<u>Saudi Family Businesses upon their Founders' Death</u>

(January- May 2015)

- A brief introduction to the Sharia inheritance law as applied in Saudi Arabia and its impacts on the business field, particularly family-owned businesses.
- Analyzed the outcomes of such an application of the inheritance law on these businesses on different levels, the Saudi market and national economy as whole, international investors and companies and the business itself.
- Articulated some of the ongoing governmental and business owners' efforts to the adoption of corporate governance of family businesses.
- Grade Received: A (4.0 High Honor).
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Preface.

Determining the financial stability of a business is critical in today's interconnected business world, where businesses interact with each other in a way that renders many brands ubiquitous by virtue of contemporaneous legal forms, such as franchise contracts. Each participant in such transactions can sometimes belong to a different country with a distinctive legal system. Therefore, it is necessary to be aware of the laws and rules that bound potential business partners embarking upon any new transactions. The necessity of observing the applicable laws of a country includes not only commercial regulations, but also other laws that intersect with business-related issues, such as civil law and labor laws.

This research is intended to heighten the awareness of one of the distinctive facets of law in the Kingdom of Saudi Arabia by a thorough study of applicable inheritance laws that become effective upon the death of a founder or an owner of family business; such an analysis necessarily includes an examination of Sharia Law as that is the governing law of the country.

The significance of Saudi family businesses lies in these businesses' pivotal roles within and outside the domain of the Saudi market. Approximately 90% of the operating establishments and businesses in Saudi market are conducted by families. Family-controlled firms collectively contribute 50% of non-oil gross domestic product. Beyond the scope of the Saudi market, Saudi family businesses represent 48% of all family businesses in the Middle East. In addition, family businesses, as the heartbeat of the private sector, are the major employers in the Saudi labor market. Eighty percent of total employment in the private sector is provided by family businesses, which renders employees as well the Saudi government concerned about the continuity of these businesses and the job security these businesses provide.[1] These statistics reveal the need to study the position of most family businesses when there is a founder's death and the subsequent application of Islamic inheritance rules on those family businesses.

The partition process of ownership in a family business usually creates problems and conflicts that find their way into the business management. Such problems often stem from the absence of a strong institutional organization within the family business.

This study consists of two prongs: the first briefly addresses the Islamic Law of Inheritance and how it became part of the legal body of Saudi Arabia despite the fact that it was not formally enacted by the Saudi legislature. The second prong highlights the business issues that arise as a result of applying the Sharia Inheritance law, and how this affects businesses and their relationships with

[1] See the National Center of Family Business.
http://www.events.csc.org.sa/Arabic/FamilyBusinessesNationalForum/Pages/Event-Sponsors.aspx

their counterparts, both domestically and internationally. The goal of this paper is to increase awareness of potential issues when conducting business in the Kingdom of Saudi Arabia, and thus the discussion of Islamic law of inheritance will be limited to the legal attributes and features thereof, and will exclude any religious characteristics, philosophy, and lengthy explications of this literature.

1.1 Inheritance in Islam and its Striking Features.

Throughout history, an individual's ownership has been always a sacred right in almost every society. Islamic law, similar to other types of laws, has come to safeguard and endorse the personal right to freely own anything through legitimate means. Sharia[2] stands out with its unique ideology of ownership under which everything that a person "owns" actually belongs to Allah, the Muslim name for God. Accordingly, this philosophy makes what seems to be private ownership, as a matter of law, a trusteeship whereby people have only "temporary" authority over their property and cannot devolve their wealth to whomever they like except in certain forms explained hereunder. This notion of dual ownership is one of the most special attributes of Islamic doctrine of economics.

Along with the aforementioned attribute, Islamic inheritance law differs from other inheritance laws in terms of the nature of its legislature and alterability. Inheritance is one of the fundamental principles of ownership that is enacted by mankind and usually codified in property and family statutes. These laws can usually be modified as lawmakers wish. However, inheritance under the Islamic jurisprudence is completely derived from religious sources, mainly the Quran, the holy book for Muslims, in which God, as the absolute owner, sets forth clear guidelines on the division of one's estate upon death. Another source of Islamic inheritance law is the sayings and practices of Mohammed, the prophet of Islam. These rules vary in their history. Some retain the practices and pre-Islamic Arabian traditions concerning inheritance. Other rules are believed to have revolutionized the Arabic inheritance customs and introduced significant reforms to its applications, especially in regard with women's rights. The Islamic regulations of inheritance are thus considered to be one of the most intricate areas of Sharia law in a way that does not leave room for humans' ability to regulate. Instead, Sharia scholars have been confined to interpret these guidelines in the form of assorted schools of Islamic jurisprudence over many centuries.[3]

[2] Sharia law and Islamic Law are synonyms and used interchangeably.
[3] See Siraj Sait and Hilary Lim, 2006 "*Land, Law and Islam: Property and Human Rights in the Muslim World*", p. 107.

Another feature of the Sharia law of succession is that, unlike other comparative legal systems, it does not make a distinction between tangible or intangible, or movable or immovable property.[4] Whatever the deceased leaves behind is entirely subject to the inheritance law of Sharia.

The rules of the Islamic inheritance law are compulsory, which is another legal aspect unrecognized in other modern inheritance laws. In the Muslim community, Muslims cannot override these rules in any form of agreement. One's wealth is distributed to certain defined beneficiaries, such as a spouse, sons, daughters and parents, predicated upon a sophisticated balancing formula.[5] None of the legitimate beneficiaries can be disinherited, nor can their fixed allocations be modified by any means.[6] Sharia has elaborated on the rules of inclusion and exclusion and sets forth certain situations in any of which beneficiaries shall be obstructed from their legitimate shares.[7]

However, Islam does grant people some "restricted" room of freedom over their wealth upon their death. Individuals are permitted to make, by means of a will, bequest or endowments, gifts that will go effect once they die with proviso that all of the deceased's debts and obligations have been discharged, and also that such gifts must be limited to a total one-third of an individual's estate. Another constraint placed on gifts effectuated upon death is that its beneficiary is not an heir to the deceased's fortune. As an illustration for the latter constraint, an individual cannot make a bequest to any immediate family member such as children and parents who are already legitimate beneficiaries of the deceased.[8] It is important to note, however, that people may pass their property to whomever they wish during their lifetime.

In sum, a range of factors and a number of rigid rules compose the inheritance law of Islam and reflect its uniqueness among other modern legal systems. Sharia has drawn a clear-cut law that is not readily open to any alterations. Comporting with the inheritance law and implementing the aforementioned rules herein result in a de facto co-ownership between a deceased's heirs who hold different predetermined shares of yet undivided property. This ramification has great impact, direct

[4] See Siraj Sait and Hilary Lim, 2006 "*Land, Law and Islam: Property and Human Rights in the Muslim World*", p. 110.

[5] Mohd Ridzuan Awang, *"The Islamic Inheritance Law (Faraid): the Manifestation of Comprehensive Inheritance Management In Islam."* http://www.islam.gov.my/sites/default/files/islamic_inheritence_law_faraid.pdf

[6] The Sunni and Shi'a schools, the major jurisprudence of Islamic Laws, have interpreted the Quran rules differently, which gives rise to differences regarding some Islamic rules. See "*Modern Perspectives on Islamic Law*", p.202

[7] The legal situations that deprive legal inheritors from their shares are difference of religion, homicide. See Abid Hussain, *"Islamic Laws of Inheritance"*. http://www.islam101.com/sociology/inheritance.htm

[8] As an alternative, Islamic Law provides another way to make a gift to one's legal heirs under *Waqf*, which share many aspect of trust under modern legal systems. See "*Modern Perspectives on Islamic Law*", p.204

and indirect, on various sectors and can give rise to schism among beneficiaries and sometimes causes severe family business conflicts, as it will be demonstrated in this paper.

1.2 The Islamic Inheritance Law as Applied in Saudi Arabia.

Today, Sharia is incorporated in a number of countries. These countries differ in their degrees in implementing Islamic rules. Some Islamic systems, such as that practiced in Turkey and Malaysia, have experienced secularization, yet the effects of such secularization upon inheritance law are relatively modest. Still, it is worth noting that the Sharia inheritance structure in those regions is highly susceptible to further modifications in the future because of the intense debate over inheritance law in Islam between proponents of the modern view of woman's rights, and on the other hand, believers in the absolute adherence to religious law. At the opposite of these countries are their counterparts, such as Saudi Arabia, that have incorporated Sharia with full adherence to its principles and rules, and refuse to be secularized to any degree.

It is this strict tradition upon which Saudi Arabia regulates inheritance since the establishment of the Kingdom of Saudi Arabia. Saudi Arabia has always promoted itself as the cradle of Islam and the guardian of two of its holy mosques. This strict adherence to Islamic law and its principles was embedded in the Basic Law of Governance.[9] The first Article of this law affirms that, "the Kingdom of Saudi Arabia is a fully sovereign Arab Islamic state, and its constitution shall be the book of God and the Sunnah (tradition) of his messenger…"[10]

The Saudi legal system is bisected into two groups based upon the source of the law. The first group of laws relates to laws and principles that are directly derived from the Quran and the traditions of the prophet as well their interpretations by Sharia scholars, rather than by legislative enactments. The striking feature of such laws is that they existed hundreds of years before the establishment of the country. Their roots can be traced to the early stage of Islam. Family and property laws, including inheritance law, represent examples of such laws. This part of the Saudi legal system is the dominant.

These religious rules have become part of the legal body of Saudi Arabia first by being followed and respected by the whole Muslim community and then implemented by tribunals, which is similar to the Common Law in Western countries, where principles and laws derived their authority from customs and traditions that developed over time as construed by judicial applications.

9 Issued by royal decree in March 1992.
10 See the full law at Bureau of Experts at The Council of Ministers' website http://www.boe.gov.sa/MainDefault.aspx?lang=en

The second part of the Saudi legal body encompasses all statutes and regulations laid down by the legislative authority. These positive laws must be compatible with the Sharia component. For example, Article sixty-seven of the Basic Law of Governance declares that the regulatory legislative authority lay down laws and regulations in accordance with the Islamic Sharia, or at least that do not conflict with its principles and doctrines.[11] Instances of such laws are Anti-Trust Law, Companies Law and Foreign Investment Law. Such laws are subordinate, constitutionally and in scope to Sharia law.[12]

Moreover, implementing and applying the inheritance law in Saudi Arabia heavily relies upon the deceased's family abiding by religious norms. In other words, there are situations where legislative inheritance law is disregarded. For example, given the nature of the Saudi conservative families and the utmost respect for their privacy, some families still stigmatize asserting a claim of right of a share in an inheritance. Others still believe that women are always disinherited. However, these social applications run afoul the inheritance law, and thus courts will uphold Sharia law and its principles once a conflict or such ignorance of the law is litigated.

2.1 The Application of the Islamic Inheritance Law on Saudi Businesses.

Implementing the inheritance law on Saudi businesses involves the need to be familiar with what kinds of businesses or entities are affected the most, and what steps can companies take to obviate potential problems. Also, given the fact that the vast majority of registered companies are family-owned ones and most problems arising from the application of inheritance law pertain to these businesses, one may ask about what the Saudi legislature has done in order to protect the national economy.

To address these issues, first it is important to highlight in brief the dominant legal forms that the Saudi legislature endorsed, and which of these entities consider death of partner as a cause to terminate their existence or at least the partner's share in the business.

(A) The Legal Forms of Business under the Saudi Companies Law.

The Saudi Companies Law embraces an exhaustive list of eight accepted forms of companies. The second article of the law states, "the provisions of this Law, as well as such conditions laid down by the partners and such customary rules that are consistent with this Law, shall apply to the

11 Ayoub M. Al-Jarbou, 2011, "Judicial *Review of Administrative Actions under The Saudi Law*," 35
12 Vogel, F.: 2000, *Islamic and Legal System: Studies of Saudi Arabia*. Brill, Boston: at p.322.

following companies: 1) General partnership; 2) Limited partnership; 3) Joint venture; 4) Joint-stock corporation; 5) Partnership limited by shares; 6) Limited liability partnership; 7) company with variable capital; and 8) Cooperative company…"

The law also nullifies any company that does not assume one of the aforementioned forms.[13]

(B) The Legal Forms of Saudi Family Businesses.

The Companies Law does not cite a concise definition for the term "family business". However, in July 2014, the Ministry of Commerce and Industry issued, pursuant to its delegation of authority,[14] "the Guide of Saudi Family Companies' Governance and its Persuasive Charter".[15] The guide defines family companies as those that are wholly owned or controlled by one or more families. The definition excludes public companies with dominant family shareholders from the definition of family business since these companies are heavily regulated, and family shares thereof are negotiable and can be easily transferred to public via the Capital Market (stock exchange).[16]

Most family businesses start as sole proprietorships. Some owners subsequently elect to incorporate their businesses as one of the eight corporations endorsed by the Companies Law. Such selections are made based on variety of essential factors, such as the size of the capital, the number of partners, the needed flexibility and the nature of the business itself. In practice, most Saudi family businesses, if not all, are incorporated as limited liability companies (LLCs) or closely held corporations due to the freedom and flexibility these forms provide.[17]

The Saudi Companies Law considers the death of a partner per se as a cause to terminate some entities, or at least holds that partner's share. For example, in regard with general and limited partnership, Article thirty-five affirms that, "A general partnership shall be ended by the death…of one of the partners…" or the death of any general partner in partnership in shares. However, it asserts, for all said entities, the partners' right to agree otherwise to resume the partnership with the dead partner's heirs.

[13] The Companies' Law was issued by royal decree, July 1965. The law also admits, along with the articulated eight forms within it, all companies that are found in the Islamic jurisprudence. Nevertheless, these forms are absent form practice. See The Ministry of Commerce and Industry's website. http://www.mci.gov.sa/en/LawsRegulations/Pages/default.aspx

[14] Article 233 stipulates that, "The Minister of Commerce shall issue the decisions and regulations necessary to implement the provisions of this regulation."

[15] This regulation has not been yet officially translated.

[16]See The Capital Market Authority (CMA)'s website http://www.cma.org.sa/en/Pages/home.aspx

[17] Closely held corporations require minimum capital of 2 million Saudi Riyals ($ 533,000), a minimum of five stockholders as well adherence to management formalities, whereas LLCs have no minimum capital requirement but require a minimum of two members and compliance with fewer management formalities. See http://www.mci.gov.sa/en/LawsRegulations/Pages/default.aspx

However, unlike limited partnership, general partnership and partnership in shares, Article 158 does not mention death as a cause to end the existence of a limited liability company (LLC). The Saudi legislature enacted a different rule regarding LLCs. Article 158 stipulates that stakes of an LLC shall be indivisible, and if these shares end up in the hand of multiple people, the owners must choose one of them to be the only owner as the face of the company. Therefore, this rule is applied once a stake of an LLC is owned by more than one by means of any legitimate method, including inheritance as a result of the dead of the original holder.

In regard to joint-stock companies,[18] the death of the owner has, in general, no effect on the business since the ownership in these entities are represented in shares equal in value separated from the management of the company, which reside within the Board of Directors. This form has been adopted by a few of large-scale family businesses as an optimal way to avoid potential problems following the application of inheritance law and preserve the business after the death of its founder as it will be explained hereunder.

2.2 The Impact of the Islamic Inheritance Law on the Operation and Continuity of Family Businesses.

One can extrapolate the effects from implementing such rules on typical family businesses where the founder is the engine of the business. When the power of control is only in the hands of the owner, usually the founding father, his death will create abrupt vacancy in management that may not be easily reoccupied, if the business continues to exist.

Another issue that arises after the founder's death is the heirs' capability to carry out the business. On the ground, the practice shows that once the founder perishes, his business is in danger of imminent extinction due to a lack of business and managerial expertise among his heirs or his failure in instilling into his children the appreciation of the business he built throughout his entire life.

Furthermore, some businesses' collapses are ascribed to the fact that these businesses were heavily built upon the trust-and-honesty relationships between the partners at the time of founding them, where these partners only speculated about profits their business would generate. This issue can be found in any entity in which its partners ignore the discussion of conflicts among them at some point in the future. As an illustration, a business that is established between two brothers may

[18] Article 49 defines a joint-stock company as," The capital of a joint-stock corporation that offers its stocks for public subscription shall not be less than SR 10 million. In all other cases, the capital of a joint-stock corporation shall not be less than SR 2 million…" In other words, the Saudi law recognizes so-called public company and closely held company.

collapse because one of them dies and thus, as a matter of law, his four heirs, namely children, step in his position. The business is now owned by 5 people instead of two, which can give rise to misunderstandings among the five and hindrances in the way of operating the business. This proves the importance of establishing a strong professional relationship that ensures the stability of their business and sets forward planning on avoiding potential family conflicts; being brothers or cousins alone does not ensure long-term success for the business.

Another issue resulting in implementing the rules upon a solo-managed business is that due to cultural constraints and traditional norms, female beneficiaries, such as the deceased's daughters are deprived from managing the inherited business. In Saudi Arabia, it is rare that the male inheritor of a family business would allow the female beneficiary to enjoy being part of the business and share in the operations of the entity. Instead, she may be cashed out, or she is likely to be marginalized and not given any active role in making decisions or drawing the strategies to develop the company.

Disputes can also escalate if the deceased is married to more than one wife, which is a practice prevalent among affluent individuals and therefore owners of such businesses. In such situations, one of the wives' children may want to appropriate the authority and power over their father's business. Along with this, there is often a conflict of interest among the legitimate heirs after there was, for a long time, only one interest to serve, the founder's interest.

Such effects vary in their severity and seriousness on businesses since there are many significant factors contributing to the cause of such issues. Some of these factors are similar to the ones any business owner considers when electing the ideal form of company. Such factors are the size of the company and its capital. Other factors that result as the business is operating are the number of its employees, the number of inheritors, the current productivity and efficiency of the business in the market as well as any related familial traditions and cultural circumstances.

These examples mirror factual issues that often end up in courtrooms. Currently, about 60% of the Saudi family businesses are still run by their founders without any operating agreements and succession planning.[19] This percentage is expected to increase if existing family businesses continue their refusal to adopt and underestimate the importance of a governing charter that will ensure a smooth transition process of their ownership to the next generation and continuity and efficiency of their business upon their death. Many founders have short-term insight into the future. For the time being, it may be, through the eye of the owner, justifiable to have centralized management, yet on the horizon there is a serious threat that should be taken into account for better future.

19 Alarabiya.net http://www.alarabiya.net/ar/aswaq/companies/2013/12/22/60-من-الشركات-العائلية-السعودية-تنهار-بوفاة-مؤسسها.html

On the other hand, a number of family businesses have become aware of the bitter reality of the business's future after the death of founder, so they have been successfully able to undergo the transition process and maintain their predecessor's business financially and administratively stable and avoid the above-mentioned issues.

The Saudi market, for example, is filled with models of thriving family firms that have had a smooth transition of their founder's legacy. In fact, some of these family businesses have been to able boom, expand and eventually internationalize their businesses after the death of the founding father. Such businesses are Saudi Binladin Group[20] and Abdul Latif Jameel Group.[21] The tremendous success of such companies and their efforts to maintain their survival buttress arguments imputing the failure of the family business to the Islamic inheritance law itself rather than the flimsy foundation of such business. Above all, one may conclude that implementing the inheritance law actually reveals the extent of the business solidity and ability to have a smooth transition of ownership. Many businesses, however, fail the test and end up with severe conflicts between the beneficiaries.

2.3 The Impact of Inheritance Law on the Business World.

The importance of understanding the structure of a Saudi family business stems from the fact that Saudi family businesses constitute up to 90% of the operating establishments in the Saudi market with an estimate capital investment of 250 billion Saudi Riyals.[22] Most of these entities are LLCs or closely held companies that are not as regulated as public companies. Family businesses without governance systems make the market appear unstable and unpredictable, and thus they can lose opportunities to attract foreign investors seeking out markets where companies effectively compete without the fear of unpredictable risks.

On a domestic level, family companies are involved in various business activities, so the effects of collapse extend to other sectors, such as employment. These businesses represent the major employers in the country. According to the National Center of Family Business,[23] Saudi family businesses encompass 80% of total employment in the private sector; the unexpected disappearance

[20] Multinational construction conglomerate and is headquartered in Jeddah, Saudi Arabia. Considered the largest construction firm in the world, Saudi Binladin Group recently signed a US$1.23 billion contract to construct the tallest building in the world, Kingdom Tower in Jeddah.
[21] A diversified family-owned Jamil, one of the largest companies in Saudi Arabia. Covers mainly cars, electronics and consumer loans.
[22] Roughly $67 billion.
[23] See Council of Saudi Chambers' Website
http://www.events.csc.org.sa/Arabic/FamilyBusinessesNationalForum/Pages/Event-Sponsors.aspx

will render many people unemployed and thus result in an increase in the unemployment rate, which places the national economy in a critical condition. The Saudi market has lost a great number of family businesses that in the past were successful and acquired great reputation during their existence, but the poor vision of the future and the failure in keeping up with market developments and trends, such the separation between management and ownership, led them to fade over time. Such consequences call for the need of government intervention to preserve further cracks in the market and to mitigate the challenges these businesses confront in order to survive and stay cohesive.

On an international level, overseas investors are reluctant to make their entry into markets with unforeseen risks, and if they do so, they will scrutinize beforehand any prospective business partner or franchisee that will carry out a business in the name of their company, which will possibly hold them liable for its wrongful conduct under principle-agent theory. Most of the time, however, such scrutiny will not uncover legacy issues. That intensifies the burden of due diligence on investors.

Another effect worth noting is that sometimes even with efficient operation and continuation of the business after the death of the founder, some domestic or international companies may prefer not to continue with the founder's heirs. Such action may be justified by the fact that the relationship between the two businesses was established upon merely personal considerations, such the deceased's social or economic leverage that his heirs do not enjoy.

In any event, international companies appear to be in better position than the target business in Saudi Arabia so long as their in-house lawyers craft their agreements in a manner that ensures the lowest cost to back out of these contracts at any given time. Domestically, the external effects of family businesses have been a long-standing issue that have not been eliminated but alleviated to some degree by different practices and suggestions as explained hereunder.

2.4 <u>The Market and Saudi Government's Reaction the to the Family Business issues</u>.

In reaction to these issues, a number of seminars and conferences sponsored by the Chambers of Commerce and Industry across the country have taken place in order to reach and ascertain solutions for the long-standing dilemmas that emerge from unorganized family businesses.[24] These conferences were also driven by the urgent need to these businesses' effective contribution for the implementation of national development programs. As a result of such meetings, the market admitted

[24] Council of Saudi Chambers' Website, http://www.csc.org.sa/English/Pages/default.aspx

the existence of this issue and then began its journey in search of solutions to eliminate, or at least minimize, the adverse impacts thereof.

One solution these conferences suggested was that a family business turn into a joint-stock company that ensures its stability and growth. The separation of management and ownership in shareholding companies paves the way for these companies to attain a high level of governance, while retaining control over the entity since they are the dominant shareholders who maintain the decision-making power over substantial issues and have direct influence on the company's policy. Another advantage of becoming a joint-stock company is access to other financial resources such as initial public offerings (IPO) that can help the company develop and attain its ends, such as to further the business's growth and make it international. Regardless of the opponents' claims that the transformation into publicly held companies would require more obligations, such as adherence to corporate governance rules, such obligations are fully intended to protect the business and thus the whole market.

A positive outcome of the endeavors of the Saudi Chambers of Commerce and Industry concerning family businesses has been the establishment of the National Center for Family Businesses, which assists in the development of family businesses and enhancing their roles in the market. The Center offers services such as consulting, training, family relations development, and coordination with the concerned authorities. Also, the center's website has some ideal protocols of family businesses that have moved towards institutionalizing their businesses. This center was founded in response to the increasing need to organize these businesses.[25]

On the government level, it was suggested that family companies adopt a charter that would represent special corporate governance rules that are tailored to suit the business family's needs. In turn, based upon the delegation authority, the Ministry of Commerce and Industry worked hand in hand with the Council of Saudi Chambers to compose such a guide, with consideration to the successful experiences of major family businesses.[26]

In July 2014, the Minister of Commerce and Industry announced "the Guide of Saudi Family Companies' Governance and its Persuasive Charter." The guide consists of 7 chapters with forty articles. It establishes the primary foundations for institutional entities and the necessity of the governance and separation of management and ownership. In addition, it calls for the adoption of the efficiency and competency standards in electing the management team along with finding a clear

[25] The center website (Arabic page). http://www.csc.org.sa/Arabic/OurServices/FamilyFacilities/Pages/Services.aspx
[26] For examples, the business of Al-muhaidib family, Binzagr, Zamil, Mohammed Abdulziz Alrajhi and his Sons, and Jreer.

mechanism for dispute resolution that protects the business's reputation. This guide also advances selective rules and principles that a family charter should contain, and draws the systematic framework for family businesses in order to promote transparency and achieve a high level of sustainability and stability.

Conclusion

This paper highlights the correlation between the Islamic inheritance law as applied in the Saudi region and family businesses that dominate the market. During the first generation of ownership, family businesses lack some necessary ingredients to ensure their stability and continuation. For example, most family businesses lack governance, transparency and strategic plans. These challenges vary in their extent, strength, and influence on the business. Nevertheless, the practice proves that owners of such businesses ignore the importance of such components that would help their businesses stay strong upon their deaths. Many Saudi business families also suffer from the lack of awareness and the trivialization of potential issues that lead, as the practice shows, to critical situations that may terminate the existence of the whole business.

Lack of succession planning and the overlap between management and ownership during the founder's lifetime often erode and cause the collapse of family companies or raise a red flag concerning their stability and efficiency. All the stated issues exacerbate once the founder of the business perishes, which triggers the inheritance law. The ramifications of applying the Islamic inheritance law on poorly structured businesses are mainly seen in the business's failure to continue. Such failure can be attributed to the fact that people suddenly step in to manage a business that is often unknown to them. Family businesses in the Saudi market are threatened with extinction due to a high probability of these businesses' failure to survive the second generation.

This phenomenon varies in its effects on the outside world. Within Saudi market, companies and investors are acutely aware of such issues, so joint ventures or relationship between domestic businesses and such family businesses are often sheltered by necessary precautions. This is in contrast to many overseas investors and franchisors who are oblivious of the intersection of the inheritance law in Saudi Arabia and the potential businesses within that region, which may not help them to achieve their ends of entering the Saudi market. International investors need to be more familiar with the interplay between business regulations and other laws, such as inheritance. Such familiarity helps overseas investors avoid sudden collapses and cracks in Saudi business partners. One may envision how international businesses would be better off with full knowledge of the background law in a target country.

A lot of ink spills on discussing this issue and what solutions will preserve the business. Suggestions and recommendations can be viewed through different lenses.

On the governmental level, issuing the Guide of Saudi Family Companies' Governance and its Persuasive Charter is a turning point in dealing with this long-standing issue. Nevertheless, along with the fact that this guide is relatively new, this guide lacks the enforcement. Family firms are not required to adopt such a guide or a protocol for the conduct of their own businesses. This confirms the constant need to move ahead towards imposing the guide of these businesses. That is not an easy step and will definitely agitate the owners of these businesses who want to enjoy complete freedom in managing their businesses, which is the reason for the popularity of LLCs.

By the same token, the effect of unorganized firms on the various sectors requires quick government intervention in order retain the stability and trust of the market. Otherwise, many foreign investors may stray from the Saudi market because they find the instability too risky.

Without a doubt, the interest of 80% of private sector employees exceeds family businesses' freedom in importance. As a suggestion, the government could impose governance on a family business predicated upon the number of the employees has. As an illustration, if a family business crosses a threshold number of employees, such as 1000 employees, adoption of governance and adherence to mandatory disclosure and filings should not be an option because the effect of the business on the market is now greater and should not be left out to its owners. This may be the only entry through which the government can intervene and oblige major family businesses to adhere to governance rules and to be effective participants in a stable national economy.

In addition, founders of family businesses must realize that one of the biggest risks facing the business is the absence of a clear transfer policy from the existing generation to the next. Founders should start to tackle these problems while living, and this can be accomplished by owners' examining the entity in order to reach the best applications that will ensure the sustainability and efficiency of the business.

In this regard, it is worth mentioning that Suliman Alrajhi, a Saudi billionaire and world-renowned philanthropist, exemplifies an insightful founder of family business. His fortune was estimated by Forbes to be worth $7.7 billion. Mr. Alrajhi founded the largest Islamic bank in the world. Mr. Alrajhi grabbed the headlines when he decided to distribute one-third of his wealth between his 23 children based on the rules of Islamic inheritance law in form of portfolios, and transferred the rest to endowments. The rationale behind his unprecedented step was basically to foster love and brotherhood between his children and save them from wasting time and resources in the courts to address the partition of inheritance after his death.[27]

Sophisticated role models, such Mr. Alrajhi, realize the threat of the lack of succession planning on massive businesses, which can exacerbate family disputes and polarize united families.

Restructuring processes involve out-of-pocket expenses in order first to classify priorities and reach optimal ideal framework of the business that meets the founder and his potential heirs' needs. However, the costs are ultimately recouped as practice proves that implementing governance standards can augment the value of the business, enhance its presence and make it more powerful, lucrative and long-lasting.

27 Arab News' interview with Mr. Alrajhi http://www.arabnews.com/economy/sulaiman-al-rajhi's-life-rags-riches-story