

## The Nature of Property, Its Valuation and Intellectual Property Rights in Islamic Law

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### Abstract

The importance of intellectual property in the modern world goes far beyond the protection of the creations of the mind. It affects virtually all aspects of economic and cultural life.<sup>2</sup> This is the collective wisdom of mankind, as reflected in their fundamental documents. Intellectual property is vital for the development and well being of the Muslim *Ummah*. This form of property may be considered essential today even for our traditional heritage, at the core of which lies Islamic law and Islamic knowledge. The World Intellectual Property Organisation notes: "The use of existing and new intellectual property approaches alone will not resolve the challenges confronting traditional communities today, which will need to draw on a range of legal and practical tools to strengthen respect for the customary laws that protect their traditional knowledge."<sup>3</sup> In short, the Muslim world must participate fully in the field of intellectual property to ensure its progress and development. All this may be true, yet Muslim scholars who have to justify the use of intellectual property from the perspective of the Islamic *sharī'ah* are not taking the matter seriously. There have been very few attempts to understand, analyse and validate the intellectual property system. The few attempts that have been made have been inadequate; indeed, superficial. Verdicts have been issued, but without even understanding fully what intellectual property means and how it is to be dealt with. The complexity and uniqueness of this form of property is ignored in such verdicts. In this study, the major aim is to highlight for the Muslim scholars and the Muslims scientists and thinkers where the current state of our analysis for validating intellectual property stands. A few serious, though far from adequate, attempts have been made to understand the problem and give a response. These attempts are recorded here, but before that the nature of intellectual property, and the questions it raises for Muslim scholars, has been briefly presented. It is to be hoped that the study will help in understanding the magnitude of the problem, the huge scholarly efforts that are required to assimilate the new development into the fold of Islam, and finally the moral duty to undertake *ijtihād* in this field. Such *ijtihād* must come from the scholars who lead the Muslim world today. It is their responsibility and this study is addressed to them mostly in the form of questions that need to be resolved.

**Key words:** Ijtihād, fatwā, māl, milk (ownership), zakāt.

## 1. The Nature of Property and Ownership

### 1.1 The Definition of *Māl*

The word used for property in Islamic law is *māl*. In the literal sense, the word *māl* is applied to mean "all those things that a human being can own."<sup>4</sup> Thus, the idea of *milk* (ownership) is an integral part of this literal meaning. Technically, it is defined in different ways.

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<sup>2</sup>WIPO, WIPO Intellectual Property Handbook: Policy, Law and Use, 2nd ed. (Geneva: WIPO Publication No. 489 (E), 2004), 422.

<sup>3</sup>Ibid., 448.

<sup>4</sup>Miṣbāḥ al-Munīr, s.v. "māl."

Ibn 'Abidīn says, "The meaning of *māl* is anything towards which the nature of man is inclined, and that can be stored for the time of need."<sup>5</sup> He adds that "commercial (or financial) value is established by all the human beings or some of them considering a thing to be valuable."<sup>6</sup> Al-Shātibī says that *māl* is "something that can be the subject-matter of ownership and over which the owner has absolute control to the exclusion of others."<sup>7</sup> Ibn al-'Arabī defines it is something "to which human desire extends, and it is suitable in practice and in law to be utilised."<sup>8</sup> Al-Zarkashī says that "it is anything thing that is utilised, that is, it is in a form that is ready for utilisation."<sup>9</sup> It is to be noted that the word *māl* sometimes conveys the meaning of the term "wealth," and by this, we mean property that is subject to *zakāt*. This meaning does not include land, as that is subject to *'ushr* and *kharāj*.

## 1.2 The Meaning of *Milk*

The word used by Muslim jurists for ownership is *milk* or *milkiyyah* and that used for property is *māl*. In reality, it is the modern writers who use the term *milkiyyah*. The earlier jurists use the term *milk* more often. The term *milk*, however, is sometimes used for ownership and at other times for the subject-matter of ownership. The definition of Ownership (*milkiyyah* or *milk*) and the discussions about its elements reveal that the meaning is not too different from the meaning of ownership in law. They emphasise that it is the relationship that exists between a person and a thing that gives absolute control and right of disposal over it to the exclusion of others. Thus, the dictionaries define *milk* as: "It is the gathering and control over a thing with the right of individual disposal."<sup>10</sup> This definition is very close to the definition of ownership given by Savigny on the basis of Roman law.<sup>11</sup> The Mālikī jurist al-Qarāfī defines *milk* as follows: "*Milk* is a *ḥukm shar'* that is assigned to the *'ayn* and *manfa'ah* that enables the one with whom it is associated to benefit from the thing owned and to take a counter-value for it."<sup>12</sup> This, however, does not change the essential nature of the definition with respect to "control" and "exclusion of others."

## 1.3 Classification of *Milk*

Classifications of Ownership (*milk*) are to be found spread over different topics like *shuf'ah* (pre-emption), *qismah*, *ijarah* and so on. These have been summarised by Imran Ahsan Nyazee in his book called *Outlines of Islamic Jurisprudence*. We may rely on this classification below:

### 1.3.1 Classification on the basis of participation

The first classification is on the basis of the persons participating in the ownership. It is of three types:<sup>13</sup>

1. **Sole ownership.** Ownership by one person of a particular property with all the attached rights and control.<sup>14</sup>
2. **Co-ownership also called *sharikat al-milk*.** Two or more persons jointly holding property. In law it is called co-ownership. It is treated as a kind of partnership in Islamic law and is called *sharikat al-milk*. Closely related to this type of ownership is the concept of *mushā'*, which is joint ownership in each particle of the undivided property, that is, indivisible property.<sup>15</sup>
3. **Communal or public ownership.** Things that are jointly shared by the entire community including land, grass, fire. One individual does not have the right to exclude another person from benefiting from such things, unless it has been converted to his personal ownership or possession through a legally valid mode of acquisition.<sup>16</sup>

<sup>5</sup>Ibn 'Abidīn, *Radd al-Muhtār* (Cairo, 1386–89/1966–69), vol. 4, 3.

<sup>6</sup>Ibid.

<sup>7</sup>Al-Shātibī, *al-Muwāfaqāt* (Cairo: al-Maktabah al-Tijāriyyah al-Kubrā, 1975), vol. 2, 10.

<sup>8</sup>Ibn al-'Arabī, *Aḥkām al-Qur'ān* (Cairo: Dār Iḥyā' al-Kutub al-'Arabiyyah, 'Īsā al-Bāb al-Ḥalabī wa-Shurakā'uh, 1957–58 & 1967–68), vol. 2, 607.

<sup>9</sup>Al-Zarkashī, *al-Manthūr fī al-Qawā'id* (Cairo, n.d.) vol. 3, 222.

<sup>10</sup>Lisān al-'Arab, *al-Qāmūs al-Mḥīṭ*, Miṣbāh al-Munīr: s. v. "milk."

<sup>11</sup>R.W.M. Dias, *Jurisprudence* (London: Butterworths, 1979), see chapter on ownership.

<sup>12</sup>Al-Qarāfī, *al-Furūq* (Beirut, 1343), vol. 3, 209.

<sup>13</sup>Imran Ahsan Khan Nyazee, *Outlines of Islamic Jurisprudence* (Islamabad: Federal Law House, 2005), 214.

<sup>14</sup>Ibid.

<sup>15</sup>Ibid.

<sup>16</sup>Ibid.

Certain things have been excluded from individual ownership, and they always remain in communal ownership. These are fire, water, grass, air, public roads and commons.<sup>17</sup>

### 1.3.2 Classification on the basis of chattel (*'ayn*), usufruct (*manfa'ah*), and use (*istimtā'*)

Benefits may be temporarily alienated through contract, like an owner renting out his house to another person or mortgaging it as security for a debt.<sup>18</sup> The Ḥanafī s do not make a distinction between the ownership of the corpus and ownership of benefits or services for purposes of ownership.<sup>19</sup> Both are attached to the *'ayn*. The majority of the jurists do make such a distinction. *Manfa'ah* may be owned independent of the *'ayn*. Some of these jurists distinguish between the right to *manfa'ah* and the right of *intifā'*. The word *istimtā'* pertains to conjugal rights. They arise from the marriage contract.<sup>20</sup>

### 1.3.3 Classification on the basis of complete and incomplete ownership or ownership and possession

The word *milk* is also used to qualify other legal categories that are related to ownership, but are not ownership proper.<sup>21</sup> The word *milk* or ownership is employed in three senses: *milk al-raqabah* (proprietary rights); *milk al-yad* (possession);<sup>22</sup> and *milk al-taṣarruf* (right of disposal). Thus, "*milk al-raqabah* is ownership proper that includes both exclusive control and the right of disposal. Possession or *milk al-yad* consists of exclusive control and the right to keep others out of such control, but it does not include the right of disposal."<sup>23</sup> The third type involves the right to dispose of property on behalf of the owner. This type of ownership belongs to the guardian, the executor and the agent and the mortgagee and the bailee as well.<sup>24</sup>

### 1.3.4 Classification on the basis of primary and incidental rights

Primary rights are associated with the property itself, while incidental rights are those that may be related to other property because of the primary rights. These incidental rights give rise to easements like:

1. The right of passage (*ḥaqq al-murūr*);
2. The right to flow of water (*ḥaqq al-majrā*);
3. The right to water (*ḥaqq al-shirb*); and
4. The rights of a neighbour (*ḥaqq al-jimār*). This category may also lead to the right of pre-emption.<sup>25</sup>

## 2. Relationship between *Māl* and *Milk*

There is an intimation relationship between the the terms *milk* and *māl*.<sup>26</sup> The word *milk* is sometimes applied to mean ownership and at other times to mean the subject-matter of ownership, and in this sense it includes four things:<sup>27</sup>

1. **Things that can be taken into physical possession.** The corpus or body of such things can be destroyed or consumed independently of anything else.<sup>28</sup> Once destroyed it may be liable to compensation.

<sup>17</sup>Ibid. This is based on a tradition implying that all mankind are partners in three things: water, grass and fire.

<sup>18</sup>Ibid.,

<sup>19</sup>Ibid.

<sup>20</sup>Ibid.

<sup>21</sup>Ibid.

<sup>22</sup>Possession (*milk al-yad*) is a means to ownership. "It possesses most of the attributes of ownership—control and the right to exclude others—as against all except the original owner. It is of two types: actual physical possession (*ḥaqq ḥaqīqī*) and legal possession (*ḥukmī*)."  
Possession in both its forms is distinguished from the right to possess. In the case of *ghaṣb* (unlawful possession), the usurper has a right to be in possession not only against strangers, but also against the original owner, who may seek possession through due process of law.

Ibid.

<sup>23</sup>Ibid.

<sup>24</sup>Ibid.

<sup>25</sup>Ibid.

<sup>26</sup>Ibid.,

<sup>27</sup>Ibid.

<sup>28</sup>Ibid.

Such things qualify for being called *māl* according to all the jurists, unless the *sharʿ* specifically excludes some of these due to unlawful attributes.<sup>29</sup>

2. **Benefits arising from the 'ayn.** *Manfa'ah* or usufruct or services fall in this category. These benefits cannot be destroyed or utilised independently of the body from which they are generated. In other words, they have no existence independent of the corpus from which they are generated.<sup>30</sup> The transactions through which ownership of benefits is transferred are commodate loan (*i'ārah*), hire (*ijārah*), charitable trust (*waqf*) and bequest (*waṣ'iyah*).<sup>31</sup>
3. **Things that have a body and can qualify as *māl*, but are not considered *māl* due to some technical reason.** The example is a slave is owned by a person, but is not referred to as *māl*, because a human being cannot be *māl*. The same applies to a mother's milk in the case of humans.<sup>32</sup>
4. **Pure rights that do not have a body of their own.** Like the right to stipulate an option, say *khiyār al-shart*.<sup>33</sup>

The position of the schools of law on the above categories is as follows:

1. According to the Ḥanafī school it is only things with a corpus, that is, *a'yān*, that can qualify as *māl* (property).<sup>34</sup> The other three are not *māl*, but can be the subject-matter of ownership.<sup>35</sup> Benefits arise in contracts like *ijārah* (hire). In such contracts, the Ḥanafīs say that the corpus from which future benefits will arise is substituted in place of the non-existent benefits so that the offer and acceptance can be linked to it. They do not consider pure rights as *māl*.<sup>36</sup> They also do not consider such incorporeal things like knowledge to have the quality of *māl*.<sup>37</sup>
2. The Mālikīs and Shāfi'īs consider benefits to be *māl*. They do not consider pure rights to be *māl*, because they do not arise directly from a corpus.<sup>38</sup>
3. The Ḥanbalīs considers pure rights to be *māl* although they have not clearly indicated this. They consider the *'arbūn* (earnest money) as legal on the basis of a solitary tradition.<sup>39</sup> By validating the payment of earnest money, they acknowledge the sale of options and pure rights. The OIC has preferred this tradition and opinion.<sup>40</sup>

The narrow concept of property in traditional Islamic law is now being stretched by modern jurists, courts and the Islamic Fiqh Academy of the OIC to include to include pure rights.

### 3. The Value of Property in Islamic Law

The basis on which human beings consider something to be valuable is their desire for the thing, the scarcity of things, and human practices. This issue is important for the discussion of intellectual property rights, because the value of intellectual property has not always been acknowledged. Wealth in order to have value must be marketable, that is, it should have commercial value. This concept is contained in what is called *māl mutaqaḥḥam* in Islamic law.

The word *qimah* means the value of a thing. According to the dictionary, meaning it is the price that is associated with a thing after valuation.<sup>41</sup> It is also something with which another thing is assigned a value.<sup>42</sup> As compared to this, we have two terms *mithl* and *qimah* that indicate the nature of things with respect to commercial value.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

<sup>31</sup>Ibid.

<sup>32</sup>See al-Sarakhsī, al-Mabsūt, vol. 15, 132.

<sup>33</sup>Nyazee, Outlines of Islamic Jurisprudence, 216–17.

<sup>34</sup>Ibid., 217

<sup>35</sup>Ibid.

<sup>36</sup>Ibid. See also al-Sarakhsī, al-Mabsūt, vol. 15, 82–83.

<sup>37</sup>Nyazee, Outlines of Islamic Jurisprudence, 217.

<sup>38</sup>Ibid., 217

<sup>39</sup>For the details about the legal validity of earnest money ('arbūn), see section 4.4 in the next chapter.

<sup>40</sup>Nyazee, Outlines of Islamic Jurisprudence, 217.

<sup>41</sup>See Miṣbāḥ al-Munīr, s.v. "qimah."

<sup>42</sup>Ibn 'Ābidīn, Radd al-Muḥtār, vol. 4, 51, 166.

The term *mithl* is applied to those goods whose individual constituent units or particles are similar so that an exact substitute can easily be found. It is defined as follows: “*Mithl* is something that’s similar can be found in the market without there being any significant difference.

It applies to things subjected to cubic measure, weight or to those countable things that are identical.”<sup>43</sup> This shows that *mithl* is a sub-type of the *qim*. The distinctions are visible from the following classification.

1. **Marketable and non-marketable.** Marketable things are those that can be converted to private property and whose use has been permitted by the *shar’ah*. These things are called *mutaqawwam*.<sup>44</sup> Non-marketable things cannot be converted into private property like birds in the air, air, sunshine, and fish in the sea and so on.<sup>45</sup> They also include those things whose sale and purchase has been disallowed by the law, like wine, swine-flesh. The second types are marketable for non-Muslims.<sup>46</sup> A contract for non-marketable things is not valid.<sup>47</sup>

2. **Moveable and immovable.** This is the classification into ‘*uqār* and *manqūl*. It has the same meaning as that in law. The classification affects many rules. For example, *bay’al-wafā’* and *shuf’ah* are applicable to immovable property.<sup>48</sup> Movable property is divided into things sold by cubic measure, weight, and count, as stated earlier.<sup>49</sup>

3. **Fungible and non-fungible.** This is the division into *mithl* and *qim* or fungible and non-fungible. Fungible things are those for which a substitute can be found by weight or measure and quality. Non-fungible or *qim* property comprises those goods whose similars cannot be found and have their own unique value, that is, their value is determined by valuation, like a horse. The fungible goods need only be mentioned in a contract by weight or measure and quality, but non-fungible goods have to be ascertained at the time of the contract.<sup>50</sup>

The main issue facing us is: what is basis for assigning commercial value to a commodity, benefit or right? The jurists usually refer to this basis as being ‘*urf*, that is, the practice of people. This assertion occurs again and again in the writings of the earlier jurists. Here is what al-Sarakhs says:

The conclusion is that what is taken into account here is ‘*urf*. Each thing in which the people practice *istiṣnā’* is valid.<sup>51</sup>

This shows that acknowledged practice has a role to play in commercial law, but he adds in another place:

The reason is that the sale of *shirb* (right of access to water) is *fāsid*. The reason is that it is one of the incidental rights of the sold property with the status of attributes. Thus, they cannot be separated for sale. In addition to this, it is uncertain in itself and it is not possible to deliver it, because the seller does not know whether or not water will flow in it. It is not in his power to make it flow.

He said: Our Shaykh, the Imām, used to relate from his teacher that he used to render the verdict of permissibility for the sale of *shirb* without the land. He used to add that there is a manifest ‘*urf* in it in our land, for they used to sell water on one-half. Therefore, on the basis of manifest ‘*urf* he used to issue the *fatwā* of permissibility. ‘*Urf*, however, is considered where there is no *naṣṣ* (text) opposing it. The proscription about the sale with *gharar* is clearly opposed to this ‘*urf*.<sup>52</sup>

<sup>43</sup> Al-Kāsān, *Badā’i’ al-ṣanā’i’*, vol. 7, 150–51; *Majallat al-Aḥkām al-‘Adliyyah*, art. 145.

<sup>44</sup> Nyazee, *Outlines of Islamic Jurisprudence*, 218.

<sup>45</sup> *Ibid.*

<sup>46</sup> This is so according to the Ḥanafī jurists. The majority do not consider them to be *māl* under any circumstances.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> Al-Sarakhs, *al-Mabsūt*, vol. 15, 101.

<sup>52</sup> Al-Sarakhs, *al-Mabsūt*, vol. 14, 161–62.

Mawlana Taqī ‘Usmāni, after quoting this particular passage, goes on to quote the author of *Fath al-Qadīr* as well as the author of *al-Tnāyah* to show that even if this is not permitted on the basis of *gharar*, it is still *māl*. In other words, the right of *shirb* is treated as *māl* by the jurists.<sup>53</sup>

Without going into too much detail, we have three points to make here:

1. The first point is about the assigning of commercial value to rights or things so that they are considered *māl*. The basis for assigning such value is the practice of the people, that is, what they consider valuable is to be acknowledged by the law. It is like the law merchant and its practices. Nevertheless, al-Sarakhsī has clearly stated that any *‘urf* that is to be acknowledged must not oppose a text. In our view, that should include its implication too where such implication is in the form of general principles derived from the texts.

2. The second point is that all rights that have been called *huqūq* by the *fuqabā’* are attached to an *‘ayn* or corporeal property (land in this case) in a manner that they are treated as additional attributes that do not really affect the nature of the property itself. Here we may quote al-Sarakhsī, who says: “The basis of the issue in sales is that the opinion in our view maintains that the price is in lieu of the primary property (*aṣl*) and not the additional attributes. Thus, the loss of the additional attribute (*waṣf*) in the hands of the seller, without intervention of anyone, does not extinguish any part of the price.”<sup>54</sup> This should be sufficient in explaining the point. What we are interested in, for justifying intellectual property, are pure rights that exist independently of any other property.

3. The third point is that of valuation. In the previous chapter, we have shown briefly that an important issue is the problem of valuation in the case of intellectual property. No one knows the real value that a patent sold today will fetch, or how much a publisher should pay to a writer, or in the case of passing off where trademarks are concerned, how much loss has been caused by the violation. *Gharar* is inherent in such rights.<sup>55</sup>

## Conclusion

Intellectual Property Rights have never been as critical for economic development and growth as they are today.<sup>56</sup> “These rights confer a bundle of exclusive rights in relation to the particular form or manner in which ideas are expressed or manifested, and not in relation to the ideas or concepts themselves. Thus, IP denotes the specific legal rights which authors and other IP holders may hold and exercise and not the intellectual property itself.”<sup>57</sup> In the corporate world, almost every development revolves around intellectual property and the value associated with it. Thus, Dr. Horst Fisher, Corporate Vice President, Siemens AG, says: “Any company wishing to prosper in the next millennium will also have to efficiently manage its IP portfolio.”<sup>58</sup> This applies to nations too.

<sup>53</sup>See Muhammad Taqī Usmani, *Buḥūth fī Qaḍāyā Fiqhiyyah Mu‘āsarah*, 2 vols. (Karachi: Maktabah Dār al-‘Ulūm), vol. 1, 72–125, 93–94, *Bay’ al-Ḥuqūq al-Mujarradah* [hereinafter referred to as Taqī Usmani, *Ḥuqūq Mujarradah*].

<sup>54</sup>Al-Sarakhsī, *al-Mabsūṭ*, vol. 14, 135.

<sup>55</sup>It is to be noted, however, that: “The subject-matter of copyright protection includes every production in the literary, scientific and artistic domain, whatever the mode or form of expression. For a work to enjoy copyright protection, however, it must be an original creation. The ideas in the work do not need to be new but the form, be it literary or artistic, in which they are expressed must be an original creation of the author. And, finally, protection is independent of the quality or the value attaching to the work—it will be protected whether it be considered, according to taste, a good or a bad literary or musical work—and even of the purpose for which it is intended, because the use to which a work may be put has nothing to do with its protection.” WIPO Handbook, 52. (Emphasis added)

<sup>56</sup>The importance of protecting intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property in 1883 and the Berne Convention for the Protection of Literary and Artistic Works in 1886. Both treaties are administered by the World Intellectual Property Organization (WIPO).” See WIPO, *Understanding Industrial Property*, WIPO Publication No. 895(E).

<sup>57</sup>This is being called the Wikipedia definition. See [http://en.wikipedia.org/wiki/Intellectual\\_property](http://en.wikipedia.org/wiki/Intellectual_property) (last visited December, 2007). The definition, however, appears to have come from WIPO documents mentioned in this study. The definition separates the ideas from the expression, and says that the protection accorded by the law is to the expression not the ideas. This is true of copyright alone. As we shall see later that in inventions it is the idea that is protected.

<sup>58</sup>WIPO, *Fundamentals of Intellectual Property (IP) Management by Small and Medium Sized Enterprises (SMEs)* (2002), 2.

A policy document issued by the Government of Japan says the following: "In order to implement various reforms toward this objective, this Intellectual Property Policy Outline sets out the fundamental thinking of the Government of Japan (GOJ) toward making Japan a "nation built on intellectual property." <sup>59</sup>

The Muslim world is lagging behind in the theoretical conviction about the legality or illegality of these rights and is, thus, failing to contribute to the growing developments in the field and their corresponding underlying concepts. This is leading to a lack of participation in a field that is rapidly assuming the position of the most prized possession of human beings.

Today, in the developed world, IP has gained increased protection with advances in technology and international trade. To protect the violation of IPRs, most countries of the world signed the agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) in 1994, administered by the World Trade Organization (WTO). Yet, most of the underdeveloped countries tolerate the widespread sale of counterfeit version of IP products. The Islamic world continues to be part of this illegal activity with some claiming that such rights are un-Islamic. There may be some difficulties in dealing with such rights, but none of these is so radical that it cannot be overcome.

It is imperative that Muslims internalize concepts of IP so that they can participate in and carve out a share in this enormous source of wealth. The most difficult task while granting protection to the intellectual work is the valuation of the product. The basic standard used for this purpose is the current value of that object and its utility for the future buyer. Most of the intellectual work loses its uniqueness with the passage of time with products of improved quality creating competition in the market. With such risks discount rates increase, and this simplifies the net current value of the Intellectual Property.

The four main types of non-physical things considered as IP are Copyrights, Patents, Trade secrets, and Trade Marks. These rights mainly grant the owner a monopoly on the use or copying of the protected property. Contemporary Muslim jurists, however, are divided over the issue of IP. Those who fervently stick to the position of the classical scholars augment their position against the concept of IP by arguing that knowledge belongs to Allah alone, and is merely a trust for humans to use and share with others. They also rely on the tradition of the Prophet (S.A.W) which says, "Do not sell what you do not have," thus implying that IP rights cannot be possessed and owned. In addition, they allude to uncertainty (*gharar*), which may be an important attribute of almost all IPRs. On the other hand, there are scholars who have accepted the premise that ideas and methods can be protected under the rubric of intellectual property. Nevertheless, their arguments have not been found to be very convincing by the majority of Muslims. It is these arguments that need to be strengthened.

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<sup>59</sup>Strategic Council on Intellectual Property, Intellectual Property Policy Outline, July 3, 2002, [http://www.kantei.go.jp/foreign/policy/titeki/kettei/020703taikou\\_e.html](http://www.kantei.go.jp/foreign/policy/titeki/kettei/020703taikou_e.html) (last visited January, 2008).

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