

**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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MALAY LEGAL FIRMS IN MALAYSIA**

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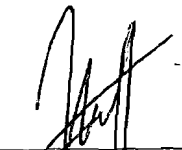
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## **ABSTRACT**

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 kemampanan 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 kemampanan 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 Smyrnis, 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.

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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**

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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](mailto: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”.