THE CONCEPT OF PROPERTY LAW EXTRACTED FROM THEMATIC VERSES OF AL-QUR’AN

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Abstract
This study explains the results of extracting the law about property derived from the verses of al-Qur’an. To achieve this purpose, the writing is begun by classifying the verses in al-Qur’an thematically (maudlu’iyah); either using that term al-mal directly or other terms related to property. The collected verses then will be analyzed using the method of istinbath, so the laws of property are discovered. Property from the perspective of al-Qur’an is God’s examination for humans. If they pass the examination properly through obedience, it will be worth the worship as a result of law practice in the form of instruction (al-amr), prohibition (al-nahy) or permissibility (al-ibahah). On the contrary, the failure in examination can trigger the owners to do istidraj by doing immoral acts that cause them to be punished (azab) by God.

Keywords: al-Qur’an, istinbath, law, property (al-mal),
Introduction

Property is an integral part of human life. Through ownership of those, a person can fulfill various basic needs of his life. Therefore, property is made beautiful in the view of human to be possessed (QS. Ali Imran [3]: 14) because it can help them to get various life necessities. Liking something that is revealed in the verse is the greatest lust of the world (a’dhamsyahwat al-dunya), while the others follow it.\(^1\) The fact that the relationship between humans and property can be divided into two categories, namely: (1) Making the heart of lust (hubbu syahwat) as the goal of their practice both physically and mentally; (2) Knowing the purpose that Allah makes lust as an examination to find out who is carrying out obedience and who follows their passions. Allah made property as an intermediary (wasilah) for them for the afterlife.\(^2\)

Property can deliver the owners to a noble life when the acquisition and using them is carried out in a lawful manner. On the contrary, property can deliver the owners to a despicable life if the acquisition and using of them is carried out in an illegitimate way. If in our property there is a mixture between both halal and haram, separate the haram and take the remaining halal.\(^3\) The purpose of the separation is so that the property we eating does not contain any elements of prohibition either in form of substance (haram li dzatihi) or in the form of not substance (haram li ghairi). Prohibition of property can occur during acquisition, management, and expenditure. The wisdom (hikmah) of prohibiting eating illegal property which are forbidden by Allah is in order to those Muslims do not fall into hellfire.

The benefit property (al-maliyah al-maslahah) is a property that is in the hands of righteous people (نعم المال الصالح للمرء الصالح).\(^4\) Allah has ordered humans to be scattered on the face of the earth looking for His gift through syari business, because it fact that Allah is good and will not recive something except the good ones.\(^5\) Syari business in an Islamic perspective is a part of worship to get closer to

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4 Muhammad Ibnu Ismail al-Bukhari, Al-Adab al-Mufrad, (Riyadh: al-Mathba’ah al-Salafiyyah, 2011), Nomor. 299, p. 84.
Allah. Halal profits of business besides is used as a means to fulfill life’s needs, they can also be used as a means of worship to dedicate themselves to Allah. On the contrary, the worst property (al-maliyah-al-sayyiah) is a property given to humans who are in disobedience. When Allah gives property to someone who doing immorality as manifestation of disobedience it is called istidraj. إِذَا رَأَيْتَ اللهَ تَعَاَييُعْطِي الُعُبْدَ مِنَ الدُّنْيَا مَا يُحِبُّ وَهُوَ مُقِيمٌ عَلَى مَعَاصِيْهِ فَإِنَّمَا ذَلِكَ مِنهُ اسْتِدْرَاجٌ

Property are one of the objectives of the protection of maqashid sharia namely hifd al-mal. Even though the ownership of property in human hands is relative, they must still get legal protection. Among the forms of property protection is the prohibition to consume property in vanity (QS. al-Baqarah [188]:[1]) (QS. an-Nisa [4]:[4]), such as eating usury, stealing, looting, and others. This form of verse prohibition is general in that it is to protect private and public ownership of all businesses that are not justified. While the form of the prohibition that is specific in al-Quran for example is related to the prohibition of misuse of orphanage (QS. an-Nisa [4]:[4]). Imam Syafii said that people are masters of the things they own, and nobody has the right to take over these properties totally or partially without the consent of their owner, except in cases which are clearly specified in the law.

The relationship between humans and property is bound by a term called ownership (milkiyah). Through ownership, humans can refer their property legally to meet various needs. Given the importance of property in human life, al-Quran calls it the term mata (متع) which means the source of pleasure. Of course the source of pleasure that is intended is for humans themselves. Thus it is very appropriate to be mentioned that al-Quran is very responsive to human desires, this is evidenced by the mention of terms property (al-mal) in it. Besides contains the terms al-mal directly, al-Quran also contains other terms related to property indirectly. Therefore, exploring legal principles concerning how to manage ownership of property properly base on revelation is an important thing to serve

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10 Dahlia Haliah Ma’u, “Harta Dalam Perspektif Al-Qur’an,” Jurnal Khatulistiwa-Journal of Islamic Studies, Volume 3 Nomor 1 2013, p. 90
as a guideline. The problem is how the concept of property law extracted from thematic verses of al-Quran?

Research Methods

This article is the result of normative legal research, namely research that makes law in the texts the object of study. The meaning of texts here is the verses of al-Qur’an which explains the ownership of property (milkiyah al-amwal) so we can know the laws of how to manage property properly. Because the object is in the form of verses of Qur’an, the approach used is a conceptual approach. The technique of data collection is done by classifying the verses of al-Qur’an thematically (maudluiyah) about property that either use term al-mal directly or other terms which are indirectly related to al-mal. The collected verses will then be extracted through the theory of legal extracting (istinbath al-ahkam) before being analyzed to release the legal meaning contained in it.

Istinbath in language means to issue. While in terminology the scholars have a different opinion to define term istinbath, in between is issuing the meanings (laws) from the texts of syar’i. The meanings of the syar’i texts that have been released from the source then become legal products (fiqh) to serve as guidelines. Understanding of sharia texts is the basis for doing legal istinbath correctly. It is impossible for someone to do istinbath without understanding the method of law extracting. The true istinbath is istinbath which matches the intrinsic meaning of a sharia scripture. In general, istinbath of law can be done through two approaches, namely the linguistic rule approach (al-qowaid al-lughawiyyah) and the legal goal approach (maqashid asy-syari’ah). The linguistic rule is used to explore the laws derived from the sharia texts (al-Qur’an and/or hadith). Whereas the maqshid asy-syari’ah approach aimed to understand the purposes of Islamic law through a deep reading of the sharia text. The goal of Allah establishes law of course is to achieve human benefit (al-maslahat) both in the world and in the end.

Law is a guidance to do actions, so in istinbath of it they should avoid make the mistake. If there are deviant legal products, the result will be to mislead many

11 Normative legal research is also called doctrinal law research. This type of research is often conceptualized as what is written of law in books or law conceptualized as a norm which is a standard of human behavior deemed appropriate. See, Amiruddin dan Zainal Asikin, Pengantar Metode Penelitian Hukum (Jakarta: Rajawali Pers, 2003), p. 118.
people. The causes deviations in *istinbath* the verses of al-Qur’an are: (1) there is deviations related to *aqidah* (*al-inharaffi al-aqidah*); (2) mistakes in understanding the nature of al-Qur’an (*al-inharaffifahmi ma’anibathin al-Qur’an*); (3) deviations in interpretation (*al-inharaffi tafsir*); (4) prioritizing reason rather than sharia (*taqdim al-aqli ‘ala al-naqli*); (5) the level of faith toward the meaning of the verses then clings to it (*’itiqad al-ma’anitsummahamlu al-ayati ‘alaiha*). The deviations of *aqidah* will have an effect on deviations from the essential meaning of the verses of al-Qur’an. Deviations of the essential meaning of them, will make it easy for someone to deny Quran as a representation of Allah desires. The fact that misinterpretation the verses of al-Qur’an is possible occurs in our society either intentionally by following lust or not. The misinterpreting the Qur’anic will occur when they interpret verses that comes out of the real meaning. Turned the meaning of Qur’an intentionally to resemble the Jews who changed the Torahas confirmed in word of Allah: (QS. an-Nisa [4]: 46).

**Discussion**

**The Istinbath of Property Law of al-Qur’an**

Islam provides an adequate guideline for the beneficial use of property so as to derive the optimum advantages from one’s possession. In the Islamic perspective, property is derived from Allah which is given to humans (QS. an-Nuur [24]: 33). Based on that verse, it is understood that Allah is the owner of property in absolute terms, while the ownership of them in the hands of humans is relative to be used in accordance with his nature. The acquisition and its utilization of property by humans will be held accountable to the Allah. In a hadith it is stated that the right of humans will not shift on the Day of Judgment until he is asked four things, including about where the property was obtained and for what the asset was spent (من أين اكتسبه وفٌيما أنْفَقَه؟). The existence of accountability for how to acquire and spend property shows that understanding the legal concept of property (*ahkam al-amal*) in the perspective of al-Qur’an is a necessity.

Allah has given *rizki* to all His creatures on earth (QS. Huud [11]: 1). But in the matter of giving *rizki*, Allah is the one who makes it extensive and narrow

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(QS. al-Ankabut [18]: 11) and to overestimate your part from others (QS. an-Nahl: 11). Through differentiation of rizki, it is expected there is mutual cooperation is (QS. az-Zukhruf [51]: 31) in accordance with conditions (QS. az-Zumar [33]: 34) (QS. Al-Israa [19]: 5) and efforts each other (QS. al-Lail [41]: 4). Rizki that has been given by Allah will be the ownership right for those who receive it. However, to get the rizki, there are the causes of ownership either effortly (al-milkiyah al-ihtiyariyah) such as trading, farming, raising livestock, etc. or ownership from the gifts (al-milkiyah al-ithaiyah) such as through zakat, infaq, warisan, wasiat, hibah, etc.

Al-Qur’an as the main legal source certainly contains principles that can be used as guidelines for property management. Explanation of property in al-Qur’an directly use term mal (المال) that the plural form is أموال is derived from the verb مول. At first, the ownership of property was in the form of gold and silver money which then extended to all ownership of valuables things. In terminology, there are various opinions about the definition of property, including everything that can be taken to meet human needs. Mal means all things which are capable of being owned. Property can be in the form of money or other assets that can be used as a means to fulfill needs and worship to Allah. The following is some terms property in al-Quran according Al-Tursani which is directly related to this topic.

<p>| Tabel 1. The Words Property in Al-Qur’an |
|-----------------|-----------------|-----------------|-----------------|</p>
<table>
<thead>
<tr>
<th>NO</th>
<th>The Form of Word</th>
<th>Number of Word</th>
<th>(%) Form of Word Changing</th>
</tr>
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<td>14</td>
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<tr>
<td></td>
<td>بأموالكم</td>
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<td></td>
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<td>6</td>
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<tr>
<td>5</td>
<td>مالية</td>
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</tbody>
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| 21 Ibnu Mandhur, Lisan Al-‘Arabi, Juz 11, p. 636. |
| 23 This data is processed from the results of research Zakub Abdul Al-Ali dan Yasir Muhamad Abdurrahman Al-Tursani,”Mustalahal Mal fi al-Qur’an, al-Karim wa Wasiail-Hafadh ‘Alaihi fi al-Syariat al-Islamiyah,” Majalah Ulum al-Islamiyah, Jilid 1 (tt), p. 38. |
Term المال and its alteration (tasrifiyah) mentioned above are related to various explanations, such as the nature of ownership (QS. an-Nuur: 33) (QS. al-Muddassir: 11), the instruction of zakat/shadaqah (QS. at-Taubah: 1-3), infaq fi sabi'llah (QS. al-Baqarah: 184, 211-211), fitnah of property (QS. al-Anfal: 8) (QS. al-Mukminun: 61-61) (QS. at-Taghabun: 15), infaq of the infidels (QS. al-Anfal: 27), the position of person who strive with property (QS. at-Taubah: 1), prohibition on eating property in vanity (QS. an-Nisa: 8) (QS. at-Taubah: 103), prohibition on the amazement of property (QS. at-Taubah: 61), prohibition on excessive love of property (QS. al-Munafiqun: 9), prohibition of accumulating property in excess (QS. al-Humazah: 3), and others.

The discussion of property in the verses of al-Qur'an besides can be understood from term المال and its alteration (tasrifiyah), it can also be understood by other terms which direct in the context of property, for example the related verses invoke rizki (QS. al-Baqarah: 104) (QS. an-Nahl: 5), love of silver and gold/livestock/field rice fields (QS. Ali-Imran: 14), prohibition of extravagance (QS. al-Isra': 26-27), the story of Korun (QS. al-Qashash: 78-76), prohibition on dignity (QS. at-Takatsur: 8-9), prohibition on usury (QS. al-Baqarah: 282), prohibition on stealing (QS. al-Maidah: 29), verses relating to contracts such as buying and selling.

24 The instruction of zakat/shadaqah in Qur'an not only concerning term al-mal but also other terms for example (QS. al-Baqarah [2]:110), Qs. al-Ambiya [21]: 73), (QS. al-Hajj [22]:41), (QS. Luqman[31]:4), (QS. al-Fatir[35]:29), (QS. al-Fushilat [41]:7), (QS. al-Muzzamil [73]:20), (QS. al-Mujadilah[58]:13), (QS. al-Bayyina[98]:5).

25 The instruction of infaq in Qur'an not only concerning term al-mal but also other terms for example (QS. al-Baqarah [2]:195, 254, 267, 273), (Qs. ar-Ra’d [13]:22), (QS. al-Hadid [57]:7, 10), (QS. al-Munafiqun [63]:10).
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The ownership of property is absolutely God’s right, while human ownership is relative. This belief is part of the practice of tausid rububiyah, namely affirming the oneness of Allah in His actions and powers. This means that God has power over everything in the universe including giving blessings (rizki) to all of his creatures. Property as a form of rizki are derived from Allah given to humans as a means for worship and fulfilling their daily needs. The legal basis for the ownership of property comes from Allah:

من مال الله الذي انتمكم

Its mean that the property entrusted to humans is a small part of God’s property so that it is used to do good.²⁶ Allah when giving property to humans is different because there are of them that are diluted and some are narrowed according to each condition.

Property are a form of examination from Allah:

َاعْلَمُوا أَنَّمَا أَمْوَالُكُمْ وَأَوْلَدُكُمْ وَفِتْنَةٌ وَأَنَّم اللهَ عِنْدَهُ أَجْرٌ عَظِيمٌ

Term اعلموا in this verse is the instruction of Allah for humans to know the warning of the slander (fitnah) inherent in property. The meaning of terms fitnah in language is a temptation. Fitnah coming of Allah like as a disaster as the punishment of deviant deeds. Whenever a disaster occurs it can be used as a lesson for humans in order to not violate Allah’s commands.²⁷ Property are declared as an examination because they can bring good or bad to the owner. Whoever succeeds in passing that examination, they will be judged as worship and so will receive a great reward. On the contrary, anyone who fails to face that examination, they will get a painful punishment both in the world and in the hereafter. According to Jaafar, property is recognized by shariah as the basic for meaningful life and prerequisite for human beings to execute their dual functions as servants to Allah and vicegerent of mankind. In Islam, a good life is attained through the balanced satisfaction of material and spiritual needs of man. “Muslim must strive in Allah's cause with his wealth and his self” (QS. as-Saff: 11).²⁸

To sustain living, humans need an effort to get the source of livelihood provided by Allah on the face of the earth (QS. al-Araf: 11). By that living, humans are capable to worship. The property as one of instruments of worship, they have law which is instructively. Verse quotation خذ من مالهم صدقة is a example instruction to collect the property from rich people (muzakkik) who are reluctant to pay zakat.

²⁶ This verse is related to the order to deliver slaves, Ibnu Katsir, Tafsir al-Qur'an al-'Adhim (Riyad: Dar Thayyibah, 1997), Jilid 1, p. 222.
²⁷ Al-Raghib al-Ashfahani, Al-Mufradat fi Gharib al-Qur'an (Riyadh: Maktabah Musthafa Baz, 2009), juz 1, p. 482.
Paying zakat for rich people is represent worship instruction of Allah. Other form of instruction such as infaq fisabilillah. This verse describes the form of reward multiplication with an example that can be witnessed by the eyes of the heart. Then the testimony is strengthened by the eyesight, in order to humans practice the infaq with full comfort/ generosity to get multiple rewards. The multiplication of reward in the example of that verse shows the existence of the instruction, as the word of Allah: وَأَقِيمُوا الصَّملَةَ وَآتُوا الزَّمكَاةَ. Indeed, the infaq that is fulfilled is a form jihad with property as well as the obligation of jihad physically. By infaq fi sabilllah, there is a great benefit (maslahat) to develop the Muslims capacity and to uphold the dignity of Allah’s religion.

Allah has given abundant property to humans (QS. al-Muddasir: 11). Among humans there are those who love property properly and there are those who love excessively (QS. al-Fajr: 29). This very excessive love is characterized by the word حُبًّا which functions as an mf>al mutlaq to strengthen word تُبُونَ. A negative effect of excessive love for property can cause people to be reluctant to spend them. Humans who love wealth excessively tend to live in swanky (mutakasirun) and arrogantly take pride in property (mufataharun) until neglect of remembering Allah. Even if the negligence is not immediately realized, they will continue until enters the grave (QS. at-Takatsur: 2-1) and even in hereafter they will be held accountable of swanky before entered in jannah (QS. at-Takatsur: 8-6).

Infaq is commanded by Allah because in the property of rich people there is a right for them who need وَالَّمذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَعْلُومٌ لِلسَّمائِلِ وَالَْْرُومِ. Indeed Allah has limited the property of good people (al-ihsan) by setting aside the rights for sail and mahrom. It means that in our property there is a right allocated in the form of zakat for sail namely indigents (al-faqirun) who beggars and mahrom namely the indigents who not beggars. The aim of the indigents not to beg (al-mutaafif) is to protect their dignity, even though actually they need help. Besides the needy, there is also a group of people who refrain from asking for help immediately (لا يَسْأَلُونَ النَّماسَ إِلَْافًا even though they are not able to do business on earth because they are bound by jihad fisabilillah. Although ignorant people think they are rich, the pious people still know their characteristics (تَعْرِفُهْمْ بِسِيمَاهُمْ) so they help them immediately. Because it is unlawful to behave harshly towards the begging (QS. adh-Dhuha: 11).
Besides the command, the form of obedience to Allah also can be realized by avoiding prohibitions related to property, for example the prohibition of *riya* when do *infaq* by bringing up the giving that can hurt the recipient’s feelings. Allah had said: 

أيها الذين آمنوا لا تبطلوا صدقاتكم بالمن والأذى كالذي ينفق ماله رئاء الناس ولا يؤمن بالله واليوم الآخر. 

The verse confirms that mentioning giving that hurt the recipients feelings can invalidate *shadaqah*. Leveraging giving is a manifestation of lack of sincerity so that it can plunge the culprit into *riya*, namely practice because humans are not because of Allah. Illegal practices like *riya* are likened to slippery rocks كَمَثَلِ صَفْوَانٍ on which there is the land which its above was hit by heavy rainعَلَيْهِ تُرَابٌ فَأَصَابَهُ وَابِلٌ so that they are clean.

Examples of other prohibition is do *infaq* with bad property as the word of Allah: 

الذين آمنوا أنفقوا من طيبات ما كسبتم ومما أخرجنا لكم من الأرض ول تيمموا ياأيها الخبيث منه تنفقون ولستم بآخذيه إل أن تغمضوا فيه. 

Ibn Abbas said: «Allah commanded them to do *infaq* with the good property and forbid *infaq* with the bad one. Indeed Allah is good and will not accept except something that is good.» Scholars have differences of opinion in about the definition of *infaq*, namely there are who say it is obligatory like *zakat* and some say it is *al-tathawu*. Terms طَيِّبَاتِ its means good choice property obtained from the lawful business, such as assets from agricultural products through agriculture, mining, and others that are not contrary to the sharia principles. Beside the prohibition on applying illegal property, it is also recommended to invest in good quality assets.

From the results of the excavation the verses of al-Qur’an, the law concerning property can be mapped as follows:

Conclusion

Study of property in Al-Qur’an beside using the term المال and its alteration (tasrifyah), it can also be understood by other terms which leads to context of property. The ownership of property is absolutely the right of Allah, while the ownership in the hands of humans is relative because it is a mandate that will be held accountable. The benefit property (المالية المصالحة) is a property that is in the hands of righteous people, because it is not only used to fulfill their needs of life, but also is used as a means of worship to draw closer to Allah. On the contrary, the worst property (المالية السامحة) is a property given to humans who are in disobedience. Giving to Allah to people who are committing acts of immorality is a form of istidraj. The position of property under perspective of Al-Qur’an is an examination for humans (-fitnah). If the exam can be passed properly through obedience, it will be worth the worship of property good in the form of instructions, prohibitions, and permissions. On the contrary, failure to
face the examination of property can lead the owner to *istidraj* by doing immoral, so they will get the *azhab* of Allah.

References

Book


**Article**


