

THE PRINCIPLE OF JUSTICE IN THE RULES OF FIQH SIYASAH AND ITS APPLICATION IN INDONESIA

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Abstract

This study examines the principle of justice in the principles of fiqh siyasah and its application in Indonesia as the country with the largest Muslim population in the world. Fiqh siyasah combines understanding sharia law (fiqh) with the art of leadership and governance (siyasah). Justice in fiqh siyasah is a fundamental principle that colours every government policy and action. The basis of the principle of justice is sourced from the Qur'an, such as QS An-Nisa verses 58, 135 and QS Al-Ma'arij verses 24-25, which order to uphold justice in law, testimony, and welfare distribution. The application of justice in Indonesia can be seen in law enforcement without discrimination, trustworthy governance, economic justice, protection of minority groups, and equal access to education. However, challenges, such as corruption, discrimination, and gaps, must be overcome to realize justice fully according to the guidance of fiqh siyasah. This study uses a qualitative and literature study approach to produce an in-depth understanding of the definition of justice in siyasah Aaliyah to contribute to developing fair public financial policies.

Keywords: *Application of Justice, Fiqh Siyasah, Foundations of the Rules of Justice, Challenges of Implementing Justice in Indonesia.*



A. Introduction

Justice is one of the basic principles in the Islamic legal system. Fiqh Siyasah, as a discipline that studies the management of the general state of Islamic government, also emphasizes the importance of justice in various aspects of people's lives. In the study of Fiqh Siyasah according to scholars. In general, siyasah means the arrangement of various human affairs with the shari'a of the Islamic religion. Siyasah means policies and rules issued by the ruler to overcome a mafsadat that arises or as a solution to a certain situation.¹ This rule shows that the community's interests must be considered. Benefits apply equally to the entire community.

In the context of judicial power, justice means the right to equal treatment under the law for all parties, both commoners and state officials. The judicial power must maintain independence and justice in enforcing the law, in accordance with Law Number 48 of 2009.²

¹ Mutiara Fahmi, "the basic principles of Islamic political law in the perspective of the Qur'an." *Journal of Law and Sharia Studies*, volume 2, number 1 (2017): 35.

² Fahum UMSU. (2023). Definition of judicial power.12 June 2024, taken from <https://fahum.umsu.ac.id/kekuasaan-kehakiman-pengertian/>.



In the study of Fiqh Siyasah, Islam emphasizes how a system can give birth, lead a nation into an atmosphere of justice and prosperity, and prosper in justice, free from the tyranny of the majority against the minority.

This is certainly coupled with policies made by the government that are oriented towards the benefit of the people. As stated in the rules of fiqh siyasah:

على الرعية منوط بالمصلحة تصرف الامام

That is: "The policy of the imam/government for the people must be based on maslahah,"

This rule provides the basis for the government, with any system must be based on a benefit for all levels of society.³

B. Method

The research on "The Definition of Justice According to Siyasah Maliyah Perspective" uses a qualitative method with a literature study approach. This method was selected based on the following data collected and processed and the references cited to be presented as research findings. The

³ Nazifatul Ilmi, "A Review of Fiqh Siyasah on the Role of Local Governments in Supervision of Control and Violations of Alcoholic Beverages Based on Regional Regulation number 8 of 2012," *Journal of Sharia and Law*, volume 2, number, July 3 (2023): 99.



study findings are then abstracted or summarized to obtain complete and intact information. Then, the complete information is interpreted. Thus, it produces new knowledge that becomes the basis for drawing conclusions from the research.⁴

The research data sources consist of primary sources such as the Qur'an, Hadith books, and classic books on *siyasah maliyah*, as well as secondary sources in the form of contemporary books, journal articles, and relevant encyclopedias. Data is collected through documentation studies by reading, recording, and classifying important information from those sources. Furthermore, the data was analyzed using content analysis and hermeneutics methods, which included data reduction, systematic presentation of data, interpretation of data in historical and philosophical contexts, and drawing conclusions to formulate a definition of justice according to the perspective of *siyasah maliyah*.

Through this research method, it is hoped that the research can produce a deep and contextual understanding of the definition of justice in *siyasah maliyah*, which can

⁴ Wahyudin Darmalaksana, "Qualitative Research Methods of Literature Studies and Field Studies," Pre-print Digital Library UIN Sunan Gunung Djati Bandung, UIN Sunan Gunung Djati Bandung, August 28 (2020): 3.



contribute to the development of fair public financial policies in countries with a majority Muslim population.

C. Result and Discussion

1. Definition of Rules

Fiqh siyasah is a *tarkib idhafi* or compound sentence consisting of two words, namely *fiqh* and *siyasah*. Etymologically, *fiqh* is a form of *masdhar* (gerund) from *tashrifan* the word *faqih* *yafqahu-fiqhan* which means a deep and accurate understanding so that it can understand the purpose of certain words and or actions. Meanwhile, in terminology, *fiqh* is more popularly defined as the science of *sharia* laws which are deeds that are understood from their detailed postulates.⁵

Siyasah comes from the Arabic word *يسوس -ساس سياسة-* which means organizing, taking care of, and governing. *Siyasah* also means government and politics, or demanding wisdom. Ibn Manzhar defines *siyasah* as regulating or leading something by leading people to the benefit, while in Al-Munjid it is stated that *siyasah* is to make people benefit by guiding them to the path of salvation. *Siyasah* also means government science to control

⁵ Heryanti, "A Review of Fiqh Siyasah on the Implementation of BAPPEDA Functions in Planning in Development Planning," UIN Raden Intan Lampung, November 22 (2018): 27.



domestic and foreign affairs, as well as society, namely regulating life on the basis of justice.⁶

So, it can be understood that *fiqh siyasah* shows that this concept combines understanding sharia law (*fiqh*) with the art of leadership and governance (*siyasah*). Interestingly, in the definition of *siyasah* itself, justice is explicitly mentioned as the basis for regulating people's lives. This shows that in *fiqh siyasah*, justice is not just a side concept but a fundamental principle that is the spirit of all government policies and actions.

Justice in this context has far-reaching implications. First, in the legal aspect (*fiqh*), justice means understanding and applying sharia laws appropriately and fairly. This is in line with Allah's command in the Qur'an: "When you decide a matter between people, you must decide it justly" (QS. An-Nisa: 58). Justice here means not only equality before the law, but also a deep understanding (*fiqhan*) of the context and purpose of the law itself. Second, in leadership and government (*siyasah*), justice is the basic principle in regulating domestic, foreign, and community affairs. Ibn Manzhur and Al-Munjid emphasized that *siyasah* aims to lead people to benefit and

⁶ Mas Budi, "A Review of Fiqh Siyasah on the Role of Village Governments in Enforcing the 1945 Constitution Article 28D Paragraph (1) Regarding Equal Treatment Before the Law," UIN Raden Intan Lampung, December 12 (2022): 30.



safety. In this context, justice means policies that benefit not only a few people but also the entire society. This includes equitable distribution of wealth, equal access to resources, and the fulfilment of basic needs for all. Third, in the social context, justice in *fiqh siyasah* means creating a harmonious and inclusive social order. This involves eliminating discrimination based on ethnicity, religion, race, or class (SARA), granting balanced rights and obligations, and creating equal opportunities for all citizens to thrive.

Thus, justice in *fiqh siyasah* is not just a slogan or abstract ideal but an operational principle that must colour every policy and action. It is a criterion for assessing the legitimacy and effectiveness of the government. A government that fails to uphold justice, even though it may be militarily strong or economically rich, is considered to have deviated from the main goal of sharia, which is the benefit of the people.

In the modern era, this concept is increasingly relevant. Global inequality, identity-based conflicts, and environmental crises require a holistic approach to justice. *Fiqh siyasah*, with its emphasis on justice as the basis of governance, offers a framework that is relevant to Muslim countries and a world that is struggling for justice and sustainability.



In conclusion, in fiqh siyasah, justice is not the final goal, but a means and indicator to achieve the common good. It becomes a moral and political compass that guides leaders and policies, ensuring that every action, from the courts to economic policy, from foreign relations to social affairs, is always oriented towards the welfare and safety of all mankind.

2. Fundamentals of Rules

The foundation of the principles of Fiqh Siyasah, which comes from the Qur'an, gives rise to many principles. These principles are the position of man on earth, the principle of man as one people, the principle of upholding law and justice. Leadership principles, deliberation principles, unity and brotherhood principles, equality principles, principles of neighbourly life or relations between neighbouring countries, and others.

In particular, the Principles of Upholding Law and Justice in the Qur'an have been regulated to always remember the importance of justice.

إِنَّ اللَّهَ يَأْمُرُكُمْ أَنْ تُؤَدُّوا الْأَمَانَاتِ إِلَىٰ أَهْلِهَا وَإِذَا حَكَمْتُمْ بَيْنَ النَّاسِ أَنْ تَحْكُمُوا بِالْعَدْلِ ۚ إِنَّ اللَّهَ نِعِمَّا يَعِظُكُمْ بِهِ ۗ إِنَّ اللَّهَ كَانَ سَمِيعًا بَصِيرًا

Translation: Indeed, Allah tells you to convey the mandate to those who are entitled to receive it, and (tells you) when you establish a law among men so that you may establish



it justly. Indeed, Allah has taught you the best teaching. Indeed, Allah is the Hearer and the Seer." (Q.S. Al-Nisa'/4:58)

يَا أَيُّهَا الَّذِينَ ءَامَنُوا كُونُوا قَوَّامِينَ بِٱلْقِسْطِ شُهَدَآءَ لِلّٰهِ وَلَوْ عَلَىٰ أَنفُسِكُمْ أَوِ ٱلْوَالِدِينَ
وَٱلْأَقْرَبِينَ ؕ إِن يَكُنْ غَنِيًّا أَوْ فَقِيرًا فَٱللَّهُ أَوَّلَىٰ بِهِمَا ؕ فَلَا تَتَّبِعُوا ٱلْهَوَىٰ أَن تَعْدِلُوا ؕ وَإِن تَلَوْا أَوْ
تُعْرَضُوا فَإِنَّ ٱللَّهَ كَانَ بِمَا تَعْمَلُونَ خَبِيرًا

Translation: O you who believe, be true upholders of justice, be witnesses for Allah's sake, even if it is against yourself or your parents and relatives. If he is rich or poor, then Allah knows his benefits better. So do not follow your passions because you want to deviate from the truth. And if you twist or do not want to be a witness, then 18 Allah is the All-Knower of all that you do. (Q.S.Al-Nisa'/4:135).

وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَّعْلُومٌ

وَالَّذِينَ فِي أَمْوَالِهِمْ حَقٌّ مَّعْلُومٌ

Translation: And those with a certain portion in their possessions, for the poor who ask and those who have nothing (who do not want to ask). (Q.S Al-Ma' arij:24-25).

In the rules of fiqh siyasah, the principle of upholding law and justice in the Qur'an has been regulated always to remember the importance of justice. Justice is the main goal of upholding the rule of law in Islam. The principle of justice in the Qur'an is also applied in the government by establishing the fairest law, so



that everyone has an equal position before the law and the government is obliged to uphold the law without exception.

In fiqh siyasah, justice is applied by punishing fairly, as Allah requires law enforcers. Justice is also linked to the concept of '*Adamul Haraj*', which means it is not difficult or does not contain difficulties.⁷ The various laws contained in the Qur'an are the result of responses to the problems that occurred in the Arab society at that time, termed the ethics of the Qur'an, and the ethics of the Qur'an are the foundation of Islamic law. In the synthesis, the principle of upholding law and justice in the Qur'an in the rules of fiqh siyasah has always been set to remember the importance of justice. Justice is considered the main goal of upholding the rule of law and is applied in various aspects, including law enforcement, social justice, and punishing fairly.

3. Rule Analysis

In Q.S. An-Nisa 4:58 two deeds are emphasized, namely conveying and establishing things among people in a just way. According to Ibn Kathir, Surah An-Nisa Verse 58 contains an order to uphold justice in the legal order among human beings.

⁷ Mohammad Fatihuddin, "Qur'anic Instructions on the Three Basic Foundations of Law Determination in Islam", tafsiralquran.id, 2020. <https://tafsiralquran.id/petunjuk-al-quran-tentang-dasar-penetapan-hukum-dalam-islam/> (accessed June 13, 2024).



As narrated by Muhammad bin Ka'ab, Zaid bin Aslam, and Sahru bin Jaushib, this verse relates to umara' (rulers) to treat the law fairly. So, there are two lessons that Allah commands in this verse, namely to convey the mandate to those who have the right to receive it and do justice to fellow humans. Therefore, let man never betray him, for Allah is All-Hearing of all words and sees of all deeds.⁸

According to the interpretation of M. Quraish shihab QS. An-Nisa verse 135 emphasizes the need to uphold justice and even a command from Allah SWT must be carried out. Justice taught by Islam is not only to others but also to ourselves, this verse uses the redaction qowāmīna bil-qisti. Instance, how does the emphasis on justice be? For example, I give orders to others to act fairly, in the language of the word "adieu" Adalah, to emphasize it more, namely with the word "kum bil adli", rise with justice, carry out justice. The person who rises to carry out justice is called "qaim", the person who stands upright to carry out justice, while emphasizing justice even more "qawwam" and this verse uses the editorial "qawwam", which means to

⁸ Srifariyati, Afsya Septa Nugraha, "Leadership Principles in the Perspective of QS. An-nisa: 58-59.", *Madaniyah Journal*, Volume 9, number 1 (January 2019): 54.



rise as perfectly as possible to uphold justice, not half-heartedly.⁹

In Surah Al-Ma'arij in verses 24-24 also explains justice in the social context, the verse talks about the application of social justice must be interpreted not only as building Islamic-based financial institutions (sharia), but social justice is the distribution of welfare for all people.

Islamic social justice is a modern concept; in Islamic terminology, justice is the antithesis of tyranny and arbitrariness, not in the sense of passivity only or eliminating tyranny (arbitrariness). However, it also has an active meaning that is reflected in: universal Islamic moderation, which is modern and does not tend to be biased. And it also did not isolate himself from the two. Justice in Islam is a mandatory provision and one of the vital elements of social and humanitarian life. It is a provision that must be set by Allah SWT for all human beings without exception.¹⁰

4. Application of The Rules

⁹ Laily Laddini, Ade Surya Wilia Prabandani, and Wardatun Nadhiroh, "The Concept of Justice in the Qur'an and Hadith (Study of the Interpretation of Quraish Shihab on QS. An-Nisa: 135 on Youtube).", *Journal of Quran and Hadith Studies*, Volume 3, number 2 (2022): 100-101.

¹⁰ Citra Nora, "The Concept of Justice in Pancasila Perspective of Fiqh Siyasah.", *Faculty of Sharia and Law, State Islamic Institute of Padangsidempuan* (2018): 27.



The realization of equality of rights and obligations before the law in Indonesia is the ideal of law (*rechtsidee*) in realizing justice on the one hand and on the other hand as a system of legal norms. The equation referred to in the 1945 Constitution is formulated in Article 27 paragraph (1) as follows: "all citizens share their position in the law and the government in front of it without exception. These articles are about the rights of citizens, both about citizens and about the entire population, and contain the desire of the Indonesian nation to build a democratic country and to organize social justice and humanity.

Indonesia as a country with the largest Muslim population in the world, therefore Indonesia in enforcing law and justice often applies the rules in Islam, the application or examples of the principles of *fiqh siyasah* related to justice can be seen in various aspects, including the enforcement of the law as justly as possible, social justice, and punishing fairly. Here are some examples:

There is guidance in the Qur'an in various aspects of community and state life. This effort can be seen in fair law enforcement regardless of a person's background, a trustworthy and anti-corruption government, as evidenced by the existence of the Corruption Eradication Commission, economic justice through poverty alleviation programs and



equal economic access, social justice by protecting the rights of minorities and vulnerable groups, and justice in education by providing equal access. The state also upholds the principles of equality before the law, gender equality, and non-discrimination of testimony. It increases public access to justice through independent judicial institutions and legal aid services. However, continued commitment from all parties is still needed to fully realize justice in Indonesia, given that challenges, such as corruption, discrimination, and disparities, must be overcome.

D. Conclusion

The verses of the Qur'an that contain the command to uphold justice among fellow human beings are surah An-Nisa verse 58, An-Nisa verse 135, Al-ma'arij verses 24-25, Justice is a principle in Islam, justice is the truth and truth is one of the names of Allah, in Islam justice is a very important thing because Allah Himself has a fair nature (full justice and with compassion for his creatures) this is in accordance with surah Al-An'am verse 160.

Fiqh siyasah combines understanding sharia law (fiqh) with the art of leadership and governance (siyasah). In fiqh siyasah, justice is a fundamental principle that is the spirit of all government policies and actions. Justice in this context



includes legal, leadership, governmental, economic, social, and societal aspects.

As the world's largest Muslim country, Indonesia seeks to apply the principle of justice in various aspects such as fair law enforcement, trustworthy governance, economic justice, social justice, protecting minority groups, and justice in education. However, there are still challenges such as corruption, discrimination, and disparities that must be overcome to fully realize justice in Indonesia according to the guidance of fiqh siyasah.

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