



THE PRINCIPLE OF UNIVERSAL JUSTICE IN ISLAMIC JUDICIARY THE CHALLENGE OF LEGAL DISCRIMINATION

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ABSTRACT

This study examines the principle of universal justice in Islamic law and its implications for law enforcement practices in Indonesia. Universal justice, which underscores equality, the balance of rights and obligations, and non-discriminatory treatment, is central to Islamic teachings through the concept of 'adl. However, in contemporary society, the application of this principle faces significant challenges, particularly concerning legal discrimination against women, minority groups, and vulnerable communities. The primary focus of this study is to explore how the notion of universal justice is interpreted within Islamic law and the extent of its implementation in Indonesia's Islamic courts. The objective of this study is to elucidate the concept of universal justice in Islamic law, identify instances of legal discrimination arising in judicial practice, and analyze the structural obstacles that hinder the realization of substantive justice. This research employs a literature review method, examining primary sources such as the Qur'an and fiqh literature, alongside secondary sources including books, scholarly journals, and relevant legislation. The findings indicate a disparity between the normative principle of 'adl and the practical realities of the judiciary, which are marked by gender bias, inflexible legal interpretations, and a lack of institutional integrity. These results highlight the urgent need to harmonize Islamic law with the national legal framework and human rights principles, enhance the capacity of law enforcement officials, and revitalize *ijtihad* to ensure that Islamic courts more accurately reflect the principles of universal justice.

Keywords: Revitalize *ijtihad*, institutional integrity, judiciary

1. INTRODUCTION

The Indonesian nation is currently grappling with several crises, one of which is a significant challenge in the implementation of the law. The ideal of justice, a fundamental tenet of law, has evolved within the context of 21st-century developments. The era of modern nationalism, which emphasizes reason, has seldom met the public's expectations regarding the true meaning of justice in alignment with the dynamics of law enforcement. In the practice of law enforcement, justice is a core principle; however, instances of injustice frequently arise. This injustice is often attributed to a lack of transparency within the law enforcement process. In many cases, law enforcement officials may be either unaware of or complicit in concealing this issue. Coupled with the crisis in law enforcement is a growing tendency to overlook transparency, which ultimately

fosters public indifference and undermines trust in the legal system. As a result, the law is perceived as an institution that is not being fully utilized, particularly in terms of its implementation by law enforcement officials. The focus of law enforcement practices tends to center more on legal certainty rather than giving due consideration to the transparency essential for achieving genuine justice. (Kinari et al., 2024)

Thus, when the judicial system wants to be relevant to global standards of justice and human rights principles, the implementation of universal justice principles becomes important. In relation to the corruption epidemic, Indonesian society has expressed sensitive rejection of the government. This shows that society and the government have not yet found true justice. Therefore, this paper will review the concept of justice in the Islamic judicial system. This paper answers the question: How is the concept of universal justice understood from an Islamic legal perspective? To what extent have the principles of universal justice been implemented in the Islamic judicial system?

2. METHODS

The methodology employed in this study is a library search, as all data were gathered through literature reviews pertinent to the research theme. The primary data sources included the Qur'an and expert opinions. Secondary data were sourced from scientific journals, books, online articles, as well as relevant laws and regulations. This process involved identifying key terms such as "principles of universal justice," "Islamic justice," "legal discrimination," and "challenges of Islamic law."

The data collection technique focused on documentation studies, which entailed examining, quoting, and interpreting literature related to the research theme. The collected data was then analyzed by presenting the content of the sources and studying them to uncover definitions of universal justice, address issues of discrimination, and identify strategies for overcoming these challenges.

3. RESULTS AND DISCUSSION

This study reveals that the concept of universal justice within Islamic law strongly emphasizes equal rights, balanced obligations, and non-discriminatory treatment for all individuals. However, a review of existing literature uncovers a significant gap between these ideal principles and their actual implementation in judicial practices, particularly in Indonesia.

A thematic analysis of both primary and secondary sources has led to three key findings. First, while Islam endorses the principle of 'adl as a moral and spiritual obligation, judicial practices still reflect discrimination, particularly in cases related to inheritance, divorce, custody, and criminal matters involving women and vulnerable populations. Second, the literature indicates that non-Muslim minorities and non-normative gender groups also face discrimination, as court decisions often rely on rigid interpretations of fiqh that fail to adapt to the principles of universal justice and international human rights standards. Third, several structural obstacles, including legal pluralism, judicial corruption, political interference, inadequate public oversight, and limited understanding of substantive justice among legal practitioners, significantly impede the application of universal justice values within Islamic judicial institutions.

Overall, this study affirms that Islamic courts possess considerable potential to incorporate universal principles of justice. However, realizing this potential necessitates structural reforms,

enhanced capacity-building for legal officials, strengthening of contemporary *ijtihad*, and harmonization between Islamic law, national legislation, and international human rights standards.

The Concept of Universal Justice in Islamic Law

Justice means acting and behaving in a balanced manner, a concept that originates from the Arabic word “*‘adl*”. Balance refers to harmony between rights, obligations, and harmonious relationships with other beings. Justice is also understood as treatment that is in accordance with a person's rights based on the obligations they have fulfilled. According to Quraish Shihab, in the context of law enforcement, justice is defined as the act of making the right decision. A person is considered fair if they apply consistent standards and act with integrity. Consequently, equality is understood as remaining impartial in disputes, aligning only with the truth. Justice is a crucial trait for every individual, particularly for leaders. Furthermore, being fair implies siding with the truth. Ahmad Azhar Basyir explains that justice involves placing things in their proper context or proportion, as well as ensuring that individuals receive what is rightfully theirs.

In Islamic law, legal justice does not equate punishment based solely on the power dynamics between individuals. Instead, it presents a unique perspective that is unlike any contemporary legal system, asserting that penalties may be more severe for powerful perpetrators. The punishment should correspond to the criminal act committed, meaning it must be proportionately heavier based on the status of the offender. Justice within Islamic law introduces principles that are unprecedented and distinct.(Sururin & Robiati, 2021)

Justice stands as a fundamental value and the primary objective of any legal system, including Islamic law. From an Islamic perspective, justice transcends a mere ethical principle; it is regarded as a divine command that every Muslim is required to uphold. This principle is articulated in the Qur'an, particularly in Surah An-Nahl, verse 90: “Indeed, Allah commands you to be just and do good...” This verse emphasizes the profound significance of justice, highlighting its importance not only in social relations but also in the moral and spiritual dimensions of humanity. Within *fiqh* literature, justice is often defined as the act of placing something in its rightful context (*wad'u al-syai' fi mahallih*). This concept indicates that every right must be granted to its rightful owner, and every obligation fulfilled appropriately. Consequently, justice entails not only equality before the law but also a balance between rights and obligations, alongside the impartial enforcement of truth without discrimination.(Prianto et al., 2025)

Justice can have various interpretations depending on the context. One such interpretation is universal justice, which pertains to the moral principles that govern justice and are deemed applicable to all individuals in every situation. This concept is often associated with notions of justice and equality. In Islam, the idea of justice transcends mere legal norms; it embodies a fundamental value that reflects justice as a moral and ethical principle in daily life. This principle is integrated into various aspects of Islamic law, ranging from family law to economic regulations. Justice serves as the cornerstone for upholding human rights and safeguarding vulnerable communities. In Islamic law, the concept of justice encompasses multiple dimensions, including social, economic, political, and moral aspects. The principle of *‘adl* governs the fulfillment of individual rights and underscores the necessity of treating everyone fairly, regardless of ethnicity, religion, or social status. Consequently, Islamic law affirms that all Muslims and non-Muslims possess equal legal standing.(Karimullah, 2023)

Furthermore, the concept of justice in Islamic law encompasses the principle of equality before the law. This stipulates that all individuals are regarded as equal in the eyes of the law, with no discrimination based on gender, race, religion, or ethnic origin. This principle is

particularly significant in addressing contemporary legal discrimination. In Islamic teachings, justice is viewed not only as a goal but also as an ongoing process that must be diligently pursued. Consequently, it is essential for both society and leaders to continuously strive to uphold a fair legal system. (Ratno et al., 2024)

One of the concrete implementations of justice within Islamic law is through the establishment of judicial institutions, such as courts and a comprehensive judicial system. Islamic law encompasses a judiciary dedicated to the application of Sharia. In this context, the principle of justice is crucial for ensuring that the judicial process is equitable and aligns with Islamic values. This principle upholds individual rights and safeguards the protection of all citizens. The judicial process in Islam mandates the necessity of strong evidence, safeguards against arbitrary detention, the right to be heard, the right to appeal, and protection from coercion in obtaining confessions. Judges (qadi) are required to possess integrity, knowledge, and a high degree of independence to uphold substantive justice. (Karamzadeh & Feiz, 2021)

Legal Discrimination in the View of the Islamic Judicial System

Legal discrimination within Islamic courts is a significant issue in the quest for substantive justice. Although the principle of justice ('adl) is deeply ingrained in Islamic teachings, court practices frequently reveal unequal treatment, particularly towards women, minorities, and vulnerable groups. Discrimination against women remains evident in judicial proceedings, such as in divorce cases, women's rights as witnesses, and the treatment of victims of violence. Contributing factors include interpretations of Islamic law, a patriarchal culture, and institutional biases within the courts. For instance, women often lose their right to shared residences after divorce and may encounter negative stereotypes during courtroom proceedings. The judicial system in Indonesia fundamentally aims to uphold the principles of justice found in Islam, namely to enforce the law equitably and provide legal certainty. (Ramadhita et al., 2023)

The harmonization of Islamic law with universal principles of justice faces various challenges, particularly regarding issues such as the treatment of women, corporal punishment, and religious freedom. Divergent interpretations of Islamic law often result in gender inequality and discrimination against women and minority groups. However, engaging in constructive dialogue and applying *ijtihad* (legal reasoning) can facilitate adjustments to the interpretation of Sharia law, aligning it more closely with universal values of justice, including non-discrimination and the protection of minority rights. (Karimullah, 2023)

However, the application of Islamic principles of justice in the national judicial system still faces several serious challenges. First, there is a duality of law between national law, customary law, and Islamic law, which sometimes causes legal uncertainty. Second, there are practices of abuse of authority and political intervention in court decisions that have the potential to undermine the independence of judges. Third, there is still a limited understanding among law enforcement officials of the principles of justice in *fiqh*, so that the application of the law often emphasizes formal and procedural aspects rather than the substance of justice. (Prianto et al., 2025) The abuse of power and political interference in the judicial process threaten the independence of judges, both in the past (during the New Order era) and in contemporary cases. Weak internal and external oversight mechanisms increase the risk of corruption, conflicts of interest, and unfair decisions. (Researcher, 2025)

Factors that influence the law make it difficult to create fair laws and lead to discrimination that tends to be felt by the poor. In reviewing cases of corruption and theft in Indonesia, there are at least several factors, namely: a. Judicial mafia. b. A judiciary that uses a liberal system. c.

Intervention by leaders. d. Low community control. e. A law enforcement system that uses the concept of target achievement. f. Lawyers who are not honest about justice.

Discrimination in the legal system often arises in cases such as divorce, inheritance, and criminal cases involving women. In Islamic family law in Indonesia, for example, women often receive a smaller share of inheritance than men (as stipulated in the Qur'an 4:11), which is often seen as a form of gender inequality. At the judicial level, religious court rulings sometimes reinforce this mindset without considering socioeconomic conditions, such as in cases where women from poor families find it difficult to access justice due to high court costs. In addition, non-Muslim and LGBT minorities also often experience covert discrimination, for example, in the determination of child custody based on strict interpretations of Sharia law, which may conflict with the principles of universal justice as enshrined in the UN Convention on the Rights of the Child.(Perlindungan et al., 2025) This discrimination not only harms individuals but also widens social inequality. Poor groups, often associated with issues of judicial mafia and official interference, are the most affected due to their limited access to adequate legal aid. From an economic perspective, legal injustice can hinder sustainable development, as investors may be reluctant to invest in countries with opaque judicial systems. In a global context, discrimination in the practice of Islamic law can reinforce the stigma that Sharia is rigid, even though many modern scholars such as Tariq Ramadan and Asghar Ali Engineer encourage a more inclusive reinterpretation of Sharia. (Nisa et al., 2021)

Efforts to Realize the Principle of Universal Justice in Facing the Challenge of Discrimination

Harmonization of Law and Human Rights. Aligning national laws, religious laws (including Islamic law), and international human rights principles is crucial for ensuring that every individual is protected fairly and inclusively. This harmonization process requires the integration of legal frameworks with universal principles of justice, while also enhancing the role of state institutions such as courts and law enforcement agencies in delivering justice without discrimination.(Karimullah, 2023) A Systematic and Proactive Approach. Efforts to eliminate discrimination must go beyond merely safeguarding individual rights. A holistic strategy is essential, which includes the use of strategic litigation in discrimination cases and the establishment of proactive obligations for public institutions aimed at preventing and combating structural discrimination. This approach shifts the focus from victims to institutions, thereby enhancing the effectiveness of addressing systemic discrimination.(Journal et al., 2024) Community awareness and engagement education are vital for building shared understanding and driving social change. Training on human rights and anti-discrimination, along with active community involvement, plays a key role in this process. Programs that promote inclusion, facilitate intercultural dialogue, and enhance community capacity can strengthen the implementation of universal justice.(Siddaraju, 2024)

To enhance the fairness of the judicial system, it is essential to align Islamic values of justice with national legal principles. First, we should implement more comprehensive Islamic legal education for judicial officials, ensuring that judges and law enforcement personnel possess an understanding that goes beyond the mere text of the law to encompass the substantive values of justice. Second, we need to strengthen the role of religious courts in the resolution of family and Sharia economic disputes, providing the community with access to justice that aligns more closely with their legal beliefs. Third, it is vital to apply the principle of substantive justice, rather than merely procedural justice, in court decisions. This approach aligns with a progressive legal perspective that emphasizes the necessity for the law to support humanity and justice, rather than adhering strictly to rigid rules. Fourth, we should promote legislation that prioritizes the public

interest in accordance with the principles of fiqh. Such legislation not only resonates with Islamic values but also aligns with the ideals enshrined in the Indonesian constitution, particularly Pancasila and the 1945 Constitution. By undertaking these steps, Indonesia's judicial system can more effectively reflect the values of justice advocated in Islam while fulfilling constitutional obligations to achieve social justice for all Indonesian citizens.(Prianto et al., 2025)

4. CONCLUSION

This study highlights that the principle of universal justice serves as the cornerstone of Islamic law, emphasizing equality, the balance between rights and obligations, and non-discriminatory treatment of all individuals, regardless of their social identity, religion, or gender. Normatively, Islamic teachings establish high moral and legal standards through the principle of 'adl, which represents not only an ethical imperative but also a spiritual obligation for every Muslim to uphold the truth.

However, the findings reveal a significant gap between these ideal values and their actual implementation in judicial practice, particularly in Indonesia. Discrimination persists across various legal contexts, including inheritance disputes, divorce, child custody, and criminal cases involving women, minority groups, and marginalized communities. Contributing factors include a patriarchal culture, rigid interpretations of fiqh, a pluralistic legal system, and the insufficient integrity and capacity of law enforcement officials. Moreover, the presence of judicial corruption, political interference, and limited public oversight further obstructs the realization of substantive justice.

Nonetheless, Islamic courts possess considerable potential to enact universal justice in practice. This can be achieved by harmonizing Islamic law with national legislation and international human rights standards, enhancing legal education for judicial officials, revitalizing ijtihad to address contemporary realities, and implementing structural reforms that bolster the transparency and independence of judicial institutions. By adopting these measures, the national judicial system can better align with Islamic values of justice while also effectively responding to the contemporary demands for equitable social justice across all levels of society.

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