

The Concept of Justice in Islam According to Majid Khadduri

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ABSTRACT

This paper aims to describe the concept of justice in Islam according to Majid Khadduri, a Muslim scholar in the modern era. In Islamic theology, for example, justice is not only related to aspects of humanity but also divinity. In the secular sciences, justice is widely discussed in terms of substance and procedure. Likewise, in the discourse of Islamic theology, the value in question tends only to divinity, meaning that the measure of good value is God or the texts of the holy book. However, for Majid Khadduri, these values are not only related to humanity but at the same time they must be close to what God wants and religion in general. The synthesis of the two views above seems to be united in the concept of Khadduri. Therefore, the problem in this paper is how the construction of justice according to Majid Khadduri and its implications for the formulation of justice in the context of religious humanity. The results of the study show that human actions are judged fairly if they are based on correct norms and carried out with good procedures. In addition, with the development of social problems in society, such as injustice, it is also important to formulate the concept of justice which truly is a concept that can provide and be useful in solving this sense of injustice. This article will contribute and can be used as an approach in creating the spirit of changing, enlightening in Muslim society.

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Introduction

The concept of justice in Islam is an interesting issue to discuss because it is related to humanity and divinity. It is interesting because in Islamic theology, for example, God's justice is always associated with the concept of God's power and human freedom. God's justice is always felt has not been realized based on the views and standards of human beings

themselves. The question is: are humans who really do not understand God's true justice, or God himself does not show his absolute justice in this real life? Even God Himself has a name and attribute called *al adl* as found in the Qur'an. In the discourse of Islamic theology, two very popular Muslim theologians such as Imam Ash'ari the founder of the Ahl Sunnah wal Jama'ah school and Wasil bin Atha' the founder of the Mu'tazila did not escape the discourse. Imam Ash'ari started his theological discourse from the aspect of God's power, while Wasil bin Atha' from the aspect of God's justice. From here then between these two figures never find similarities in their theology, especially when talking about God's Absolute Power and human freedom, then its implications for human understanding of God's justice.

In the context of modern Islamic theology, most experts tend to the Mu'tazila theological view which is more rational than the Ash'ari view when they talk about justice. This is due to different methodologies and approaches and the influence of traditional philosophy, especially among Muslim academics and researchers who developed in the recent era. One of the popular figures and as the object of study in this paper is Majid Khadduri. This character was chosen because Khadduri is a Muslim intellectual who talks about comprehensive justice, especially procedural justice. From this it can be seen that each system corresponds to the society in question, and they develop their own procedural rules, including their impartial application, in accordance with the customs and social customs of that society. The more advanced these procedural rules, the higher the quality of formal justice shown in the particular system of law, and that can be understood and accepted by everyone, including non-Muslims themselves. According to him, the meaning contained in the concept of Islamic justice is putting something in its place, giving a task to someone according to one's ability, giving something that is their right with a balanced level (Majid Khadduri 1984).

The main principles of justice are described by Khadduri, by grouping them into two categories, namely substantive and procedural aspects, each of which has a different meaning. The substantive aspect is in the form of elements of justice in the Shari'a (substantive justice), while the procedural aspect is in the form of elements of justice in the procedural law that is implemented (procedural justice) (Khadduri, 1984). When procedural rules are ignored or applied inappropriately, procedural injustice arises. As for substantive justice, it is an internal aspect of a law where all actions that are required must be fair and those that are forbidden must be unfair. This is because revelation is not possible to burden believers with an act that they are not capable of doing.

The two categories of justice are interesting to study because they both talk about justice in the context of the outcome and process. In the study of Islamic theology, this procedural aspect is less discussed. The dominant claim in Islamic theology is that justice is an absolute right of God (Nasution, 1972), or God's justice comes based on human efforts and works (Ceric 1995).

So, how should humans act so that the justice nature of God Almighty manifests in humans? how should the attitude of believers be built so that people who call themselves believers automatically become just. Why God's justice for some people sometimes does not match the perceived facts. Questions like these are less visible in the explanation of Islamic theology, or theology in general. In fact, justice is not just a shadow, or justice only exists in God, but justice should also exist for humans. Here is the urgency to discuss Majid Khadduri's concept of justice.

The method used in this paper is to take the concepts of justice in Khadduri's work as the primary data source, then the data is explained and analyzed based on the theory proposed by Rawls about justice. The main issue in this paper is related to the importance of rebuilding an implementable justice discourse, and how it functions and plays a role in real life. This study is expected to provide new contributions and nuances for the solution to the problem of injustice in society.

John Rawls's Concept of Justice

The concept of justice discussed will be analyzed based on John Rawls's concept of justice, which he calls a fair agreement which is similar to the concept of procedural justice, as proposed by Khadduri. When talking about the social provisions that govern collective life, Rawls is actually emphasizing efforts to formulate principles governing the distribution of rights and obligations among all members of a society. The emphasis on the issue of rights and obligations, which is based on a concept of justice for a social cooperation, shows that Rawls' theory of justice focuses on how to distribute rights and obligations equally in society. In this way, everyone has the opportunity to benefit from it and it is real, then the risk that is accepted by everyone is also the same. In particular, social justice, for example, can be understood as envisions that all people and groups should live safely, with equitable distribution of resources and participation in society (Palmer 2009).

Therefore, to ensure a balanced distribution of rights and obligations, Rawls emphasizes the importance of a fair agreement among all members of society. There cannot be a strong spirit of social cooperation without fair agreement (Rawls,1971). Thus, fair agreement is the key to understanding Rawls's formulation of justice. The problem is, how can a fair agreement be obtained? Rawls views that a fair agreement can only be reached through an impartial procedure. An impartial procedure is the only way to obtain fair principles of justice. Therefore, for Rawls, justice as fairness is "pure procedural justice" (Ujan 2001). In this case, what is needed by those involved in the process of formulating the concept of justice is a fair (impartial) procedure to ensure a fair outcome (Rawls, 1971).

There are two factors that become a measure to assess whether a procedure is considered fair or not, namely structural and social factors. Structural justice is a socio-political system or structure that allows economic distribution to work well to achieve a just situation in a systematic and structured manner. Social factors are conditions in which every citizen gets their rights fairly and undifferentiated so that prosperity will be created for everyone. Procedural justice is justice for the procedures used to determine the outcomes received by workers, and this is what is called the structural aspect of justice (Moorman 1991). Employees receive procedural fairness when they have the opportunity to influence decisions, express opinions, or to obtain accurate information in making decisions (Margaretha and Santosa 2012). This, of course, is a relevant concept with this theme, because the concept of justice proposed by Khadduri is in accordance with this view. Even in Islamic jurisprudence itself that something is called *haram* because of two factors, namely the substance is *haram* or the process of obtaining it violates the laws established by religion. In Islamic jurisprudence this type is called *haram li ghairihi*, i.e. the substance of the object itself is basically *halal* (not *haram*), however, the method of obtaining it is not justified by Islamic teachings. (Rahmadani 2015). This can be analogous to the acquisition of justice in Islam, namely the procedure and distribution or final result.

Justice is a Fairness

This theory is inspired by several previous theories. Rawls calls his idea of justice a generalization of the social contract theory of John Locke, Rosseau, and Kant (Soetoprawiro, 2010), to a higher level of abstraction. Rawls does not stop at contract theory, but mentions that there is one important idea related to the creation of justice, namely the principles of justice. In this theory, Rawls argues that there are two important steps for the creation of justice which he calls *fairness*. *First*, it emphasizes the importance of the original position (a state of not knowing the concept of goodness or psychological tendencies, neutral conditions, being more rational) in order to agree on the principles of fair justice. The original position becomes the initial condition where rationality, freedom and equality are the main principles. This condition must be created and at the same time become the basic attitude of all parties involved in the process of selecting the principles of justice. *Second*, the existence of a constitution, law, or system of rules in accordance with the agreed principles of justice (Hasanuddin 2018).

It can be said, the principles of justice are a kind of contract or agreement made by the parties who are in the original position. Rawls's hypothesis regarding the principles of justice to be chosen is divided into two. First, everyone has the same right to the broadest basic liberties, the breadth of which is the same for everyone. Second, social and economic

inequality must be managed properly so that (a) it can benefit everyone, and (b) all positions and opportunities are open to everyone. These principles govern the application of rights and obligations, distribution of social and economic benefits. Distributive justice refers to fairness in the form of rewards within an organization such as timely payments, amounts received and levels of benefits. This concept is relevant to the justice conveyed by Khadduri, namely that Islam teaches honesty and justice related to the application of the principle of equality by paying attention to the rights of each stakeholder fairly in accordance with applicable laws and regulations. To realize this justice requires openness, from the authorities to stakeholders so that nothing is covered up. In the Qur'an, the principle of fairness is explained in Q.S *An-Nahl* [16] verse 90 which means: Lo! Allah enjoineeth justice and kindness, and giving to kinsfolk, and forbiddeth lewdness and abomination and wickedness. He exhorteth you in order that ye may take heed.

Procedural Justice

Procedural justice speaks to the idea of fair processes, and how people's perception of fairness is strongly impacted by the quality of their experiences and not only the end result of these experiences (Gilliland 1994). John Rawls' theory of justice can be called a procedural justice theory. Procedural justice is the result of agreement through certain procedures and has the main target of regulations, laws, and laws. Rawls calls his theory a pure procedural justice theory. This theory has its own characteristics compared to other procedural justice theories, which are classified into two: perfect procedural justice theory and imperfect procedural justice theory. The theory of perfect procedural justice can be described in the case of the distribution of bread for five people. The rule that stipulates that the divisor will get the last share can be called fair procedure. With this procedure, if he doesn't want his share to be the smallest, the divider will try to divide the cake fairly. In other words, this theory wants to say that good procedures determine good and fair results.

The theory of procedural justice is imperfect, for example, it can be seen in criminal courts. In this trial, the goal to be achieved is that the suspect must be found guilty if he commits a violation. Evidence that is processed in such a way is used in applicable legal procedures. However, even though the law has been carried out carefully with a proper and fair process, the final result can be different. Innocent people can be found guilty, and guilty people can be acquitted. Here, there are criteria for the right end result, but there is no procedure that guarantees that the right end result will be a decision. In other words, this theory wants to say that the current procedure does not necessarily determine the final result as expected.

The peculiarity of John Rawls' pure procedural justice theory lies in the close relationship between the procedure and the final result. In contrast to the imperfect procedural justice

theory, there are no criteria for the final outcome here. Here it is clear, precisely when the final result is known and true or fair, it appears that the procedures that are running are also true and fair. When the final result shows signs of irregularity, it can be suspected that there is a problematic procedure. To illustrate this theory, Rawls calls it a gambling game.

There are two main points in Rawls' theory of justice. First, basic or natural obligations. Here, it is assumed that each party can be subject to an obligation, namely by doing everything voluntarily, because that obligation is believed to be an extension of a natural obligation, as in the concept of natural law, to act fairly. This first section deals with Rawls' first hypothesis of the principle of justice which was stated earlier. Second, institutional justice. This section will explain to us whether institutions are fair or not. These two points are hierarchically related. That is, the first part precedes the second. Obligations can only be realized properly when the constitution, laws, or institutional regulations are fulfilled properly as well. Rawls's idea that justice is fairness is tried to be equated with Kant's view of categorical imperatives. Kant's opinion stems from his idea of the moral person. Based on the influence of Kant's teachings on the moral person, Rawls argues that humans as moral persons are equipped with the gift of basic abilities.

The first basic ability is called a *sense of justice*. This basic ability makes humans able to understand and distinguish between fair and unfair and act on it based on justice. The second ability is a *sense of the good* which allows humans to be able to distinguish between good and bad and encourages them to choose the good. These two basic abilities form the basis for everyone to make moral decisions. From a theological perspective, the essence of justice is the importance of a fair procedure that is able to ensure the realization of policies. Then the procedure can be accepted rationally and can be justified. In this way, all rights and obligations can be accepted by everyone as fair. If God's justice exists, then a person should be able to clearly see the process of the incident rationally so that he can accept God's decision fairly. If someone already believes that God created humans as rational beings, free and equal, as an original nature, then he should manifest justice equally, justice manifested in everyone. The problem is why God does not give equally, this is where the urgency of God's policy procedures can be explained well. Otherwise, people will say that God is unfair, and this is impossible for God. Thomas Aquinas, a philosopher, said that the most important value in life is justice. Justice is needed to regulate the relationship between humans.

Procedural justice is related to the perception of fairness from the process used to arrive at a decision. Fair procedures and processes also have a tendency to moderate the impact of negative reactions that arise from decisions where the outcome is not what the worker wants. This is as opposed to distributive justice by using the assumption that workers are only concerned with outcomes, such as: salaries, rewards, work schedules, workload and other

responsibilities (Saunders 2002). In terms of wages, for example, Islam teaches punctuality in payment, namely: "give their wages before their sweat dries" (Ibnu Majah n.d.). Indicators of procedural justice are consistency, achievement, minimization of bias, accurate, representative and ethical (Arianto, 2008). One of the important constructs in procedural justice theory is "process control" or "voice effect". Stakeholders' understanding of a fair process increases when they are given the opportunity to express their wishes, opinions, about a decision (Ganto 2019). The concept of procedural justice like this is relevant to convey because it is directly related to the perception of stakeholders as workers. This can help to avoid prejudice against the final results achieved, especially if the results do not match the expectations of workers.

Justice in the Perspective of Muslim Theologians

Justice is an important aspect in Islamic studies. The Khawarij (Seceders), perhaps the earliest thinkers in Islam who initiated the debate on justice. They discussed not only the political aspects, but also the ethical implications. Although they support the doctrine of voluntarism and say that humans are responsible for their actions in the political field, but they do not all agree that he is completely free to determine his ethical actions. Ethical standards are closely related to religious obligations and therefore must be determined within the framework of revelation. The Mu'tazila, for example, made the aspect of justice one of the elements of their theological principles or doctrines. Even in the Qur'an itself, the word justice is one of the names and attributes of God among the 99 names written in it. Justice is the most simple and appropriate trait to show perfection. Because He is Perfect, He must be just. This teaching places God really just from the human point of view. God is said to be just because He acts better. Or vice versa, He is said to be good because He acts justly. Justice is not only rewarding someone who does good and punishing someone who does evil, but also God has an obligation to give and punish it. The view 'God is obliged to make what is best for humans' has a very broad meaning, for example, does not give too heavy a burden for humans so that it is difficult for them to do so, sending prophets, giving man power so that he is able to carry out these commands and so on (Rohidin 2018). These are all ways and facilities by which God wills and carries out these obligations. Likewise, for example, it is said that God is just if He does not violate or violate His promises. The Mu'tazila often calling themselves the partisan of justice and oneness (ahl al-adl wa al-tawhid) maintained that man is the author of his acts both just and unjust, for which he will be rewarded or punished in the hereafter. They agreed that justice was divine and God is its fountain, but there was a difference of opinion on how divine justice would be realized on earth. In solving to this problem, the Mu'tazila proposed a new theory of justice by presuming the existence of two levels of justice; Divine and Human- the one laid down by God and other determined by reason (Ismail, 2010).

In contrast to the adherents of traditional understanding, represented by the Ash'ariya theologians, they view that everything is seen from the aspect of God's absolute power and will. This has implications for the meaning of fair, namely placing something in its actual place, it means having absolute power over the property owned and using it according to the will and knowledge of the owner. Thus, God's justice implies that God has absolute power over His creatures and can will as he pleases on His throne (Havis Aravik & Choiriyah 2018).

On the other hand, injustice means putting something out of place, namely absolute power over other people's property rights. So, God as the owner who has absolute power can do anything to His creatures, even though in the view of humans there are actions of God that lead to injustice. If studied more deeply, the two different views are based on their respective logical arguments. That is, logic as a means to maintain the truth is very dominant in each school. Admittedly, logic was a discipline that was quite prestigious at that time in addition to the revelation of the Qur'an. Logic is not only a science to organize good thinking, but logic is the application of ratio (pure reason) as in Descartes' philosophical tradition. By Descartes, ratio is a power from God, which he calls the idea of *innata*, a gift that God has entrusted to man. Therefore, the truths obtained through the power of reason contain strong truths side by side with the truth of revelation. However, as in the critique of empiricism, that the truth found in rationalism cannot be proven empirically, so it requires factual data support.

In the context of Islamic theology, revelation and reason are two sources of truth that are full of dialectics. One another can reinforce each other, but nevertheless can be contradictory. So, neither one is seen as lower or higher than the other. Both are means of finding the truth. In today's modern era, there is criticism if these religious and rational doctrines do not directly touch social life. Khadduri also saw that from the above views certain difficulties emerged. Rational justice defined and determined by reason and voluntarism gives humans the right to control their actions. However, Sunni theologians say that this is contrary to the texts of the Qur'an which state that Allah has created everything on this earth and all movement in the universe (Havis Aravik & Choiriyah 2018). Then the Mu'tazila said that God's Justice which is realized on this earth through reason requires the existence of two scales of justice, namely rational and revelatory which can be in harmony or not. If a conflict occurs between the two, which one should a believer follow? The issue brought ongoing controversy and doctrinal conflict, and each one defended his opinion. The Mu'tazilites and their opponents have always consistently reconsidered and filtered out doctrines that were not in accordance with their views (Khadduri n.d.).

In this theological perspective, the concept conveyed by Mu'tazila is more rational, and this seems more inclined to procedural justice. That is, distributional justice is only a logical consequence of procedurally appropriate human efforts. It is impossible to get the best results,

without a good process. In contrast to Ash'ariya who said that there is no causal relationship between the distribution of justice and the procedure, because God's involvement is more dominant in determining the final outcome. There is relevance to this explanation for the Khadduri issues, especially when explaining why in some cases there was a discrepancy between good procedures but the results were not as expected. For people who are well religious, there is an acknowledgment that God is involved in the procedure, either directly or indirectly. In Islamic theology, God's power manifests itself through the process of natural law, which in essence is also God's work (Sirait 2008).

Brief Biography

Majid Khadduri was born to a Greek Orthodox family in Mosul, northern Iraq, in 1909. He completed high school education in Mosul, and then left for Beirut in 1928. He received his bachelor's degree from the American University of Beirut in 1932. He left Chicago and received a doctorate in political science and international law from the University of Chicago in 1938. From 1939 to 1947. He worked at the Iraqi Ministry of Education in Baghdad. During the same period he was also a professor in Law at the Teachers College College in Baghdad. He had two brothers, Khalid, and Dulel, and two sisters Mathela and Khairiya. He married Dawaff, who died in 1972, and had two children: Farid and Shirin, who in turn gave him three grandchildren. He died on January 25, 2007 at a care facility in Potomac, Maryland (Felisa Neuringer Klubes 2007).

Majid Khadduri taught at Indiana University and the University of Chicago in 1949 and for the next thirty years he taught at the Johns Hopkins University School of Advanced International Studies (SAIS) in Washington DC. He served as professor of Middle Eastern studies from 1949 to 1970. Until finally Majid Khadduri became director of SAIS at the Center for Middle Eastern Studies in 1960-1980. Then from 1970-1980, He became Research Professor at SAIS. He helped found the University of Libya, and served as dean in 1957. He was a pioneer in Middle Eastern and Islamic studies in the United States, and is recognized as one of the world's leading authorities on Islamic law and Islamic jurisprudence, modern Arab and Iraqi history, and Middle Eastern politics and personalities.

When talking about the concept of justice in Islam, of course, experts in philosophy, law, economics, and politics in Islamic academic forums, of course, will not pass the various theories put forward by Majid Khadduri. Through his works, such as *Political Trends in the Arab World: The Role of Ideas and Ideals in Politics* (1970), *War and Peace in the Law of Islam* (1977), *Arab Personalities in Politics* (1981), *Law in the Middle East: Origin and Development of Islamic Law* (1982), *Political Trends in the Arab World: The Role of Ideas and Ideals* (1983) *The*

Islamic Conception of Justice (2002). The following is a description of these titles and their general discussion:

Number	Title	Issues discussed
1	<i>Political Trends in the Arab World: The Role of Ideas and Ideals in Politics</i>	A comprehensive study of 'mainstream contemporary Arab thought' in the eastern Arab world, exclusively in North Africa, Pakistan, Iran and Indonesia. This book contains much about the wastelands of the Near East). For example, the history of the conflict in Syria, the Middle East climate crisis, the Gulf war and so on.
2	<i>War and Peace in the Law of Islam</i>	This book presents an analysis of classical Islamic doctrine on the story of war and peace and their adaptation to the modern world. In collaboration with other researchers, Khadduri reports on the results of his research on the Islamic state, Islamic law and the influence of Western law on Islam. This book also discusses the attitudes of early Muslims towards foreign policy, international trade, wars, treaties and subsequent developments during the twentieth century.
3	<i>Arab Personalities in Politics</i>	As a continuation of Arab Contemporaries history (1973), the book contains portraits and life descriptions of Sadat, Asad, Husayn from Jordan, Qabus from Oman, Zayid from Abu Dhabi, and Khalid and Fahd from Saudi Arabia. He considers each of them representative of the current age of "realism". This book contains interviews of these characters, although not very in depth. There are also descriptions of the present based on the work of these figures, especially their thoughts on democracy for the future.
4	<i>Law in the Middle East: Origin and Development of Islamic Law</i>	The book contains the origin and development of Islamic law in the 1982's. edited by two authorized scholars in Islamic law Dr. Khadduri and Dr. Liebesny. This book contains an overview of Law and its application in the Middle East and is one of the references for legal professionals in America.
5	<i>Political Trends in the Arab World: The Role of Ideas and Ideals</i>	A comprehensive and scientific study of 'mainstream contemporary Arab thought' in the eastern Arab world, exclusively in North Africa, Pakistan, Iran and Indonesia. Not much different from the previous book, this book also tells about this area that has many problems in the Near East.
6	<i>The Islamic Conception of Justice</i>	This book contains Majid Khadduri's critical study of Islamic political, legal, ethical and social philosophy. This book is a synthesis of various practices modern Islamic beliefs and practices about justice. Overall, Khadduri discusses not only the meaning of justice in general but also how justice has undergone significant changes in modern times. At the end of the book, the impact of Western ideas on justice is

		presented, with particular emphasis on the recurrence of fundamentalist movements such as the Islamic Revolution in Iran and the Muslim Brotherhood in Egypt, Pakistan.
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Khadduri is known as one of the leading Islamic thinkers in the late 20th century. Based on an in-depth study of multi-disciplinary thought, he is believed to be someone who has had a considerable influence on Islamic thought on the discourse on the values of justice to date.

Literally, the word '*adl*' is an abstract noun, derived from the verb '*adala*', which means: First, straighten or be honest; Second, away from, leaving from one wrong path to the right path; Third, to be equal (to be equal or equivalent), to be equal or match (to be equal or match) or equal; Fourth, make balance or balance (to balance or counter balance). Finally, '*adl*' may also mean example or equal (similar), an expression directly related to justice (Khadduri n.d.). The literal meaning of the word fair in Arabic is a combination of moral and social values that manifest themselves in: honesty, justice, fairness, balance; restraint, and straight forwardness (Khadduri n.d.).

From a not much different opinion, the word "fair" means to establish the law properly. So, a just person is straight and his attitude always uses the same measure, not double measure. "Equality" is the original meaning of the word "fair", which makes the perpetrator "not taking sides" with one of the disputants. A just person tends to the right" because both the right and the wrong must both get their rights. Thus, he does something as he should and he does not behave arbitrarily (Ira Alia Maeran 2018).

From the various thoughts outlined in his works mentioned above, there are several concepts regarding substantive justice and procedural justice. Initially, the concept of substantive and procedural justice was an internal and external aspect of Islamic legal discourse. However, the studies found in it also cannot be separated from the problem of divinity. God's justice is one of the subject matter in the discourse of Islamic theology. The elements contained in the theology are representations of "truth" and "false". In Islamic vocabulary, "truth" and "false" are elements contained in theology, which are parallel to "faith" and "pagan" and then form some general and specific rules of Islamic theology. In the legal context, it is considered a truth that all obligatory actions must be fair, because these actions are a statement of God's will and justice, and all prohibited acts are unjust acts.

Procedural justice is an external aspect of the *Shari'a* by which, substantive justice is achieved. In the context of Islamic theology, procedural justice (external) can be realized when substantive justice (on faith) has been achieved. This aspect of justice is often called formal justice, where it is manifested at the level of regularity and implementation when applying religious expressions. However, procedural justice will also experience problems when it is carried out without considering the sociological aspects of society. Therefore, according to

Khadduri, social justice needs to be studied seriously to help realize substantive justice (Majid Khadduri 1999). God's substantive justice should manifest itself in procedural justice.

The Values of Majid Khadduri Thought

In the book *Concept of Justice in Islam*, Khadduri tries to re-analyze the fundamental problems of philosophical and political studies by reconciling the principle of freedom and the principle of equality. If studied further, Khadduri's works are in line with the social contract tradition which was originally promoted by various famous thinkers before. However, the idea of a social contract that it produces seems to tend to revitalize various utilitarian and intuitionistic classical contract theories. In this case, utilitarians support the concept of justice as a condition in which society can obtain goodness and happiness equally. He argues that justice is the main virtue of social institutions. This brilliant concept of social contract also seems to come from his concept that justice is a positive concept and analyzes it from the point of view of existing social conditions (Khadduri n.d.). This is where he differs from Muslim theologians and philosophers who view that justice is an abstract and idealistic concept, expressed in superior and perfect terms. They do not try to seriously interpret justice as something concrete and visible in social reality. Thus, justice is not only a condition where people can get goodness and happiness equally, but also justice is the main virtue of the presence of social institutions.

This is relevant to what was written by Shamrahayu, A.A. and A.O. Sambo Thus, that everyone shall be treated justly as provided in Islamic law and shall not be treated against Islamic law. The government shall protect the dignity and welfare of its people and implement the principle of enjoining what is right and forbidding what is wrong. Everyone also has right to be protected against injustice including seeking for compensation, right of self-defence for any charge against him and fair judgment before court or tribunal. As such a person has right of self-defence against unwarranted charge and right to counsel for the accused of crime. The court or tribunal shall decide a case before him equality in litigants according to principle and procedure as provides in Islamic law. Thus, the government must protect and preserve the independency of judiciary. Moreover, everyone has right and duty to defend the rights of others either in private or in public individually or in community without any discrimination. Besides that, it is right of every Muslim to refuse obeying any man-made law, which does not conform to the Islamic law. It also extends to protest against government's tyranny (Shamrahayu 2012).

Therefore, it can be said that Khadduri's perspective is similar to Rawls's view, namely in the perspective of "liberal-egalitarian of social justice". Specifically, he develops ideas about the principles of justice by making full use of the concept of distributive justice. This concept is

more positive, and is a product of human customs and experience rather than the product of reason. This is different from natural justice which is defined as a normative concept, i.e. you have to be fair because God is Just, or natural justice as a result of human reason (Shamrahayu 2012).

Aristotle actually had conveyed the term distributive justice, but he used it not in a social sense, but in a numerical and quantitative sense. In another context, Khadduri is not much different from Rawls, in terms of his concept of creation known as "original position" and "veil of ignorance". As in general, every contract theory must have a hypothesis and Khadduri's concept of the contract of justice is no exception. He tries to create an equal and equal situation between everyone in society and no group has a higher position than one another, such as position, social status, level of intelligence, ability, strength, and so on. He tries to create an equal situation between everyone in society and no group has a higher position than one another, such as position, social status, level of intelligence, ability, strength, and so on. Thus, each person can make an agreement with the other party in a balanced way. This condition is what Khadduri refers to as the "original position" which rests on the notion of reflective equilibrium and is based on the characteristics of rationality, freedom, and equality in order to regulate the basic structure of society (Pan Mohamad Faiz 2009). For him, these terms have a unique meaning, namely all of them as the fundamental goals of the doctrine of the Qur'an. Contrary to the views of classical Islamic theologians, they are not so intense in discussing it.

Freedom here is used in two meanings, the first is related to free will (*ikhtiyari*), which is closely related to the discourse of rational and revealed schools of thought. Then secondly, it is absolutely legal to define the relationship between slavery and freedom. *Shari'a* proposes the rights and obligations of masters and slaves, but not in the form of a 'special statement of human rights in the modern sense of the term and is used to protect individual rights (Majid Khadduri n.d.). Khadduri's hypothesis without a historical record is actually almost similar to what Rawls put forward as "the view from nowhere", however, he focuses more on a very abstract version of "the State of Nature". Meanwhile, the concept of "veil of ignorance" can be interpreted with substantive justice which by Khadduri can only be measured by universal religious and moral values. With this substantive justice reason, sometimes everyone is faced with the closure of all facts and circumstances about himself, including certain social positions and doctrines, so that he is unable to see the concept or knowledge of justice that is developing. Through this theory, he tries to lead the community to obtain the principle of fair equality.

He explained that everyone has the same right to freedom. Then, by referring to the social justice of Ibn Khaldun, he sees the aspect of high social solidarity which is certainly contained in the discussion of social and economic inequality. Ibn Khaldun's view of justice seems to

come from his personal studies and experiences in dealing with the forces that control society but not based on Islam. According to Ibn Khaldun, justice as a social concept process is also largely determined by social factors which are often far from the control of the community itself. A concept of justice may be considered an apologia because it was created to overcome the inability to control social forces and correct the injustices that come from them. In other words, a scale of justice can no longer be based on law and religion alone, thus it requires other values.

Ibn Khaldun divides three types of states that can be distinguished on the basis of their scales of justice: First, the category of countries whose public order actually comes from revelation sources, and whose scale of justice is based on religion and law. Second, a state whose public order depends on the laws established by humans, and whose scale of justice consists of values that are truly secular in character, both based on social norms or customs. Because these values are not derived from law and religion, then a scale of justice is really imperfect, because only Allah and His Prophet provide a perfect and ideal standard of justice. Third, the category of states whose public order consists of a mixture of secular and religious laws. This type of order applies in Islamic countries after the transformation from the caliphate form of government to the royal form of government.

In principle, the rulers were bound by law and religion, but in practice they pursued self-interest, their policies were determined only by social customs, and tended to follow the ambitions of the members of the royal family. This type of justice is not ideal and not purely rational, but is a form of social justice or positive justice. Norms and practices like this have also existed among Muslims. In this way, high social solidarity will be: (a) the maximum benefit is obtained for the least advantaged members of society, and (b) positions and positions should be opened to all under conditions of fair equality of opportunity (Khadduri n.d.). The vision of justice embodied in Khadduri's thought seems to be in line with Rawls's concept of his theory of justice which is called "justice fairness". Thus, to realize a just society, he seeks to position the freedom of basic rights as the highest value and then it must be followed by guaranteeing equal opportunities for everyone to occupy certain positions.

Khadduri's Concept of Justice in the Context of Islamic Theology

The principles of justice presented by Majid Khuddari are generally very relevant to Islamic theological thinking. Even when the book *The Islamic Conception of Justice* was translated into Indonesian, the title became "Teologi Keadilan (Perspektif Islam)" or Theology of Justice in English. If you look closely before the publication of works on "Islamic justice", the Islamic world has been talking about this for centuries. In fact, the discipline of *Ilmu Kalam* or Islamic Theology, as a spokesman for Islam in the context of the discussion of God's justice, was

claimed to be a prestigious scientific discipline at that time. *Ilmu Kalam* has actually embedded the basis of religion in the lives of Muslims in the world.

In Khadduri's conception, justice can be realized through interpretation of the meaning of God's justice by improving the basic structure and meaning of justice, especially relating it to the social structure of society. If we look at the concept of Khadduri's rationality of justice, then this has been found in the Mu'tazilite teachings about God's justice, which means that God's justice can be maintained if humans have the freedom to determine, choose and do what they want (Khan 2017). If we compare the principles of justice, the two principles of justice which are the main premise of his theory are also contained in Mu'tazila theology, especially after the verses of the Qur'an that show God's justice and human freedom.

Procedural Justice

Before discussing procedural justice, it's good here to say a few things about substantive justice. The two cannot be separated and must go together. In the context of Islamic theology, substantial justice is defined as justice that is given in accordance with substantive legal rules, regardless of procedural errors that have no effect on substantive rights. This means that what is formally and procedurally true can be materially and substantially violated. This means that what is formally and procedurally true can be materially and substantially violated the principles of justice. In the perspective of traditional theology as in the teachings of Ash'ari (Toosi 2020), what is formally wrong or unprofitable, it can be justified if it is materially and substantively fair in God's view. God can tolerate procedural violations as long as they do not violate the substance of justice. In other words, substantive justice does not mean that God must always ignore the contents of the verses of the Qur'an, but with substantive justice it means that God can freely determine outside the verses that He thinks give a sense of justice. However, verses that clearly show good procedures are still used as guidelines, especially if they have given a sense of justice while at the same time guaranteeing theological certainty.

Next is procedural justice which refers to the idea of justice in the processes of its achievement. Procedural justice is the external aspect of God's universal justice, by which substantive justice is achieved. In other words, procedural justice can be realized when substantive justice is believed. Aspects of formal justice like this are manifested at the level of regularity, carefully and rationally in their application. One aspect of procedural justice is related to the discussion of how to provide justice in the process of achieving it so that it fulfills a sense of satisfaction in the human context itself. The meaning of procedural justice like this can be related to the process or stages that God reveals in this world. If it is associated with God's law, substantive justice is related to universal law, while procedural justice is related to natural law or the law of causality, namely how to enforce or implement the universal law.

Khadduri writes, it is possible that certain legal systems may grossly ignore elements of substantive justice, although it has procedural rules that are carried out with certain measures such as coherence (reasonable), regularity (regular), impartiality (impartial, neutral), as a requirement of formal justice. This is important because in the context of Islamic theology, the substance aspect is the principle part. All forms of activity, especially those related to worship and theology, must be in the name of God. Recognition of God's justice is central to Islamic teachings. This is despite the existence of different interpretations from one group to another. Mu'tazila, for example, this group is more inclined to understand justice in the context of humanity, not divinity. Therefore, according to them, God is obliged to do what is best for humans, procedurally and substantively. Otherwise, God is not the most just substance. It is impossible to achieve substantive justice without being carried out with a fair procedure. Procedural fairness means that the process is carried out in a rational manner and contains the law of causality. In contrast to Ash'ari, that procedural justice is only a visible natural phenomenon, it is not related to the substance that will be obtained by humans.

There is no certainty whether justice according to God is in accordance with what humans experience at that moment. But it could be uniform, meaning that what God said was fair according to Him, fair also in the eyes of humans at that time. Admittedly, the procedural rules of justice vary from one legal system to another. But the most important thing is that these procedural rules need to be developed according to the context, including their impartial application, in accordance with the customs and social habits of the community. The more developed these procedural rules, the higher the quality of substantive justice that is shown in the particular system of the law. When these rules are ignored or applied inappropriately, procedural injustice arises. This means that in the process and implementation of God's justice, a process that is not natural from a human perspective is found.

As a procedural form of justice, some people may view that it is not as significant as substantive justice. Even though without procedural justice, God's claim to be the most just is not clear in the eyes of humans, and without it, the elements of justice will become mere academic values. Although the elements of justice are not seen at all in the law, one can get satisfaction if the procedure of justice is applied in his life.

God's Justice in a Social Context

This procedural justice seems to be synonymous with social reality. This means that in social reality there are so-called facts, the law of cause and effect, the principle of benefit, and social relations. When God's justice is explained from the framework of procedural justice, this

means that justice is in the social domain. God's justice is not only what is in God's substance, but should manifest itself in the reality of the lives of believers. Sociologically, God's justice is not something that comes suddenly, but it appears in the natural law process that He created as well. For someone who is given by God a decision that he thinks is unsatisfactory, he may say God is unfair, and if God's decision is good, then he says God is just. This condition arises because there is a possibility that, procedurally, there is an invisible process so that the appearance of God's decision cannot be explained or there is an error in the procedure.

God cannot be wrong in the procedure. The universal value of justice will be damaged when humans cannot respond to it with appropriate procedures or mechanisms. If analyzed from Khadduri's point of view, God's procedural justice manifests itself in two ways, namely in a leader and a bureaucracy. As stated earlier, that justice is not only seen in an equitable or balanced distribution in society, but justice must also be seen in an institution or institutionalized.

According to Khadduri, the emergence of differences of opinion by Muslim theologians regarding justice is partly due to the absence of an empirical explanation where God's universal justice is lending. Theologians only focus on defining justice from the perspective of human destiny without paying attention to reality. There are several prominent Muslim leaders as representatives to seek justice itself, although according to Khadduri almost all of them have problems when they are in a bureaucracy.

Hierarchically, God's justice began to appear from the Prophets who brought the truth and the welfare of society. But when the Prophets were gone, the leadership was controlled by the priesthood. According to him, this situation also makes the meaning of justice change and unclear. The issue of leadership succession, for example, has become an important issue in the political justice debate. Many of the leaders and bureaucracies do not get legitimacy from the community so that their decisions cannot be a statement of the sovereign will of God, but are based on their own desires. Therefore, their actions in setting policies are unfair. In Khadduri's works, leaders such as Ibn Khaldun, Ibn Taimiyah, Muhammad Abduh (1849-1905), Jamaluddin Afghani (1839-1897) to Ayatullah Ruhullah al-Khumaini are seen as part of trying to show procedural justice through political bureaucracy.

What is often understood so far is that a political leader and bureaucracy is only a separate field that is not related to God's justice as one of the discourses in Islamic theology. In fact, according to Khadduri, it is through these two aspects that God's justice can be explained. Society as an element in politics and bureaucracy must receive good service so that they can enjoy God's justice through both. Quoting al-Afghani's view, Khadduri said that rulers should give their citizens a right of participation in exercising authority. They should invite an elected assembly to discuss public affairs according to the principle of consultation to ensure that

public affairs are open for discussion between employers and subordinates. Even in this context, Rawls says all positions and positions are open to all (Rawls n.d.). In the initial condition (original position) as described above, Khadduri believes that all parties will act rationally, they are rational human beings, all parties will prefer to choose the principle of justice based on direct profit and benefit (utilitarianism). In this context Rawls, as Iqbal wrote, said all social values, freedom and opportunity, income and wealth, and the basis of self-esteem, must be distributed equally. An unequal distribution of these social values is only permissible if it benefits the most disadvantaged people. This difference principle departs from the principle of inequality that can be justified through controlled policies as long as it benefits weak community groups. Meanwhile, the principle of equality of opportunity contained in the distribution or in terms of other activities does not only require the principle of a person's condition, but is also based on the needs of that person. Inequality in opportunity due to differences in the quality of ability, willingness, and needs can be seen as a fair value based on Rawls's perspective.

Conclusion

At the end of this paper, it is stated that the construction of justice in Islam presented by Majid Khadduri is a combination of justice based on religion and social sciences. From a religious perspective, he proposes an opinion that starts with substantive justice as found in religious texts. In this view, the concept of justice which is normative and must be true should be implemented in the social area. Here, a Muslim must be able to use the framework of the social sciences as a tool in its implementation. The truth of natural science here is seen in the procedural aspect or process, and this is concrete and measurable. On the other hand, the procedural aspect must also be controlled so that it can support the procedural aspect according to what the substantive aspect wants. Such a concept will have implications for a Muslim or other people how to take an action against another person so that the action is considered fair, both from a religious and social perspective. These actions make a person get his real rights, and for those who do it get the reward of goodness from God. This should be a paradigm that must be developed for someone who believes in religion and virtue. Religious norms are not only in discourse, but their contribution can be achieved in real life. Based on this view, this concept can fill part of the study of Islamic studies, especially on the development of the concept of God's justice as one of the main topics in Islamic theology. Justice here is not only a doctrine that must be embraced but also real in life, that is living justice.

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