

A COMPARATIVE EVALUATION ON THE CONCEPT OF PROPERTY IN ISLAMIC
ECONOMIC THOUGHT AND MODERN ECONOMIC THOUGHT

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I hereby declare that all information in this thesis has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work; otherwise I accept all legal responsibility.

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ABSTRACT

A COMPARATIVE EVALUATION ON THE CONCEPT OF PROPERTY IN ISLAMIC ECONOMIC THOUGHT AND MODERN ECONOMIC THOUGHT

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The concept of property has been influential on many areas ranging from the organization of production, distribution and consumption to social structure and the role and organization of the state in different periods of human history. Property is not only a legal right, but also a social and economic institution. It can be argued that the concept of property is decisive on a number of economic and social dynamics from the organization of production to the forms of social stratification through the hierarchy that determines the dominance of control over the means of production. This study describes the modern capitalist understanding of property based on the changes that have occurred in the concept of property in different periods of human history. The Islamic understanding of property has been delineated based on the primary resources of the Islamic economic thought, and a comparative analysis has been conducted based on the differences with the modern capital understanding of property as well as social, legal and economic effects created by these differences.

Keywords: Property, Islamic economic thought, capitalist concept of property, Islamic concept of property, distributive justice

ÖZET

İSLAM İKTİSAT DÜŞÜNCESİ VE MODERN İKTİSAT DÜŞÜNCESİNDE MÜLKİYET ANLAYIŞI ÜZERİNE KARŞILAŞTIRMALI BİR DEĞERLENDİRME

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Haziran 2019, 101 sayfa

İnsanlık tarihinin farklı dönemlerinde mülkiyet olgusunun üretim-bölüşüm-tüketim organizasyonundan başlayarak, toplumsal yapıya, devletin rolü ve organizasyonuna kadar geniş bir alanda etkili olduğu gözlemlenebilmektedir. Mülkiyet sadece hukuki bir hak değil; aynı zamanda sosyal ve iktisadi bir kurumdur. Mülkiyet anlayışının, üretim araçları üzerindeki denetim hâkimiyetini belirleyen hiyerarşi üzerinden; üretim organizasyonundan toplumsal tabakalaşma formlarına kadar birçok iktisadi ve sosyal dinamikte belirleyici olduğu söylenebilir. Bu çalışmada modern kapitalist mülkiyet anlayışı, insanlık tarihinin farklı dönemlerinde mülkiyet anlayışında meydana gelen değişimler üzerinden ortaya konulmuştur. İslam'ın mülkiyet anlayışı, İslâm İktisat Düşüncesinin temel kaynaklarından hareketle belirginleştirilmeye çalışılmış, modern kapitalist mülkiyet anlayışı ile arasındaki farklar ve bu farklılıkların sebep olduğu sosyal, hukuki, iktisadi etkiler üzerinden karşılaştırmalı bir analiz yapılmıştır.

Anahtar Kavramlar: mülkiyet, İslam iktisat düşüncesi, kapitalist mülkiyet anlayışı, İslam mülkiyet anlayışı, bölüşümsel adalet

DEDICATION

to my family...



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TABLE OF CONTENTS

PLAGIARISM.....	iv
ABSTRACT	v
ÖZET	vi
DEDICATION.....	vii
ACKNOWLEDGMENTS	viii
TABLE OF CONTENTS	ix
INTRODUCTION	1
CHAPTER I.....	10
1. AN INVESTIGATION ON THE CONTEMPORARY CONCEPT OF PROPERTY.....	10
1.1. THE CONTEMPORARY CONCEPT OF PROPERTY AND ITS FORMATION.....	10
1.1.1. A Historical Reading on the Formation of Contemporary Concept of Property.....	12
1.1.1.1. On the Concept of Property.....	12
1.1.1.2. Concept of Property in Different Periods of Human History	14
1.1.1.2.1. Concept of Property in Ancient Eastern Civilizations	14
1.1.1.2.1.1. Concept of Property in Ancient Chinese Civilization	15
1.1.1.2.1.2. Concept of Property in Ancient Indian Civilization.....	15
1.1.1.2.1.3. Concept of Property in Hebrews	16
1.1.1.2.1.4. Concept of Property in Hittite Civilization	17
1.1.1.2.1.5. Concept of Property in Ancient Egypt	18
1.1.1.2.1.6. Concept of Property in Ancient Greece.....	20
1.1.1.2.1.6.1. Plato's Views on Property	20
1.1.1.2.1.6.2. Aristotle's Views on Property.....	22
1.1.1.2.1.7. Concept of Property in Roman Empire	23
1.1.1.2.2. Concept of Property in Medieval Europe -Feudalism-.....	24
1.1.1.2.2.1. Saint Thomas Aquinas's Views on Ownership.....	26
1.1.1.2.3. Concept of Property in the Mercantilist Thought.....	28

1.1.1.2.3.1.	Martin Luther's Views on Property	30
1.1.1.2.3.2.	John Calvin's Views on Property.....	31
1.1.1.2.4.	Concept of Property in and after the Industrial Revolution	33
1.1.1.2.4.1.	Thomas Hobbes' Views on Ownership	35
1.1.1.2.4.2.	John Locke's Views on Property	37
1.1.1.2.4.3.	Adam Smith's Views on Property	39
1.1.1.2.5.	Capitalist Concept of Property	42
1.1.1.2.5.1.	Max Weber and his Concept of Property	44
CHAPTER II		47
2. ISLAMIC JURISPRUDENCE AND MAIN REFERENCES OF ISLAMIC ECONOMIC THOUGHT		47
2.1. MAIN REFERENCES OF ISLAMIC ECONOMIC THOUGHT		48
2.1.1.	Qur'an	49
2.1.2.	Sunnah and the Role of Sunnah in Islamic Economic Thought.....	51
2.1.2.1.	The Different Kinds of Sunnah	53
2.1.2.1.1.	The Mutawatir Sunnah	53
2.1.2.1.2.	The Mashhur -Mash-hūr- Sunnah	54
2.1.2.1.3.	The Ahaad -Āḥād- Sunnah [Khabar al-Wāḥid].....	54
2.1.2.2.	The Role of Sunnah in Islamic Economic Thought	54
2.1.3.	The Ijma	58
CHAPTER III		61
3. THE CONCEPT OF PROPERTY IN ISLAMIC ECONOMIC THOUGHT		61
3.1. CONCEPT OF PROPERTY IN JUDAISM, CHRISTIANITY AND PRE-ISLAMIC ARAB SOCIETY		62
3.1.1.	Concept of Property in Judaism	62
3.1.2.	Concept of Property in Christianity.....	65
3.1.3.	Concept of Property in Pre-Islamic Arab Society	67
3.2. PROPERTY IN ISLAMIC ECONOMIC THOUGHT		69
3.2.1.	Basic Factors Influencing the Concept of Property in Islamic Economic Thought	72
3.2.1.1.	Islamic Jurisprudence	73
3.2.1.1.1.	Basic Principles of Property in Islamic Jurisprudence	75

3.2.1.1.1.1. Principle of Mutual Consent [Consensus ad Idem].....	75
3.2.1.1.1.2. Principle of Observance of Contractual Obligations.....	76
3.2.1.1.1.3. Principle of Avoidance of Usury, Gambling and Extreme Uncertainty [Gharar].	77
3.2.1.2. Public Interest and Re/Distribution of Welfare.....	79
3.2.1.2.1. Improving Social Welfare: Re/Distribution of Income and Wealth in Islamic Economic Thought.....	83
3.2.1.3. Morality and Justice.....	85
CONCLUSION.....	89
REFERENCES.....	96



INTRODUCTION

Human beings have certain needs in order to maintain their biological, mental and spiritual existence. Shelter, clothing, and access to healthy food and clean water are perhaps the most important of these basic needs. When their basic needs cannot be satisfied, human beings see this as a threat to their lives and instinctively start to seek for ways to survive. Illegal migration, human trafficking, wars fought over diminishing resources are some of the global issues that arise as a result of this instinct to survive.

Access to basic needs may become impossible due to natural causes such as drought, natural disasters and epidemics. Wars, chemical and nuclear weapons, acid rains, global warming, environmental pollution and other failures that can be attributed to human agency may restrict the access to these basic needs. Property is another factor which may limit people's access to needs. The owners of the factors of production used in the process of production of goods and services needed by human beings, especially the owners of capital and land, decide when a specific good will be produced and for whom and at what price it will be sold in the markets with limited number of players.

Humanity has faced numerous threats since its beginning. In this adventure, human beings encountered first threats from predatory animals, followed by epidemics, and weapons of mass destruction, and humanity has managed to survive in each encounter. The name of the threat which humanity faces today and which can hardly be described as novel, but whose concrete effects and potential consequences in the future we have just started to realize is 'global economic inequality'.

While the concerns voiced by Thomas Robert Malthus in his famous book "An Essay on the Principle of Population" in 1789 have today turned out to be injudicious, it can be argued that this work was a reaction to Adam Smith's 1776 book "The Wealth of Nations". Indeed, Smith's work mainly focused on how to increase wealth/prosperity, but

virtually ignored the question of how to distribute it. The increasing food production and declining population growth from the 18th century to our time have been contrary to what Malthus predicted. Yet, Malthus' claim --perhaps, prophecy-- realized in a way he was unable to foresee: the production, particularly of foodstuff, could not be raised in proportion to the population growth in the 'underdeveloped' countries due to unreciprocated and uncontrolled use by the developed countries of the resources in the underdeveloped countries. The global injustice in the distribution of wealth and resources has made hunger and poverty more widespread.

It is perhaps for this reason that the relationship between man and things is more important than the relationship between man and man or between man and society. The two contemporary works on the origins of the differences/inequalities in income, wealth and development in the world, penned down after a study of more than 15 years, namely "Why Nations Fail," written by Daron Acemoglu and James A. Robinson (2013) and "Capital in the Twenty-First Century," written by Thomas Piketty (2014), analyze the social, economic, and political changes and the emerging institutional structures during the last three hundred years. Piketty also incorporates literary works as well as many statistics related to the said period in his analysis. In a nutshell, Piketty (2013) observes that the rate of return of capital is higher than the long-term growth rate for the period in question and sees this as the cause of global inequality. Acemoglu and Robinson (2013), on the other hand, adopt a political institutional economics perspective in analyzing the origins of poverty, wealth and inequality between them historically from the Neolithic era to the present day. Acemoglu and Robinson maintain that the cause of inequality and origins of poverty and prosperity are the same while their manifestations change from one country to another. They attribute this to institutional differentiation. They explain with examples how the societies that have liberality-centered, inclusive economic, social and political institutions that aim to implement incentive principles such as pluralistic political practices, fundamental human rights, entrepreneurship, and economic freedom become more prosperous and developed whereas the societies having more restrictive institutions become poorer and lag in development. Both works have managed to put inequalities in income and wealth on the spotlight of economic analysis once again. At the same time, they have been able to discuss the issue of inequality without making any worthwhile sacrifice of the main principles of liberal capitalism. Based these two works,

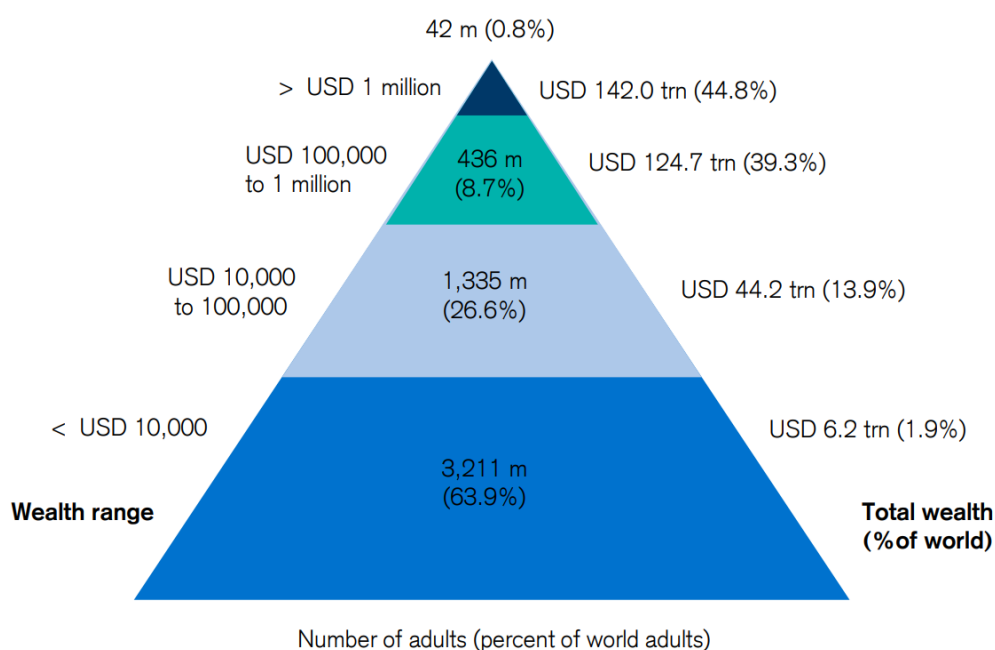
it can be concluded that the cause of global inequalities are not global, but inequality results from the internal dynamics and institutional structures of each nation/state. It may appear that by adopting a different approach to the global inequality issue, these two works break away from the classical development literature, but, given their conclusions, it is hard to say that they differ significantly from the geography hypothesis, culture hypothesis or ignorance hypothesis in the classical development literature in terms of sacrificing the main principles of liberal capitalism. It should be noted that the political economy suggestions related to the secondary distribution of wealth are useless as regards the current level of inequality.

To sum up the current magnitude of global inequality, it is enough to have a look at the report the British charitable organization Oxfam, which combats global poverty, prepared based on the list of billionaires published in Forbes in May 2016. According to this report, the wealth of the world's eight richest people is equal to the wealth of 3.6 billion people who correspond to half of the world's population (BBC, 2017). Noting that global income injustice increased in 2017, the same charitable organization underlines that 82% of the global wealth created is owned by the richest 1 percent (BBC, 2018). It may not be a coincidence that of the eight people who top Forbes Magazine's 2017 The World's Billionaires List and who have the wealth equal to the wealth of the half of the world's population, six are from the United States of America, which is the center of the world financial capitalism.

According to Global Wealth Report 2017, published by Credit Suisse in November 2018, there are approximately 36 million people who have a wealth of more than \$1 million in the world. These people amount to 0.7% of the adults in the world and own 45.9% of the world's wealth. On the other hand, it is estimated that there are 3.5 million adults who have a wealth of less than \$10,000 and these people account for 70.1% of the adults in the world and the total wealth owned by these people corresponds to 2.7% of the world's wealth. In sum, the world's richest 0.7% owns 46% of the world's wealth. The world's poorest 70% owns 2.7% of the world's wealth in 2017 (Shorrocks, Davies, & Lluberas, 2017, p. 21).

According to Global Wealth Report 2018, published by Credit Suisse in October 2018, there are approximately 42 million people who have a wealth of more than \$1 million in the world. These people amount to 0.8% of the adults in the world and own 44.8% of the world's wealth. On the other hand, it is estimated that there are 3.2 million adults who have a wealth of less than \$10,000 and these people account for 63.9% of the adults in the world and the total wealth owned by these people corresponds to 1.9% of the world's wealth. In sum, the world's richest 0.8% owns 44.8% of the world's wealth. The world's poorest 63.9% owns 1.9% of the world's wealth in 2018 (Shorrocks, Lluberas, & Davies, 2018, p. 20)

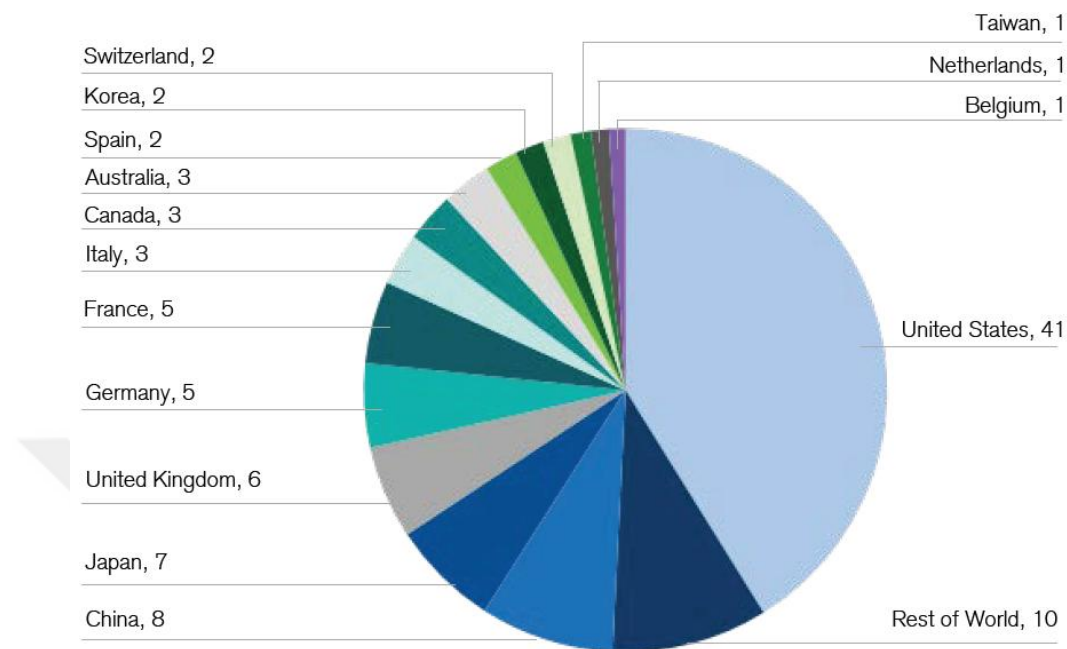
Figure 1: The Global Wealth Pyramid 2018.



Source: James Davies, Rodrigo Lluberas and Anthony Shorrocks, Credit Suisse Global Wealth Databook, 2018, p. 20.

Based on the data from this report, an insignificant decrease in the inequality of wealth distribution around the world can be observed from 2017 to 2018. According to the same report, 41% of the world's dollar millionaires are from the United States.

Figure 2: Number of dollar millionaires (% of world total).



Source: James Davies, Rodrigo Lluberias and Anthony Shorrocks, Credit Suisse Global Wealth Databook, 2018, p. 22.

There are numerous data and reports that confirm the worsening world's wealth inequality over the years. One of these reports is "Public Good or Private Wealth?" published by the British charitable organization Oxfam, which combats global poverty, in January 2019. According to this report, the wealth owned by the world's 43 richest billionaires in 2017 and 26 richest billionaires in 2018 equals to the total wealth of 3.8 billion people who make up the poorest half of the world's population. The wealth of the world's 2200 richest billionaires increased by \$900 billion or \$2.5 billion a day in 2018. These figures not only show the global wealth inequality, but also reveal a striking view of the concentration of property/wealth. Another stunning piece of information is that the total wealth of 3.8 billion people who make up the poorest half of the world's population declined by 11% in 2018 while that of the richest people rose by 12%. When we look at the rate of wealth taxes among all tax revenues, the average of 35 OECD and 43 non-OECD countries is only 4% according to the calculations Oxfam made based on OECD statistics for 2015 (Oxfam GB for Oxfam International, 2019, pp. 6-12).

The level of indebtedness of the governments which do not or cannot collect taxes on wealth has reached the levels that threaten global prosperity. According to a report by Fitch Ratings, the total of the government debts in the world reached \$55 trillion by the end of year 2018. This debt corresponds to 80% of the global gross domestic product. One third of this debt, corresponding to \$22 trillion, belongs to the US. Although it has the world's richest people, the US is the world's most indebted country, meaning that it cannot finance public services with tax revenues. The governments pay the interests of the loans they receive from the savers using the taxes from the tax-payers who cannot be savers. This further exacerbates the global prosperity injustice.

The problems caused by this injustice, namely access to education and healthcare services, access to clean water and adequate food, global migration and immigrants grow day by day. Based on this data, it would not be wrong to say that the liberal capitalist system fails to bring prosperity to everyone. Numerous studies with the content similar to the foregoing information and analysis can be found. In the present study, the concepts of property in liberal capitalism and in Islamic economic thought are compared in order to understand the source of global wealth and prosperity injustice. This study is inspired and motivated by the desire to understand and seek solutions.

The ability to make a choice among alternatives and implement it can be considered as one of the characteristics that distinguish humans from other beings. It follows that as is the case with everything, the concept of property has been selected from among many alternatives for certain purposes. It can be said that purpose and choice are fellow companions. Each choice is home to a purpose. Identifying the options and choosing one of the specific options is closely related to the way the relationships between man and man, or between man and things, or between man and the universe, or between man and the Creator are conceptualized. In this study, the consequences of today's understanding of property, which is the outcome of these conceptualizations, and the purposes of the understanding of property of the Islamic economic thought are discussed comparatively.

Presently, the institution of property is both a cause and an effect of modern socialization forms; that is, it is related to society as much as it is to individuals. Due to its basic functions, property has a decisive role in shaping history in every time and place from the

first human communities to modern society. Historically, it has been influenced by the economic thought and structure, changes in society, social and individual conception of morality, and religious teachings (Örücü, 1976, p. 2). For this reason, the concept of property has been studied from historical, legal, economic, sociological, theological and philosophical perspectives.

This study aims to delineate the changes in the concept of property in different periods of human history, understand the emergence of the capitalist concept of property, identify basic resources of the Islamic economic thought, determine the nature and characteristics of the concept of property in the Islamic economic thought according to these primary resources, and compare the differences between the concepts of property in the Islamic economic thought and the contemporary capitalist concept of property as well as the social, legal and economic effects of these differences. In order to adopt a holistic approach to the subject matter at hand, the means and facilities afforded by history, law, sociology and philosophy were utilized in making a comparative economic thought/mentality analysis with a focus on the concept of property. Descriptive and correlational logical analysis methods were used in the study.

In the literature search made using 'property' as the keyword in the national and international academic databases, numerous articles, and master's and doctoral theses, written in the fields of law, history, banking, theology, sociology, architecture, economics, journalism, philosophy, and engineering were retrieved. The search made using 'property' as the keyword produced 320 theses written on this subject in Turkey; 72 of these theses were doctoral theses and the rest being master's theses. All the studies retrieved were screened according to the subject-matter of the present study, and the studies in the field of history of economic thoughts, theology (Islamic jurisprudence), history of political thoughts, and history of law were prioritized. In addition, online resources, Qatar University's library, Gazi University's library and the Turkish National Library's catalogs were searched using the keyword 'property' and numerous works in Turkish and other languages were found. Considering the subject-matter and method of the present study, the following works stood out: Ersoy (2015), Bell (1967), Ben-Amittay (1983), Smith (1981), Locke (2012), Luther (2015), Hobbes (2007), Güriz (1969), Çalış

(2004), Özdemir (2018), Ersoy (2015), es-Sadr (1980), Tabakoğlu (2008), and Talegani (1989).

We can observe that the information on the concept of property, functions of property and nature of property in different period of Islamic history is dispersed in a number of studies including Ersoy (2015), Bell (1967), and Ben-Amittay (1983), dealing with the history of Islamic thoughts and history of political thoughts. While it is possible to learn about the views of scholars and philosophers on property from these studies, we opted for determining the views of the thinkers of the 17th century and later from their own works, namely Smith (1981), Locke (2012), Hobbes (2018), and Luther (2015). The number of the studies which specifically focused on property is limited; there are studies that provide a discussion on the matter in terms of intellectual history and philosophy of law such as Güriz (1969) whereas Çalış (2004), Özdemir (2018) and others treated the matter from the perspective of Islamic jurisprudence. There are relatively few standalone books that investigate the subject of property in terms of Islamic economic thought; "Islam and Ownership" by Talegani (1989) is among the most famous of such works. It goes without saying that many of the books on Islamic economics cover the subject of property. Es-Sadr (1980), Azhar (2019), Khan (2013), Karadaği (2018) and Tabakoğlu (2008) are among the most famous of the works on Islamic economics. In the studies on Islamic economics, the subject of property is discussed in terms of Islamic jurisprudence or as regards the distinguishing characteristics of form of property advocated by Islam or with emphasis on the differences between the structure of property proposed by Islam and by capitalism or socialism. In sum, the studies retrieved during the literature review in general focused on property in Islamic jurisprudence, the understanding of property in economic doctrines, comparison of concepts of property of different economic doctrines and views of philosophers and scholars on property. The anarchist and Marxist literature on property is not included in this study as they are outside its scope.

This study describes the modern capitalist understanding of property based on the changes that have occurred in the concept of property in different periods of human history. The Islamic understanding of property has been delineated based on the primary resources of the Islamic economic thought, and a comparative analysis has been conducted based on the differences with the modern capital understanding of property as

well as social, legal and economic effects created by these differences. The study has concentrated on the dominant concept of property, namely the capitalist concept of property, and excluded the anarchist and Marxist concept of property which is outside its scope.

In the light of the foregoing, the first chapter discusses the contemporary concept of property. First, the concept of property is briefly examined and the transformation it went through human history is investigated in terms of the historical civilizations. The concept of property in the ancient eastern --China and India--, Mesopotamian --Hebrew and Egypt--, Anatolian --Hittite-- and ancient Greek civilizations and the place of property in the civilization are analyzed with an emphasis on the history of civilizations. Then, the modern property ideas are discussed.

The second chapter explains the main references of Islamic jurisprudence and Islamic thought, namely, the Qur'an, Sunnah and Ijma, without going into details and contemporary discussions and using a method that will appeal to those who are interested in economics. This will facilitate the way readers can better understand the main references and methodology of Islamic economic thought and the views on property which are expounded in the next chapter.

The third chapter delineates the concept of property in Islamic economic thought based on the main references of Islamic economic thought and views of Islamic scholars.

The conclusion chapter focuses on the differences between the concept of property in the Islamic economic thought, as delineated in the previous chapter, and the contemporary concept of property as well as the effects of these differences on the economic and social life.

CHAPTER I

1. AN INVESTIGATION ON THE CONTEMPORARY CONCEPT OF PROPERTY

In this chapter, the concept of property is defined and historical adventure of property is portrayed so that the changes in the concept of property throughout history can be visualized. The changes in the concept of property are important also in order to envision the process of change in the state functions and social structure and how the economic value produced is distributed among the factors of production.

1.1. THE CONTEMPORARY CONCEPT OF PROPERTY AND ITS FORMATION

Today, the first thing that comes to the mind when one says 'property' is ownership and the freedom to use what is owned. The concept of property which has a special place in social and individual life is an economic, sociological, legal, philosophical and even psychological reality. Therefore, when you examine the concept of property in any society, you can obtain certain information on that society's legal structure, social relations network, economic structure and, the psychology built in the individual members of that society as a result of the foregoing.

For instance, if we take the capitalist concept of property which is quite widespread around the world into consideration, property manifests itself as a sacred and inviolable individual right, and in this case, the network of social relations is shaped based on the individual as a micro-social actor. The class differentiation of society will be formulated

through the factors of production owned by individuals. This will be directly reflected on the economic structure and relations of production. The place of the factors of production in the production process and the share they will take from the economic value produced are among the concrete outputs of these economic and social relations. The effects of this structure on human psychology and human behavior emerge as 'homo economicus', i.e., the human being whose preferences are focused on maximizing his/her individual benefits.

People cannot be imagined as separate from the society they live in. Some people in society lead the social change with their ideas. Departing from different fountain heads, the scholars of the same society may advocate different views. This applies to the debates on 'property'. Indeed, the scholars in the spectrum from Adam Smith to Hayek, who made theoretical contributions to the institutionalization of the market liberal economic thought, saw private property as the most important element of economic and social development. On the other hand, many socialist scholars including Karl Marx and Friedrich Engels saw private property as the main cause of class conflict and exploitation. This fundamental cleavage regarding property turned each theory into a movement or school over time. As these theoretical movements influenced political decision-making mechanisms, the world was split into two poles and these movements emerged as strong political elements during a long history ranging from the world wars and cold war to trade wars of our time.

In addition to this political dimension, each property thought signifies an ontology. In other words, each property thought has its unique perspective on things, universe, and man. Each property thought shapes the very content and form of the relationships among things, man and the universe. One of the aims of this study is to demonstrate the effects on the social and economic fields of these differences in the viewpoints on the realm of existence.

In this chapter, the formation of the contemporary property understanding will be discussed along with the processes through which the property thought has gone using the facilities afforded by the history of economic thought.

1.1.1. A Historical Reading on the Formation of Contemporary Concept of Property

The concept of property includes a person's owning something, making decision about it, benefiting from it or its products and/or transferring the right to own it to someone else. The rights to benefit and transfer are characteristics of property rights (Aktan, 2018, p. 423). Just as the thing on which the property right is established may be an immovable material good, an intangible right may also be owned.

In this chapter, the historical development of the concept of property will be discussed. Thus, an insight into the economic, sociological, legal and philosophical foundations of the contemporary property structure can be attained.

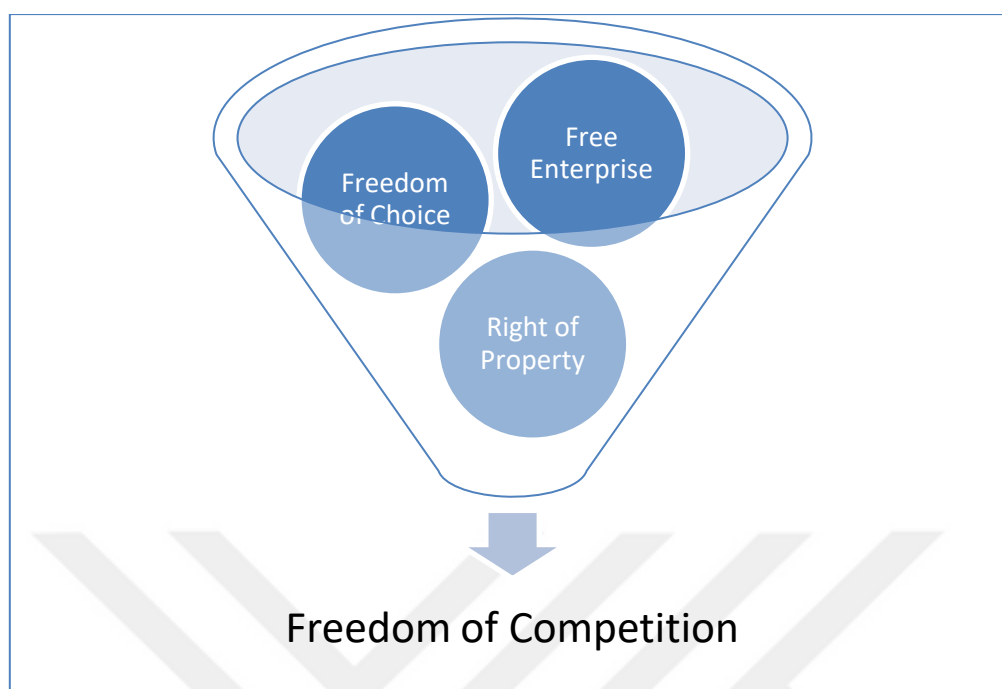
1.1.1.1. On the Concept of Property

Property is a social institution and most social institutions tend to be economic and legal institutions at the same time. Likewise, economic institutions may simultaneously be legal and social institutions. For this reason, tools afforded by economics, law or sociology alone may not be adequate in investigating the concept of property.

What makes the current age what it is, i.e., its most distinctive characteristics, are the institutionalized concepts of 'freedom of property' and 'right to property'. These two concepts constitute one of three fundamental freedoms which are pillars of market economy, and the other two freedoms are its guarantees. Here, the other two freedoms are the 'freedom of free enterprise' and 'freedom of choice'.

For everyone to engage in economic activities freely in an economy, they must be free in their choices of production, consumption, disposal, investment and trade. Economic actors cannot realize these choices without the right to property. Also, 'freedom of competition', which is considered as the drive for property in the market economy understanding, is built upon freedom of choice, free enterprise and right to property.

Figure 1: Fundamental Economic Freedoms in Market Economy



Source: Developed by the author.

Different people may be given different property rights on the same tangible/intangible element in the same time frame; imagine an arable field; the land ownership of this arable field may belong to the state while the right to cultivate crops in this arable field may belong to another person; another person may lean on a tree in the same land to watch those who are working in the arable field while another may be passing by the arable field (Alchian, 1977, p. 133). Each of these people economically benefit from this arable field. Based on this example, it can be argued that the right to property may have several economic manifestations. These elements which grant different rights to people are the right to ownership, utilization, management, enjoyment, protection and transfer the right owned. All these elements are required for the smooth functioning of economy by ensuring that economic resources are utilized in the production process in a stable and rational manner.

1.1.1.2. Concept of Property in Different Periods of Human History

It would not be wrong to suggest that the right to property is the indispensable proviso and guarantee for the liberal capitalist economic life. Indeed, free market conditions cannot be attained in an economic system that lacks private property. Property is not only the main element of economic life, but also has a critical importance in social and human issues such as the development of individual sense of duty and responsibility, and organization of society.

Property is an economic, legal, social and individual phenomenon that has served some or all of the functions mentioned above in all communities that have ever existed throughout history, and survived up to our time. The concept of property has changed and evolved throughout history depending on the period and society in question. With this perspective, it would be clearer why we cannot talk about an unchanging, static and abstract concept of property that remains the same every time and every place. The concept of property changes depending on the realities and needs of every community and time. The changes to the concept of property have historically influenced the form of the social, political and economic organization. Knowing the historical phases of the concept of property, which closely interact with human beings, communities, economics and politics, will certainly help us better understand how property is understood today.

1.1.1.2.1. Concept of Property in Ancient Eastern Civilizations

Most of our knowledge about the ancient eastern civilizations comes from Chinese, Indian, Egyptian and Hebrew written sources, but this knowledge is quite limited. According to this limited knowledge, civilizations were established in Eastern and Southern Asia, the Nile Valley and Mesopotamia in ancient history and they had strong central administrations and commercial activities were intense in the ancient eastern communities and in connection with these actions, economic, social and legal institutions flourished (Ohrenstein & Gordon, 2009, p. XVII).

It can be said that the ancient civilizations were characterized with an agriculture-based production organization and therefore, the concept of property was shaped based on land ownership.

1.1.1.2.1.1. Concept of Property in Ancient Chinese Civilization

In ancient history, the Chinese civilization was established along the Yellow River or Huang He, the third longest river in Asia. Thanks to this river and others, it was possible to engage in agriculture in vast areas.

In ancient Chinese society, social organization and social classes were shaped based on land ownership. Agricultural production and trade of these products had a great share in economic activities. Agricultural production would largely be performed by the villagers who did not own land. Land owners were a privileged minority and considered as belonging to the upper class. Land owners would inspect on behalf of the ruler whether the land was being cultivated (Yetkin, 2012, pp. 66-67).

Based on this information, it can be suggested that land ownership was at the hands of a small, privileged minority that controlled the production in the lands that directly belonged to the ruler in the ancient Chinese civilization. Furthermore, it can be maintained that property was controlled by the strong and authoritarian central administration and, as such, property was not a right, but a blessing from the central authority.

1.1.1.2.1.2. Concept of Property in Ancient Indian Civilization

The Indian civilization emerged and flourished in the upper sections of the valleys of the Ganges and Indus River (Sindhu). The Indian civilization harbors a rich and deep-rooted culture and is home to numerous beliefs and philosophies. Buddha, whose real name was Gautama, had great influence on the Indian culture and society with his teachings. In

particular, the social institutions in the country were largely shaped by these teachings. The exact dates when Buddha lived were not known, but it is estimated that he lived between the late 6th century and the early 5th century BC. The concept of property in the ancient Indian civilization will be delineated from Buddha's teachings.

Buddha was born to a rich family of high-ranking governors. At the age of 33, he abandoned his comfortable life and started to tour around India to illuminate people with his teachings. He dedicated himself to learning new knowledge and attaining spiritual maturation (Buddha, 1985, pp. 2-18).

Buddha calls on people to share and says that sharing is a virtue. Buddha argues that property should not be a tool for a person to accumulate wealth for himself/herself and people should not use their intellect and wealth for selfish purposes. He urges rich people to strive for making poor people happy and poor people not to envy the rich (Buddha, 1985, p. 452).

Ancient Indian sources saw economic activities as efforts to acquire property. One of the functions of the property system is distribution. Although the views of other ancient Indian scholars on property do not differ grossly from Buddha's, their teachings help to explain the strict class structure that still applies to contemporary India. The caste system is readily accepted as normal in Indian society despite recommendations for sharing property and not using it selfishly, and this implies that the property system in the country leads to unfair distribution (S.Ambirajan, Routledge, pp. 19-36).

1.1.1.2.1.3. Concept of Property in Hebrews

Prophet Moses tried to establish a fair social structure in Israelite society after saving the Israelites from persecution in Egypt and bringing them to Palestine. The Torah played a great role in the institutionalization of this social structure. The Torah contains not only religious rules, but also the rules that had direct impact on the political, social and economic life. This helped to eliminate uncertainties and create a free commercial environment.

There are several indications of how the right to property is protected in a society or civilization. One of the signs is the attitude against the acts and behaviors which may lead to transfer of property through unfair methods such as fraud, theft, monopolism, and usury. In Hebrews, stealing was strictly prohibited and the right to property was taken under protection and protection of land ownership was seen as one of the substantive duties of the state (Wilson, 1997, pp. 26-30).

The prohibition of usury in the Torah resulted in the creation of a social structure in Hebrew society where wealth was distributed fairly and injustice in income distribution decreased (Sandelin, Trautwein, & Wundrak, 2014, pp. 13-15).

As in other religious text, the Torah banned the acts that might create unfair competition or disrupt the price mechanism in trade and attached importance to fairness in commercial activities. Speculative and monopolistic practices that might lead to artificial price escalation were disapproved and those who engaged in black marketeering were penalized, and standard measures and scales were used in commercial transactions (Srivastava, 2002, p. 14).

It can be said that the social structure was religion-centered in Hebrew society. With the religious references, the state as the political authority had sufficient motivation to provide guarantees for the right to property.

1.1.1.2.1.4. Concept of Property in Hittite Civilization

The Hittite civilization, or the Hittites, was known to be the first civilization that ruled in Turkey, Syria and Lebanon between the 23rd century and the 12th century BC and established the first central administration in these lands, especially in Anatolia. The concept of property in the Hittite Kingdom which ruled between the 16th century and the 12th century BC is discussed here. In the Hittite Kingdom, the political organization based on the central administration called for a large, well-organized army. A strong economic structure was required in order to cover the needs of such an army.

Although trade and mining had a special place in the Hittite economy, the basic economic activity consisted of agriculture and animal husbandry. The Hittite state attached importance to agricultural production and efficient use of agricultural lands. The king was the absolute owner of all agricultural lands in the country. The agricultural lands would be used in three ways in the Hittites (E. Reyhan, 1998, p. 481):

The agricultural lands allocated to the use by high-ranking state officials: Although they were owned by the king, these lands would be given to princes, chieftains and senior officers. They were relatively vast and fertile agricultural lands. Smaller lands would be allocated to the people living in rural areas.

There were also the lands which were allocated to the temples and those gifted by the king. The people to whom lands were allocated by the king were supposed to use them for agricultural activities regularly and not to leave them idle; the lands which were left unattended would be taken back by the state (A. Archi, 1977, p. 8).

The limited information we have about the economic and social organization of the Hittites can help us make limited inferences only on this matter. The lands which were the basic production factors in the Hittites were the property of the king as the head of the central administration, and the king had the initiative about the cultivation of the lands. Uncultivated lands would be reclaimed by the state and given to another person who would engage in agricultural production.

1.1.1.2.1.5. Concept of Property in Ancient Egypt

Ancient Egypt, founded along the Nile valley in the 4th century BC, is one of the oldest civilizations in the world. The fertile lands flanking the Nile paved the way for the establishment of one of the world's oldest civilizations in this region. Calculation of the floods in the Nile valley in advance, protection of the fertile agricultural lands from floods and their controlled irrigation, and adaptation to the conditions of the Nile valley led to social, cultural and technical development. Calculation of the times of the floods from the river and construction of the water channels that allowed controlled irrigation

enabled this civilization to make great progress in engineering, astronomy and mathematics. The increased productivity attributable to these developments resulted in productions that were higher than the domestic demand. This extra production made it possible for the civilization of Ancient Egypt to maintain a greater labor force, providing the resources needed to operate the mines in and around the Nile valley, develop an original script, implement complex construction and agricultural projects, build vessels and other means of transportation for trading with the external world and keep a military force for keeping away invaders (J. P. Lévy, 1967, p. 6). As a result, the civilization of Ancient Egypt left behind lasting works that have survived to our time (S. B. Clough, 1965, p. 49).

We know that people had their own agricultural lands in Ancient Egypt. While this can be seen as a sign of the existence of private property, the water resources needed for production in the agricultural lands and the irrigation system were controlled by pharaohs. In Ancient Egypt, trade was largely controlled by priests, and therefore, the commercial activities of local/small tradesmen and artisans were confined to a small market where only daily transactions were conducted. Another form of property was slavery; the slaves would be owned by the noble people and serve to them. Peasants were the major source of soldiers for the state.

This structure implies that there was an interventionist and regulatory state in Ancient Egypt. The state played an active role in the construction of irrigation canals, which, in turn, lead to an increase in agricultural productivity, and the state collected a significant portion of the produce as tax. In this way, the state managed to increase its revenues and use these revenues to maintain a powerful army and feed the rich palace management. In addition to its use for irrigation, the Nile offered great convenience in transportation. The king/pharaoh who was believed to have superior powers and position enjoyed absolute sovereignty (W. H. McNeill, 1985, pp. 33-4).

In Ancient Egypt, land was the main factor of production. Although peasants had their own lands, the pharaohs maintained absolute domination over these lands. Moreover, the pharaohs also controlled the system by which irrigation was made for agricultural

production in these lands. Ancient Egypt's ownership system would result in a strict social stratification and unfair distribution of income.

In ancient civilizations, ownership manifested itself also a symbol of power. A strong and interventionist central authority tended to own virtually all of the factors of production and private property would not mature sufficiently. Limited ownership possession was possible, though it was not widespread. In ancient civilizations, the concept of property led to a rigid social stratification and unfair distribution of wealth (A. Şenel, 1982, p. 68).

1.1.1.2.1.6. Concept of Property in Ancient Greece

In Ancient Greece, democracy would entrust only the aristocratic class with the right to govern the country, and as such, it can be considered as privileged class democracy. Society would be governed by the aristocratic class having a privileged position. This class constituted only a very small portion of society. The chief magistrates that ruled the city states (Archons) would be selected from among this noble class. The nobles owned the most fertile lands. They cultivated these lands by employing slaves. As they had land ownership and privilege of carrying weapons, aristocrats were free and entitled to participate in the government. Land ownership had concentrated in a specific aristocratic class (H. Denis, Vol. I, 1997, pp. 14-6).

1.1.1.2.1.6.1. Plato's Views on Property

Plato, who is considered as the first socialist scholar, clearly accepts limited private ownership and collective ownership in his dialogue "Laws." In this dialogue, Plato talks about the mythical city-state of Magnesia, which is a small state, located 15 km away from the sea and having a population of 5040. In Magnesia, the basic source of production is land and people engage in agriculture. The arable lands in the country are distributed in equal and small pieces to producers. If people increase their acreage over time, their extra lands are taken from them through taxes to prevent inequality of wealth.

While Plato's views on property are dispersed throughout the dialogue "Laws", the chapters in Book V and Book XI are particularly important for this study (Plato, 1961).

In Book IV of "Laws," Plato predicts that people may migrate to Magnesia and new individuals may join the colony. In this case, assuming that the incoming people will bring their wealth with them, some bringing more and others less, he concludes that this may be disruptive on the equality of opportunity in society. To avert this disruptive effect, i.e., restore equal opportunities, he argues that it is indispensable that society should be divided into unequal classes, and he suggests that the individuals that form society should be divided into four classes depending on the level of their richness. If the financial standing of any citizen changes, s/he may transfer to a fitting class. In order to maintain general peace in society, prevent society from disintegrating inside and revolting against the state, these four classes should not contain intolerable poverty or extreme richness. If a person gets extremely rich by finding a treasure, receiving gifts or doing business, s/he will not be punished if s/he agrees to give his extra wealth to the state via taxes (Plato, 1961, pp. 379-383). In Book XI, Plato talks about inviolability of property.

In addition to these principles and thoughts, he also places emphasis on the property greed in human nature which undermines the very spirit of social solidarity. He recommends that the economic activities which may trigger the urge to earn money should be kept away from society, and that soldiers and managers should adopt a collective life with limited ownership. Thus, property greed will remain at a low level and everyone will perform their own work with division of labor, trying to make society happier (Hançerlioğlu, 2002, p. 9). For Plato, if people have property enough for them to leave a simple and plain life, this will make them better and superior.

Plato gave serious thought to injustice of income distribution and its unfavorable consequences and, believing that it may lead to unfair income distribution, he continued to disapprove private ownership until his late years (Neumark, 1943, p. 28).

1.1.1.2.1.6.2. Aristotle's Views on Property

Plato's disciple, Aristotle, criticized Plato's ideas on property and rejected collective ownership. Aristotle makes mention of the drawbacks of the greed to accumulate wealth, but notes that private ownership is a useful institution unless it turns into an ambition. For him, collective ownership is not realistic (Rothbard, 2006, p. 15). The similarity between the sentences with which Aristotle justified this opinion and the sentences Adam Smith used in his book, "The Wealth of Nations," is striking. This similarity implies that human beings exist in a very limited and narrow area rather than in an infinite universe in this thought adventure.

Aristotle props up his views on property with his observations on human nature. For Aristotle, human beings, by nature, watch for their own benefits and pay disregard to social interests if they do not concern themselves, and, therefore, they are less attentive to collectively owned goods. Collective ownership will curtail the motivation to work and produce; therefore, some members of society will work less while other will work more. This, in turn, will build up social tension and reduce social solidarity. Private ownership, on the other hand, will enhance production as it encourages people to work (Selik, 1988, p. 37; Rothbard, 2006, p. 14). Aristotle argues that private ownership is more compatible with human nature and more beneficial to society than collective ownership.

Although he advocates for private ownership, Aristotle recommends that the right to property should be regulated. Aristotle claims that human beings are, by their nature, are greedy. Therefore, with their desire to own more, human beings may create economic inequalities, which may result in instabilities in social order. For the sake of stability in social order, private ownership must be regulated. However, Aristotle also talks about public –state- ownership. He believes that absolute equality in the distribution of property is not possible. Aristotle saw that a good has two values: value-in-use and value-in-exchange (Aristo, 2014, p. 49).

In sum, for Aristotle, property is a basic tool for social organization. He finds private ownership beneficial, but provides no detailed explanation on how private ownership should be implemented.

1.1.1.2.1.7. Concept of Property in Roman Empire

In ancient history, the Roman Empire attached importance to central administration and tended to expand its borders. It is perhaps for this reason that the Romans had to develop political and administrative systems and left behind a major legal heritage. Their legal, military and administrative achievements, however, hardly resonated in the field of economics (Bell, 1967, pp. 26-32). To understand the concept of property in the Roman Empire, a mention of the Roman law, the Stoicism, and the influence of famous Roman scholar and statesman Cicero would be sufficient.

Ancient Rome paved the way for the flourishing of political and practical institutions rather than philosophical and theoretical thought. Although ancient Rome did not make direct contributions to the economic theory, the Roman law provided guarantees for the right to private property and ensured freedoms in trade and contracts, which led to the emergence of the "laissez-faire" thought inherited by the modern liberal economic theory (Rothbard, 2006, p. 33).

It can be maintained that the economic thought in ancient Rome consisted of the repercussions of the economic ideas of ancient Greece. The most widespread production activity was agriculture, and therefore, it can be said that distribution of income favored the nobles who owned the lands. Under the influence of Stoicism, which idealized the primitive societies, Roman scholars prescribed natural order and simple life. In this context, they focused on the injustices caused by private ownership in distribution and tried to expound the benefits of collective ownership --family ownership-- for society and individuals (Ulutan, 1978, pp. 144-147). Indeed, thanks to the practical benefits of private ownership, the concept of private ownership became more popular in ancient Rome, and over time, the proponents of collective ownership were replaced with those of private ownership. It can be said that the collective ownership in ancient Rome was a sort of large family ownership.

Marcus Tullius Cicero, the Roman statesman and scholar of Latin origin, argued that a person could acquire property and freely dispose of his/her property as long as he did not breach other people's rights. However, Cicero maintained that public property may be

subject to common use and suggested that private ownership should be protected by laws and this protection was one of the basic duties of the state. In the Roman Empire, the right to property had three major components: the right to use, the right to benefit, and the right to dispose. In the Roman law, the right to property gives unlimited authority to the property owner in terms of use, benefiting and disposition (Yetkin, 2012, pp. 138-145). The Roman concept of property, perfectly grounded in the Roman legal system and institutionalized in social organization, still influences the legal systems of modern states in our time.

Labor ownership, i.e., slavery, in the Roman Empire laid the social foundations of feudalism as the social and economic organization form of the coming medieval western societies.

1.1.1.2.2. Concept of Property in Medieval Europe -Feudalism-

In discussing the concept of property in Middle Ages, it would be convenient to treat it under two headings: the concept of property in medieval eastern civilizations, and the concept of property in medieval western civilizations. In this period, the concept of property in Europe evolved a bit further compared to the previous slavery-based social organization. The Middle Ages, dated approximately between the 6th and 14th centuries, can be referred to as darkness for Europe while the same period can be described as salvation from darkness for the East. In the period, in a vast geography faced with the message of Islam including the Mediterranean basin, Anatolia, North Africa, Andalusia, Egypt, Syria, Iran, Central Asia, and the Arabian Peninsula, Muslim scholars emerged in a broad range of sciences including medicine, philosophy, engineering, law, geography, mathematics, astronomy, sociology, psychology, and biology and came up with scientific inventions and discoveries on which the modern world is built. These scientific inventions and discoveries found a way into Europe through Andalusia and triggered the Enlightenment thanks to translation activities. Scientific circles today acknowledge that the knowledge produced in many scientific disciplines including social sciences had been adopted by the representatives of modern science without quoting their resources. In this

heading, only the concept of property in the medieval western civilization will be discussed.

There were two main structures in medieval Europe. The first of these was the feudalism which shaped the social, political and economic organization based on land ownership while the other was the Church, which had expanded its political and spiritual authority in the wake of the collapse of the Roman Empire (Çetin, 2002, pp. 80-81). In medieval Europe, land was the fundamental object of ownership. Land was a factor both of production and wealth and defined social stratification. In medieval Europe, land was shared between feudal lords and the Church. As they controlled large swaths of agricultural land as the sole means of production and assumed an influential position in determining the supply of foodstuffs, feudal lords entertained absolute authority over the public (Bell, 1967, pp. 35-36). This structure in land ownership led to weak central administration, and the feudal lords who had military power thanks to their economic power started to have a say in the country's administration, and thus, the feudal system emerged. Likewise, dispensing with the Church's teachings meant hunger. The Church enjoyed a decisive and dominant position in the intellectual world thanks to its religious power and in politics thanks to the large agricultural lands it owned. As it represented a system that characterized and depicted the economic, social, cultural, political and legal framework/order in medieval Europe, feudalism had considerably rich content.

In feudal society, the factors of production --including a significant portion of the labor factor-- were the private property of feudal lords and this property would be transferred from father to son. In the feudal production process, the labor factor largely consisted of the peasants whose freedom would be restricted to varying degrees, and this was a characteristic feature of feudalism. The feudal concept of property implied that every product produced would belong to the feudal lord. Feudal lords would live in the castles which were surrounded with thick walls and protected from external attacks. Castles were the protected places in which commercial and non-agricultural production activities were conducted. In this regard, feudal lords had supremacy. The ownership of the lands would be categorized into two groups depending on their proximity to the castle. The lands which were closer to the castle and which were more fertile belonged to the feudal lords, and the peasants who were cultivating these lands were serving under the feudal lords and

they were not free. The lands which were relatively distant from the castle belonged to the peasants who were comparatively freer, and these peasants enjoyed extremely limited property rights and they had to give part of their production to the feudal lords as taxes (Bell, 1967, pp. 36-37). The feudal lords used sovereign authorities such as collecting taxes and trying citizens and this indicates that in feudalism, sovereignty was intertwined with ownership. Based on this social phenomenon, it can be argued that in medieval Europe, the concept of absolute ownership, inherited from the Roman Empire, had changed and become transformed and private ownership was no longer an absolute and inviolable right (Güriz, 1969, p. 74).

The social and political structure, shaped by the feudal concept of property which relied on the idea of hierarchy in land ownership, continued without being questioned until the maturation of the scholastic thought in the 13th century. Although the scholastic thought is frequently referred to as the cause of darkness, it would not be wrong to suggest that the first sparks of the light had come out of this intellectual movement. Indeed, the concepts of modern economics such as distribution, characteristics of money, value, exchange, and price were first discussed in Europe during this period. These discussions, spearheaded by Saint Thomas Aquinas, are referred to as Thomistic economics (Pribram, 1983, p. 4). We will discuss Saint Thomas Aquinas' views on ownership as he tended to go beyond his contemporaries and his ideas both represented his era and had their unique aspects.

1.1.1.2.2.1. Saint Thomas Aquinas's Views on Ownership

As it is visible in all works by Saint Thomas Aquinas, one of the leading scholars of the 13th-century scholastic thought in Europe, the effect of teachings of Christianity and Aristotle is evident also in his works on ownership. Unlike his contemporaries who saw private ownership as a temporary and tentative institution that emerged from human relations, St. Thomas attempted to justify private ownership. In line with the very spirit of the scholastic thought, St. Thomas took religious references as his basis and argued that all types of property belonged to God. For Saint Thomas Aquinas, absolute property is

God's and all types of property belonged to God. Therefore, the right to property governs the relationships between human beings and objects. St. Thomas maintained that all forms of property should be preserved in order to protect the social order (Ben-Amittay, 1983, p. 100). In expounding his views on the institution of property, St. Thomas opted for justifying his opinions without rejecting the Christian scholars who came before him (Güriz, 1969, p. 45).

In congruity with Aristotle's approach, he advocated for private ownership, maintaining that private ownership would lead to efficient use of resources and urge property owners to preserve and use their goods with caution and cause conflicts among individuals to decline (Ulutan, 1978, p. 161; Pribram, 1983, p. 10). The arguments St. Thomas used in enumerating the advantages of the institution of property show clearly the extent to which he was influenced by Aristotle. Of these arguments which were apparently propounded based on the nature of man, society and things, the first one is that man, by nature, prefers a production process whose proceeds he can reap using the means of production he owns instead of producing for society. The second argument is that society, by nature, does not attach importance to every object which may be subject to ownership and, therefore, if a group of objects are left to ownership by every individual, social and individual lives would be more orderly. The final argument is that for peace in society, every individual should have a sphere which is designated to him/her and s/he should be peaceful within this sphere. If the goods which are subject to ownership are not distributed among people, conflict may arise in society as individual boundaries are not delineated (Güriz, 1969, p. 46).

St. Thomas argues that ownership breeds two rights. The first one is to own a thing and use it at will through ownership. The second one is to right to benefit from the thing owned. The first right ensures the effective and efficient use of economic resources. The second right restricts the benefits of a good to its owner. The most important factor that expands this boundary is the set of human behaviors toward sharing. St. Thomas' another important idea about ownership is to divide goods into the goods that are consumed through use and those that are not consumed through use. The ownership and usufruct of the goods which can be consumed through use cannot be separated from each other. On the other hand, for the goods which cannot consumed through use, their usufruct may be

transferred to another person while the owners continue to have their ownership (Gemahling, 1939, pp. 29-31; Koloğlu, 1969, pp. 19-20).

With the analogies he drew from the references of the Christian theology, St. Thomas certainly went beyond his time, but his ideas are not free from certain contradictions. For him, labor may be owned by a third person other than the labor owner, and he finds this -- i.e., slavery-- necessary and beneficial. Despite Christianity's teachings against acquiring and accumulating property, Thomas talks about the virtue of private property. Nevertheless, he restricts property and approves it only to the extent it protects their social status (Hançerlioğlu, 2002, p. 307).

Luther rejected the idea that property is collective according to natural law. For Luther, who provided a theological ground for his own views, Ten Commandments constitute natural law. Luther proposes "Thou shall not steal," one of Ten Commandments, as the theological proof of private property (Güriz, 1969, p. 82). In conclusion, Thomas' views on property have had significant influence on the Western world. Thomas treats wealth differences and major differences in private property as legitimate (Challaye, 1969, p. 64). Thomas' ideas that exceeded his contemporaries and even Aristotle, who influenced him, imply that he might have been influenced by Islamic thought.

1.1.1.2.3. Concept of Property in the Mercantilist Thought

Toward the end of the medieval ages, the Western countries saw a rapid increase in commercial activities in the 16th and 17th centuries thanks to rapid and radical changes. In "The Wealth of Nations," Adam Smith refers to this period, which is the preliminary form of capitalism, as the "Mercantile System." As a result of the increasing commercial activities, a new type of class called "merchants" -mercante- who commanded significant economic power against the Church, kings and feudal lords emerged. Making the means of production subject to private ownership is one of the unique contributions of mercantilism to the concept of property. What complemented mercantilism is certainly the Reformation.

The Reformation represented new interpretations in and approaches to the Christian faith in the 16th-century Europe and its first effects were observed in the area of property. The property that belonged to the churches which were sharing the power with the kings was confiscated by the kings. The kings kept part of this property to themselves and turned the rest into private property by selling them to trade guilds, or converted them into manufacturing plants by integrating them into new generation processes. Thus, it was argued that one third of the property in Europe changed hands (Heaton, 1995, p. 198). Consequently, the medieval understanding of production and ownership was shaken to the foundation and radical changes in faith, politics, economy and social life occurred. The conditions created by these changes started to highlight certain concepts and phenomena like free market, private property, competition and capital. These factors that would increase in importance in later periods constituted the very foundations of modern capitalism. Thus, all elements of modern capitalism started to emerge (Güriz, 1969, p. 80).

In the face of its diminishing political power, the Church adopted an aggressive and repressive attitude in an effort to protect its possessions and loyalty of the faithful to the Church. The Church's repressive attitude that sought to restrict economy increased the opposition to the Church and paved the way for the emergence of new ideas. It can be said that some of the estates confiscated from the churches were turned into small manufacturing shops or big plants, which, in turn, accelerated economic and social change (Aydemir & Güneş, 2006, p. 143; Koyucuklu, 1982, p. 43-45). As a result of these new ideas, the Church evolved from an institution that prohibited trade, richness and property acquisition into the one that blessed and encouraged employment, richness and property acquisition under the influence of Protestantism. The Protestant religious approach laid the economic, political and social infrastructure of today's concept of property (Çetin, 2002, p. 86).

The modern concept of property is a complementary and integral part of capitalism. This concept started to be shaped under the influence of the mercantilist thought and became institutionalized with the classical economic thought. This process of formation and institutionalization can hardly be independent from the Reformation, which brought new interpretations in and changes to Christianity in the 16th century in Europe. Luther from

Germany and Calvin from France ushered in a period that would radically change the world from an economic perspective.

1.1.1.2.3.1. Martin Luther's Views on Property

One of the leading figures of the mercantilist period is certainly Martin Luther (d. 1546). Martin Luther is among the figures who spearheaded the Reformation that introduced new interpretations in, and changes to, the Christian faith in the 16th century. The Reformation was kindled when Martin Luther, a German priest, nailed down a 95-item list of criticisms on the door of the Wittenburg Castle Church in 1517, and with support from German princes, Luther's ideas quickly spread and the Reformation became influential in France, England and other European countries after Germany (Kılıç, 2006, p. 39; Hançerlioğlu, 2002, p. 169; Çetin, 2002, p. 86).

Luther's lived in Germany at a time when commercial activities intensified and he knew closely the Church's teachings and the Christian faith because he was a priest. Luther attempted to demonstrate the inconsistency in the Church's rules that restricted economic activity as well as the negative consequences of these rules in economy. Luther touched on the relationship between economic activities and morality and denigrated the efforts to obtain excessive profits by raising the prices of the goods whose supply decreased in the market as greed and equating it with usurpation of the goods of one's neighbor by stealing them (Luther, 2015).

Luther's views on property represent the characteristics of the period he lived in though they went beyond it in some respects. It can be argued that Luther stuck to the feudal social order and feudal ownership understanding by accepting inequality among people as required by natural order (Hançerlioğlu, 2002, p. 169). In addition, Luther also tried to explain the virtue of producing and benefits of private property (Aydemir & Güneş, 2006, pp. 143-144). His identity as a Christian cleric was reflected in his ideas. For Luther, divine commandments are the same with natural law. He believes that collective ownership is against natural law and he supports this view with the divine commandment

prohibiting theft. For him, the prohibition of theft is the basis for the legitimacy of private property and every legal system that prohibits theft regards private property as legitimate (Güriz, 1969, p. 82).

Luther tried to explain the advantages of working and earning money and having private property and tried to support this view with the references to the Christian creed. For Luther, the sources of the Christian faith do not have any statement that supports collective ownership. Although some of the preliminary Christian communities opted for combining their property and use it collectively, they refrained from forcing anyone who refused to go with collective use to include his/her property in collective use (Güriz, 1969, pp. 82-83).

Luther's advocacy for private property is reflected in his market approach. For Luther, the governments should not meddle with economic activities or take active role in the market (Aydemir & Güneş, 2006, p. 143). Given the foregoing views of Luther, it can be argued that Luther beat the path for the scholars who came after him in building the modern concept of property.

1.1.1.2.3.2. John Calvin's Views on Property

Another noteworthy scholar of the same era is John Calvin (d. 1564). Calvin played an influential role in the Reformation process in Europe.

Calvin is the first scholar who attached an economic value to labor, treating it as a factor of production and saw the credit-interest relationship necessary for production and claimed it did not go against the rules of Christianity and talked about the role of international trade in increasing prosperity and decreasing poverty, and, thus, institutionalized the capitalist understanding. In this regard, Calvin's discourse was novel and original (Hançerlioğlu, 2002, p. 308).

For many scholars particularly including Weber, John Calvin's interpretation of Christianity accelerated industrialization and laid the groundwork for the emergence of

capitalism. In this interpretation of Christianity, which can be termed as Calvinism, Calvin rejected the Church's teachings that denigrated richness and disparaged worldly affairs and prohibited usury, and instead, maintained that it was not forbidden for the believers to accumulate capital by making savings and get rich through production and trade and get loans with interest (Aydemir & Güneş, 2006, p. 144).

In expounding his ideas on property, Calvin treats the human history in two periods and builds upon the Christian theology that dominion belongs to God. For Calvin, in the first period of human history governed by natural law, people would exchange their goods freely or for a fair return and could easily obtain the goods they needed. The first period when people could live in abundance, happiness and security ended with the committal of the original sin, and the second period of human history where the right to individual property emerged started. In the second period, natural law was replaced with the rules of the holy book. God mercifully granted the right to property which belonged to Him to man. It is wrong to use this right which essentially belongs to God for self-interest. Property endows people with responsibilities in two respects: the first one is the spiritual responsibility which represents the responsibilities toward God, who is the true owner of the right to property. The second responsibility is the material responsibility which represents the responsibilities toward society (Güriz, 1969, pp. 88-90). Based on this statement, it can be said that Calvin sees property as a right that endows the property owner with duties.

For Calvin, property is a divine blessing which must be used for the benefit of society. This blessing should not be used for selfish desires of property owners or in order to dominate over those who are not property owners. Another responsibility endowed by the right to property on property owners is the duty to work. For Calvin, God created man to cultivate the nature and it is crime not to cultivate the possessions given by God, and laze around and indulge in wastefulness (Güriz, 1969, p. 90). This approach gives religious meaning to worldly affairs through property. Anything that is obtained by working is considered as a clear sign of God's satisfaction, and as such, working, producing or achieving is treated as a form of worship. Wealth obtained as a natural consequence of this worship is seen as a blessing or reward given as an indication of God's satisfaction (Akalın, 2007, p. 84). With his ideas that can be considered as an extension of Luther's,

Calvin cleared off the rocks from the path beaten by Luther and sped up the development of today's concept of property.

1.1.1.2.4. Concept of Property in and after the Industrial Revolution

We can say that there were more changes in and after the 17th century than those before the 17th century. The industrial revolution was certainly built upon the revolutions that occurred in the previous century. If it were not for the transformation in the concept of property in the mercantile period and the ensuing financial revolution, we would not be able to talk about an industrial revolution. Indeed, it is known that the steam engine had been used in Egypt 2,000 years ago and in the Artuqids 1,000 years ago. Furthermore, the machines designed by al-Jazari, who lived in Anatolia between 1136 and 1206 and who inspired the work by Leonardo da Vinci, who came 250 years later, did not trigger any change in the production process (Özel, 2019). As a result of the great transformations that occurred in the concept of property during the mercantile period, the redistribution of property and redistribution of income came to the agenda. With this agenda, the monasteries in England were shut down and their assets were transferred to the kingdom. The kingdom granted some of these assets and sold others, and incorporated a significant portion of them into the kingdom's estate, but eventually sold them as well later in order to cover the royal costs. Not only ordinary churches, but also the guilds were deprived of the estates they owned for religious purposes by the kingdom and city governments (Heaton, 1995, p. 198). The change in the concept of property and the ruleless confiscation of the property led to a change in social classes as well. The status of the middle class was shaken and the poor class became poorer (Güriz, 1969, p. 81). Therefore, it can be concluded that the change and distribution in question occurred among the elite. Of course, this elitist attitude was no coincidence as the capital accumulation due to increased trade volume resulted in the creation of an elitist capitalist class. Clearly, the political, social and economic structure that existed before the industrial revolution completely changed and human history saw the reorganization of society under the sway of capital.

With this new reorganization, the means of production and production processes, materials for consumption and consumption habits and the distribution order/system evolved in never-seen-before ways. These changes were accompanied with social and political transformations as well. As a result of the social and political transformation experienced, the indicators of status related to the political and social structure changed or re-emerged with a different appearance. The flow of precious metals that occurred with the trade that started to flourish in Europe starting from the 16th century created major changes in the concept of property. The most striking of these changes was that land relatively lost its importance and was replaced with movable property as the basic indicator of richness. In the process that started with the financial revolution which was one of the outputs of mercantilism and continued by accelerating with the industrial revolution, land lost its function as being a sign of richness which is a social status or of power which is a political status, and became a factor of production which would be used in the production in return for a rent. By the end of the 18th century, the number of the land-owning peasants who were engaged in subsistence farming declined and the feudal land ownership disappeared across Europe, particularly including England. Power and richness now had a new manifestation. This manifestation, named as bourgeoisie, owed their success to the precious metals and movables that represented nominal values as tokens of wealth and power more useful than land.

With this change in the concept of property, richness and power acquired an easily movable, storable and dividable form. It is certainly not coincidental that the ideas advocating for free market economy and free property became widespread in this period. The financial resource of the industrial revolution that would change the world completely including the property regime was the capital accumulated through transnational trade and colonialist activities conducted in the mercantile period. Thus, the industrial revolution proceeded based on the structural foundations that would extend liberalism which would make it possible for capital as its *raison d'être* to accumulate and move more freely (Challaye, 1969, p. 76; Çetin, 2002, p. 88).

One of the most visible characteristics of the industrial revolution is the change in the production process. This change was seen in the increase in the type and amount of the goods produced, in the shortening of the production duration, and in the production of

cheaper and more quality products (Küçükkalay, 1997, pp. 52-53; Güven, 2013, p. 40). Thus, the feudal mode of production as well as the feudal concept of property became obscure, and the capitalist concept of production and the capitalist concept of property that was compatible with it became emboldened in the political, legal, social and economic setting. The emergence of nation-states in the political climate, the protection of the right to private property on behalf of the elites, the reformatting of society and social institutions according to the new production habits in the social setting, and the rise of banks, stock exchanges and stock companies are among the most noteworthy elements that built today's concept of property.

The developments that occurred in the concept of property in this period will be analyzed based on the views of Thomas Hobbes, John Locke and Adam Smith on property.

1.1.1.2.4.1. Thomas Hobbes' Views on Ownership

Thomas Hobbes (d. 1679), one of the leading scholars of the era of monarchies, established significant connections between natural laws and property in "Leviathan," he published in 1651. It would not be wrong to say that with emerging scientific discoveries and developments, man's confidence in his reason and himself increased. As a result of these developments, the link between the natural law thought saw property as a natural right and the divine weakened.

It can be said that Hobbes, who grew in a secular bourgeois culture, was influenced by the ideas of Machiavelli and Bodin. Going beyond Machiavelli and Bodin, Hobbes managed to propose absolute monarchy as a political philosophy and saw himself as the founder of political philosophy (Şenel, 2004, p. 317; Akal, 2000, p. 269). Hobbes had a rationalist and secular intellectual basis, and took the source of sovereignty of the state to the non-religious sphere and argued that the basis of the state is contractual (Şenel, 2004, p. 325).

Hobbes established a strong bond among property, justice and state. For Hobbes, the right to property owes its existence and protection to a just and stable state, and there is no

property where there is no state. In grounding this argument, Hobbes takes justice as basis and maintains that applicable contracts should be observed for justice to exist. For Hobbes, justice does not exist where there is no observance of contracts (Hobbes, 2018, pp. 106-107).

If there is no power (state) to force individuals and society to comply with applicable contracts, everyone can be entitled to anything, and therefore, there is no property where there is no state. Without property, we cannot talk about justice or injustice (Hobbes, 2018, pp. 106-107). In Hobbes' thought, property, justice and state are intertwined. For Hobbes, property is both a cause and an effect of justice. Justice means conformance to applicable contracts and the state is a power that will enforce observance of applicable contracts. Where there is no state, there is no justice. Justice exists depending on the existence of a state power that would force people to comply with the applicable contracts. Thus, Hobbes links the existence of property to the existence of the state. Based on these views of Hobbes, it would not be wrong to suggest that property is the *raison d'être* of justice which is in turn the *raison d'être* of the state. In the theoretical framework of Hobbes, justice would not be needed if there were no property, and in such a place, a stable state power to implement legal norms for ensuring justice would not be needed as well.

For Hobbes, the state relies neither on divine power or noble family, but on the people who found the state. The state is compulsory for the protection of the right to property. For Hobbes, the state protects the fundamental rights and freedoms. The most important of them is the right to property. The state is both a cause and an effect of the right to property. In other words, there is property because there is the state, and the state is not needed if there is no right to property.

By joining in the social contract, individuals transfer all their rights to Leviathan --i.e., the state. At this stage, these rights cease to be natural rights and become the rights that are products of the state. Inviolability of the rights which turn into products of the state cannot be claimed against the state. In the Hobbesian thought, the state, justice and the right to property are so intricately intermingled or interdependent that the right to property is embedded in the political power and vice versa.

It is meaningless to claim property in an environment where there is no state and legal system, i.e., in natural life. The secular state which exists independently of God and nobility thanks to social contract is responsible for defining and protecting the boundaries of the right to property. The right to property, justice and the state are both a cause and an effect of each other.

1.1.1.2.4.2. John Locke's Views on Property

Unlike Hobbes, who advocated for absolute monarchy, Locke defended liberalism and effectively argued that "property is freedom." Locke's (d. 1704) views on property played a major role in formation of the capitalist concept of property and liberal state order. Locke sees private property as a natural right. Natural rights have been used in different meanings throughout history. Natural law that comprises all natural rights was part of the ancient and medieval universal perspective. In modern times, natural law emerges as a political ideology. In the 19th century, the idea of natural law would be seen as a superstition that did not correspond to any reality that would affect daily life, but starting from the early 20th century, it turned into an ethical motivation for the positive law (Topçuoğlu, 1953, p. 201). It is hardly possible to talk about a single natural law tradition due to its broad scope that could be attributable to its long history. Natural law theories manifest themselves with different claims in different periods. The natural law thought justified conservatism in certain times while driving change at other times. Likewise, it was argued that collective property was natural law in certain periods whereas the very natural law was used to justify private property in another period (Uslu, 2011, p. 41). In its purest form, natural law implies that man has certain innate fundamental rights such as right to life, freedom and right to property. Human beings establish civilizations in order to protect these natural rights, and they take this presupposition into consideration in formulating their political organization in these civilizations.

With inspiration from St. Thomas, Locke develops a theory which argues that individuals own their own bodies. The first ownership occurs in one's own body, and therefore, in his/her own labor. The person who owns his/her own body and labor is the owner of all

the goods s/he has produced and acquired through voluntary exchange. In other words, property results from the person himself/herself and cannot be considered as distinct from the property owner; a person is the absolute owner of himself/herself and his goods. It can be argued that this concept of property has two natural consequences. First, just as a person is the absolute decision maker in the matters related to himself/herself, s/he has full sovereignty on the goods in his possession and s/he can freely make decisions regarding the goods in his/her possession. The other consequence is that any coercion against, or intervention with, any property without consent of the property owner means assault against the very person of the property owner, and gives the property owner the legitimacy to turn the assault (Uslu, 2011, pp. 88-89). This approach endowed the individual and private property with absolute sacredness and paved the way for the emergence of liberal and even anarchist ideologies that would see the state's sovereign powers of taxation and redistribution as injustice.

For Locke, nature or reason does not offer an argument that would enable one person to dominate over another. Therefore, man can dominate over every living or nonliving thing other than man through property. The common characteristics of the things on which property can be established are their lack of reason and their being lower than man (Locke, 2012, pp. 10-24). Locke builds his ontology on the premise that man is the owner of himself. It can be said that he classifies beings as man and others or as those on which property can be established and those on which property cannot be established. Such a classification may imply that all human beings are placed on an ontological ground in which they cannot establish property on each other and as such, all human beings become equal. However, this equality is a moral equality with ambiguous boundaries. Locke, too, does not advertise this natural equality as absolute equality and accedes that people may differ from each other in many respects including property (Locke, 2012, p. 57). In other words, people are naturally equal to each other only during birth.

If there were only one natural right in Locke's system, this right would be the right to property. In Locke's philosophy, what differentiates man from the rest of the universe is property. Man is the only being that can possess property and enjoy rights and authorities on himself, his life and his wealth. In sum, the set of the powers and authorities provided by the right to property are the natural rights (Locke, 2012, p. 24).

As regards collective ownership, Locke argues that without property, what is collective cannot be used. For Locke, property is needed even for collective use; otherwise, to eat from the fruit of a tree in a forest which is for collective usage would be theft. As society does not describe such an act as stealing, everything on which we enjoy the right to use collectively with others becomes the property of the person who benefits from it (Locke, 2012, p. 24).

As is seen, Locke does not adopt a concept of property in a limited scope, but builds his entire theory on the concept of property. For this reason, Locke formulates the right to property as an absolute and inviolable right. A person's being the owner of himself/herself is a nontransferable right. Locke reinforces the right to property with robust supports and makes this solid right as the basis of his rationalist, experimental theory. As he formulated them in an effort to protect the right to property, the social and political institutions in his theory are both the cause and effect of the right to property. In other words, they need each other and support each other's institutional value and ontology.

1.1.1.2.4.3. Adam Smith's Views on Property

For British scholar Adam Smith (d. 1790), the founder of modern economics and one of the most important theoreticians of the liberal school, the right to property is a sacred and inviolable right. This sacred right cannot be sacrificed even for the common benefit (Smith, 1981, p. 188).

Like Locke, Smith argues that man is the owner of his own labor and this possession is the very basis of all property rights. This claim is at the same time an argument on which Smith grounds his liberal views. For Smith, the only opportunity a poor man has in order to maintain his life is the occupation with which he is versed as well as his labor with which he can perform his occupation. To prevent such a person from using his labor and dexterity is to undermine the right to property as the most sacred right. Laws should be

designed to ensure that such a worker and those who are eager to employ him can perform their economic activities freely (Smith, 1981, p. 138).

The most important contribution of Smith to the modern concept of property is that he performed a comparative analysis of public property and private property and focused on the virtue of private property in terms of productivity. For Smith, there are huge differences between private property and public property when productivity is taken as basis. People tend to be less careless with the wealth of other people compared to their own wealth. This negligence leads to wastefulness or inefficient use of resources. Therefore, he argues, the public property is inefficient and ineffective. Smith advocates for the virtue of private property and refers to the state as the necessary evil. The state is evil because it uses the public property inefficiently. The state is necessary to protect the security and continuation of the private property which is efficient and virtuous.

Smith studies the human economic development in four periods. It goes without saying that his periodization essentially relies on the property structure. The first period is the period of hunting when property was not in question. In this period, the source of supremacy was not wealth, but age and gender. The second period is the period when people established an organized structure to engage in animal breeding and shepherding. In this period, the herds of animals emerged as the preliminary manifestations of wealth and herd ownership became decisive in social organization. In the third period, which is the era of agriculture, land ownership not only influenced social relations, but also started to become decisive in the political structure. The fourth and the final period is the period of trade when property was no longer controlled by an elite minority, but became widespread as the right to property was granted to a greater number of people. With the proliferation of property in this period, the capital efficiency increased and production methods developed and the volume of production and trade rose (Smith, 1981, pp. 12-16). Starting from the second period when property started to fall into place, the need for an organization which would protect the wealth of a small number of property owners against the dispossessed became obvious. For Smith, it can be imagined that the state has emerged based on this need. It seems that Smith has developed the conception of a minimalist form of the state in order to provide guarantees for the right to property. More clearly, the state exists in order to protect the rich against the poor.

Smith's perspective on wealth as the object of property offers the most appropriate area for understanding his ontology. For Smith, the source of wealth is not precious metals; it is the human labor which adds value to the things and which makes things useful and convenient for man. Therefore, human labor is the source of all wealth created on earth (Hollander, 1973, pp. 246-247; Mitchell, 1966, p. 28; Smith, 1981, pp. 47-64). As, from this perspective, wealth as the object of property cannot be created without human labor, it can be argued that property in the modern sense depends on human labor for existence. In other words, property cannot exist without human labor.

Based on the foregoing, it can be asserted that Thomas Aquinas's God-centered concept of property has evolved into Locke's human-centered concept of property. It would not be wrong to state that there has not been much change to the concept of property since Locke. In this process, the capitalist understanding of property has matured, but it has not been fully institutionalized. We cannot talk about a major change in Smith's concept of property, as in Locke, but we can suggest that with Smith, property has become a functional part of the economic system. Although capitalism conceptualization had not been done yet when they were alive, the capitalist concept of property matured thanks to Locke and became institutionalized with Smith. Smith saw the freedom of acquiring property as the driving force of development and progress and put wealth at the very center of the economic system.

He saw the desire --ambition-- of homo economicus whose sole purpose is to selfishly maximize his own benefits to acquire wealth as a natural wish (Bell, 1967, p. 151). It can be said that when the freedom of acquiring property without limitation is combined with the desire --ambition-- to acquire property in an unrestrained manner, the capitalist concept of property has emerged. Property has been a tool for benefiting from the matter and social order, but with Smith, it has turned into an institutional goal. In a setting where wealth is a goal, wealth would be the sole determining factor in social stratification. Smith argues that the material, immaterial and social benefits of wealth will motivate people to increase their wealth continuously. This motivation will be the driving force of progress and development. In such a society, the path to wealth will certainly diverge from the path to virtue. For Smith, virtue is compulsory for the lower classes of society as they need their skills and virtue to acquire status in society. But this does not apply to the

rich people because they can obtain their social status with their wealth. As a result, Smith acknowledges, there will be injustice in the distribution of wealth among people, but he prefers freedom to equality obtained through repression (Denis, 1997, pp. 196-197).

1.1.1.2.5. Capitalist Concept of Property

Capitalism advocates that the means of production should be controlled by private people and economic life should be shaped with free decisions, and property is certainly one of the most important components of capitalism. An ideal capitalist system has three distinctive characteristics: private property, personal wealth, seeking profits in a competitive and free market (Maconis, 2012, p. 417). Capital and accumulation of capital are characteristics of capitalism. In Ricardo's words, the capitalist economic system has two basic pillars: the first one is the freedom of contract and the other one is the right to property (Laski, 1962, p. 165). Both principles are indispensable for the capitalist economic system. Free market relies on the freedom of contract while capital accumulation, which is the fundamental distinctive feature of capitalism, cannot be possible without the right to property. Indeed, the right to property on the means of production is the natural consequence of the desire to engage in production and obtain revenues through production (Güriz, 1969, p. 245).

Locke's labor-centered concept of property was a major step for the emergence of the capitalist property. Later, the idea advocated by Bentham and Hume and backed with arguments from the utilitarian approach maintained that the capitalist concept of property is more appropriate for the benefit of individuals and society. The capital concept of property has eventually evolved to its current form with the theories that positioned private property as a guarantee for social and political rights. As is seen, the capitalist concept of property has benefited from the entire human experience and various views and theories from ancient civilizations to our time.

The most distinctive characteristic of the capitalist concept of property is the private ownership of the means of production. The capitalist concept of property endows the property owner with unlimited and exclusive right to sovereignty or dominance. A natural consequence of this is that property, especially property on means of production, turns into an economic power. How the generated power will be shared will be defined by income distribution. In sum, private property in a capitalist system is the basic determinant in deciding how resources will be used in an economy and how the produced incomes will be distributed. It would not be wrong to state that the capitalist system is built upon private property (Ölmezoğulları, 2003, pp. 26-27; Özgener, 2000, pp. 177-178). Property is certainly one of the most important components of capitalism.

In capitalism, property has acquired full individuality and everything has become the object of property. In other words, the capitalist concept of property has turned everything into a commodity that can be marketed. Capitalism and its concept of property force individuals to adopt behavioral patterns that motivate them to accumulate wealth and seek profits instead of meeting their needs. At this point, it can be said there is a reference to human nature and human psychology. That the capitalist concept of property is compatible with human nature and the human drive for acquiring wealth and establishing domination is the most important motivation for development and progress is one of the basic claims of the capitalist concept of property. The institution of inheritance is what complements this motivation. It can be suggested that if it were not for the institution of inheritance, man would be less eager to earn for more than he needs, produce and accumulate wealth (Güriz, 1969, pp. 252-254).

It can be argued that the capitalist concept of property is an extension of the natural selection perspective. Competition as the main component of natural selection is the very basis of capitalism. It is believed that as a result of competition, individuals can turn their potentials into performance and have a positive effect on total prosperity. At the same time, competition is one of the most important motivations for individuals to improve and refresh themselves. Otherwise, those who fail to improve themselves may be eliminated from society as a result of natural selection and they may end up needing social benefits. Based on the Darwinist theory, this perspective sees social benefits as a burden on property owners (Güriz, 1969, pp. 254-257).

Joint stock companies have played a great role in the maturation of capitalism and its emergence as a global system. Joint stock companies have also had an impact on the property relations. The most important power and authority vested by the right to property in the owner is the power of disposition on the goods in his/her possession. The investors who buy shares of the joint stock companies traded in stock exchanges --that is, who become shareholders of those companies-- tend to have limited knowledge and influence on the companies in question. The relationship between the shareholders and the companies is quite restricted. With the emergence of joint stock companies, the right to property has been severed from the managerial power. With joint stock companies, property has become depersonalized and objective (Güriz, 1969, pp. 258-261).

The concept of property has evolved from a God-centered perspective as in Thomas Aquinas to a human-centered and labor-based one as formulated by Locke. With the capitalist concept of property, property currently appears to rely on pure economic power and be capital-centered and objective in the 20th century. Despite changes in economics, property continues to preserve its capitalist leaning.

1.1.1.2.5.1. Max Weber and his Concept of Property

Max Weber (d. 1920) hardly had any unique conception of property, but it can be said that Weber was one of the latest scholars who had any impact on capitalism and the modern capitalist concept of property through his sociological analysis of the relationship between capitalism and religion. For Weber, property is a factor that puts society into classes. Weber treats the class issue in terms of market relations, income and property. Property creates a dichotomic structure as owners and non-owners. We can say that Weber's analysis is based on social phenomena. He focuses on the ownership and control of administrative tools in social and political issues. By establishing a link between political formations and property, he discusses the legitimacy of political formations and property. For instance, he defines feudalism in terms of private ownership of military power tools and group ownership of administrative tools. Thanks to the modern nation-state mechanism, the capitalist concept of property has socialized the ownership of

military power tools and administrative tools. Weber insists that production is the basic institutional unit of capitalism. For Weber, a capitalist system is born out of, and flourishes on, production units. Adopting Sombart's conception of high capitalism, Weber argues that the link between property and political formation --administration-- is severed completely in this period that represents the most advanced form of capitalism. In the pre-modern state phase, the property and control rights on the means of production and military power were in the executive, and this resulted in the confiscation of the property of the independent property owners as well as in the elimination of the independent producers. For the production units capitalism needed in order to flourish, the connection between the executive and property should weaken (Weber, 1993). In a capitalist system, the state exists only as a mechanism that protects and secures the right to private property.

For Weber, every socioeconomic order needs an ideological factor. The ideological factor of modern capitalism, and, with it, the capitalist concept of property, is the Protestant ethics. In his famous work entitled "The Protestant Ethic and Spirit of Capitalism," Weber expounds this with reference to three basic relationships between capitalism and the Protestant ethics (Aron, 1986, pp. 371-374).

The first relationship is the positive relationship between economic statuses of individuals and society. The second one is the relationship between religion and economy. Weber observes that capitalism has a successful performance in the Western societies which welcomed the Reformation. Going further, Weber argues that the combination of the search for profits and rational work discipline --the unique characteristics of the Western-type capitalism-- emerged only in the West and did not evolve in anywhere else. With civilization, Weber refers to Islamic, Jewish, Christian, Buddhist, Hinduist and Confucian ethical systems (Weber, 1978, pp. 611-633). Examining the ethical systems in the world, Weber concluded that the belief systems dominated by mystical elements are suitable for economic development while the secularized/mundanized belief systems offer a suitable environment for economic development (Weber, 1993, pp. 227; 241-244).

The third relationship, which is quite related to the topic at hand, is the harmony between the Protestant understanding and capitalist rational reason. This harmony can be summarized in five points:

- There is an absolute, supreme God who creates and rules the world. But, God cannot be comprehended using the limited reason of human beings.
- The salvation or damnation of every human being has been predetermined by God. The individual's own efforts cannot change this.
- God created the world for His own glory.
- Whether they are saved or damned, the duty of the individuals in this world is to work for the glory of God and establish the God's dominion on earth.
- Man's salvation is possible only with God's mercy.

These five principles which are the basic teachings of the 1674 Westminster declaration describe production and enrichment as the greatest virtue and give the message that every individual who works is destined to go to Heavens (Aron, 1986, p. 372; Türkdoğan, 1981, p. 185).

By making property, wealth accumulation and enrichment as the only requirement for happiness in this world and the Hereafter, this mindset saw property as an end, no longer as a means.

CHAPTER II

2. ISLAMIC JURISPRUDENCE AND MAIN REFERENCES OF ISLAMIC ECONOMIC THOUGHT

“Sharī’ah” is a general word given to all Islamic texts and methods. Muslim philosophers define it as “the matter that cannot be known without a divine revelation”. This definition is broad enough to involve divine statements made through all prophets.

According to the commonly accepted classification, Islamic texts are collected under three titles; (i) belief, (ii) individual or social relations and practices, (iii) morality. According to Abu Hanifa, *fiqh* means knowing whether something is favorable or unfavorable for an individual. As it is understood from this definition, fiqh includes behavior, acts of worship, and moral issues. It is necessary for a Muslim to adopt all rules under these three categories and practice them. However, as a result of the different definitions and interpretations of the concept of Fiqh by Islamic law schools (Mathaheb), these Texts have all been classified In order to have a systematically completed whole set, thus every title had become a unique field of examination, study, and specialty. Thus, fiqh is a discipline that defines and interprets Islamic texts regarding individual and social life (Kazıç1, 2005).

It can be said that Islamic jurisprudence --*fiqh*-- has five main objectives in general: (1) protection of life, (2) protection of intellect, (3) protection of religion, (4) protection of offspring or lineage, (5) protection of property.

2.1. MAIN REFERENCES OF ISLAMIC ECONOMIC THOUGHT

A 'Source' signifies where and how a certain thought had arrived. A 'Source' in Islamic Thought refers to both written and unwritten types of evidence which involve texts and methods that do not include text itself, but they help to find out the meaning of that text (Yaman & Çalış, 2013, p. 41).

As it is stated above, it is commonly accepted to examine Islamic jurisprudence through two parts --the evidence itself and the methodology through which we use the evidence. If evidence is defined as a body of rules which do not include human contribution but has legal consequences for human behaviors, then the evidence is simply Qur'an and Sunnah. These two main sources are known as *Nass*. Nass texts are revelations from God Almighty. They do not include human contributions and so they are definite. The first question which comes to mind is whether or not Sunnah provisions --which are statements and behaviors of Prophet Muhammad (P.B.U.H.)-- can be classified as human contributions. The following discussion focuses on that question while explaining Sunnah as one of the main sources of Islamic economic thought.

On the other hand, method refers to practices used to infer provisions from Qur'an and Sunnah based on revelation. Evidence is a source which, based on the revelation, enables the determination of whether an act is correct or false, free or prohibited; however, methods provide ways to think based on evidence. Ijma, which refers to the consensus of the Muslims on a provision, is the third source of Islamic Economic Thought.

The question of 'from which sources do we obtain provisions' and 'how provisions in Islamic law can be obtained' was clearly explained in a simple dialog between Prophet Mohammad (P.B.U.H) and Muadh ibn Jabal who was appointed as a judge in Yaman. It is told that the Prophet Mohammad asked Muadh ibn Jabal "what would you do if your judgment was required?" "by the book of Allah (SWT)" answered Muadh ibn Jabal; then the Prophet asked "what if you could not find the judgment there?", "Then with the Sunnah of the messenger of Allah (SWT)" answered Muadh ibn Jabal; then Prophet Mohammed (P.B.U.H) asked again "what if you could not find it there also?" , Muadh ibn Jabal answered, "I would make *ijtihad* and would not leave it undecided", and this

answer made Prophet Mohammad (P.B.U.H) saying “praise be to Allah (SWT) who made the messenger of his messenger does what pleases Allah's messenger “ Based on this, it can be rightly concluded that the sources of Islamic law are Qur’an, *Sunnah*, and under the light of these two sources, there is *ijtihād*. These sources are also called primary sources. In fact, the name ‘*nass*’, which is used to refer to Qur’an and Sunnah, the primary sources, simply means *the main text* (Apaydın, Türcan, Okur, Hacak, & İltaş, 2010, p. 70). Since Islamic law, in fact relies on revelation, Qur’an comes at first in the hierarchy of ground sources (Yaman & Çalış, 2013).

Ijtihād is the action of “reasoning and deduction” under the light of the main texts –called *nass*. *Ijmā* --*consensus of ulema*-- means the consensus of people who are qualified to make *ijtihād*, on a certain subject. Having taken into consideration the limitations in direct applications of the *Nass* (Qur’an and Sunnah) in our rapidly changing world, the use of *ijtihād* and *Ijmā* is seen as a way of providing social harmony, thus making Islamic religion dynamic and enabling it to produce solutions for today’s problems (Apaydın, Türcan, Okur, Hacak, & İltaş, 2010, p. 71).

2.1.1. Qur’an

Qur’an has statements which directly regulates the economic life beside that Qur’an includes several economic terms like Zakat --obligatory purifying alms-- Jizyah --poll tax-- Fey' --booty taxes-- Kharaj --land tax-- Riba --interest/usury-- etc. Qur’an is the fundamental source of Islamic Economic Thought, a book revealed by Allah (SWT) to Prophet Mohammad (P.B.U.H), and it is a message (Hamidullah, 2000). Both the meaning of Qur’an and the text, revealed in Arabic language, came directly from God Almighty. Qur’an is the last Holy Scripture, which has been delivered to us with no discontinuity. The dominant character of Qur’an is drawing a framework for general principles of morality and law by defining some basic principles. It is not a casuistic text.

Qur’an offers itself as a guiding spirit in every field of human life at all times. According to what I accepted through Muslim communities, Qur’an which was completed gradually in 23 years as of 610 (A.D.), composed of 114 Surah and 6236 verses.

According to the generally accepted opinion, Qur'anic texts are classified into three different titles: texts related to belief, texts related to personal or social relations and actions, and texts related to morality. Three basic Islamic fields of study were founded in accordance with Qur'an's aforementioned categorization. Qur'anic texts related to beliefs are usually studied in (i) Kalam philosophy, while morality texts are studied in (ii) Tasawwuf philosophy, and texts with subjects as worship and law are studied in (iii) Islamic jurisprudence (Fiqh). Verses of Qur'an which are directly related to Islamic jurisprudence are called "the texts of Ahkam," and there are nearly 500 Rulings related verses in Qur'an. Qur'an explains the issues concisely, and anyone reading it can understand the direct meaning clearly; however, inferring texts from these concise statements requires speciality and a serious knowledge base and A clear methodology (Apaydın, Türcan, Okur, Hacak, & İltaş, 2010, p. 72-75).

Muhammed Esed translates 9th verse of Al-Hijr Surah, which is the 15th Surah of Qur'an, from Arabic into English by this means:

"Behold, it is We Ourselves who have bestowed from on high, step by step, this reminder? And, behold, it is We who shall truly guard it [from all corruption]" (Asad, 2006, p. 361).

Allah (SWT) tells us that He revealed Qur'an, and He will forever protect it from being corrupted. Qur'an, which is revealed and protected by Allah (SWT) in order to guide human in every field and every stage of life, is the primary source of Islamic thought and the main evidence it stands on. The reasonable evidence that Qur'an has reached today with no change is that it is carried by a great number of people who would not come to an agreement to narrate the same "wrong" Text generation after another. Qur'an has existed as it is today through history.

In order to be examined thoroughly, it is possible to put Qur'an's content into two periods of time: a) verses revealed in Mecca, and b) verses revealed in Medina. Muslims, who were under political, economic, and social pressure in Mecca, were ordered by Allah (SWT) to emigrate –Hijra-- to Medina in 622 (A.D.). Verses revealed before the Hijra are mostly about faith and principles of Islamic belief. On the other hand, verses on legislations regarding issues such as the economy, tax law, state order, social life,

morality, and such practices were starting to be revealed in Medina, after the immigration of Prophet Mohammed (P.B.U.H) from Mecca to Medina. The issues handled in this study are predominantly about verses revealed in Medina.

2.1.2. Sunnah and the Role of Sunnah in Islamic Economic Thought

In addition to tax types like zakat -obligatory alms-, jizyah -poll tax-, fey', kharaj and riba which are stated in Qur'an and Sunnah, heavy and unfair tariffs and marketplace taxes which are applied in pre-Islamic era are also mentioned. Under this title, the meaning, types and position of Sunnah on Islamic Economic Thought will be explained briefly.

After Qur'an, Sunnah is the most important source of Islamic jurisprudence (Chapra, 1992, p. 359). The secondary position of Sunnah implies only hierarchical order; it does not involve any further meaning to Sunnah's function or importance (Yaman & Çalış, 2013, p. 44). Lexical meaning of Sunnah is the path, custom, practice, while its technical meaning in Islamic jurisprudence is "the statements and behaviors of Prophet Mohammad (P.B.U.H) and the others' behaviors and statements approved by Prophet Mohammad (P.B.U.H)". There is no disagreement among Islamic scholars (Ulamā) about accepting Prophet Mohammad's (P.B.U.H.) Sunnah as evidence for Islamic Jurisprudence, adapting them and taking them as examples.

Sunnah is needed in order to understand Qur'an. Prophet's exposition of revelation gives information about the religion, while applying this revelation clearly in his life gives information about the religion's form and manner. Prophet Mohammad (P.B.U.H) did not only quote Qur'an's texts, but also did apply its texts in his life and to us and explained Islam's form by his words and behaviors. With a simple example; performing Salat which was ordered many times in Qur'an, however, how to perform Salat, pillars of Salat what to say while performing Salat, form of it and its contents are understood through Prophet Mohammad's (P.B.U.H) words and behaviors since these are not mentioned in Qur'an.

The main function of the Sunnah is to reveal texts of Qur'an and explaining it. The main reason behind Sunnah being so important and to be considered by Muslims as one of the primary sources of Islamic jurisprudence is Qur'an itself. Sunnah takes its legitimacy from Qur'an. In Qur'an, Allah (SWT) praises Prophet Mohammad (P.B.U.H) many times and asks people to obey him. Between the 2nd and the 5th verses of An-Najm Surah – which is 53rd Surah of Qur'an- it is ordered that:

“(Qur'an 53:2) This fellow-man of yours has not gone astray, nor is he deluded, (53:3) and neither does he speak out of his own desire: (53:4) that [which he conveys to you] is but [a divine] inspiration with which he is being inspired - (53:5) something that a very mighty one has imparted to him (Asad, 2006, p. 744).”

In these verses, it is emphasized that the behaviors and statements of Prophet Mohammad (P.B.U.H) do not arise from desires and requests brought by a human being, they are the results and requirements of the celestial messages sent to him. That Prophet Mohammad (P.B.U.H) is a good example for all humanity, namely the Muslims, and his words and behaviors should be taken as an example. As stated in Qur'an, Surah 33 -Surah Al-Ahzab-, verse 21:

“(Qur'an 33:21) Verily, in the Apostle of Allah (SWT) you have a good example for everyone who looks forward [with hope and awe] to Allah (SWT) and the Last Day, and remembers Allah (SWT) unceasingly (Asad, 2006, p. 594).”

Another reason why Muslims give importance to Prophet Mohammad's (P.B.U.H) orders, suggestions, words, and behaviors is found in 80th verse of An-Nisa Surah – the 4th Surah of Qur'an- which proclaims that obeying Prophet Mohammad (P.B.U.H) is equivalent to obeying Allah (SWT). This verse orders;

“(Qur'an 4:80) whoever pays heed unto the Apostle pays heed unto Allah (SWT) thereby; and as for those who turn away - We have not sent thee to be their keeper (Asad, 2006, p. 126).”

As it is understood from the above-mentioned verses, Sunnah, as a source of Islamic Economic Thought, holds the same function as Qur'an and thus constitutes a divine source. This is why Qur'an and Sunnah texts together are described as *nass*, meaning the main text (Yaman & Çalış, 2013, p. 44).

2.1.2.1. The Different Kinds of Sunnah

Sunnah, according to a number of narrators in Isnad, is divided into three in general categories. Factors which determine the reliability of narrations are: (i) the uninterrupted narration range till Prophet Mohammad (P.B.U.H) and (ii) the number of narrators. The types of Sunnah will be mentioned in such a way that even individuals involved in the science of economics or other social sciences can easily understand. The subject will be handled without touching on discussions of fiqh scholars about it and without giving extra details.

2.1.2.1.1. The Mutawatir Sunnah

A Mutawatir Sunnah means it belongs to Prophet Mohammad (P.B.U.H) and has reached us through authentic sources (Ṣaḥīḥ). In order for a Sunnah to be Mutawatir, at each stage of narration's chain; Sunnah should be reported through a vast number of Muslims who through such numbers would no possibly come to agreement on a same wrong information, who are fair and trustworthy (Apaydın, Türcan, Okur, Hacak, & İltaş, 2010, p. 75). Furthermore, the chain of narrations should be narrated till Prophet Mohammad (P.B.U.H) uninterruptedly. Following every narrator's answer to the question: "From whom have you heard this Sunnah?" would lead us to Prophet Mohammad (P.B.U.H) ultimately.

According to another definition, Mutawatir Sunnah is a Sunnah narrated by so many Muslims, fair and trustworthy people who do not come to an agreement on a same wrong information in any of the generations of *aş-şahābah* (sahabah refers to the companions, disciples, scribes and family of the Islamic Prophet Muhammad (P.B.U.H)) , *Ṭābi'ūn* (Followers, Tabi'un are the generation of Muslims who were born after the death of the Islamic prophet Muhammad but who were contemporaries of the Sahabah.), and *Ṭābi' al-Ṭābi'īn* (Ṭābi' al-Ṭābi'īn is the generation after the Ṭābi'īn in Islam) (Yaman & Çalış, 2013).

2.1.2.1.2. The Mashhur -Mash-hūr- Sunnah

Mashhur (literally, widespread) Sunnah is a Sunnah narrated by a few of aṣ-ṣaḥābah –the first chain of a narration- who lived with Prophet Mohammad (P.B.U.H), however, in generations of Ṭābi‘ūn and Ṭābi‘ al-Ṭābi‘īn, the number of Muslims, fair and trustworthy narrators became so numerous that there would be no possibility to settle over a lie. Although a Mashhur Sunnah is strongly linked to Prophet Mohammad (P.B.U.H), relating it with Prophet Mohammad (P.B.U.H) is not precise.

2.1.2.1.3. The Ahaad -Āḥād- Sunnah [Khabar al-Wāḥid]

The number of Ahaad among Sunnah is not few. The Ahaad Sunnah is a Sunnah narrated in every generation of aṣ-ṣaḥābah, Ṭābi‘ūn and Ṭābi‘al-Ṭābi‘īn; however, the number of narrators could not reach Tawatir level. More specifically, if a Sunnah is narrated in every generation of Sahaba, Ṭābi‘un and Ṭābi' al-Ṭābi'in, but the number of narrators could not reach a level that would enable impossibility of settling over false information, it is called Ahaad Sunnah.

Ahaad Sunnahs, which are uninterruptedly narrated and characterized as Ṣaḥīḥ --it is best translated as authentic-- according to hadith scholars, are considered as evidences in Islamic Law.

2.1.2.2. The Role of Sunnah in Islamic Economic Thought

In order to understand the Sunnah in a systematic and specific way, the sciences of Hadith have made the Sunnah available to humanity as a source of knowledge. It can be said that the process, through which the Sunnah-related studies matured and became a systematic science, completed before the end of the second century of Hijrah. Almost all of the written works, which are among the classical sources of the sciences of Hadith today, were put on paper in this process and the sciences of Hadith preserved its

continuity until today by way of written sources. The information that is given in this section about the Sunnah is the technical part of the Sunnah. When examining the historical development of Islamic societies, it is easily understood that the Sunnah is not just a source of knowledge for jurisprudence; rather it is a combining element for Islamic societies, as well as a constituent for the Islamic civilization. Furthermore, the Sunnah is not only the source of knowledge of Islamic law following the Qur'an. The Sunnah, incomparably, is to narrate continually all the details about the life of the Prophet (P.B.U.H.). The Sunnah is a system of values lived and experienced in its own coherent integrity, as it is an observable, interpretable, understandable form of this system of values.

Prophet Mohammad's (P.B.U.H.) life carries greater realities than receiving revelation and delivering revelation to humanity. These realities are observable and interpretable, and are the facts that belong to the individual internal integrity and social life, which do not contain preternaturalness and metaphysical elements. These realities have been reinterpreted by taking the conditions changing historically into consideration, and have been instructive for Muslim individuals and Islamic societies. Muslim societies have always considered the instructive characteristic of the Sunnah when seeking solutions to the problems they face. When viewed from this aspect, the Sunnah is not only the practical explanation of the Qur'an but also the founding principles and values that construct the Islam civilization. These values and principles have manifested itself in every work of Muslim societies revealed in the name of culture and civilization, including economic institutions and regulations. In this respect, it can be said that the Sunnah has an instructive effect guiding Islamic culture and civilization. The constituent and directive effect of the Sunnah has shown itself, especially in the institutional field. Among these institutions are the awqaf, Hisbah -Islamic office for economic regulation-, public finance organization.

It can be said that one of the most important factors that provide continuity to Islamic civilization and Islamic thought is the Sunnah. The continuity herein points out both the historical continuity and continuity of thinking. The most important visible effect of the continuity is to reunite Islamic thought and civilization with its original forms in joint essential principles, regardless of regional, ethnic, social and cultural differences. At this

point, the Sunnah can be regarded as a dynamically balanced element that holds Islamic thought and civilization at the same route in different geographies and in different periods of history.

Varying interpretations of the Sunnah due to the natural causes emerged from social, cultural, experiential differences, has also diversified the elements of civilization that the Sunnah formed throughout the history. These differentiations have not been dissidence reason until modern day, on the contrary, have been considered as one of the sources of dynamism of Islamic civilization. However, it is the Sunnah that unites different cultures in joint principles and that brings Muslims together on the common cultural ground and makes them an Islamic society wherever you are in the world. The Islamic religion has not excluded new cultures encountered in its spread territories. By interacting with new cultures, it has built an upper new social identity and has become permanent in places that the Muslims conquered. The Islamic religion has evaluated the economic institutions and activities in the conquered territories within the idiosyncratic dynamics of the culture and civilization of each place. Therefore, Islamic economic thought cannot be said to be a sense of an economy of a certain society or a certain culture. It is unthinkable for Islamic economics to impose the economic structure, institutions and economic system of a given culture as a prescription for salvation to the world. Islamic economic thought is a part of the history of humanity and has always considered the common historical experience of humanity. The integrative factor of the Sunnah also appears at this point. The present day and ex economic knowledge of humanity or the references of Islamic economic thought. Islamic economic thought is neither a product of a single culture nor recommends a single culture as a way of life. This is one of the most important points separating the Islamic economic thought from capitalism.

When the history of the Prophets (P.B.U.H.) literature was examined we can say that; no Prophet has transformed the culture in which he lived or the culture of another society into a universal religion. It will be seen that all prophets with experience in the life of prophets literature convey similar messages to their societies. This phenomenon raises the responsibility of evaluating the messages of the prophets from a supra-historical and -geographical point of view. From this point of view, also the Sunnah is not the cultural literature of a community that lived in a certain time and in a limited geography. The

Sunnah today, as in the past, is a constituent and unifying element that makes people who live in different geographies and are connected to different cultures a member of the Islamic society. It would be a false abstraction to confine the idea of Islamic economic thought to the economic structure, institutions, and activities of a culture or a community of the past. This abstraction stems from the illusion of esteeming time and space as the sole determinant of reality. However, Islamic economic thought is an economic thought that takes advantage of all economic structures, institutions, activities, and systems established by Islamic societies and other societies in contact with Islamic societies throughout history, and that considers regional and cultural differences. Thus, the unity and continuity revealed by the Sunnah are not only shown itself in belief and worship but also in social and economic processes.

It is clear that the Sunnah has an indirect or direct effect on All civilization created by Muslims. Muslim societies have performed the march of culture and civilization under the leadership of the Sunnah. Social, political, financial and military institutions, which are the physical appearances of these civilizations, are also shaped by the influence of Sunnah. For Muslim societies, the Sunnah is not a bygone static practice as it aims at the continuous innovation and actualization of Islamic thought. An interruption in the Sunnah will also affect the Islamic civilization and Islamic thought. Since the hadith literature has survived to the present day continually, it is not possible to mention an interruption in terms of the material continuity of the literature. Although the Hadith literature has survived to the present day continually and has preserved its material continuity, we can still talk about a Sunnah-based disconnection in the Islamic thought tradition, including Islamic economic thought. This interruption arises from the fact that the Sunnah is not understood as a whole and cannot be interpreted in a methodology that can provide solutions to the problems of modern people.

It is a known fact that there is a vast literature that had been produced in the scope of sciences of Hadith. To build a living and sustenance system of thinking or to establish a legal provision that will regulate social life from the Hadith literature, especially from classical hadith resources requires a powerful methodology and specialization. It would not be wrong to say that even the scientists are out of their depth and fail to satisfy on understanding this great literature as a whole and building a systematic thought that will

set an example and guide modern people in every aspect of life. In order to crosscheck this claim, it would be sufficient to assess the performance of responding to the modern challenges that the Islamic world has been facing. As the modernity intensified its severity, the silence of Islamic thought became more perceptible, and the accumulated question baggage of Muslim societies expanded rapidly in the modern age. In such a process, the hadith literature, which has been translated into world languages and taken place in the house, computer, or even the mobile phone of every person, has begun to take its place among the initial sources for each Muslim individual. Since anyone who can easily reach hadith literature, includes in the process requiring a substantial methodology and expertise, it can be said that knowledge chaos and a deepening of disconnection in the Islamic thought happen.

Briefly, the constituent and unifying elements of the Sunnah should be taken into account when building Islamic economic thought. The fact that Islamic economic thought has a supra-natural universal character may be possible by separating the religious one from the cultural, and the universal one from the regional. One of the most important and the highest priority issues about the Islamic economic thought is that Islamic economic thought is deprived of a strong methodology that evaluates the basic references of Islam, especially the hadith literature, and the common historical experience of humanity from a holistic point of view.

2.1.3. The Ijma

Ijma (Ijmā‘) is an Arabic term referring to the consensus or agreement of the Muslim community basically on religious issues. Its lexical meaning is ‘to ally’. Alliance in Ijma is inferred from an alliance on a decision made pertinaciously and steadfastly. (Keleş, 1994, p. 5).

It is seen that modern scholars interpret Ijma as ‘to effort’ rather than its lexical meaning ‘to ally’. As a result of this interpretation, the notion of Ijma can be re-considered as majority’s opinion confirmed after consultation. The relevance between this

consideration and today's parliamentary system hold a distinct importance (Eraslan, 2011).

As an Islamic notion, Ijma' is defined as "the consensus of Mujtahids of any period concerning a sharia value." This definition excludes both the non-Moslems and the non-mujtahids (Aghnides, 1916, p. 79).

In his lifetime, Prophet Mohammad (P.B.U.H.) had political, religious and judicial authority over all Muslims. After he passed away, the gap in political authority was filled with the election of a caliph. These caliphs partially fulfilled the gaps in religious and judicial authority. In historical process, political, religious and judicial powers were disintegrated from each other. The legitimacy of religious and judicial decisions taken after this disintegration is therefore provided by the Ijma institution.

The legitimacy of Ijma institution is grounded in several verses and hadiths. The most prominent of these evidences is the statement of Prophet Mohammad (P.B.U.H), "my Ummah will not unite upon misguidance." All verses and hadiths considered as evidence for Ijma institution rely upon the idea that the followers (Ummah) of Prophet Mohammad (P.B.U.H) cannot reach consensus on faulty and misguided issue, and this situation is inherent in only Prophet Mohammad's (P.B.U.H) ummah (Apaydın, Türcan, Okur, Hacak, & İltaş, 2010, p. 78).

For an Ijma to be realized, the main condition is consensus among all mujtahids. Also, it is important to determine who are qualified to make Ijma on a subject. However, exempting unqualified people from the Ijma board and letting qualified people in the board could face a probable objections to decisions taken by the Ijma.

Beside actualizing Ijma, Narration of Ijma can be characterized as mutawatir, mashhur, or ahaad, as in Sunnah.

Although Ijma's reputation among the sources of Islamic jurisprudence is subordinate to Qur'an and Sunnah, it is in the same category with Qur'an and Sunnah in terms of judicial power, since it is relying on Nass or a meaning inferred from a nass.

In present days, new instruments and marketing strategies are used in trading, economic relations are becoming complex, production tools are developing and product range is expanding unlimitedly, while consumption habits are also changing. For Islamic thought, finding solutions to the problems emerging from this alteration is only possible by running different judicial mechanisms on condition not contradicting with Nass, utilizing a prosperous historical aggregation of Islamic Law. Furthermore, Ijma institution implies two distinct things today; the first is that Ijma institution adopts a consensus, unanimity or plurality in the solutions; it signifies a structure similar to today's parliamentary system which supplies social and judicial stability. The second is that Ijma holds a function of limiting public authority, as Ijma decisions are binding everybody and executives cannot change decisions by themselves.

Considering that Nass is stable and every day new problems come out in our modern world, Ijma turns stable Nass into a dynamic and remedial structure (Apaydın, Türcan, Okur, Hacak, & İltaş, 2010, p. 71).

CHAPTER III

3. THE CONCEPT OF PROPERTY IN ISLAMIC ECONOMIC THOUGHT

People have certain needs which they must satisfy in order to maintain their biological and psychological existence. The institution of property can be defined as the content and form of the social, economic and legal relations that emerge during the satisfaction of these needs. It is noteworthy that many turning points, economic, social, religious and cultural change and transformation in human history have not been independent of the phenomenon of property. It can be suggested that the concept of property influences numerous areas ranging from social structure to the state administration. Considering the fact that the right to property is necessary for people to maintain their biological and psychological existence, it can be said that the right to property is close to the right to life in terms of importance. A restricted person without capacity to act may be deprived of many rights, but his right to life and right to property are inviolable. A fetus in the womb of his/her mother can inherit property. The right to property fulfills a major function in maintaining one's biological and psychological existence, i.e., realizing one's right to life.

The purpose of this Chapter is to identify and make sense of the nature and characteristics of the Islamic concept of property, its benefits to individuals and society, and its legal, philosophical, economic and social foundations. Before moving into a discussion of the Islamic concept of property, the understanding of property in the previous religions, namely Judaism and Christianity, will be examined. Then, the social and cultural conditions before the advent of Islam will be briefly discussed and the socioeconomic analysis of the pre-Islamic Arab society will be performed. Finally, the concept of property will be analyzed based on the basic references of the Islamic economic thought, and how the concept of property in the Islamic economic thought was grounded in religious, philosophical, legal, economic, moral and social aspects as well as the distinguishing characteristics of the emerging concept of property and the socioeconomic effects of this concept of property will be demonstrated.

3.1. CONCEPT OF PROPERTY IN JUDAISM, CHRISTIANITY AND PRE-ISLAMIC ARAB SOCIETY

According to the Islamic system of faith, there were prophets who came before Prophet Mohammad (P.B.U.H.) summoning people for justice, morality and peace and there were sacred texts before the Holy Qur'an revealed by God to these prophets. Every believer in the Islamic faith sees all prophets who came before Prophet Muhammad (P.B.U.H.) as prophets and acknowledges the truth of the sacred texts sent to these prophets. A Muslim believes in, and holds in high esteem, Prophet Elijah, Prophet David, Prophet Joseph, Prophet Moses, Prophet Jesus and all other prophets as s/he believes in, and pays respect to, Prophet Mohammad (Qur'an 2:136). According to the Islamic faith, Islam is the common name of the religion God sent to humanity via all prophets. Given that all of these belief systems call for peace, morality, social solidarity and justice, and considering the similarity of the teachings of these belief systems, it is quite natural to assume that their sources are the same. Based on this similarity, any effort to understand the concept of property in Judaism and Christianity will help to better understand the concept of property in the Islamic economic thought.

3.1.1. Concept of Property in Judaism

Before the coming of Prophet Moses, the Hebrew society would engage in animal breeding, live in tents and lead a nomadic life looking for water sources and pastures. As in any lifestyle, the nomadic lifestyle has its unique conditions and specific concept of property supported by these conditions. For instance, individualism and private property come to the fore in urban life whereas collective property emerges in addition to private property in rural, but settled lifestyle. In nomadic lifestyles, on the other hand, the scope of collective property is broader as the family and community ties are stronger due to demanding living conditions. This applies to the Hebrew society before the advent of Prophet Moses. Due to the dangerous nature of the nomadic lifestyle in a geography covered with deserts, cases of collective property can be found in Hebrews. The most obvious cases are related to the pastures where their animals grazed. Although scarce

pasture lands and rare water resources entailed collective use of these lands, family ownership of animals was in question (Challaye, 1969, p. 43).

Another characteristic of nomadic communities is that there are not huge different differences among community members in terms of wealth. As nomadic communities lead simple lifestyles and the range of goods and services they can produce and consume is limited, virtually all community members wear similar clothes that are suitable for the climate and consume similar foodstuffs offered by their geography and stay in similar tents with similar standards. Richness in such communities may be attributable to the number of animals owned. It can be said that Hebrews continued to lead a nomadic life until they were settled in the Land of Canaan (Lods, 1930, pp. 232-233; 460-461).

The Land of Canaan --Hebrew: Kena'an, Akkadian: Kinahhu-- was the name of a vast geography comprising today's Palestine and Lebanon, and the coastal regions of Egypt and Syria. It is estimated that Hebrews had settled in Canaan between 1500 and 1000 BC. Thus, Hebrews transitioned from the nomadic lifestyle to an agricultural community and started to exhibit the typical characteristics of agrarian societies.

There is no precise information whether the practice of collective property continued among Hebrews after they became farmers upon settling in the Land of Canaan. However, in the written documents shedding light on the Jewish history, it is seen that the institution of private property had become established in the Hebrew society upon their adoption of a sedentary lifestyle (Güriz, 2018, p. 38). Proliferation of private property led to the emergence of richness as a sign of social status in society. Starting from the 10th century BC in particular, the primitive order of the nomadic life completely disappeared, and, in connection with it, property-based social stratification emerged. Among the Hebrews, the skilled and influential farmers managed to increase their earnings and expand their lands. On the other hand, a military class that grew wealthy through war spoils resurfaced (Lods, 1930, pp. 461-462).

According to the Islamic faith, all monotheistic religions are collectively termed as Islam. That is, all prophets conveyed the message of Islam to humanity. For this reason, Judaism, Christianity and Islam have the same moral background. They have similar conceptual sets. For this reason, it can be argued that the concepts related to property and wealth in the

Jewish faith are used in similar contexts and senses in Christianity and Islam (Taylor, 1947, p. 11).

It can be said that there are five basic principles related to property in the Jewish sacred book of the Torah. These principles are as follows:

The first principle can be defined as the principle of God's dominion. It is God who created man, and therefore, God is the cause of human life. Accordingly, everything man can own belongs to God. The owner of everything in this world is God, who created everything. As God is the true owner, man is nothing but a custodian (Taylor, 1947, p. 13).

The second principle can be termed as the innocence of ownership. According to this principle, property is a gift by God, who is the absolute owner, to Jews. It is assumed that the gift-giver and the gift-receiver are not strangers, but they are very close to each other. At the same time, the gift would not be treated as dangerous or evil. Therefore, damage to anyone's property means damage to God's gift (Güriz, 2018, p. 39).

The third principle can be called as the collectivism of property. According the basic doctrine of the Torah, property belongs to the tribe or family, not to individuals. The Jewish doctrine allows individuals to own clothes and ornaments for personal needs. But, land belongs to the family from the past with no beginning to the future with no end (Taylor, 1947, p. 17). The current obsession of the state of Israel with promised lands and its unlawful occupation of the Palestinian lands may be motivated by this doctrine from the Torah.

Taylor refers to the fourth principle as "walking humbly with God." In this principle, property is not an end in itself, but a means for helping others. In other words, according to this principle, it is better to support others financially than to accumulate wealth (Lods, 1930, p. 462).

It would not be wrong to call the fifth and final principle as 'private property for the sake of society'. According to this principle, property, which is entrusted by God, should be used to minimize the inequality, in society. Thus, wealth accumulation or restraint from spending for the satisfaction of selfish desires is censured (Taylor, 1947, p. 22).

There are also practices that seek to support social justice in the Jewish society. Of these practices, the prohibition of usury takes the lead. In the Jewish faith, Jews are prohibited from dealing with usury. Inferring from this principle in the Torah that they can receive interest from non-Jews, Jews refrain from usurious transactions among themselves while engaging in usury in their transactions with the people who are not Jews. In Jewish sources, usury is termed as nesheh [נִשְׁחָ] meaning snakebite. The pain from a snakebite is negligible, but the poison conveyed by that painless bite into the body cannot be removed from the body and it is not possible to get rid of that poison that spreads to the body (Bayındır, 2015, p. 28). Another practice in the Jewish faith is to give the revenues from the lands to the poor people once in every seven years. Likewise, the creditors write off the debts from their debtors once in every seven years, and this is another practice in the Jewish faith that supports social justice.

In the Jewish faith, earthly possessions are the blessings entrusted by God. Therefore, property should not be used for a tool for exploitation or injustice, but social welfare should be taken into consideration.

3.1.2. Concept of Property in Christianity

According to the Islamic faith, Prophet Jesus had been taken to heavens, as stated in 157th, 158th and 159th verses of Surah An-Nisa, which is the fourth surah in the Noble Qur'an. In the Christian faith, on the other hand, Prophet Jesus was crucified to death. It can be said that the life in this world of Prophet Jesus ended according to both faiths. Like other prophets, Prophet Jesus conveyed the divine message starting from basic faith principles, but was removed from society/this world before he could set forth the principles related to the social and economic areas. For this reason, asceticism is a widespread practice in Christianity. Consequently, it can be easily advocated that the Bible does not contain a systematic view on property or ownership. Nevertheless, the attitude of the Church, which had become institutionalized after Prophet Jesus, toward property and wealth can be discussed.

Although they failed to find an available theory on property in the Bible, Christian scholars were quick to denounce wealth due to the privileges created by the differences in wealth as well as social stratification and inequality caused by these privileges in their respective communities. The Christian theory on property had been based on this denunciation until the mercantilist period which saw the Reformation (Güriz, 2018, p. 43). In sum, the Christian theory on property has been formulated by Christian scholars. Some Christian scholars advocated for private property while others defended collective property. Yet, all of them agree that the absolute owner of property is God.

In expounding their theories on property, the Christian scholars were obviously not only influenced by the political conditions and social structure of the period in which they lived, but also inspired by the scholars and philosophers who came before them. For instance, the clerics who championed collective property such as St. Augustine and St. Ambrose knew about Magnesia by Plato while those who espoused private property knew about Aristotle's advocacy for private property. Lack of an available theory on property urged clerics to look for a religious/divine ground for their theories on property. Regardless of their leaning for collective or private property, the clerics relied on God, who is the sole Creator, as the source of property in expounding their theories on property. Both the proponents of private property and the advocates of collective property justified their views with reference to the natural order created by God, claiming that their theories were based on natural law (Güriz, 2018, pp. 43-52).

As the Bible does not offer a systematic and holistic doctrine on the socioeconomic field, it is not possible to say that the Christian faith sees private property as harmful. The thesis that the views that people should denounce worldly prosperity were incorporated into the Christian creed in the 10th century is frequently maintained. Although the Bible recommends that wealth should be shared with the poor as a virtue and the love for wealth may make people forget about God (Mark X; Luke XVIII:22; Matthew VI:24), it can be argued that the efforts to interpret these implications and advice as antagonism against property and institutionalize such interpretations are devoid of reasonable and objective supports (Emrich, 1947, p. 33).

One of the most frequently employed justifications for the Christian teachings that treat private property as harmful is the belief in the 'original sin'. According to this thesis, all

institutions established by the man who has lost his innocence are necessarily defective/evil and, therefore, private property, too, is perceived as defective. Usury is defined as making a loan with expectations for interests and considered as a sin in the Christian faith (Luke 6:34).

In sum, in the Christian faith, most of the socioeconomic theories particularly including those on property belong to the clerics and these theories include advocacy both for private property and collective property. Indeed, following the Reformation, the concept of private property has become the ethics of Protestantism and the spirit of capitalism.

3.1.3. Concept of Property in Pre-Islamic Arab Society

Here, the social and economic conditions of the period when Prophet Mohammad (P.B.U.H.) lived will be discussed. Thus, a reference point will be identified so that the Islamic concept of property can be better understood and the changes that occurred in the concept of property of the Arab society with the advent of Islam can be monitored.

The Arabian Peninsula where Prophet Muhammad (P.B.U.H.) lived was covered with vast deserts. Agriculture could be performed at the regions with water resources. The leading agricultural products were grapes, dates and wheat. As the agricultural production in the peninsula was hardly sufficient in terms of quantity and diversity, the people in the region were importing various foodstuffs, as is still the case today. In addition, animal husbandry was a major economic activity, and strong beasts of burden and strong and agile mounts would be needed, respectively for long-term trade caravans and wars. Breeding camels, chickens, goats, sheep and horses was a major source of livelihood (Hamidullah, 2013, pp. 784-799).

Geographical conditions and desert climate atrophied the development of agriculture and industry. It can be said that this led to the flourishing of trade. All sorts of consumer goods would be transported to the region via trade caravans. The region's inhabitants would travel to various countries with trade caravans and learn about different cultures and beliefs. Located on a trade route with a high trade volume, the city of Mecca served as a center due

to regularly organized trade fairs and those who would pay visit to the Kaaba. In particular, the fairs would ensure a lively commercial, cultural and religious life in the region. Mecca was located at the crossroads of the routes for Indian, Abyssinian, Babylon and Syrian trade caravans, and its inhabitants not only derived material wealth from this, but also enjoyed political influence (Erkal, 2009, pp. 31-32).

As a city where Islam emerged and which had an old and profound history and culture that dated back to Prophet Abraham, Mecca came to be known as a "safe city." Mecca was being governed by the Quraysh tribe, and this secure environment had eventually turned it into a major international trade hub starting from the late 6th century. In Mecca, not only safety of life, but also safety of property and honor as well as human dignity and social security would be ensured. For instance, the pre-Islamic Arab society had a traditional practice called i'tifād. According to this tradition, a merchant who went bankrupt would go to the desert and wait for death in his tent. In order to save merchants from bankruptcy and associated social problems and ensure social peace, Hashim ibn 'Abd Manaf ibn Qusayy developed and implemented the mudaraba partnership model. This model meant partnership in labor and capital, and enabled many small merchants to combine their capitals to create a big, secure caravan. This made it possible to create a capital with an unparalleled size in West Asia (Ibrahim, 1982, p. 344). The mudaraba partnership model, which is currently one of the widespread Islamic financial instruments, actually dates back to the pre-Islamic era. In virtually all of the prophetic biographies, there are accounts of how Prophet Muhammad (P.B.U.H.) did business using the mudaraba partnership model both before and after his prophethood (Fayda, 2005, p. 410). In the Islamic economic thought research, a contemporary or historical practice is assessed in terms of its compliance with Islam's fundamental principles before it is designated as Islamic or not, and its existence before or after the advent of Islam is not important.

With the increasing international trade volume thanks to the secure environment, the fairs boosted Mecca's economy and increased its population. The increased commercial capital led to the emergence of a salient merchant class. With the enrichment of the merchant class over time, the capital ownership started to be decisive in social stratification along with tribal membership (Ibrahim, 1982, p. 347). In the Arab society dominated by the tribal culture, the concept of property underwent a change in the historical process. In this process, the initial tribal ownership was replaced first by family ownership with the

emergence of the merchant class thanks to flourishing trade and eventually by the private property (Güriz, 2018, p. 55). It would not be wrong to say that the concept of private property had been established in the society where Prophet Mohammad (P.B.U.H.) lived, particularly in the cities.

3.2. PROPERTY IN ISLAMIC ECONOMIC THOUGHT

Human beings are social beings and they tend to live in society and particularly in a community to which they feel as belonging. They conduct production, distribution and consumption activities in a social setting and who will own the economic values produced by human beings and how have been studied by many social sciences. In this regard, property and property distribution emerge as a fact that directly affects social life (Hacak, 2005, p. 100).

Property is directly related to individuals as well as to society. In order to maintain their physical and spiritual integrity, people have to establish domination over things and nature. It would not be wrong to take property as the legal, economic, ethical and social manifestation of the domination human beings establish on the nature and things. Given the space stations orbiting around the world and the plans to establish colonies on Mars, it is obvious that property adventure of human beings is not, and will not remain, restricted to Earth. The current outlook of property may fall short of accounting for new areas and forms of domination by humanity in near future. For this reason, property has taken center stage in scientific studies not only in law and economics, but also in ethics, politics, philosophy, sociology, history, geography, architecture, environmental engineering and civil engineering.

In the Islamic economic thought, classical theories that adopt a holistic approach to property cannot be reached, but there are theoretical ideas and partial theories that signify the existence of such theories in the literature. On the other hand, the life experiences of Islamic societies are important sources for property studies. At this point, the Holy Qur'an, Sunnah and morality, which are considered as fundamental references of the Islamic economic thought, are of crucial importance in order to identify and make sense of the

nature and characteristics of the Islamic concept of property, its benefits to individuals and society, and its legal, philosophical, economic and social foundations.

In the Holy Qur'an, the term "mulk" [ملك] meaning "property/ownership/dominion" is mentioned in many verses. The 67th surah of the Holy Qur'an is called "Surah Al-Mulk." In the Holy Qur'an, the term "mulk" is used to mean 'property', referring to the right to own and use things, and it is noted that it is natural for people to acquire property through legitimate means (Qur'an 4:32; Qur'an 2:274; Qur'an 2:267; Qur'an 2:279). In some verses, on the other hand, the term "mulk" is used to mean "sovereignty," referring to the Creator (Qur'an 67:1).

In the Islamic faith, the entire universe has been created for man. In the Holy Qur'an, it is noted that the desire to acquire wealth is one of the basic instincts given to man by his creation. Without this instinct, the material development in this world would not have attained its current level. What matters is that this instinct should be satisfied through legitimate means and taking into consideration the public benefits (Qur'an 3:15; Qur'an 17:100; Qur'an 89:20; Qur'an 100:8). In this framework, the only way to ensure public welfare and social justice is not to make wealth/property as a goal.

When the Qur'anic verses concerning property are examined, two dimensions of the concept of property in the Islamic economic thought can be delineated. The first one is the de facto property which can be referred to as 'absolute property' and the other one is the 'custodial property' which can be termed as 'relative property'.

The phrases like 'absolute property', 'real property' and 'custodial property' refer to the Creator's property. The Creator naturally owns what He has created. Having created everything, God is the natural and absolute owner of the universe. In the Islamic faith, God has created the universe and made it available for use by human beings. Put it another way, the entire universe has been made available for the service of man (Mannan, 1980, p. 626; Qur'an 2:29). The relative property of the universe belongs to man. In the universe He created, God assigned man as His agent and entrusted His creatures to man (Hatemi, 1967, p. 92). In Islamic economics, the custodial nature of property determines the boundaries of property and the means of acquiring property and the way to benefit from wealth while preventing property from becoming an end in itself.

In the Islamic faith, this world is a temporary place where people are tested and the true abode is the Hereafter. Everything in the life in this world is a means of trial for people and one of the instruments for such trial is the property people own (Qur'an 8:28). The property entrusted to people should be used within the boundaries set by the true owner of that property and in line with the wishes of that owner.

It would not be wrong to say that the Islamic economic thought treats social and economic issues with two distinct methods as what is to be and what ought to be. Focusing on the facts while discussing social and economic issues signifies positive economics whereas putting what ought to be in the limelight implies normative economics. In this case, it can be maintained that the Islamic economic thought both treats the facts with an objective approach through rational and scientific methods and demonstrates what ought to be in the light of moral, conscientious, and humanitarian values and divine commandments. The issue of property is studied through positive and normative methods in the Islamic economic thought. The existing property paradigm and the imperative rules of Islamic law on property comprise the positive aspect of the study whereas the debate on social welfare and morality forms the normative side of the study. Considering the studies --both positive and normative-- on Islamic economics, it is hard to say that a comprehensive and holistic model has emerged. However, there are local and micro applications in different countries. It should be noted that these applications have small differences that are attributable to cultural, regional and social variables. Today, in many places around the world, the normative propositions of the Islamic economic thought as well as the socioeconomic effects of these propositions can be observed in the form of several institutional applications such as Islamic banks, zakat foundations, micro finance applications, Qard al-hasan --form of interest-free loan-- food banks, non-profit organizations and waqfs. Overall, these applications fail to offer a homogeneous, systematic integrity, but the Islamic economic thought certainly provides human beings who are being choked due to the stack gases of capitalism with opportunities for human soul to spell. It can be said that the unique property concept of the Islamic economic thought underlies most of its social and economic propositions. In the following sections, the unique property concept of the Islamic economic thought and its differences from other property concepts will be delineated.

3.2.1. Basic Factors Influencing the Concept of Property in Islamic Economic Thought

In this section, the characteristics of the unique concept of property in the Islamic economic thought as well as the factors underlying these characteristics will be investigated. The most distinctive feature of the Islamic economic thought is that it treats economic development and the material wealth that is the result of economic development as a means for satisfying human needs. Indeed, in the Islamic faith, the entire universe exists for man, and not vice versa. Economic growth, development, capital accumulation or wealth is not an end in itself. The aim of Islamic economics is to improve physical and spiritual well-being of all living beings. For this reason, economic growth, development, capital accumulation or wealth matters only because they serve to a more important creature, i.e., man. Any economic power is something given to our custody so that we can dispose it for the benefit of society and mankind. For this reason, the Islamic economic thought seeks not only to take Islamic law into consideration, but also to calculate the effects of all sorts of economic behaviors on individuals, society and environment as a whole. It should be noted that the entire state mechanism including the socioeconomic system should be restructured in order to make this happen (Chapra M. U., 2000, pp. 357-369). Based on the foregoing explanations, we can talk about three main factors on which the concept of property of the Islamic economic thought is built and which differentiates this concept from other concepts :

- Islamic jurisprudence,
- Public interest and (re)distribution of welfare,
- Morality and justice.

3.2.1.1. Islamic Jurisprudence

The concept of property plays a major role in the organization of daily life and it tends to be perceived as purely legal phenomenon if we ignore its social and economic consequences. Islamic jurisprudence created major changes in the concept of property in societies which adopted the Islamic faith starting from the 7th century. Islamic jurisprudence made it possible for property not only to be legal, but also legitimate. Property's being legal has something to do with rules of positive law. Anything which complies with rules of positive law may be legal, but may not be legitimate. In the Holy Qur'an as the primary source of Islamic jurisprudence, it is clearly declared that God is the Creator and absolute owner of the universe (Qur'an 24:42). The boundaries of legitimate property are determined by God, who is true owner of property. Property which is under the protection of Islamic jurisprudence is the legitimate property. For property to be legitimate, it should be acquired with legitimately earned income. In a positive law system, it may be legal to earn income through gambling, prostitution, or alcoholic beverage trade, but according to the Islamic economic thought, these earning methods are not legitimate and the income earned through these methods would not be legitimate (Özdemir, 2018, p. 48).

According to the Islamic jurisprudence, a freeholder does not have unbounded powers and authorities in using the goods in his/her possession. The freeholder cannot waste the property entrusted to him/her and cannot be stingy about it and cannot use it to the detriment of the public interest, and cannot spend it for the goods and services which are treated as illegitimate according to Islamic jurisprudence. All these restrictions affect the distribution of property. It can be argued that Islamic jurisprudence adopts an interventionist method that prioritizes the public interest in the distribution of property (Talegani, 1989, pp. 147-150). In the Holy Qur'an, those who will be punished in Hell are defined as those who fail to give food to the poor or safeguard the orphans or who are stingy and wasteful about their property. The characteristics of those who will be rewarded in Paradise are defined as those who give food to the poor, those who are neither stingy nor wasteful, those who spend the wealth given to them for the sake of God --for the public interest-- those who remember that the world is transient and property is entrusted and

refrain from excessive indulgence in love for wealth, and those who pay the zakat (purifying alms) (Qur'an 74:38-47; Qur'an 92:5-10; Qur'an 89:17-20).

The basic criterion for Islamic jurisprudence in the acquisition and disposition of property is justice. Any act that will disrupt or undermine justice is forbidden in Islamic jurisprudence. Black marketeering, stockpiling usury, gambling, extortion, and theft are prohibited because they disrupt or undermine justice in distribution of property. Every prohibited act entails a punishment in Islamic jurisprudence. Islamic jurisprudence does not treat property only as an individual phenomenon, but builds a property law based on the belief that God is the true owner of property. The rights and responsibilities of people on things are determined by God. Individuals are supposed to use property both in compliance with Islamic jurisprudence and in the public interest. Being property owner is a transient state that is limited to human life, and having no property is the fundamental state (Özdemir, 2018, pp. 53-56). The imperative rules of Islamic jurisprudence also ensure the inviolability of the right to property. Indeed, acquiring the property of others through theft, extortion, fraud and other unjust methods is considered as illegitimate. Here, the basic principle is justice. In Islamic jurisprudence, the basic criterion for legitimacy is morality and justice.

The most important effect of Islamic jurisprudence on the Islamic concept of property is visible in the definition and classification of the concepts of goods and property. Articles 125, 126 and 127 of Al-Majalla are the most systematic examples of these definitions and classifications:

125. Property held in absolute ownership is anything owned absolutely by man and may consist either of some specific object or of an interest therein. 126. Property consists of something desired by human nature and which can be put aside against time of necessity. It comprises movable and immovable property. 127. Property of some specific value is spoken of in two senses. (1) It is a thing the benefit of which is lawful to enjoy; (2) The other is acquired property. Example:- A fish while in the sea is not of any specific value. When it is caught and taken, it becomes property of some specific value.

As everything that can be owned is created by God, the relationship between man and things as well as the nature and boundaries of this relation are determined by God. In this framework, the basic principles of Islamic jurisprudence related to property are given below.

3.2.1.1.1. Basic Principles of Property in Islamic Jurisprudence

The Islamic economic thought seeks to attain social and economic justice and does not see the acts that undermine justice as legitimate. The universal principle for legitimate property is justice and morality. What is just and moral is taught to mankind via the Holy Qur'an and Sunnah and the teachings have been systematized in Islamic jurisprudence. The basic principles that legitimize the property relation in Islamic jurisprudence are as follows.

3.2.1.1.1.1. Principle of Mutual Consent [Consensus ad Idem]

In Islamic jurisprudence, legitimacy of contracts relies on consent. Consent may be expressed verbally or in writing. A rational person is not expected to give consent to any transaction which may do harm to him or her. The contracts concluded are supposed to create a reasonable increase in the total utility of the parties to the contracts in question. Defective intention of at least one of the parties to a contract results in unfair distribution of the utility to be derived as a result of that contract. A transaction that does not seek consent of the parties or that involves defective intention of any of the parties is neither moral nor just.

In Islamic economic thought, it is very likely for a transaction which is not just or moral to be illegitimate. For a transaction to be fair and moral, the wills of the parties to the transaction should not be undermined and all parties should give consent to the transaction concluded with their sound wills. There are several factors that can undermine the wills of parties and without limitation, they include lying, abusing the ignorance of one of the parties, asymmetry of knowledge, black marketeering, stockpiling, theft, extortion, and threat. The presence of any factor that may undermine will makes the transaction in question unfair and an unfair transaction is not legitimate (Qur'an 4:29).

Commercial activities that rely on mutual consent are of crucial importance for social peace. Mutual consent will lower transaction costs, ensuring that consumers can buy

consumer goods at lower prices. With the individual income remaining constant, any decrease in the prices of the goods and services will ensure that individuals can consume more goods and services, and this is called income effect. The resulting income effect is expected to boost the individual and social welfare.

The number of potential disputes in consensual economic transactions will be relatively low. In this case, society's need for security and judicial services will decline and tax burden on society will be lower. The transactions that do not rely on mutual consent will undermine social peace, driving up the demand for security and judicial services and lead to inefficient use of resources.

In the Islamic economic thought, for property to be legitimate, it should rely on a consensual transaction that does not involve defective intention.

3.2.1.1.2. Principle of Observance of Contractual Obligations

Contracts are the main factors that create rights and liabilities among people. People are free to enter into contracts among themselves unless there is the proof of prohibition of such contracts is furnished from the Holy Qur'an and Sunnah (Bayındır, 2015). The Islamic faith demands that the contracts concluded with mutual consent should be observed by the parties involved (Qur'an 5:1).

In the Islamic faith, freedom is essential while prohibitions are limited and well-defined. This freedom-oriented approach manifests itself in the Islamic economic thought as well. Provided that prohibitions are observed, legitimate property can be obtained through all sorts of economic activity. When acquired in this manner, property is under the protection of Islam from all sorts of assaults.

As noted in Articles 2 and 3 of Al-Majalla, what matters in contracts is not the form of the words or contract, but the very spirit of the contract. The spirit of the contract consists of the purposes of the parties to which they give consent without defective intention during the conclusion of the contract. For this reason, in the Islamic economic thought, it is essential for contracts to represent the intention and purposes of the contracting parties

with their form and spirit. Otherwise, it would be difficult or impossible to attain justice in case of dispute. In a system whose fundamental aim is to maintain justice, the contracts which may undermine or preclude justice are disapproved.

It had been noted that freedom is essential in the Islamic faith. As mentioned in the Holy Qur'an, everything on earth and in heavens is presented to utilization by man (Qur'an 31:20). A limited number of beings and acts have been prohibited. Prohibited acts and beings are obvious. For instance, usury is prohibited in the Islamic faith, and usurious contract is not a legitimate contract according to Islamic jurisprudence. For property to be legitimate, it should be acquired through a legitimate contract. Property acquired through a contract which deals with goods and services prohibited by Islam will not be legitimate.

The subject matter of the contract establishing property should be reasonable and clear. For instance, a statement such as "I have transferred the property of the bird flying in the sky" would not be valid. At the same time, a person can make only the things s/he owns the subject matter of a sales contract.

A contract becomes illegitimate if any of the following four criteria is fulfilled:

- the subject matter of the contract is about a prohibited good or service;
- the contract contains interest-related terms and conditions;
- the subject matter of the contract is undetermined; and
- the contract is fictive.

3.2.1.1.1.3. Principle of Avoidance of Usury, Gambling and Extreme Uncertainty [Gharar]

In the Islamic economic thought, the reason for the income obtained from any economic transaction, except for inheritance contracts and deeds of gift, is value added, and an income obtained without producing any value added is not fair, and the income which is not fair is not legitimate and moral. The most appropriate example for this is the interest income. Obtaining income without producing any value added can be considered as

exploitation of those who produce value added. For this reason, in the Islamic economic thought, usury is forbidden and partnership and trade are encouraged (Qur'an 2:275).

In Islamic jurisprudence, there are several methods for transferring property. Each method has different economic, social, legal and moral functions. The transaction by which two goods are exchanged with each other is called purchases and sale; the transfer of an economic asset to another person gratuitously is called donation; the transfer of the usufruct of a good to another person without consuming the good itself is lease; and transfer of money to another person for a definite period of time is called loan. In the classical resources of Islamic jurisprudence, interest is defined as “unreciprocated surplus required in a contract” (Bayındır, 2015, p. 30). This surplus is taken without producing any value added. It is maintained that interest is essentially a mechanism by which welfare is transferred from the poor to the rich, and it runs counter to justice and morality because it undermines and disrupts income distribution and social justice. What is obtained through interest may be legal in many countries around the world, but it is not fair and legitimate income. Wealth and property obtained through interest is not considered as legitimate in the Islamic economic thought.

Gambling is defined as a contract concluded with full uncertainty resulting in absolute gain by one of the parties and the absolute loss by other parties, and such contracts are generally referred to as betting. In the Holy Qur'an, gambling is defined as an illegitimate means of property transfer which creates injustice (Qur'an 2:19; Qur'an 6:90-91). Extreme uncertainty [gharar] refers to the uncertainty about the benefits the parties will gain in a contract or the uncertainty about the outcome of a contract. If the outcome of a contract is uncertain even for one party, such a situation is defined as extreme uncertainty. If gharar occurs due to intervention by one of the parties, this results in deception. There is also the case when uncertainty emerges due to ignorance by one of the parties to the contract. While it is not normally considered as part of gharar, it is still treated as falling under gharar as it may lead to deception through abuse. Gharar is associated with uncertainty, deception and risk (Bayındır, 2015, pp. 34-35).

In gambling and gharar, there is no exchange, but unrequited transfer of property. In the property transfer as a result of gambling, the recipient of the property does not give any economic value to the one who transfers the property. Every act which causes or paves the

way for unfair transfer of property is prohibited in the Islamic economic thought. This may appear as in breach of freedoms, but it is nothing but an effort to secure the legitimate right to property as one of the most sacred rights.

3.2.1.2. Public Interest and Re/Distribution of Welfare

The Islamic economic thought has a nature that prioritizes and values the public interest. This nature has three interrelated consequences: first, restriction of individual interests by the public interest; second, ensuring justice in income and wealth distribution through proliferation of property; and third, maximization of social welfare.

One of the purposes of the Islamic economic thought is to create economic conditions which will ensure human happiness in this world and the Hereafter. For this reason, maintaining balance between individual and public interests is one of the priorities of the Islamic economic thought. In Islamic law, individual rights are protected, but the public interest has a special decisive role in the determination of individual rights and responsibilities. The economic purpose of the public interest is to increase social welfare. Social justice and social welfare play an effective role in the limitation of individual rights and determination of social responsibilities. One of the principles to take into consideration in choosing between individual and public interests can be Article 30 of Al-Majalla -- the civil code of the Ottoman Empire in the late 19th and early 20th centuries. Article 30 of Al-Majalla reads, "Repelling an evil is preferable to securing a benefit." If the acquisition of individual benefits will lead to a decrease in social welfare, then public welfare is preferred to individual interests. Prioritization of public interests in the Islamic economic thought does not imply that all the welfare produced is allocated to the public interest or individual interests are completely ignored. An example will help to clarify this matter: if the negative externalities created by a factory to be established anew will have adverse effects on natural life and human health, then the contribution the factory will make to economic growth can be abandoned.

The importance and priority the Islamic economic thought attaches to social welfare may seem closer or parallel to the optimization of welfare as one of the major topics of today's

economics of welfare, the Islamic economic thought follows a different route in terms of ethos, purpose and methodology. The first difference is related to the approach to utility and welfare. Leaving aside the debate on whether utility and welfare can be measured, modern economics define welfare in the increase in satisfaction through consumption of goods and services (Pigou, 1920, p. 30; Little, 1957, p. 9). In the Islamic economic thought, utility cannot be defined in such a one-dimensional manner as satisfaction obtained through consumption of goods and services is only one of the dimensions of utility. Human beings do not consist only of physical bodies, and anything that increases the level of physical and spiritual well-being may increase an individual's utility. In Islamic law, non-consumption of prohibited goods or fasting as a form of worship may increase an individual's utility. Another difference is that both ordinary utility function and cardinal utility function is based on the theory of independence of utilities. In the Islamic economic thought, Muslims are likened to organs of a body, and when one of the organs is injured or becomes ill, the entire body will be affected from this injury or disease.

Another difference concerns the boundaries of social benefit. In Pigou's approach, if at least one of the individual's welfare in the society cannot be increased without decreasing the other individual welfare, the welfare of that society has reached the optimum (Pigou, 1920). Accordingly, it can be argued that individual benefit is the limit to social benefit. Provided that there is no decrease in the benefit of any individual, the social benefit can be increased by increasing another individual's benefit. However, in the Islamic economic thought, individual benefits can be reasonably sacrificed in order to attain a higher level of social benefit. All these differences can be attributable to the ethos of the Islamic economic thought. Adopting a unique ethos in its approach to things and universe, the Islamic economic thought naturally differs from modern economics as regards its purposes and methodology. Societies may differ in terms of ideal welfare levels depending on their unique social, economic, cultural and geographic conditions. The basic purpose of the Islamic economic thought is not to calculate the optimum welfare level of each society, but to ensure welfare inclusion through fair distribution of welfare produced by each society and increase total welfare in this way.

As societies develop, how the welfare produced by the societies should be distributed has come to the agenda as an important issue. This problem is not only an economic, but also a social issue. One of the most salient characteristics of the Islamic economic thought that

distinguishes it from other economic system is that it is occupied with not only increasing the total welfare, but also with ensuring the fair inclusiveness of the welfare produced. The welfare produced by society can be diffused throughout society with social and economic mechanisms. We can say that the Islamic economic thought has a number of systematic policy tools and social and economic mechanisms for ensuring welfare functions. The institution of property is only one of such mechanisms. In the Islamic economic thought, property is considered as a useful tool for ensuring welfare inclusion (Qur'an 59:7). Such a property concept is expected to rectify income distribution as well. Although it is today maintained that there is a trade-off between income distribution justice and economic growth, this trade-off is the result of the capitalist conception of property. This trade-off may not emerge in the Islamic economic thought.

The argument that there is a trade-off between income distribution justice and economic growth was first voiced by Kuznets. In his famous article, Kuznets looks for a relationship between economic growth and income distribution justice. As a result of Kuznets' work, the Kuznets curve, known in the literature as an inverted U shaped hypothesis, emerged. At first glance, this curve shows the relationship between economic growth and income distribution injustice, but at the same time, it gives the message that income distribution injustice is necessary for economic growth (Kuznets, 1955, p. 18). Kuznets argues that in the early stages of economic growth, only rich people can make savings. As a result, capital starts to accumulate in the already-rich, upper crust of society. In the process of industrialization which is both the cause and effect of economic growth, urbanization is expected to increase. Increased urbanization means migration from rural to urban areas. The resulting ghettoization will disrupt income distribution justice inside the city whereas the internal migration will undermine income distribution justice between the rural and urban areas (Kuznets, 1955, pp. 6-8). As the capital structure has become sufficiently strong in later stages of economic growth, it is recommended that part of the capital accumulation should be taken from the upper income groups through taxes and used to finance the public services and social expenditures that will increase the welfare of lower income groups (Kuznets, 1955, pp. 8-11). Our experiences tells us that the economic growth adventures of late industrialized or industrializing countries may follow different routes than those of early industrialized countries. The industrialized countries in our time, i.e., early industrialized countries, have grown without engaging in any competition for

being the forerunners in the area, and even using raw materials obtained through unfair exploitation, enslaved human labor and driving force of precious metals. The growth adventure of the countries which are currently trying to grow is moving on a route that will exacerbate income distribution injustice due to severe global competition. There are two dimensions of this worsening injustice: first, increased income distribution injustice in the economy, and second, increased income distribution injustice on a global scale.

There are numerous data and reports that confirm the worsening global wealth inequality over the years. One of these reports is "Public Good or Private Wealth?" published by the British charitable organization Oxfam, which combats global poverty, in January 2019. According to this report, the wealth owned by the world's 43 richest billionaires in 2017 and 26 richest billionaires in 2018 equals to the total wealth of 3.8 billion people who make up the poorest half of the world's population. The wealth of the world's 2200 richest billionaires increased by \$900 billion or \$2.5 billion a day in 2018. These figures not only show the global wealth inequality, but also reveal a striking view of the concentration of property/wealth. Another stunning piece of information is that the total wealth of 3.8 billion people who make up the poorest half of the world's population declined by 11% in 2018 while that of the richest people rose by 12%. When we look at the rate of wealth taxes among all tax revenues, the average of 35 OECD and 43 non-OECD countries is only 4% according to the calculations Oxfam made based on OECD statistics for 2015 (Oxfam GB for Oxfam International, 2019, pp. 6-12).

Considering these statistics, it is hard to say that taxation, social benefits, minimum wage policies and all other social policies implemented by modern states are successful in terms of welfare inclusion and (re)distribution of property. A detailed examination of the existing policy implementations and their consequences reveals that they condemn low income groups to chronic poverty instead of saving them from impoverishment. In a system where property is perceived as an end and capital accumulation is encouraged, it is natural for primary income distribution to develop in favor of wealth. In a system where primary income distribution is unfair, the level by which redistribution of income and wealth can be successful in establishing justice should be another matter for debate. In the light of the foregoing, it can be said that the need for novel and effective social policies for establishing justice in primary income distribution as well as in the redistribution, of income and wealth is more than ever.

3.2.1.2.1. Improving Social Welfare: Re/Distribution of Income and Wealth in Islamic Economic Thought

As is the case with modern economic thought, primary income distribution and redistribution of income and wealth apply to the Islamic economic thought as well. In Islamic faith, God is the absolute owner of property and He may give from His property to His servants in low or high amounts (Qur'an 2:247; Qur'an 3:26). In modern economic, this is called 'invisible hand principle'. In the Islamic economic thought, primary income distribution is done by God and what matters here is whether wealth is acquired through legitimate means. There is no limit to wealth acquisition as long as legitimate methods are followed. It should be remembered that regardless of its size, wealth is entrusted to human beings so that they can perform good and beneficial deeds with it.

In the Islamic economic thought, the basic motivation for the redistribution of income and wealth is the awareness that property is entrusted to man. Every responsible individual seeks to give what has been entrusted to him/her back to its true owner at the shortest time and in the best way possible. The quality of property's being a tool for trial or test emerges here. The trial regarding primary income distribution is to obtain property through legitimate means. The trial regarding redistribution of income and wealth is to return the trust to its owner on time and in full.

In Islamic faith, the poor have a right in the wealth of the rich (Qur'an 70:24-25). In the Islamic economic thought, the redistribution of income and wealth occurs during the delivery of this right to its owner. Zakat is one of the most effective methods for redistribution of income and wealth in the Islamic economic thought. Zakat is a transfer of income/wealth from the rich to the poor. It has economic, financial, moral and religious functions as well as social ones, and it is a worship which every Muslim who has a prescribed level of wealth must perform. Eight groups of people who are entitled to be recipients of zakat are listed in the 60th verse of Surah At-Tawbah of the Holy Qur'an:

- (1) The poor (al-fuqara'), meaning low-income or indigent;
- (2) The needy (al-masakin), meaning someone who is in difficulty;
- (3) Zakat administrators;
- (4) Those whose hearts are to be reconciled, meaning new Muslims and friends of the Muslim community;
- (5) Those in bondage (slaves and captives);
- (6) The debt-ridden;
- (7) In the cause of God;
- and (8) The

wayfarer, meaning those who are stranded or traveling with few resource (Zakat Foundation of America, 2019).

It can be said that at least six of these groups are disadvantaged groups in society.

In the Islamic economic thought, redistribution of income and wealth makes a positive impact not only on social peace and distribution of income and wealth, but also on social welfare through economic growth and economic development. Income transfer through zakat to the low income groups whose marginal propensity to consume (MPC) is high will make a positive contribution to economic growth with its multiplier effect (m).

Two types of behavior may be expected from a zakat donor who makes a rational choice. First, he may give his zakat to a needy person with whom he frequently meets in his close vicinity. Indeed, an average person cannot eat his meal with pleasure while there is someone hungry in his close vicinity or he cannot get warm or live in comfort when there is someone close to him who is cold. In determining vicinity, physical environmental vicinity, social vicinity and consanguinity/relation are taken into consideration. Consanguinity is prioritized. The second behavior expected from a rationally acting person is that he should pay his zakat to the neediest person among potential recipients.

It can be argued that social expenditures by the state, financed through taxes, can attain similar results. The fact that taxes are compulsory and unrequited affects the economic behaviors of producers and consumers, and a social expenditure financed through taxes is expected to create lower increase in national income than zakat due to this effect. In addition, as the resources tend to be used inefficiently and ineffectively in the public sector, the social expenditures by the state can hardly be expected to be as efficient and effective as zakat. Deficient information and information asymmetry, which can be expected to be higher in the public sector, constitute a major hurdle in selecting the people who are entitled to receive social benefits. These problems may increase the costs and make it harder to make rational choices. Even if some of these possibilities occur, this will minimize the social and economic effectiveness of social expenditures.

It is a reasonable claim that the possibility of the zakat benefactor's making the wrong choice is lower compared to the public sector. This is because a zakat benefactor would pay zakat to the people who are closer to him and in his immediate environment. As zakat

targets the wealth that is not used for production, the possibility of this practice to have an adverse effect on investments is lower compared to taxes. Due to the fact that zakat rates are lower than tax rates, zakat would not create a substitution effect. A transparent, reliable and institutional zakat system is expected to make positive contributions to social peace, property inclusion, income distribution justice and national income growth. Consequently, the costs of obtaining the same results through social public spending would be higher. Zakat appears to be a more effective and more efficient method.

Although it is referred to in the literature as a form of donation, zakat is actually the right of the poor in the wealth of the rich. It is a due share in the wealth of the rich (Qur'an 51:19). All its economic and social functions aside, zakat is one of five pillars of Islam, and it is a major form of worship which is frequently mentioned along with the worship of prescribed prayer in the Holy Qur'an. The worship of zakat should be performed as if paying back one's debts or returning a trust to its true owner, not as if making a donation.

3.2.1.3. Morality and Justice

Morality creates a reference point for determining what is good or evil or what is wrong or right in human behaviors. There social value judgments applicable in a specific region as well as universal moral principles. It would not be wrong to say that the dominant concept of morality is currently what is termed as non-religious morality or secular morality in which human behaviors are set loose without any point of reference. There is also the concept of morality which takes religious teachings as its reference points and which can be referred to as religious morality (Aktan, 2009, p. 51).

Morality is the source of differentiation between modern concept of property and Islamic concept of property. The moral criterion for the modern concept of property is freedom; suggesting that "private property is the most important guarantee for freedom," Hayek summed up the ontological relationship between the modern concept of private property and freedom. Private property and wealth constitutes the only way for individuals to be safe from all norms, including morality, and demands, i.e., domination, of the state, society and communities (Baldwin, 2004, p. 31). In other words, the interests of individuals are the

norms and reference points of morality in the paradigm of modern economics. In the Islamic economic thought, on the other hand, the reference point of morality is the Islamic faith. Taking individual interests as a universal moral principle may mean abandoning universal moral norms altogether. Utility functions may differ from one individual to another in the same period, and even, the utility function of a specific individual can differ over time.

The first prerequisite for the systematic exposition of the Islamic economic paradigm is to understand the Islamic morality. To understand the effects and consequences of the Islamic economic thought on society, it would be beneficial to make sense of the Islamic concept of morality.

In Islamic faith, religion consists of fine morals. Fine morals form the very basis of Islamic faith. In the Islamic faith system, religious teachings and moral principles cannot be treated separated from each other. Tawḥīd --oneness of God-- and justice form the very foundations of Islamic faith. Here, the first principle refers to the observance of God's injunctions and commandments, and the second principle is about paying regard to the rights of everything created by God.

The relationship between Islamic morality and justice is very intense in the Islamic economic paradigm. Therefore, the source of the actions that are unique to the Islamic economic thought is the Islamic morality and tawhid. The Islamic morality as the main component of the Islamic economic paradigm relies on a universal and fixed reference point: justice.

The relationship between justice and Islamic morality can be explained best by 8th and 9th verses of Surah Al-Ma'idah [The Repast], which is the fifth surah, and 135th verse of Surah An-Nisa [Women], which is the fourth surah:

(Qur'an 5:8-9) O YOU who have attained to faith! Be ever steadfast in your devotion to God, bearing witness to the truth in all equity; and never let hatred of anyone lead you into the sin of deviating from justice. Be just: this is closest to being God-conscious. And remain conscious of God: verily, God is aware of all that you do. God has promised unto those who attain to faith and do good works [that] theirs shall be forgiveness of sins, and a mighty reward. (Asad, 2006, pp. 147-148)

As is clear from these verses, justice is one of the most fundamental elements of Islamic faith. According to this paradigm, what is fair is moral and what is moral is Islamic. In the Islamic faith system, religion is the source of morality and morality becomes visible in the behaviors of believing individuals and community. Without behaviors/acts, morality cannot exist. Economics deals with economic behavior, and, therefore, it is directly related to morality. For this reason, Islamic morality has served as the most important source of the Islamic economic paradigm.

Religion is a set of rules and the way these rules are construed may change from one person to another or from one period to another. Even if the articles of law are drafted carefully, ill-intentioned interpretation of these articles will lead to injustice. Morality is the well-meaning, justice-centered interpretation of legal rules. In a society where morality does not exist, law and justice diverge from each other. A religious doctrine that is deprived of morality will have less effect on the decisions and behaviors of individuals. In such a community, it becomes an ordinary act to see thieves who attend places of worship or liars who engage in prayers or governors who use the public resources for their own benefit.

In Islamic morality, a believer has moral duties toward his Creator, himself, and society. Likewise, a community of believing individuals has responsibilities toward individuals. This multilateral moral relationship entrusts society to individuals and vice versa. People try to maintain an individual and social balance in their efforts to fulfill their duties toward themselves, the Creator and society. For this reason, in the Islamic economic thought, social responsibilities do not evolve into pressures on human life and the area of individual freedoms is not positioned above society and other units that form society. Therefore, in the Islamic economic thought, neither a system without right to private property nor a system with unlimited private property is possible (Naqvi, 2018, p. 36).

The moral principles of Islam offer a significant set of concepts for making propositions about a fair property regime. It seems impossible to suggest that Islamic morality adopts individualism and selfishness. It is obvious that the Islamic economic thought would not propose, even in theory, an egoist homo economicus who looks after his own interests. In a society where everyone cares only about their own interests, the costs of market failures and efforts to eliminate these failures to society will be huge whereas such costs will be

considerably low in a society where units that form society care about welfare of each other and in the latter, people will have to bear with lower costs.

In the Islamic economic thought, it is legitimate right to benefit from nature as long as moral rules are observed. Although the right to private property is under protection in the Islamic economic thought, it is still a right which is restricted by moral principles. Muslims are supposed to bear in mind these moral limits not only in their economic decisions, but also as regards all their behaviors (Mannan, 1980, pp. 16-19).



CONCLUSION

In this study, the contemporary concept of property and the concept of property in the Islamic economic thought were discussed comparatively. To understand how the contemporary concept of property has been formulated, the concepts of property in different periods of human history were examined. There was no sufficient finding to suggest clear-cut differentiation in terms of concept of property and social organization among ancient Chinese, Indian, Hittite and Greek civilizations, established in the Nile Valley, Mesopotamia, or Anatolia in the East or in South Asia. In all of these civilizations, land was the main factor of production and land ownership was controlled by a privileged minority. Slavery was a legitimate and common practice.

It can be suggested that land ownership was at the hands of a small, privileged minority that controlled the production in the lands that directly belonged to the ruler in the ancient Chinese civilization. Furthermore, it can be argued that property was controlled by the strong and authoritarian central administration and, as such, property was not a right, but a blessing from the central authority.

The concept of property in ancient Indian civilization was largely influenced by the social organization. The caste system as the main determinant of social organization led to wealth being accumulated in the hands of a privileged minority and property being distributed in an unfair manner. In the Hittite civilization, the lands were the basic production factors and they belonged to the king as the head of the central administration, and the king had the initiative about the cultivation of the lands. The social and political organization in Ancient Greece was elitist as wealth and land ownership were controlled by aristocrats.

The scene was similar in the Roman civilization, but property had evolved into a legal institution. Even though property was in the hands of a privileged class, it had been institutionalized as a right protected by the state. The institution of property was perfectly

grounded in the Roman legal system. The Roman law still influences the legal systems of modern states in our time from various perspectives.

The social, political and economic organization of medieval Europe was certainly a major source of motivation in the formation of contemporary concept of property. There were two main structures in medieval Europe: the feudalism which shaped the social, political and economic organization based on land ownership, and the Church, which had expanded its political and spiritual authority in the wake of the collapse of the Roman Empire. Medieval Europe was socially, politically and economically trapped between the Church and the feudal lords. This entrapment actually paved the way for the emergence of contemporary concept of property. The feudal concept of property which relied on the idea of hierarchy in land ownership continued without being questioned until the maturation of the scholastic thought. As it is visible in all works by Saint Thomas Aquinas, a leading scholar of the scholastic thought, the effect of teachings of Christianity and Aristotle is evident also in his works on ownership. Although Saint Thomas Aquinas talked about the virtues of private property, he believed that the right to property was restricted by social statutes of individuals. Yet, Thomas Aquinas's entertained a God-centered concept of property. He argued that all forms of property and absolute property belonged to God. The most important contribution by St. Thomas was that he made labor a subject of property as an economic value, effectively legitimizing slavery. For him, labor may be owned by a third person other than the labor owner, and he finds this --i.e., slavery-- necessary and beneficial. This perspective would later inspire John Locke.

It can be argued that a great proportion of medieval property theories belonged to the clerical leaders. Lack of an available theory on property in the Christian theology left clerical leaders with the problem of grounding their property theories. They solved this problem by justifying their theories with reliance on the natural order created by God, i.e., natural law. The natural order was part of the medieval perspective on the universe and accounted for all natural rights, including the right to property. There were scholars who referred to the natural order theory in an effort to justify both collective property and private property. Later, Luther attempted to refute the defense of collective property based on natural law. For Luther, who provided a theological ground for his own views, Ten Commandments were the written form of natural law. He proposed "Thou shall not steal," one of Ten Commandments, as the theological proof of private property.

The balance of power in Europe radically changed due to the rapid and radical changes in social, scientific and economic fields that occurred toward the end of the medieval ages, particularly in Western European countries. The merchant class emerged and became rich and strong thanks to the increasing commercial activities in the 16th and 17th centuries. Merchants not only brought precious metals and raw materials to Europe, they also imported knowledge and culture from the eastern civilizations. This wind of change ushered in a period when many things including the concept of property in Europe. This era would later be termed as the mercantilist period. One of the leading figures of the mercantilist period is certainly Martin Luther. Luther tried to explain the advantages of working and earning money and having private property and tried to support this view with the references to the Christian creed. Like Luther, John Calvin was another leading scholar of the period. Calvin, too, attached economic value to labor and saw it as a factor of production. He believed that the interest-loan relationship was essential for production and such a relationship was not against Christian rules. Referring to the welfare-boosting and poverty-minimizing effect of international trade, he argued that the restrictions on international trade should be abolished. Calvin was one of the first scholars who institutionalized capitalism. For many scholars particularly including Weber, Calvin's interpretation of Christianity accelerated industrialization and laid the groundwork for the emergence of capitalism. Calvin enjoyed a special role in the formation of the contemporary concept of property.

The increased trade volume and colonialist activities in the mercantilist period resulted in accumulation of labor, capital and technical know-how in Europe. The industrial revolution triggered by this accumulation was accompanied with unique social, economic, political and legal organizational forms. With this new reorganization, the means of production and production processes, materials for consumption and consumption habits and the distribution order/system evolved in never-seen-before ways. In this new order, the institution of property was given a special place and the concept of property took its current form to a great extent.

Huge wealth produced in the factories established on small pieces of lands during the industrial revolution changed the status of land. Land lost its function as being a sign of richness which is a social status or of power which is a political status, and became a factor of production which would be used in the production in return for a rent. With this change

in the concept of property, richness and power acquired an easily movable, storable and dividable form. It is certainly not a coincidence that the ideas advocating for free market economy and free property became widespread in this period. The most salient characteristic of this period was the transition from the God-centered concept of property to the human-centered concept of property, and from a system in which property would breed authority and power to a system in which property would create freedoms.

The first phase of the transition from the God-centered concept of property to the human-centered concept of property was the emergence of the secular state mentality. Hobbes took the source of sovereignty of the state to the non-religious sphere and argued that the basis of the state is contractual. Then, he established a strong bond between property and justice and state. In Hobbes' thought, property, justice and state are intertwined. For Hobbes, property is both a cause and an effect of justice. Justice means conformance to applicable contracts and the state is a power that will enforce observance of applicable contracts. Where there is no state, there is no justice. Justice exists depending on the existence of a state power that would force people to comply with the applicable contracts. Thus, Hobbes associated the existence of property with the existence of the state. Based on these views of Hobbes, it would not be wrong to suggest that property is the *raison d'être* of justice which is in turn the *raison d'être* of the state. In the theoretical framework of Hobbes, justice would not be needed if there were no property, and in such a place, a stable state power to implement legal norms for ensuring justice would not be needed as well.

John Locke took where Hobbes left and took it to the next level. This phase consisted of moving man to the non-religious sphere. Locke was inspired by Calvin's seeing labor as an economic asset and making it a technical subject of property following the footsteps of St. Thomas. For Locke, it is not legitimate for a person to dominate over another. Everyone is the absolute owner of themselves. In Lockean theory, the first ownership occurs in one's own body, and therefore, in his/her own labor. Now, the right to absolute property was transferred from God to man. The person who owns his/her own body and labor is the owner of all the goods s/he has produced and acquired through voluntary exchange. In other words, property results from the person himself/herself and cannot be considered as distinct from the property owner; a person is the absolute owner of himself/herself and his goods. It can be argued that this concept of property has two natural consequences. First, just as a person is the absolute decision maker in the matters related to himself/herself, s/he

has full sovereignty on the goods in his possession and s/he can freely make decisions regarding the goods in his/her possession. The other consequence is that any coercion against, or intervention with, any property without consent of the property owner means assault against the very person of the property owner, and gives the property owner the legitimacy to turn the assault. Brought to a non-religious sphere, man now the absolute owner of himself and everything in his possession in this secular area. Man eventually freed himself from God and property was source of this freedom. Thus, property ceased to be a natural right and become source of all natural rights. Locke did not adopt a concept of property in a limited scope, but built his entire theory on the concept of property.

Although capitalism conceptualization had not been done yet when they were alive, the capitalist concept of property matured thanks to Locke and became institutionalized with Adam Smith. Smith saw the freedom of acquiring property as the driving force of development and progress. With Smith, property became a functional part of the economic system. Smith opened the door to unlimited freedom for man who was freed from God. In other words, Smith institutionalized man's claim to be God. He saw the desire --ambition-- of homo economicus whose sole purpose is to maximize his own benefits to acquire wealth as a natural wish. It can be said that when the freedom of acquiring property without limitation is combined with the desire --ambition-- to acquire property in an unrestrained manner, the capitalist concept of property has emerged. Property had been a tool for benefiting from the matter and social order, but with Smith, it was turned into an institutional goal.

It was Max Weber's duty to legitimize the capitalist concept of property so institutionalized. Weber explains every socioeconomic order based on an ideological foundation. The ideological factor of modern capitalism, and, with it, the capitalist concept of property, is the Protestant ethics. This ethics sought unlimited profits and advocated for a rational work discipline and excluded spirituality completely. We can say that by making property, wealth accumulation and enrichment as the only requirement for happiness in this world and the Hereafter, this mindset saw property as an end, no longer as a means.

On the other part of the comparison is the concept of property in the Islamic economic thought. First, the main factors shaping the concept of property were clarified with reference to the primary sources of the Islamic economic thought. These factors were

conceptualized under the headings of Islamic jurisprudence, public interest and (re)distribution of welfare, and morality and justice.

Unlike the capitalist concept of property, a freeholder does not have unbounded powers according to the Islamic concept of property. In Islamic faith, man is the owner neither of himself nor of the goods in his possession. God, the Creator of everything, is the absolute owner of everything. Everything man has, even his body, is entrusted to him for a temporary period. In the Islamic concept of property, trust should be used as ordered by God as the true owner of that which is entrusted to man. The freeholder cannot waste the property entrusted to him/her and cannot be stingy about it and cannot use it to the detriment of the public interest, and cannot spend it for the goods and services which are treated as illegitimate according to Islamic jurisprudence. There are legitimate limits to property acquisition and usage; and there may be religious and/or social references to these limits. Religious references are the rules set forth with reliance on the Holy Qur'an and Sunnah. Social reference is the public interest. It can be argued that Islamic jurisprudence adopts an interventionist method that prioritizes the public interest in the use and distribution of property.

The basic criterion for Islamic jurisprudence in the acquisition and disposition of property is justice. Any act that will disrupt or undermine justice is forbidden in Islamic jurisprudence. Black marketeering, stockpiling usury, gambling, extortion, theft and other methods for unfair property transfer are prohibited in Islam because they disrupt or undermine justice. Every prohibited act entails a punishment in Islamic jurisprudence. Islamic jurisprudence does not treat property only as an individual phenomenon, but builds a property law based on the belief that God is the true owner of property. The rights and responsibilities of people on things are determined by God. Individuals are supposed to use property both in compliance with Islamic jurisprudence and in the public interest.

The main purpose of the property concept of the Islamic economic thought is to increase total welfare through welfare inclusion. The Islamic concept of property has sufficient legal, social, and financial mechanisms in order to fulfill this aim. Compulsory financial liabilities such as zakat and a fair tax system ensure redistribution of welfare while black marketeering, stockpiling usury, gambling, extortion, and theft, which disrupt or undermine justice in distribution, are prohibited.

Morality is the source of differentiation between modern concept of property and Islamic concept of property. The interests of individuals are the norms and reference points of morality in the paradigm of modern economics. In the Islamic economic thought, on the other hand, the reference point of morality is the Islamic faith. Taking individual interests as a universal moral principle may mean abandoning universal moral norms altogether. The relationship between Islamic morality and justice is very intense in the Islamic economic paradigm.

In Islamic morality, a believer has moral duties toward his Creator, himself, and society. Likewise, a community of believing individuals has responsibilities toward individuals. This multilateral moral relationship entrusts society to individuals and vice versa. People try to maintain an individual and social balance in their efforts to fulfill their duties toward themselves, the Creator and society. Therefore, in the Islamic economic thought, neither a system without right to private property nor a system with unlimited private property is possible. Although the right to private property is under protection in the Islamic economic thought, it is still a right which is restricted by moral principles.

Consequently, the modern concept of property is both a cause and an effect of capitalism. The natural consequence of the modern concept of property is today's world in which regional and global welfare injustice becomes entrenched. The Islamic economic thought and the Islamic concept of property have great potential for resolving regional and global welfare injustice permanently.

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