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Debate on the Nature of Shareholder's Right: Clarification of Misunderstanding and Restatement of Value

ZHOU You

Abstract: Classical debate upon the nature of shareholder's right seemed to be vague and unvalued mainly because of the misunderstanding of ownership (property right) and member's right in the aspects of language and legal system. Based on those situations, the debate tended to be confined to the boundary of shareholder's right and other external rights, but ignored the substantive characteristics of the internal structure of shareholder's right. Owing to the influence of the differentiation of shareholders' roles, it is difficult to homogenize for the demands of shareholders, which is not restricted to the property interests. It could reflect more the value of rethinking the nature of shareholder's right through analyzing the interests structure of shareholder's right. Specific parties are able to relocate the different interests in the same shareholder's right through some ways, in order to change the mode which the interests of shareholder's right are all put in one and enjoyed individually by the shareholder. It would be the key point that the shareholder's right can be considered as an independent right. Accordingly, it is possible to renovate the concept and principle of Chinese corporate law.

Keywords: Member's Right; Property Right; Separation of Interests; Equality of Shareholders; One Share One Vote