



A Review of Islamic Law on Property Ownership Rights from the Perspective of Fiqh Muamalah

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Article History:

Received: 08-07-2025

Revised: 19-8-2025

Accepted: 1-9-2025

Keywords: *Muamalah Fiqh, Property, Islamic Law, Property Ownership, Maqasid Syariah*

Abstract: This study examines Islamic law on property ownership rights from the perspective of Islamic jurisprudence (fiqh muamalah) amidst economic inequality and the lack of a national Sharia-based property codification. The aim is to analyze the classification, causes, types, and management of assets for practical guidance. Using a qualitative normative approach through literature review, the population includes Islamic jurisprudence (fiqh muamalah) literature, with a purposive sample of 20-30 primary (Quran, hadith) and secondary (fiqh texts, journals 2021-2025) sources. Instruments in the form of Sharia documents were analyzed descriptively and analytically with triangulation and synthesis of the maqasid (maqasid) of Sharia. The results show that assets (al-mal) are a divine trust, etymologically human instincts and terminologically valuable assets to be owned and transacted, classified as private, public, state, protected by the daruriyyat (private), hajiyat (private), and tahsiniyyat (private). Ownership arises from *ihya' mawat* legal contracts, inheritance, and business proceeds, with an emphasis on halal distribution such as *zakat*. In conclusion, sharia-based codification is needed to prevent exploitation and realize just prosperity.



How to Cite: Bakhri, S., et al. (2025). A Review of Islamic Law on Property Ownership Rights from the Perspective of Fiqh Muamalah. *Al Urwah : Sharia Economics Journal*. 3(2). 1-12. <https://doi.org/10.61536/alurwah.v3i2.401>



<https://doi.org/10.61536/alurwah.v3i2.401>

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Introduction

In Islam, wealth and property are viewed as natural human instincts that drive individual economic efforts to acquire and manage them. Allah SWT, as the sole owner of everything in

heaven and earth, has entrusted the earth to humans to manage and prosper, so ownership is not an absolute right but a trust bound by sharia (Saipul Bakhri et al., n.d.; Ali, 2012). This wealth is classified into private, public, and state assets, with different usufructuary rights; some can be transacted for personal gain, while others are solely for non-transactional benefit. This phenomenon reflects how Islam encourages the accumulation of halal wealth through business, fair trade, inheritance, and other sharia-compliant sources, provided it is distributed according to minimum limits such as zakat (Noor, 2020; Ahmad, 2020). Furthermore, halal sources of wealth, such as agriculture and services, emphasize the principle of justice to prevent exploitation (Vitria Ade & Syafriani Annisa, 2023; Rahmat et al., 2024).

Ownership of wealth in Islam is not an end in itself, but rather a responsibility that must be accounted for, including providing for one's family, giving alms, and avoiding waste. As a holistic system, Islam regulates economic activities such as al-milkiyyah to meet needs, combat poverty, and achieve prosperity, where humans are only delegated the authority to manage by Allah (Haroen Nasrul, 2007; Toha, n.d.). This phenomenon is also evident in the classification of national property laws that integrate civil, sharia, and customary law, although there is no specific codification for assets, which forms the basis for the emergence of absolute and relative property rights (Rato, 2016; Sainul Ahmad, 2020). Thus, halal wealth is obtained through legitimate endeavors, but its management is supervised by the state if it violates sharia, safeguarding the rights and obligations between humans (Khairul Hamim, 2020; Nurmendi Sigit, 2024).

The main problem arises because although Islam provides ample scope for ownership, this right is not absolute and is often misunderstood as complete freedom without Sharia supervision. Many individuals accumulate wealth without complying with obligatory distributions such as zakat after the nisab is reached, leading to economic inequality and violating the principles of maqasid sharia (Mardani, 2012; Abdullah Ru'fah & Sahrani Sohari, 2011). Furthermore, sources of wealth such as fair trade and inheritance are often neglected, replaced by haram practices such as usury or fraud, which are contrary to the fiqh of muamalah (Hasa Akhmad Farroh, 2018; Murlan Eka, 2011). The unclear classification of property (private, public, state) also triggers conflict, where public assets such as water and forests are exploited privately, disrupting social balance (Widjaja Abdi, n.d.; Akbar Ali, 2012).

Furthermore, the lack of a specific national property law codification that integrates the perspective of Islamic jurisprudence (fiqh muamalah) exacerbates the problem, as law students and practitioners struggle to distinguish absolute property rights (subject-object relationships) from relative (contractual) ones, often resulting in the rights of others being violated. This phenomenon is evident in the management of state assets, which are vulnerable to corruption, even though they should be used for public welfare purposes such as education and infrastructure (Rato, 2016; Vitria Ade & Syafriani Annisa, 2023). This problem also encompasses non-compliance with the sources of Sharia law, where transactions without a valid contract invalidate ownership, hindering the prosperity of the community (Noor, 2020; Rahmat et al., 2024).

This study aims to analyze the Islamic legal perspective on property ownership rights



from the perspective of muamalah jurisprudence, including its classification, causes, types, and management, to provide practical guidance for the community and policymakers. The urgency lies in the urgent need for codification of national property law based on sharia to prevent inequality and corruption amidst the rise of illicit transactions, in line with the maqasid of sharia to protect property (Sainul Ahmad, 2020; Khairul Hamim, 2020). Its novelty lies in the normative-qualitative approach that integrates contemporary phenomena such as the exploitation of public property with the latest references of muamalah jurisprudence, offering a framework of ihyaul mawat and luqathah for the modern Indonesian context that has not been comprehensively discussed (Nurhendi Sigit, 2024; Toha, n.d.).

Research Methods

Types and Methods of Research

This research uses a normative qualitative approach with a literature study or bibliographic research, focusing on a normative analysis of Islamic law related to property ownership rights from the perspective of Islamic jurisprudence (fiqh muamalah). This approach was chosen because it is suitable for uncovering theoretical legal facts through primary sources such as the Quran, hadith, and fiqh texts, as well as secondary sources such as Islamic books and journals, as applied in normative legal research that emphasizes sharia principles (Saipul Bakhri et al., n.d.; Noor, 2020). This method defines technical steps for analyzing joint ownership of property, distinguishes it from empirical approaches, and aligns with the in-depth qualitative paradigm (Sugiyono, 2023; Creswell & Poth, 2021). This normative approach also utilizes relevant facts from the field of Islamic jurisprudence (fiqh muamalah) to build strong theoretical arguments (Emzir, 2022; Vitria Ade & Syafriani Annisa, 2023).

Data Analysis Instruments and Techniques

The main research instruments are Islamic legal documents, including books on Islamic jurisprudence (fiqh muamalah), sharia journals, and compilations of Islamic economic law, collected through literature studies to analyze the concepts of property, ownership rights, and their classification. The data analysis technique applies a descriptive-analytical method with a normative approach, namely systematically describing, classifying, and interpreting data based on sharia arguments, while comparing the views of the schools of thought (Hanafi, Maliki, Shafi'i, Hambali) (Akbar Ali, 2012; Sainul Ahmad, 2020). This technique involves triangulating sources for validity, such as integrating Quranic verses (e.g., Surah Al-Baqarah [2:29]) with the opinions of contemporary scholars, according to normative qualitative analysis procedures (Sudaryono, 2021; Emzir, 2022). Further analysis includes a synthesis of maqasid sharia to protect assets at the daruriyyat, hajiyyat, and tahsiniyyat levels (Rahmat et al., 2024; Sugiyono, 2023).

Population and Sample

The research population encompasses the entire Islamic legal literature on muamalah jurisprudence, particularly classical and contemporary texts that discuss property ownership rights (al-milkiyyah), sources of halal assets, and their management from a sharia perspective. The sample was purposively selected with inclusive criteria: primary sources (the Quran,



hadith, ijma', qiyas) and secondary sources (fiqh books such as the works of TM Hasbi Ash-Shiddieqy, indexed journals 2021-2025) relevant to the classification of private, public, and state assets, as well as the reasons for ownership such as ihyaul mawat and luqathah (Haroen Nasrul, 2007; Nurmendi Sigit, 2024). This sample selection was non-probability-based for in-depth theoretical analysis, with a total of 20-30 representative primary documents, avoiding bias by verifying authenticity through academic databases (Creswell & Poth, 2021; Sudaryono, 2021).

Research Procedures

The research procedure begins with problem identification of the ownership phenomenon in muamalah fiqh, followed by data collection through literature review from the Google Scholar database, the UIN repository, and the sharia library. The next stage is data reduction through categorization (definition of property, function, maqasid, elements, and property rights), followed by data display in the form of a madhab table and a property classification diagram, and drawing conclusions through sharia inference (Mardani, 2012; Khairul Hamim, 2020). This process is iterative with cross-reference validation for coherence, culminating in a synthesis of recommendations for codification of national property law, in accordance with the normative qualitative research cycle (Sugiyono, 2023; Emzir, 2022). All stages adhere to research ethics with proper source attribution (Creswell & Poth, 2021; Rato, 2016).

Results and Discussion

Treasure

The meaning of wealth or mal is "the plural of the word amwal". Etymologically, this word has several meanings such as leaning, inclined, slanted. This is because humans basically have a tendency and love to have wealth in their lives. Wealth or al mal can also be interpreted as "Something that can please humans and can protect them. Both in material form and in the form of benefits. There are also several opinions that interpret wealth as something that humans need and obtain, both in the form of visible objects such as: gold, silver, animals, plants, or also invisible but provide benefits, for example: vehicles, clothing, and shelter. Therefore, according to etymology, something that does not exist and cannot be controlled by humans cannot be called wealth, for example: birds in the air, fish in the water, trees in the forest, and also minerals on earth.

Meanwhile, the terminological definition of wealth is something that humans desire, either based on their natural nature, whether humans will give it to others or save it as savings. Something that cannot be saved cannot be called wealth. Wealth is something tangible ('ain), which is valuable, namely material, which circulates among humans. According to the compilation of Islamic economic law in article 1 paragraph 9 regarding amwal (wealth), it is something that can be owned, controlled, developed, and transferred, whether in the form of tangible or intangible objects, whether in the form of registered or unregistered objects, whether in the form of movable or immovable objects, and also rights that have economic value.



According to scholars, wealth is "something that is valuable and can be redeemed by those who have destroyed or lost it." Meanwhile, the imams from various schools of philosophy have different views on the understanding of wealth, namely:

1. According to the Hanafi school, property is anything of value that can be compensated by someone who has damaged or lost the property.
2. According to Maliki, ownership is a right given to a person that prevents others from controlling it and is recognized as property rights according to *urf* (tradition).
3. According to Syafi'i, property is something that is useful to its owner and has value.
4. According to Hambali, property is something that has economic value and is protected by law.

From the description above, it can be understood that wealth is a substance with material properties that is spread among various groups or around humans, and its circulation is accompanied by interaction.

Meanwhile, according to TM Hasbi Ash-Shiddieqy, wealth consists of:

- a. This is a term that indicates something other than humans, created by God to meet human needs, which can be maintained anywhere and managed diligently.
- b. Something that can be owned by humans, both all of humanity and some of it.
- c. Something that is legally available for sale and purchase.
- d. Something that can be owned and has value (price). For example, one can own, use, and store rice. However, traditionally, rice is not considered valuable and therefore not wealth.
- e. Tangible or intangible assets, even if they can be used, are not considered assets. For example, intangible benefits cannot be considered assets.
- f. Goods that can be stored for a long or short period of time and are available to the owner when needed. The explanation above shows that some experts still have different views on the definition of wealth.

Function of Assets

Wealth plays a vital role in human life. It enables all human activities, including meeting basic needs (food, clothing, and shelter). This review will explain the functions of assets, specifically:

1. Perfecting special worship (*mahdah*), which consists of the reasons for worship, requires means such as cloth to cover the genitals, performing prayers, providing facilities for worship, pilgrimage, *zakat*, alms, and *zakat*.
2. Increase faith in Allah SWT.
3. Always protect life.
4. Aligning the benefits of this world with the benefits of the hereafter.
5. Develop and increase knowledge, because it is difficult to obtain knowledge without material goods.

Maqasid Sharia and Property

Protection of property, or ownership of assets, whether individual, collective, or



public, is one of the five pillars of Sharia (Sharia Maqasid). Its importance can be divided into three levels:

1. Maintenance of property at the level of daruriyyat (property law) according to Sharia law, which concerns ownership procedures and the prohibition of unlawful confiscation of other people's property. Violation of these rules endangers the existence of assets.
2. Maintenance of assets at the level of hajiyyat (property law) according to Sharia law, which concerns buying and selling through addresses. Failure to implement this method will not endanger assets, but will make life difficult for those who lack capital.
3. Protection of assets at the tahsiniyyat level, in accordance with the provisions for preventing fraud and deception, is closely related to business ethics. It also affects the validity of a sale and purchase, as this third level is also a prerequisite for the existence of the second and first levels.

According to the authors, the following are asset protection methods based on the principle of property ownership:

- a) Individual property rights must be acquired in accordance with Islamic law, primarily through hard work or inheritance, and must not be taken from others through fraud or usury. Their use must also be in accordance with Islamic law: they must not be used for purposes prohibited by religion or considered wasteful. Furthermore, zakat and infaq must be collected to purify wealth in accordance with the principles of property law.
- b) Social or common property rights. These rights refer to shared natural resources (water, grass, fire) that cannot be owned by individuals except under certain circumstances and therefore must be protected and not violated indiscriminately. For example, river water remains clean because no garbage or waste is dumped into it. Forests are protected for their vegetation, and illegal logging is prohibited.
- c) State Property Rights: State assets are essentially public property, but the government is obligated to manage them properly. Therefore, the state is obligated to manage its assets, protect and manage natural resources and state revenue sources, and prevent their confiscation by other countries and their use for profit (corruption). State revenues are also used for public interests, such as education, moral reform, the development of public facilities and infrastructure, and improving public welfare.

Therefore, although protecting assets is the last of the five elements of goodness, according to this author, it is a crucial foundation that must be maintained. The five objectives of Sharia. When you acquire sufficient wealth, you will gain five things (religion, life, intellect, posterity, and wealth).

Elements of Assets

Legal scholars classify wealth into two elements: aniya and urf. Aniya refers to actual



wealth. Profits from a household managed by someone are not considered wealth, but are included in wealth and rights. Urf encompasses everything considered wealth by all or some individuals. A person does not own anything, whether it is madiyya or manawiyya, without the expectation of profit. Yunus Gozali explains that wealth consists of two elements:

- a. Fixed object. An object that cannot be moved, such as the Earth.
- b. Movable objects. Objects that can be moved from one place to another, such as plants, trees, buildings, houses, animals, and other objects.

According to Imam Malik, houses and trees are considered immovable property. He defined movable property as anything that can be moved but retains its original form. When a building is moved, it must first be dismantled to prevent damage, just as a tree remains a tree even when moved. The benefit of this division of property is that it protects those in need, such as those involved in sales, waqf (inheritance), and inheritances for children and the terminally ill.

Understanding Property Rights

The etymological meaning of the word "right" is determination and certainty, as in QS. Yasin [36:7], determination and explanation, as in QS. Al-Anfal [8:8], limited responsibility, as in QS. Al-Baqarah [2:241], truth versus error, as in QS. Yunus [10:35]. In the concept of fiqh, right is the law determined by the sharia.

The etymological definition of ownership is control over something, and in minority terms, it is the exclusive right of the owner of an asset, according to Sharia, to freely use it, provided there are no obstacles to Sharia law. If someone owns property legally valid under Sharia law, they are free to manage it, whether by selling or mortgaging it, either independently or through a third party.

When a guardian has the right to use and manage the property under his/her care, and is the owner of the property under his/her care, not everyone who owns the property has the right to use it, and not everyone who has the right to own it can own it.

The rights described above are a form of sultah (privilege) and sometimes a form of taklif (authority):

- a. *Sultan 'ala al-nafsi* and *Sulthah 'ala sya'in mu'ayamin*. Sulthah 'ala al-nafsi is a person's right over his own soul, such as the right to hadlanah (childcare), while sulthah 'ala sya'in mu'ayanin is a person's right over something, such as the right to own a car.
- b. *Taklif* is an individual responsibility; sometimes taklif is a personal obligation ('ahdah syakhsiyah), such as an employee fulfilling his obligations, and sometimes it is a financial obligation ('ahdah maliyah), such as paying a debt.

Jurists hold the view that rights are equal and objective (a'yan). Conversely, Hanafis hold that rights are not objective (in al-haqq laisa hin al mal). However, despite the differences of opinion among scholars, all are correct, because everything on earth and in the heavens belongs to Allah, and humans only seek the path shown by Allah and His Messenger.

Causes of Ownership in Muamalah Fiqh

According to scholars, there are four ways to own property, as regulated in Islamic law:



1. By owning property not yet owned by an individual or legal entity, which in Islam is called permissible property. For example, a stone in a river that is not yet owned by an individual or legal entity. If someone picks up the stone and takes it home, it becomes their property.
2. Through transactions with individuals or legal entities, such as sales, gifts, and wills.
3. Through inheritance, such as when someone receives an inheritance from a deceased heir.

The fruit/results of the wealth owned by a person, whether the results are obtained by oneself, for example fruit from a tree in the garden, the birth of a calf, or the results of running a business, for example the business profits of a trader, the wages of a laborer, and so on.

If we consider a person's possessions, we can classify them into two categories:

1. Wealth that is tied to a person from the beginning. For example, oranges grow from a tree we planted earlier.
2. Consequences of transfer of ownership. This second form of ownership can be divided into three parts:
 - a. Through contracts that are valid according to Sharia, such as sales and purchase agreements, concessions, etc.
 - b. Inheritance rights.
 - c. Establishing ownership of something that no one else owns. In various Islamic legal texts, this practice can be found in discussions of ihyaul mawat or luqathah. Anything that is not yet bound by ownership has the right to have its status determined. This, of course, is provided that it does not violate established boundaries. For example, when a fisherman catches fish in the open sea, which is clearly not owned by anyone, his catch automatically becomes his property.

Ownership requires that it be acquired through the means prescribed by Sharia law. In other words, if ownership is sought through such means, if a person's ownership status is not permitted by Sharia, then that person's ownership status is denied. This denial of ownership status will invalidate any transaction involving the object for which ownership status is denied, as ownership status itself is a fundamental requirement for a valid transaction.

Types of Ownership in Fiqh Muamalah

From an Islamic perspective, property is divided into three categories: personal property (private property), public property (common property), and state property (state property), namely:

- a. Personal property (al-mikiyat al-fardiyah/personal property).

Personal wealth, for example, is a person's right to own bread and a house. Therefore, a person can own bread to eat, sell, and profit from it. Both bread and a house are material goods. At the same time, the Sharia law established for both is the Sharia



law that allows humans to utilize them directly, either by using them or exchanging them. This permission to utilize them makes the owner of the product someone who has been given permission to eat the bread and live in the house, because they are also permitted to sell it. The Sharia law relating to bread is based on its content, namely the permissibility of consuming it. However, the Sharia law relating to a house is based on its use, namely the permissibility of living in it. This shows that anyone can acquire wealth through some form of ownership, as long as it is natural. If private ownership is not permitted, a person cannot retain the profits from his labor and give them to the owner. Islam has several laws, namely:

1. Regulate which goods or services are halal and which goods or services are haram; in this case, it is Allah who decides what is halal and what is haram.
2. Regulating the ways of obtaining wealth, both halal and haram, through methods of acquiring and increasing wealth.

b. Public Treasure (al-milkiyyat al-ammah/public treasure)

Public property is a sharia-compliant permit for a community to use objects or goods collectively. Public property refers to objects that, according to sharia, are considered the collective property of a community and cannot be controlled by any individual. Because they are public property, anyone can use them, but they are prohibited from possessing them.

c. State Wealth (al-milkiyyat al-Dawlah/state wealth)

Wealth is the wealth of the state, established by Allah as the right of every citizen. It is the state's responsibility to manage it. The state has the right to grant or transfer it to certain members of society based on its ijtihad/policy. State management refers to the state's authority to manage it.

Asset Management in Fiqh Muamalah

Islam not only teaches its followers to acquire wealth in the right way, but also provides instructions on how to spend it. The fundamental teaching about the use of wealth is the teaching of the Koran, which encourages spending wealth on things that support the foundations of Islam and social life. This is reflected in the blessings that Allah gives to those who spend their wealth for a cause, such as jihad, zakat, and other humanitarian activities. The verse that encourages the use of wealth for jihad in the way of Allah is found in Surah An-Nisa' [4], verse 95:

لَا يَسْتَوِي الْقَعْدُونَ مِنَ الْمُؤْمِنِينَ غَيْرُ God willing bless you بِأَمْوَالِهِمْ وَأَنفُسِهِمْ فَضْلَ اللَّهِ الْمُجْهَدِينَ وَكُلُّا وَعَدَ اللَّهُ الْحُسْنَى وَفَضْلَ اللَّهِ الْمُجْهَدِينَ عَلَى الْقَعْدِينَ أَجْرًا عَظِيمًا

Meaning: Believers who have settled down permanently (and do not fight) are not like those who fight in the way of Allah, risking their wealth and lives. Allah prefers those who fight with their wealth and lives to those who remain in the same place. Allah has promised them a good reward (Paradise), and Allah prefers those who strive hard to those who remain with a great reward.

Furthermore, wealth can be used to meet daily needs without waste or excess. Furthermore, the use of wealth must take into account social factors, such as financing



activities needed by the community and building places of worship, religious studies, and so on.

Islamic teachings maintain a balance between opposites, such as luxury and waste, not only recognizing the right to private property but also ensuring the widest possible distribution of wealth. One of the key concepts of ownership in Islam is wealth management, both in terms of consumption and investment to increase one's wealth.

The Concept of Ownership in Islam and Fiqh Muamalah

In Islamic teachings, wealth is considered a gift from God. Wealth does not belong entirely to society; individuals act only as responsible managers for its use and utilization. The Quran emphasizes that everything in the world belongs to God and that humans must manage it well, as explained in Surah Al-Baqarah 2:29:

هُوَ الَّذِي خَلَقَ لَكُمْ مَا فِي الْأَرْضِ جَمِيعًا ثُمَّ سَمَّا إِنَّ فَسَوْلَهُنَّ سَبْعَ سَمَوَاتٍ وَهُوَ
God bless you

Meaning: It is He (Allah) who created everything on earth for you, then He went to the heavens, then He perfected them into seven heavens. And He is All-Knowing of everything.

Many scholars interpret the above verse as indicating that, essentially, everything on Earth can be used by humans unless expressly prohibited. This demonstrates that humans are entrusted with the responsibility of managing Earth's resources as a form of devotion to the Creator.

Basic Principles of Property Rights in Islam and Fiqh Muamalah

There are several basic concepts of ownership in Islam, including:

- 1) The Quran clearly states that Allah SWT is the owner of everything in Surah Ali Imran 189, which means "Everything is under the control of Allah SWT and Allah SWT is the only one who has the power to create and make."
- 2) Given that the goal of humankind is to acquire wealth, the accumulation of wealth is one of the goals of life. Therefore, it is not without reason that human potential is limited. Wealth can be a tool to fulfill one's obligations as a representative of Allah SWT in this world and a means to achieve success in this world and the hereafter.
- 3) According to the hadith of the Prophet Muhammad (pbuh), Allah SWT gives wealth to His people to use in fulfilling their obligations, such as prayer and zakat, and wealth obtained in sufficient amounts will be rewarded. Prophet Muhammad (saw) considered wealth as a means to achieve a pleasant life. Prophet Muhammad (saw) quoted Abu Said al-Khudri, who stated that wealth is a beneficial aid for someone who acquires it in the right way and uses it for the right purposes according to the guidance of Allah SWT. The Prophet Muhammad (pbuh) understood that lack of money and prosperity could make a person an infidel.
- 4) Ownership is considered a test or a means of self-prove in Islam. In this regard, Allah SWT limits each person's freedom and grants trusts to those who are worthy. This is essentially a measure of one's ability to pass the test or test of ownership. The advantage of shared interests and limited sole ownership is that those in need can help others survive.



Conclusion and Recommendation

This research finds that property ownership rights in Islam from the perspective of muamalah fiqh are a mandate from Allah SWT, with property (al-mal) defined etymologically as something that is loved by humans and terminologically as a valuable object that can be owned, controlled and transferred, as is the view of the Hanafi to Hambali schools and TM Hasbi Ash-Shiddieqy. Assets are classified into private, public and state, with the main function of perfecting worship, increasing faith, protecting life and harmonizing the world and the afterlife, which are protected by maqasid sharia at the daruriyyat, hajiyat and tahsiniyyat levels. Because ownership includes ihyā' mawat, legal transactions, inheritance, and business results, while management emphasizes halal distribution such as zakat to prevent waste and corruption, as argued in the QS. Al-Baqarah [2:29] and An-Nisa' [4:95]. However, the limitations of this research lie in the normative bibliographic approach which does not yet involve empirical field data, so that generalizations to contemporary practices in Indonesia require further validation.

Suggestions for further research include comparative empirical studies between Islamic jurisprudence (fiqh muamalah) and national property laws, including a survey of public asset exploitation in the digital era. Practically, the research implications encourage the codification of Sharia-based property laws for the government and ulama to oversee halal transactions, Islamic jurisprudence (fiqh muamalah) training for law students, and zakat campaigns for the community to achieve sustainable prosperity. These findings reinforce the urgency of integrating Sharia into national economic policy to prevent inequality.

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