

JUSTICE DIALEKTICS IN WEST, ISLAM AND INDONESIA PERSPECTIVES

Rahmatullah

Faculty of Syaria and Islamic Economics IAIN Ternate, Jl. Lumba-
Lumba Kel Dufa-Dufa Ternate City North Maluku, Indonesia
Email : rahmatullahsahil@iain-ternate.ac.id

Hasannudin Hidayat

Faculty of Syaria and Islamic Economics IAIN Ternate, Jl. Lumba-
Lumba Kel Dufa-Dufa Ternate City North Maluku, Indonesia
Email : hasanuddin@iain-ternate.ac.id

ABSTRACT

In the study of law, there are at least three legal objectives to be achieved. Normative flow views that the purpose of law is legal certainty, utilitic flow views that the purpose of law is expediency, whereas ethical flow views the purpose of law is to achieve justice. Based on this, the issues raised in this study are about justice in the perspectives of the West, Islam, and Indonesia. The research aims to find out and analyze justice in the perspective of the West, Islam and Indonesia. The research method used is a juridical method with primary legal materials sourced from the study of literature. The results of the study show that justice in the western perspective varies with the views of western philosophers including Socrates, Plato, John Rawls. Furthermore, justice in the perspective of Islam is sourced from the Qur'an and Hadith and that justice is only from Allah SWT. In Indonesia, the perspective of justice actually originates on the basis of the State namely Pancasila. Pancasila as the basis of the state or state philosophy (fiilosofische grondslag) is still maintained and is still considered important for the Indonesian state.

Keywords: *Dialectics, Justice, West, Islam, Indonesia*

PRELIMINARY

In discussing the purpose of law, thought is usually based on three legal streams namely the first ethical flow (Geny) whose views are imbued with legal philosophical thinking, where the purpose of law is more emphasized on achieving justice. The two schools use their views based on the ideas of the sociology of law, where the purpose of law is more focused on the achievement of benefits. The three formal jurists whose studies are based on positive-normative jurisprudence or dogmatic jurists, where the purpose of law is focused on the realization of legal certainty.¹

Society in looking at the law, then first they see how justice for them as in the view of ethical theory considers that the law is determined by the belief that something is fair or unjust. Therefore, justice is a legal goal that is desired by the people not about certainty and benefit.

Speaking about justice according to the author is something relative because the issue of justice is a matter of feelings felt by humans who can judge whether something is fair for him or not, the issue of fairness is relative also because views about fairness differ from one

person to another, not necessarily in vain A said that he was fair, then B also said he was fair, he could have said that B was unfair to him.

In the study of legal philosophy, the purpose of ethical law or the purpose of law regarding justice also varies in flow and views. There are at least two major axis views on the fairness y akni justice in perspective B Arat and justice in the perspective I slam. However, according to the author's two axis of view of justice is not enough because it does not necessarily apply that view in Indonesia, according to the authors in the study of legal science, Indonesia has a view of justice that is unique to its Indonesian.

Based on the construction of the law and the concept, this research will focus on the issue of how justice in the perspective of the West, Islam and Indonesia .

RESEARCH METHODS

The study was conducted using the juridical method, the study was conducted qualitatively based on the study of literature with the approach of primary legal materials and secondary legal materials. Descriptive data analysis with content analysis methods.

¹ Syamsuddin Pasamai, *Sejarah dan Sejarah Hukum Dalam Kajian Ilmu Hukum* (Makassar : Arus Timur, 2013), 66.

RESULTS AND DISCUSSION

Justice in a western perspective

1. A view of justice according to ancient Greek philosophers (Socrates, Plato, Aristotle)

The issue of justice is not only the area of legal studies, but also this problem can be studied from various disciplines of the social sciences and humanities. Justice is an objective, whereas law is only a means to an end. It turns out that the concept or even the value of justice is often influenced by elements of human subjectivity, so that justice can sometimes only be felt by certain parties. What is considered fair by someone is not necessarily felt by other people or certain groups.

The word “justice” in English is “justice” which comes from the Latin “iustitia”. The word “justice” has three different meanings namely; (1) attributively means a quality that is fair or just (synonym of justness), (2) as an act means an act of carrying out the law or an act that determines the rights and rewards or punishment (synonymous with judicature), and (3) people, namely public officials who has the right to determine the requirements before a case is brought to court (synonym for judge, jurist, magistrate).²

In the tradition of philosophical thought of justice in the west, we know a variety of knowledge that was born of figures and philosophers, both philosophical knowledge, law, politics and justice, all starting from civilization that was originally built from ancient Greece, because there we can get to know the thinkers - thinkers lay the foundations of knowledge and how vast the nature of thought in their day. Thales, Anaximenes, Permenides, Phytagoras, but for the fields of politics, law and justice themselves there are more famous for their thoughts, such as Socrates, Plato, Aristotle. At that time, justice became the theme of discussion by philosophers. Below are some of their thoughts related to justice:

a. The Socrates View of Justice

Socrates’s conceptual view related to justice is actually still lacking in terms of literature on the study of justice philosophy, this is evidenced from the book and his work does not exist, and research is still little or almost non-existent. Socrates himself was even known to his students or successors from the story in Plato’s work. After all such theories of natural law Since Socrates still retain justice as the crown of law.³ According to him justice is

2 <https://alisafaat.wordpress.com/2008/04/10/pemikiran-keadilan-plato-aristoteles-dan-john-rawls/>

3 Theo Huijbers, *Filsafat Hukum dalam Lintasan Sejarah*, (Yogyakarta: Kanisius, 1995), 193.

created when citizens feel that the government has done its job properly. In his life, he wrestled with philosophical thinking in the middle of the policy city raging, because there are also philosophers who also claim to be sophists, the debate at that time was whether the people were directly involved in the formulation of State policy or not.⁴ A philosopher of that time, Protagoras (480-411 BC) for example, said that all citizens must determine the contents of the law, so that good and fair are not dependent anymore on natural rules. But only from community decisions.⁵ In other words, there is no objective truth, humans are the measure of everything (pantoon khrematoo metron anthropos). Protagoras in this case has introduced democracy in ancient Greece, so that the involvement of citizens in the process of policy formulation and decision-making in nature has been a very strong foundation and will be felt today. However, Socrates disagreed with Protagoras' opinion. According to Socrates law produced from the authorities (modern times; the state) must be obeyed.

Regardless of the law it has objective truth or not. Socrates did not want

4 Carl Joachim Friedrich, (alih bahasa; Raisul Mutaqien), Filsafat Hukum; Perspektif Sejarah, (Bandung: Nusa Media, 2008), 16.

5 *Ibid* 17

what is now called legal anarchism, namely the distrust of the law. He maintained that statement consistently, as evidenced by the death sentence he received, even though by drinking poison for following the laws of the land. Even though he believes that the country's law is wrong.⁶

b. Plato View Of Justice

Plato (427-347 BC) wrote two books about living as a state, namely Politeia and Nomoi. In the book Politeia Plato paints a picture of a model of a just state. Plato was an abstract idealist thinker who recognized forces beyond human capabilities so that irrational thought entered his philosophy. Likewise with the problem of justice, Plato argues that justice is beyond the capabilities of ordinary people. The source of injustice is a change in society.

Justice is also metaphysically understood to exist as a quality or function of superhuman beings, whose nature cannot be observed by humans. The consequence is that the realization of justice is shifted to another world, outside of human experience; and the human reason that is essential for justice is subject to the unchangeable ways of God or the unpredictable decisions of God.⁷ So Plato also thinks that the State

6 *Ibid.*, hal 90

7 W. Friedmann, Teori dan Filsafat Hukum, (Legal

leaders should be from the super class, or the king of philosopher.

This Plato justice then gave birth to two concepts of justice, namely moral justice which is based on harmony, that is, each person obtains rights in accordance with the position of functions and abilities, and procedural legal justice, namely supporting justice to strengthen moral justice, namely by certain procedures. But the procedure intended by Plato is not explained in detail, even though this Plato concept underlies justice in the West.

c. Aristoteles Views Of Justice

Aristotle's view of justice can be found in his *nichomachean ethics*, politics, and rhetoric. More specifically, in the book *Nicomachean ethics*, the book is entirely devoted to justice, which, based on Aristotle's general philosophy, must be regarded as the core of his legal philosophy, "because law can only be established in relation to justice".

What is very important from Aristotle's view is that justice must be understood in terms of similarity, but Aristotle makes an important difference between numerical similarity and proportional equality.⁸ Numerical

equality presents each human being as a unit, and is later referred to as equality before the law (equality before the law).

Aristotle then distinguishes distributive justice that applies to public law, and corrective justice applies to private law. The issue of justice according to Aristotle is very closely related to the issue of equality and equality, especially distributive justice is that the rewards are equally given for equal achievement, the second is if the inequality is caused by, for example, breach of agreement, corrected and eliminated. Distributional justice, according to Aristotle, focuses on the distribution of honorariums, wealth and other goods that are equally obtainable in society, so that justice can be interpreted as a distribution or distribution in accordance with the value of goodness.

2. Justice According To Medieval Philosophers

Society in the Middle Ages, divided into groups of people who have different social positions. There are at least three social class classes, namely the warrior or knight group, the peasant group, and the clergy class. This division of strata later became the framework of the life

Theori), Susunan I, diterjemahkan oleh Mohamad Arifin, Cetakan kedua, (Jakarta: PT RajaGrafindo Persada, 1993). 117.

8 Ahmad Zainal Fanani, "Teori Keadilan dalam

Perspektif Filsafat Hukum" Makalah tanpa Tahun. Hal 3

of the French empire for centuries.⁹ The existence of class or class differences that have been mentioned, eventually lead to social inequality and jealousy. This is caused by differences in the rights and facilities they obtain. While the upper classes such as clergy and knights get such special privileges seigneur, ¹⁰ fief, ¹¹ or imunitas.¹² Meanwhile, the lower classes are always used as objects of sufferers and live with misery.

This period began with the collapse of the Roman empire due to attacks by other nations considered backward coming from the north. The Middle Ages were a unique century, marked by a view of human life that felt itself to be meaningless without a god.

The development of philosophy in the Middle Ages is also called the School of Nature. In this century it is said to be a natural school because all

thought is very theocentric, everything is centered on God. Although it concentrates everything on God, it does not substantially shift from the spirit developed by Greek thinkers and the position of justice is still seen as the essence of valid law. Among the famous figures in this natural school were Augustine (354-430 AD) and Thomas Aquinas (1224-1274). According to them what is called natural law is divine law. Meanwhile what is meant by humana juice is nothing but a custom (custom).¹³

According to Augustine, peace is the universal goal of all humanity. Even the extreme can be said that peace is the goal of war, because the basic nature of victory in war is to bring people into glory and peace. However, it is only a form of seeking peace for oneself or certain groups. His relationship with justice, for Augustine which is a moral norm is not peace as above, but peace associated with justice.¹⁴ This kind of peace comes only from God. Justice contained in human beings comes from God.

However, Augustine was not a passive (anti-war) person. He said that war was permissible only as a last resort. War is permitted when defending

⁹ Jean Carpentier dan Francois Lebrun, , Sejarah Perancis, (Jakarta: Grsamedia Utama, 2011), 137

¹⁰ Form of ownership of land and building assets. These assets can be managed directly or handed over to farmers for rent by providing compulsory contributions. The owner of this treasure comes from a religious or aristocratic community, they have the right to judge and supervise the farmers who rent their land

¹¹ Giving the owner's assets to his luggage for compensation for the obligations he has given. The gift is in the form of land or castle, sometimes also in the form of rights or income.

¹² Privileges granted to certain communities, usually clergy who own large tracts of land. With this right, the community is freed from all existing controls, such as taxes, courts, etc.

¹³ Andrea Ata Ujan, *Filsafat Hukum: Membangun Hukum, Membela Keadilan*, (Yogyakarta, Kanisius, 2009), 38.

¹⁴ https://id.wikipedia.org/wiki/Pemikiran_etis_Agustinus, di akses 27 april 2017

against an opponent's attack and fighting heresy. Motivation in fighting must also be based on love, compassion and calm. Augustine said that war could be waged on the authority of a king based on the interests of the people. War for him is a moral exception because the justification of the war is only from the attacker, not from the attacker.¹⁵

From the view of St. Augustine mentioned above, the authors argue that the meaning of justice as formulated by western philosophers who are focused on wisdom and human knowledge shifted to theocentrism, namely understanding the reality that is more centered on God.

3. Modern Views of Justice According to Modern Century Philosophers

In the modern age, one who has an important role in developing justice conceptually is John Borden Rawls, he argues that justice can only be upheld if the State implements the principle of justice, the principle of justice according to Rawls idealizes that everyone should have the same right to obtain basic freedoms, socioeconomic differences should be regulated in such a way that they will benefit the most disadvantaged people.¹⁶

15 *ibid*

16 Inge Dwisvimiar, "Keadilan dalam Perspektif Filsafat

John Rawls gave rise to an idea in his book *A Theory of Justice* or the theory of justice that aims to be an alternative to the doctrines that predominate in earlier philosophical traditions. Giving freedom to humans as their right is a Rawls perspective known as fairness. This Rawls theory rests on two basic things namely *Equal Right* which means that it must be regulated in written circles.

Law according to Herman J Pietersen is a normative building, law is conceived as an instrument of the state or policy concerned with justice, so according to this view the law is an instrument to uphold justice in the form of a code of conduct with its main function of regulating human behavior. This is the basis of modern doctrinal law.¹⁷

Explanation on the points of ancient Greece to the enlightenment above needs to be added to this point as an affirmation is that Augustine was a figure who was instrumental in bridging Greek legal nature with Christian thought. According to him, the eternal law is only God's law, this teaching then influenced Thomas Aquinas's legal thinking¹⁸ If medieval religious

Ilmu Hukum", *Jurnal Dinamika Hukum*, Vol. 11 No. 3 September 2011, Universitas Sultan Ageng, 7

17 *Ibid* 74

18 *Ibid* 75

ties are difficult to break from religious teachings, then in its development in the modern age there was a shift in which the paradigm of divinity as a source of reason, became human rationalism, in modern times figures such as Grotius and Hugo the Groot emerged.

In the 19th century a very influential figure in the field of law emerged, Hans Kelsen. According to Kelsen Justice is a problem in the region it should be, not money exists. Justice is not part of the study of positive jurisprudence, but it is more metayuridical, according to him, because justice is metayuridical then justice is not rational, thus it is impossible to be examined by pure law teachings because of the infinite justice.

WolfgangFriedmanin his book 'Law in a Changing Society' distinguishes between 'rule of law' in the formal sense in the sense of 'organized public power', and 'rule of law' in the material sense which is 'the rule of just law'. This distinction is intended to emphasize that in the conception of the rule of law, justice will not necessarily be realized substantively, especially because people's understanding of the law itself can be influenced by the flow of formal legal understandings and can also be influenced by the flow of material legal thoughts. If the law is understood rigidly and narrowly in the sense of legislation, surely the understanding of the rule of

law that is developed is also narrow and limited and does not necessarily guarantee substantive justice.¹⁹

Therefore, in addition to the term 'the rule of law' by Friedman the term 'the rule of just law' was also developed to ensure that in our understanding of 'the rule of law' a more essential notion of justice is involved than just the functioning of laws and regulations. in a narrow sense. Even if the term used remains the rule of law, it is the broad understanding that is expected to be included in the term 'the rule of law' which is used to refer to the conception of the rule of law today.

Thus, the formulations of legal concepts in the science of law are always juxtaposed with the concept of justice, namely from time to time and from east to west or vice versa, always changing. The modern period is a reflection of various fields of scientific inquiry, such as Rationalism, Empiricism, the Aufklarung period, German Idealism, Positivism, Materialism, Existentialism and Pragmatism.²⁰

Basically, justice is an adjective that has the meaning of fair or impartial or not favoritism. This trait is one of human

19 Jimly Asshiddiqie, Konsep Negara Hukum Indonesia, Makalah tanpa Tahun, di Unduh pada laman; www.jimly.com,

20 Thoga H. Hutagalung, Beberapa Pemikiran tentang Hukum yang Dikemukakan oleh Beberapa Aliran, (Bandung, CV. Armico.1993), 18.

nature. Justice is a concept that indicates a sense of justice in treatment (justice or fair treatment).²¹ Theo Huijbers explains the difference between law and fair, the term law contains demands for justice, the term law signifies the de facto norms used to fulfill these demands, whether written or unwritten. Justice in this concept is often used in the realm of law. Philosophically, jurisprudence views justice as a philosophical conception which is the goal of law itself, and it depends on the ideology of the country concerned. There are those who make it as the main goal in the law, and there are also those who give priority to it, because for reasons of certainty and legal order.²²

Justice in an Islamic Perspective

In the Big Indonesian Dictionary, social justice is defined as being equal, impartial, impartial, impartial to the right, upholding the truth.²³ Fair word (*al-'adl*) comes from Arabic, and is found in the Qur'an, as many as 28 places that

are etymologically meaning middle.²⁴ Fair understanding in Indonesian culture comes from Islamic teachings. This word is an Arabic word absorption '*adl*'.²⁵

Etymologically, in the Al-Munawwir Dictionary, *al'adl* means a middle case.²⁶ Thus, just means to be impartial, impartial, or equate one with the other (*al-Muswah*). Another term for *al-'adl* is *al-qist*, *al-misl* (equal parts or semisal). In terms of terminology, being fair means equating something with another, both in terms of value and in terms of size, so that something becomes impartial and does not differ from one another. Fair also means taking sides or holding on to the truth.²⁷

According to Achmad Ali,²⁸ the word *adl* is literally an absent noun, which is derived from the verb *adala*, which contains at least five meanings, namely

1. Straightening or sitting straight, amending or changing

21 Nurrachman, Nani, Keadilan dalam Perspektif Psiko-Sosial dalam buku Keadilan Sosial: Upaya Mencari Makna Kesejahteraan Bersama di Indonesia, (Jakarta: Kompas. 2004), 13.

22 Agus Budi Susilo, "Penegakan Hukum Yang Berkeadilan Dalam Perspektif Filsafat Hermeneutika Hukum: Suatu Alternatif Solusi Terhadap Problematika Penegakan Hukum di Indonesia", Jurnal Perspektif, Volume XVI No. 4 Tahun 2011 Edisi September, 6

23 Depdiknas, *Kamus Besar Bahasa Indonesia*, (Jakarta: Balai Pustaka, 2002), 8.

24 Muhammad Fu'ad Abd al-Baqiy, *Al-Mu'jam al-Mufahras li Alfaz Al-Qur'an al-Karim*, (Beirut: Dar al-Fikr, 1981), 448 – 449.

25 M.Dawam Rahardjo, *Ensiklopedi Al-Qur'an: Tafsir Sosial Berdasarkan Konsep- Konsep Kunci*, (Jakarta: Paramadina) 369.

26 Ahmad Warson Al-Munawwir, *Kamus Al-Munawwir Arab-Indonesia Terlengkap*, (Yogyakarta: Pustaka Progressif, 1997), 906.

27 Abdul Aziz Dahlan, et. all, (editor), *Ensiklopedi Hukum Islam, jilid 2*, (Jakarta PT. Ichtiar Baru, 1997), 25

28 Achmad Ali, *Menguak Teori Hukum dan Teori Peradilan*, (Jakarta: Kencana, 2013), 234

2. Running away, departing or dodging a wrong path, to a straight and right path.
3. Equal or equivalent or equality or equality.
4. It might also be an example or example, a literal expression that is indirectly related to justice.

Islam commands every human being to do justice or uphold justice in every act and deed committed as in Qs. An-Nisa (4): 58) which means:

“Verily, Allah tells you to deliver the message to those who have the right to receive it, and (to tell you) what if you set a law between humans so that you determine it fairly. Verily, Allah gives you the best teaching. Allah is All-Hearing and All-Seeing. “

In the Qur-an Surah An-Nisa verse 135 also found the command of Allah SWT to those who believe to be upholders of justice, the interpretation of Surah an-Nisaa verse 135:

“O you who believe, be a person who truly upholds justice, be a witness because of Allah even against yourself or your mother, father and relatives. If he, rich or poor, then Allah knows better about his problems. Then do not follow the passions because you want to deviate and the truth. And if you turn (words) or by being a witness, then surely Allah is All-Knowing Everything you do “

The next command to act fairly or uphold justice in applying the law does not look at religious differences, as confirmed in the Qur'an Surah As-Shura (42) verse 15, which means:

“Therefore therefore cry (they are to the religion) and remain as commanded unto you and do not follow their passions and say:” I have faith in all the books which Allah has revealed, and I am commanded to be just among you. For us our deeds and for you your deeds. There is no quarrel between us and you. Allah gathers between us and Him again.

It is so important to act justly or uphold justice, so that God warns those who believe that it is not because of hatred towards a people so that it affects in doing justice, as affirmed in A1-Qur'an Surah al-Maidah (5) verse 8, which means :

“O you who believe, you should be those who always uphold (the truth) because of Allah, be a fair witness. And do not ever hate you towards a people, encourage you to be unjust. Be fair because fair is closer to piety. And fear Allah, verily Allah knows what you are doing. “

Based on the results of library research, there are several views about justice from Islamic philosophers whose authors summarize as follows:

1. **Al-Kindi**, according to Al-Kindi, true justice is a reflection of the balance between justice that originates from god (Divine) and natural justice, which is then said to be natural justice.
2. **Al-Farabi** put forward the concept of justice which has close kaaitan with as-siyasah al madaniyah theory. For Al Farabi, justice is the highest good sought by humans and then processed and planted on him as the foundation of the political order.
3. **Ibnu Sina**, put forward its concept of justice in terms of social contracts, on top of that justice a just city is established. The city of justice is composed of three classes, namely administrators, artisans (skilled workers) and guardians (protectors). For each class smasing there must be a leader who mentions other leaders and so on down or lay people Everyone must work based on their talents and interests and is the responsibility of the authorities. The ruler must act with firmness, honesty and wisdom that is entirely for the welfare (khoir) together. Justice as the goal of the city is just, Ibn Sina's definition is clearer than that suggested by al-Farabi.
4. **Ibnu Rusydi** revealed that justice is a virtue which is a quality of honesty and self-control. A fair person is someone who is able to be honest with himself and others.
5. **Ibnu Maskawaih** dividing justice into three categories, namely: Natural, conventional and Divine Justice, this category, certainly can not be separated from Aristotle. According to Ibnu Maskawaih, Divine Justice exists in something that is metaphysical and eternal. The difference between divine justice and natural justice is that divine justice exists in something other than material, whereas natural justice does not have any other existence except in matter. Divine Justice is a spiritual relationship between humans and God that exceeds the physical relationship between humans and nature or humans and humans. According to Ibnu Maskawaih, the truly just people are those who harmonize all the senses, activities and circumstances in moderation. other. So basically, according to Ibnu Maskawaih, justice is a Divine Justice where God has given some good to humans, so humans are required to fulfill some of the obligations contained in shari'ah.

6. **Al-Ghazali** view of justice seems to be a combination of rational and revelational ideas (revelation). So justice is a statement of the will of God and is manifested in shari'ah. In this case the shari'ah gives several parameters to a thing that is morally fair or unjust. Intellect, which in al-Ghazali's definition of light, is a channel which he inspired Divine Wisdom to humans.

In the perspective of Islamic philosophy, according to Murtadha Muthahari in Sukarno Aburaera et al,²⁹ that the concept of fair is known by four things;

1. Fair means balanced in the sense of a society that wants to stay afloat and established, then that society must have to be in a balanced state, where everything in it must exist at the proper level and not the same level.
2. Fair is the denial of any difference. Justice is meant to maintain equality when the same property rights, because equality is like that, and requires it.
3. Fair is maintaining individual rights and giving rights to everyone who has the right to receive them. Justice like this is social justice that must be

respected in human law and every individual is ordered to uphold it.

4. Fair is maintaining the right to continued existence.

Sukarno Aburaera et al³⁰, concluded that the meaning contained in the conception of Islamic justice is to put things in their place, impose things according to the power of one's bear, and give something it is his right with a balanced degree.

Sa'id Ibnu Jubayr³¹ mengemukakan keadilan dalam islam mengambil empat bentuk yakni :

1. Justice in making decisions that are in accordance with the Word of Allah SWT "If you want to establish laws among humans, so that you determine them fairly" (QS 4:58)
2. Justice in words that are in accordance with the word of Allah SWT "and if you say, then you should behave fairly, even if words to your relatives"(Qs 6 :152)
3. Justice in seeking salvation, according to the word of Allah SWT "you are not a day when no one is able to replace anyone else, and will not receive a ransom from him and also will not benefit an intercession against him and neither do they helped "(Qs 2:123)

29 Sukarno Aburaera, *Filsafat Hukum Teori dan Praktik*, (Jakarta : Kencana 2013), 192

30 *Ibid*, 193

31 Achmad Ali, *Op.Cit*, 245-246

4. Justice in terms of the fellowship of Allah SWT in accordance with the Word of Allah SWT “but those who disbelieve that associate something with their god” (Qs 6:1)

Of the four forms of justice in Islam above, **Achmad Ali**³² then clarify with the example as follows:

1. Justice of the first type, is justice in the process of law enforcement, in which every legal officer involved, acts fairly by giving everyone what is their right, and applies the principle of equality before the law, or all people have the same position before legal proceedings. There must be no “selective logging” or “discrimination”
2. The second type of justice is fairness in constructing questions, which should not corner or a priori towards a person or only one party. This justice also includes that our words should not be defined as defamation, defamation, or characterization of someone else who is hated
3. The third kind of justice, is justice that has been affirmed and promised by Allah SWT, the promise of the Truth is not likely to change and will never act, because even though Allah SWT. It is omnipotent to

want to change anything, but God is impossible to have wrongdoings.

Justice in Indonesian Perspective

The concept of justice originating from western thought which bases itself on a foundation of western philosophy, both the flow of idealism, realism, liberalism and utilitarianism as well as basing itself on other philosophical streams such as Marx, Engel’s philosophy and Bakuning’s philosophy are not necessarily identical to the concept of justice in the Indonesian view . This view arises because the western view of life that is individualistic, liberal, mathematical with abstract, analytical, liberal and systematic ways of thinking, differs from the Indonesian way of life which prioritizes family interests and lives in a metaphysical magical realm with concrete and real ways of thinking

Although there are differences in the concept of justice according to western thought with Indonesian thought, but there are similarities in certain matters, because of the concept of the principal elements that are of universal value from justice according to western thought are also found in the concept of justice in the view of the Indonesian people based on Pancasila. Furthermore **Bahder Johan**

32 *Ibid* 246

Nasution³³ revealed that the concept of justice according to the Indonesian people is contained in Pancasila which is the nation's philosophy.

Satjipto Rahardjo stated that a good life is a good legal basis. In the book "The Rule of Law that Makes Life Happy for His People," he stated about the rule of law state which has a conscience as a model for the rule of law other than the liberal rule of law.³⁴ If so then surely Indonesian law derived from Pancasila should be happy for its people, because in Pancasila it is a content of cultural values, in line with Satjipto, Padmo Wahjono³⁵ said that Indonesia has an economic foundation that can achieve national goals, namely just and prosperous based on Pancasila, as well as the law, can achieve justice based on the four precepts of Pancasila, of course, sourced from Pancasila.

Speaking of justice, the Indonesian people recognize that absolute justice is only in God Almighty. The first precept of Pancasila is the concept of true justice,

as fair and just as fair. In this case the writer calls it natural divine justice.

In the court's verdict, "For Justice Based on the Almighty God", according to Bismar Siregar, the formula of the court was an oath formulation. Bismar revealed that the phrase 'For the sake of Justice' was also a sentence of oath. Oath of the judges that the justice spoken in the name of God except to make him God's representative, also at the same time he acts and acts and swears in the name of God.

The sentence was also called Bismar as the prayer of a judge. "Dear God, it is on your behalf that I pronounce this decision". If so, the judge is far from making mistakes in giving decisions, intentionally or not, especially what is very disturbing to the public.

In the same manner, according to Bismar, what distinguishes justice in Indonesia from those of other countries. In Indonesia it is obligatory to hold judicial proceedings in the name of God. In other countries maybe the opposite.

Furthermore, the concept of justice in Pancasila is based on the principles of fair and civilized humanity. The precepts of fair and contending humanity were first described in MPR Decree No. II / MPR / 1978, this decree was later revoked with MPR Decree No. XVIII / MPR / 1998. In this

33 Bahder Johan Nasution, *Negara Hukum dan Hak Asasi Manusia*, (Bandung : Mandar Maju, 2014), 109

34 Yance Arizona, 2010, Makalah Negara Hukum Bernurani: Gagasan Satjipto Rahardjo tentang Negara Hukum Indonesia, dipresentasikan dalam 1st International Indonesian Law Society (IILS) Conference, Senggigi, Lombok, Konferensi diselenggarakan atas kerjasama Universitas Utrecht, Fakultas Hukum Universitas Mataram dan Indonesian Law Society.

35 Padmo Wahjono, *Negara Indonesia Berdasarkan Atas Hukum*, (Jakarta, : Ghalia Indonesia 1983), 108.

formulation, a just attitude is described as: dignified, equal, loving each other, compassionate, not arbitrary, having human values, defending truth and justice and respecting respect and cooperation with other nations. While the meaning of justice in the precepts of social justice for all Indonesian people is: mutual cooperation, a balance between rights and obligations, having a social function of property rights and living simply. Thus referring to the above formula, the concept of justice in the view of the Indonesian people is social justice.

The perspective of justice in national law is based on a state foundation. Pancasila as the basis of the state or state philosophy (*fiolosofische grondslag*) is still maintained and is still considered important for the Indonesian state. Axiologically, the Indonesian nation is a supporter of Pancasila values (subscriber of Pancasila values). The nation of the Godhead, who is humane, who is united, who is populist, and who is socially just.

Justice in the perspective of national law also contains important discourse on justice and social justice. Fair and justice is the recognition and treatment of a balance between rights and obligations. If there is a balanced recognition and treatment of rights and obligations, automatically if we

recognize the “right to life”, then on the contrary must defend the right to life by means of working hard, and hard work done does not also cause harm to others, because that other person also has the same right (right to life) as does the individual right.³⁶

CONCLUSION

That justice in the western perspective varies in the views of the various western philosophers. Furthermore, justice in the perspective of Islam is sourced from the Qur'an and Hadith and that justice is only from Allah SWT. In Indonesia, the perspective of justice actually originates on the basis of the State namely Pancasila. Pancasila as the basis of the state or state philosophy (*fiolosofische grondslag*) until now has been maintained and is still considered important for the Indonesian state

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36 Suhrawardi K. Lunis, *Etika Profesi Hukum*, Cetakan Kedua, (Jakarta, : Sinar Grafika, 2000), 50.

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