

Mapping the collateral object within *ar-rahn* contract from its classical rulings to the current issues

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Abstract

Ar-rahn scheme is one of many contracts in Islamic law that helps the people's financial needs. It came to modify the same scheme that practiced in Jahiliyah era, where the creditor can freely take the collateral object whenever the pledgor unable to pay the debt. However, despite the prophetic practice and the generated rules, there are still legal issues that still arise. One of the issue areas of *ar-rahn* contract is about the collateral object (*marhūn*). Thus, this study aimed to draw the map of what classical rulings on *ar-rahn* and its issues development in modern era. This discussion is a qualitative type of study and it has involved the secondary data. The data analyzed through content analysis approach within the classical Islamic rulings from Four Islamic Mazhabs. Through the practice of Prophet Muhammad (PBUH) and the classical rulings generated by the Fuqaha of Islamic Mazhabs, the issues of *ar-rahn* contract can be drawn and related it to the current development issues. The study shows that the collateral object issues could be referred back to two areas, both are the collateral type and the collateral ownership. The map has described that there is an agreement between Fuqaha on the Shariah compliance type of collateral. It has to be valuable objects that permitted by Shariah. Through this topic area, it raised the issue of mixed compliance object that need to be divided first before it could be pledged. Second issue is the ownership where Fuqaha also agree to its principle, even though it is not the pledgor's belonging it needs to be through the owner permission to be pledged. This ownership's topic area has been breached by current development issues where someone pledge the undivided shared-inheritance without other heirs' consent. On the other hand, the legal violation is done by Islamic financial institution where it auctioned the pledged-object without the pledgor's permission.

Keywords

Mapping, Collateral object, *Ar-rahn*, Classical rulings, Issues

Introduction

Ar-rahn contract has been a cornerstone of Islamic finance since the era of the Prophet, serving as a debt-based agreement where collateral is provided to secure a loan. The

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Prophet himself gave the example of its mechanism by offering his armor as *ar-rahn* when purchasing food on credit, illustrating its foundational role in Islamic transactional jurisprudence. This mechanism is the simplest aspect of what *ar-rahn* should be done. The *ar-rahn* scheme also ruled by classical Islamic scholars within four madhabs (schools of thought): Hanafi, Maliki, Shafi'i, and Hanbali, each contributing nuanced interpretations of its application and conditions. The Hanbali school, for instance, defines *ar-rahn* as collateral property used to settle debt if the debtor defaults, while Maliki scholars view it as valuable collateral for securing obligations, highlighting its positive and binding nature [1]. While Hanafi and Shafi'i school define *ar-rahn* as a contract of detention, underscoring the creditor's right to hold the collateral until the debt is repaid [2]. This foundational understanding has enabled modern Islamic financial institutions to adapt *ar-rahn* into various contemporary products, ensuring compliance with Sharia principles through meticulous fiqh analysis and fatwas in modern day. However, the practical application of *ar-rahn* in modern financial ecosystems necessitates a thorough examination of its rules and conditions to accommodate diverse contemporary practices. It is well-known nowadays that the expansion of Islamic finance has led to the development of complex instruments requiring rigorous Sharia compliance, particularly concerning collateralized transactions. Accordingly, current application of *ar-rahn* within its complex modern transaction has brought contemporary legal issues like hybrid contract structures, the fixation fee of collateral safekeeping, the collateral ownership problem, the collateral obligation in *mudhārabah* and *musyārakah*.

Based on the emergence of current issues, this paper aims to map the evolution of *ar-rahn*, transitioning from its classical interpretations to its current implementation in contemporary Islamic financial products, and addressing the challenges posed by modern collateral instruments. Thus, mapping the *ar-rahn* classical rulings will draw upon jurisprudence to elucidate the underlying principles guiding its application. This mapping will involve the various interpretations across the classical schools of thought, examining how these classical rulings inform and legitimize current Islamic financial practices. More importantly, it will give a clear picture on how modern Islamic financial institutions, implement the *ar-rahn* contract, considering its impact on product development and legal certainty.

There are several studies on *ar-rahn* that explore its conceptual analysis, implementation in contemporary Sharia financing, and the use of Sharia non-compliant assets as *rahn* [3]. Many of the conceptual aspect of *ar-rahn* contract has been analysed, such as its foundational elements, the rights and obligations of the parties involved, and the conditions for its validity in various financial transactions [4], [5]. Some research delves into the permissibility of utilizing modern financial instruments, such as shares or unit trusts, as collateral within the framework of *ar-rahn* [3]. Other studies have investigated the operational aspects and challenges faced by Islamic financial institutions in applying *ar-rahn* [6]. Despite the growing body of literature, a

comprehensive review of *ar-rahn's* development, current state, and future direction remains limited. Many of *ar-rahn* studies have showcased the current application and linked it to the compiled-Shariah rulings on *ar-rahn*. There is yet to be known of the *ar-rahn* mapping through its first application and its current development, especially in collateral object area. Thus, this paper seeks to bridge that gap by systematically mapping the collateral object of *ar-rahn* from its classical underpinnings to its modern manifestations, addressing current challenges and opportunities within the Islamic finance industry.

Method

This study adopts a qualitative research approach, employing a meticulous content analysis of classical Islamic legal texts, contemporary academic literatures, and relevant fatwas to trace the evolution and application of *ar-rahn*. Specifically, it involves an in-depth textual analysis of jurisprudential works from the four major Sunni schools of thought to establish the classical understanding of *ar-rahn*. After analyzing of the classical rulings, the mapped-data systematically drawn using a cross-sectional analysis to understand what relation between classical understanding and contemporary applications exist. The mapped data is generated and shown through detailed comparative tables and diagrams, illustrating the convergence and divergence of interpretations over time. Therewith, the illustration of *ar-rahn* mapping is described descriptively and sequentially.

Results and discussion

Results

The mapping of *ar-rahn* application refers to its components show in Figure 1. These components concluded from the practice of Prophet Muhammad (PBUH) when he gave the collateral for his debt on the food he bought. Through the hadith, *ar-rahn* contract is consisted of (1) *rāhin* (the one who give the collateral for the given-debt); (2) *murtahin* (the one who gives the debt and receives the collateral); (3) *marhūn* (the collateral object); (4) *marhūn bih* (the debt); and (5) *sīghah* (offer and acceptance/ *ijāb and qabūl*) [7].

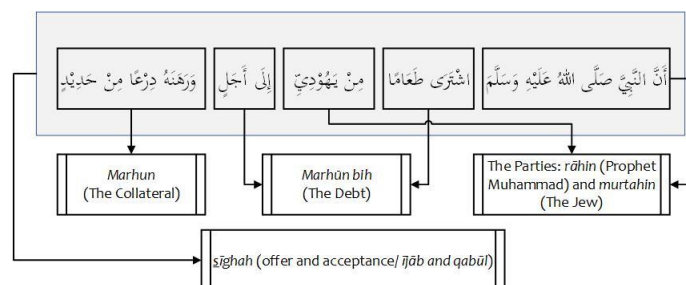


Figure 1. The generated-components of Ar-rahn from Hadith

Each of the above components has certain conditions and legal issues behind it. Through these *ar-rahn* pillars, the Islamic Scholars, primarily four Islamic Jurist Schools (Hanafi,

Maliki, Syafii, and Hanbali) have described the application and the issues behind its implementation. However, the issues behind those pillars are focused on *marhūn* (the collateral object).

Table 1. The Mapped table on collateral object

Topic	Four Mazhabs Perspectives			
	Hanafi	Maliki	Syafii	Hanbali
Collateral Type	All Islamic Schools agreed to the legal theorem [10]: “Anything that can be sold can be pledged as collateral”, except for Hanafi School which exclude following types:			
	Shared Property Items	-	-	-
	Pledging an item part not a whole of it. Ex: pledging the fruit on the tree without its tree or the paddy without its soil	-	-	-
	Pledging the non-free right item of the pledgor. Ex: pledging the house while the pledgor’s good are still in it	-	-	-
Current development issues:				
The Non-Shariah Compliance Collateral [3]	: Pledging the conventional fixed deposit certificate Pledging the conventional bond Pledging the company shares with mixed assets (Shariah compliant and Shariah non-compliant) Other similar types			
Topic	Hanafi	Maliki	Syafii	Hanbali
Ownership	All four Islamic Mazhabs agreed that collateral object is clearly belong to the pledgor (<i>rāhin</i>) [11], [12], [13]. In certain part, the collateral is not always in pledgor’s ownership. As long as the pledgor has permission from the owner, the object could be pledged as collateral [14]. It is like someone borrows certain valuable-object and pledge it with owner’s permission.			
Current development issues:				
Inheritance as collateral	: Pledging the undivided inheritance without the heir’s consent			
Auctioning the collateral	: The Islamic financial institution auctioning the pledged-collateral without pledgor’s consent while trying to settle the debt.			

The issues behind the collateral object are derived from several aspects in classical rulings. It is based on what Prophet Muhammad (PBUH) mentioned in his sayings on this topic. He said that the collateral object is clearly belong to the pledgor, thus the benefits and the risks of the object are referred to the pledgor [8]. Prophet Muhammad (PBUH) also stated on utilization of collateral object that the pledged-animal could be ridden on and the pledged-dairy animals could be milked by the pledgee (*murtahin*) under the treatment of the pledgee (the care and its cost). Thus, for those who utilize the pledged or the collateral object must provide the treatment cost [9]. Through these hadiths, the

four Islamic Schools gave attention of this part and discussed it with detail explanation in each of their book of *fiqh*. Through the four Islamic schools, the generated-map table from classical rulings on *ar-rahn* to current occurred-issues shown in [Table 1](#).

Discussion

Based on the above result, it gives us the picture that the collateral object is one of the important aspects in *ar-rahn* application. Through the perspective of Four Islamic Mazhabs, the *marhūn* is ruled through what Prophet Muhammad (PBUH) said about it.

The legal theorem regarding the *marhūn* shows us that the prohibited items are not in permissible object to be pledged. That is because, for example, the impure or filth objects like swine, pig, hog, and its meat (pork) are considered to be absolutely haram [10]. All of the Islamic Scholars are in the same page on this principle. However, through current development of financial activities in Islamic economic world, there is condition where some people cannot get away from conventional type of financing. For this situation, the pledgor must divide between principal amount and given-usury in the bank account [3]. It is permissible for the pledgor to only pledge the fixed deposit for its principal amount, not with the given-usury. However, through the current vast technology development, there are the probabilities of issues growth within the type of collateral that mixed between Shariah compliance and non-Shariah compliance. Thus, the legal theorem of “everything permitted to be sold, it could be pledged” needs to be developed into an applicable formula in which combine the *maqāsid* or *maslahah* to easily dissociate the non-Shariah compliance items and make it as a user guide for those who are not too familiar with what is permitted object and what is prohibited one as collateral.

The issue regarding the collateral object is also deals with ownership status of the pledged object. There is no different opinion from each of Four Islamic Schools that the ownership status is a must. Even if the collateral object is not within the pledgor’s ownership, all Four Islamic Schools has agreed that it need the owner’s consent. However, seeing from the current and ongoing cases, this principle of ownership that has been told in classical rulings is breached. It has become the developed issues from current financial activities. [Table 1](#) shows us the contemporary issues within this area: the inheritance joint property and the force auctioning of collateral object. Both these cases are likely depended on the morality of the parties (*rāhin*/pledgor and *murtahin*/pledgee). There is, somehow, people’s habit or custom that delaying the dividing and distributing the inheritance to the heirs. Accordingly, this postponing has made the undivided wealth belong to and by the name of all the heirs [15]. Thus, it becomes a joint property in which access to utilize the wealth is through the permission of all the heirs. If the morality of one of or several of the heirs is dreary, it will breach the other heirs’ right. It is like the case where one of the heirs fabricated each of heir’s sign to be looked permissible by Islamic financial institution for personal economic interest.

Other morality toneless in ownership issues is where the Islamic financial institution forced the auctioning process of collateral object. The bank is not considering the pledgor's struggle to pay back the debt. Moreover, the pledgor is not informed by the bank that the pledgor finance marked as Non-Performing Loan (NPL). Even though the pledgor was struggle, the bank still decides to place the collateral object to be auctioned. In this case, the morality of the parties must be lingered always in every economic or financial activities, especially where it involves the *ar-rahn* scheme.

Conclusion

Ar-rahn scheme is actually benevolent contract that aimed to help those people in need. Back to the Prophet Muhammad (PBUH) era, it has been practiced by his presence in economic activity. It then generated as rules guidance formulated by Islamic Scholars within the Four Islamic Mazhabs. Among the rules on *ar-rahn* that articulated by those Fuqaha is the *marhūn* issue. Through the expressed thought of previous and noble Fuqaha, we clearly get a picture of what collateral object needs to be paid attention of. Some of the related concerns are the collateral type and the collateral ownership. Both discussion area has been detailed in classical Islamic rulings and, as simply as it is, we need to rearticulate the previous rulings, forwarding it to the current issues, make legal adaptation without leaving the base principles of Shariah compliance in economic and financial activities. Thus, this mapping of classical rulings and nowadays development issues could be an initial picture to determine what issues need to be mitigated. There are other discussions of *ar-rahn* contract within its components/pillars that need to elaborate. Mapping all the area could be completing the puzzle's hole. Especially the research course where the issues could be forecasted using the current and further development of technological involvement in contractual activities. This article is a mere initial mapping of the issues, so it could become an initial data to be further discussed.

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