did not force the issue of business succession with their children, although they were hopeful that their children would follow in their footsteps and become a legal practitioner as a working career. This was also consistent with the Jasani (2002) who found that most SME founders in Malaysia did not wish to force their children in the family business but preferred to allow them to choose their own working careers in the future.

The issue of shared vision was also significant but not as significant compared to the earlier availability of successor factor. As regards the planned handover factor, this was only relevant in cases involving family businesses. In non family businesses or those perceived to be non family businesses, the handover would be upon retirement or death, bearing in mind that most research participants intended to work until age 70 years old.

As regards successor related factors, the most significant factor was the issue of loyalty and commitment, followed by the grooming of the successor. Most of the research participants were aware that without the loyalty and commitment of the chosen successor, then planning succession would be a difficult process. However the findings showed that this factor was only relevant to non family businesses. Even then the legal firms which

considered themselves as stewardship proponents did not have any problems of successor loyalty and commitment. In fact, this loyalty and commitment factor was relevant only for the smaller firms without a ready successor. As regards grooming the successor, being in the professional services industry, the technical ‘know-who’ and the social networking was a crucial part of the succession process.

As regards succession related strategic factors, the significant factor highlighted was the size and the best management practices within the legal firm. Among them were, career development which allowed brilliant and hardworking lawyers to become a partner in the legal firm within a specified period of time, up to date technological equipment, a human resource policy which prioritized the needs of the workers and a reward system based on stringent key performance indicators.

5.2.5 Business Sustainability

Business sustainability is an outcome of successful succession. In the context of a family business, this is quite clear (Lucky *et. al.*, 2011). However in this research, there arose a finding which may be significant, not just for the sustainability of the Malay family businesses in Malaysia but for the business sustainability of Malay businesses in Malaysia in general. This may help in forging good race relations and bringing overall economic prosperity for all races in Malaysia. This finding relates to succession and ultimately the business sustainability of the legal firm as a multi-ethnic practice, which one of the research participants call the “the Ali-Baba Positive Model”. This is something which the researcher will recommend for future research in the context of Malay entrepreneurship. The question is: “To what extent will partnering with

the non-Malays (especially the Chinese) help the Malays to ensure the future sustainability of the business?”

5.3 Recommendations and Implications

The researcher will make recommendations regarding the contribution of the research findings towards academic knowledge, for the legal practitioner in respect of succession and business sustainability of the legal firm and for the policy maker in respect of national development. The researcher will further discuss the implications of the research findings in respect of potential future research, which will be seen as gap in academic literature by future researchers who may be interested in family business succession as a research topic.

5.3.1 Recommendations for Knowledge Contribution

This research centers on the business succession issues related to the Malay family legal firms in Malaysia. Although according to Sharma *et. al.*,(2003), succession issues accounted for 20 percent of all research conducted on family businesses, in depth studies related to business succession of Malay family SMEs in Malaysia, particularly firms in the professional services industry are limited and scarce. The review of the literature shows that there is still a big gap in the knowledge on problems associated with the ownership succession planning issues amongst Malay family business owners in Malaysia. Most of the limited literature had concentrated on the manufacturing side of the small and medium enterprises (SMEs) and have not focused on the Malay professional practitioners grouping like lawyers, doctors, accountants, architects, engineers, property

valuers and the like, which form a significant portion of the Malay middle and upper middle class society in Malaysia.

There are also problems of definition and understanding of the term ‘family businesses’ amongst the Malay family business owners. Amongst the possible contributions to academic knowledge that can be sourced from this research are as follows:

(a) The definition of family business

Although Sharma *et. al.*,(2003) provides 21 different definitions of family business, none of them catered for family businesses in respect of professional family firms like the family legal firms. Hence this research contributed to the enhancement of academic knowledge by extending the definition of family business to include “a business which must be inheritable to family members in that it should be automatically transferable to family members without restriction upon the demise of the founder member or incumbent owner”. This extension to the family business definition would be relevant to the professional services industry. This would mean that any restriction, which can be in the form of an industry entry barrier or a trade member restriction, on the ‘inheritability’ or the ‘transferability upon death’ of the shares in the business to the family members or rightful heirs will exclude the business from being categorized as a family business;

(b) The succession planning process

This research showed that 8 of the research participants actually plan their succession. The planning process however differed depending on whether

they perceived the legal firm to be a family business or otherwise. If they perceived the legal firm as a family business, then they would distribute or make a gift of the shares of the business to their potential successor during their lifetime. If they perceived the legal firm as non family business, they would have a Partnership Arrangement amongst the partners that the shares of the legal firm are not inheritable to their family members upon death, and would be re-distributed to the existing partners. Hence, the contribution by this research would be that family business owners of service based industries were actually more concerned with succession planning than non-service based industries. It might also be possible that since all the research participants were Malays (and therefore Muslims as provided for under the Malaysian Federal Constitution), they were aware of the implications of the Faraid and its effect upon death, and therefore took the initiative to plan ownership succession so as to avoid the Faraid.

(c) Ownership succession

In the context of Muslims, the Faraid and its implications have a significant impact on ownership succession planning, by way of leaving the shares of the business through inheritance. As such, this research makes a contribution by highlighting that where Muslims are involved in ownership succession planning, only the first 3 strategies in Cohn(1992) are applicable as the Faraid will override any inheritance planning which is inconsistent with it;

(d) Successful succession

In respect of successful succession of the Malay legal firm which leads to future sustainability of the family business, it is ironic that this research finds that the Malay legal firm in Malaysia is better able to sustain itself (through succession planning) under the nonfamily business structure rather than the family business structure. In fact, the researcher finds that it is the stewardship model under the nonfamily business structure which has the best potential to sustain a Malay legal firm in the long run.

The stewardship model proposes that the shares of the legal firm owned by the founder or incumbent owner shall not be inheritable to the family members even if they are legally qualified, as it will be re-distributed amongst the surviving partners upon the demise of the founder or incumbent owner. By implementing the stewardship model, the legal firm is able to grow in size (which is relevant to create credibility, attract business and grow the firm leading to stronger chances of future sustainability) and having best management practices in the legal firm. On the other hand, most family legal firms stay small, are inward looking and restrict their partners to legally qualified family members. Hence the contribution by the researcher is that the legal firm should open their doors to the nonfamily members, build size and implement best management practices.

5.3.2 Recommendations for the Legal Practitioner

The researcher observed that most of the Malay legal firms are small comprising of less than five lawyers in the legal firm. Even then at least two of the research participant legal firms had ‘salaried partners’ who were partners in name only. These lawyers were not actually partners of the legal firm in the real sense of the word but it was merely a business arrangement for the purposes of securing legal work from the financial institutions which imposed conditions that the legal firms emplaced on their panel of solicitors is partnerships and not sole proprietors for risk management purposes. It is contended that such a practice of ‘deceit’ although not causing damage to anyone is unhealthy and should be dispensed with. It is recommended that to ensure long term continuity and sustainability of the legal practice, a proper partnership arrangement be established and be put in writing for the sake of clarity should any dispute arising between the parties or any party die.

Further, it is recommended that the Malay legal firm build size in terms of the number of practicing lawyers in the legal firm. This is not only important but critical, to create a sense of credibility for the legal firm which will help to secure more legal work. To this end it is also recommended that family members working in the firm not be given special preference unless he or she has a special legal expertise. In other words, a junior lawyer should only be promoted as partner on the strength of his good performance as a legal practitioner and not because he is a mere family member.

At the same time, it is recommended that best management practices be implemented in the firm to ensure that a high standard of service is maintained by the legal firm at all

times. This will include ensuring that the legal firm is equipped with best technological equipment to keep up with technologically savvy clients and to deliver the expected standard of service needed.

It is also recommended that the Malay legal firm be transformed into a multiethnic legal firm so that the legal services can be marketed to all races in Malaysia, bearing in mind that it is the Chinese community which control the Malaysian economy and most business activities.

5.3.3 Recommendations for the Policy Maker

This research recognizes the commitment and concerted efforts by the Malaysian Government to promote Malay entrepreneurship under the NEP and its subsequent successors with its salient target of achieving the 30 percent corporate equity ownership for the Malays. Although the above target was supposed to have been achieved in 1990, to date it is only hovering above 20 percent mark at best.

To achieve the above 30 percent target, the Government must not only promote new Malay entrepreneurs to come forward, but also encourage sustaining matured entrepreneurs existing successful businesses to the next generation. This can only be done by allocating sufficient funds to create awareness amongst successful entrepreneurs on the importance of succession planning. In fact succession must not be seen to be merely an exit strategy to a successful business but that successful businesses must be

perpetuated so that it can continue to be a successful role model to build a lasting business empire for other budding Malay entrepreneurs.

More funds should also be allocated for academic research on Malay family business succession and comparisons can be made with successful Chinese family business succession in Malaysia so that benchmarks and guidelines can be established as a road map for the Malay family businesses to follow. Universities in turn should focus on family business and succession issues as key subjects and not merely as part of the entrepreneurship or strategic management curriculum. It should also established family business centers in the universities as part of their university-industry linkages. Lastly as part of the value chain, the role of the family business consultants should be promoted as advisors to assist the family businesses with succession issues, which may be problematic due to family dynamics and internal family conflicts.

5.3.4 Implications for Future Research

This dissertation represents an attempt to investigate the Malay SMEs, in particular the Malay family legal firms in Malaysia, plan their succession, to ensure the future sustainability of their business taking into account the potential barrier to the transfer of the business to the next generation. At this juncture, 2 potential barriers to succession were observed: firstly, the industry barrier imposed by the Legal Profession Act 1976, which only allows legally qualified persons to become partners and own legal firms, and secondly, the Faraid, the Islamic Law of Inheritance, which determines the distribution of the estate upon the demise of a Muslim. In addition, the research observes that the sustainability of the Malay Legal Firm as seen from the overall findings of this research is

better served if the Malay Legal Firm was not a family business because there would be more potent successor to choose from.

Since Malays are deemed to be Muslims under the Malaysian Federal Constitution, the estate of a Malay legal practitioner will be affected by the Faraid Law, upon his demise, notwithstanding the industry barrier imposed by the Legal Profession Act as stated earlier. This will not only cause fragmentation of business ownership but may also lead to a complicated trust holding structure by the legally qualified family members on behalf of the non-legally qualified family members and will not augur well for the future sustainability of the legal firm. Although both issues were touched upon in this research but due to limitations of time and resources, the lack of depth in the research is acknowledged. It is recommended that a similar research be conducted on other Malay professionals like medical general practitioners, professional engineers, architects, engineers and accountants amongst others, to see whether the results related to family business succession are consistent with the present research.

At the same time, one emergent issue that was raised by a research participant in relation to the future sustainability of Malay legal firms was to have a multi-ethnic legal practice. This was referred to as “the Ali Baba Positive Model”, which counters the negative connotation of the “Ali Baba”, which was a common term given to rent seekers amongst the so called Malay entrepreneurs who sold their business to the Chinese businessmen for short term immediate profit, thereby negating the Malaysian Government’s strategy of building sustainable, credible and successful Malay entrepreneurs under the New Economic Policy. The ‘Ali Baba Positive Model’ was projected by one of the research participant as a successful Sino-Malay collaboration where the partnership was real, not

superficial and the leader must be Malay to reflect the dominant political leadership in Malaysia.

It is suggested that the combination of the Chinese business network and the Malay political network, if properly nurtured and supported by a strong belief between the partners that the multi-ethnic business structure, is the best way forward for sustainability of businesses in particular and for the economic future of Malaysia in general. As this issue, to the best knowledge of the researcher, has yet to be studied before, it is recommended that such research be undertaken both for its academic contribution and the political stability in Malaysia.

5.4 Conclusion

The researcher observed that apart from the aforesaid research, there has been minimal research attention on succession planning in Malaysia, particularly on ownership succession. Even then, the previous research used a quantitative research methodology, unlike this research which used the case study approach. Further, there were also limited academic studies which foreground the views and experiences of the Malay entrepreneurs themselves, more so in the context of the objectives of the Malaysian Government's New Economic Policy from a micro perspective, and in respect of the sustainability of the Malay corporate wealth ownership, from a macro perspective. It is this gap in the academic literature to which the researcher aims to contribute in filling.

In summary, the review of the literature shows that there is still a big gap in the knowledge on problems associated with the ownership succession planning issues

amongst Malay family business owners in Malaysia. Most of the limited literature has focused on the manufacturing side of the small and medium enterprises (SMEs) and have not focused on the Malay professional practitioners grouping like lawyers, doctors, accountants, architects, engineers, property valuers and the like, which form a significant portion of the Malay middle and upper middle class society in Malaysia.

In fact this was one of the aspirations of the Government policy which was to form the Bumiputra Commercial and Industrial Community (BCIC). There are also problems of definition and understanding of the term 'family businesses' amongst the Malay family business owners. Furthermore, in depth studies on ownership succession, in particular, are scarce and lacking. It is the intention of this study to fill in the gaps and contribute to a better understanding of the problems with regard to the ownership succession planning of the Malay family business owners in Malaysia.

It is anticipated that the knowledge generated from this research would afford new insights and inform the successful succession of Malay family legal firms in particular and Malay SMEs in Malaysia in general. Such successful succession will in the context of the NEP and its subsequent successors, assist in ensuring that at least, whatever wealth accumulated will not be lost, whilst in the continued quest to achieve the 'mystical' 30 percent Malay equity ownership target. At the end of the day, the long term objective of succession planning is successful succession which leads to the business sustainability of the SMEs in question.

In conclusion, it must be stressed that to ensure the future sustainability of Malay entrepreneurs in general, and the Malay SMEs in particular, the issue of succession is a

grave and critical issue to be pondered by all the stakeholders as it is an accepted fact that most businesses do not last more than 3 generations, what more if succession is not planned for.

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APPENDIX 1:

INTERVIEW GUIDE (p. 74)

1. Ensure Informality
 - Make research participants feel comfortable and that they are in control of the discussion.
2. Building trust
 - Guarantee confidentiality. Research participant can freely question about any concerns they have especially concerning their role and contributions of research.
3. Being sensitive and respectful
 - Be aware of family, cultural and religious sensitivities of research participants.
4. Establishing harmony
 - Ensuring proper time management with no time overruns and avoiding uncomfortable questions and opportunity for proper discussion and providing research report if required.
5. Providing Interview Questions
 - Option to send interview questions prior to interview.
6. Recording the Interviews
 - Participants consent must be obtained and transcription reviewed by participants.

APPENDIX 2:

GENERAL INTERVIEW QUESTIONS (p. 89)

1. Why and how did you become a lawyer?
2. Tell me a bit more about your firm and its areas of specialization.
3. Do you have a partnership agreement with your partners?
4. Would you consider your legal firm to be a family business?
5. Would you encourage your children to study law and persuade them to continue your legal firm?
6. Do you have any retirement plans? Does it include a succession process?
7. How do you differentiate between management succession and ownership succession?
8. How do you plan ownership succession?
9. Do you have a vision to ensure the business sustainability of the legal firm?
What do you think are the critical factors to ensure successful succession?
10. What are issues would you want to add to the question of business succession and sustainability of your legal firm in particular and for the Malay Legal Practitioner in general?

APPENDIX 3:

LETTER OF INVITATION AS RESEARCH PARTICIPANT (p.88)

Date:

To: The Managing Partner
(Name of Legal Firm)
Advocates & Solicitors
[Address]

Dear Sir,

Re : Invitation to Participate in a Doctoral Research

The above matter refers.

For your information, your name has been recommended to me by Dato' Zainul Rijal Abu Bakar, the President of the Muslim Lawyers Association. Therefore, I am honored to invite you to be a research participant in my doctoral research being conducted in the Universiti Utara Malaysia entitled "Family Business Succession – A Case Study of Malay Legal Firms in Malaysia." The data will be collected by way of interviews which will be audio taped.

To this end, please find enclosed the Personal Data sheet, the Legal Firm Information sheet and the Informed Consent Form for your attention and further action.

I will be following up with you for an appointment to explain the research procedures and to confirm your free time for me to conduct the interviews.

Thank you.

Your regards,

Abdul Aziz Hassan,
Candidate for Doctor of Business of Administration degree (DBA)
Universiti Utara Malaysia

APPENDIX 4:

PERSONAL DATA SHEET OF RESEARCH PARTICIPANT (p.75)

1. Name :
2. Name of Legal Firm :
3. Position in Legal Firm :
4. Date of Birth :
5. Qualifications :
6. Date called to the Malaysian Bar :
7. Date of Commencement :
of active legal practice
8. Working experience prior to :
active Legal Practice
9. Practice Area :
10. No. of Children :
11. No. of Children / Family member :
pursuing Law studies

APPENDIX 5:

LEGAL FIRM INFORMATION SHEET (p.79)

1. Name and address of Legal Firm:
 2. Name of Principal Partner:
 3. Name of Other Partner:
 4. When Legal Firm was established:
 5. Practice Areas/Specialization:
 6. List of Prominent Clients:
 7. No. of Practicing Lawyers & Non-legal Supporting Staff.
- Please enclose a copy of Firm Company Profile

APPENDIX 6:

INFORMED CONSENT FORM (p. 79)

Background Information

You are invited to participate in a research study about Family Business Succession in Malay Family Legal Firms. The study is being conducted by Abdul Aziz Hassan of the Universiti Utara Malaysia who can be contacted by phone in Malaysia (+6) 012-3035096 and by email: hj_azizhassan@yahoo.com

Procedures

Data will be gathered through personal interviews, you will be asked some open-minded questions about important family business issues such as family business succession, planning management succession, ownership succession, successful succession, and business sustainability. The interview will last in 60 minutes and will be audio taped. After the interview, the transcript will be sent back to you to verify the contents.

Data Acquisition and Confidentiality

For audio recording, I will use a digital recorder and the recording will be password secured. To protect your confidentiality, pseudonyms will be used throughout the interview to keep the content of the recording as anonymous as possible. The interview data will be held confidential and will not be shared with others. All information obtained for this study will be stored securely and will be used only for research purposes. This study is expected to be completed by early 2013. The findings presented in the research will not identify people by comments. In other words, no one in your firm will be identified in any research which may be published.

Benefits of Your Participating in the Study

A benefit to this study is that you will feel that you have made a positive contribution to the Malay legal practitioners in general. Further, the information provided will help towards the understanding of family business succession that can be used by researchers, practitioners, and other family business members to better understand the succession process.

Statement of Informed Consent for One-to-One Interviews

I have heard the researcher read and explain the above information. I have asked questions and have received answers. I consent to participate in this study in a one-to-one interview format.

Participant's Signature

Researcher's Signature

Date

Date

APPENDIX 7:

EXAMPLE OF INTERVIEW TRANSCRIPT (p.91)

1. Question : Why did you become a lawyer?

Answer : I was inspired by the glamorous life of lawyers seen in television programs. My childhood dream was to become a successful businessman and be a millionaire. Then I decided that I could be rich if I become a successful lawyer.
2. Question : Do you consider your firm, WHA, a family business?

Answer : Yes, but it only become a family business 2 years ago, When my daughter, A join me and early 2011, my son, WA joined the firm. Earlier this firm used to be the KL branch of M/S WSN. I was only one of the partners of WSN which was set up in 1985, at the same time, my wife, who is also a lawyer, will be rejoining us in 2012. She was earlier with WSN but left 5 years ago to be partner in another legal firm in KL.
3. Question : Did you persuade your children to pursue law or did they make their own decision?

Answer : I did not force any of my children to take up law but eventually 2 of my 4 children become lawyers. I think they were inspired by the parents working as lawyers and being successful at it.

4. Question : Did your children work with you directly after completing their Legal studies?

Answer : After graduation, A worked in the legal firm of M/S CA for 5 years prior to coming to my firm 2 years ago. Similarly, WA served his pupillage with M/S Z, and only come to my firm after that in 2011. Prior to that he took one year off to do charity work overseas.

5. Question : Do you have a time frame to retire?

Answer : I will not completely retire but will be a consultant doing selected legal work. I want to keep myself challenged intellectually. However, I will give all my equity share in the firm to A and WA and will not be involved in management in any way. The target date is 1 July 2012.

6. Question : Maybe you can tell us a bit about the grooming process?

Answer : I started to groom A when she joined me 4 years ago. She was exposed to various aspects of legal practice including administration of the firm, making her an all rounder. The financial administration of the firm is presently led by my brother H, who has been with me since 10 years ago. At the same, I also have another brother A, who is senior associate in the firm but he is not a partner. On top of this my wife, S will be rejoining the firm in 2012. At this will help to groom

and support A in managing the firm. As regards WA, he will be elevated to a junior partner in July 2012.

7. Question : How do you see WHA expanding after your handover to your children?

Answer : I would expect it to grow bigger. In fact, I would advice A to bring more in 2 more partners and maybe Chinese partners.

8. Question : Would the firm still be a family business then? Would new partners be salaried or equity partners?

Answer : Yes, because 51 percent must still be controlled by A and WA. The new partners will have to pay for their share, maybe over a number of years so that they able to afford it. I do not accept the term ‘salaried partners’ because either you are the partner and have shares or you are not a partner and have no shares. Also once you are a partner, the liability must be assumed as far as the outside world is concerned. The firm is an asset and has to be valued like any other business. Hence, the partnership must be genuine partnership.

APPENDIX 8:

INTERVIEW QUOTATION FOR PEER REVIEW (P.95)

- Question : Would you consider your legal firm is a family business?
- NR : “No, because none of my children are in the legal line; none of them are interested”.
- RH : “No, I would not consider it a family business although my wife is also a partner in the legal firm. I do not see it like a commercial business but regard it as an economic necessity to help me to earn income to benefit my family. It is a vocation”.
- KA : “No, I don’t think the legal firm is a family business. I don’t have any family members in legal firm but ironically even if there are, I still do not consider the legal firm as a family business. It is purely a vehicle which I will work together with other lawyers for mutual benefit”.
- WH : “Yes, but it only become a family business 2 years ago, when my daughter, A, join me and early 2011, my son, WA, joined the firm”.
- AA : “No, although I own 90 percent of the equity shares. I do not consider M/S A, a family business to be inherited by my family upon my death. M/S A was created for the benefit of the society at large and the ownership is not ‘personal to holder’. Partnership is open to anyone. Whenever any partner

leaves the firm, no goodwill payment is made and any incoming partner also need not pay anything”.

HH : “No, I have not considered it to be family business as there is no intention to maintain the equity ownership of the firm only in family hands”.

YAR : “No, I do not consider the firm as a family business as the legal firm is merely a partnership comprising lawyers and the business depends on how the firm is run by the Managing Partner, and cannot be passed on the family members as part of the estate”.

AAB : “Yes, I have 2 sons and 2 daughter in laws who are trained as lawyers although only 1 son is in the legal firm at the moment..... It is the most ideal plan to ensure continuity of the legal firm....

AB : “No, since none of my children are interested law”.

RS : “No, I do not consider it a family business it as the legal practice. It is a professional set-up”.