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Research Article

Justice and Equity in Islamic and Legal Thought: A Comparative Jurisprudential Analysis

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Abstract

*This study conducts a rigorous comparative analysis of the concepts of justice (*ʿadl*) and equity (*ʿadālah/inṣāf*) within Islamic jurisprudence and contemporary legal theory. By examining primary sources—including the Qur'an, Hadith, legal maxims (*qawāʿid fiqhiyyah*), and the objectives of Islamic law (*maqāṣid al-sharīʿah*)—the paper delineates the theoretical and practical distinctions between these two principles. It further explores their application in judicial reasoning, legislative policy, and ethical governance, demonstrating how Islamic legal tradition harmonizes rule-based justice with contextual fairness.*

Keywords: *Justice, Equity, Islamic Jurisprudence, Comparative Legal Theory, Objectives of Islamic Law, Legal Maxims, Judicial Discretion.*

1. Introduction

The interplay between justice and equity constitutes a foundational debate in both Islamic and secular legal systems. While often conflated in common discourse, these concepts embody distinct jurisprudential and ethical dimensions. This paper systematically analyzes their definitions, historical roots, and operational frameworks within Islamic law, contrasting them with Western legal philosophy where applicable. By doing so, it elucidates how Islamic jurisprudence reconciles universal legal principles with situational equity, offering insights for contemporary legal and ethical discourse.

2. Conceptual and Etymological Foundations

2.1 Justice (*al-ʿAdl*)

Justice refers to equality, which is tied to the social function of the law. The law is expected to be applied equally to all individuals and cases that fall under its scope, considering their specific legal status and intended objectives. This means that similar cases are treated alike, while those that are different are not treated the same. Justice is achieved through general and abstract legal rules applied to everyone impartially and without favoritism.

Formal legal justice ensures that procedures are fair, as long as no one is unjustly excluded from the application of the law. For instance, under strict legal justice, there is no distinction between a mother who steals to feed her starving children and someone who steals to satisfy personal desires, because legal justice considers only the apparent act, not the underlying motives.

However, legal philosophers have questioned whether formal justice can truly lead to fair judgments between individuals. Since legal rules are general and abstract, they cannot always account for the unique circumstances of every individual case. As a result, strict formal justice—despite ensuring equality in application—can sometimes oppress individuals and lead to unfair outcomes.

2.2 Justice (*al-ʿAdl*) in Islam

In Islamic legal theory, justice (*ʿadl*) denotes the impartial application of established norms, ensuring uniformity and predictability. The Qur'an mandates justice as a divine imperative:

Indeed, Allah commands justice, benevolence, and generosity to kin[1].
Classical scholars such as Al-Ghazālī define *ʿadl* as adherence to objective legal standards, irrespective of personal biases.

2.3 Equity (*al-ʿAdālah/Inṣāf*)

Equity conveys the idea of fairness. Aristotle viewed the foundation of general justice as equality, as provided by legal rules. However, he also recognized the challenge of applying general laws to what he called "exceptional cases," where applying the law strictly would lead to unjust results. He introduced the concept of special justice, which he called *Equité* (equity), meaning fairness, appropriateness, or justice in a broader sense.

In its specific meaning, equity refers to adjusting legal rules to account for individual circumstances, thereby mitigating the rigidity of general legal provisions. It serves as a corrective measure, ensuring that strict legal justice does not result in unreasonable or oppressive outcomes.

In its broader sense, equity represents a sense of fairness that stems from pure conscience and rational judgment. It inspires a set of equitable principles, derived from higher ideals, aiming for the betterment of humanity by providing fair solutions that take into account people's unique needs and circumstances.

The primary goal of law is to achieve justice, not necessarily equity. While both justice and equity are based on equality, the equality of justice is abstract and impersonal, focusing on general application without considering individual differences. In contrast, equity is based on real-world equality, ensuring similar judgments for similar cases while considering unique motivations and specific circumstances.

2.4 Equity (*al-ʿAdālah/Inṣāf*) in Islam

Equity (*ʿadālah* or *inṣāf*) transcends strict legalism, incorporating fairness, leniency, and moral discretion. Unlike justice, which is rule-bound, equity adjusts rulings to mitigate undue hardship, as encapsulated in the Prophetic tradition:
Facilitate matters and do not make them difficult [2]

This distinction mirrors Aristotle's *epieikeia*, where equity corrects the rigidity of written law.

2.5 Scriptural Foundations:

Qur'anic Verses on Justice and Equity

> Indeed, Allah commands justice (*ʿadl*), excellence (*iḥsān*), and giving to relatives and forbids immorality, bad conduct, and oppression. He admonishes you that perhaps you will be reminded[3].

This verse underscores the comprehensive nature of justice and the encouragement of benevolence beyond mere fairness.

Also, in another,

> Allah does not forbid you from being righteous and just toward those who have not fought you because of religion and have not expelled you from your homes. Indeed, Allah loves those who act justly[4].

This verse highlights the importance of equitable treatment towards all individuals, regardless of their faith, emphasizing universal justice.

> We sent aforetime Our messengers with clear signs and sent down with them the Book and the Balance, that people may stand forth in justice...[5]

Here, the Qur'an links divine revelation with the establishment of justice, indicating its central role in human society.

Furthermore, in another verse Allah says:

> ...If you judge, judge between them with justice. Indeed, Allah loves those who act justly[6].

This verse instructs fair judgment in all dealings, reinforcing the value of justice in interpersonal relations.

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[1] Qur'an 16:90
[2] Ṣaḥīḥ al-Bukhārī
[3] Qur'an, 16:90
[4] Qur'an, 60:8
[5] Qur'an, 57:25
[6] Qur'an, 5:42

Moreover, in another verse Almighty Allah says:

Say, 'My Lord has commanded justice...[7]

This emphasizes that justice is a divine command, integral to worship and daily conduct.

These verses collectively illustrate the Qur'an's profound emphasis on justice (ʿadl) and equity (iḥsān), advocating for fairness, kindness, and moral integrity in all aspects of life.

Hadiths on Justice and Equity

Justice in Leadership **(**Ṣaḥīḥ Muslim, Book 20, Hadith 4493**):**

> The dispensers of justice will be seated on pulpits of light beside God... They are those who do justice in their rulings and in their dealings with their families and those who are under them[8].

This hadith emphasizes the esteemed status of leaders who uphold justice in all aspects of governance.

Equity in Judgment (Sunan Abī Dāwūd, Book 24, Hadith 3584**):**

> When the verse was revealed: "If you judge, judge in equity between them..." The Prophet addressed disparities in blood money payments between the tribes of Banu an-Nadir and Banu Qurayzah, establishing equality among them[9].

This incident illustrates the application of equity to rectify societal imbalances.

The Mahdi's Role in Establishing Justice (Sunan Abī Dāwūd, Book 38, Hadith 4273):

> The Mahdi will be of my stock... He will fill the earth with equity and justice as it was filled with oppression and tyranny...[10]

This prophecy underscores the significance of justice and equity as ultimate goals in Islamic eschatology.

These hadiths collectively highlight the profound emphasis Islam places on justice and equity, advocating for their implementation in leadership, judicial matters, and societal reforms.

2.6 Comparative Summary: Key Differences Between Justice and Equity

Aspect	Justice	Equity
Definition	Application of legal rules strictly and equally	Adjustment of rules to achieve fairness based on individual cases
Focus	General and abstract application of law	Case-specific analysis and contextual consideration
Consideration	Legal facts only	Intention, moral implications, and circumstances
Outcome	Consistent but possibly unfair	Flexible, with a focus on fairness
Example	Equal punishment for all theft cases	Leniency for a starving mother; full penalty for habitual thief

2.7 Which One Does the Law Prioritize?

1. Legal systems primarily focus on **justice** to maintain consistency, stability, and predictability.
2. Equity is introduced through judicial discretion to correct injustices caused by rigid legal application.

3. Historical and Philosophical Underpinnings

3.1 Aristotelian Influence

> Aristotle's *Nicomachean Ethics* differentiates *dikaiosynē* (legal justice) from *epieikeia* (equity), arguing that equity rectifies law's generality. Islamic jurists, including Ibn Taymiyyah and Ibn al-Qayyim, integrated this logic within *maqāṣid al-sharīʿah*, asserting that divine law prioritizes substantive fairness over formalism[11].

[7] Qur'an, 7:29
[8] Ṣaḥīḥ Muslim, Book 20, Hadith 4493
[9] Sunan Abī Dāwūd, Book 24, Hadith 3584
[10] Sunan Abī Dāwūd, Book 38, Hadith 4273
[11] Aristotle, *Rhetoric*, Book I, Chapter 13

It is equity to pardon human failings, and to look to the [intentions of the] lawgiver and not to the law; to the spirit and not to the letter...[12]

3.2 Classical Islamic Jurisprudence

Ibn al-Qayyim's assertion:

Indeed, the Sharīʿah is entirely founded upon wisdom and the welfare of humanity in this life and the next. It is all justice, all mercy, all benefit, and all wisdom." (*Iʿlām al-Muwaqqiʿīn*)

This principle reinforces that any legal rule contradicting justice, mercy, or welfare is incompatible with Islamic law.

4. Legal Theory: Formal vs. Substantive Justice

4.1 Classical Distinctions

- Formal Justice (*ʿAdl Shaklī*)**:** Uniform rule application.
- Substantive Justice (*ʿAdālah Jawhariyyah*)**:** Outcome-oriented fairness.

Al-Shāṭibī's *al-Muwāfaqāt* argues that *maqāṣid al-sharīʿah* necessitate equitable adjustments to uphold higher objectives.

Al-Shāṭibī, in his seminal work *al-Muwāfaqāt*, argues that maqāṣid al-sharīʿah (higher objectives of Islamic law) necessitate equitable adjustments in legal rulings to preserve essential values such as justice, welfare, and public interest. He affirms that strict adherence to textual rulings without consideration of context and consequences may contravene the spirit of the Sharīʿah[13].

5. Legal Maxims (*Qawāʿid Fiqhiyyah*) Supporting Equity

Islamic jurists have developed legal maxims that codify principles of equitable discretion within formal justice. Examples include:

1. Hardship begets facility (*al-mashaqqah tajlib al-taysīr*).
2. No harm shall be inflicted nor reciprocated (*lā ḍarar wa lā ḍirār*).
3. Acts are judged by intentions (*al-umūr bi-maqāṣidihā*).

These principles institutionalize equity within Islamic legal reasoning.

6. *Maqāṣid al-Sharīʿah* (Objectives of the Shari'ah): Balancing Justice and Equity

The theory of *maqāṣid al-sharīʿah* (objectives of the *Sharīʿah*) provides a critical framework for balancing legal justice with equitable outcomes. As outlined by scholars such as al-Shāṭibī and later Ibn ʿĀshūr, the law seeks to preserve five essential objectives:

1. Protection of religion (ḥifẓ al-dīn)
2. Protection of life (ḥifẓ al-nafs)
3. Protection of intellect (ḥifẓ al-ʿaql)
4. Protection of progeny (ḥifẓ al-nasl)
5. Protection of property (ḥifẓ al-māl)

These objectives allow for flexibility in rulings, especially in cases of necessity (*darūrah*) or need (*ḥājah*).

6. Equity in Modern Legal Systems

Equity in Western law evolved as a response to rigid common law, offering tools like injunctions and estoppel. Islamic law internalizes equity through maqāṣid, qawāʿid, and other tools, maintaining harmony between justice and fairness.

7. Philosophical and Ethical Synthesis

Islamic law balances deontological and teleological ethics:
- Objective but not mechanistic
- Consistent but not rigid
- Principled but not unjust

8. Conclusion

Justice and equity, though distinct, function synergistically in Islamic jurisprudence. While justice ensures legal consistency, equity preserves moral legitimacy through contextualized fairness. This dual framework, rooted in *maqāṣid al-sharīʿah*, offers a robust model for contemporary legal systems seeking to balance rule-of-law principles with ethical flexibility.

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[12] Aristotle, *Rhetoric*, Book I, Chapter 13

[13] Al-Shāṭibī, al-Muwāfaqāt fī Uṣūl al-Sharīʿah, ed. Abdullāh Darrāz, (Beirut: Dār al-Maʿrifah, n.d.), Vol. 2, pp. 12–15.

References

1. Abi Dawud, S.A. A. (2003), *Sunan Abi Dawud*, Abdul-Khair et-tal (eds.), *Dar al-Hadith* Al-Qahirah.
2. Al-Bukhari, M. I. (2009), *Sahih al-Bukhari*, Muhsin, M. (trans.): Beirut. Daru al-Arabia.
3. Al-Ghazālī, (ND), *al-Mustaṣfā fī ʿIlm al-Uṣūl, (NP)*
4. Al-Shāṭibī, (N.D.), al-Muwāfaqāt fī Uṣūl al-Sharīʿah, ed. Abdullāh Darrāz, (Beirut: Dār al-Maʿrifah,
5. Al-Suyūṭī, (ND), *al-Ashbāh wa al-Naẓāʾir, (NP)*
6. Ibn al-Qayyim, (N.D), *Iʿlām al-Muwaqqiʿīn, (NP)*
7. Ibn Taymiyyah, (N.D), *Majmūʿ al-Fatāwā (NP).*
8. Muslim, M. H. (2003), *Sahih Muslim*, Dar al-Fikr, Beirut, Lebanon.

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