

CHAPTER I

INTRODUCTION

A. Background

The first issue in contemporary justice principles regarding ownership is very important and fundamental concerning with economic discussion. In line with the assumptions of freedom and competition, Adam Smith as the initiator of the classical liberalism put self-interest as the basis of his doctrine. This assumption is taken by libertarianism as the first assumption in fairness, that each person has himself and frees to do everything what he wants.¹ Unlike classical liberalism and libertarianism, the principle of radical egalitarianism even promoting co-ownership in deeply, and the consequently is ignore private property and curb freedom of individualism.² Finally in real condition these two principles got stuck and can not solve the problem when personal interests and social interests unity in one case.

For example one of promoter liberal capitalism, John Locke, we know that whole view of his political philosophy of law is based on the maintenance of the property. Basic assumption of all Locke's political philosophy is "the sanctity of property rights". In other words, the main purpose is to protect the State established the property. Locke did not mention that the State must also consider social justice in the political area. However, Locke also saw the devastating impact of the monopoly of wealth, but he did not choose to reduce the monopoly of such property. He would prefer that the State should pay attention to them, the owners of the most threatened, because they are the wealthiest. Locke's philosophy presents itself as an ideological shield for the benefit of the bourgeois class in society liberal.³

¹ Hans Fink, *Filsafat Sosial dari Feodalisme hingga Pasar Bebas*, translated by Sigit Djatmiko, (Yogyakarta: PT Pustaka Pelajar, 2003), p. 106

² Hafidz Abdurrahman, *Muqaddimah Sistem Ekonomi Islam*, (Bogor: Al Azhar Press, 2011), p. 78

³ Hans Fink, *op. cit.*, p. 69.

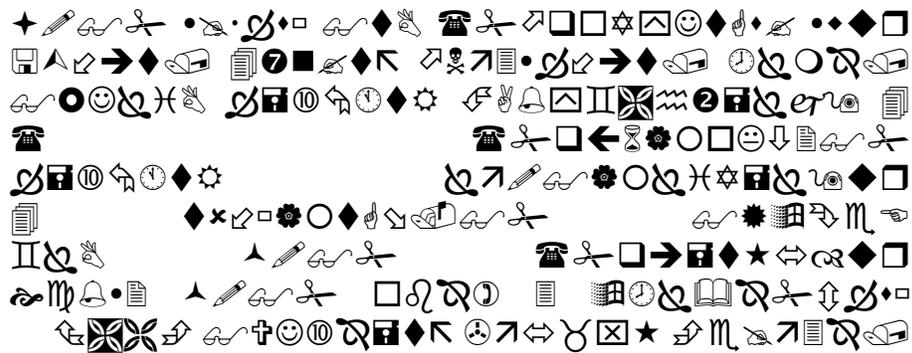
If Locke in his philosophical view of property rights as something of value, Marx argues precisely the opposite. Social theorist and philosopher stated that in a capitalist society, private property is the source of all the oppression that created the alienation of the workers. No exaggeration to say, private property is the source of all the crises that arise in capitalist society. Logically, if people are allowed to accumulate and enjoy private property without limit, then automatically, it will do anything to achieve that goal. If necessary he would exploit the people to fulfill his desire.⁴

When we look at the explanation about capital and social theory above, of course we will get in deeply unbalance between each other.

In the other hand, according to the principles of the Qur'an, ownership are divided to tree kinds, they are:

1. Limited individual ownership
2. Collective ownership is guaranteed
3. Resources are not exclusive ownership.

In line with the postulates and principles of ownership, the Qur'an introduces the unique concept of private ownership. It is compatible with the fact that legitimating ownership is depending on the business/work that they do.



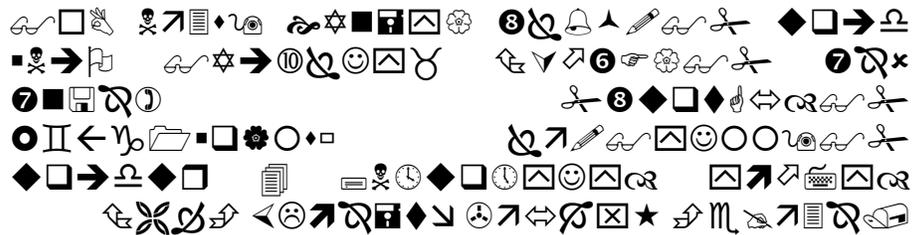
“And in no wise covet those things in which Allah Hath bestowed His gifts More freely on some of you than on others: to men is allotted what they earn, and to women what they earn: But ask Allah of His bounty. For Allah hath full knowledge of all things.”⁵

⁴ Adnan Khan, *Kapitalisme di Ujung Tanduk: Tinjauan atas Krisis Kredit Global, Krisis Minyak, Krisis Pangan, dan Bagaimana Sistem Ekonomi Islam Mengatasinya*, translated by M.R. Adhi, (Bogor: Pustaka Thariqul Izzah, 2008), p. 78

⁵ al-Nisa: 32

The Qur'an comes with maintaining moderation, equilibrium between two things: recognize private ownership and possession to secure the distribution of welfare is very large and profitable through the institutions he built.

The base joint ownership rests on the verse: He's God who has made all of what is on earth for you.



“It is He Who hath created for you all things that are on earth; moreover His design comprehended the heavens, for He gave order and perfection to the seven firmaments; and of all things He hath perfect knowledge.”⁶

There is a free resource created by God to all human beings, like water, space, and marine resources. Other resources such as water, forests and earth, as well as earth resources, minerals like oil, minerals, is a region collectivity of people living in the territory containing resources such as the following Hadith stated:

الْمُسْلِمُونَ شُرَكَاءُ فِي ثَلَاثٍ فِي ٱلْأَكَاكِلِ ٱلْمَاءِ ٱلنَّارِ

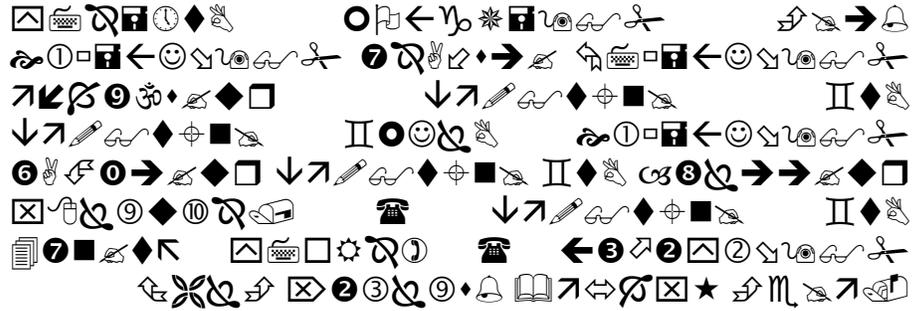
"People associate (collectively own) in three things: water, pastures and fire" (Ahmad and Abu Dawud)⁷

Key word in this discussion is the word *Mulk* in the Qur'an. The word *Mulk* shows the character that has full authority over a property on this earth. The word *Mâlik* shows that Essence has a right to control all the existing ownership.

In the Qur'an:

⁶ al-Baqarah: 29

⁷ Ibnu Majah Abu Abdillah, *Sunan Ibn Majah*, juz. 2, (Beirut: Dar al-Ihya' al-Arabiyyah, 1311 H), p. 826.



“Say (Muhammad), O Lord of power (*Mâlik*), you give power over whoever you want and you unplug the power from whomever you wish. You give honor to whom you wills and humiliating to whom you wills. In the hands of you are all virtues. Truly, you have all-powerful over everything.”⁸

Only God who has power and authority over everything that exists on this earth. That is heaven, earth and its inhabitants. Because he is God who created everything in this universe, so he is also entitled to all, both in managing, controlling, creating, and destroying whatever he wanted.

The word *Mulk* in the Qur’an also indicates the power to the people to obey the rule that God has created it. Work performed in humans justified (according to instructions) by Allah will be rewarded with a reply in justice in the world and the hereafter.

The meaning of the ownership right is a power or authority entitled the owner of a property, which is generally realized in the form of legitimate as law. For example, laws on the use, dispose, acquire and enjoy property is best for the owner.⁹

Recognition of the ownership and use rights in Islam can be known that the concept of ownership can be understood as a relationship between "man" and "object", which is regulated in the Act. In Islamic law, talent and a passionate human spirit to seek, obtain property belonging not only well-recognized but also respected by its full support. Islam also regulates or classifies objects or something that is permitted and forbidden

⁸ Ali Imran: 26

⁹ <http://www.forumpakistan.com/the-pope-or-the-quran-capitalism-vs-sharia-t17467.html>

to humans. So, people in directly can use it and that people far from the nature of greed and gluttony. It's called the communal right, for Example Rivers, roads, mosques and others. The facility will not be held personally because it is useful to people a lot, and then owned by the community together. Therefore, it must be cared for and maintained and preserved together.

This is what distinguishes between capitalist and socialist concepts dealing with the concept of Islam on the other side. In capitalism only focus on the benefits of goal as something important even it is as basic philosophy of its economy, so that called capitalism.¹⁰ In this system the dominance of individual freedom is very large even over.

Unlikely the socialists on other side, as mentioned above, which tends to suppress private property, there are even more radical by removing individual ownership altogether. This sect is out standing with communism sect.¹¹ This information can be read in several books that have been written among them.

Based on the explanation above, so the author thinks that the discussion on property right in the Qur'an and of course comparing with capitalism and socialism concept of economy is very important, because like we know together, these two system of economy are very popular until now, even always become actual problem in our country. Indonesia, this our country really has much resource that we can utilized it for development, but some proverb said that Indonesian people like the mouse dead in center of rice shelter. We have mine, gas oil, forest, gold, and silver very much, but the big question here is why our country becomes one of poor country in the world? Where these much resource was under control? And when we analysis in detail, actually the core problem is on using of property right and here I will try to solve this problem with the Qur'an approach. In other side, like we know both of capitalism and socialism that their

¹⁰ Hafidz Abdurrahman, *op. cit.*, p. 52

¹¹ [http://www. Gutenberg.org/files/61/61.txt](http://www.Gutenberg.org/files/61/61.txt), 14/01/2012.

concept of economy based on wrong understanding of ownership not valid any more as the fixed rule of economy in their country.

B. Research Question

The formulations of the problem that we want to know in this research are:

1. What are the characteristics of private and collective property rights in the Qur'an?
2. Are private and collective property rights in capitalist and socialist economy compatible with the Qur'an?

C. Purpose and Significant of research

1. Purpose of research

The purpose of this study is to:

- a. To know private and collective property rights in the Qur'an.
- b. To know whether capitalist or socialist economic system in private or collective property rights are compatible with the Qur'an.

2. Benefits of Research

- a. Theoretical benefits

The authors hope this research may provide new knowledge, especially in a world of interpretation.

- b. Practical Benefits

The author hoped that the research can improve the current economic system is patterned with destructive privatization capitalism.

D. Prior research

There are many books from the previous research concerning with the property before deciding to choose and do this research, but their focuses are different. Those researches are below:

The first is the book under the title *Pembangunan Ekonomi Umat* by Lajnah Pentashihan Mushaf al-Qur'an. If we read in detail, we will find that this book just give us understanding property in the Qur'an view generally and the prohibition in earning the property, and also tell to the reader the dimension the economy in prophetic life as supporting data. But, there is no explanation about property right in the Qur'an. He focuses on the property in the Qur'an not in property right its self. Course like we know, the meaning of property here is very large and every part of them still need explanation in complete. From this partially discussion of course this book still very simple as explanation to be call enough study concerning with law of property right.

The second, the book call *Pemerataan Distribusi Kekayaan Umat* which has been written by Dr. Zaki Fuad Chalil, M.A. This book tells and gives us some description that actually human beings are created by Allah from the same essence. Allah is creator and human is created, so our function in the sight of God concerning with property is as holder of mandate from God its self. From this statement can be understood that all of us also have the same right and duty as Allah's creature to manage and maintain the world (all of economic resources) in order to get profit as much as possible for reaching their welfare, in the world and hereafter. The welfare in the world is fulfillment of life quality that includes property. But, further more, after we analysis in detail this book, he just discusses about the correlation between economic activity and the verses of the Qur'an in general not in complete tell us in property right.

The third is the book that has been written by Prof. A. Qodri Azizy, Ph.D *Membangun Fondasi Ekonomi Umat (Meneropong Prospek Berkembangnya Ekonomi Islam)*. After reading this book, we can understand that in generally our Muslim society dominated by

misunderstanding in analysis of literature that as if between the world and here after is there is extreme different and can not close each other. It is mean that when we discuss about economy become very strange if connected with religion. He calls as dichotomy. There is simplistic, narrow understanding of religious teachings about the worldliness, which seemingly does not suggest noticing success in the world. This book also quotes some verses of the Qur'an and hadith, but it is still very simple to be called as profound study.

The next book is *Hukum Harta Kekayaan* by Prof. Abdulkadir Muhammad, SH. Here, he explains the regulation of property law in Islam perspective with little discussion on conventional perspective and human right in property right. If we read this book in deeply, will be known that his focus is just in the law of economy side not in property law in complete but at glance.

The fifth is the book that has been written by Save M. Dagon under the title *Pengantar Filsafat Ekonomi*. In this book, he explain the law of thing and it basic compatible with civil law. Of course, not tell in large from Islamic perspective but little. It just said in the principles of the law of civil thing and the law of property right. Generally, he describes comprehensively about the law of thing in the civil law perspective.

The next is *Wawasan al-Qur'an* by M. Quraish Shihab. In this book was described in little the principles of economy by the Qur'an perspective. According to him, Islam has strong motivation to develop economy of society, and encourage people to be success and become rich man in society. This book focuses about economy in the Qur'an and the Qur'an view on poverty and it solving problem but not in detail to call as complete discussion about property.

All of mentioned studies are different from this study, because most of those studies just explain about the theme of property right at a glance and have little discussion in signifying the Qur'an in property right. Here, the researcher will discuss property right specifically, profoundly

and thematically supported by some verses of the Qur'an which are in line with it. So, it can be sure that this study is relatively new.

E. Research Methods

1. Types of Data

Type of research that used by the researcher in this research is qualitative research, and it can be grouped in observational bibliographical (library research). It means the collected data are from word by word and pictures instead of numeral. Using of this method can be done by formulating the problem, collecting data, analyzing data and formulating the conclusion. Because researcher use thematic to write this, so, the sources of data are written and matching with relating discussion.¹²

2. Sources of Data

The sources of data that have relationship with the Qur'an are there are 2 (two) kinds of data:

a. Primary data

The primary data in this research will be taken from the primary source. That is the Qur'an related to the verses which implicitly explain property right. Besides that, the other sources regarded as primary sources are books of *tafsîr* which are representative to support this research. Those books of *tafsîr* are as follow: *Tafsîr al-Kasysyaf* by Zamakhsary (538 H), *Tafsîr al-Qur'ân al-Adhim* by Ibn Katsir (774 H), *Jamî' al-Bayân Fî Ta'wîl al-Qur'ân* by Ibn Jarir al-Thabary (310 H), *Tafsîr al-Munîr* by Wahbah al-Zuhaily *al-Tafsîr al-Kabîr Wa Mafâtiḥ al-Gaib* by Fakhruddin al-Razy (606 H), and *Tafsîr al-Miṣbâḥ* by Muhammad Quraissy Syihab.

¹² Sudarwan Danim, *Menjadi Peneliti Kualitatif*, (Bandung: Pustaka Setia, 2002), p. 51

b. Secondary data

Meanwhile, the secondary data gathered from variety literature which works through about explanation that support to the primary data. Of course, the secondary data of this research is taken from many books, journals, papers and internet which discuss about property right.

Here as the secondary data, the researcher uses *al-Mu'jam al-Mufahras li al-fath al-Qur'an al-Karim* to find the verses of the Qur'an. CD *Maktabah Syamilah* is also used to facilitate finding the verses and the prophetic traditions easily. To make easier in writing the verses of the Qur'an and its English translation is utilizing *Qur'an in Word* by Muhsin Khan. And for translating or seeking the difficult vocabulary, writer use many of dictionary like *Oxford Learner's Pocket Dictionary*, *al-Munawwir*, *Cambridge Advanced Learner's Dictionary* and *Dictionary of The Holy Qur'an* are utilized to know the lexical meaning of words.

3. Collecting Data Method

Because this research is bibliographical research, so the collecting data is supported by books, websites, journals, and papers that have relationship to the topic. In this research, the researcher explores several previous findings and researches done by the experts who have discussed the same topic.

Those previous researches have function as raw data. Based on the data, it is necessary to look for outlines, fundamental structures and basic principles in detail and to ignore the irrelevant data.¹³

The data which have been collected by the researcher is utilized and synchronized with the topic based on inductive method.¹⁴

¹³ Anton Bekker & Ahmad Kharis Zubair, *Metode Penelitian Filsafat*, (Yogyakarta: Kanisius, 1990), p.125

¹⁴ Inductive method is based on particular fact and concrete evidence then from the fact and the evidence are concluded as a generalization. See Sutrisno Hadi, *Metodologi Research*, (Yogyakarta: Andi Offset, 1995), p. 42

4. Analyzing Data Method

To analyze the data the researcher uses the method of thematic study (*tafsîr mawdu'iy*). It means collecting verses in the Qur'an which have same contents by means those verses talk about one problem and arranging them based on *asbâb al-nuzûl*, and then the researcher gives some elaboration. Finally, he concludes what have been elucidated.

The steps to apply *tafsîr mawdu'iy* in this research can be reached by following these rules:

1. Choosing then determining the problem in the Qur'an that will be researched thematically.
2. Collecting the verses related to the determined problem; both *makiyya* and *madaniyya* verses.
3. Arranging those verses systematically in accordance with chronology toward background and *asbâb al- nuzûl*.
4. Knowing correlation (*munâsaba*) of verses in each surah.
5. Outlining the theme in correct, systematic and whole frame.
6. Accomplishing the research by some hadits.
7. Learning those verses thematically and completely by collecting the verses which have similar meaning and compromising between '*am* and *khaş*, *muţlâq* and *muqayyad*. Synchronizing the verses that seem contradictory, explaining *nasîkh* and *mansûkh* verses, so that all of verses can stand in one estuary, without any differences and contradiction, afterwards there will be no forcing to some verses in false meaning.¹⁵

Technically, the researcher uses some steps in which to make those steps of *tafsîr mawdhu'iy* easy to be understood:

¹⁵Abdul Hayy al-Farmawi, *Metode Tafsir Mawdhu'iy Suatu Pengantar*, translated by Suryan A. Jamrah, (Jakarta: PT Raja Grafindo Persada, 1996), p. 46.

1. Determining and collecting the verses of the Qur'an related to the topic. It means the researcher chooses and determines the discussed verses based on similar theme property right.
2. Arranging those verses chronologically based on the background of verse (*asbâb al-nuzûl*). This step is aimed to classify the verses describes property right.
3. Accomplishing and explaining with the certain prophetic tradition. The role of prophetic tradition is completing and strengthening the data.
4. Investigating the thought of the classical and contemporary Islamic scholars on *tafsîr*. This step is needed to enlarge the understanding and insight of contextual interpretation related the topic of property right.

Even though approach of *tafsîr mawdu'i* is a main method, yet another approach has also role in analyzing the problem of this research. All of assisting approach that is able to clarify the problem will be utilized by the researcher provided that they are relevant with the topic.

F. Structure of Report

A scientific paper must meet the requirements of logical and systematic. For that in his discussion, this essay has author collated into five chapters, where each chapter are interrelated.

The first chapter is an introductory chapter that explains about the things that shape the emergence of problems formulated in this study, here presented on the importance of the theme of property rights and seek its interpretation of the Qur'an. This chapter also contains a formulation of the problem; the purpose of research, the benefits expected by the existence of this research, literature reviews that describe previous studies and books about capitalism as the explanation that the research the author has not been done before; methods of research; and systematic of writing.

The second chapter describes the theories of property rights, such as the right of individual ownership in capitalism, individual ownership rights in socialism, the right of joint ownership in capitalism and the

rights of joint ownership in socialism. Both these topics will be discussed further later in its entirety.

The third chapter describes the system of individual rights in the Qur'an. In this chapter mentioned the verses about the rules relating to rights and respect of property concerning with the right and obligation dealing with *asbâb al-nuzûl*. Then the verses are interpreted by the thematic method.

The fourth chapter is a chapter of analysis. In this chapter will analyze how the form of ownership set out in the Qur'an based on the description of the previous chapters.

Last is the fifth chapter or chapters that describe the conclusion of the final closing of the entire chain of research above. This conclusion contains the answers to the formulation of the problem and the implications of this research. In addition, this chapter also contains suggestions from the author.