

Examining the Concept of Shareholding in Company from Malaysian Company Law and Shariah Perspectives

Nazri Ramli¹, Zuhairah Ariff Abd Ghadas², Hartinie Abd Aziz³

^{1,2,3}Faculty of Law and International Relations, University of Sultan Zainal Abidin, Gong

Badak Campus, 21300 Kuala Nerus, Terengganu, Malaysia

Email: nazriramli87@gmail.com¹, zuhairahariff@unisza.edu.my²,

hartinieabdaziz@unisza.edu.my³

To Link this Article: <http://dx.doi.org/10.6007/IJARBSS/v14-i11/23577> DOI:10.6007/IJARBSS/v14-i11/23577

Published Date: 25 November 2024

Abstract

The concept of shareholding is central to modern corporate structures. Shareholders are viewed as owners with proprietary interests and risk bearers in the company. However, this view faces criticisms in company law for two reasons. First, shareholders do not own the company's assets due to its separate legal person status. Second, despite having rights linked to ownership, shareholders benefit from limited liability protection. Given the recent emergence of Shariah-compliance sector that adopts this business vehicle, a company is discussed under the concept of sharikah from Shariah perspectives where the shareholders are viewed as partners in the company who participated in the latter's capitals and profits. Nevertheless, such view is contentious upon revealing the dichotomies between both company and sharikah including the shareholding structure. Therefore, by adopting doctrinal legal and Shariah analysis, the article aims to examine the comparison of the concept of shareholding between the common law embedded in the Malaysian Companies Act 2016 and the Shariah. The article concludes that the current corporate shareholding under the common law contravenes the sharikah principles which are premised on the co-ownership of underlying business and the risk-reward principle. Hence, there is a need to revisit and modify the former in compatibility with the latter. Such modification is crucial for a Shariah-compliant business that emphasizes the shareholding based on sharikah principles in facilitating Shariah-compliant investments and activities within such entity.

Keywords: Shareholding, Malaysian Company Law, Sharikah, Shariah

Introduction

The concept of shareholding has dominated current corporate structures of a company. By subscribing shares, the shareholders are said to be the 'owners' or residual claimants having proprietary interests in the company and the risk bearers due their capital contribution in the latter. Nevertheless, such contentions remain controversial under the company law for

twofold. First, shareholding does not entail ownership over the company's underlying assets due to its separate legal personality status. Second, the shareholders are protected by limited liability regime despite having certain bundles of rights associated with shares ownership.

The aforementioned highlights have been deliberated among contemporary Shariah scholars given the recent emergence of Shariah-compliance sector that adopts this business vehicle (Ramli et al., 2023a). From Shariah perspective, a company is discussed under the concept of sharikah (Islamic partnership) where the shareholders are viewed as partners in the company who participated in the latter's capitals, assets and profits. (Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), 2015) Nevertheless, such view is contentious upon revealing the dichotomies between both company and sharikah including the shareholding structure. Therefore, the article aims to examine the comparison of the concept of shareholding between the common law embedded in the Malaysian Companies Act 2016 (Act 2016) and the Shariah.

The article finds that the current corporate shareholding under the common law contravenes the sharikah principles which are premised on the co-ownership of underlying business and the risk-reward principle. Hence, it further concludes that there is a need to revisit and modify the former in compatibility with the latter. Such modification is crucial for a Shariah compliant business that emphasizes the shareholding based on sharikah principles in facilitating Shariah-compliant investments and activities within such entity.

Methods of Study

This article adopts a doctrinal and comparative legal and Shariah analysis between the shareholding in a company and sharikah including their corporate structures. The choice of this technique aligns with the study's objectives where the resulting analysis is expected not only to benefit from a purely theoretical perspective but also provide a holistic understanding of the shareholding concept under both legal systems in terms of their commonalities and dichotomies. In respect of data collection, it is wholly dependent on a library-research mode by reference to their respective primary and secondary sources.

Literature Review

Shareholding Under the Common Law

The shareholding concept is originated from a company limited by shares. A company refers to a body corporate that is a separate legal entity distinct from its members upon incorporation as provided in Section 2 of the Act 2016. It is bestowed with other legal attributes such as the right to own assets within its legal capacity, the right to take legal action, the right to enter into transactions, the right of immortality etc (Section 21(1)(b) of the Act 2016). (Ramli & Ghadas, 2019) The advent of judgment of the House of Lords in *Salomon v Aron Salomon & Co Ltd* [1897] AC 22 has finally affirmed the separate legal personality of a corporation from its members i.e. shareholders as the fundamental legal attribute coupled with the limited liability protection given to them. (Beuerle & Schillig, 2019)

Position of Shareholders in the Act 2016

Shareholders are defined as “an owner of shares in a limited company or limited partnership. A shareholder is also known as a member of the company”.¹ (Oxford University Press, 2024) Section 2(1)(a) of the Act 2016 defines member as:

“A person whose name is entered in the register of members as the holder for the time being of one or more shares in the company limited by shares.”

The members of a corporation have two essential roles. First, members provide capital by acquiring shares in a company as a form of investment. In return, they are entitled to receive ‘financial rights’ in the company notably a share in the company’s profits through the payment of dividend. Second, the members have some control rights in a company that relate to decision making matters. (Mohd Sulaiman & Othman, 2018) Meng highlighted that among their bundles of rights attached to shares under the Act 2016 include the right to receive dividends declared by the company, the right to an equal share in the distribution of the surplus assets of the company, the right to attend, participate and speak at a meeting, the right to vote (for instance the appointment of directors) and the like. (Meng, 2017)

Apart from the above, the shareholders are insulated from the debts of a company under the limited liability regime. (Abd Ghadas & Abd Aziz, 2019) Section 192(1) of the Act 2016 states that a member shall not be liable for an obligation of a company be reason only of being a company’s member. Particularly, Section 192(2)(a) further depicts that in a company limited by shares, the members’ liabilities are limited to any amount unpaid on a share held by the member.

Theory of Shareholder Primacy

Shareholders are commonly propagated by the theory of shareholder primacy. According to this theory, the shareholders are viewed and should be viewed as owners of the company which primarily aims to maximize their wealth. As the owners of the property rights in the company, the board must operate the company business for their benefits. This view is strongly supported by the notion that they are the capital providers in the company. (Quinn, 2016) (Quinn, 2016)

Furthermore, the shareholders are also considered as the residual claimants in the company who regard their claim as the least priority behind other creditors. They also are viewed as the risk bearers who take the risk in their investment and assumption of loss of capital in the company. (Lowry & Reisberg, 2012)

This theory can be supported by the case law of *Greenhalgh v Cinema Ltd* [1951] Ch 286 where Evershed M.R. held that the duty of board to act in the best interest of the company as a whole simply refers to the financial well-being of the shareholders as a general body, rather than the corporation itself. (Grantham, 1998)

In addition, several cases law in Malaysia also regard the shareholders as the owners in a company. For instance, *Ramly Ali FCJ in Tan Chee Hoe & Sdn Bhd v Code Focus Sdn Bhd* [2014] 3 MLJ 301 held that:

¹ Oxford University Press, Oxford Reference, Accessed through the website: <https://www.oxfordreference.com/display/10.1093/oi/authority.20110803100458580>

“In actual fact, shareholders are owners of a company. They raise capital for operational requirement of the company as a going concern, while directors, who may or may not be shareholders are only involved in the day to day management of the company.”

The above judgment clearly shows that the use of term owner is a reflection of this theory.

Shareholding Under Shariah

Shareholding in the context of this discussion refers to a shareholding concept in a modern business organization namely sharikah al-musahamah (joint stock company) that is equivalent to the company.(Al-Zahrani, 2013) Given this new contemporary issue within the area of financial matters in Islam, the contemporary Shariah scholars discussed the Shariah ruling of sharikah al-musahamah under the concept of sharikah.

Technically, sharikah is defined as:

“Participation of two or more persons in a certain business with defined amounts of capital according to a contract for jointly carrying out a business and for sharing profit and loss in specified proportions”.(Butaiban, 2021)

Al-Zarqa’ articulated that sharikah falls under the ‘aqd musamma (class of contract determined by Shariah) that meets its own muqtadha al-‘aqd (objective of contract) determined by the Shariah i.e. the sharing of profits and losses.(Al-Zarqa’, 2012) In the context of sharikah al-‘aqd (contractual partnership), it comprises several categories among others, sharikah al-amwal (property partnership). The latter indicates a partnership of two or more persons in the capital provided in view of profit, that is divided into another two categories namely sharikah al-‘inan (limited partnership) and sharikah al-mufawadhah (equal partnership).(Al-Za’tari, 2012) For this study, the authors look into the concept of sharikah al-‘inan that is used by the contemporary Shariah scholars in arguing the same in respect of sharikah al-musahamah.

Sharikah al-‘inan refers to the participation of two or more persons with the permissibility of stipulating inequality, through their work on wealth or their work on the wealth of another, or though their credit-worthiness without wealth, so that the profit can be shared by them as agreed.(Nyazee, 2006) They share the profit based on their agreed portion and shall be liable for the losses in proportionate to their respective capital contribution. In short, three pillars of sharikah al-amwal must be fulfilled to constitute a valid sharikah contract which are sighah (offer and acceptance among the partners), contractual parties, and the subject matter of sharikah i.e. the capital of sharikah.(Al-Zuhaili, 2001)

In relation to sharikah al-musahamah, it is defined as:

“A company with its capital divided into equal tradable shares, and the liability of each of its partners is limited to his share in the capital”.(International Islamic Fiqh Academy, 2021)

Based on the above definition, it implies a contract between several persons in a certain particular projects whose share the profit and losses in accordance with their shares contributions.(Al-Zuhaili, 2002)

The contemporary Shariah scholars discussed the ruling of sharikah al-musahamah from Shariah perspective. Overall, they argued that sharikah al-musahamah is permissible analogous with sharikah al-`inan among the contracting members. In addition, the status of sharikah al-musahamah as al-shakhsiyyah al-`itibariyyah (legal entity) is recognized under Shariah in reference to the concept of dhimmah (locus of rights and obligations) and other classical Islamic institutions that have such dhimmah such as waqf (endowment), mosque and the like.(Abdullah et al., 2020)

Malaysian scholars also discussed the position of company from Shariah perspective. (Mohd Sulaiman, 2005) argued that the concept of a modern corporation is recognized under sharikah arrangement. This is supported by Rosele who argued that a corporation registered under the CA 2016 is permissible alike sharikah al-`inan.(Rosele, 2016) Recently, in the 261st Shariah Advisory Council of Securities Commission Malaysia (SAC of SC) meeting held on 17 October 2022, the SAC of SC had resolved among others, that the appropriate takyif fiqh (adaptation of fiqh) for Shariah-compliant preference shares (PS) is the principle of musharakah (sharikah) between the PS holders and ordinary shareholders who provide capital to the corporation. Based on the SAC of SC's Shariah justifications, the context of PS can be seen from the perspective sharikah al-`inan.(Securities Commission Malaysia, 2022)

Position of Partners in Sharikah Al-`Aqd

Partners or shuraka' are the contracting parties in a sharikah-al-`aqd. By providing the capital, they are concluded as the owners of the sharikah business based on co-ownership in accord to their share contribution (Ta'wil, 2009).

As the partners of sharikah, they have property rights over the business including the right of tasarruf (disposition) which include the right to manage the business etc.(Hasanuzzaman, 1996) According to the view of some classical scholars, they may appoint their co-partner as an agent to conduct the business on behalf or appoint another person as a new partner or mudharib in managing the business subject to the consent of their co-partners (Al-Hujailani, 2002).

Apart from that, it is stipulated for the partners to share the capital and profits based on musha' proportion. This is because co-ownership is a muqtadha al-`aqd for sharikah. Differently, both rabbul mal and mudharib only share the profit in musha' under the mudharabah contract since it is the rabbul mal alone who provided the capital(Al-Hammadi, 2007).

In relation to the liabilities of partners in a sharikah al-`inan, Fahmi asserted that the partners are liable for the losses including the debts of sharikah in accord to their capital contributions.(Fahmi, 2003) In other words, the status of their liability in the sharikah contract is unlimited (Nyazee, 2010).

Position of Shareholders in Sharikah Al-Musahamah from Shariah perspective

As sharikah al-musahamah is analogized with sharikah al-`inan under Shariah, the contemporary scholars still regard shareholders as the partners among themselves in such entity. This is because the Shariah does not differentiate between company and partnership though the common law differs between the two entities. Hence, shareholders remain as

partners in the company and be subjected to sharikah principles. (Abd Ghadas & Engku Ali, 2012)

Notably, the contemporary scholars disputed on several aspects relating to the concept of shareholding in a sharikah al-musahamah as follows:

Takyif Fihi of Shares in Sharikah Al-Musahamah

The contemporary scholars have divergence of views on the conception of shares under the Shariah and its consequence to the status of shareholders into two groups.

The first group led by majority of them view shares from Shariah perspective to the effect that shares represent an undivided share or interest in the company assets. (Muhammad Nur, 2019) This is clearly highlighted in Article 3/1 of the Shariah Standard No. 21 Financial Paper (Shares and Bond) of the Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI) as follows:

“A share represents an undivided share in the capital of a corporation, just as it represents an undivided share in its assets and the rights associated with it upon conversion of the capital into tangible things, benefits, debts and so on. The subject-matter of the contract at the time of trading of shares is this undivided share”. (Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), 2015)

Among the justifications of the first group are that first, sharikah al-musahamah takes the ruling of sharikah al-`inan. Hence, the concept of shares represents such undivided interest. Second, shareholders are partners from the perspective of sharikah al-`inan. Third, the ownership of assets by the company as a legal entity equates with the ownership of the shareholders from sharikah perspectives. Forth, the disconnection of shares from the company's underlying business implies the possibility to invest in any companies whose business activities are not complied with Shariah (Ali Hamid, 2013).

In contrast, the second group led by El-Gari and other several scholars view shares from legal perspective in that shares is a financial paper that has its own monetary value detached from the company's underlying assets. In addition, shares represent undivided interest in the company itself not the latter's assets (El-Gari, 2015).

Their main justifications are first, sharikah al-musahamah does not resemble sharikah al-`inan and other kinds of classical sharikah because the former entails an artificial legal entity distinct from its members which separates its ownership of assets from shareholders' ownership of personal assets. In addition, sharikah al-musahamah is not ishtirak (participation) of shareholders into the entity. Second, its legal attributes such as separate legal personality, limited liability, separation of ownership and control and others make sharikah al-musahamah dissimilar from sharikah al-`inan. Third, shareholders from a language perspective are the holders of shares not the partners alike the one who own capital assets and profits by way of musha' in sharikah al-`inan. (El-Gari, 2015)

Limited Liability Protection Due to Separation of Shareholders from Business Management

The legal attribute of limited liability or masuliyyah mahdudah in a company has also been divergent among the contemporary scholars. Majority of them advocate the permissibility of limited liability by analogy with the concept of mudharabah. Under the mudharabah contract, the rabbul mal is not responsible for any losses in the business more than his capital contribution. This is because the rabbul mal does not involve in a day-to-day management of business by the mudharib (Ramli et al., 2023b).

In contrast, several scholars rebutted that there is no limited liability in the mudharabah as the liability of rabbul mal in the mudharabah business is rather personal. In addition, such liability triggers particularly in the event of istidanah made by the mudharib with the consent of rabbul mal.(Al-Haqil, 2019) Fahmi asserted that limited liability is designed to benefit the shareholders and harm the creditors unjustly (Fahmi, 2003).

Findings and Analysis

The legal structures of a company particularly its legal attributes establish the present concept of shareholding.(Davies, 2010) These structures formulate the company a sui generis departing from its previous foundation of partnership prior to the Salomon case.(Ireland, 2016) In relation to sharikah al-musamah which adopts the same shareholding structure, the contemporary scholars have endeavored to recognize it under the concept of sharikah al-`inan under Shariah, which could address Shariah-compliant investment and commercial activities. However, it is revealed that the shareholding concept of a company under the common law mismatches with the one in the sharikah al-`inan due to their dichotomies in terms of legal attributes and principles.(Ghadas & Abd Aziz, 2018)

This article examines two aspects; first, the misconception of shareholding's ownership i.e. the fallacy of shareholders as owners in a company under the common law; and second, the same misunderstanding of shareholding's ownership in a sharikah al-musamah as argued by the contemporary scholars mismatches with the sharikah principles.

Misconception of Shareholders' Ownership in a Company

Under the common law, owning shares does not entail owning a company as a thing because the company is a legal person that cannot be owned.(Sheehy, 2006) Similarly, it is legally incorrect to express shareholders as the owners of the company because they have no legal and equitable ownership over the latter's underlying business. This is affected by separate legal personality of such company which differs its ownership of assets from their personal assets.(Strine & Macey, 2018) The Federal Court in Public Bank Bhd v. New Ace Digital Print Sdn Bhd & Anor [2019] 5 CLJ 1 held that:

"It is a trite principle of company law which represents an important facet of a separate legal entity that the shareholders had no legal or equitable right to any assets of the company".

Thus the shares owned by the shareholders do not represent an undivided ownership interest in the company assets but rather a chose in action against the company.(Martínez-Echevarría, 2017) This chose in action or right in personam in nature resembles a debtor-creditor kind of relationship in pursuit of dividend payment, not partners inter-se who gain profits and bear losses in a partnership.

Furthermore, the shareholders could not be regarded as risk bearers because they are not legally liable for debts of company due to limited liability protection despite they receive declared dividend from the company. Conversely, it is the only company who bears the liability of debts. This clearly contravenes the risk-reward economic principle that is absent in the shareholding structure.²

The governance rights of the shareholders statutorily derived from the Act 2016 are not premised on the delegation of authority based on agency as structured in a partnership contract. This legal corporate setting is mainly due to the separation of ownership and control between these two organs in a corporation.(Robe, 2011) This is affirmed by the Court of Appeal in *The Gramophone and Typewriter, Ltd v. Stanley* [1908] 2 KB 89 which held that:

"The directors are not servants to obey directions given by the shareholders as individuals; they are not agents appointed by and bound to serve the shareholders as their principals."

In parallel, Ciepley articulated that the right to vote in electing the board is not a property derived right but a state-granted right. The shareholders have no legal control rights over the corporations and its assets so to give delegation of authority to the board.(Ciepley, 2020) Although they may elect the board, such election does not include the right to control the corporation as principal to agent. In addition, the right to vote in a general meeting does not indicate a participation in the management because they cannot bind the directors to follow their instructions.(Abd Ghadas & Ibrahim, 2007)

Incompatibility of Sharikah Al Musahamah with Sharikah under Shariah and its Consequence to Former's Shareholding

Based on the above discussions by the contemporary scholars, the concept of shareholding of sharikah al musahamah is discussed from sharikah perspectives. Nevertheless, it is observed that the shareholding in the sharikah al musahama is incompatible with the sharikah principles as follows:

First, this shareholding contravenes the ownership principles in sharikah which does not differentiate between the partners's shares in the sharikah and the sharikah assets.(Al-Baqmi, 2019) This is illustrated in Article 138 of Majallah Al-Ahkam Al-'Adliyyah (Ottoman Mejelle) which states that musha' is a property which contains undivided jointly owned shares. Article 139 of the Ottoman Mejelle also states that al-hissah al-shai'ah (undivided jointly owned share) is a share which extends to and includes every part of the jointly owned property.(Haidar, 2003) In fact, co-ownership is an effect of sharikah as unanimously agreed by the classical scholars.(Hammad, 2015)

When the contemporary scholars apply the takyif fiqhi of shares of sharikah into the sharikah al musahamah, it contravenes its legal shareholding which consider shares itself distinct from the company's underlying assets.(El-Gari, 2015) As such, the equation of shares with the ownership of assets is a misnomer because the former is not built upon co-ownership of assets but rather an implication of separate legal entity under the common law.(Ramli et al., 2023c)

² (Sheehy, 2022) See also (Collin, 1996)

Second, this shareholding mismatches with the Islamic legal maxim, *al kharaj bi al dhaman* (entitlement to profit or gain depends upon corresponding liability for loss) that is the underlying principle of sharikah. By virtue of this maxim, the partners are entitled for the profits in a sharikah simply because they are the owners of the assets in the sharikah and liable for any obligations arising from the sharikah business. (Mohiddin et al., 2021) This Shariah principle is based on the hadith in Sunah Abi Dawud narrated by `Abdullah Ibn `Amr Ibn Al-`As where the Prophet Muhammad (ﷺ) said:

“A salaf (loan) and sale (in one contract) are not permitted...nor the profit from a thing for which the liability for loss is not borne...”

This hadith demonstrates that the concept of ownership over a thing in Islam is strongly associated with assumption of risk or liability arisen from it. From sharikah perspective, the partners are entitled for the profits in the sharikah business because they own such business including any risks, losses and debts arisen from it (Manzdur Al-Haq, 2009).

Based on the above, it is clear that the Shariah does not separate ownership of assets by the partners from their liability in a sharikah (Al-Haqil, 2019). as compared to shareholders in a company who enjoy declared dividend yet not liable for the company's debts due to limited liability protection. As such, the argument of legal scholars that limited liability contradicts risk and reward economic principle that entails moral responsibility has its merit as it is consonant with the Islamic legal maxim above that is inherent in the sharikah structure particularly.

Third, the governance right particularly the right to vote and appoint directors embedded in the shareholding does not complement with the right of delegation of authority in the sharikah contract. This is because the shareholding does not entail an agency contract among shareholders themselves, between the shareholders and the company as well as the directors appointed. In this regard, their exercise of governance right is rather personal and is not premised upon fiduciary duty toward the other (Cheang, 2018). Conversely, the contractual relationship between the partners in both sharikah al-`inan and mudharabah is built upon wakalah. Each partner or rabbul mal, as the muwakkil, has delegated the authority to the co-partner or the mudharib to do the tasarruf as a wakil. The partners in sharikah al-`inan are in fact an agent for each other while mudharib as an agent for the rabbul mal. (A`thiyyah Ramadhan, 2007) The wakalah contract establishes an amanah (trust) as their fiduciary duty from one partner to another (Fadel, 2019).

Conclusion

The controversial concept of shareholding under the common law embedded in the Malaysia company law and its incompatibility with the sharikah shows that it is not suitable to be adopted for Shariah compliant businesses. This is because under Shariah, the sharikah business is not separated from the ownership of partners who assume liability and responsibility in the former. In addition, the international resolutions of several Islamic organizations that consider shares as representing undivided share of ownership in the company's underlying business clearly show that the shareholding concept in Islam differs from the one in the common law.

Discovering the dissimilarities of corporate shareholding under both legal and Shariah systems is crucial as both systems serve different purposes and implications. Given the emergence of sectors relating to halal economy and Shariah compliance investments nowadays, this study aims to analyse to what extent such sectors could be adopted within the existing legal system that is not necessarily harmonious with the Shariah. In this regard, the study at least attempts to highlight that not only Shariah compliance sectors need to be emphasized, but also the perspective of business organisations that underpins the development of these sectors. Therefore, this comparative study enriches legal and Shariah discourses on this issue particularly which may be essentially benefited to other readers.

Suggestion

This study demands a modification to its shareholding structure for compliance with the latter. This modification is essential given the transition of company from its classical form of partnership that is close to sharikah. Moreover, Islam promotes risk sharing concept as a unique feature of Shariah-compliant business entities as compared to the common law that instils risk shifting within the company.

The recommendation in this article would be valuable for Shariah compliant sectors that underline a necessity of having Shariah-compliant investment, securities, business activities and others. Since this sector also encompasses corporate groups that undertake this sector or for Shariah compliance purpose, it is suggested to further study the shareholding concept within the group of companies particularly in the parent and subsidiary context which also requires attention from Shariah perspectives.

References

- A'thiyyah Ramadhan, A. A. (2007). Mawsua'h Al-Qawai'd Al-Fiqhiyyah Al-Munazdamah Li Al-Mua'malat Al-Maliyyah Al-Islamiyyah Wa Dawruha Fi Tawjih Al-Nudzm Al-Mua'sirah. Dar Al-Iman, Iskandariyah.
- Abd Ghadas, Z. A., & Abd Aziz, H. (2019). Analysis on The Doctrine of Limited Liability under Company Law and Shariah. *Al-Shajarah Journal of Islamic Thought and Civilization of IIUM*, 24(293–310). <https://doi.org/https://doi.org/10.31436/shajarah.v24i2.947>
- Abd Ghadas, Z. A., & Engku Ali, E. R. A. (2012). The Development of Partnership Based Structure In Comparison To the Concept of Musharakah (Sharikah) with Special Reference to Malaysia. *Journal of Islam in Asia*, 8(2), 293–315.
- Abd Ghadas, Z. A., & Ibrahim, N. (2007). Right of Participation in Business as Matrimonial Property: The Malaysian Experience. *IIUM Law Journal*, 15(85).
- Abdullah, L., Rosele, M. I., & Wan Ahmad, W. M. (2020). The Concept of Legal Entity from the Islamic Law Perspectives. *Pertanika Journal of Social Sciences and Humanities*, 28(4), 3207–3221. <https://doi.org/10.47836/PJSSH.28.4.39>
- Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI). (2015). *Shariah Standards for Islamic Financial Institutions*. Dar Al-Maiman for Publishing and Distributing.
- Al-Baqmi, S. Z. A.-M. (2019). *Sharikat Al-Musahamah Fi Al-Nidzam Al-Saudi Dirasat Muqabalah Bi Al-Fiqh Al-Islami* (1st edn). Obeikan.
- Al-Hammadi, A. U. A. M. (2007). *Al-Sharikah Dzat Al-Masuliyah Al-Mahdudah Fi Al-Fiqh Al-Islami Wa Qanun Dawlah Al-Imarat Al-Arabiyyah Al-Muttahidah* (1st edn). Dar Al-Muayyad.

- Al-Haqil, A. M. (2019). Al-Masuliyyah Al-Mahdudah Fi Al-Sharikat Dirasah Ta'siliyyah Tatdbiqiyyah. Majallah Al-'Adl, 25.
- Al-Hujailani, A. A. M. A. (2002). Tasarrufat Al-Amin Fi Al-'Uqud Al-Maliyyah (1st edn). Vol 1, Majallah Al-Hikmah, Great Britain.
- Al-Za'tari, I. A.-D. (2012). Mawsua'h Fiqh Al-Mua'malat Al-Maliyyah Al-Muqoron. Dar Al-Usoma'.
- Al-Zahrani, Y. A.-Q. M. (2013). Rights of Shareholders under Saudi Company Law 1965. Brunei University.
- Al-Zarqa', M. A. (2012). Al-Madkhal Al-Fiqh Al-'Am (3rd edn). Dar Al-Qalam.
- Al-Zuhaili, W. (2001). Financial Transactions in Islamic Jurisprudence. Vol. 1, Dar Al-Fikr.
- Al-Zuhaili, W. (2002). Al-Mua'malat Al-Maliyyah Al-Mua'sirah. Dar Al-Fikr.
- Ali Hamid, K. M. A. (2013). Tahqiq Al-Khilaf fi Takyif Sahm Al-Sharikat Al-Musahamah wa Atharuhu Dirasat Ta'siliyyah Fiqhiyyah Tatbiqiyah. Majallah Al-'Adl, 6.
- Beuerle, C. G., & Schillig, M. A. (2019). Comparative Company Law. Oxford University Press.
- Butaiban, M. 'Abdullah. (2021). Ahkam Al-Khasarat wa Tatbiqatuha Al-Mu'asirah (1st edn). Dar Sulaiman Al-Maiman lii Al-Nashr wa Al-Tawzi'.
- Cheang, L. S. (2018). Corporate Powers Accountability (3rd edn). LexisNexis Malaysia.
- Ciepley, D. (2020). The Anglo-American Misconception of Stockholders As "Owners" and "Members": Its Origins and Consequences. Journal of Institutional Economics, 16(5), 623–642. <https://doi.org/10.1017/S1744137419000420>
- Collin, S.-O. (1996). Bad Losers: An Investigation of the Morality of the Limited Liability of Shareholders in a Joint Stock Company. Journal of Economic Issues, 30(1), 283–289.
- Davies, P. (2010). Introduction to Company Law (2nd edn). Oxford University Press.
- El-Gari, M. A. (2015). Al-Takyif Al-Fiqhi Li Ashum Sharikat Al-Musahamah. 6th Shura Fiqh Conference 2015. <http://shura.com.kw/conferenceDesc.asp?pageID=21&confID=27>
- Fadel, M. (2019). Fiduciary Principles in Classical Islamic Law Systems. In E. J. Criddle, Paul B. Miller, & Robert H. Sitkoff (Eds.), The Oxford Handbook of Fiduciary Law, Oxford Handbooks (online edn). Oxford Academic. <https://doi.org/https://doi.org/10.1093/oxfordhb/9780190634100.001.0001>
- Fahmi, H. K. (2003). Al-Sharikat Al-Hadithah wa Al-Sharikat Al-Qabidhah. In Majallat Majma' Al-Fiqh Al-Islami Li Mu'tamar Majma' Al-Fiqh Al-Islami (14th Sess.). Munadzamah Al-Mu'tamar Al-Islami.
- Ghadas, Z. A. A., & Abd Aziz, H. (2018). Legal Framework of Corporation and Shirkah Al-Inan : a Comparison. International Journal of Law and Interdisciplinary Legal Studies, 19–27.
- Grantham, R. (1998). The Doctrinal Basis of the Rights of Company Shareholders. The Cambridge Law Journal, 57(3), 554–588.
- Haidar, 'Ali. (2003). Durar Al-Hukkam Sharh Majallah Al-Ahkam. Dar Al-'Alim Al-Kutub.
- Hammad, N. (2015). Al-Takyif Al-Fiqhi Li Ashum Sharikat Al-Musahamah. 6th Shura Fiqh Conference 2015.
- Hasanuzzaman, S. M. (1996). Rights and Powers of Partners in an Islamic "Shirkah." Islamic Studies, 35(1), 5–23. <http://www.jstor.org/stable/20836925>
- International Islamic Fiqh Academy. (2021). Resolutions and Recommendations of the International Islamic Fiqh Academy. International Islamic Fiqh Academy.
- Ireland, P. (2016). Corporate Schizophrenia: The Corporation as a Separate Legal Person and an Object of Property. University of Bristol.
- Lowry, J., & Reisberg, A. (2012). Pettet's Company Law: Company Law & Corporate Finance (4th edn). Pearson Longman.

- Manzdur Al-Haq, U. A.-R. (2009). *Qa'idah Al-Kharaj bi Al-Dhaman wa Tatbiqatuha fi Al-Mu'amalat Al-Maliyah* (1st Edn). Dar Ibn Al-Jawzi.
- Martínez-Echevarría, A. (2017). *The Nature of Shareholding and Regulating Shareholders' Duties* (No. 18-08; Nordic & European Company Law LSN Research Paper Series).
- Meng, C. W. (2017). *Essential Company Law in Malaysia, Navigating The Companies Act 2016*. Thomson Reuters.
- Sulaiman, A. N. (2005). Shares in the Modern Corporation: A Comparison between Malaysian Companies Act 1965 and the Islamic Perspective. *IIUM Law Journal*, 13(1), 1–26.
- Sulaiman, A. N., & Othman, E. (2018). *Malaysia Company Law: Principles and Practices* (2nd edn). Wolters Kluwer.
- Mohiddin, M. N., Abdul Ghadas, Z. A., & Ramli, N. (2021). Developing Shariah Compliant Corporation: An Appraisal on The Rights and Liabilities of Members under The Malaysia Law and Shariah. *Journal of Nusantara Studies*, 6(1), 59–72. <https://doi.org/http://dx.doi.org/10.24200/jonus.vol6iss1pp59-72>
- Muhammad Nur, `Ali. (2019). *Al-Takyif Al-Fiqhi Li Sharikah Al-Musahamah wa Ashumiha*. 8th Shura Fiqh Conference 2019.
- Nyazee, I. A. K. (2006). *Islamic law of Business Organization: Partnerships*. The Other Press.
- Nyazee, I. A. K. (2010). *Islamic law of Business Organization: Corporations*. Adam Publishers & Distributors.
- Quinn, J. (2016). *The Corporate Objective: Reinterpreting Directors' Duties*. Dublin City University.
- Ramli, N., Abd Ghadas, Z. A., & Abd Aziz, H. (2023a). Corporate Ownership and Governance Structure of Corporation in Supporting Sustainability: The Shariah Perspective. *International Journal of Academic Research in Business and Social Sciences*, 13(13), 1–11. <https://doi.org/http://dx.doi.org/10.6007/IJARBS/v13-i13/17932>
- Ramli, N., Abd Ghadas, Z. A., & Abd Aziz, H. (2023b). Sustainability of Businesses via Shariah-Compliant Framework: Analysis of Shariah Principles on Corporation. *IIUM Law Journal*, 31(2), 287–314. <https://doi.org/https://doi.org/10.31436/iiumlj.v31i2.820>
- Ramli, N., Abd Ghadas, Z. A., & Abd Aziz, H. (2023c). The Obligation of Corporate Group to Pay Business Zakat in Malaysia: A Legal and Shariah Analysis. In A. Hamdan, A. Harraf, A. Buallay, P. Arora, & H. Alsabatin (Eds.), *From Industry 4.0 to Industry 5.0 Studies in Systems, Decision and Control* (Vol. 470, pp. 485–496). Springer.
- Ramli, N., & Ghadas, Z. A. A. (2019). An Appraisal on the Obligation of Companies To Pay Zakat: the Malaysian Law and Shariah Perspectives. *International Journal of Law, Government and Communication*, 4(15), 8–17. <https://doi.org/10.35631/ijlgc.415002>
- Robe, J.-P. (2011). The Legal Structure of the Firm. *Accounting, Economics, and Law*, 1(1(5)). <https://doi.org/10.2202/2152-2820.1001>
- Rosele, M. I. (2016). *Isu Pembayaran Zakat Institusi Kewangan Islam di Malaysia*. PhD Thesis, University of Malaya.
- Securities Commission Malaysia. (2022). Resolutions of the Shariah Advisory Council of the Securities Commission Malaysia, 31 December 2022. <https://www.sc.com.my/development/icm/shariah/resolutions-of-the-shariah-advisory-council-of-the-sc>
- Sheehy, B. (2006). Shareholders, Unicorn and Stilts: An Analysis of Shareholder Property Rights. *Journal of Corporate Law Studies*, 6(1), 165–212.

- Sheehy, B. (2022). Sustainability, Justice and Corporate Law: Redistributing Corporate Rights and Duties to Meet the Challenge of Sustainability. *European Business Organization Law Review*, 23, 273–312. <https://doi.org/https://dx.doi.org/10.2139/ssrn.3829319>
- Strine, L. E. J., & Macey, J. (2018). *Citizens United as Bad Corporate Law*. Faculty Scholarship at Penn Law, 2007.
- Ta'wil, M. (2009). *Al-Sharikat wa Ahkamuha fi Al-Fiqh Al-Islami* (1st edn). Dar Ibn Hazm.