

THE ROLES OF STAKEHOLDER IN MUDHARABAH,
AL-WADI'AH AND MUSYARAKAH

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MUSYARAKAH

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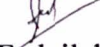
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بسم الله الرحمن الرحيم

I hereby declare that the work in this academic project is my own except for quotations and summaries which have been duly acknowledged.

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Grateful to Allah s.w.t most Gracious and most Merciful. Praise be to Allah, Lord of the universe. May peace and prayers be upon and his final prophet messenger.

First of all, the writer would like to wish grateful to the Almighty, who had given a chance and courage to the researcher to complete an academic project with the title "THE ROLES OF STAKEHOLDER IN MUDHARABAH, AL-WADI'AH AND MUSYARAKAH".

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ABSTRAK

Projek ilmiah ini membincangkan mengenai peranan pihak berkepentingan yang terlibat dan terkesan di dalam mudharabah, al-wadi'ah dan musyarakah. Projek ilmiah ini lebih menfokuskan kepada individu atau kumpulan masyarakat yang terlibat di dalam ketiga-tiga sistem ini; mudharabah, al-wadi'ah dan musyarakah. Selain itu, dikenalpasti latar belakang pihak berkepentingan menerusi pandangan-pandangan individu-individu yang professional, objektif-objektif pihak berkepentingan yang diadaptasi di dalam sistem muamalah masa kini, prinsip-prinsip dan kesan-kesannya. Peranan pihak berkepentingan ini dibincangkan dengan lebih mendalam dari sudut perspektif Islam. Method yang digunakan dalam projek ilmiah ini ialah informasi-informasi dari Internet dan kajian-kajian dari perpustakaan iaitu menerusi buku-buku yang diiktiraf, majalah-majalah dan suratkhobar. Hasil kajian ini maka dapat disimpulkan bahawa pihak berkepentingan berkonsepkan perolehan keuntungan bersama atau faedah untuk semua pihak sama ada terlibat secara langsung atau tidak langsung. Saya berharap kajian ini memberi input serta ilmu pengetahuan yang baik kepada masyarakat umum.

ABSTRACT

This academic project discussed about the roles of stakeholder that involves or effected in *mudharabah*, *al-wadi'ah* and *musyarakah*. This academic project is more focused on the individual or group community whom involves in this three system; *mudharabah*, *al-wadi'ah* and *musyarakah*. Besides that, recognized the background of the stakeholder through professional opinions, the objectives of the stakeholder that adopted in *muamalat* system, the principles and effects of the stakeholder. The roles of stakeholder have been discussed on detailed through the Islamic perspective. The methodology used in this academic project like observation information gathered from Internet and library research for instance, from the established books, magazines and newspaper. Through the research the writer can conclude that the concept are for the advantageous and benefits of all people that involves either directly or indirectly. I hope this research would provide good knowledge to our societies.

ملخص البحث

هذه المقالة العلمية تبحث عن جهة المختصة المشارك في المضاربة والوضعة والمشاركة. وتتركز هذه الدراسة على الشخص او الجماعة المشاركين في كل نوع من انواع التجارة المذكورة وهي نظام المضاربة والوضعة والمشاركة. إضافة الى ذلك ان هذه الدراسة تركز أيضا على خلفية جهة المختصة بطريقه اراء الأشخاص المتخصصين به. وكان اعراض جهة المختصة تنتهج في النظام المعاملات المعاصرة ومبادئها وآثارها. وهذه جهة المختصة يبحث عنه بالتفصيل في هذا البحث عن المنظر الإسلامى. والمنهج الذى استخدمته الباحثة في هذا البحث هو المنهج الاستقرائى عن البحث المعلومات بطريقة الانترنت والقراءة للكتب المكتبية المعترفة والمجلات والأخبار. ونتيجة الدراسة تجد ان جهة المختصة لا بد اي يعتد الشخصة وبمحصلة الأرباح الجماعية سبب المشاركة. وارجو ان تكون هذه الدراسة نافعة للجميع.

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GLOSSARY

<i>Al-Quran</i>	The Holy book that revealed by Allah to Prophet Muhammad s.a.w.
<i>Al-Hadith</i>	The tradition of Prophet Muhammad s.a.w.
<i>'Aamal</i>	The partnership is formed basically to provide a service.
<i>'aqd ghair lazim</i>	Not binding contract.
<i>Al mudharib</i>	Is the nature of a trustee as well as an agent of the business.
<i>Al muqayyadah</i>	Restricted.
<i>Al mutlaqah</i>	Unrestricted.
<i>Alanan</i>	The partnership in where the terms and conditions pertaining to the partnership are based on agreement.
<i>Al-muwadda'</i>	The person who receives the property from the owner for safekeeping purposes.
<i>Al-muwaddi'</i>	The owner of the property who gives the property to another for safekeeping is termed as depositor.
<i>Al-qudrah</i>	Capacity.
<i>Al-thiqah bi al nafs fi amanah</i>	Reliability
<i>Al-wadiah</i>	The thing left with a person to keep the property of another in his safe custody by implicit or explicit terms.
<i>Al-wojooh</i>	The partnership is formed basically to provide a service.
<i>Amanah</i>	Fiduciary.
<i>Deposittee</i>	a trustee to safely keep the deposited property in his custody.
<i>Dharar</i>	Harm.
<i>Hibah</i>	Gift.

<i>Jumhur</i>	The scholars, for instance, As-Syafi'i, Hambali, Maliki, Hanafi and others.
<i>Kafil</i>	Surety.
<i>Masarif</i>	Banking and financial houses in Islamic civilization.
<i>Mudharabah</i>	An arrangement of some property.
<i>Mufawada</i>	The partnership whose contribute capital and share profits equally.
<i>Musarafah</i>	The act of dealing, buying, selling and sometimes it has been attributed to change of money.
<i>Musyarakah</i>	A permission to transact, in where each of the parties permits the other to transact with the partnership property.
<i>Rabb al mal</i>	The financier or depositor that provides a specified amount of capital.
<i>Riba'</i>	An interest.
<i>Rushd</i>	Maturity.
<i>Sharika al-'aqd</i>	Commercial or contractual partnership.
<i>Sharika al-milk</i>	Propriety partnership.
<i>Shirkah al-'inan</i>	The situation where the partner may only transact with the partnership capital according to the terms of the partner's agreement and to the extent of the joint capital.
<i>Syari'ah</i>	The collection name for all the laws ordained by Allah SWT for his servants through Prophet Muhammad SAW including the Islamic system.
<i>Wakalah</i>	Representative.

TRANSLITERATION

ARABIC WORDS TRANSLITERATION SYSTEM TRANSLITERATION TABLE

1. Alphabet

<u>Arabic</u>	<u>Latin</u>	<u>Example</u>	<u>Transliteration</u>
ء	,	فأر	fa`r
ب	b	برد	burd
ت	t	تل	tall
ث	th	ثوب	thawb
ج	j	جدار	jidar
ح	h	حليب	halib
خ	kh	خادم	Khadim
د	d	ديك	dik
ذ	dhz	ذهب	dhzahab
ر	r	رفيق	rafiq
ز	z	زميل	zamil
س	s	سلام	salim
ش	sh	شعب	sha`b
ص	s	صخر	sakhr
ض	d	ضيق	dayq

ط	t	طالب	talib
ظ	z	ظالم	zalim
ع	c	عقل	aql
غ	gh	غلام	ghulam
ف	f	فيل	fil
ق	q	قلب	qalb
ك	k	كلام	kalam
ل	l	لب	lubb
م	m	مال	mal
ن	n	نجم	najm
ه	h	هول	hawl
و	w	ورق	waraq
ي	y	يم	yamm

2. Short Vowel

<u>Arabic</u>	<u>Latin</u>	<u>Example</u>	<u>Transliteration</u>
ا	a	كتب	kataba
ي	i	علم	alima
و	u	غلب	ghuliba

3. Long Vowel

<u>Arabic</u>	<u>Latin</u>	<u>Example</u>	<u>Transliteration</u>
ا, ي	a	عالم, فتى	Alim, fata
ي	i	عليم, داعي	Alim, dai
و	u	علوم, أدعو	Ulum, Ad'u

4. Diphthong

<u>Arabic</u>	<u>Latin</u>	<u>Example</u>	<u>Transliteration</u>
و	aw	نوم	nawm
ي	ay	ليل	layl
و	iyy	شافعي	Shafi'iyy(ending)
ي	uww	علو	uluww(ending)

5. Exemption

5.1) Arabic letter ء (hamzah) found at the beginning of a word is transliterated to the letter "a" and not to '.

Example: اكبر transliterated to: akbar (not 'akbar).

5.2) Arabic letter ة (ta' marbutah) found in a word without ال (al) which is coupled with another word that contains ال (al) at the beginning of it is transliterated to the letter "t".

Example: مكتبة الإمام transliterated to: maktabat al-imam

However if the Arabic letter ة (ta' marbutah) found in a word with ال (al), in a single word or in the last word in a sentence, it is transliterated to the letter "h".

Example: المكتبة الأهلية قلعة دار هبة transliterated to: al-maktabah al-ahliyah qala'dar wahbah.

ABBVERVIATIONS

i.e	that to say
n.a	no author
n.d.	no date/no year
no.	number
p.	page
pp.	pages
S.A.W	subhanahu wa ta'ala
S.W.T	salla Allah 'alayh wa sallam
vol.	Volume

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Chapter 1: THE BACKGROUND OF STAKEHOLDER

1.1) Introduction

At the beginning the stakeholder comes from a common view is that business and business manager only responsibility to maximize the profits for the owners or stockholder of the business (within the limits of the law). Here, the claim is that there are no further responsibilities such as for the customers, environment, employees or the wider community.

Therefore, the only reason for acting in a way that satisfies the interests of these other groups is if such action is required by law, or such action would increase the stockholders' profits. And even then, the motivation would be because such action is in the interests of the stockholders, not because it is in the interests of anyone else.

According to Milton Friedman is perhaps the most well known defender of this position this approach goes by many names, including the "narrow view" of the social responsibility of business, "stockholder theory", "managerial capitalism", and "restricted egoism".¹

In addition, stakeholder theory is a normative theory. It is a theory that tells business managers what they morally ought to do. It says that businesses, corporations, and business managers ought to respond to the interests or claims of stakeholders, in a proper way. Managers bear a fiduciary relationship to stakeholders members, stakeholders here, includes those groups who have a stake in or claim on the firm

¹ Glenn Mason-Riseborough. 17 December 2005. "Stakeholders and Stakeholder Theories: An Analysis" <http://www.geocities.com/griseborough/55.htm>

According to Freeman, “stakes require action of a certain sort, and conflicting stakes require methods of resolution”.²

This position is criticized at a number of levels, and alternative models have been suggested, in replacement. One such model, names the stakeholder theory has been suggested by R. Edward Freeman. On this view business has further social responsibilities. These responsibilities are to a wider group’s benefit and not merely to stockholder’s benefits only.

Here, the societies may not have realized that as customers of a business, societies are one of many key stakeholders of that business. As an employee in which the business operates, the employees are one of the stakeholders of that business. The owner of the business is one of many stockholders. As a resident of the community in which the business operates are also one of the stakeholder of the business since affected either positively or adversely by the actions of the business.

1.2) The Meaning of Stakeholder

Stakeholder means person or company that involved in particular organizations, system or project especially they have invested money on it. ³

Stakeholder is a person or group that has some claim on or expectation of how a business should operate, stakeholders including founders and other owners, employees and retirees, customers, suppliers, other businesses, the government, the community and even society in general. Each of this group has expectations regarding how a given business should operate.⁴

² Ibid. <http://www.geocities.com/griseborough/55.htm>

³ A S Hornby. 2000. *Oxford Advanced Learner's Dictionary*. Oxford: Oxford University Press. Vol.6. p. 1161

⁴ Fred L. Fry et al. n.d. *Business An Integrative Approach*. n.pl: n.pb. Vol.3. p. 124.

The stakeholders in a corporation are the individuals and constituencies that contribute, either voluntarily or involuntarily, to its wealth-creating capacity and activities, and that are therefore its potential beneficiaries and/or risk bearers.⁵

Freeman defines that stakeholders are those groups who have a stake in or claim on the firm. That is, if some groups or individual have a stake in a business, then this generates an obligation on the part of the business to consider this stake fairly, and to act in a way that “balances” this claim amongst competing claims. For Freeman, all stakeholder claims are *prima facie* equal.⁶

Stakeholders of corporations are “groups and individuals who benefit from or are harmed by, and whose rights are violated or respected by, corporate actions⁷. This statement leaves the formulation a little more theory neutral, and does not require one to accept both benefit or harm and rights based normative theories. Of course, a lot of work still needs to be done to explain what sorts of entities can potentially be benefited or harmed, or alternatively have rights. For instance, can groups strictly speaking be benefited or harmed, or merely sentient being?

A stakeholder was originally a person who holds money or other property while its owner is being determined. The situation often arises when two persons bet on the outcome of a future event and have a third person act as the stakeholder, holding the money (or "stake[s]") they have both wagered (or "staked") until the event occurs.⁸

Stakeholder are corporate by individual or group benefits or even harmed by those people who involved or effected or respected in corporate actions. However the stakeholder have been practicing a different way in which the manager have fully responsibility on how the stakeholder business should operates and the manager must constantly be aware of the conflicting demands of stakeholder. Sometimes, the manager forces to address the needs

⁵ n.a. 17 December 2005. “Stakeholder View”. <http://www.sup.org/book.cgi?book>

⁶ Glenn Mason-Riseborough. 17 December 2005. <http://www.geocities.com/griseborough/55.htm>

⁷ Ibid. . <http://www.geocities.com/griseborough/55.htm>.

⁸ n.a. 17 December 2005. “Stakeholder”. <http://en.wikipedia.org/wiki/Stakeholder>

of one stakeholder and disappoints another. For instance, the owners want as many profits as possible but the customer wants the lowest price as possible and possible quality. In this situations the manager plays an important roles for balancing both needs because the business simply not offer both need, and must be alert the benefits of stakeholder parties.

Actually we may not realized that stakeholder have been produced or recognized during the prophet Muhammad S.A.W by elimination of *riba* system. *Riba* literally means raise or increase. In *riba* system can be simply clarify when a someone buy goods for one *ringgit* in cash, in case of buying them on credit it is permissible for him to pay one *ringgit* and three after a month, one *ringgit* and six after two months and one *ringgit* and nine after three months⁹. The effect of *riba* system, if these *riba* system faced by the entrepreneur when they know about the amount of interest that force to pay back, the entrepreneur would maximize the profits as much as they can. Therefore, would exist several activities that prohibited by *syari'ah* such as speculations and gambling.¹⁰

In other part, stakeholder can avoid collective property from wealthy levels, or even the investors or the owners benefits only, Islamic Banking had introduce *Mudharabah*, *Wadi'ah* and *Musyarakah* and these are based on *Al-Quran, As-Sunnah* and *Al-Ijma'*. For an example in banks, *Mudharabah* system, there are *Al-Mudharib* (bank) called as *Ra's-ul-mal* and the investor acting as *Sahib-ul-mal*, here both parties have responsibilities to plan on how to increase profits or surplus. The investor would contribute their money through *tabarru'* system and lead the *Al-Mudharib* to manage the money by giving the money to any person who need for starting their business based on condition that provided. Then, the businessman would implement the business following the need of the customer. Here, *Al-Mudharib* just acting as an advisor and provide any facilities for the business purpose.

Here, the investor would get their profits from the money that they invested, *Al-Mudharib* or entrepreneur (bank) would get interest from the money that borrowed from

⁹ Iqbal Ahmad Khan Suhail. 1999. *What is Riba*. India: Pharos Media and Publishing. Vol. 1. p. 29.

¹⁰ Ataul Huq Pramanik. 1998. *Pembangunan dan Pengagihan dalam Islam*. Kuala Lumpur: Dewan Bahasa dan Pustaka. p. 106.

businessman by mutual agreement between contracting parties, the businessman have opportunity to implement their business properly and also the customer can fulfill their need and desire. By using *Mudharabah* system, stakeholder concept is adopted and there is no discriminations for the investor or shareholder benefits.

1.3) The Objectives of Stakeholder

1.3.1) To exist and show that stakeholder theory aware about the morality of all aspects. Stakeholder also protects the relationship among individual or group either involves directly or indirectly in which the business operates.

The corporation should have internal and external values. The external includes shareholder and the agents. Shareholder is important stakeholder. Shareholders are the ones underwrite the firm. They are the people and institutions that have risked their dollar and support so that the business could operate. They have chosen to invest in the business rather than pursue other opportunities. Surely they deserve to receive a return on their investment for taking such risk.

Meanwhile internal values that to ensure the collective moral responsibility of the organizational members the benefits and also the loyalty to corporate interest and not just for individual interest only. In this matter the company is the principal and employees are the agents. Each of these internal and external resources makes a commitment for which commensurate benefit is expected.

This presumption embeds, thus, understanding a social corporate responsibility where managers and company are and should be seen as moral agents that represent distinct groups interests or demands. This view leads the company to establishing policies, strategies and a business culture that adopt the concept of company as stakeholder and also, that provide answers and procedures regarding the company social corporate responsibility.

On the other hand, regarding theory justification, discussion points to the way in which we may differentiate legitimate from non-legitimate stakeholders' demands – considering the double strategic and normative dimension that the theory possesses. This constitutes one of the aspects on which research and theorist efforts focus most. In fact, this clarification constitutes the moral justification regarding the reason why companies should be responsible for certain interest groups demands. The theory provides a moral point of view or criterion and, in this sense, the company is faced with a practical problem in its attempt to meet the responsibility that the theory has entitled, 'being responsible for its stakeholders' demands

According to Elsa González Esteban, any theory that seeks to justify the corporation form must be based at least partially on the idea that the corporation and its managers as moral agents can be the cause of and can be held accountable for their actions.¹¹

In the light of these words, we may assume that Stakeholders' theory states that a company behaving ethically or morally considers an ethical dimension in its actions, projects and future plans before acting, and not after that. That is to say, it studies and analyses those consequences derived from its actions and policies on all affected parties and it respects their rights. At the same time, it takes into account all groups and individuals demands.

For an examples, the emergence of Temasik Holdings, the embodiment of Singapore, as a strategic stakeholder in Malaysia's largest listed company could mark the watershed in often-strained relations between the neighbors.¹²

Singapore's government is permitted by Kuala Lumpur to pay 5% of national phone utility Telekom Malaysia for 1.6 billion ringgit (\$421 million). The stake was part of 9% block of Telekom Malaysia stock put up for sale by state investment company Khazanah

¹¹ Elsa González Esteban. 17 December 2005. "Consequentialism and deontologism for Business Ethics ". <http://www.nd.edu/~isbee/papers/GonzalezEngl.doc>

¹² Duane Windsor. 21 December 2005. "The Definition of Stakeholder Status". <http://www.smartgrowth.org/about/principles/principles.asp?prin=10>

Nasional, Malaysia's equivalent of Temasik. Abdullah Ahmad Badawi, the Prime Minister, has visited Goh Chok Thong who is Singapore's Prime Minister three times to negotiate about resolving several long-standing disputes with the island republic and underscores the improvement bilateral relations. Definitely, dialogue and further negotiation among all interest group is one of the aspects of stakeholder.

Other examples, in 1992, the Organization for Economic Co-operation and Development (OECD) centre initiated an ambitious study, examining relationship between government and Northern international development NGOs in thirteen OECD member countries and the European Union. The result, published in 1993 as *Non-Governmental-Organizations and Government: Stakeholder* became the best seller, going through reprinting. In 1997 and 1998 the analysis had stated that stakeholder able improves relations with reviews of government – NGO relations in 22 OECD member countries include European Union and the World Bank.¹³

In other aspects, according to Business Ethics being led by stakeholder theory presumption and based on the normative program of Discourse Ethics, the company responsibilities could be defined within a rational inter-personal discourse in which norms universally valid would be defined. Definitely, dialogue and further agreement among all interests groups of the organization would emerge as one of the keys in Business Ethics that would be based on these three basic aspects: -

- a) The need for a rational dialogue where all affected parties or as defaulted representatives who represented as a solution to conflicts.
- b) The importance of respecting certain conditions that assures the same opportunities and symmetry among participants.
- c) Respect for the universality principle, that establishes whether a decision is morally acceptable or when it could be accepted by all present and future affected parties.

¹³ Ian Smillie, Henny Helmich, Tony German & Judith Randel. n.d.. *Stakeholders Government-NGO Partnerships for International Development*. Earth Scan: Organisation for Economic Co-Operation and Development. p.1.

1.3.2) To eradicate poverty and hunger.

The stakeholder systems are for the benefits of all parties from the business that they operate and these systems are contradict with capitalism system. By reference to company manageability this theory implies searching for the balance among distinct company interest group, there are shareholder, worker, client, suppliers, banks, customer and other parties that involved whether directly or indirectly on the business that they operates. Furthermore, the manager always aware and care about the participations of all the parties. It seem like linked to the organizations aim.

Besides that, stakeholder system also would overcome collective income among the wealthy levels only, although there is such communities who are still suffer in poverty and hunger. It is because by addressing the need of some parties would disappoint the others, in which the wealthy community would be richer and the poor community would become poorer because of discriminations on the business organizations.

Stakeholder built society free from business abusing in capitalism system and clean from any bribery on fulfill such needs. Stakeholder guarantees satisfaction among the parties, cooperation, friendship and eradicates jealousy, monopoly, excessive desire and bad challenge. In addition, stakeholder concept open more opportunity to the businessman to start their business, this is because stakeholder concept cares most about the welfare of the entire stake holder's parties.

For an example in Malaysia, that implement democracy system in which all over parties have rights to claim. Malaysia is one of the countries that implement stakeholder systems and rich with agriculture sector. Malaysia had improved these sectors by supplying them in term of fertilizer and provides money to start the project including facilities like transport through Agriculture Ministry and Bank Pertanian to the farmer. That means, the farmer are giving opportunity to improve their life, this is the way on how stakeholder was adopted.

This 'needs-based' approach would raise their income further than before; creating substantial opportunities for community growth besides protects their social benefits.

Finally, we will found that stakeholder treated potential in each parties because each of them have rights to claim or been effected on the business that they participates such as what have been highlighted by the Gavornor of Bank Negara Malaysia, Tan Sri Dr Zeti Akhtar Aziz about the important of stakeholder of the institution to play their role effectively and efficiently to generate improvement in entity. Definitely there are no questions for poverty and hunger issues.¹⁴

1.3.3) Stakeholder help for increasing the economics country.

Obviously stakeholders care most not even the profits but also for the social benefits. It is because those things are important to increase economics in this country. If the public trust is lost, the firm competitive strength is also lost but if the customer satisfied with the product or services that produce by the entrepreneur so then our economic would growth rapidly.

The customer influence by the color, model, and volume, option that are produced and of cause the low price, without the customer, the business cannot survive. Therefore, the manager should be sensitive with customer's interest. If the customer agreed with the product produced by the manager, then the customer would buy it. These circumstances would increase our economic country and those can grab by efficient communications between customer and the entrepreneur.

In other aspect, employees also play important roles in stakeholder; their benefits on getting relevant salary or wage include other facilities like safe place to work and others.

¹⁴ Massita Ahmad. 17 December 2005. "Proper Strategies Vital For Developing Islamic Banking". www.bernama.com/events/idb/news.php?id.

The feedback is that the employee would do well in their work, decrease absenteeism, therefore, good products or services can be produce.

To keep growth ticking over, we need all the foreign investment as possible as much that we could get. The Malaysian government also needs to raise fund and has decided to sell down its directly or indirectly held stakes in selected state-controlled companies to do so. The investor also, not feel uncertainty to invest their money on a business which have potential to grow rapidly, it is because they believe the business which apply stakeholder would give back high profit as much as their hopes.

The heart of stakeholder theory is for benefits created by jointly effort¹⁵. It's clear because there is no special inherently shareholder in a joint effort situation. The same situation is that there is nothing special about any class of stakeholders in that situation, including the consumer, but we must remember if the consumer exit, the firm goes fails and if the firm fails the consumer may suffer for the loss. The stakeholder theory rules out special interest theories favoring employees, the investor or consumer.

Each stakeholder should agree to a bargain contract and the owners receive the residual value and ensure that no contributor receive benefits worth less than value of contribution. The stakeholder may demand more benefits but settle for less, which means let them satisfied with bargained settlement. Stakeholder theory becomes a set argument for greater employees benefits or other redistribution benefits. Meanwhile, the consumer receives less benefit than contribution where monopoly power exists. Efficient communication among stakeholder members can give benefits to our economic country.

¹⁵ Duane Windsor. 21 December 2005. "The Definition of Stakeholder Status". <http://www.smartgrowth.org/about/principles/principles.asp?prin=10>

1.4) The Stakeholders Principles

Freeman has highlighted two principles that could explain the stakeholder organizations and how its work. Those Freemanian thoughts can be best defined as follows: -

- 1) The Principle of Corporate Rights (PCR): corporation and its managers cannot violate others' legitimate rights to determine their own future.
- 2) The Principle of Corporate Effects (PCE): corporation and its managers are responsible for the consequences of their actions on others.¹⁶

These two principles show the deontological and the consequentialist moments that according to Freeman should exist in any theory that attempts to justify or explain the concept of what company should be.

The first principle explains that the corporation and its manager don't have right to determine other legitimate right or ignorance of others right, but lead them decide their own future or what they need. Meanwhile clarify about the consequences that the corporation and the manager should faced based on their action on others.

That's means, any theory that seeks to justify cooperation must be based on equal and accountable for each parties involved. In the light of this word we may assume that the company behaving ethically or morally consider in the action project and future means. That means observations or studies take part derived from the company's action or project.

In other aspect, these two principles are formulated as a contract link in which the company and its manager are responsible in the business. The business should take these advantages as a key to develop efficient company and must be responsible for certain

¹⁶ Glenn Mason-Riseborough. 17 December 2005. "Stakeholders and Stakeholder Theories: An Analysis" <http://www.geocities.com/griseborough/55.htm>

individual and group interest. This principle also highlighted efficient communications, appropriate behavioural that should exist in business institutions and the nature proceedings that are understandable.

The stakeholder is simply can be defined in both the principles of the firm and the principles motivating those actors¹⁷, that's means normative core of reconstructed stakeholder theory are based on broadened theory of property rights demonstrating that all contributors to a firm's success have a legitimate moral claim to be beneficiaries of that success.

The criticism to this concept highlights the idea that companies and managers responsibility derives from the nature of explicit and specific contracts. It never originates from relationships with each stakeholder, whether are explicit or implicit. According to people adopting this criticism, if the concept of responsibility is maintained the theory is then extended groups, extortionist and the like. This could be opposed to managing interests and to turning responsibility into a vague and inefficient concept for companies.

¹⁷ Duane Windsor. 21 December 2005. "The Definition of Stakeholder Status". <http://www.smartgrowth.org/about/principles/principles.asp?prin=10>

C H A P T E R 2

Chapter 2: The Concept of Stakeholder

The stakeholder concept is stated to look further the members of stakeholder. The stakeholder is divided in two categories. There are primary stakeholder and secondary stakeholder¹⁸.

The primary stakeholder clarifies for those whom involved directly in the business operation. Here, four stakeholders are commonly considered as a primary stakeholder, there are: the owners of the firm, the manager of the firm¹⁹, the firm's customer and its employees.

Meanwhile secondary stakeholders are those whom the business affects or interacts indirectly or in restricted way in the business. These include strategic business partners, suppliers, former employees, union, the community, environment, the industries in which the business operates, the media and the society who live in which the business operates.

The secondary stakeholder may play smaller roles than the primary stakeholder. It is because the secondary stakeholder not involved to produce the products or services, but the secondary stakeholder as a collaboration to help how is it the business should operates by giving suggestion, support and promotions.

In other aspect, the categories of stakeholder also are known as primary beneficiaries and secondary beneficiaries. The primary beneficiaries are for those people the organization serves for an example in restaurant, the primary beneficiaries are the customers who purchase for the foods and eat at restaurant. That are the objectives of the restaurant to ensure that the customer satisfaction: efficient, convenient and inexpensive foods or services. Without this satisfaction material business cannot stand for long.

¹⁸Supra. note.4. p. 124.

¹⁹B.J Hodge et al. n.d. *Organization Theory a Strategic Approach*.n.pl: n.pb. Vol. 6. p. 304.

In addition the primary beneficiary group, all organizations must attempt to satisfy a secondary group, that's means this primary group have responsibility to gain satisfaction through organizations, for instance, the restaurant; these group include employees, owners, suppliers, the customer who served by the restaurant and many other group.

Those things would be achieved by negotiation between both primary stakeholder and secondary stakeholder, for examples banks should always have interactions with environmental groups but to coal mining business, environmental groups might be important stakeholder.

Furthermore, the link contract is recognized between the business and its stakeholders. The stakeholder should understand their members involved directly or indirectly for the business system. In fact, the ideas that business and stakeholder members interact are unique characteristic of free market society.²⁰

2.1) Primary Stakeholder

2.1.1) The owners and investor of the Firm.²¹

The owners and investor of the firm are one of primary stakeholder. The roles are for investing money to the business operation. The owner and investor took this risk by contributing their money on the company rather than pursue other opportunities because they deserve that the business would give good feedback by returning their money and profits. In fact, this notion of a business providing returns to its owners and investor is fundamental to our free enterprise system. Now it's the manager responsibilities to manage the business appropriate so that would guarantees returning money to owners and providers.

²⁰ Supra.note. 4. p.125.

²¹ Ibid. p. 127.

According to Milton Friedman, an international acclaimed economist even asserts that it is the social responsibility of business to increase its profits. That means, the firm provides the owners and investors as much money as it can. Therefore, the manager should focus their energies on enhancing revenues, reducing expenses, and thereby gaining as much profit as possible. Advocates of this view believe that it is not the job of business to address social issues or problems. They think other institutions, such as government and nonprofits social service agencies, should deal with social concerns. Do not dismiss this perspective lightly. It is technically sound and is backed by some powerful and well-respected business and economic thinkers.²²

The real sticking point is, how much return is proper? Some people think that the most important are based on the responsibility of a business is to maximize the return to owners and investor but other people argue that the profit maximization argument is too extreme and fails to recognize that business does and should have a broader role of responsibility to other stakeholders, for example, business' responsibility to their communities and to society in general. Advocates note that businesses exist in society and are part of society; so being socially responsible is the right thing to do. Business may be in better position to address social issues than other institutions in our society.

Today, the investors and the owners accept businesses, which have social responsibilities. Before they took a risk to invest their money in this project, they would look first to the record. The investor and the owner believe that the attention to social concerns such as for employees, does the business in bottom line, for instance; if the business address safety place to work and public health then the cost of insurance maybe reduce, if a business look forward less stressful in work it would reduce low absenteeism and motivation towards job. Those circumstances were ensuring on returning the money invest and just can achieve by using stakeholder concepts.

²² Ibid.

2.1.2) The Manager of the Firm

Manager is formal organizations that are responsible for acquiring, deploying, and controlling resources needed to accomplish objectives²³. Here, manager is to serves the owners by setting strategy and implementing that strategy in a way that maximizes the owner's return on their investment. Directing behavior of others are based on two "sub rights", first, are relating the rights to decide and second, are the rights to issue appropriate implementing instructions or directions. Without the right to decide no manager could be successful planner. Thus, authority is important to every organization because the nature of managerial responsibility involves decision-making and influence.

In addition, managers have rights to make and enforce decision. This right is term authority and is possessed by all who hold the managerial positions. Managerial authority is composed of the right to choose among alternatives and the right to enforce those choices, based on official position. Without both of these components, no manager can successfully carry out responsibility. This is true because managers are being so designated are charge with the responsibility to make decisions and ensure that they are carried out.

2.1.3) Customer of the Firm.²⁴

Customer is one of the primary stakeholders, without customer business cannot survive. The main point of the business not even get a profit only but also to fulfill the needs and desire of customers, the business must realize it. The managers of successful businesses must be sensitive to their customer if they hope to compete. The business must provide consumers the products they want, when they want, at prices they are willing to pay.

However, many people argue that the business's responsibility to its customers extend beyond this basic competitive focus. Customer expectations of business include quality

²³ Supra. note. 19. p. 307.

²⁴Supra. note.4. p. 129.

products and services, choice, communication, safety and respect. Here, the manager must have good relationship with the customer and must always have an eye on the bottom line between the customers.

The customer influenced by the color, medium, volume, services, product, quality and of course low price, especially women who are fastidious with those things. So that, the manager realize about sensitivity of their customer. The business must follow the consumer on what products they want, when they want and at prices they are willing to pay.

The customer always an adequate value-price relationship from a business. That means the products are not necessary in highest quality but it is still sufficient. Sometimes, average quality is sufficient if the price is low enough. For an example, Mydin's shop produces average quality of the products with low price. Most of the people can accept because it depends on value-price relationship. Besides that, the business also has to decide on how the business should operate. Maybe, high quality of high products needs greater high price. On getting high quality products or services is high value-price ratio.

Another area, customers expect that products will be safe for formal usage. This issue is critical because consumers typically operate on a presumption of safety. Such expectations are reasonable since it is not feasible for consumers to test every product before using it. They assume that the business has done the appropriate tests.

However, the right to safety must be balanced with reality. If, for example, customers use products in blatantly unsafe manner, it is unfair for them to hold the company liable in the case of accidents. Similarly, if customers disable products built-in safety features, they should not expect remuneration if they are injured.

The manager should alert about the safety products or services that they produce, for example the manager must alert of expired date of food products, besides the customer must be aware with it. Meanwhile, in services sector such as taxi driver must drive

carefully and respectfully. It all is safety manner in business. The customers also have right to test such product before use it such as electrical products.

However, the safety must be balanced with reality. The customer cannot claim with reality. The customer cannot claim that the company produces unsafe products since the customer used the products in unsafe manner. Besides that, one of the customer fault in which they never test the products whether suitable or not before buy it such as cosmetic products.

Communications between manager and customer are fundamental in business roles. Obviously, customer expect that the business will communicate with them in the forms of labels on boxes, instruction, pamphlets, advertisements, enclosed with products, truth-in-lending terms and complete information include the price regarding what and how services will be provided.

In other aspects, the customer for selections expects the choices. In the free market to work effectively, companies must not collude in price fixing and must respects patterns and copyright held by other companies.

Finally, the customers expect that the business would treat them with respective. Few things are as frustrating as dealing with a business whose employees seem to feel that the customer is nothing but a necessary evil. That arrogant and insensitivity to customer just cause failure in business. In contrast, the customers would appreciate the business that treats them in respectfully and honestly. Most of the company believe by this way can pay dividends in terms of repeat sales.

Its means businesses have responsible to consider the expectations carefully. In addition, they can meet the customer expectations while maintaining on enhancing profits; they should make every attempt to do so. In those cases where meeting customer expectations are just too expensive, managers must be cautious. They should analyze whether the customer expectations are indeed legitimate and if they can be met profitably.

2.1.4) The Employee of the Firm²⁵

Employees are the third parties in primary stakeholder. Their roles are to implement works command by the owners or the investor. Without the employee works can't operate.

In contract the employees expect that the manager would treat them fairly by giving or pay equitable wage or salary. Besides that, the employees always hopes that they have safety place to work and sufficient training for long-term job.

Furthermore, the employee's roles as a stakeholder are significance if they belong to union. Union are secondary stakeholder which is general effect how the business operates. In other aspect, if the business are unionized so that the business are claim as a primary stakeholder that as a general agreement or corporation directly with the firm.

Today, most of the business realized that their competitive situations are so are fickle and they can no longer guarantee employees long-term job security. Then, with this conscious they took step to treat their workers in respectively, out of discrimination, clean from bribery with adequate training, provide meaningful work, organize seminar that can improve employees knowledge and skills, provide safety insurance and pay fairly wages or salaries.

The consequences of that actions may provide skillful workers in long-term job guarantees, can produce high quality products or services, the employees would feel appreciate in their work. Besides that, the safety of the workers is guarantees.

²⁵Ibid. p. 131.

2.2) The Secondary Stakeholder

2.2.1) Union

Union is the organization that has link with the firm or company. A union role to be representative among company or industries or firm's workers. That's means, any problem that claim the rights of the workers to the company, then the union would take part on it. For examples, about the wage or salary that make the workers feel satisfied.²⁶

However union survive because of the company survive, which means if a company cost are so high that it has trouble competing in global markets, here union may have to make concession.

Finally we can conclude that unions play small roles in company or industries organizations but still need for the workers welfare.

2.2.2) The Environment

Environment is related to public policy issue. Environmentalism refers to actions and efforts to protect the natural environment, for an example the pollution; landfill contamination and other issue in environmentalist concern should take in seriously. Environment is important to humans and the business must step forward and take a leading role in addressing global warming, pollution and others. But despite the important of these concerns, remedies and responsibilities are difficult to establish.²⁷

A business can address environmental issues by using its policies and actions. Particularly in the areas of air, water and land pollution, a business can make decisions and take actions that encourage care of our nonrenewable natural resources

²⁶ Ibid. p. 134.

²⁷ Ibid.

2.2.3) The Community²⁸

The community is one of secondary stakeholder where the business operates. The roles may be carried out in many ways. In addition, businesses support or even sponsor community events, such as the symphony, the opera, the ballet, or special community festivals. These commit their financial support to bring entertainment and cultural enrichment to the community. Many companies have matching gift programs, in which the business matches employee contributions to charitable organizations.

Many businesses encourage their employees to take opportunities to be actively involved in their communities. It is not unusual to find business people holding key positions as community volunteers.

As conclusion, the business must recognize its responsibility to address primary stakeholder and secondary stakeholder. Since that stakeholder expectation often conflict, so the business and its manager must reasonably address and balance the expectations of its various stakeholder. In essence, business decision makers are always looking at the “capacity-stakeholder expectation-business responsibility” framework and trying to determine how best to make all the pieces together. In following sections, we will consider the links between business and some of its keys stakeholder expectation and business responsibility. We see that management decisions are always subject to the scrutiny of stakeholders.

²⁸ Ibid.

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Chapter 3: The roles of stakeholder in *Mudharabah*, *Wadi'ah* and *Musyarakah*.

3.1) The roles of stakeholder in *Mudharabah* systems.

Mudharabah is synonymous term as *qirad* or *muqharadah*. In general, the *Hanafis*, *Hambalis* and *Zaydiyyah* have used the term *mudharabah* while the *Malikis* and *Syafi'*s have preferred the term *qirad*.

Mudharabah can be defined as an arrangement whereby the owner of some property, termed as *rabb al mal*, gives a specified amount of capital to another person, termed as *mudharib*, who is to act as the entrepreneur to trade with the capital, the profit of which will be share between two parties according to the term of their arrangement. On the other hand, the losses will be borne by the *rabb al mal* who is the financier, whilst the *mudharib* only suffers the frustration of a fruitless effort. However, if the loss is due to the willful negligence of the *mudharib*, he must be responsible for the loss.

Mudharabah has also been occasionally defined as a partnership with monetary capital on the one part, and work or labor on the other part.²⁹ These *rabb al mal* and *mudharib* are the elements of stakeholder that take part in *mudharabah* principle.

All jurist agree with regards to the legality of *mudharabah* based on the evidence in the *Quran*, *Sunnah ijma'* and *qiyas* (analogy).

²⁹ Dr. Wahbah Al Zuhaili. 1989. *Al-Fiqh Wa Adilatuhu*. Dimasqh: Dar al Fikr. Vol. 5. p. 836.

Allah says in Al-Quran:

﴿ إِنَّ رَبَّكَ يَعْلَمُ أَنَّكَ تَقُومُ أَدْنَىٰ مِنْ ثُلُثِي اللَّيْلِ وَنِصْفَهُ وَثُلُثَهُ وَطَائِفَةٌ
 مِّنَ الَّذِينَ مَعَكَ وَاللَّهُ يُقَدِّرُ اللَّيْلَ وَالنَّهَارَ عَلِمَ أَن لَّنْ نُحْصِيَهُ فَتَابَ
 عَلَيْكُمْ فَاقْرَءُوا مَا تَيَسَّرَ مِنَ الْقُرْآنِ عَلِمَ أَن سَيَكُونُ مِنكُم مَّرْضَىٰ
 وَءَاخِرُونَ يَضْرِبُونَ فِي الْأَرْضِ يَبْتَغُونَ مِن فَضْلِ اللَّهِ وَءَاخِرُونَ
 يُقَاتِلُونَ فِي سَبِيلِ اللَّهِ فَاقْرَءُوا مَا تَيَسَّرَ مِنْهُ وَأَقِيمُوا الصَّلَاةَ وَءَاتُوا
 الزَّكَاةَ وَأَقْرِضُوا اللَّهَ قَرْضًا حَسَنًا ۗ﴾

“Thy Lord doth know that thou standest forth (to prayer) nigh two thirds of the night, or half the night, or a third of the night, and so doth a party of those with thee. But God doth appoint Night and Day in due measure. He knoweth that ye are unable to keep count thereof. So He hath turned to you (in mercy): read ye, therefore, of the Quran as much as may be easy for you. He knoweth that there may be (some) among you in ill health; others travelling through the land, seeking of God's bounty; yet others fighting in God's Cause. Read ye, therefore, as much of the Quran as may be easy (for you); and establish regular Prayer and give regular Charity; and loan to God a Beautiful Loan.”³⁰

3.1.1) Rabb al mal

The basic model of a *mudharabah* contract is where one of the contracting parties, called the *rabb al mal* (the financier or depositor), provides a specified amount of capital and acts like a sleeping dormant partner. The *rabb al mal* would provides their money in the bank using al *mudharabah* saving or in investment account.

³⁰Al-Quran. Al-Muzzammil 73:20.

By using the *mudharabah muqayyadah*, *rabb al mal* would make certain limitations to the activities that would be conducted by the *mudharib* with regards to the capital given. Meanwhile in *mudharabah mutlaqah*, the *rabb al mal* would authorize the *mudharib* to act completely at the latter's discretion in all business matters. Such authorizations may be understood from the term of the contract.³¹

The liability of the *rabb al mal* in a *mudharabah* is limited to the extent of his contribution to the capital and no more. This is an important point because it would not be appropriate for the *rabb al mal* to be a sleeping partner if his liability is unlimited.

3.1.2) *Al mudharib*

The *mudharib* is the nature of a trustee as well as an agent of the business. As a trustee he is required to act with prudence and in good faith and is responsible for losses incurred due to his willful negligence. As an agent he is expected to employ and manage the capital in such a manner to generate optimum profits for the *mudharabah* business without violating the values of Islam. The *mudharabah* agreement could also be concluded between several financiers and entrepreneurs.³²

The *mudharib* is required to work with honesty and sincerity and to exercise the maximum possible care and precaution in the exercise of his functions. According to al Jaziri, the *mudharib* should discharge his duties like "a muslim who does not commit a breach of trust, does not lie and does not act insincerely; such is a man with whom the *rabb al mal* will be ease and in whom he will have confidence for the safety of his investment"³³

Mudharabah system is implemented in two types, there *al mudharabah al mutlaqah* (unrestricted *mudharabah*) and *al mudharabah al muqayyadah* (restricted *mudharabah*). In

³¹ Dr. Engku Rabiah Adawiyah Engku Ali. n.d. *Islamic Banking and Finance Tools: The Syari'ah Principles*. Kuala Lumpur: International Islamic University Malaysia. p. 13.

³² Ibid. p. 15.

³³ Ibid. 17.

al mudharabah al mutlaqah, the *mudharib* may buy and sell all types of merchandise as he sees fit, hire helpers as needed, rent or buy equipment and travel with capital. The *mudharib* will practice all these things because they are customary practice of merchants, except for giving out loan because a loan is viewed as a favor by the lender, and not a commercial transaction from which some advantage can be expected.

Meanwhile, the *mudharabah muqayyadah* (restricted *mudharabah*) the *mudharib* requires express or implied permission from the *rabb al mal* with regards to certain acts, which are not, or less commonly practices in commercial field. For examples of these acts, the investment of the capital in another *mudharabah*, using capital in *musyarakah* with a third party, and giving the capital as donations or loans.³⁴

In other part, the *mudharib* must respect the restrictions imposed by the *rabb al mal*. If the *mudharib* acts contrary to these restrictions, he is alone responsible for the consequences. The restrictions may be in terms of time, which the *mudharabah* is dissolved with the expiry of the specified time period. In the case of unlimited *mudharabah*, the *mudharib* has an open mandate and authorized to do everything necessitated by the *mudharabah* in the ordinary course of business. If he is guilty of willful negligence, fraud or misrepresentation, he is himself responsible for the consequences, and the resulting loss, if any, cannot be charged to the *mudharabah* account.³⁵

3.1.3) Bank

Banking and financial houses in Islamic civilization are normally called *masarif*. Literally, *sari* means turning, sending and employing. In the technical usage, *musarafah*

³⁴ Ibid. p. 14.

³⁵ Ibid. p. 16.