

## RECOGNITION OF THE INSTITUTION OF PRIVATE OWNERSHIP- ANALYSIS FROM ISLAMIC PERSPECTIVE

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### **Abstract**

Quran has categorically recognized the institution of private ownership, it is proved from the fact that, in almost 100 verses of Quran ownership of different things e.g. houses, gardens, ships, Jewelry, crops and other assets is admitted. With that, Quran has also highlighted those basic principles on which ownership can be valid. Out of these, the basic principle is human labour. Moreover on the basis of different types of rights ownership of assets is also recognized. In this context, since the base of ownership is human labour, ownership of land is not admitted by Quran. Some other aspects related to the concept of ownership are also highlighted in Quran.

**Keywords:** Quran; Verses, Ownership, Rights; Assts.

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## 1. Introduction

Whereas the concept of ownership is concerned from the western point of view, it may be defined as the legal right of possession or the act of having and controlling the property. At here the word 'control' means the activity of managing or exerting control over something. ([www.thefreedictionary.com/ownership](http://www.thefreedictionary.com/ownership)). In the other words ownership is a status or situation that confers on a person the greatest range of rights over property. ([www.scribd.com/doc/7183524/The-concept-of-ownership](http://www.scribd.com/doc/7183524/The-concept-of-ownership)). This right under the rules of state is absolute and the person who has the right of ownership can use the things as he/she wants.

But from Islamic point of view this right is not absolute and depends upon that rules and principles which Quran has set in this regard. Quran has set some basic principles on which ownership of assets becomes lawful. With that some related aspects are also highlighted, these are as follows.

- i. There is not any discrimination in the rights of ownership.
- ii. Right to take possession and use of goods.
- iii. Right of exchange of goods
- iv. Right to use natural resources
- v. Ownership of land is not possible.

In the following sections of the paper first those principles are highlighted on which Quran has accepted the right of ownership and then above mentioned aspects of ownership are discussed.

## 2. Base of Ownership in Quranic Perspective

Quran has stated different basic principles which are considered as the base of ownership, these are as follows:

### 2.1. On the basis of Human Labour

This is the first and the most important base of ownership. Quran has recognized the ownership of those items which are the result of human labour in the other words ownership of any item will be lawful if it is got through the efforts or from that income which is the result of human labour only. This fact may be proved from different verses of Quran in which only that income is considered as lawful which is the result of human labour only. In this context the following verse is most important.

*That man can have nothing but what he strives for* (chapter 53, verse 39)

In this verse Quran has categorically set a principle that all human beings can get only those things which are the result of their drink of labour. In the other words mankind as a whole is just unable to keep those items in their possession which are not the result of their labour. It means that human labour is the fundamental base of ownership. This fact is further explained in the following verse:

*To men is allotted what they earn and to women what they earn* (chapter 4, verse 32)

In this verse also Quran is addressing to the whole mankind and clearly stated that both men & women can get the result of their labour only, nothing else. This principle is applicable to all aspects of human life. From economic point of view it has the meaning that men & women can get ownership of those items only which are the result of their labour. From income point of view it is further explained in the following verse:

*Say: if it be that your fathers, your sons, your brothers, your mates or your kindred: the wealth that ye have gained, the trade in which ye fear a decline:* (chapter 9, verse 24)

Almost same message is given in the following verse also:

*O ye who believe! give of the good things which ye have earned and of the fruits of the earth which We have produced for you* (chapter 2, verse 267)

In both of these verses the point of consideration is that, only that income is considered as valid which is came through again from human labour.

2.1.1. Another argument in this regard is that, Quran has admitted the ownership of different assets e.g. gardens, crops, houses, ships and jewelry etc., and all of these items are man-made things and Quran has recognized their ownership in human hands. This fact again proves that, Quran has counted only those things in ownership of men which are the result of their labour only.

2.1.2. Quran has used the term *mal* for each and every asset including cash (Parwaiz 1987). This term is used 86 times in Quran and at all places its ownership is connected to the men. All assets are the result of human labour and Quran has directly put them in the ownership of men. It is another proof of above mentioned hypothesis.

## 2.2. On the Basis of Heritage

Quran has also admitted the rights of ownership of those assets which a men/women gets through heritage. In different verses of Quran this right is recognized. These verse are chapter 4, verse 11,12,33 and chapter 5, verse 106 and chapter 18, verse 82.

At here a sharp contrast may arise between these two principles, in the last principle it is claimed that, Quran has recognized the ownership of those assets which are the result of human labour only, on contrary under this principle heirs of deceased can get those assets in heritage for which they have not struggled. This a big misconception in this regard, and due to this misapprehension Muslim thinkers considered all that income as lawful which is not the result of human labour (Siddiqui 1968) and on the same bases other methods of income which does not create income from the labour e.g. *mudarabah*, (a special type of partnership in which one partner gets the reward of his/her capital and does not work at all), *mazra* (share cropping) and *Ijara* (rent) are considered as lawful (Al-Qardavi 1993).

A strong evidence in favour of these methods in given in the form of heritage, and it is claimed that when Quran admits the concept of heritage then how these methods of earning which are not based on human labour can be invalid?

Actually this misunderstanding is due to the incomplete study of Quranic verses in this regard. The real fact is that, Quran has not considered the heritage as income, but on the other hand, Quran has counted it as the right of heirs. Hence heritage cannot be considered as income in the eyes of Quran, it is the right of heirs on the assets of deceased person and God has return to them their right. Hence there is not any contradiction between these two principles. Moreover this is not only one example of this type of right; Quran has also admitted ownership as a right in the case of widows and divorced women also. This right will be discussed in the section 2.5 of this paper.

Whereas those Quranic verses are concerned in which heritage is considered as the right of heirs, in this context references of following verses can be given, (chapter 4, verse 36), (chapter 30, verse 38), (chapter 2, verse 215), (chapter 6, verse 152) and (chapter 17, verse 23) etc.

### 2.3. On the Basis of Booty

Quran has also recognized the ownership on the basis of booty, this fact is described in the following verse:

*They ask thee concerning (things taken as) spoils of war, say: (Such) spoils are at the disposal of Allah and the Messenger: (chapter 8, verse 1).*

It is further endorsed in the following verse with explanation of share in booty.

*And know that out of all the booty that ye may acquire (in war) one fifth share is assigned to Allah and to the Messenger, and to near relatives, orphans, the needy and the wayfarer. (Chapter 8, verse 41).*

There is no doubt that booty is also the result of human labour hence this principle is also in the line of first principle.

#### **2.4 On the Basis of Mal-e-Fay**

Mal-e-Fay is a Quranic term which represents assets which Muslims got without any struggle. Quran has also admitted the right of ownership on this type of assets in the following verse.

*What Allah has bestowed on His Messenger (and taken away) from them-for this ye made no expedition with either cavalry or camelry: but Allah gives power to His Messenger over any He pleases: and Allah has power over all things. (Chapter 59, verse 6)*

It is important to note that in both of above cases the assets which Muslims got through booty and *mal-e-fay* according to the above mentioned verses these assets should be in the ownership of Muslim state and she will distribute these assets in the needy Muslims in the proportion given in the verse, chapter 8 verse 41. Hence from these two verses, right of ownership and distribution of Muslim state can be drawn related to such types of assets.

#### **2.5 Ownership On the Basis of Right**

In family different persons have different rights on each other. On the basis of these rights Quran has also admitted the rights of ownership. In this regard examples of widows and divorced women rights on their husband's wealth can be given. It may be confirmed from the following verses of Quran.

*Those of you who die and leave widows should bequeath for their widows a year's maintenance without expulsion; but if they leave (the residence) there is no blame on you for what they do with themselves, provided it is reasonable. And Allah is Exalted in Power, wise. For divorced women is suitable gift this is a duty on the righteous (chapter 2, verses 240-241).*

In the first verse order is given to men that they must testament for their wives and further declared that widow has the right to live in the house of her husband for maximum one year. In the second verse order is given to men that, he should give something to divorced women. These rights of women are the examples of ownership on the basis of right. These rights are not just restricted to widows or divorced women only, but in the verse 61 of chapter 24 it is extended to

parents on the wealth of their children and to grandfather & mother, brothers, sisters, uncles, aunts and even friends also.

### 2.6 On the Basis of Hunting

Quran has given permission for hunting and the animals which are the result of this exercise hunter will have the right of ownership on that animals, subject to the condition that, this hunting will be under the law of state.

These are basic principles on which ownership of assets can be treated as valid. Moreover some other aspects regarding this concept are also highlighted in Quran, these are as follows:

### 3. No Discrimination in the Rights of Ownership

Quran has accepted the rights of ownership on the basis of above mentioned principles, with that kept no discrimination in this regard. In the other words right of ownership are just equal for:

- i. Men and women (chapter 4, verses 7 and 32).
- ii. For Muslim & Non-Muslim (chapter 3, verse 14), (chapter 8, verse 41), (chapter 28, verse 76) and (chapter 36, verse 35) etc.
- iii. No distinction can be made between unwise and wise (chapter 4, verses 5).
- iv. Orphan has the same rights (chapter 4, verses 2 & 6).

### 4. Right To Take the Possession And Use of Goods

According to Quran the whole mankind has a right to keep in possession and use of goods which are obtained on the basis of above mentioned principals. This right can be justified from all those 86 verses of Quran in which Quran has used the term *mal*. This term is used in the wholly book exactly in the meaning of assets. In all of these verses different uses of assets and its rights of possession are highlighted. Hence there is no doubt that, Quran categorically recognized the right of possession and its uses.

### 5. Right of Exchange of Goods

Quran also gives the permission to whole mankind that they can let their assets to any one anytime and anywhere. Quranic Verses 275 and 279 of chapter 2 endorse this right. These verses on one hand granted consent to do so, but on the other hand strictly ordered that only original assets can be taken back and no excess amount in the form of interest or rent can be received on them (Aziz, Abbas 2011). It means Quran has allowed the exchange of assets but strictly prohibited the reward of any asset in any quantity (Aziz, Fatima 2012).

### 6. Mankind Has the Right To use Natural Resources

In different verses of Quran this fact is clearly stated that God has created the earth for the whole mankind (chapter 55, verse 10). In the verse 10, chapter 41 equal rights of all men and women are admitted on the earth. In some other verses also it is openly declared that, land and its resources are for whole mankind. In this context examples of these verses can be given: (chapter 6, verse 141), (chapter 7, verses 10 & 128), (chapter 79, verses 30-33) and (chapter 80, verses 25-32) etc.

## 7. Ownership of Land is Not Possible

Both from western and Islamic point of view private ownership of land is considered as lawful. Different prominent Muslim thinkers e.g. Mududi (1969) Usmani (1994) & Taseen (2002) etc, have a point of view that ownership of land is lawful upto unlimited extent. This situation is quite same as in the case of capitalist economy where land is included in the term property and the ownership of property is considered as lawful. But the real fact is that Quran has drawn a clear boundary line between the man-made items i.e. assets and land, which is created by God. Quran has recognized the ownership of former only and openly negates the latter. Hence due to the reason that land is not a man-made item its private ownership is not possible from Quranic point of view. All arguments which are given in this regard are completely baseless (Aziz, Khan 2012).

### Conclusion

A lot of verses of Quran categorically admit the concept of ownership. Moreover Quran has also laid down different principles which provide the DeWine base of ownership of different things. The first and basic principle is human labour. Quran has recognized the ownership of those things which are the result of human labour with that on the basis of rights it is also admitted but it is not termed as income. This book also kept no discrimination in this regard, between men and women, Muslim & Non-Muslim, orphans, children and wise and unwires, rights to take possession of goods and utilization also granted. Mankind use the resources of land, but the private ownership of land is not possible with that any reward of any asset in any form also cannot be received.

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