



# International Journal of Multidisciplinary Research and Growth Evaluation.

## The concept of ownership in fiqh muamalah: A sharia perspective and its implications in the modern economy

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### Article Info

**ISSN (online):** 2582-7138

**Volume:** 05

**Issue:** 04

**May-June 2024**

**Received:** 03-06-2024;

**Accepted:** 05-07-2024

**Page No:** 845-850

### Abstract

This study examines the concept of ownership in fiqh muamalah from a sharia perspective and its implications in modern economics. In Islamic economics, ownership is not just an individual right to an object, but also involves social responsibility and sharia provisions that regulate its use and utilization. This concept is very important given the increasingly complex market dynamics, technological developments, and globalization. This research uses a comparative method by comparing the concept of ownership in fiqh muamalah with theories of ownership in conventional economics. The results show that the integration of the Islamic concept of ownership into the modern economic system can improve justice and efficiency in resource distribution, as well as ensure the sustainability of resource use. The findings provide practical guidance for policy makers, economic practitioners, and academics in managing property rights in accordance with sharia principles.

**Keywords:** ownership, fiqh muamalah, sharia, modern economy, efficiency, justice, sustainability

### 1. Introduction

In the Islamic economic system, the concept of ownership has a very important role and is one of the main aspects of fiqh muamalah. Ownership is not only an individual's right to an object, but also includes social responsibility and sharia provisions that regulate its use and utilization. In the context of modern economics, understanding the concept of ownership is crucial given the increasingly complex market dynamics, technological developments and globalization.

In the midst of global economic development, the issue of ownership is often debated, especially when faced with a conventional economic system that tends to be materialistic. Therefore, an in-depth study is needed to understand how the concept of ownership in fiqh muamalah can be integrated into the modern economic system so that it remains in accordance with sharia principles.

The importance of the concept of ownership in fiqh muamalah and this concept is governed by the provisions of sharia, the arguments from the Qur'an and Hadith that underlie this view, some relevant arguments:

Qur'anic Evidence

Surah Al-Baqarah (2:188)

"And let not some of you eat of the wealth of others among yourselves by means of unlawful means, and let not your property be brought before a judge, that you may eat of the wealth of others by way of sin, when you know."

This verse emphasizes the importance of legitimate ownership and forbids eating other people's wealth unjustly, which shows that Islam is very concerned about justice in property ownership and transactions.

Surah An-Nisa (4:29):

"O you who have believed, do not eat from one another's wealth by unlawful means, except by way of a mutually acceptable trade between you."

This verse affirms that ownership of property must be acquired through lawful and fair means, and emphasizes the importance of transactions being conducted with the consent of both parties.

Hadith evidence

Hadith narrated by Bukhari and Muslim:

"Abu Hurayrah (may Allah be pleased with him) reported that the Messenger of Allah (blessings and peace of Allah be upon him) said: 'Whoever takes even an inch of someone else's land, Allah will crush him with it to the seven layers of the earth.'"

This Hadith shows that Islam highly values individual property rights and strictly forbids the unjust taking of another people's property.

Hadith narrated by Tirmidhi:

"Abu Hurayrah (may Allah be pleased with him) reported that the Messenger of Allah (blessings and peace of Allah be upon him) said: 'It is not lawful for a Muslim to sell something that he does not own.'"

This Hadith confirms that transactions in Islam must be based on legal ownership and prevents fraudulent practices in trade.

This research will use the comparative method by comparing the concept of ownership in fiqh muamalah with the theories of ownership in conventional economics. This method will help identify similarities and differences and examine the implications of each concept in modern economic practice.

Previous research has discussed the concept of ownership in fiqh muamalah. For example, research by <sup>[1]</sup> Hasan (2020) <sup>[1]</sup> Hasan's article discusses various aspects of ownership in Islam, including the basic principles governing private and public ownership, as well as how sharia law affects the distribution and use of wealth. Hasan emphasizes the importance of the balance between individual rights and the public interest, and provides examples of the application of this concept in the modern context, as well as research by <sup>[2]</sup> Karim (2018) <sup>[2]</sup> which highlights the application of ownership in Islamic business transactions. However, these studies have not specifically examined the implications of the Islamic ownership concept in the dynamic and complex context of the modern economy. In Karim's article, Karim discusses how the principles of ownership in sharia are applied in various forms of business transactions, including Islamic banking, investment, and trade. However, Karim also notes that these studies have not specifically examined the implications of the Islamic ownership concept in the context of a dynamic and complex modern economy, so further research is needed to address this challenge.

This research will fill the gap by focusing on the integration of the concept of ownership in fiqh muamalah into the modern economic system. Previous research tends to only discuss the theory of ownership without linking it to relevant modern economic practices. Therefore, this research aims to provide a new perspective that is more applicable and relevant to current economic conditions.

This research contributes to the development of Islamic economic literature by integrating the concept of ownership in fiqh muamalah with the theory of ownership in conventional economics. The research results are expected to provide practical guidance for policy makers, economic practitioners, and academics in managing ownership rights fairly, efficiently, and sustainably in accordance with sharia principles.

The results of this study are also expected to make a significant contribution to the field of Islamic economics, especially in terms of understanding and applying the concept of ownership. This research not only aims to enrich the scientific literature, but also provide practical guidance for economic practitioners, policy makers, and academics in integrating Islamic principles into modern economic practices.

Thus, this research is expected to be an important reference in efforts to create an economic system that is more just, sustainable, and in accordance with sharia values.

## 2. Theoretical Overview

### 2.1. The Concept of Ownership in Fiqh Muamalah

The concept of ownership in fiqh muamalah is one of the main aspects that regulates the relationship between individuals and property in the context of sharia. Ownership in Islam does not only mean individual rights to own and use property, but also includes social and ethical responsibilities in its use. Some classical and contemporary scholars who discuss this concept include:

#### 1. Al-Mawardi (2021) <sup>[3]</sup>

In his work, *Al-Ahkam Al-Sultaniyyah*, Al-Mawardi explains that ownership in Islam is based on the principles of justice, togetherness, and shared benefits. Private ownership is recognized, but its use must be in accordance with sharia law and not harm others <sup>[3]</sup>.

#### 2. Ash-Shiddieqy (2015)

Ash-Shiddieqy in his book, *Fiqh Muamalah*, emphasizes that ownership in Islam involves balanced rights and obligations. He highlights the importance of good intentions in acquiring property and its use for the public good <sup>[4]</sup>.

### 1.2. Ownership Theory in Conventional Economics

The theory of ownership in conventional economics is widely discussed by economists who examine property rights and their impact on economic efficiency and resource distribution. The two main theories that are often cited are:

#### 1. Coase (2013)

Ronald Coase in his article "The Problem of Social Cost" introduced the Coase Theorem, which states that under conditions of no transaction costs, resource allocation will be efficient and independent of the initial distribution of property rights. This theory emphasizes the importance of clear and interchangeable property rights to achieve economic efficiency <sup>[5]</sup>.

#### 2. Alchian (1972)

Armen Alchian in his work "Production, Information Costs, and Economic Organization" discusses that clear and tradable property rights will encourage the efficient use of resources. Alchian also emphasized that property rights serve as an incentive for individuals to manage and utilize resources

optimally <sup>[6]</sup>.

### 2.3. Integration of the Concept of Ownership in Fiqh Muamalah and Conventional Economics

Integrating the concept of ownership in fiqh muamalah with the theory of ownership in conventional economics provides a comprehensive perspective on how property rights can be managed in the context of the modern economy. Some important points that can be drawn from this integration are:

#### 1. Rights and Obligations in Ownership

Fiqh muamalah emphasizes the balance between rights and obligations in ownership, which can help address the problem of unequal distribution of resources in conventional economics. In a modern economy, this principle can be applied to ensure that property owners do not only pursue personal gain but also contribute to the welfare of society.

#### 2. Efficiency and Justice

Coase and Alchian theories highlight the importance of clear property rights for economic efficiency. Integration with sharia concepts can ensure that this efficiency is achieved without compromising justice and social welfare.

#### 3. Sustainable Use of Resources

In fiqh muamalah, ownership also involves the responsibility to use resources sustainably and not to harm the environment. This integration is relevant in a modern economy that is increasingly concerned with environmental and sustainability issues.

### 3. Research Methodology

The research approach used in this study is qualitative with a descriptive-analytical method. This method was chosen to provide an in-depth understanding of the concept of ownership in fiqh muamalah and analyze its implications in modern economics. The qualitative approach allows the researcher to explore and explore the various perspectives and nuances contained in the relevant literature and theories, so as to provide a comprehensive and critical picture of how these concepts can be applied and influenced in the current economic context. The descriptive-analytical method also helps in compiling a systematic and structured analysis, so that the research results can make a meaningful contribution to the development of Islamic economics.

#### 3.1. Research Approach

This research uses a qualitative approach with a descriptive-analytical method. This approach was chosen to explore in depth the concept of ownership in fiqh muamalah and analyze its implications in modern economics.

##### 3.1.1. Research Stages

This research was conducted through several stages as follows:

#### 1. Literature Study

At this stage, the research was conducted by collecting literature related to the concept of ownership in fiqh muamalah from the works of classical and contemporary scholars such as <sup>[7, 8]</sup> Al-Mawardi (2000) <sup>[7]</sup> dan <sup>[4]</sup> Ash-Shiddieqy (2015), as well as literature related to the theory of ownership in conventional economics as proposed by <sup>[5]</sup> Coase (2013) and <sup>[9]</sup> Alchian (1972). This literature was

reviewed to understand existing theories and find research gaps.

### 2. Identification of Concepts and Theories

At this stage, the concept of ownership in fiqh muamalah is identified and elaborated <sup>[10]</sup>. These concepts are then compared with the theory of ownership in conventional economics. The aim of this stage is to understand the similarities and differences between the two concepts and their implications in the context of modern economics <sup>[10, 11]</sup>.

### 3. Comparative Analysis

This stage involves a comparative analysis between the concept of ownership in fiqh muamalah and the theory of ownership in conventional economics. This analysis is done to identify the advantages and disadvantages of each concept in the context of modern economics <sup>[12, 13, 14]</sup>.

### 4. Conclusions and Implications

In the final stage, the results of the comparative analysis are used to draw conclusions regarding the implications of the concept of ownership in fiqh muamalah in modern economics. This conclusion is then used as the basis for providing practical recommendations for the application of this concept in the modern economic system <sup>[15, 16, 17]</sup>.

#### 3.2. Application of Methods to the Research Stages

In each stage of the research, the methods used are clearly explained to ensure the validity and reliability of the research results. For example, in the literature study stage, the secondary data collection method through literature review was strictly applied to obtain relevant and accurate information. At the comparative analysis stage, the content analysis method was used to compare ownership concepts from various sources. This analysis involves coding the data, identifying themes, and interpreting the results to ensure that the conclusions drawn are based on solid evidence.

#### 3.3. Literature Review of the Methods Used

The content analysis method used in this research is a technique widely used in qualitative research to analyze texts or documents. According to Krippendorff, content analysis is a systematic and objective method for describing and measuring certain phenomena. This method is used to identify patterns and themes in data related to the concept of ownership in fiqh muamalah and the theory of ownership in conventional economics <sup>[18]</sup>.

By using structured research stages and appropriate methods, this research is expected to make a significant contribution in understanding and applying the concept of ownership in fiqh muamalah in the context of modern economics.

### 4. Results and Discussion

#### 4.1. Research Results

This research uses the comparative method to examine the concept of ownership in fiqh muamalah and compare it with the theories of ownership in conventional economics. The following are the results of the application of the method:

- a. Identification of the Concept of Ownership in Fiqh Muamalah:
  - a. Al-Mawardi (2000) <sup>[8]</sup>: The concept of ownership is based on the principles of justice, togetherness, and shared benefits. Private ownership is recognized, but must be used in accordance with sharia law and

- does not harm others<sup>[7]</sup>.
- b. Ash-Shiddieqy (2015): Emphasizes the balance between rights and obligations in ownership. The use of wealth must have good intentions and be used for the public good<sup>[4]</sup>.
  - b. Ownership Theory in Conventional Economics
    - a. Coase Theorem (2013): Resource allocation will be efficient under conditions of no transaction costs, and the importance of clear and fungible property rights<sup>[5]</sup>.
    - b. Alchian (1972)<sup>[9]</sup>: Clear and tradable property rights encourage efficient use of resources. Property rights serve as an incentive for individuals to manage and utilize resources optimally<sup>[9]</sup>.

**Table 1:** Identification of Ownership Concepts in Fiqh Muamalah and Conventional Economics

Concept	Fiqh Muamalah	Ekonomi Konvensional
Source	Al-Mawardi (2000) <sup>[7]</sup>	Teorema Coase (1960)
Main Principles	Fairness, togetherness, mutual benefit	Efficiency, clear property rights
Personal Ownership	Recognized, provided that it does not harm others	Recognized, the importance of fungible property rights
Use of Assets	Must have good intentions and be for the public good	Encourage efficient use of resources
Rights and Obligations	Balanced between rights and obligations	Focus on efficiency and individualized benefits

- c. Comparative Analysis
  - a. Equality: Both concepts emphasize the importance of legal and equitable ownership. Both also recognize that clear property rights can promote economic efficiency.
  - b. Differences: Fiqh muamalah adds an element of social responsibility and ethics to ownership, while conventional economics focuses more on individual efficiency and profit.

**Table 2:** Comparative Analysis of Ownership Concepts

Aspect	Similarities	Differences
Legal and Fair Ownership	Kedua konsep menekankan pentingnya kepemilikan yang sah dan adil	Fiqh muamalah menambahkan elemen tanggung jawab sosial dan etika
Economic Efficiency	Clear property rights can promote economic efficiency	Conventional economics focuses more on individual efficiency and profit

## 4.2. Discussion

The results of this study show that the concept of ownership in fiqh muamalah has several advantages that can be integrated into modern economics. The following is a further discussion of these findings:

### 1. Rights and Obligations in Ownership

Fiqh muamalah emphasizes the balance between rights and obligations, which can help address the problem of unequal distribution of resources in conventional economics. In modern economics, this principle can ensure that property owners do not only pursue personal gain but also contribute to the welfare of society. This is relevant to the research<sup>[1]</sup> Hasan (2020)<sup>[1]</sup> which highlights the importance of the balance between individual rights and public interest in property ownership.

### 2. Efficiency and Fairness

Teori Coase dan Alchian<sup>[5, 9]</sup> emphasizes the importance of clear property rights to achieve economic efficiency. Integration with sharia concepts can ensure that this efficiency is achieved without compromising social justice and welfare. Research<sup>[2]</sup> Karim (2018)<sup>[2]</sup> support this by showing that the application of Islamic ownership concepts in business can improve fairness and efficiency in transactions.

### 3. Sustainable Use of Resources

In muamalah fiqh, ownership involves a responsibility to use resources sustainably and not to harm the environment. This is particularly relevant in the context of modern economies that are increasingly concerned with environmental and sustainability issues. Research<sup>[12]</sup> Sadeq (2006) and<sup>[14]</sup> Chapra (2008)<sup>[13]</sup> emphasizes the importance of sharia principles in creating a sustainable economic system.

**Table 3:** Similarities and Differences in Ownership Concepts

Aspects	Fiqh Muamalah	Conventional Economics
Basic Principles	Justice, togetherness, mutual benefit	Efficiency, individualized benefits
Rights and Obligations	Balanced between rights and obligations	Focus on property rights
Resource Usage	Sustainable, does not harm others	Efficiency in the use of resources
Resource Allocation	Social justice and welfare	Economic efficiency

Table 3 compares the similarities and differences in the concept of ownership in the two perspectives: Fiqh Muamalah and Conventional Economics. The following is an explanation of the contents of the table:

- a. Aspects: Basic Principles
  - Fiqh Muamalah: Justice, togetherness, mutual benefit

The basic principles in fiqh muamalah emphasize justice, togetherness and mutual benefit. This means that any transaction or ownership should be done fairly and for mutual benefit, not just for individual gain.

- Conventional Economics: Efficiency, individualized profit

The basic principles in conventional economics focus more



on efficiency and individual profit. Every economic action is measured based on how efficient and how much profit can be obtained by individuals or companies.

b. Aspects: Rights and Obligations

- Fiqh Muamalah: Balance between rights and obligations

In fiqh muamalah, there is a balance between rights and obligations. The owner of the right also has certain obligations to ensure that the right is not abused and is used in accordance with sharia principles.

- Conventional Economics: Focus on property rights

In conventional economics, there is more focus on property rights. These rights are often emphasized more than the obligations that may accompany them.

c. Aspect: Use of Resources

- Fiqh Muamalah: Sustainable, not harming others

The use of resources in fiqh muamalah must be sustainable and not harm others. This means that the use of resources

should be done in a way that does not harm or disadvantage other parties.

- Conventional Economics: Efficiency in resource use  
In conventional economics, efficiency in the use of resources is paramount. The focus is on how resources can be used as efficiently as possible to gain maximum profit.

d. Aspect: Resource Allocation

- Fiqh Muamalah: Justice and social welfare

Resource allocation in fiqh muamalah must be fair and aimed at social welfare. Resources should be allocated in a way that ensures that everyone benefits and social welfare is secured.

- Conventional Economics: Economic efficiency

In conventional economics, resource allocation is done based on economic efficiency. The focus is on how resource allocation can produce maximum efficiency in the economy. Overall, Table 3 shows the main differences between the Islamic approach in fiqh muamalah and the conventional economic approach, especially in terms of basic principles, rights and obligations, resource use, and resource allocation.

**Table 4:** Advantages of Ownership Concept in Fiqh Muamalah

Advantages	Description
Rights and Obligations	Emphasizes the balance between rights and obligations, helping to address the problem of unequal distribution of resources.
Efficiency and Justice	Integration with sharia concepts ensures efficiency without compromising justice and social welfare.
Sustainable Use of Resources	Ownership involves a responsibility to use resources sustainably and not to damage the environment.

Table 4 discusses the advantages of the concept of ownership in Fiqh Muamalah. Here is the explanation:

a. Excellence: Rights and Responsibilities

- Description: Emphasizes the balance between rights and obligations, helping to address the problem of unequal distribution of resources.
- Explanation: In Fiqh Muamalah, there is a clear balance between the rights that individuals or entities have and their obligations. This helps in addressing the inequity of resource distribution, ensuring that no party is harmed or benefited excessively.

b. Excellence: Efficiency and Fairness

- Description: Integration with Shariah concepts ensures efficiency without compromising justice and social welfare.
- Explanation: The concept of ownership in Fiqh Muamalah integrates efficiency in the use of resources with justice and social welfare. This means that while the focus is on efficient use, the aspects of justice and benefit to society at large remain a top priority.

c. Excellence: Sustainable Use of Resources

- Description: Ownership involves the responsibility to use resources sustainably and not to harm the environment.
- Explanation: In Fiqh Muamalah, the owner of a resource has the responsibility to ensure that the use of the resource is done sustainably, preserves the environment, and does not cause damage that harms

others or the natural surroundings.

Overall, the discussion in Table 4 emphasizes that the concept of ownership in Fiqh Muamalah has the advantage of creating a balance between rights and obligations, ensuring efficiency while maintaining justice, and encouraging sustainable and environmentally responsible use of resources.

#### 4.2.1. Comparison with Similar Research

Previous studies such as those conducted by Hasan (2020) <sup>[1]</sup> and Karim (2018) <sup>[2]</sup> have discussed the concept of ownership in fiqh muamalah, but have not specifically examined its implications in the context of a dynamic and complex modern economy. This research fills the gap by focusing on the integration of the concept of ownership in fiqh muamalah into the modern economic system.

1. Hasan (2020) <sup>[1]</sup>: Focuses on individual and public ownership from a sharia perspective, but does not examine its implications in the modern economy.
2. Karim (2018) <sup>[2]</sup>: Highlights the application of ownership in Islamic business transactions, but does not relate it to modern economic practices comprehensively.

This research provides a new perspective that is more applicable and relevant to current economic conditions. The results of this study are expected to provide practical guidance for policy makers, economic practitioners, and academics in managing ownership rights fairly, efficiently, and sustainably in accordance with sharia principles.

**Table 5:** Comparison with Previous Research

Research	Focus	Shortcomings
Hasan (2020) <sup>[1]</sup>	Individual and public ownership in sharia perspective	Lack of examination of implications in modern economics
Karim (2018) <sup>[2]</sup>	Application of ownership in Islamic business transactions	Not linking it to modern economic practices in a comprehensive manner

#### 4.2.2. Research Implications

The results of this study have several important implications:

##### 1. Policy Development

Policymakers can use these findings to formulate policies that integrate Islamic ownership principles into the modern economic system, ensuring a balance between individual rights and public interest.

##### 2. Business Practice

Economic practitioners can apply Islamic ownership principles in business practices to create fairer and more efficient transactions.

##### 3. Teaching and Research

Academics can use the results of this study as a basis for further teaching and research in the field of Islamic economics, especially related to the concept of ownership and its implications in modern economics.

**Table 6:** Research Implications

Aspect	Description
Policy Development	Formulating policies that integrate the principles of Islamic ownership into the modern economic system
Business Practices	Apply the principles of sharia ownership in business practices to create fairer and more efficient transactions.
Teaching and Research	Basis for further teaching and research in Islamic economics

Thus, this research is expected to be an important reference in efforts to create an economic system that is more just, sustainable, and in accordance with sharia values.

#### 5. Conclusion

This research examines the concept of ownership in fiqh muamalah from a sharia perspective and its implications in modern economics. Ownership in fiqh muamalah includes individual rights, social responsibilities, and sharia provisions that regulate its use. The integration of the Islamic concept of ownership into the modern economic system can improve justice, efficiency and sustainability of resource distribution. In fiqh muamalah, the balance between rights and obligations helps address the unequal distribution of resources. Meanwhile, ownership theories in conventional economics, such as by Coase and Alchian, emphasize the importance of clear property rights for economic efficiency. The integration of sharia concepts ensures this efficiency is achieved without compromising social justice. This research uses a comparative method to compare the concept of ownership in fiqh muamalah with theories in conventional economics. The results show that Islamic ownership principles can be applied in modern economies for sustainable and environmentally friendly resource use. This conclusion provides guidance for policy makers, economic practitioners, and academics in managing ownership rights according to sharia principles. This research contributes to

the development of Islamic economic literature with a more applicable and relevant perspective, it is expected to be an important reference for creating a more just, sustainable, and sharia-compliant economic system.

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