

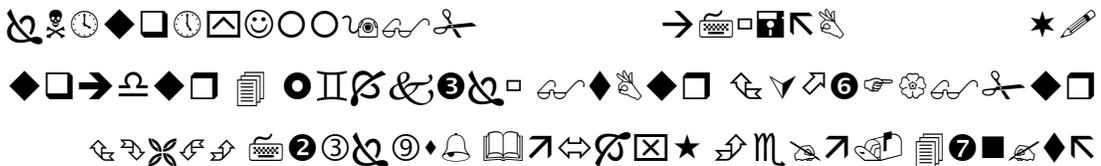
CHAPTER III

PROPERTY RIGHTS IN THE QUR’AN

After the world of Muslim have been concurred by the western country, that is the modern post-colonial era, Western ideas and Western economics began to influence the Muslim world, some Muslim writers sought to produce an Islamic discipline of economics. Because some Islamic scholars consider that Islam more than a spiritual formula to a complete system of life in all its walks, these writers believed that it should logically follow that Islam also had its own economic system unique from even superior to non-Islamic systems that are capitalism and socialism. However, there have been no agreements to the methodological definition and scope of Islamic Economics. Get away from this problem, writer think that discusses on property right get the important place, more over analyzing it from the Qur’anic perspective. Below, researcher will explore more about it.

A. Verses About Property Rights in The Qur’an

1. Allah as Absolute Owner



“To Allah doth belong the dominion of the heavens and the earth, and all that is therein, an it is He Who hath power over all things.”¹



¹ al-Maidah:120

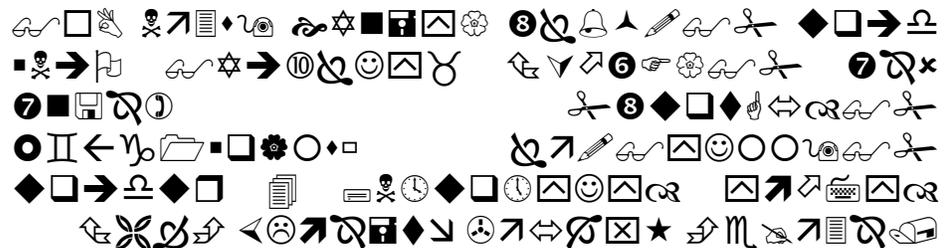


“Say: ‘Call upon other (gods) whom ye fancy, beside Allah: They have no power,-not the weight of an atom-, in the heavens or on earth: No (sort of) share have they therein, nor is any of them a helper to Allah.”²

Expression *mulku al-samâwâti wa al-ardi* is repeated 18 times scattered in various chapters, all providing information and decisiveness that the absolute owner of what is in the universe is only God. Second preceding paragraph and other verses that match meanings signaled clearly that God is the absolute owner of all that is in the universe and everything in it. Included, such as earth, sky, people, animals, plants, water, air, and all rational beings and not rational, which seems to us a sensory or not.

Even God's, but this infrastructure is for the interests and human survival.

As in the word:



“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.”³

Understanding *khalaqa lakum* according to the interpreter of the Qur’an is all that is on earth can basically be used by humans, unless there are arguments against it. According to al-Nawawi, pronunciation *huwa al-lazî khalaqa lakum* means to benefit the religious life of the world and to demonstrate the existence

² Saba: 22

³ al-Baqarah: 29

Word of *Mustakhlafina* in this verse according to al-Zamakhshari, he stated that "the treasure that is in the hands of God be with you all the wealth that was created and developed for you. God gave the property and allow for you to enjoy. God made you as caliphs who are able to manage the property; therefore, wealth is not yours. The position of the property you are only as deputy and the mandate holder. Therefore give charity treasure on the rights of God. Easy to give charity, as someone give charity in light. "⁸

Imam al-Razi said, that in the reality, the poor is nursling of the God, and the rich is as treasurer of the God. The property of them (the rich) is Allah's property. From this comment can be concluded that it is not false if Allah as the owner in absolute said to rich people "distribute some of your property for helping My nursling who poorness and need your hand for stand covering their life."⁹

The author of Tafsir al-Qurtubi explains and focus in the statement *He entrust to you*. The word of *mustakhlafin* taken from the word *khalafa* that means back or who come after other come it is means just changeable between each other. Start from this point, he describes in this book concerning with this discussion by states that the property is the property's people before you and than you will be replaced, that is in ownership or authority of property the first owner will be changed by the second owner and so on.¹⁰ This verse gives advice and encourages people to give *infâq* because if they aware that the property is belongs to the God and they have duty to become the caliph or leader (*khalifah*) of property, so they will give *infâq* easily and happily.

⁸ al-Zamakhshari, *Tafsir al-Kasysyaf*, juz 3. (Beirut: Dar al-Kitab al-'Araby, 1407 H), p. 189.

⁹ Abu Abdullah Muhammad Bin Umar al-Razy, *Tafsir al-Kabir*, juz 29. (Beirut: Dar al-Ihya' al-Turarts al-Aroby, 1420), p. 449

¹⁰ Abu Abdullah Muhammad al-Qurtubi, *Tafsir al-Qurtubi*, juz 17, (Kairo: Dar al-Kitab al-Mishriyah, 1964), p. 237.

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.”¹²

According to al-Maragi, he interprets concerning with this verse by stated: every sex, even every man and woman, they get a gift from God as the reward of their effort or work on the basic of their rights (like inheritance) in this life in the world. The woman get a half of the man part, he has a duty to engage in a holy war and else, because skill in his self. He gets property, position, and name are because his effort or work. The woman produce children, breastfeeding, getting dowry, her necessity is fulfilled by the husband, and all of property that she get because her effort and work, or because skill in her self as the woman.¹³

From the verse above can be taken the point that this verse of Qur'an allow to every people to right and to own than distribute their property. The Qur'an also allows other right related with the property right, such us the safety of property from thief. Islam guarante the safety of property of Muslim and threaten the thief and the robber that can make danger the safety of property, and do not recognized their right by give hard punishment from the Islamic state.¹⁴

This verse of the Qur'an justifies the right of individuals to own property and spend. Islam guarantees the safety of his people's property and threatening the perpetrators of theft and robbery which endanger the safety of property owned by the people, and do not recognize them with severe punishment of the Islamic State.

Government must makes the legal punishments that preventive applied for people who do it as the obligations, including because of thieving, robbing, or

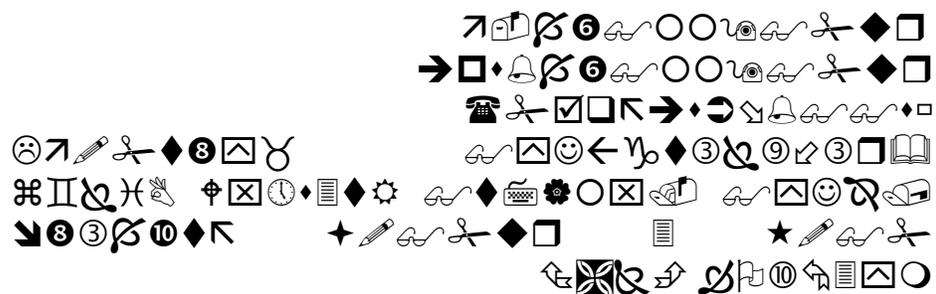
¹² al-Nisa: 32

¹³ Ahmad Bin Musthofa al-Maragi, *Tafsit al-Maragi*, juz 5, (Mesir: Musthofa al-Baby, 1946 M), p. 22

¹⁴ Afzalur Rahman, *Doktrin Ekonomi Islam vol. I*, (Yogyakarta: P.T Dana Bhakti Wakaf, 1995), P. 98

other. This law also applied for people who participate and relate with its action in all, and also give education for prevent skullduggery in the property right. Hence, the right property (*halâl*) is property that is gotten at the appropriate way and people who get it can be call they have right then this property legally as the meaning of property right in ownership. And the bad property (*haram*) is property that is not gotten at the appropriate with the meaning of its property right, and it is not called by the ownership.

As Allah says:



“As to the thief, Male or female, cut off his or her hands: a punishment by way of example, from Allah, for their crime: and Allah is Exalted in power.”¹⁵

According to al-Wahlidi, *asbâbun nuzûl* this verse is the occur the case of thief, that is Tu'mah bin Ubairaq steal Qatadah bin an-Nu'man's armor, his neighbors, and then he hide that armor at house of Zaid ibn as-Samin,a Jew. When that armor is looking for by Qatadah at Tu'mah's house is not found and Tu'mah swears that he does not steal it. Then that armor is look for at Zaid's house, apparently found that armor, then it is taken and given to Tu'mah. This case is witnessed by many people, then the prophet want to helps Tu'mah because he has swear beside his religion as Muslim, injustice problem almost make the condition getting worse because prophet decide in wrong without any prove. For solve this problem clearly than this verse come down: *wala tujâdil 'an al-lazîna yakhtânûna anfusahum* (previous verse), then this verse came down to

¹⁵ al-Maidah: 38

explain the punishment for thieves. Narrated by Ahmad and others, from 'Abdullah bin' Amr, he told that a woman thief in the prophets era, then cut off her right-hand. Then he complained to the prophet: "there is still time for regret", then go down the following this verse: *faman tâba min ba'di zulmihi wa ašlahaha fainnallâha yatûbu 'alaih, innallâha; azîzun hakîm.*¹⁶

This verse describes the punishment for people who are make danger to the other's property in generally without any descriptions in clearly about the estimations of property in little or lot. Describing in detailed, according to the Hanafi scholar, the meaning of stealing that include in this verse here is thief who thieves a lot of property. Other scholar interpret; little property, or the robber who take the property commonly without any different. But for getting away from this problem, the important point that we must underlined here is how government give regulations as guarantee to the people in order to they life in safety concerning with their property.¹⁷

Ahmad Mustafa al-Maragi gives his interpretation concerning with this verse by state:" after Allah in the previous verse explain the punishment on *al-muhâribîn*, the people who doing an injustice of *hirâbah*, the robbery and piracy, which means doing *fasâd*, make damage in this world by use other people's property (that is not yours) with bad way (*bâfil*) clearly. And then Allah command Muslim to do what Allah command and away what He prohibit (*taqwa* to God), always work to looking for the way (*al-wasîlah*) for improve the quality of life by engaging in a holy war, that is by doing action that can help to improve the faith (*iman*) and exercise the soul in order out of the bad action (*haram*) and away from *ma'şiyat* action. Hence, in this verse Allah explain the punishment of

¹⁶Pondok Yatim al-Hilal, *Terjemah dan Tafsir per kata Ringkasan Tafsir Ibnu Katsir*, (Bandung: Pondok Yatim al Hilal, 2010), p. 114.

¹⁷Lajnah Pentashihan Mushaf Al-Qur'an, *Pembangunan Ekonomi Umat*, (Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an, 2009), p. 37-38

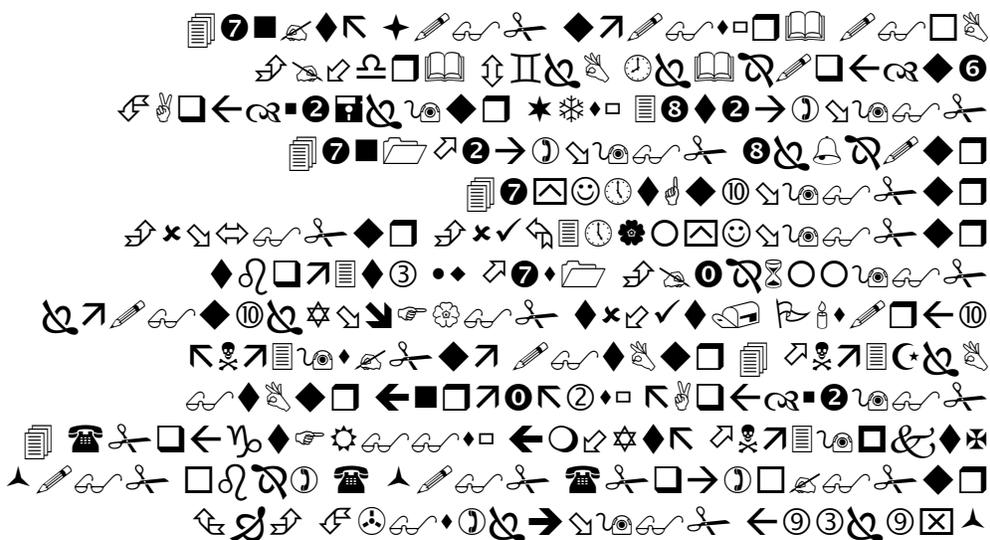
cutting off hand for thievery action that are taking, eating, and using the property that is not yours.¹⁸

Further strengthens Prophet said ownership rights of individuals with:

مَنْ قُتِلَ دُونَ مَالِهِ فَهُوَ شَهِيدٌ

“Every person who died for defending his property is a martyr.”
(Bukhari)¹⁹

4. Collective Ownership



“What Allah has bestowed on His Messenger (and taken away) from the people of the townships, -belongs to Allah-, to His Messenger and to kindred and orphans, the needy and the wayfarer; In order that it may not (merely) make a circuit between the wealthy among you. So take what the Messenger assigns to you, and deny yourselves that which he withholds from you. And fear Allah; for Allah is strict in Punishment.”²⁰

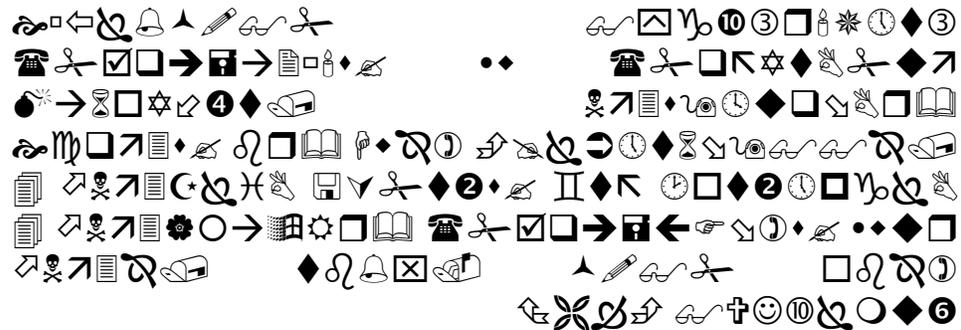
Actually, in literally the word *kaila yakûnu dûlatan baina al-agniyâi minkum* here refer to the anshor, that are prophet’s company that dominated in Madinah. Like we know, that their conditions are really different when compared

¹⁸ Ahmad Muthafa al-Maraghiy, *op. cit.*, juz 2, p. 297
¹⁹ Abu Abdillah Muhammad bin Ismail, *Shahih Bukhari*, Juz 3, (Kairo: Dar al-Turuq al-Najah, 1313 H), p. 136.
²⁰ al-Hashr: 7

meaning there are no obstacle.²⁴

Kulû is placed after the word *famsyu* show God's grace would be obtained if it had been working to find fortune.

The Qur'an also prohibits the acquisition of property by out of way of the road is not good, as Allah says:



“O ye who believe! eat not up your property among yourselves in vanties: But let there be amongst you Traffic and trade by mutual goodwill; Nor kill (or destroy) yourselves; for verily Allah hath been to you Most Mercifull.”²⁵

From this verse can be taken the important point like the author of *al-Hidayah ila Bulugin Nihayah fi 'ilmi Ma'ânîl al-Qur'ân wa Tafsihihi*, he said that in generally, many people in Arab when they use the word “Illa” this give the indication that the condition of people in generally use to do like what the verse point at. In conclusion many people in Arab doing this *al-bâtîl*. *al-Bâtîl* like al-Qurṭubi interprete here is every manner that refused by Al-Qur'an like *ribâ* and the other.²⁶

How to obtain property by means of usury was forbidden in the Qur'an:



²⁴ M. Quraish Shihab, *Tafsir al-Misbah*, juz 14, (Jakarta: Lentera Hati, 2007), p. 356.

²⁵ al-Nisa: 29

²⁶ Abu Muhammad Makki al-Qurthubi al-Maliki, *al-Hidayah ila Bulugin Nihayah fi Ilmi Ma'ânîl alQur'an wa Tafsihihi*, juz 2, (Jamiyah al-Syariqoh: Majmuah Buhutsu al-Kitab wa al-Sunnah, 1429), p. 1298.



“O ye who believe! Devour not usury, doubled and multiplied; but fear Allah; that ye may (really) prosper.”²⁷

6. How to Use The Property



“O children of Adam! Wear your beautiful apparel at every time and place of prayer; eat and drink; Out waste not by excess, for Allah loveth not the wasters.”²⁸

The word *israf* comes from the vocabulary *sarafa*, meaning over the edge of each one's deeds. As criticizing of the Qur’an to the luxury, the Qur’an also condemned the attitude of extravagant and wasteful. According to al-Qardhawi the attitude of excessive luxury living is not synonymous, then one of which adequately represent the other. However, between both of them have relevance generality and specificity respectively. The attitude of luxury living is usually accompanied by exaggerated manner. But in other hand, extravagant attitude was not necessarily superfluous luxury accompaniment attitude.²⁹

The Qur’an also orders us to give charity that we have had it:

يَسْأَلُونَكَ مَاذَا يُنْفِقُونَ قُلْ مَا أَنْفَقْتُمْ مِنْ خَيْرٍ فَلِلْوَالِدَيْنِ وَالْأَقْرَبِينَ
وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَابْنِ السَّبِيلِ وَمَا تَفْعَلُوا مِنْ خَيْرٍ فَإِنَّ اللَّهَ بِهِ عَلِيمٌ

“They ask thee what they should spend (In charity). Say: Whatever ye spend that is good, is for parents and kindred and

²⁷ Ali Imran: 130

²⁸ al-A’raf: 31

²⁹ Lajnah Pentashihan Mushaf Al-Quran, *op. cit.*, p. 54.

orphans and those in want and for wayfarers. And whatever ye do that is good, -Allah knoweth it well.”³⁰

B. The Concept of Property Rights in The Qur'an

Property in the Arabic language is called *mâl* (simplex) *amwâl* (plural). Derivation of this word in various repeated as many as 86 times. In the simplex form is 25 times. Hasan Hanafi divide the word in two forms:³¹

1. Not ascribed to the property owner. In a sense he stands alone. It says something that is logical because there is a property which is not the object of human activity, but the potential for it.
2. Attributed to something "their property", "orphans", "your property", and others. This is the highest form in the Qur'an according to Hanafi.

M. Quraish Shihab provide clear details, the first form is found as much as 23 times, while the second form as much as 54 times. Of this amount the most talked about is a treasure in the shape of the object and this gives the impression that the property should be the object of human activity.³²

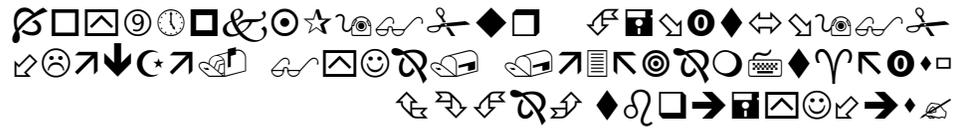
The word *al-mâl* when associated with the previous word has meaning, that are: the abject property, as contained in the letter al-Qalam: 14, al-Mukminun: 55-56, al-Syura: 88-89; wealth that very loved as in a letter al-Fajr: 20; property which causes ill-natured man such in the letter al-Muddaššir: 12; Property that in hand is useless in here after, as in the letter al-Lahab: 2; property developed as in the letter al-Isra': 6; property of association with the devil, in the letter of al-Isra': 64; property as a source of pride for its owner, in a letter Saba: 35, Yûnus: 88; property which causes were a man away from God as a letter Saba: 37.³³

³⁰ al-Baqarah: 215

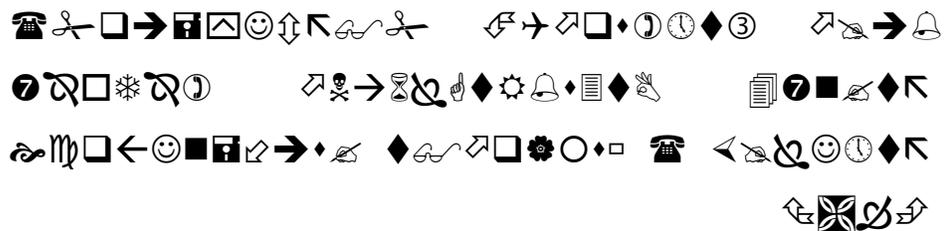
³¹ Lajnah Pentashihan Mushaf Al-Quran, *op. cit.*, p. 3

³² M. Quraish Shihab, *Wawasan Al-Qur'an*, cet 2, (Mizan: Bandung, 1996), p. 406

³³ Lajnah Pentashihan Mushaf Al-Quran, *op. cit.*, p. 4



“And say: “Work (righteousness): soon will Allah observe your work, and his messenger, and the believers: soon will ye be brought back to the knower of what is hid and what is open: then will He show you the truth of all that ye out.”³⁶



“Say: “O my people! Do what ever ye can: I will do (my path): but soon will know.”³⁷



“They ask: when this promise be (fulfilled)?- If ye are telling the truth.”³⁸

After observing the forms of wealth that exist, it would appear obvious, that to acquire it is by taken work. In the Qur'an, the verb is not called in the general form but with specific term of work. This one gives indicating that between employment and works are can not be separated. The work is specifically mentioned in Personality 'which relate to ownership as mentioned below:³⁹

- a. Revive dead land
- b. Digging soil properties

³⁶ al-Taubah: 105

³⁷ al-Zumar: 39

³⁸ al-Mulk: 25

³⁹ Taquuddin al-Nabhani, *Membangun Sistem Ekonomi Alternatif: Perspektif Islam*, edition VII, translated by Drs. Moh. Maghfur Wachid, (Surabaya: Risalah Gusti, 2002), p. 74

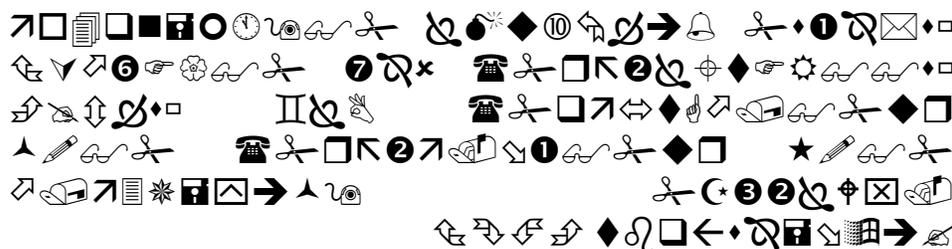
- c. Hunt
- d. Broker
- e. Between assets and personnel of the Company
- f. Irrigate agricultural land
- g. Contract labor

The point is God made this earth as a means of sustaining and supporting life for humans. Means, the facilities used by God to be easily managed by humans. All property contained in this earth is a potential that is available to humans and other creatures. To ease in understanding that God made this world is for us like the Qur'an has mentioned below:



“And He has subjected to you, as from Him, all that is in the heavens and on earth: Behold, in that are Signs indeed for those who reflect.”⁴⁰

Allah command to look for good luck is not quite up to here. He explained:



“And when the prayer is finished, then may ye disperse trough the land, and seek of the Bounty of Allah: and celebrate the Praises of Allah often (and without stint): that ye may prosper.”⁴¹

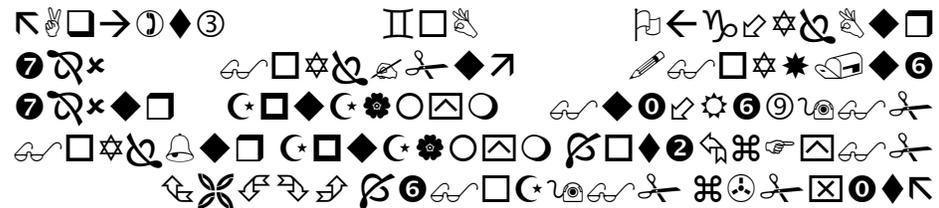
⁴⁰ Al-Jasiyah 13

⁴¹ al-Jumuah: 10

On this verse, commands to prayer come before the command to find good luck. This shows two signals:

- a. Before performing the business better fulfill obligations to God.
- b. Business success does not happen solely because his own work. Humans can not continue to seek good luck then God forgotten. As conclusion, good luck will not come if we just sitting and praying.

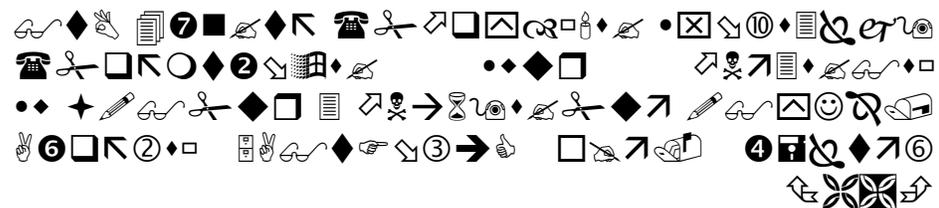
God wants we life in balance, including goals in this world and here after. In this regard Allah explains in the Qur'an:



“And there are men who say: “Our Lord! Give us good in this world and good in Hereafter and defend us from the torment of the fire!”⁴²

If we analysis more, the phrase *fantasyirû fi al-ardi* as in the first verse, this verse putting the command to look for goods in the earth than finding gifts, this shows that the gift of God available in this earth.

Allah says:



“In order that ye may not despair over matters that pass you by nor exult over favours bestowed upon you. For Allah loveth not only vainglorious boaster,-“⁴³

⁴² al-Baqarah 201

⁴³ Surah al-Hadid: 23

On this verse Allah states the reason that calamity occurred in this world has been depicted in the book of *lauh al-mahfuz* like in previous verse, namely verse 22, has been established in order to human receive a trial then being patience. Trials that sometimes also such pleasure and joy. Therefore do not be too sad when receive hardship and calamity.

M. Quraish Shihab comments on this verse, so that men do not grieve excessively and beyond reasonableness then hopeless for the things he loved and missed him. In other side, this verse also commend in order to us not so arrogant when receive the bounty of property. For Allah loves not any arrogant people because successfully obtained.⁴⁴

From the description above can be understood at least four moral messages to be conveyed as follows:

- a. Don't be hopeless from every lost beloved.
- b. Don't so happy and forgetting God when receiving gift.
- c. Successfully not solely our own work but God in side.
- d. Don't be arrogant in the sight of God and people.

There are two terms that used by the Qur'an to describe the bad of hopeless, that are *qattun* and *taiasû*. Both of these pronunciation have the same meaning that are hopeless. There are four verses that use the word *qanata*, namely: Fuṣṣilat: 49, al-Rum: 36, al-Zumar: 53, al-Hajj: 56, and pronunciation *taiasû* in surah Yusuf: 87.⁴⁵

For example, in verse:

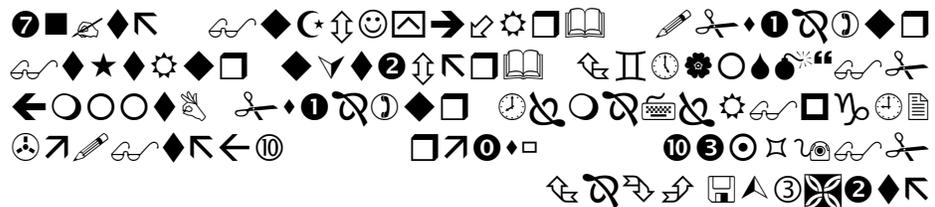


⁴⁴ M. Quraish shihab, *Tafsir al-Mishbah*, Juz 14, p. 43

⁴⁵ Lajnah Pentashihan Mushaf Al-Quran, *op. cit.*, p. 25

“Man does not weary of asking for good (things), but if ill touches him, he gives up all hope (and) is lost in despair.”⁴⁶

This verse implies that human nature in general will not cease to desire and seek the pleasure and worldly grandeur. Humans constantly invoke this verse according to his own goodness. That is good that provides benefits or advantages for himself. But when they get into a desperate havoc. But when they got a gift from God would turn away and away. It is described by Allah in verse:



“When we bestow favours on man, he turns away, and gets himself remote on his side (instead of coming to Us); and when evil seizes him, (he comes) full of prolonged prayer!”⁴⁷

According to the Quraish Shihab, the correlation with the last verse is, describe how the idolaters when misfortune befalls, than in this verse describes their situation when receiving pleasure. From this verse can be understood that while at the same time he always prayed, but when they make a mistake and got a warning from Allah, they would despair⁴⁸.

2. Ethic in Making Effort and Getting Wealth

a. Don't eat the wealth with bad way

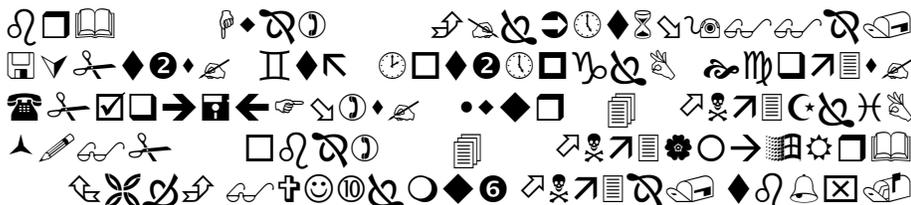
This is according to God's word in:



⁴⁶ Fuṣṣilat: 49

⁴⁷ Fuṣṣilat: 51

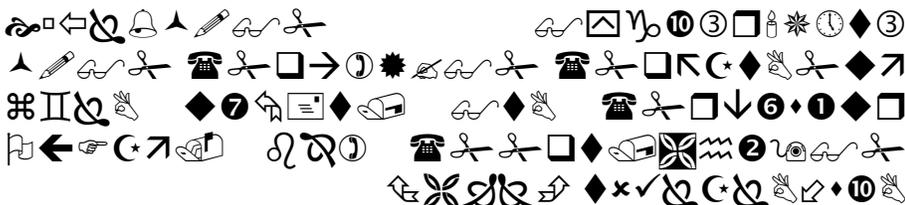
⁴⁸ M. Quraish shihab, *Tafsir al-Mishbah*, Juz 11, p. 67



“O ye who believe! eat not up your property among yourselves in vanties: But let there be amongst you Traffic and trade by mutual goodwill; Nor kill (or destroy) yourselves; for verily Allah hath been to you Most Mercifull.”⁴⁹

Quraish Shihab interprets *bi al-bâṭili*, take property with no balance, being the acquisition with unbalanced interaction that is meaning of *bâṭil*. Acquisition is not balanced is vanity and that vanity is anything that is not right, not justified by the law, and not in line with divine guidance, though made on the basis of willingness to interact.⁵⁰ While Ibn Abbas interprets *bi al-bâṭili* by *zulm* (persecution), rob or plunder, false witness, defraud, perjury and the like.⁵¹

b. Prohibition of usury



“O ye who believe! Fear Allah, and give up what remains of your demand for usury, if ye are indeed believers.”⁵²

c. Fraud and embezzlement

⁴⁹ al-Nisa: 29

⁵⁰ Lajnah Pentashihan Mushaf Al-Quran, *op. cit.*, p. 29.

⁵¹ Fairuzabadi, *Tafsir Ibn Abbas*, (Libanon: Dar al-Kitab al-Ilmiyah, 2000), p. 83

⁵² al-Baqarah 278



“O ye who believe! eat not up your property among yourselves in vanties: But let there be amongst you Traffic and trade by mutual good-will; Nor kill (or destroy) yourselves; for verily Allah hath been to you Most Mercifull.⁵³

Sense of vanity here includes stealing, robbery, bribery, and others. Paragraph of this cheating is not as clear as the paragraph about the stealing. Therefore, the scholars of *fiqh* make this verse as a reference for the word “vanity” and here of course involves the practice of evasion as well. The above verse also gives meaning to the prohibition to take someone else's property without right and master it.⁵⁴

d. Prohibition of bribery

This verse relating to the prohibition of bribery is:



⁵³ al-Nisa: 29
⁵⁴ Lajnah Pentashihan Mushaf Al-Quran, *op. cit.*, p. 31

“And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may eat up wrongfully and knowingly a Little of (other) people's property.”⁵⁵

Asbâb al-nuzûl this verse is related to al-Qais Imru with Abdan bin Asywa litigants about a garden. Imru al-Qais want to swear and admit as his garden, and then he had to bribe the judge so that the land belonged to him. So this verse came down.⁵⁶

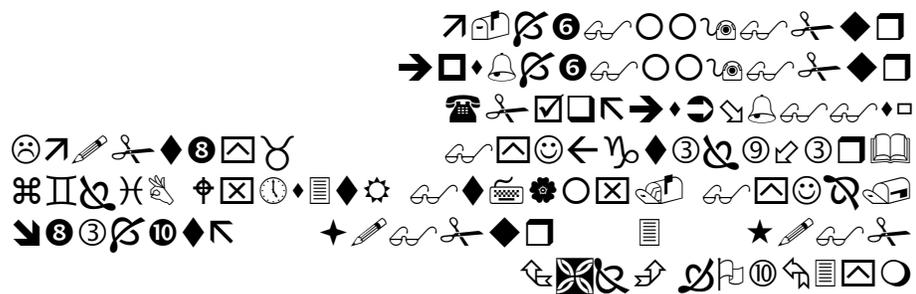
Bribery problems are described in the tradition of the Prophet that either bribed or bribing both goes to hell. (Ṭabrani and Ibn al-'Umar).

قَالَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ: «الرَّاشِي وَالْمُرْتَشِي فِي النَّارِ»
 The prophet said,” Briber and which receive the bribe will enter the hell.”⁵⁷

Bribery is nothing new in our lives. Even in the era of prophet narrated how bribery had occurred. Basically bribery is destructive to the economic and social order. Briber, from the other side feels aggrieved because his property has been trying its best to get what he is looking to provide certain benefits that should not be needed.

e. Prohibition of stealing

Paragraph relating to the stealing is:



⁵⁵ al- Baqarah: 188
⁵⁶ Dr. Ahmad Hatta, M. A, *Tafsir Qur'an Perkata*, cet. IV, (Jakarta: Magfirah Pustaka, 2009), p.29
⁵⁷ Sulaiman bin Ahmad, *al-Du'a li al-Tabrani*, juz. 1, (Beirut: Dar al-Kitab al-Ilmiyah, 1413), p. 579.

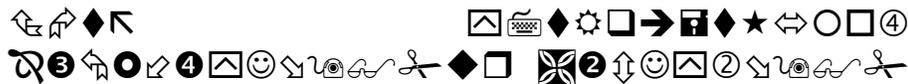
“As to the thief, Male or female, cut off his or her hands: a punishment by way of example, from Allah, for their crime: and Allah is Exalted in power.”⁵⁸

The meaning of *al-sâriqu*, that is, those who took the treasure in hidden, cut his hands, from his wrist as punishment from God. According to the Quraish Shihab, the thief is someone who takes clandestinely 'valuables of others kept by the owner at a reasonable place, and thieves are not allowed to enter premises.⁵⁹

If viewed from *asbâb al-nuzûl* of this paragraph will be known, that according to al-Wahidi, this paragraph concerning with respect to the cases of theft, namely Tu'mah bin Ubairaq stealing armor from Qatadah bin al-Nu'man, his neighbors, and he hide the armor at home of Zaid ibn al-Samin when he is a Jew, when the suit was sought was not found at home Tu'mah and swear that he is not at a stealing, and then look at the house of Zaid, and there was found that armor, then picked up and submitted to Tu'mah. The case was witnessed by many people, and the Prophet intends to defend Tu'mah, because armor found not in Tu'mah place, then this verse came down⁶⁰.

f. Gambling

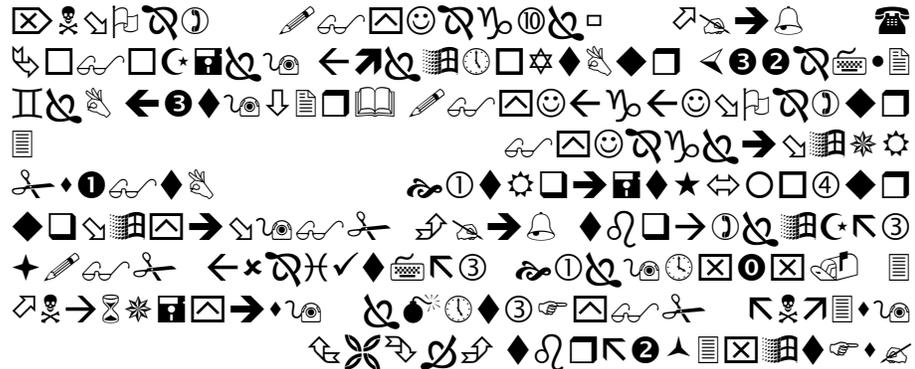
Among some of the restrictions in the search for property which is expressly mentioned in the Qur'an is the prohibition of gambling. It is stated in verse:



⁵⁸ al-Maidah:38

⁵⁹ M. Quraish Shihab, *Tafsir al-Mishbah*, juz 3, p. 5

⁶⁰ Dr. Ahmad Hatta, M. A, *op. cit.*, p. 114



“They ask thee concerning wine and gambling. Say: “In them is great sin, and some profit, for men; but sin is greater than the profit. “They ask thee how much they are to spend; Say: “What is beyond your need.” Thus doth Allah Make clear to you His Signs: In order that ye may consider.”⁶¹

This verse is revealed when 'Umar ibn al-Khattab, Mu'az bin Jabal and most of the Ansar came to the Prophet and asked: O Messenger of Allah, give us a fatwa about drinking alcohol and gambling. Because the two things that make sense and eliminates the treasure spent, then this verse came down to explain two things.⁶²

Vocabulary *al-khamru* here has meaning to covering, called covering because mind become lost and can not control because covered by *al-khamru*. *al-Maisir* taken from the word *al-yusr* which means easy. Said to be easy because gambling is generally interpreted in a way that is easy to get the treasure. *Ismun kabîr* means big sin, big sin because it can cause damage to your words and actions. The damage here is defined as being destructive of the body, soul, mind and property.⁶³

3. Ethic in Using Wealth

⁶¹ al-Baqarah 219

⁶² Dr. Ahmad Hatta, M. A, *op. cit.*, p. 34

⁴⁰ al-Zuhaily, *at-Tafsir al-Munir*, Juz 3, (Beirut: Dar al-Fikr al-Ma'ashir, 1418 H), p. 269

Some of ethics of the Qur'an on the use of property, although it is clearly shown on the ethics of eating, but in general showed on the use of property. These ethics can be found in the Qur'an, namely:

a. Eat the lawful property and *Tayyib*

Allah says in verse:



“O ye people! Eat of what is on Earth, Lawful and good; and do not follow the footsteps of the evil one, for he is to you an avowed enemy.”⁶⁴

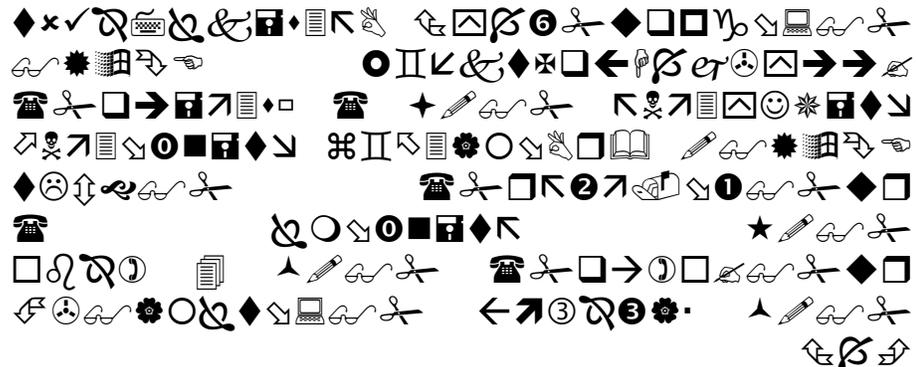
There are three main ideas of the paragraph:

- 1) This command not just for believer, but all human beings. It is means universal.
- 2) Eat what is on earth lawful and *tayyib* (good, nutritious, and healthy for body).
- 3) Do not follow the footsteps of the devil.
- 4) Satan is a real enemy to mankind.

On the other hand God also calling in the Qur'an that man has always adhered to the rules about eating. Required for us to always take a good thing. Basically God also would prohibit only those things which nature is considered to be good. Vice versa, everything that is recommended for humans it would also be good for human being. For It, God mentioned in verse:



⁶⁴ al-Baqarah: 168



“They ask thee what is lawful to them (as food). Say: “Lawful unto you are (all) things good and pure: and what ye have taught your trained hunting animals (to catch) in the manner directed to you by Allah: eat, what they catch for you, but pronounce the name of Allah over it: and fear Allah; for Allah is Swift in taking account.”⁶⁵

The word *halâl* means to escape from bondage. Because it can also mean lawful things allowed. In *syar'i* perspective, it includes everything that is allowed religion. Whether it's *sunnah*, *makruh* or permissible. *Ṭayyib*, in etymology means delicious, good, healthy, reassuring, and most important. So that meant, that food *ṭayyibât* is not dirty or damaged. Being healthy foods are foods that contain nutrients. And proportionate means moderation in eating. The word *Ṭayyib* here is defined as food secure that result in physical and spiritual tranquility.⁶⁶

So it can be concluded, that good food is:

- 1) Foods that are ideal according to the Qur'an are the *halâl* and *ṭayyib*.
- 2) Food that is not good is the food could endanger the physical health and sense.
- 3) Assets not the standard of happiness.
- 4) The size of happiness is inner peace.

⁶⁵ al-Maidah: 4

⁶⁶ M. Quraish Shihab, *Wawasan Al-Qur'an*, p. 138

b. Prohibition of extravagance

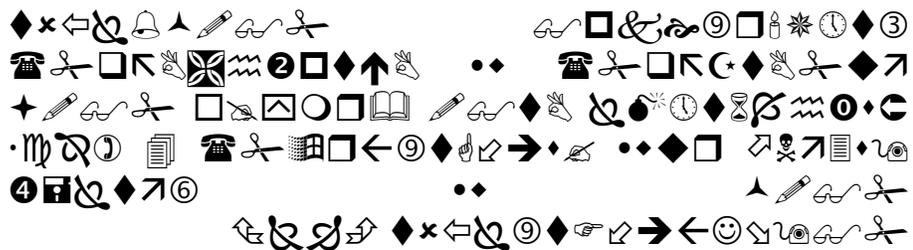


“O Children of Adam! Wear your beautiful apparel at every time and place of prayer: eat and drink: But waste not by excess for Allah loveth not the wasters.”⁶⁷

From this verse we can take three moral messages that are:

- 1) Using good clothes at the mosque.
- 2) Do not exaggerate when eating.
- 3) God does not love the extravagant.

c. Prohibition goes beyond the current limit eating



“O ye who believe! Make not unlawful the good things which Allah hath made lawful for you, but commit no excess: for Allah loveth not those given to excess.”⁶⁸

This verse is revealed concerning a man who came to the Prophet, he said: "If I eat meat then my sexual appetite is high, then I forbid meat for me my self." This verse is down to straighten that view. The friends of prophet get together and compare them with the Prophet's deeds; they also want to

⁶⁷ al-A'raf: 31

⁶⁸ al-Maidah: 87

replicate all the deeds of the Prophet. Anyone wants to pray all night long, there is no intercourse with their wife, and anyone wants to fast constantly.⁶⁹

Then the Prophet said:

إِنِّي لَأَخْشَاكُمْ لِلَّهِ وَأَتَقَاكُمْ لَهُ، لَكِنِّي أَصُومُ وَأُفْطِرُ، وَأُصَلِّي وَأَرْقُدُ،
وَأَتَزَوَّجُ النِّسَاءَ، فَمَنْ رَغِبَ عَن سُنَّتِي فَلَيْسَ مِنِّي

“Indeed, I was the most pious among you, but I pray night and sleep. I fast and break the fast. And I'm also married. Whoever does not follow me, and then he is not my party. (Narrated by al-Bukhari and Muslim)”⁷⁰

C. The Concept of Property Rights in the Capitalism and Socialism

1. Property Rights in Capitalism

a. Private property rights

Private property is the basis of capitalism. Capitalism is a system of thought economic social and political philosophy based on the principle of private property development and the maintenance and expansion of the ideology of freedom. This system has a lot of havoc on the world's birth. Locke's theory concocted liberal naturalism. About the property he said "Private property rights are one of nature and instinct that grows with the growth of a human. Therefore, no one ever deny this instinct."⁷¹

John Locke was an English philosopher who is considered the father of liberalism. The basic argument is that the government's duty is to maintain private property rights of its citizens through the application of the law firm and fair. Private property rights of the people are something very sacred, and the task of the state that guarantees that every citizen can enjoy the private property of its citizens.

⁶⁹ Dr. Ahmad Hatta, M. A, *op. cit.*, p. 122

⁷⁰ Abu Abdillah Muhammad bin Ismail, *op. cit.*, juz. 7, p. 2.

⁷¹ Syed Nawab Haider Naqvi, *Menggagas Ilmu Ekonomi Islam*, translated by M. Saiful Anam and Muhammad Ufuqul Mubin, (Yogyakarta: Pustaka Pelajar, 2003), p. 111.

Locke has the extreme opinion that property rights is human right it's self, which are owned by every man naturally, and never be taken from him. Private property is a symbol of authority over her own person. It is a symbol that a man is sovereign over himself, and his work.

The whole view of Locke's political philosophy of law and 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.⁷²

David Hume inventor of an integrative theory of pragmatism that says "special property rights are adhered to the tradition that should be followed. Because that's where their benefits."⁷³

Adam Smith's opinion the most important thing about the increasing dependence of economic progress and prosperity to the economic freedom that is reflected in the freedom of individuals who give a person free to choose his work according to his ability to bring income to meet her needs. Freedom of trade in which the productivity distribution of production and distribution takes place in a climate of free competition. The capitalist view of freedom is a need for individuals to create harmony between himself and

⁷² Hans Fink, *Filsafat Sosial: Dari Feodalisme Hingga Pasar Bebas*, translated by Sigit Djatmiko, (Yogyakarta: Pustaka Pelajar, 2003), p. 3.

⁷³ *Ibid.*, p. 72-73.

the community. Because freedom is a driving force for production because it is really a human rights depicting human dignity.⁷⁴

Thoughts and beliefs of other streams that naturalism is the basis of capitalism are called for any of the following:

- a. Economic life is subject to the nature of the system which is not man made. With such properties would be able to realize the development of life and progress simultaneously.
- b. There is no state interference in economic life and to limit its work only to protect persons and property and maintain security and to defend the country.
- c. Economic freedom for every individual in which he has the right to pursue and choose the job according to his will. Of freedom as a principle is expressed in very fame with the motto "Let it work and let him go."
- d. Belief that the freedom of capitalism has brought boundless faith and conduct disorder. This gave rise to various conflicts in the West and who were sweeping the world as a result of the emptiness of thought and spiritual emptiness.

Capitalism has the following principles:⁷⁵

- a. Finding profit in various ways and means except that the state banned outright because of corrupt society like heroin and the like.
- b. Laud private property by paving the way wide open for everyone and the ability to mobilize the existing potential for increasing wealth and maintain it and no one disturb him. Because it is made suitable regulations to improve and smooth the business and there is no state interference in economic life except within the limits required by the regulations are very general in order to establish his security.

⁷⁴ Benny Susetyo, *Teologi Ekonomi: Partisipasi Kaum Awam dalam Pembangunan Menuju Kemandirian Ekonomi*, (Malang: Averroes Press, 2006), p. 25.

⁷⁵ *Ibid.*, p. 26.

c. Perfect Competition.

d. Price system in accordance with the demands of the demand and need and rely on rules derived in the framework of price controls and commodity sales.

b. Collective Property Rights

Capitalist economic system has perspectives that although people are free to engage in economic activities, but the reality on the ground, this freedom does not belong to everyone. Their natural resources are not easily accessible by people from different social backgrounds. Not everyone can benefit from natural resources when they focus their efforts on using them. Instead, they are completely free are those who have large amounts of wealth and control over economic policy and politics in society. This group of people around the community makes it difficult to utilize these resources.⁷⁶

There is no consistence in this rule, resulting in most third world countries, in a capitalist society - both forward and backward capitalist society - the majority of people living in poverty. Ironically, the majority of people suffering from poverty, unemployment, underemployment, and lack of housing, just some people are free to accumulate wealth and economic activity. These people are slightly increased the number of mines, companies, and their property. All natural resources are actually utilized by a small community. Others, including retailers and labor, just use some. Retailers and workers do not have the opportunity to be involved in the production, constructive work, the original production of wealth and resources.⁷⁷

⁷⁶ Hafidz Abdurrahman, *Muqaddimah Sistem Ekonomi Islam: Kritik Atas Sistem Ekonomi Kapitalisme Hingga Sosialisme Marxisme*, (Bogor: Al-Azhar Press, 2011), p. 12.

⁷⁷ Dr. Zaki Fuad Chalil, MA, *Pemerataan Distribusi Kekayaan dalam Ekonomi Islam*, (Jakarta: Erlangga, 2009), p. 150.

2. Property Rights in Socialism

a. Private Property Rights

Socialism is the doctrine that man has no right to exist for its own power but state. Actually, that the life and works are not his, but belong to society, that the only justification of his existence is service to the community, and people who can throw themselves in a fun way for the benefit of whatever is considered to be own tribal, collective good.⁷⁸

Socialism is the belief that the source of social injustice lies in productive private ownership. The combination of two elements, ethical ideals and empirical economic confidence are resulting in a utopian socialism, the hope of a society without exploitation. However, a motion which relates the absolute ideals on an empirical is easily into ideological politics. Abolition of private property rights are the main targets of the socialist doctrine. Socialism arose because Marx did not agree with what the bourgeoisie against the workers that they are treated as "cash cows" that are only used for their own interests.⁷⁹

Based on the development and the ideals of socialism, the struggle for socialism in Marx has peak the process. Because Marx's philosophical-ideological grounding for liberation of the oppressed from the clutches of the owners of capital. Marx and his followers (Marxist) has an agreement that the liberation movement.

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.

⁷⁸ Benny Susetyo, *op. cit.*, p. 27.

⁷⁹Peter Beilharz, *Teori-Teori Sosial: Observasi Kritis terhadap para Filosof Terkemuka*, translated by Sigit Jatmiko, (Yogyakarta: Pustaka Pelajar: 2005), p. 271.

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.⁸⁰

To increase the amount of wealth he has, a factory owner will provide low-wage and maximum working hours for its workers. He did that to reduce costs, and get a profit, so they can develop the capital. Capital is then used to create new businesses, so that capital can be developed, and the factory owners could have the resources, to gather and enjoy an abundance of personal property. This is the logic of greed that is behind the current system of capitalism that is worshiped.

Marx condemns the very existence of private property. To create a fair and prosperous society, according to Marx private property should be abolished. During the private property is still allowed, so long oppression and alienation will be entrenched in the community.

Historical mission of socialism that does not lie in replacing the system of market economy with an economic system based on the abolition of private ownership of the means of production. Socialism in this sense it does not work. Historical mission of socialism is not the realization of utopia, but that utopia a powerful motivator and driving force of the working class struggle. An important characteristic of socialism is the denial of the rights of private property; under socialism, the property (which is a right of use and disposal) are given in the "community as a whole," that is, the collective, with production and distribution is controlled by the state, by the government. Beneficial ownership in the socialist perspective of individuals is in two ways. That control is working for a person to own and a right to an equal share of the final product - shared prosperity. Under socialism we no longer have to alienate our labor. We no longer submit to the capitalist in exchange for the

⁸⁰ *Ibid.*, p. 30.

means of physical survival. This means that we are free to change jobs to something satisfying and empowering, rather than something that is annoying and soul destroying. Work is something that the objective is not only to earn a living. It becomes an activity that is fully developed and our ability to train, especially including our intellectual abilities.⁸¹

b. Collective Property Rights

Countries which adhere to the socialist system and the country where the government is responsible for everything - that is, any way of generating wealth, all of the company, and all the land - and where the people are government employees, we should not expect anything from people in case of war or other emergencies. Socialist ownership of the means of production is ownership by all employees. Capitalists do not exist anymore and do not become employees of their workers.

Ownership by the workers should be the collective property of society as a whole. Modern means of production can not be divided among the workers as an old hand tools. They have owned and used in general. They of course can be divided in groups of workers (eg, worker cooperatives). However, the level of ownership of each worker will be very limited.⁸²

Ownership in a socialist system it is very individual. Collective ownership is not ownership by the 'collective', but the co-ownership by the individual joint owners. This is reflected in a fundamental change in the position of workers. If workers have the means of production, they can not be exploited. They should be a means for the fulfillment and development both as producers and consumers. As manufacturers work to be an independent activity, individual company employees now whereas before they were part of

⁸¹ Dr. Franz Magnis-Suseno S. J, *Etika Politik: Prinsip-Prinsip Moral Dasar Kenegaraan Modern*, (Jakarta: PT Gramedia Pustaka Utama, 1987), p. 324.

⁸² Save M. Dagun, *Pengantar Filsafat Ekonomi*, (Jakarta: PT Rineka Cipta, 1992), p. 94

gangs 'collective' non-wage earners who have a small portion is used by the owner. With all of the owners, socialism is a genuine free enterprise. Co-ownership is also reflected in the final product distribution, with workers sharing the same level of prosperity.⁸³

The socialist system, because they have the means of production, workers receive their full product of labor. They do not have to 'share' with the capitalist. This section is received by a worker on an individual basis as private consumption, while other parts are assigned to collective investment spending, pensions and public goods.

Ownership in a socialist socialized must mean there is no market for the means of production.

Modern economy of production where the industry must be socialized to common people is one of the aims of modern socialism. Economy consists of thousands of workplaces that specialize in the production of certain products. And the specific task performed by individuals within an organization does not produce its own products but to contribute to a cooperative effort. Furthermore, the means of production are used collectively by the workers are not workers have the tools respectively.⁸⁴

⁸³ <http://www.marxists.org/archive/marx/works/1859/critique-pol-economy/preface.htm>

⁸⁴ <http://www.anu.edu.au/polsci/marx/classics>