



The Concept of Justice in the Perspective of Greece Philosophy and its Relevance to the Development of Modern Political Law

Ade Arga Wahyudi^{1*}, Marlian Arif Nasution², Paisal Rahmat³

¹Mandailing Natal State Islamic College, North Sumatra, Indonesia, Email: adeargawahyudi@stain-madina.ac.id

²Mandailing Natal State Islamic College, North Sumatra, Indonesia, Email: marliantarifnst@stain-madina.ac.id

³Mandailing Natal State Islamic College, North Sumatra, Indonesia, Email: paisalrahmat@stain-madina.ac.id

Corresponding Author: Ade Arga Wahyudi¹

Abstract: The concept of justice will continue to develop in line with social developments. Justice in life is an important need for humans so that everyone can balance between demanding their rights and carrying out their obligations in an effort to achieve the truth. Thus, truth and duty must be harmonious and balanced in life. The development of legal thought has gone through a long journey from classical to modern times. The number of understandings that developed starting in the 20th century had an impact on increasingly rational legal learning. The law is just a collection of words when the law does not achieve justice. When the law does not recognize justice, then the law is meaningless. Legal formulation is the harmony between legal certainty and legal proportionality.

Keywords: The Concept of Justice, Greek Philosophy, Legal Politics

INTRODUCTION

Human life cannot be separated from values, morals and laws. Even the problems of human life occur when there is no longer a role for values, morals and laws in life. Values are a very important basis for regulating all human behavior. Values become a source of strength in upholding social order and order. Accordingly morals, as the basis of human behavior that makes life run within the norms of humanist-religious life. The power of law becomes control in regulating justice for the rights and obligations of every human being in carrying out their responsibilities. The role of values, morals and law is an important part in the process of forming the character of a nation.

In principle, nothing is difficult if each human being is able to develop his abilities. God created an understandable universe, and created humans to translate things that are understood in order to obtain a comprehensive understanding. These concepts have existed in the thought of Greek philosophy so as to give birth to thoughts that focus on aspects of values, morals, and law in order to create justice in the midst of people's lives.

This Greek philosophy has now been widely rejected by "Modern Western" thinking or modern liberal thinking which ignores moral values and places more emphasis on Power Over to dominate others. Greek philosophy has contributed greatly to legal and political thought, one of which is the idea of building a strong middle class, a class that is considered to be able to fight for justice with moral values compared to the upper class. However, it seems that the thoughts of these Greek philosophers are currently being abandoned by adherents of neo-liberalism. Based on the description above, this article attempts to review the concept of justice in Greek philosophical theory and its relevance to the development of modern legal politics.

RESEARCH METHOD

This research is a type of descriptive paper (Descriptive Research) with a qualitative approach, namely research procedures that produce data in the form of written words from people and observed behavior, supported by literature studies based on an in-depth literature review, so that reality can be well understood.

RESULTS AND DISCUSSION

1. Understanding the Meaning of Justice

Justice is often interpreted as an attitude and character. The formation of attitudes and character comes from observing certain objects that are double-sided. This can apply two propositions, namely: First, if "good" conditions are known, then bad conditions are also known, Second, "good" conditions are known from something that is in "good" condition, to know what justice and injustice are, it is necessary perfect knowledge of one side to determine clearly the other side. If one side is ambiguous, then the other side is also ambiguous.

In general, it is said that an unfair person is a person who does not obey the law (Unlawful, Lawless) and an unfair person (Unfair), then a just person is a person who obeys the law (law abiding) and is fair. Because the act of obeying the law is fair, then all law-making actions by the legislative in accordance with the existing rules are fair. The purpose of making laws is to achieve the progress and happiness of society. Thus, all actions which tend to produce and maintain the happiness of society are just. Thus justice can be equated with basic social values. Complete justice achieves not only happiness for oneself, but also the happiness of others.

Justice in a special sense is related to the following meanings, namely: First, something that is manifested in the distribution of awards or money or other things to those who have their share of rights. This justice is equality among members of society in an action together. Equation is a point that lies between "more" and "less" (Intermediate). So justice is the middle point or a relative equation (Arithmetical Justice).

The basis of equality between members of the community is very dependent on the system that lives in that society. In a democratic system, the basis for equality to obtain the middle point is human freedom which is equal since birth. In the Oligarchy system the basic equation is the level of welfare or honor at birth. Whereas in the aristocratic system the basic equation is the privilege (Excellent). The different basis makes justice more on the meaning of equality as a proportion. This is a special species of justice, namely intermediate and proportion. Second, the improvement of a part in the transaction another special meaning of justice is as rectification.

So justice is equality, while injustice is inequality. Injustice occurs when one person earns more than the other in an equal relationship. To equalize this, the judge or mediator performs the task of equalizing by taking some of the more and giving it to the less so that it reaches the middle point. The judge's action was carried out as a punishment. This is different

if the relationship is not established on the basis of the volunteerism of each party. In relationships that are not based on voluntary action, corrective justice applies which determines the midpoint as a proportion of those who gain and those who lose.

2. Justice in the Perspective of Greek Philosophy

“Every man has by nature desire to know.” Every human being is by nature curious. Such is the opening sentence of Aristoteles monumental book, *Metaphysics*. Humans by nature are creatures of thinking, wanting to know, initiating, reflecting on themselves, their neighbors, their God, their daily life, the world's environment in which they exist, the origin and purpose of their existence, and everything that participates in their presence. This rational desire is a natural part of human existence and presence. The rational character of human presence is a natural, and normal.

Philosophy thus begin with a desire to wonder, or amazement. In the history of Greek philosophy, this astonishment has been shown since the first philosopher on this planet, namely Thales. In amazement, Thales thought about the origin of everything that exists. Thus for him, everything that exists (meaning the reality of the world with all its contents) has a basic element from which it originates, namely water. Thales' activity is called philosophical activity because it is a rational "quest" by reason to its roots.

Long after Thales, Socrates shifted attention from the initial rational search for the universe to the intricacies of human life. Socrates initiated an essential understanding of human life, living with it, and the purpose of human life. The areas of politics, ethics, rhetoric, literature, state administration, and even God have thus become fields of philosophical struggle as far as reason can approach. It all started with amazement. That is, wonder is the beginning of all wisdom.

Then what about ethics? The material object of ethics is everything that has to do with human behavior. The formal object used is of course philosophy (with contributions from other sciences as far as they are concerned, for example: sociology, cultural anthropology, and theology).

In this regard, the role of reason is highly demanded. Why? Because every human being by nature has an urge to know, find out, and pursue knowledge (exactly the same as Thales' astonishment). Humans by nature are thinking creatures. Activities to know, recognize, and reflect are a natural part of being and being human. What is reflected? He reflects everything around him and everything he lives.

What is called nature's natural desire to know, by itself, must be understood as an introduction to depth, not from knowing. Humans should thus be said to be creatures of depth seeking. In this connection, a famous philosopher defines humans as truth-seeking creatures.

From consciousness as a wanderer in the boundless realm of truth, it can be concluded that humans are actually directed to the truth. He is not a being manipulative, corrupt, destructive, and the like. It means, humans always try to make their way of thinking and acting right, not arbitrary, and haphazard. Right means rational. So, it is not true as it refers to certain legal instructions, certain dogmas, certain teachings. Right here dealing with the principle of ratio (principle of reason).

Plato, Ethics in Plato's perspective, although Plato did not explicitly write about ethics, there are a lot of dialogues in his descriptions that have an ethical tone, because the book on ethics was written for the first time by his student, Aristoteles. Plato talks about how to understand a good life, we can understand this from Plato's point of view of seeing reality with the teachings of ideas.

Plato was born in 427 BC in the midst of the chaos of the Pelopones war he was born to a nobleman, an example for him is Socrates. He founded an academic school and Plato died in 348 BC. Plato said that to understand the good life we must understand reality, this

leads to his ideas about ideas. According to him, the real reality is not sensory reality, he likens it to the famous cave myth, for Plato reality is actually spiritual and by Plato is called an idea, the idea is eternal and does not change.

The purpose of Greek ethics is a good life, ethics is wisdom, according to Plato people are good when controlled by reason, and bad when controlled by lust, the way to achieve a good life we must free ourselves from the irrational power of lust and emotions, for Plato the highest idea is the idea of the Good because for him man will reach the peak of his existence if he is directed to the Divine. To pursue a happy life, Plato said we must have priority in life, Plato distinguishes them in four priority, namely: wisdom, courage, self-awareness and justice. With these virtues he can achieve a full and valuable life.

In Plato's doctrine of ideas, the idea of justice is said to be the idea of a polis which will produce a law, about this justice Plato discusses in his work entitled *Politeia/Republika*, according to him justice means that a person limits himself to activities and places in life that are in accordance with his calling and ability, Plato's ideas This departs from his idea of ideas, the idea of justice will be realized if it is realized in an ideal state or community, in the state there is a basic rule called *nomos*, in which there is participation in the idea of justice which in turn participates in the idea of virtue.

Aristoteles was a student of Plato, he started his education at the Academy in Athens, then Aristoteles became a teacher for Alexander the Great as his teacher Aristoteles also founded a school which he named the Lyceum or *paripatetic* school which means the center of scientific research.

Although Aristoteles had been a student of Plato for twenty years, he did not agree with the teaching of ideas or simply that Aristoteles was a negation of Plato's idea. For Aristoteles there are no eternal ideas, for him eternal ideas are abstract forms of sensory reality itself where reason is the instrument, the ability of the human mind to make abstractions raises universal forms of reality.

For Aristoteles, the goal of ethics is towards happiness, according to him political philosophy and ethics are different, if political philosophy focuses its attention on the order of the community or state, while ethics regulates how individual lives should be realized. The two are not sharply separated but answer how humans should act. Aristoteles is the father of ethics he is the first thinker in the world to identify and express ethics critically, reflectively, and argumentatively thus he is considered the first moral philosopher in the true sense, he is the founder of ethics as a separate science or branch of philosophy.

There are three major works of Aristoteles in the field of ethics, namely: *Ethika Eudomia*, *Ethics Nicomacean*, and *Politics*. He identified that Greek ethics questioned the good life. For Aristoteles the word good is not in a narrow moral sense, according to Aristoteles a good life for humans means that human life will be of quality if he achieves what is his goal. The purpose of human life for Aristoteles, whatever moves and is carried out by humans must be for something that is right, value is the goal, and this goal is sought, some are distant and some are for oneself. So what are we looking for for ourselves? That is happiness.

This is the goal for the Greeks as well as for Aristoteles, when man has found happiness man does not need anything, but good for himself not for the sake of a value for others. Three points of life that contain self-satisfaction; seeking pleasure, practical life, and contemplation. Looking for favors or hedonism for Aristoteles the feeling of pleasure is not typical of humans but animals that are always looking for pleasure.

Aristoteles not refuse that the feeling of pleasure is something bad, that pleasure is good as long as it is not a goal. So seeking pleasure is not possible to produce happiness because pleasure is a reality in itself but always accompanies an action. For Aristoteles, the highest value for humans lies in the actions that are realized from human potential itself. The

distinctive activity of a creature named human for Aristoteles that distinguishes it from animals lies in reason in its spirituality. This activity is carried out in two patterns of life, namely: political life (through Praxis) and philosophical contemplation of Theoria. Praxis is an ethical life that is realized through participation in community life, realizing all parts of humans including spiritual.

Theoria elevates the human soul to divine things, it is purely an activity of reason. Theoria of contemplation in the sense of seeing spiritual realities, for Aristotle man is a Zoon Logon Echon, a being who has a spirit, in contemplation the spirit is involved or activated. The object of contemplation is the unchanging or eternal reality of the Divine because of that what makes man happiest is the contemplation of things that are eternal and divine.

Praxis is an area of genuine ethical action, where the action is of value in itself while the impact or output is something else. Ethical is the same as political and practical, humans act ethically through all actions in the context of their social life, especially participating in advancing the country and city. Simply put, humans act ethically that is self-realization and can achieve an optimum happiness.

The difference between Plato and Aristotle, for Plato between Theoria and politics both are fused, good politics means contemplating eternal ideas which are the real nature of what happens in the mortal realm of the world. In particular, the idea of justice was later embodied in political practice, but for Aristoteles there was no relationship between Theoria and Praxis, both of which were related to Aristoteles not recognizing the existence of eternal ideas. while Praxis moves in the human and human nature, including the changing nature, so the changing nature cannot possibly refer to the unchanging nature.

Ethical life is carried out in Praxis, namely in actions that realize the nature and potential of humans as social beings, especially through participation in the life of the state. The next question aristoteles, how do we act, in Aristoteles language there is what is called the right understanding or Orthos Logos, the ability to feel will always understand how to act appropriately in certain situations or have ethical instincts, so understanding Aristoteles produces the ability to act. according to Orthos Logos.

To act according to the Orthos Logos we must pay attention to virtue, according to Aristoteles virtues are the inner attitudes that humans have. He divides virtue into two parts, namely intellectual virtue and ethical virtue where the first attitude is the attitude of reason and the second is the attitude of the will. The ability to always act according to the right sense is wisdom or Phronesis, for Aristoteles Phronesis can be defined as the habit of acting based on proper considerations in the field of good or bad problems for humans. And therefore people who have Phronesis know how to act appropriately.

Then the next problem is how to develop this Phronesis, Phronesis is not something that is taught but can grow from experience and habits to act ethically, the more one is steady in being ethical, the ability to act according to the Orthos Logos will also increase. The ability to act ethically is underpinned by ethical virtues, the virtue of making people do what is right and right. Therefore, a strong moral personality is a personality that has virtues.

These virtues are described in Aristoteles book entitled Nikomachean Ethics, one of which is justice. Aristoteles wrote that the word "fair" is that which follows the rules or laws and is honest or just and unjust is that which does not follow the rule of law and is neither honest nor fair.

People who follow the law are just and those who break the law are unfair, following the law means being fair because by following the law is the way the law defines the law, making the rules, the goal is to secure the best and from the power holders, because it is fair which produces and saves happiness for the people social and political community. Such justice is a virtue or virtue in an unconditional sense but in relation to the people around us

justice is considered the highest value among other virtues because justice is a practice of complete virtue.

Justice is considered to be the best virtue because relations with others in the sense of benefiting others. This is what is called complete justice. Aristoteles discusses kinds of justice, there are partial justice or acts of justice as justice in distribution or distribution, there are also fair acts as justification.

Aristoteles theory of justice is known as the commutative theory of justice. Namely, justice that upholds equality, balance, harmony between one person and another. From this commutative justice, there are three principles that must be adhered to: The first principle, Do not harm or violate the rights of others, in this principle there are three points that we must remember: First. Justice not only heals those whose rights have been violated, but also prevents rights violations from occurring. Second. The government and the people protect each other's rights, the government must not violate the rights of its people, on the other hand, the people must obey the government as long as the order carries out its leadership fairly. Third. Impartiality or impartiality are all equal before the law. There is no such thing as social strata or hierarchy.

From the construction of Aristoteles concept of justice, a common thread can be drawn that distributive justice is the duty of the government to its citizens to determine what citizens can demand in their country. Such construction of justice imposes an obligation on legislators to pay attention to it in formulating the concept of justice into a law.

Theoretically, Plato's concept of justice is based on the flow of Idealism philosophy, while Aristoteles concept of justice departs from the Realism philosophy. Plato's philosophy is based on the realm of ideas that are absolute and eternal. The basis of his philosophy is to believe in and fully accept the real world as objectivity. In this philosophical view, the real world is fully accepted as a totality which is the source of all that exists. On the other hand, Aristoteles emphasizes his philosophy on consciousness, meaning that in Aristotle's view the central point is the consciousness that exists in the thinking subject.

Plato's idea of justice was transformed by Agustinus into a religious conception. For Agustinus, the essence of justice is the existence of a proper and correct relationship between man and God, therefore justice is the most essential thing in the state and justice can only be carried out in the divine kingdom which is the storehouse of justice. God is the true source of justice, therefore if a person has a good and right relationship with God then he will be filled with truth and justice.

The religious concept of justice from Agustinus was later expanded by Thomas Aquinas. If in Agustinus conception justice is only obtained in the divine kingdom whose manifestation on earth is carried out by the Church, then Thomas Aquinas admits that there is another fellowship besides the church which is tasked with advancing justice, namely the state. Therefore, Thomas Aquinas distinguishes justice between divine justice and human justice.

Thus the concept of justice as determined by religious teachings is fully in accordance with the voice of human reason as contained in natural law. The validity of the law always depends on its conformity with natural law or justice. The definition given to justice reads "*Justitia Est Constans Et Perpetua Voluntas Jus Suum Cuique Tribuendi*" (justice is a permanent and eternal tendency to give everyone what is due). The concept of Justitia is then considered as an innate trait which is inherent in every law.

3. Its Relevance to the Development of Modern Legal Politics

When explored further, the term legal politics (Rechtspolitiek) can be used in two different meanings, namely in a broad and theoretical sense, namely as a political science of law (Politics of Law), and in a narrower and more practical sense, namely as legal policy.

Based on this division, legal politics in the sense of legal political science is part of political science that examines the necessary changes to the law to suit the political developments of the State. Meanwhile, legal politics in the sense of legal wisdom means choosing ideals about certain laws and trying with all available power to achieve those ideals about certain laws. It can also be said that legal politics is a policy regarding the direction of legal development. So, legal politics is related to the law that is aspired to, the law to be formed or *Ius Constituendum*.

In another perspective, legal politics is a legal discipline that specializes in trying to play the role of law in achieving the goals aspired by certain communities. Legal politics is a discipline that utilizes legal philosophy material (related to the desired goal), as well as scientific material on legal reality and legal dogmatics (related to how to achieve goals). This is particularly relevant to law-making activities and legal discovery.

Based on this, legal politics (Rechtspolitiek) is the process of forming *Ius Constitutum* (positive law) from *Ius Constituendum* (law that will and must be enacted) to meet the needs of changes in people's lives. It can also be said that legal politics is a public policy, or in other terms a social policy that is integrated and inseparable from community protection (Social Welfare) and Social Defense Policy.

Meanwhile, if you look at legal politics in terms of legal policy, it can be found in: Development plans or government work plans, especially in the legal section. More specifically, legal politics can also be read from the "considering" and "general explanation" sections of a law. In the section "considering" and "general explanation" of a law, it is possible to know the legal politics with respect to the material regulated in the law in question.

In this context, the determination of legal politics must pay attention to the function of law which is closely related to the structure of society. If society becomes more complex, then a legal order that has secondary obligations (Secondary Rules of Obligation) is needed which includes regulations that contain the acknowledgment of certain norms (Rules of Recognition), regulations that work on changes. Because in general the function of law is as a control system, dispute settlement, Redistributive Function or social engineering function (Social Engineering), social maintenance, and supervising the ruler himself.

Legal politics makes an *Ius Constitutum* and seeks to make the *Ius Constituendum* a new *Ius Constitutum* in the future. If you look further, in essence, those who can carry out legal politics are only the Ruling Class in society. As is the case with the state, when viewed from a political perspective, written positive law and some of the positive law contained in jurisprudence and in the opinion of experts, are essentially a government tool that is controlled by a certain group in society, namely the group that becomes the Ruling Class.

Law is part of social policy, which has the aim of maintaining order in society, it leads to the welfare of society. In law, policy must be carried out in an integrative way, because it has weaknesses. If likened to a drug then it is only able to treat the symptoms, not to the root of the disease. For example, there are many perpetrators of acts of terrorism who are sentenced to death, but these acts still occur frequently, as well as drug dealers who are sentenced to death, but other perpetrators are still there. This is evidence of the weakness of a law.

The occurrence of various criminalization cases is part of legal politics, especially in legislative or formulative policies. The formulative stage is a very decisive stage for the following stages because at this stage it will be determined what actions will be used as criminal acts. Criminalization itself is the process of determining an act that was not

originally a crime to become a criminal act. This process ends with the formation of a law that threatens the act with criminal sanctions. A crucial aspect in criminalizing is determining the criteria or measures that form the basis for whether or not an act is declared as a violation of the law.

In the Indonesian context, law must be based on values derived from Pancasila, namely moral-religious values, human values, and societal values. Pancasila is not only a basic norm (Grundnorm) but more fundamental than that as basic values (Grundwerten). On that basis, Indonesian law should not be secular, but divine law as the embodiment of the First Precepts of Pancasila. The laws of western countries that tend to be secular can be used as comparisons and can be accommodated as long as they do not conflict with the morals of Pancasila

If the Pancasila is studied by connecting the pyramid theory, then from the first principle to the last principle, it is actually hierarchical. The first precept is the spirit of Pancasila, while the other four precepts are the body. If Pancasila loses the first precept, then it is likened to a human without a soul. Therefore, understanding the second precept, namely just and civilized humanity, must be linked to the first precept. This means that a just and civilized humanity can be understood that the state government is obliged to maintain the implementation of a civilized or moral life based on the values of the Almighty God, so that legal values in Indonesia must be based on the morality of religious values.

Kevin Reinhart in his article entitled Islamic Law as Islamic Ethic that Islamic law is more likely to exist in the domain of Islamic ethics or morals than Islamic theology or philosophy. The moral source of Islamic law is the Al-Qur'an and as-Sunnah, in which there are values contained or often referred to as maqashid shari'ah (shari'ah goals). The originator is Imam ash-Syatibi with his work entitled Al-Muwafaqat fi Usul al-Ahkam. In this book, approximately one third of the discussion about Maqashid Shari'ah is explained. He explicitly said that the main purpose of Allah establishing His laws is to realize the benefit of human life, both in this world and in the hereafter. Mashlahat according to him is to maintain five main things, namely religion, soul, mind, lineage and property. Any attempt to maintain these five things is seen as Mashlahat, and destroying them is Mafsadat.

Immoral acts that are contrary to the morals of Pancasila or contrary to the rules of all religions recognized in Indonesia should be prohibited by law, even though the act does not harm others, because the legal basis is based on considerations of morality. Therefore, against immoral acts, the law must take part in carrying out its function, namely to uphold morality.

To talk about law is to talk about human relations. To talk about human relations is to talk about justice. Thus, any discussion of the law, clear or vague, is always a discussion of justice. We cannot talk about law only to its form as a formal relationship. We also need to see it as an expression of the ideals of justice for its people. The essence of justice is in the field of philosophy, therefore the problem of justice was initiated by philosophers since ancient times.

CONCLUSION

From the definitions and theories about justice, it can be seen that the concept of justice contains many meanings. From the theory and understanding of justice, there are two things that are universal, namely the purpose and character of justice. Goals are things that will be achieved in legal relations between fellow citizens, between citizens and the state or relations between countries. While character is inherent in justice, namely: fair, legal, legal, impartial, equal rights, worthy, reasonable and morally correct. The concept of justice comes from the Greek mind in classical and modern times which is based on views and thoughts that developed according to their era. Justice can be interpreted as goodness, virtue and truth, which is a moral obligation that binds members of society with one another. Justice as a value

is a goal that is mutually agreed upon by members of the community and strives to achieve it for the sake of justice itself.

REFERENCES

- Ali Daud. M, *Islam Untuk Disiplin Ilmu Hukum Sosial, dan Polotik*, Jakarta: Bulan Bintang, 1988.
- Aristoteles, *Nichomachean Ethics*, Terj. Embun Kenyowati, (Bandung: Teraju, 2004)
- Darmodiharjo Darji, *Pokok-Pokok Filsafat Hukum*, Jakarta: PT Gramedia Pustaka Utama, 2006.
- Huijbers Theo, *Filsafat Hukum Dalam Lintasan Sejarah*, Yogyakarta: Kanisius, 1982.
- Kusumohamidjoyo Budiono, *Filsafat Yunani Klasik Relevansi Untuk Abad XXI*, Yogyakarta: Jalasutra, 2013.
- Melling David, *Jejak Langkah Pemikiran Plato*, Jogjakarta: Yayasan Bentang Budaya, 2002.
- Miri Mohsen Sayyed, *Sang Manusia Sempurna Antara Filsafat Islam dan Hindu*, Jakarta: Teraju, 2004.
- Poedjawiyatna, *Etika Filsafat Tingkah Laku*, Jakarta: Rineka Cipta, 1990.
- Poespoprodjo, *Filsafat Moral Kesusilaan Dalam Teori dan Praktek*. Bandung: Remadja Karya, 1998.
- Rapar J.H., *Filsafat Politik Plato*, Jakarta: Rajawali Pers, 1988.
- Russel Bertrand, *Sejarah Filsafat Barat*, Yogyakarta: Pustaka Pelajar, 2002.
- Schmandt j. Henry, *Filsafat Politik Kajian Historis Dari Zaman Yunani Kuno Sampai Zaman Modern*, Yogyakarta: Pustaka pelajar, 2002.
- Suseno Magnis Franz, *Kuasa dan Moral*, Jakarta: Gramedia, 1986.