



COMPARISON OF THE CONCEPT OF JUSTICE IN ISLAMIC LAW AND WESTERN LAW

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ABSTRACT

This study describes an in-depth analysis of the concept of justice in Islamic law and Western law by relying on literature studies involving comparative and integrative literature analysis. This approach was chosen to obtain comprehensive results in the comparative understanding of the concept of justice in Islamic law and Western law. The study results stated that justice in Islamic law has deep roots in religious teachings and is often closely related to religious values. In contrast, Western law tends to be more secular based on legal principles that arise from historical developments and philosophical thought. In comparison, there are similarities in the humanitarian principles underlying the laws of War, Peace, human rights, and individual protection. However, differences in legal sources, basic principles, and implementation create different frameworks for achieving justice. In an age of increasingly connected globalization, this better understanding of differences and similarities can potentially promote cross-cultural dialogue, international cooperation, and joint efforts in achieving justice and peace worldwide.

Keywords: *Justice in Islamic law. Justice in Western law. Comparative analysis.*

1. Introduction

The development of the concept of Justice has been a major highlight in global legal discourse and culture, especially with the diverse changes that have taken place in modern society. Justice is a fundamental principle that lays the foundation for legal systems worldwide, and an understanding of this concept profoundly impacts the governance of law, the protection of human rights, and the harmonization of religious and secular values.² Both legal systems, namely Islamic law and Western law, have their views on Justice, which are reflected in their laws' sources, principles, and implementation. In

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² Nazila Ghanea, Alan Stephens, and Raphael Walden, "Does God Believe in Human Rights," *Netherlands: Martinus Nijhoff Publishers* (2007): i–xxi; Kristen A Carpenter and Angela R Riley, "Indigenous Peoples and the Jurisgenerative Moment in Human Rights," *California Law Review* (2014): 173–234.

Islamic law, justice is a fundamental and pervasive concept in all aspects of life. Sources of Islamic law, such as the Quran and Hadith, address principles of justice, including equality before the law, being just, and compassion toward one's neighbor.³

Justice in Islamic law also reflects the concept of fair economic distribution, such as zakat, and the protection of individual rights. This creates a solid legal basis for organizing the lives of individuals and society in a fair framework. On the other hand, Western law has a long tradition of developing the concept of justice in its various forms. The principles of ancient Roman law, English law, and modern legal developments have formed the basis for the concept of Justice in the West. Principles such as equality before the law, the right to a just defense, and human rights are central cornerstones in Western legal systems. In addition, social and political developments have brought about changes and evolutions in the understanding of justice, encompassing issues such as minority rights, gender equality, and social justice.

A comparison between the concepts of Justice in Islamic law and Western law reveals several interesting similarities and differences. While both value the principles of justice, their understanding of how to achieve justice can be different. Islamic law often emphasizes moral and religious aspects in the determination of justice, while Western law focuses on secular aspects and the protection of human rights. It creates opportunities for intercultural dialogue and collaboration to achieve global Justice. In addition, a deeper understanding of the comparative concept of justice can also help overcome the challenges of implementing the concept of Justice in an increasingly complex and diverse society. Despite differences in beliefs and

³ Arif Sugitanata, Suud Sarim Karimullah, and Rizal Al Hamid, "Hukum Positif Dan Hukum Islam: Analisis Tata Cara Menemukan Hukum Dalam Kacamata Hukum Positif Dan Hukum Islam," *JURISY: Jurnal Ilmiah Syariah* 3, no. 1 (2023): 1–22; Rizal Al Hamid, Arif Sugitanata, and Suud Sarim Karimullah, "Sinkronisasi Pendekatan Sosiologis Dengan Penemuan Hukum Islam Sui Generis Kum Empiris," *Bertuah Jurnal Syariah dan Ekonomi Islam* 4, no. 1 (2023): 48–60.

traditions, this study can stimulate critical thinking and reflection on how justice can be translated and applied in various cultural and legal contexts.

In an era of increasingly integrated globalization, consideration of how the concepts of Justice in Islamic law and Western law interact at the international level is becoming increasingly important. It covers international trade, human rights, and cross-border law enforcement issues. In this context, an in-depth understanding of comparative justice concepts can help foster cooperation between countries in responding to complex global challenges. In addition, it is also important to recognize that there is no single "right" or "wrong" concept of Justice. "These two legal systems developed within different cultural, historical, and value frameworks, resulting in a unique understanding of justice. Therefore, this study can also provide insight into how different cultures and societies can contribute to creating a more inclusive discussion about global justice. Thus, this study becomes important in delving deeper into the complex aspects of the concept of justice in Islamic law and Western law, as well as its impact in a global context. A better understanding of these concepts can build a solid foundation for achieving better justice in the future, reflecting universal values while respecting the diversity of cultures and values shared by people worldwide.

The study of comparing the concept of Justice in Islamic law and Western law has been the subject of academic attention over the past few decades. Several studies have been carried out within this framework, providing important insights into comparing and contrasting these two legal systems. Several relevant previous studies can be identified, such as one conducted by Asasriwarnia and Jandra in exploring the comparison between the concept of justice in the Islamic legal system, civil law, and common law.⁴ The review includes an analysis of the sources of law, principles of justice, and applications in contemporary case law. Samuel D. Blanch, in his study,

⁴ Asasriwarnia Asasriwarnia and M Jandra, "Comparison Of Legal System: Islamic Law System, Civil Law, and Common Law," *UMRAN-International Journal of Islamic and Civilizational Studies* 5, no. 2-1 (2018).

explores how Islamic law and Western law can blend in certain contexts by providing a deeper understanding of how the concepts of justice in these two systems can interact in practice.⁵

Wael B. Hallaq, in his book, outlines the development and evolution of the concept of justice in Islamic law from a historical perspective.⁶ He analyzes how the concept of justice in Islamic law has changed over time and to what extent these changes reflect different social and political values. In his study, Otto provides a comprehensive overview of the implementation of Islamic law in various Muslim countries.⁷ This allows for a deeper comparison of how justice in Islamic law varies across the Muslim world. These studies have provided a foundation for a better understanding the comparative concept of justice in Islamic and Western law. However, there is still room for further study, especially in evolving social and political changes. This review will try to deepen and expand the existing knowledge within this relevant framework.

2. Reseach Method

This study relies on literature studies involving comparative and integrative literature analysis. This approach was chosen to obtain comprehensive results in the comparative understanding of the concept of justice in Islamic law and Western law. By analyzing the literature of these two legal traditions comparatively, it is possible to identify similarities, differences, and potential conflicts between these concepts of justice. Furthermore, the integrative approach allows a more complete and in-depth understanding of these comparisons, allowing the synthesis of information from different sources and points of view. Thus, the literature study method used in this study is expected to produce a broader and deeper understanding of comparing the concept of justice in Islamic law and Western law.

⁵ Samuel D Blanch, "Thinking about Islamic Legal Traditions in Multicultural Contexts," *Griffith Law Review* 32, no. 2 (2023): 215–235.

⁶ Wael B Hallaq, *Sharī'a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009).

⁷ Jan Michiel Otto, "Sharia Incorporated: A Comparative Overview of the Legal Systems of Twelve Muslim Countries in Past and Present," *Sharia Incorporated* (2012): 1–676.

3. Results and Discussion

3.1. The Concept of Justice in Islamic law

The concept of justice in Islamic law is a central principle that provides the basis for the Islamic legal system. It summarizes the understanding of equality, protection of human rights, and fair distribution. In the view of Islam, Justice is one of the main values that must be realized in all aspects of life, including in law and Justice. It is important to understand that the concept of justice in Islamic law is not limited to retribution (*qisas*) or the division of property (*zakat*). However, both aspects are important within the framework of Islamic justice. The concept of justice in Islam covers the entire spectrum of life, including the rights and duties of the individual and the state. It places justice as a key element in creating and maintaining social order.

One of Islam's fundamental principles of justice is "fairness in all things." This principle describes that the law should be applied indiscriminately, and everyone should be treated fairly regardless of their background, including ethnicity, race, religion, or social status. This is in line with Islamic teachings that emphasize equality before the law. The concept of justice in Islamic law also involves protecting human rights. It includes rights such as the right to freedom of religion, the right to privacy, the right to education, and the right to fair treatment in the judicial system. These principles are found in major Islamic legal sources such as the Quran and the Hadith of the Prophet Muhammad. In addition, in the economic context, Islam emphasizes the fair distribution of economic resources. The *zakat* system, which obliges Muslims to give part of their property to the needy, is a concrete example of the principle of fair distribution in Islam⁸. It aims to reduce economic inequality and assist the disadvantaged in society.

⁸ Mu'adil Faizin et al., "Development Of Zakat Distribution In The Disturbance Era," *JURNAL ILMIAH MIZANI: Wacana Hukum, Ekonomi, dan Keagamaan* 10, no. 2 (2023): 186–197.

The concept of justice in Islamic law also includes the principle of responsibility in the afterlife. This means that each individual will be held accountable for their actions before God. This principle provides a moral incentive for individuals to act justly and obey God's laws. In practice, the concept of justice in Islamic law is applied through the Islamic judicial system, which refers to the principles of Islamic law to decide legal matters.⁹ Judges in this system are expected to administer the law fairly and according to Islamic teachings. They are also responsible for ensuring that individual rights are respected and legal protections are afforded to all. Islamic law recognizes its flexibility in dealing with different situations to achieve this objective of Justice. The concept of *ijtihad*, or legal interpretation, allows the adaptation of Islamic law to social change and contemporary conditions. This allows justice in Islam to remain relevant in various contexts and eras.

The concept of justice in Islamic law is also closely related to trustworthiness and good morals. In Islam, one is expected to behave fairly and honestly in all aspects of life, whether in business transactions, social interactions, or public duties. It reflects the Islamic teaching of high integrity and Ethics in all human activities. This concept provides the moral basis for Islamic law and underlines the importance of ethics in achieving justice. In addition, Islamic law also recognizes the concept of *qanūn*, which are laws established by authorities based on social policies and community needs. This concept provides flexibility in Islamic law to adapt to changing times and demands of society. Although Islamic law has a strong foundation in the Quran and Hadith, *qanūn* principles allow Islamic law to remain relevant and adapt to rapid social and economic developments.

⁹ Habib Ahmed, "Islamic Law, Adaptability and Financial Development," *Islamic Economic Studies* 13, no. 2 (2006); Mehran Tamadonfar, "Islam, Law, and Political Control in Contemporary Iran," *Journal for the Scientific Study of Religion* 40, no. 2 (2001): 205–220.

Islamic law is applied in parallel with secular law in many countries with a majority Muslim population, such as the Middle East and South Asia. It reflects the recognition that Islamic law has an important role in guiding aspects of daily life, especially in matters of marriage, family, and inheritance. The application of Islamic law in the context of family law often reflects the values of gender justice, which form an important part of the principles of Islamic law.¹⁰ However, differences in approaches to Islamic law are also seen among countries with Muslim majorities. Some countries implement Islamic law strictly, while others have a more liberal or pragmatic interpretation. It reflects the diversity in understanding the concept of justice in Islamic law and how it is interpreted in different social and political contexts.

In a global context, understanding the concept of justice in Islamic law also plays a role in intercultural dialogue and international cooperation. This is because many societies worldwide have different beliefs and traditions, and a better understanding of the concept of justice in Islam can promote a better understanding of mutual understanding and cooperation. The understanding of the concept of justice in Islamic law can also be deepened by considering how this concept is reflected in the practice of Islamic law in different countries. Each country with a majority Muslim population has a different interpretation and implementation of Islamic law, depending on factors such as tradition, culture, and politics.

For example, countries such as Saudi Arabia and Iran strictly enforce Islamic law, including corporal punishment such as flogging and cutting off hands. Meanwhile, countries like Turkey and Indonesia have a

¹⁰ Arif Sugitanata and Suud Sarim Karimullah, "Implementasi Hukum Keluarga Islam Pada Undang-Undang Perkawinan Di Indonesia Mengenai Hak Memilih Pasangan Bagi Perempuan," *SETARA: Jurnal Studi Gender dan Anak* 5, no. 1 (2023): 1-14; Suud Sarim Karimullah, "Reinterpretation of Women's Position in Islam Through Ta'wil KH. Husein Muhammad" (Arjis, 2022).

more liberal approach to Islamic law¹¹, emphasizing social justice and human rights. These differences in implementing Islamic law reflect variations in understanding and interpretation of the concept of justice. Gender justice is also one of the special aspects highlighted in understanding the concept of justice in Islamic law. Some Muslim-majority countries have adopted legal reforms to protect women's rights and gender equality, while others still have significant gender inequality in law and practice. This suggests that the interpretation of the concept of justice in the context of gender can vary greatly.

Technological developments and globalization have also raised new questions about the concept of justice in Islamic law. How Islamic law deals with issues such as copyright, international trade, or even the digital economy is a question that needs to be answered in this modern context. Furthermore, the issue of pluralism also needs to be considered in understanding the concept of justice in Islamic law. In an increasingly connected and multicultural society, how Islamic law treats individuals or groups who may have different views or values is a complex question. In this context, the concept of justice in Islam must accommodate cultural and religious diversity without compromising the basic principles of justice.

Justice in Islamic law also has a strong social dimension. Social justice in Islam includes equitable distribution of economic resources, protection of the rights of the poor and marginalized, and efforts to reduce social inequality. These principles are reflected in zakat and *waqf*, in which more capable individuals must give part of their property to needy people. In Islamic law, the concept of justice is not only concerned with the relationship between individuals but also involves the

¹¹ Arif Sugitanata and Suud Sarim Karimullah, "Implementasi Hukum Keluarga Islam Pada Undang-Undang Perkawinan Di Indonesia Mengenai Hak Memilih Pasangan Bagi Perempuan," *SETARA: Jurnal Studi Gender dan Anak* 5, no. 1 (2023): 1-14; Suud Sarim Karimullah, "Reinterpretation of Women's Position in Islam Through Ta'wil KH. Husein Muhammad" (Arjis, 2022).

relationship between individuals and the state. The Islamic State is expected to carry out its duty to protect the rights of its citizens, apply the law fairly, and ensure the implementation of the principles of justice in society. In this context, Islamic law has an important role in regulating the governance of the state and maintaining the balance of power between individuals and authorities.

In addition, it is important to realize that Islamic law is not monolithic. There are various madhhabs (sects of law) in Islam, such as Sunni and Shia, which can interpret the concept of justice in law differently. This difference can be related to the method of interpretation, the teachings of the law adopted, and views on certain issues such as inheritance and divorce. Cultural influences and traditions can also influence the understanding the concept of justice in Islamic law. In many Muslim-majority countries, local practices and customs often blend with the principles of Islamic law, creating variations in the practice of Islamic law adapted to their respective cultural contexts.

Justice in Islamic law also includes important aspects of human rights. In Islam, every individual has rights that must be respected and protected.¹² These include the right to life, freedom of religion, opinion, and fair treatment before the law. These principles not only reflect Islamic teachings on justice but are also in line with internationally recognized human rights standards. In addition, the concept of justice in Islamic law is also related to aspects of restitution and rehabilitation. In some cases, when a person breaks the law or harms others, Islamic law allows them to correct their mistakes through restitution to the victim and rehabilitation efforts. These principles emphasize efforts to improve society and individuals who have engaged in criminal acts.

¹² Suud Sarim Karimullah, "For True Humanity: Harmonization of Islamic Law and Human Rights Towards Universal Justice," *Matan: Journal of Islam and Muslim Society* 5, no. 2 (2023): 40-56.

In practice, the concept of justice in Islamic law is implemented through the Islamic judicial system, which consists of *Qadhī* (judges) who hear legal cases and give decisions based on Islamic law principles. These decisions are expected to reflect justice, and Islamic judges have a high ethical responsibility to administer the law fairly and according to Islamic teachings. However, it is important to remember that the concept of justice in Islamic law can have a variety of interpretations and applications in various regional and cultural contexts. The practice of Islamic law can differ among countries with a Muslim majority, depending on the existing legal framework, local traditions, and political influences.

The concept of justice in Islamic law also has significant relevance in international law. Many countries with majority Muslim populations are members of the United Nations (UN) and are committed to complying with international law. In this context, a deep understanding of the concept of justice in Islamic law can help Muslim countries play an active role in international diplomacy and contribute to global peacekeeping and conflict resolution efforts. In addition, the concept of justice in Islamic law also includes economic aspects and the distribution of wealth. The principles of *zakat* and *waqf* create the basis for the redistribution of wealth in Muslim societies. *Zakat* is the obligation to give a portion of wealth to people in need, while *waqf* is the practice of permanently giving away property for charitable purposes. This principle reflects the concept of economic justice in Islam, which aims to reduce social inequality and address economic inequality.

The concept of justice in Islamic law also has implications for labor and employment rights. Islam recognizes workers' rights, including fair wages and decent working conditions. The principle of justice in Islamic law can be used to fight for labor rights and ensure that workers get fair and decent treatment in the work environment. In this increasingly connected and complex world, a deep understanding of the concept of

justice in Islamic law has a far-reaching and relevant impact. It reflects the important role of Islamic law principles in creating a just, inclusive, and humane society. Understanding this concept better can facilitate Intercultural Dialogue, International Cooperation, sustainable development, and global peace efforts.

The concept of justice in Islamic law is also relevant in the context of human rights and Environmental Protection. Islamic law recognizes human rights as values that must be respected and protected, including the right to life, freedom of religion, and freedom of opinion. In this framework, the principle of justice in Islamic law requires the protection of the rights of individuals, regardless of their background, and demands the fair enforcement of the law. In addition, Islamic law also teaches the protection of the environment and nature.¹³ The principles of justice in Islam include the responsibility of man to safeguard and protect the universe created by Allah. It includes banning acts that damage the environment and overload natural resources. The concept has important implications for maintaining environmental sustainability and addressing global climate change.

In a political context, the concept of justice in Islamic law can play a role in promoting fair and transparent governance. Islam teaches that governments are responsible for protecting the people's rights and promoting justice in their policies and actions. This created the basis for the moral and responsible government concept in Islam. In addition, a deep understanding of the concept of justice in Islamic law is also relevant in efforts to achieve peace and conflict resolution. Principles of Islamic law that include peace, the rule of law, and individual rights can be used for fair and sustainable conflict resolution in countries with significant Muslim populations. A better understanding of this concept

¹³ Munib Munib et al., "Conservation Environmental Sustainability in The Perspective of Islamic Legal Philosophy," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 6, no. 2 (2022): 556–572.

can help promote values such as human rights, environmental sustainability, equitable economic distribution, fair governance, peace, and social justice. It reflects the important role of Islamic legal principles in creating more just, inclusive, and sustainable societies worldwide.

3.2. The Concept of Justice in Western law

The concept of justice in Western law is a central element that forms the basis of legal systems in many countries of Europe, North America, and most of the Western world. Justice in this context encompasses a set of principles and values that have far-reaching impacts on legal regulations, law enforcement, and community development. This concept has undergone evolution throughout Western legal history, giving rise to important principles that include human rights, equality before the law, and the protection of the individual. One of the main aspects of the concept of justice in Western law is the principle of equality before the law. This means that regardless of background, every individual has the same right to be recognized and protected by law. This principle guarantees no discrimination based on race, religion, gender, or social status in the Western legal system. This creates the basis for fair and non-discriminatory law enforcement.

Justice in Western law also includes broad human rights principles¹⁴. Western law recognizes basic rights such as life, freedom, and human dignity.¹⁵ These principles have become the basis for international human rights treaties and national legislation protecting individuals from oppression and discrimination. Justice in this context reflects Western law's commitment to protect individuals' rights in all aspects of life. In criminal law, the concept of justice in Western law

¹⁴ Christopher McCrudden, "Common Law of Human Rights?: Transnational Judicial Conversations on Constitutional Rights," *Oxford journal of legal studies* 20, no. 4 (2000): 499–532

¹⁵ Jack Donnelly, "Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights," *American Political Science Review* 76, no. 2 (1982): 303–316.

includes principles such as the presumption of innocence, the right to effective self-defense, and protection against inhuman or degrading treatment. These principles emphasize the importance of fair treatment of defendants and evidence-based law enforcement. The presumption of innocence, for example, demands that each individual be presumed innocent until proven guilty in court, thus preventing abuse of power by the authorities.

The concept of justice in Western law also includes protecting children's rights. Western law has strict regulations protecting children's rights from exploitation, violence, and neglect. This principle reflects a commitment to protecting the most vulnerable in society and ensuring that children have the right to grow and develop in a safe and supportive environment. It is important to note that the concept of justice in Western law has continued to evolve. Western law seeks to remain relevant and responsive to social change, technology, and societal values. It reflects the ability of Western law to adapt and interpret the principles of justice in various changing contexts.

The concept of justice in Western law also includes the principles of fair, transparent, and democratic government. Western law is inherently linked to a democratic political system in which the power of government comes from the people and is exercised for the benefit of the people.¹⁶ This principle creates the basis for decision-making processes that are open, accountable, and serve the interests of society. This system allows citizens to participate in elections, elect their leaders, and play a role in forming state policy. In addition, the concept of justice in Western law includes the principle of the right to property ownership and protection of individual property rights. Western property law gives individuals the right to own, control, and transfer their property rights by

¹⁶ Carol Harlow, "Global Administrative Law: The Quest for Principles and Values," *European journal of international law* 17, no. 1 (2006): 187–214; Bo O Rothstein and Jan A N Teorell, "What Is Quality of Government? A Theory of Impartial Government Institutions," *Governance* 21, no. 2 (2008): 165–190.

the law. This principle creates the basis for private property ownership and regulates relations between property owners and third parties.

Justice in Western law is also relevant in addressing discrimination and social inequality. Western law has played an important role in the struggle for civil and political rights for all individuals, regardless of race, gender, religion, or sexual orientation. These principles of Justice have resulted in anti-discrimination legislation aimed at protecting individuals from discriminatory treatment and encouraging inclusion and diversity in society.

In international law, the concept of justice in Western law reflects a commitment to the peaceful settlement of international conflicts and global peace. The principles of international law governing relations between states based on laws and treaties reflect efforts to achieve global stability and prevent using armed force. Justice in Western law is also closely linked to human rights issues at the international level. Western law has played an important role in forming the Declaration of Human Rights and international human rights treaties to protect individuals from oppression and violation of their rights.

In civil law, the concept of justice in Western law includes the principles of fair and Effective Dispute Resolution. The civil justice system is respected for allowing individuals and legal entities to resolve their disputes through an open, transparent process and by applicable law. The principle of justice in this context creates the basis for protecting individual rights in civil conflicts. In economic law, the concept of justice in Western law includes the principle of protection of the rights of business owners and contract law. Western contract law is based on a free agreement between parties, creating a strong framework for legitimate trade and business transactions. The principle of fairness in contract law guarantees that each party must comply with the commitments they have made in the agreement, and breach of contract may result in sanctions imposed by law.

The concept of justice in Western law also affects environmental protection and sustainable development. Western law has developed a legal framework for protecting the natural environment and resources.¹⁷ The principles of justice in this context include the moral and legal responsibility to preserve and preserve the environment for future generations. It creates the basis for environmental legislation to control pollution, restore damaged ecosystems, and ensure that natural resources are used sustainably. The concept of justice in Western law is also related to the rights of migrants and refugees. Western law has developed a legal framework that protects the rights of individuals seeking asylum or moving to Western countries. These principles reflect a commitment to human rights and justice in the face of global humanitarian crises.

The concept of justice in Western law also includes aspects of social rights, such as the right to education, housing, and welfare. Western law has developed a system that seeks equitable access to education, decent housing, and social assistance to those in need. This principle creates the basis for a more inclusive and humane society. In labor law, the concept of justice in Western law includes principles such as fair wages, the right to form unions, and safe working conditions. These principles protect workers' rights and create a balanced relationship between workers and employers.

Western law guarantees fundamental rights such as freedom of speech, religion, assembly, and association. These principles give citizens the right to express their opinions, practice religion, and participate in political processes without fear of oppression or repression. This principle forms the basis for democratic governance and an inclusive society. In addition, the concept of justice in Western law includes the principle of the right to effective self-defense in the criminal

¹⁷ Ronán Long, “The Marine Strategy Framework Directive: A New European Approach to the Regulation of the Marine Environment, Marine Natural Resources and Marine Ecological Services,” *Journal of Energy & Natural Resources Law* 29, no. 1 (2011): 1–44.

justice system. This means that each defendant has the right to have a competent lawyer and to provide evidence in his favor in court. This principle aims to ensure that criminal legal proceedings proceed fairly and that individuals suspected of committing criminal acts have an equal opportunity to defend themselves.

The concept of justice in Western law is also relevant in addressing the rights of migrants and refugees. Western law has developed a legal framework that protects the rights of individuals seeking asylum or moving to Western countries. These principles reflect a commitment to human rights and justice in the face of global humanitarian crises. Furthermore, the concept of justice in Western law also includes aspects of social rights, such as the right to education, housing, and welfare. Western law has developed a system that seeks equitable access to education, decent housing, and social assistance to those in need. This principle creates the basis for a more inclusive and humane society.

In labor law, the concept of justice in Western law includes principles such as fair wages, the right to form unions, and safe working conditions. These principles protect workers' rights and create a balanced relationship between workers and employers. It is important to remember that the concept of justice in Western law results from diverse historical development, culture, and social influence. It reflects the aspirations of a society that seeks to create a legal system that is fair, inclusive, and based on human rights. This concept also reflects the values of democracy, equality, and freedom that are the basis for many Western countries. The concept has also had a profound and far-reaching impact on the development of society and law worldwide and in global efforts to achieve greater humanitarian goals. A better understanding of this concept can contribute to a more just, sustainable, and humane world.

3.3. Comparison between the Concept of Justice in Islamic law and Western law

The comparison between the concept of justice in Islamic law and Western law is interesting because these legal systems have different cultural roots and philosophies. Still, both have the same goal: to create a fair and just society. This comparison covers various aspects, from basic principles to application in everyday life. In Islamic law, the concept of justice has deep roots in the teachings of the Islamic religion. The basic principle of justice in Islamic law is to follow the teachings of religion and live the law of Allah. Islamic law, known as Sharia, has its main sources in the Quran and Hadith (traditions of the Prophet Muhammad). This concept emphasizes the importance of practicing law fairly and based on religious teachings.

On the other hand, Western law has its roots in the ancient Roman and Greek legal traditions, which later developed into legal systems based on the principles of positive law and codification. Western law focuses on individual freedom, human rights, and the rule of law. Principles such as the presumption of sustainability, the contradictory principle, and the right to self-defense are the basis of Western law that creates a just legal environment. There are some key differences when comparing the concepts of justice in Islamic law and Western law. One of them is the source of law. Islamic law has its main source in religious teachings, while Western law relies on legislation and legal precedents. This reflects the difference in approaches to legal authority.

The concept of justice in Islamic law often includes deeper moral and ethical aspects. Islamic law emphasizes the importance of behaving honestly, fairly, and mercifully. This creates high moral standards in everyday life and judicial proceedings. On the other hand, Western law

tends to be more secular in its approach.¹⁸ Although ethical and moral principles remain important, Western law often focuses on the objective application of the law and is independent of individual religious or ethical considerations. In terms of law enforcement, both have different systems. Islamic law often involves Sharia courts that refer to Islamic religious teachings and laws.

On the other hand, Western law has a separate judicial system between criminal law and civil law, and law enforcement is more concerned with evidence-based due process and positive legal principles. However, despite significant differences in sources of law, approaches, and basic principles, these two legal systems have a similar ultimate goal: creating a just and just society. They seek to protect the rights of individuals, prevent oppression, and ensure that legal decisions are carried out fairly.

The comparison between the concept of justice in Islamic law and Western law includes protecting human rights, the right to self-defense, and law enforcement. In Islamic law, human rights are considered the rights Allah gives each individual. It includes rights such as freedom of religion, the right to life, and the right not to be tortured. This concept reflects the commitment in Islamic law to protect the dignity and rights of the individual. On the other hand, Western law also has a strong framework for protecting human rights. Western law often bases these rights on the Universal Declaration of Human Rights. Principles such as freedom of speech, religion, and free movement are fundamental principles in Western law aimed at protecting the rights of individuals.

When comparing the right to self-defense, there is a difference in approach between Islamic and Western law. In Islamic law, the principle of the right to self-defense is recognized, but within the framework of the

¹⁸ Ronán Long, “The Marine Strategy Framework Directive: A New European Approach to the Regulation of the Marine Environment, Marine Natural Resources and Marine Ecological Services,” *Journal of Energy & Natural Resources Law* 29, no. 1 (2011): 1–44.

law by religious precepts. This creates a balance between the right to self-defense and the principle of justice in Islam. Western law, on the other hand, emphasizes a strong right to self-defense in the criminal justice system. The indicted individual has the right to have a competent lawyer, provide evidence in his favor, and be presumed innocent until proven otherwise. This principle reflects a strong approach to the presumption of innocence in Western law.

The comparison between the concept of justice in Islamic and Western law also includes aspects of family law and marriage. In Islamic law, family law is governed by Islamic family law or Sharia family law. The principles of justice and gender equality are strongly emphasized in Islamic family law. For example, in Islamic marriage law, men and women have equal rights and duties, and their rights and responsibilities are carefully regulated in religious teachings. On the other hand, in Western law, family law is often based on the principles of civil and customary law developed in Western societies¹⁹. These principles also include aspects of fairness in marriage and family law, such as the rights and obligations of married couples. However, there are differences in the approach to some issues, such as divorce. In Islamic law, divorce is a recognized right for both husband and wife, but there are strictly regulated procedures to ensure divorce is done with Justice. On the other hand, in some Western legal systems, divorce can be carried out based on divorce without mutual agreement, which can raise questions about fairness in the division of assets and custody of children.

Comparison of the concept of justice also includes the issue of criminal law enforcement. In Islamic law, criminal punishment is governed by Sharia law and often includes punishment based on religious precepts. Therapeutic and rehabilitative principles can be found in

¹⁹ Ronán Long, “The Marine Strategy Framework Directive: A New European Approach to the Regulation of the Marine Environment, Marine Natural Resources and Marine Ecological Services,” *Journal of Energy & Natural Resources Law* 29, no. 1 (2011): 1–44.

several Islamic legal systems, which aim to correct perpetrators of crimes. On the other hand, in Western law, criminal law enforcement is often based on the principles of convict and Correctional. The principle of presumption of innocence, the right to a fair trial, and evidence-based enforcement are important aspects of Western criminal law. Law enforcement in Western law focuses on sentencing and behavior improvement through the criminal justice system.

The comparison between the concept of justice in Islamic law and Western law also includes economic aspects and the distribution of wealth. In Islamic law, there are economic principles known as Sharia economic principles. One of the main principles is the principle of equitable distribution of wealth. Islamic law teaches the importance of giving zakat (obligatory donations) to those in need as a form of redistribution of wealth. This principle aims to reduce economic inequality and ensure wealth is distributed fairly.

On the other hand, in Western law, there are a variety of diverse economic approaches. However, principles such as protecting property rights, contract freedom, and enterprise became fundamental in the Western economic system. This principle encourages economic growth, innovation, and investment, but it can also lead to issues related to economic inequality if not properly regulated. Fundamental differences in these approaches create differences in the system of redistribution of wealth. In Islamic law, redistribution of wealth is seen as a moral and religious responsibility, while in Western law, redistribution often involves social policies and taxes regulated by the government.

The comparison between the concept of justice in these two systems covers the issue of social rights and the welfare of society. In Islamic law, some principles emphasize the importance of assisting needy people. The concepts of sadaqah (voluntary giving) and zakat (obligatory donation) are examples of these principles. Islamic law also encourages a proactive approach to social issues, such as caring for low-

income people and guaranteeing access to basic services such as education and health.²⁰ On the other hand, in Western law, social rights are often governed by government social policies and social security systems. These principles create a social safety net to protect citizens from economic and social vulnerabilities.

The comparison between the concept of justice in Islamic law and Western law also includes aspects of criminal law and the protection of human rights. In Islamic criminal law, the principles of justice and the protection of human rights are strongly emphasized. For example, punishment in Islamic criminal law is carefully regulated and should not violate basic human rights. In practice, punishment in Islamic criminal law often includes rehabilitative and restorative elements, aiming to correct the perpetrator of the crime and reconcile the victim. On the other hand, in Western law, protecting human rights is also a core principle of criminal law. The Western criminal law system emphasizes individual rights such as the presumption of innocence, the right to self-defense, and the right not to be tortured. This principle creates a framework that seeks to prevent abuse of power by the government and ensure that justice is upheld in the criminal justice process.

However, there are differences in the approach to punishment in these two systems. In Islamic law, criminal punishment often includes corporal punishment such as flogging or amputation, especially in cases of violations of Sharia law. This punishment is considered a means of educating and correcting the behavior of criminals, as well as a form of justice and law enforcement. On the other hand, in Western law, criminal punishment often includes imprisonment and rehabilitation aimed at correcting the offender's behavior. Principles such as fair and proportionate sentencing are fundamental in sentencing.

²⁰ Ronán Long, "The Marine Strategy Framework Directive: A New European Approach to the Regulation of the Marine Environment, Marine Natural Resources and Marine Ecological Services," *Journal of Energy & Natural Resources Law* 29, no. 1 (2011): 1–44.

Furthermore, in this comparison of justice concepts, it is also important to recognize the role of alternative justice systems in conflict resolution. In Islamic law, a tradition of mediation and arbitration has long been used to resolve conflicts. This approach reflects the principles of peace and reconciliation in Islam. In Western law, alternative systems such as mediation and arbitration are also used in resolving disputes. Although these approaches may not have a religious basis as in Islamic law, they nevertheless reflect efforts to achieve peaceful and just solutions in conflict resolution.

Furthermore, comparing the concepts of justice in Islamic and Western law also presents how these two systems address gender issues. This becomes relevant because gender issues are an important part of the debate about justice in modern society. In Islamic law, some principles emphasize gender equality in the principles of law and religious teachings. For example, in Islamic marriage law, men and women have equal rights and obligations. However, in practice, the implementation and interpretation of Islamic law can vary across different societies. In some countries, conservative and patriarchal interpretations can hinder gender equality.

On the other hand, in Western law, there have been several advances in recognizing and protecting women's rights and gender equality. These principles are reflected in laws that prohibit discrimination based on sex, provide for rights such as the right to vote, and protect women's rights in various fields, including work and education. However, challenges continue to emerge in the quest for true gender equality, including wage disparities and persistent traditional roles in society.

Comparative concepts of justice also cover human rights issues, including minority rights and freedom of religion. In Islamic law, some principles recognize human rights and freedom of religion. In the history of Islam, many schools of law have developed interpretations that

support religious pluralism and the protection of minority rights. However, as in Western law, implementation and interpretation may vary across societies. In Western law, human rights and freedom of religion are the foundation of law, and the principles are upheld. The principle of presumption of innocence and the protection of individual rights has also become an important part of the judicial system. However, challenges in maintaining religious freedom and protecting minority rights continue, especially in social and political conflicts.

The comparison of the concept of justice in Islamic law and Western law also leads to questions regarding issues of war and peace. Armed conflict and peace are two issues that significantly affect people's lives worldwide. Regarding the concept of justice, it is important to understand how these two legal systems deal with these issues and whether their approaches have similarities or differences. In Islamic law, jihad is often mistakenly perceived as a holy war. However, most Islamic scholars define jihad as a struggle or attempt to achieve certain goals, including the struggle for justice. In this context, Islamic law has a framework governing the law of war, known as "Islamic law of war" or "Sharia law of war." The principles of Islamic law of war establish the rules governing permissible and prohibited actions during armed conflict. On the other hand, in Western law, there is also the international law of war that regulates armed conflicts between states. The international law of war includes principles such as the protection of civilians, the Prohibition of chemical, biological, and nuclear weapons use, and the rights of prisoners of war. The main objective of international law of war is to minimize human suffering during armed conflict and ensure that ethical rules are followed by the parties involved in the conflict.

In many Muslim societies, the religion of Islam plays an important role in the formation of law and politics, so the concept of justice is often closely linked to religious teachings. In Islamic law, justice is often seen as an integral part of the Tawheed concept, which emphasizes God's

unity. Justice in Islamic law refers to the understanding that Allah is the source of all justice and true law.²¹ This concept can result in the view that true justice can only be found through adherence to the teachings of the Islamic religion. Therefore, in some cases, Islamic law is seen as the perfect and supreme law, which rules over human law. On the other hand, in Western law, the concept of justice is often associated with secular law that stands independent of religion. Western legal principles, such as human rights and equality before the law, often result from historical developments and philosophical thought that do not necessarily depend on a particular religion. It creates a more secular and pluralistic legal framework where communities of different faiths and beliefs can live together. In this context, comparing justice concepts presents an important question of balancing religious principles and secular law in an increasingly multicultural society.

How Muslim and Western societies deal with religious freedom, pluralism, and the relationship between religion and state is an important focus in legal and political developments in many countries. In addition, this comparison also presents issues on protecting the rights of individuals and minorities in a religion-based society. In some contexts, societies that base their laws on a particular religion may face challenges in ensuring the protection of individual rights that are not in line with the teachings of the dominant religion. Therefore, it is necessary to maintain a balance between religious principles and the protection of human rights. In an era of increasingly connected globalization, a better understanding of the differences and similarities between these two systems can help promote cross-cultural cooperation in the fight for individual rights and achieve greater justice in society.

²¹ Ronán Long, “The Marine Strategy Framework Directive: A New European Approach to the Regulation of the Marine Environment, Marine Natural Resources and Marine Ecological Services,” *Journal of Energy & Natural Resources Law* 29, no. 1 (2011): 1–44.

4. Conclusion

The concept of justice in Islamic law includes principles that recognize the importance of equality, social justice, and the protection of individual rights. Islamic law emphasizes religious values as a source of justice. It offers views on how society should function in a balance between individual and collective interests. In contrast, in Western law, the concept of justice is translated into secular law, which includes human rights, equality before the law, and individual protection. These principles reflect the historical development and philosophical thought independent of a particular religion. The comparison between these two legal systems reveals similarities in the principles of humanity, human rights, and the principles of the laws of war. Although there are differences in legal sources, approaches, and implementation, both have the same ultimate goal: to create a just and equitable society. In an increasingly connected era of globalization, a better understanding of the differences and similarities between these two systems can serve as the basis for cross-cultural cooperation, global collaboration, and joint efforts to achieve justice and peace worldwide.

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