



Family, Business and Inheritance Issues: In the context of Islamic Shariah solution

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Abstract- When the family system and the business start to run together, many problems arise. This is not a problem of any one country, but a global problem. One of the most complex and fundamental issues in this field is the issue of inheritance. Since the 'Meeras' i.e. the Division of Inheritance is a purely Islamic solution to problems, it is important to discuss aspects of it that relate to common family and business issues.

The study will explore the Division of Inheritance through qualitative analysis of a selected sample of family businesses in the light of Islamic Sharia and aims to find the factors contributing to the family business and inheritance issues. The study will give an in-depth view of the family business and inheritance issues in the Muslim community and their solution.

Keywords: Family; Business continuity; qualitative analysis; Inheritance issues; Islamic thoughts

I. Negligence in the Distribution of Business and Inheritance

This is the age of growth and development of economy and trade, the standards of industry and economy measure the development of countries, and new forms of trade are emerging all the time. At the same time, research on economic topics is being carried out. Every new form of trade is scientifically analyzed, and its positive and negative aspects are examined and tested. That is why when different types of work come into existence, people in every field review it from their point of view and present their research. This research can be done from the perspective of management, from the standpoint of economic effects, and the Islamic point of view.

One of the most talked-about business ventures of all time is "family partnership or family business." This is commonly called "Family Business." The family business has become very important in modern times. Western intellectuals have turned their pens and research in this direction. Should families do business together? Can a partnership between family members be successful? Is a family partnership stronger and more potent than an ordinary partnership? What are its difficulties and problems? Which generation does it fail in and why? What is the solution to all such issues?.

This special focus on the family business is due to the business's natural nature, its ancient history, and the great potential for success associated with it. This business, by its very nature, is on the verge of success. As a result, it has an excellent effect on the national economy. According to a global survey: This type of business has been around in the world since ancient times. According to statistics, 85% of Europe, while 90% of the United States businesses are Owned by families. Similarly, 98% of the Gulf economy is run by the family business. ([i])

In a country like Spain, 75% of the economy consists of the family business. Some countries of the world have 60%, and some have 70% family business. About 90% of India's economy is dependent on the family business. 70% to 90% of global trade is generated annually by the family business. ([ii])

According to a country's corporate business and public companies, economists believe that not so effective as the family business or family partnership effective that caused the country's growth. Because we can see the family businesses are ruling in the business world, such as HYUNDAI in and SAMSUNG in France, FORT MOTORS and WALMART in America, LG GROUP of South Korea and in Japan SEMINS are important examples of ideal and successful family businesses.

This form of business, where families are needed, is also essential for the country's rapid development and the nation.

On the other hand, it is a great fact that 90-95% of family businesses do not survive after the third generation. On the one hand, the family business is 100% more beneficial to the national economy; on the other hand, it's a failure. Experts say that successfully transferring the family business to another generation is one of the world's most difficult tasks. Recently, the world's leading multinational firm "Ernst and Young while the report on Bahrain issued is only moving in one of the businesses for the fourth generation " GCC " struggling due to lack of planning says that 80% of the family business right project in the Gulf Are Saudi Arabia has been the case that a 24-year average age of business was made. ([iii])

Especially about family businesses in Pakistan and India, it seems inevitable that they cannot go beyond the third generation. In this region, this proverb is famous: " The first generation raises business is, the second generation is the stable is. However, third-generation destroyed", while this proverb is repeated with such a sure foundation and so repetition of it is a cosmic reality like the rising of the sun and sunset. Then the situation in Pakistan, in particular, is even worse. Here, as soon as the second generation is reached, the business suffers from severe problems. Separation occurs in the most unfortunate state. Business, family, blood relations, property, profits, interests, goals, everything is divided.

A spurt this business to bring the country under discussion with the feature and its related issues in Pakistan's vital need time to study and present a solution. The dissertation is a small attempt to draw the attention of researchers to the subject.

When the family business is passed on to the second generation, it is the inheritance and legacy of the deceased elder, which should be distributed among all the heirs according to Islamic and Shariah principles. They cannot accurately be split if there is a family business based on the crooked brick.

تاثیر سے رود دیوار کج خشت اول چوں نہد معمار کج

An inheritance series' problems bring out distribution work issue in Islam is so important that the offering was explained in detail as part of the legacy of any signs of so much detail and what Not stated The rule of prayers is there. Still, the details of the rak'ahs and details of the prayers are not available, and its practical method is not explained in detail. Surah Nisa verse

”وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ“ ()

According to the law, not to divide the inheritance of sin to the usurpation of others' rights, it is hard to disobey and break the law limits in Allah and His Messenger. The Holy Qur'an has promised severe punishment for such a person. It is a divine command:

عن انس رضی اللہ عنہ قال: قال رسول اللہ ﷺ من قطع میراث وارثه قطع میراثه من الجنة يوم القيام. ()

"And whoever disobeys Allah and His Messenger and transgresses His limits, He will admit him into Hell, to abide therein, and he shall have a chastisement which Will humiliate."

II. The Leading Causes of Negligence and Omission, Identification of Correctable Issues, Effects, and their Shariah Solutions

In this context, a few cases are written here, in which what are the problems related to the distribution of inheritance in the family business and what is the solution in the eyes of Shariah? In fact, some real case studies are being added here, which will help in understanding the nature of the problems according to the ground reality. 12 such cases are listed here:

The first case : Inheritance of adopted children

Sometimes it happens that a person does not have children or for example if he does not have male children then he adopts a child from one of his brothers etc. In that case, how will the problem of inheritance be solved? Because this child really belongs to his real father. His lineage is also proved by this. If his real father

dies, will he share in his father's inheritance with his real siblings or not? Is it possible that he could not become a part of his real father's inheritance because he was supposedly attributed to another father?

Shari'ah Ruling:

The guidance of the Shari'ah concerning them is that they will both share in the inheritance of their real father. They will not lose their father's inheritance. Therefore, it is obligatory on the brothers to give them a full share of the inheritance.

In Surah Al-Ahzab, Allah Almighty says:

مَا جَعَلَ اللَّهُ لِرَجُلٍ مِنْ قَلْبَيْنِ فِي جَوْفِهِ وَمَا جَعَلَ أَزْوَاجَكُمْ اللَّائِي تَطَاهُرُونَ مِنْهُنَّ أُمَّهَاتِكُمْ وَمَا جَعَلَ أَدْعِيَاءَكُمْ أَبْنَاءَكُمْ ذَلِكَ قَوْلُكُمْ بِأَفْوَاهِكُمْ وَاللَّهُ يَقُولُ الْحَقَّ وَهُوَ يَهْدِي السَّبِيلَ.

(Allah Almighty has not created two hearts in the heart of any person. And you did not make the wives you likened to mothers behind you your mothers, nor did you make your mouthful sons your real sons. These are the words which you say with your mouths, and Allah says that which is true, and He guides to the right path.)

The second case: Taking advantage of inheritance without determining the value:

1. The younger brother got involved in business with his father during his lifetime. The determination of responsibilities and ownership was not clear. After the death of the father, if he takes permission from the rest of the siblings or the siblings give him permission, can this younger brother benefit from the business?

2. Dad had a shop for rent. The younger brother receives the rent of the shop after the life of the father and after his death. Would it be permissible if he took permission from the other siblings or if the other siblings consented to allow him to rent and use it?

3. Dad had a house. The house has been used by his mother and three brothers since his father's death. There are 10 siblings in total. If the mother and the three brothers take permission from the other heirs or the other heirs give permission of their own free will, will it be permissible?

Shari'ah ruling:

First determine the ownership of each of the inherited property, so that the rights of each are determined. Then it is permissible for an adult to inherit his share by mutual consent for the use of a gift or a loan, while the permission of a minor is not valid in Shari'ah, as he is not obliged to follow other rules before puberty and also before puberty in general. But competence also disappears. Allaah says (interpretation of the meaning):

لَا يُكَلِّفُ اللَّهُ نَفْسًا إِلَّا وُسْعَهَا.

(Allah does not give any person more responsibility than he can bear.)

The third case: Someone's property is in someone else's name:

If the son buys the property and the name belongs to the father, will there be a division among all after death?

Shari'ah ruling:

If the son has bought it for himself and explained it and everyone knew it, then this property is the son's country. It does not matter what the father's name is and even after the father's death, the son's country will be counted. It is not permissible to inherit from him as a father.

The jurisprudential rule in this regard is:

الامر بالتصرف في ملك الغير باطل.

(An order to dispose of someone else's property is invalid.)

The fourth case: Inheritance and business distribution in offspring:

What will be the method of distribution of business among the heirs?

Shari'ah Ruling:

If the business is distributable then divide and if it is not distributable or there is a risk of loss due to distribution then it can be continued by determining the status and shares of the participants. Will own and partner with this business. And they will have the same proportion of profit and loss.

The fifth case: Deprivation of heirs:

Someone asks: Praise be to Allaah. I have property, gold and cash. I have three daughters, my wife has died. There are three brothers, but none of them are of any use. I intend to give the rest of my wealth to my three daughters so that the brothers do not get anything, or get less, so I can do it or not. ?

Shari'ah ruling:

It is wrong and sinful to give away one's property only to girls with the intention of depriving other heirs. The hadeeth says that some people spend all their lives in obedience to God but deprive their heirs at the time of death. The Almighty will cast him into Hell.

It is narrated in MISHKAT Sharif:

عن ابى هريرة عن رسول الله ﷺ قال: ان الرجل ليعمل والمرأة بطاعة الله ستين سنة ثم يحضرهما الموت، فيصاران في الوصية، فتجب لهما النار، ثم قرا ابو هريرة: "من بعد وصية يوصى بها او دين غير مضار" الى قوله تعالى "وذلك الفوز العظيم."

(It is narrated on the authority of Hazrat Abu Hurayrah that the Holy Prophet (sww) said: Indeed, a man and a woman spend sixty years in obedience to Allah. After that, Hazrat Abu Hurayrah (may Allah be pleased with him) blessed recited these verses: "من بعد وصية يوصى بها او دين غير مضار" "سے لے کر" "وذلك الفوز العظيم."

However, It is best to keep your property to yourself. After your death, the girls will get one third (inheritance) and one part will go to the other heirs (brothers), they are also entitled, Allah Almighty has made them entitled, so do not be discouraged. -

Sixth case : Depriving sisters and girls of their share

1 Some people say that brothers and sisters should not be given inheritance so that if they get married in non-Kufu, they will not take the property. Is this excuse valid or not?

2 A person in whose family Shariah proceedings had never taken place, always the sisters never demanded their share from their brothers, but gave it up. By the same principle, this person also withdrew from his property Deciding on the relevant constitution deprived the daughters. In that case, is the person guilty or negligent?

3 Those who do not give inheritance to girls and offer the excuse that since we were first Hindus, and our elders converted from Hindus to Muslims, the Hindu tradition continues here that sisters are brothers. Girls do not get the right of inheritance while having a son, clothes, dowry etc. are given at the time of marriage, are sisters and girls entitled to inherit or not? And what is the ruling on those who try to deprive them of their rights, lawyers and witnesses? Is it permissible to greet and participate in such people or not?

Shari'ah ruling:

1. Not giving a share to sisters and daughters because of this false idea is a clear injustice and it is unlawful and haraam. When they are the legal owners of their share, not giving them their right is a clear injustice.

There is a Holy Hadith:

عن انس رضى الله عنه قال: قال رسول الله ﷺ: من قطع ميراث وارثه قطع الله ميراثه من الجنة يوم القيامة.

(It is narrated on the authority of Anas that the Prophet (peace and blessings of Allaah be upon him) said: "Whoever deprives his heir of his inheritance, Allaah will deprive him of Paradise.)

2. Ignoring God's commands is also a sin. Therefore, if the said person does not pay the shar'i rights of his sisters and wives out of his own and his heirs' property and does not deliver them to the rightful claimants, then he will be blamed before Allah Almighty for wasting the rights of worshipers. Yes, and because of that he will be sinful and disobedient. Giving preference to worldly laws and customs over the law of Allah will be very reprehensible and will cause trouble and regret in the Hereafter.

In the Holy Qur'an, Allah Almighty says:

وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ وَيَتَعَدَّ حُدُودَهُ يُدْخِلْهُ نَارًا خَالِدًا فِيهَا وَلَهُ عَذَابٌ مُهِينٌ.

And whoever disobeys Allah and His Apostle and transgresses His limits, He will cause him to enter Hell to abide therein, and he shall have a chastisement which shall make him humble Will

3. No one can invalidate the right of inheritance of girls which Allah (swt) has ordained, and those who want to invalidate the right of girls by presenting custom against it are grave sinners and their excuse is invalid. Yes, their bogus excuses and rash interpretations will not deprive the girls of their inheritance.

Allaah says (interpretation of the meaning):

وَمَا كَانَ لِمُؤْمِنٍ وَلَا لِمُؤْمِنَةٍ إِذَا قَضَى اللَّهُ وَرَسُولُهُ أَمْرًا أَنْ يَكُونَ لَهُمُ الْخِيَرَةُ مِنْ أَمْرِهِمْ وَمَنْ يَعْصِ اللَّهَ وَرَسُولَهُ فَقَدْ ضَلَّ ضَلَالًا مُبِينًا.

And when Allah and His Messenger have made a final decision in a matter, then there is no room for a believing man or a believing woman to have any choice in their matter. And whoever disobeys Allah and His Apostle, he indeed strays off into a manifest error.

III. Conclusion:

In short, family business is a natural and natural reality. Almost every business, even if it is owned by an individual in the beginning, must be converted into a family business after a certain period of time. That is why it is so important in world economic development. Family business, if formed in accordance with Islamic principles, is based on lasting and strong foundations. It is also largely safe from mutual quarrels and differences. It is clear that no family business can prosper unless it is protected from these quarrels. One of the main reasons for the rift in the family business is the untimely distribution of inheritance and non-compliance with Shariah principles in distribution. The second reason is not to share in the inheritance of the real father. While The third reason is to take advantage of the inheritance without determining the ownership of each one. The fourth reason is to register the business in one's name. The fourth reason is to deprive the daughters and sisters of their share in the inheritance. Can't stay or progress. However, proper planning is necessary in any case.

In the light of this research paper, if the importance of family business is understood, it is not difficult to conclude that the chances of growth of family business in the present era are very high, but it is beneficial only if it is nurtured keeping in view the above principles. The evils we have identified above should be completely avoided. Although it may seem difficult at first and it is believed that the determination of these details will be a means of spoiling the relationship, but the determination of the outcome is the main reason for the survival of the business and the avoidance of quarrels.

Finally, in resolving family and business problems, resolving inheritance in accordance with Islamic principles is of utmost importance, which can be well gauged from the above discussion.

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