



INTEGRATING *WQĀF* AND BUSINESS: ENSURING BUSINESS SUSTAINABILITY FOR THE WELFARE OF HEIRS AND NON-HEIRS

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ABSTRACT

Islam has concern on the sustainable welfare of one's heirs through wealth preservation and maximization. The objective of this study is to provide a model for the sustainability of a family business through its integration with *wqāf* in order to perpetually generate incomes. The essential features of *wqāf* (irrevocability, inalienability and perpetuity) would not only prevent the family inheritable business from disposal or liquidation but also ensure that it remains a going concern to generate incomes for the welfare of the heirs, exempted heirs and other members of the *Islāmic* society. Profit is expected to be shared among heirs based on the sharing ratio established by *Islāmic* succession law. The exempted heirs and other members of *Islāmic* society could benefit from the business's profit continuously every year if the founder/owner of the business dedicates a certain share of its equity to them by way of a will.

JEL Classification: I31, M41, M210

Key words: Family business, Going concern, *Islāmic* inheritance, *Wqāf*

1. INTRODUCTION

Islāmic inheritance is a branch of *Islāmic* Jurisprudence, which identifies the heirs of a deceased (who must be Muslims) and their entitlements from the estate of the deceased based on the teachings of the Noble *Qur'ān*, the *Sunnah* of the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) and Muslim jurists (Umar and Mohammed, 2017). Therefore, it simply entails sharing the estate of the Muslim deceased among their successors after the payment of debts and legacies. In *Islāmic* society, wealth should not be concentrated in the hand of a few individuals (rich persons) but rather it should be extended to the poor members of society (Azmi, 2015). By extension, Islam as a religion advocates an equitable distribution of wealth and income in order to reduce the gap between rich and poor. In view of this, therefore, three main approaches to wealth redistribution are suggested, such as the encouragement of voluntary alms giving, the enforcement of *zakat* and inheritance law.

The *Islāmic* inherited estate needs to be continuously maximized for the welfare of heirs. If a business is inherited, the heirs should be admitted into it as partners (or shareholders in the case of a company) (Umar and Mohammed, 2017; Umar and Kurawa, 2019). But if it is an estate other than a business, it should also be invested in a worthwhile and *Sharī'ah*-compliant business (Umar and Mohammed, 2017). Unfortunately, in Muslim countries such as Nigeria, no matter how profitable an inherited business is, it is usually liquidated for the distribution of the net assets.

However, to ensure the sustainability of the wealth of the deceased for the betterment of heirs, an inheritable business should be prevented from liquidation. This is because it is the only the estate that could be passed to future generations if appropriate measures are taken at the right time. The transfer of a business to the next generation of the family is called succession, which is in the mind of many founders of the family business (Al-Barghouthi, 2016). Basically; there are four ways of business succession: family succession, employee succession, sale of the business or business closure (Palliam, Cader, and Chiemek, 2011). However, Palliam et al. (2011) added that in Arab societies a business is succeeded by the family. This is because these societies are dominated by Muslims and in line with *Islāmic* inheritance law, family members deserve to inherit the business unless they agree otherwise (by allowing an employee to succeed the business, close the business or sell the business). Moreover, not only in Arab societies, family succession is

the right and applicable way of the succession of business among Muslims anywhere in the world.

The sustainability of the family business becomes a topical issue among all stakeholders across the globe (Gomba and Kele, 2016). Historically, however, it has been found that inherited wealth during the Ottoman of the sixteenth-century hardly passed to the third generation of the family (Kuran, 2003). Nevertheless, many family businesses are still in existence and passed on to many generations through effective succession planning. Some of these businesses include Kongō Gumi (est. 578 A.D, Japan), Hoshi Ryokan (est. 718 A.D., Japan), Fabbaricad' Armi Pietro Beretta (est. 1526 A.D, Italy), Zildjian Cymbal (est. 1623 A.D., Turkey), Shirley Plantation (est.1638, United States), Hugel and Fils (est.1639, A.D.) and Boplaas (est. 1743 A.D, South Africa), among others (O'Hara, 2004). Unfortunately, it is observed that most of these endured family businesses exist in societies where Muslims are a minority.

Moreover, the Family Firm institute asserts that even though the majority of family business owner swish to transfer their businesses to future generations, it estimates that 70% of them are not going to endure into the second generation and 90% are not going to make it to the third generation (Walsh, 2011). Similarly, in January 2011, the European Commission Business Dynamics Report shows an estimation of the failures of 150,000 businesses (and 600, 000 jobs) in Europe every year, because of problems encountered in business transfers (Hannonen, 2013). Hence, the need to devise a means of sustaining family businesses is vital for not only the benefit of heirs but also exempted ones and other members of society with the view to achieving the socio-economic objective of an *Islāmic* economy.

In *Islāmic* history, family *wqāf* serves as a way of preserving a business with the primary objective of ensuring that it remains a going concern in order to continuously generate incomes for heirs (Saleem, 2019). In *Islāmic* Law, *wqāf* means to hold a certain asset and preserve it for certain philanthropic activities as well as prohibit any use or disposition of it outside specified objectives (Kahf, 2003). Similarly, Muslim jurists (*fuqaha*) have a consensus that *wqāf* means the appropriation of a property from private ownership for the purpose of dedicating its usufruct to charitable activities (Ismail, 2013). Economically, *wqāf* is all about setting aside funds and other resources to be invested in productive assets, which will repeatedly generate outputs or incomes for future individuals or societal

consumption in general (Budiman, 2014). Moreover, Mohammad and Iman (2006) defined *wqāf* as a non-retractable giving away of owned assets by a donor which cannot thereafter be subjected to transmission or transfer. They added that it is the benefit that can be shared among the donor's family, the rest of society or both. *Wqāf* can also be done by giving away cash to buy investments (Elesin, 2017; Aziz, Johari and Yusof, 2013; Zakaria, Abd. Samad, and Shafii, 2013). The majority of Muslim jurists, such as Abu Hanifa, Imam Malik, Imam Zufar, and so forth, approved all forms of movable property to be used as *wqāf*, including the *wqāf* of dirham and dinnar, namely *wqāf* cash *wqāf* (*al-nuqud*) (Ismail, 2013). At the beginning of the 15th Century, the Ottoman Empire courts approved cash *wqāf* and by the end of the 16th century, it became very popular over Anatolia and European provinces under the Empire (Toraman and Tuncsipe, 2007; Cizakca, 2004). Cash *wqāf* is used to finance capital projects for social benefit, invested or given out as loans to generate income to finance such projects (Nurrachmi, 2012). During the Ottoman Empire, cash *wqāf* served as a capital distribution for borrowers (Cizakca, 1998). According to Ibrahim and Ibrahim (2013), comparatively cash *wqāf* is more constructive than land, book and building *a wqāf* and is considered worthwhile in the modern *Islāmic* financial system. In Malaysia, necessary measures have been initiated and implemented by establishing the Department of *Awqāf*, *Zakāt* and Hajj (JAWHAR) to standardize cash *wqāf* management (Khamis and Salleh, 2018). Briefly, nowadays cash *wqāf* has been accepted and practiced in most Muslim-dominated countries.

Moreover, *wqāf* is considered as a social security system that significantly contributes to ease not only individuals' financial burdens but also that of a country's economy at large (Zakaria et al., 2013). The contribution of *wqāf* to *Islāmic* society cuts across all sectors, such as agricultural, industrial and the socio-economic (Ahmad, 2015). Similarly, the institution of *wqāf* has significantly contributed to developing public and social services in the Muslim world (Shulthoni and Saad, 2018). It provides sustainable benefits to members of society that span over the current and immediate requirements of the poor and the needy (Elesin, 2017). Based on the findings of research by Budiman (2014), it helps in income redistribution, provision of social services and reduction in the budget deficit and interest rate. Therefore, the integration of a family inheritable business and *wqāf* could ensure the continuity of the

business for the benefit of heirs, exempted heirs and other members of society.

This study intends to show how *wqāf* could be used as an instrument for the sustainability of a family inheritable business to maximize a business's net worth perpetually. The integration of *wqāf* into the business is not only to prevent it against disposal or liquidation but also to ensure that it continues to generate income perpetually for the welfare of heirs and non-heir. The rest of the paper is arranged as follows: the going concern of family inheritable businesses through *wqāf*, how exempted heirs and non-heirs benefit from inheritable family businesses, integrating *wqāf* into family inheritable businesses, the benefits of family inheritable business continuity and conclusion.

2. THE GOING CONCERN OF FAMILY INHERITABLE BUSINESSES THROUGH *WQĀF*

According to Ahmed (1994), a going concern is a popular accounting term postulate/principle, which means in the absence of evidence to the contrary the business must operate perpetually. In *Islāmic* accounting, a going concern is termed as "*istishab*", which literally translates as the presumption of continuity. Therefore, it simply means the continuity of a business. A business is considered a going concern if it can pay its liabilities and continue to operate without any symptom of liquidation (whether voluntary or compulsory) for a minimum of a year (Australian Institute of Company Directors, 2009). Even though the concept of a going concern is acceptable in *Islāmic* accounting, perpetual survival is solely attributed to Allāh '*azza wa jalla* but the continuity of a business depends on what Allāh '*azza wa jalla* wishes (Atherand Ullah, 2009). Similarly, business survival also depends on the agreements of partners (or investors) to the business (Haniffa and Hudaib, 2011). However, if *wqāf* is integrated into a business, partners (heirs) have no right to terminate it. The primary objective of integration is to avoid the fragmentation of an inheritable business, which could reduce its value and consequently decrease the welfare of heirs (Saleem,2019).

Generally speaking, the importance of a going concern for any business is crucial. Concerning a family inheritable business, it means the death of the founder/owner of the business should not lead to its termination. Therefore, all necessary efforts should be made by the founder/owner (before death) and the heirs (after inheritance) to

ensure that the business continues to operate at full capacity for their welfare and that of exempted heirs, employees and other members of society at large. It is not common to find a verse of the Noble *Qur'ān* or an authentic *ḥadīth* of the Noble Prophet (*ṣal-Allāhu 'alayhi wa sallam*) that expressly or explicitly shows that a family inheritable business should remain a going concern. However, many verses and *ḥadīths* imply that the family inheritable business should not be terminated upon the death of the founder/owner.

Investing inherited wealth in a *Sharī'ah*-compliant and profitable business is in line with what Allāh *'azza wa jalla* says "...but feed and clothe them therewith..." (*Qur'ān*, 4: 5). Ismail and Taufiq (2015) believe that since this verse says "feed and clothe them therewith" and not "feed and clothe out of", the inheritable wealth must be invested in a legal and profitable business, so as not to finish the wealth one day by way of consumption. Besides, a business should be allowed to remain a going concern if it is inherited by heirs.

The following *ḥadīth* also shows that the wealth of an orphan (heir) should be invested in a profitable business:

Narration by Amr bin Shu'aib from his father and from his grandfather, who said that the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) informed his companions that: "As for one who is the guardian of an orphan who has wealth, then let him do business with it and not leave it until it becomes consumed by the charity" (Jami' At-Tirmidhi)

Although the above *ḥadīth* is found to be a weak narration, some companions of the Noble Prophet (*ṣal-Allāhu 'alayhi wa sallam*), such as Aisha, Umar bin Khattab and Abdullahi ibn Umar, believed that the wealth of an orphan is chargeable to *zakāt*. This necessitates guardians to embark on legal and profitable business with the wealth of an orphan in order to maximize it continuously. Moreover, Narrated Sad bin Abi Waqqas:

The Prophet came visiting me while I was (sick) in Mecca ('Amir the sub-narrator said, and he disliked to die in the land, whence he had already migrated). He (i.e. the Prophet) said, "May Allāh bestow His Mercy on Ibn Afra (Sad bin Khaula)." I said, "O Allāh's Apostle! May I will all my property (in charity)?" He said, "No." I said, "Then may I will half of it?" He said, "No". I said, "One

third?” He said: “Yes, one third, yet even one third is too much. It is better for you to leave your inheritors wealthy than to leave them poor begging others and whatever you spend for Allāh's sake will be considered as a charitable deed even the handful of food you put in your wife's mouth. Allāh may lengthen your age so that some people may benefit from you and some others are harmed by you.” At that time Sad had only one daughter (Sahih al-Bukhārī).

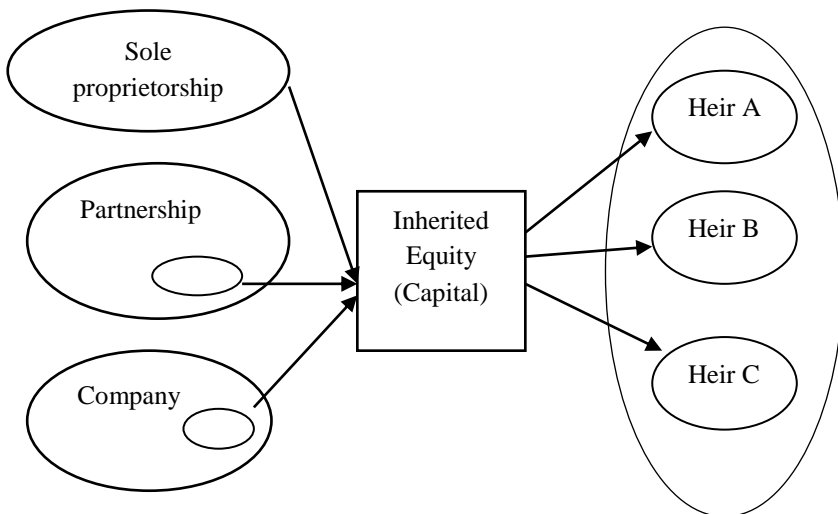
This *ḥadīth* has clearly shown that the objective of limiting the maximum amount to give as a will by the Noble Prophet (*ṣal-Allāhu ‘alayhi wa sallam*) is to avoid exposing one's heirs to poverty when one dies. Consequently, investing inherited wealth is the only way to maximize it for the betterment of heirs. Similarly, if a successful business is inherited, it should not be terminated but rather continued to be operated for the welfare of heirs.

At this juncture, a very important thing to know is how a business could be sustained through *wqāf*. *Wqāf* entails a voluntary donation of a certain property that could be used to generate perpetual income for both religious and social objectives (Ahmed, 2007). Therefore, the creation of *wqāf* is similar to the creation of a private firm with a limitless period of operation (Kahf, 2003). Historically, some wealthy persons, particularly rulers, offered their commercial assets as *a wqāf* for the purpose of earning income to sponsor the operating costs of medical centers (Yalawae and Mohd Tahir, 2008). Similarly, the mosque of Qubaa in Madina was the first *wqāf* in Islam to which real estate was dedicated to generating income affording its maintenance and running costs (Ahmad, 2015).

Generally, any asset declared as *wqāf* is not inheritable. However, depending on the intention of waqif (endower), the asset could be declared as *wqāf* for the benefit of heirs. Specifically, declaring a business as *wqāf* for a family here means by default it is subject to *Islāmic* inheritance law (Saleem, 2019). This signifies that *wqāf* is solely integrated into business for its sustainability with the view to providing net income to heirs. It is, therefore, an avenue that enables a founder/owner of a business to convert a family inheritable business into a trust for the benefit of the family (heirs) in such a way to retain its management as well as prevent it from fragmentation as a result of *Islāmic* inheritance (Saleem, 2019).

In this case, in order to be in line with *Islāmic* inheritance law, the founder/owner of the business should clearly provide that his intention for declaring it as *wqāf* is to avoid its liquidation in order to generate perpetual income for the welfare of his heirs. This implies that heirs become partners to the business, but they have no power to liquidate or sell it. The business becomes *mushārah*. It exists when two or more natural persons combine their capital to undertake a business in strict compliance with the *Sharī'ah* (Umar, 2019a). However, in the case of *Islāmic* inheritance heirs become partners to the inherited business without capital contribution but the capital (equity) of the deceased is shared among them. Inheriting the business produces *shirkat al-milk ghayr ikhtiyarī* (compulsory partnership), which allows each heir to be automatically admitted into the business without capital contribution (Umar and Kurawa, 2019). Figure 1 depicts the process of admitting heirs into an inherited business.

FIGURE 1
The Process of Admitting Heirs into the Business



Source: Adapted from Umar and Kurawa (2019)

The process of transferring a business to heirs is presented in Figure 1. Basically, it shows that a family inherited business could be in the form of a sole proprietorship, a partnership or a company. In the case of a sole proprietorship, the business belongs to the deceased alone and, as such, the whole net worth (equity) of the business is

transferred to heirs. However, in the case of partnership and company, only a certain proportion or percentage of the business belongs to the deceased. In any case, the equity is shared among three heirs A, B and C.

As earlier mentioned, the allocation of equity does not mean that an heir can sell his/her share but rather could assist in the profit allocation. According to Saleem (2019), it is preferable to allocate the income generated by a business among heirs based on their sharing ratios, as established by *Islāmic* inheritance law. This signifies that *Islāmic* inheritance law is not violated but rather heirs are only denied the right to sell or terminate an inherited business.

Moreover, key features of *wqāf* are irrevocability (lack of power of revoking the endowment at any time after declaration), perpetuity (the *wqāf* should have perpetual existence), inalienability (once an asset is declared, it cannot be transferred to anybody by either a donor or an administrator or be taken by heirs) (Mohammad and Iman, n.d.; Stibbard, QC, and Bromley, 2012). These features of *wqāf* could be adapted to accommodate *Islāmic* inheritance with a view to ensuring that an inherited business remains a going concern. Irrevocability entails that once a business is declared as *wqāf*, no one has a right to revoke it. Perpetuity means a business must continuously operate without having a termination period. However, a few Muslim jurists notably of the Maliki School of Thought approved temporary *wqāf* (the one that will not have perpetual existence) (Kahf, 1998). Inalienability means the ownership of the business (whether full or partial) should not be transferred to anybody other than heirs.

3. HOW EXEMPTED HEIRS AND NON-HEIRS BENEFIT FROM INHERITABLE FAMILY BUSINESSES

Hajb is an Arabic word that literally means “to prevent” and from the legal point of view, it could be seen as an exclusion of a person from inheriting the deceased either partially or totally due to the existence of another heir (Lakhvi, 2003). Similarly, according to Al-Jibaly (2005) it is derived from the word “*hajaba*”, which means “veiled” or “screened” and legally it is described as the process of cutting off a person from being an heir to the deceased, either partially or completely. Therefore, *hajb* means exempting a potential heir from inheritance because of the presence of some heirs. The exemption

can either be partial or total. It said to be partial if the existence of an heir makes the share of another heir decrease. On the other hand, exemption becomes complete if the presence of an heir leads to the total exemption of another heir. Table 1 presents how the shares of heirs are partially affected by the presence of other heirs.

TABLE 1
Partial Exclusion

S/N	Heir	Partial exclusion
1.	Husband	His share reduces from one-half (1/2) to one-fourth (1/4) in the presence of a child or grandchild (howsoever remote by male lineage) of the deceased
2.	Wife	She gets one-eighth (1/8) instead of one-quarter (1/4) when the deceased is survived by children or grandchildren (howsoever remote by male lineage)
3.	Mother	Her share is reduced from one-third (1/3) to one-sixth (1/6) if the deceased is survived by children or grandchildren
4.	Son's daughter	Her share changes from one-half (1/2) to one-sixth (1/6) if the deceased is survived by one daughter and no sons
5.	Half-sister	She gets one-sixth (1/6) instead of one-half (1/2) in the presence of one full sister

Source: Umar and Kurawa (2019) and Wan Harun (2012)

Table 1 shows how shares of husband, wife, mother, son's daughter and half-sister are decreased because of the existence of other heirs.

Islāmic succession is established based on excluding the remoter relative by the closer relative (Umar, 2019b). Twenty five persons, such as son, grandson (how low so ever), father, grandfather (how high so ever), full brother, consanguine brother, uterine brother, son of full brother (how low so ever), son of consanguine brother (how low so ever), full paternal uncle, half paternal uncle, son of full paternal uncle, son of half paternal uncle, husband and male emancipator, daughters, granddaughters, mother, grandmother, full sister, consanguine sister, uterine sister, wife and female emancipator are potential heirs of the deceased (Lakhvi, 2003). Table 2 presents the heirs that are completely exempted because of the existence of other heirs.

TABLE 2
Complete Exclusion

S/N	Heir	Exempted by
1.	Grandfather	Father
2.	Paternal mother	Father and mother
3.	Maternal mother	Mother
4.	Son of son	Son
5.	Daughter of son	Son
6.	Full brother	Father, son and grandson
7.	Full sister	Father, son and grandson
8.	Half brother	Father, son, grandson and full brother
9.	Half sister	Father, son, grandson, full brother and full sister (if she inherits as residuary)
10.	Uterine brothers and sisters	Father, grandfather, son of son, full brother and daughter
11.	Son of full brother	Father, son, son of son, full brother and half brother
12.	Son of half brother	Father, son, son of son, full brother, consanguine brother and son of full brother
13.	Full paternal uncle	Father, son, son of son, full brother, consanguine brother and son of full brother
14.	Half paternal uncle	Father, son, son of son, full brother, consanguine brother, son of full brother and son of half brother
15.	Son of full paternal uncle	Father, son, son of son, full brother, consanguine brother, son of full brother, son of consanguine brother, full paternal uncle and half paternal uncle
16.	Son of half paternal uncle	Father, son, son of son, full brother, consanguine brother, son of full brother, son of consanguine brother, full paternal uncle, half paternal uncle and son of full paternal uncle

Source: Umar (2019b) and Wan Haron (2012)

Table 2 presents heirs and their excluders. It could be observed that father, children (sons and daughters), mother and a living spouse (husband or wife) are never exempted from inheriting the deceased.

It is possible that a successful businessperson is dead and left a large number of family members, who are poor and needy. If the deceased is survived by one son, apart from the heirs that are never exempted, none of the family members is going to inherit the

deceased. For instance, let us assume the deceased is survived by a son, who is only five years old with no other person that is never exempted (like father, mother, a living spouse or daughter), but survived by five hundred other family members. Here, the whole estate goes to the son except if the deceased bequeathed in favor of the exempted family members. It is worth noting that making a will (bequest) for the sake of non-heirs is not compulsory but rather optional in the *Shari'ah*. Thus, some Muslim countries in different years, such as Egypt (1943 and 1961), Sudan (1945), Syria (1953), Tunisia (1956 and 1959), Morocco (1958), Iraq (1959 and 1963) and Pakistan (1961), among others, have created laws to enable exempted grandchildren to inherit their grandfathers (Faruki, 1965). However, a common shortcoming of these laws is that they favor only grandchildren. Therefore, other exempted family members, such as uncles, sisters, brothers and other dependent relatives, who might be thousands in number are not considered in the laws (Umar, 2019b).

As mentioned earlier, the whole exempted heirs could benefit from the estate by way of a will, subject to one-third as the maximum. This will enable the deceased to transfer a certain share of the distributable estate to those who are disqualified to inherit him because of some reasons such as different religions, children of *zina* (fornication/adultery), and so forth (Alma'amun, 2010). The other poor and needy members of society who are unrelated to the deceased could also benefit from the estate through the will.

Concerning a family inheritable business, exempted heirs and the other poor and needy members of society could benefit continuously from the business if a certain percentage of the equity is dedicated to them. Therefore, depending on the amount of equity given to them, they are entitled to a share from the total profit (or dividend declared in the case of a company) of the business. In other words, the allocated equity given to exempted heirs and non-heirs to a deceased enables them to earn profit perpetually, if it remains a going concern.

4. INTEGRATING *WQĀF* INTO FAMILY INHERITABLE BUSINESSES

Integrating the *wqāf* into a family inheritable business is beneficial to both heirs and non-heirs. The major benefit of integration to heirs is business sustainability with a view to generating income for them to earn their living comfortably. Exempted heirs and other members of

society could also benefit from the business if a certain percentage of its equity is endowed by a founder/owner as *wqāf*. Hence, Saleem (2019) recommends that the family inheritable business should be preserved with the view to contributing to the socio-economic development of society at large. Umar (2019b) argues that since Islam requires every wealthy Muslim to afford supplying the basic needs of his family members (orphans, widows, poor and needy), this could be sustainably done by endowing a certain proportion of the business equity as *wqāf* for exempted family heirs and other poor and needy members of society.

Moreover, there are four phases within which *wqāf* could be infused into an inheritable going concern business, which are all deduced from either the Noble *Qur'ān* or the *Sunnah* of the Prophet (SAW) or both (Umar, 2019b). The first phase occurs when the founder/owner of the business endowed a certain proportion of his equity as *wqāf* while alive. In this case, the beneficiaries are expected to enjoy as soon as the declaration is made. This based on the following *ḥadīth*:

Narrated Ibn 'Umar:

When 'Umar got a piece of land in Khaibar, he came to the Prophet saying, "I have got a piece of land better than which I have never got. So, what do you advise me regarding it?" The Prophet said, "If you wish you can keep it as an endowment to be used for charitable purposes." So, 'Umar gave the land in charity (i.e., as an endowment) on the condition that it would neither be sold nor given as a present nor bequeathed (and its yield) would be used for the poor, kinsmen, the emancipation of slaves, Jihad and for guests and travelers; and its administrator could eat in a reasonable just manner and also could feed his friends without intending to be wealthy by its means" (Sahih al-Bukhārī).

Furthermore, when Umar Bin al-Khattab (RTA) became the second Caliph of the Noble Prophet (*ṣal-Allāhu 'alayhi wa sallam*), he invited some companions of the Prophet (*ṣal-Allāhu 'alayhi wa sallam*) to witness the endowment in a written form the farm he earlier declared as *wqāf* when the Noble Prophet (*ṣal-Allāhu 'alayhi wa sallam*) was alive. Jaber, one of the companions of the Prophet (*ṣal-Allāhu 'alayhi wa sallam*), said this motivated some companions

to offer their real estates as a *wqāf* and some of them provided a condition that a certain portion of the fruits and the incomes generated from the estates must be given to their children and other descendants (Ahmad, 2015). This shows the need for Muslim businesspersons to think of the future of their family members by providing a sustainable source of income to enable them to live comfortably. This is equally the same if a family inheritable business is confined to generate income for heirs perpetually. To be in line with *Islāmic* inheritance law, the business is confined for the benefit of family heirs through *wqāf*, so that the equity of the business would be allocated among heirs when the founder/owner of the business is dead.

However, *wqāf* for family (exempted heirs), philanthropic and religious purposes could be made and implemented instantly by the founder/owner of the business. A contemporary and famous example of this case in the Muslim world is the *wqāf* of Sulaiman bin Abdul Aziz Al Rajhi. He is a major shareholder of Al Rajhi Bank (one of the largest and popular *Islāmic* banks in the world) and endowed his 19.7% shares in the bank as *wqāf*. The dividends for the shares are managed and disbursed by his foundation called Sulaiman bin Abdul Aziz Al Rajhi Endowments Holding Company. Therefore, as long as the bank remains a going concern dividend must be paid to the foundation to discharge various programs under the *wqāf* (Umar, 2019b).

The second phase in which the *wqāf* could be integrated is to make it as a will to implement when the founder/owner of the business dies. Allāh *'azza wa jalla* says:

It is prescribed for you, when death approaches any of you, if he leaves wealth, that he makes a bequest to parents and next of kin, according to reasonable manners. (This is) a duty upon Al-Muttaqun (*Qur'ān*, 2:180).

Although making a will for parents is abrogated (because they are never exempted from the inheritance), the general message of the above verse is about making a will by wealthy persons in favor of their exempted family members. In fact, a will must be settled before distributing a residue among heirs (*Qur'ān*, 4: 11 and 12). In relation to the inheritable business, the integration of *wqāf* and the business is implemented when the founder/owner of the business dies. In other words, for the sake of its continuity, the founder/owner could bequeath that when he dies the business must not be liquidated

but rather his heirs should be admitted into the business as partners. Besides, a certain portion of equity of the business could be bequeathed in favor of exempted heirs, close relatives and other members of society.

In the third phase, if someone dies without making a will, the heirs could do so on his or her behalf. This is in accordance with the following *ḥadīth*:

A'isha (May Allāh be pleased with her) reported that a man came to Allāh's Apostle (may peace be upon him) and said: Allāh's Messenger, my mother died all of a sudden without making any will. I think if (she could have the opportunity) to speak she would have made a Sadaqa. Would there be any reward for her if I give charity on her behalf? He (the Holy Prophet) said: "Yes". (Sahih Muslim).

The above *ḥadīth* shows the validity of giving out something from the inherited wealth on behalf of the deceased. In the case of an inherited business, his heirs could reach a consensus to endow a certain share from the equity of the inherited business as *wqāf* for the sake of the deceased. This could easily be implemented if the heirs agree to set up a business to remain a going concern for their benefit, too.

In the fourth phase, heirs could agree to willingly declare the business as *wqāf* on the condition that the profit or loss should be shared in accordance with the ratios established based on *Islāmic* succession law. Meanwhile, they (heirs) can dedicate a certain portion of the equity as *wqāf* for the benefits of exempted heirs and other members of society. Allowing them to get something from inherited wealth is duly endorsed (*Qur'ān*, 4: 8).

5. THE BENEFITS OFFAMILY INHERITABLE BUSINESSCONTINUITY

Generally, some of the reasons for the need to sustain *mushārahkah* businesses (most of which are family inheritable businesses) include provision of employment opportunities, income redistribution, wealth maximization, business *zakat* maximization, *wqāf* and discharging other corporate social responsibility, among others, towards poverty eradication, the welfare of the *ummah* and economic

growth and development at large (Umar, 2019a). Family businesses play a vital role in the development of the world's economy and are considered as the backbone of economic systems (Schwass, 2013; Englisch, 2012). They create employment opportunities, as they are locally rooted and related to their communities (Schwass, 2013). Similarly, they are considered to be effective engines for every economy in terms of providing employment and generating national income in the form of tax (Lucky, Minai, and Isaiah, 2011). Therefore, family businesses provide substantial employment opportunities in countries across the globe. For example, a large number of businesses in South Africa that significantly contribute to employment, poverty eradication and wealth creation commenced as family businesses (Gomba and Kele, 2016).

The sustainability of the family business plays a vital role in the sustainability of economic growth and development (Adedayo and Ojo, 2016; Abdullah, Abdul Hamid, and Hashim, 2011). Their existence and sustainability are agreed to significantly contribute to economic development (Abdullah et al., 2011). According to the Family Firm Institute, the majority of businesses in the world are family businesses, which were estimated to have contributed 70% to 90% of the global GDP (Hannonen, 2013). Similarly, Osunde (2017) stated that the estimated contribution of family businesses to the global GDP is more than 70%. Specifically, in Malaysia SMEs (which are mostly family businesses) gross output and value added were 28.5% (RM507.1 billion) and 30.2% (RM213.9 billion) respectively in 2011 (Gunto and Alias, 2013). A lion's share of Small and Medium Enterprises (SMEs) in many countries in the world is family business (Abdullah et al., 2011). Recently, Osunde (2017) stated that in every region of the world (such as the USA, South America, Europe, Asia and Africa), family businesses fall within a group of Micro, Small and Medium Enterprises (MSMEs), though a number of large multinational companies, such as Ford Motors and McDonalds are still operated as family businesses. This implies that the majority of family businesses are owned and controlled by family members.

Further, about one-third (1/3) of Fortune Global 500 companies are founded or controlled as family businesses and accounted for 40% of the major quoted European companies (McKinsey and Company, 2014). They constitute more than 60% of the whole firms in Europe and America (Englich, 2012). In the emerging markets, family businesses account for 60% of the private-sector companies (McKinsey and Company, 2014). In the EU, they

constitute about 66% of the companies (Rexhepi, 2015). Researchers also discovered that in 2014, the total population of family businesses in the UK was 4.6 million, constituting about 87% of the total private firms (Institute of Family Business, 2016). In addition, more than 7,000 large firms are anticipated to be established in emerging markets between 2010 and 2025 and 80% of them are expected to be family-owned businesses (McKinsey and Company, 2014). In Malaysia, SMEs formed 97.3 % of all the firms in the country (Gunto and Alias, 2013). Similarly, about 70% of the quoted firms in Malaysia are family-owned businesses (Amran and Ahmad, 2010). In Finland, they (family businesses) are about 70% of all the companies in the country (Melinen and Vento-Vierikko, n.d.). More than 80% of the total companies in the US are owned or controlled by families (Ibrahim and Samad, 2010).

It is imperative to note that going by the domination of family businesses across the globe, they are likely to provide substantial employment opportunities in all countries of the world. However, the percentages of employment could differ among the countries. For example, family businesses provide about 50% of job opportunities in Europe and the Americas (Englisch, 2012). In Pakistan, they provide about 80% of the employment opportunities (AfghanandWiqar, 2007). These examples show the significant contribution of family businesses in providing job opportunities.

Briefly, at a macro-level, the sustainability of family businesses and transferring them to future generations would consequently retain and improve their contributions to economic growth and development and the provision of employment opportunities as well. More so, from the *Islāmic* succession point of view, the sustainability of family inherited businesses is of great importance to the welfare of family heirs. This is based on the concept of productive inheritance, which suggests that inherited wealth should be invested in productive outputs (profitable businesses) in order to empower and strengthen the economy of surviving family heirs (Rachmawati and Muttaqin, n.d.). In this case, since heirs become partners to the business, each is entitled to a share of the profit (or dividend) every year as long as it continues to operate. By way of a bequest or *wqāf*, exempted heirs and non-relatives to the founder/owner of the business are entitled to a certain share of the annual profit of the business. This is achieved if a certain proportion of the equity of the business (say 20%) is dedicated to them. In this case, every year they get 20% of distributable profit

(dividend declared). Further, the continuity of the family inheritable business implies the continuity of the payment of the business *zakat* to achieve the socio-economic development of the *Islāmic* society (Haniffa and Hudaib, 2011; Ather and Ullah, 2009). Briefly, the sustainability of family inheritable businesses is not only beneficial to heirs but also the other members of society.

6. CONCLUSION

Considering the recognition of the contribution of family businesses worldwide, this paper seeks to provide a way of sustaining family inheritable businesses with a view to be beneficial to heirs, exempted heirs and other members of *Islāmic* society. *Islāmic* inheritance law provides clear guidelines on how the estate of the Muslim deceased is distributed among his or her rightful heirs. Islam does not only stop at the point of distribution but also provides full support to ensure that inherited wealth is preserved and maximized in legal ways. Business is one of the estates commonly inheritable by Muslims. Inheriting a business by heirs implies that they become partners (shareholders) to the business. Hence, the business becomes a family concern if it is owned and controlled by persons from the same family. Integrating *wqāf* into an inheritable business would definitely protect it against termination or disposal by heirs. Under normal circumstances, profit or loss is shared in accordance with the ratio established based on *Islāmic* inheritance law. The significant contribution of family businesses to the provision of employment opportunities and global GDP shows also the importance of the sustainability of family businesses. Moreover, from the *Islāmic* point of view, sustainability would increase business *zakat* collection for the use in eradicating poverty in Muslim societies.

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