Social Justice in Islam and in the Political Philosophy of John Rawls

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Liberal Düşünce Dergisi, Yıl: 23, Sayı: 90, Bahar 2018, ss. 109-123.
Gönderim Tarihi: 12 Nisan 2018 | Kabul Tarihi: 6 Haziran 2018

Abstract

The idea of developing a just and well-ordered society has been central both to western political theory and to Islamic thought. John Rawls is a contemporary philosopher who has revived Anglo-American political thought and offered one of the most comprehensive theories of society. The Rawlsian ideas of justice, public reason, and political liberalism have instigated many interesting discussions, some aspects of which I will try to highlight here. While the basic doctrines of Islam always remain sacred, it is also important to acknowledge the heavy influence of the modernity in the present-day Islamic ideologies. The principles of distributive justice in Islamic tradition have been debated and theorized extensively since the classical times. In the article, I will talk about these arguments and address the topics where these two distinct models interact.

Keywords: Islam, Justice, Difference Principle, Public Reason, Liberalism, Society.

İslam'da ve John Rawls'un Siyaset Felsefesinde Sosyal Adalet

Öz

Adil ve iyi düzenlenmiş bir toplum geliştirme fikri, hem Batı siyaset teorisinde hem de İslam düşüncesinde merkezi bir konuma sahiptir. John Rawls, Anglo-Amerikan siyasi düşüncesini yeniden canlandıran ve en kapsamlı toplum kuramını teklif eden çağdaş bir filozoftur. Rawls'un adalet, kamusal akıl ve siyasal liberalizme ilişkin fikirleri, makalenin genelinde vurgulamaya çalıştığım üzere, birçok açıdan siyaset teorisi alanında çarpıcı tartışmalar başlatmıştır. İslam'ın temel tezleri daimi bir sürekliliğe sahip olmakla beraber, günümüz İslami arayışlarda modern fikriyatın güçlü etkisini dikkate almak gerekmektedir. İslam geleneğinde de, dağıtımcı adalet ilkeleri, klasik zamanlardan bu yana geniş ölçüde tartışılmış ve kuramsallaştırılmıştır. Bu temel argümanlar çerçevesinde Rawlsçu ve İslami iki farklı modelin etkileşimi karşılaştırmalı olarak makalede değerlendirilmiştir.

Anahtar Kelimeler: Islam, Adalet, Fark İlkesi, Kamusal Akıl, Liberalizm, Toplum.

Introduction

Rawls in his 'A Theory of Justice' gives lexical priority to the notions of the equal liberties and then to the equality of opportunity. The third notion is the difference principle. It is based on the idea that social and economic inequalities should benefit the least fortunate members of a society. The philosopher offers a thought experiment, namely the 'original position', in which from behind of 'veil of ignorance' people would define principles for the structure of a society. The idea of the veil of ignorance, for the purpose of the experiment, considerably limits the human knowledge. However, Rawlsian men are self-interested, which does not necessarily mean that they are egoists. Unlike in egoism, where one pursues his own goals regardless of anything, in the case of a self-interested person, one can adopt a set of moral rules even though they may not be in his interest when applying.[1] The philosopher talks about the necessity to ensure equality of opportunities in the distribution of positions and disagrees on people occupying these posts having the greater share of public resources. In his theoretical just society, people will have higher wages only if it benefits all members of society, especially the worse-off.[2]

The conception of social justice is also crucial in Islam. In its history, there have been many schools, sects, movements, and ideologies. Some of them significantly differ in methodology and interpretation of major tenets. Multiple Quranic verses and Hadith talk about social justice and social order. Allah is considered as the ultimate source of all harmony. *Al-'adl* (Justice), *al-Qist* (Just Portion) and *al-Mizan* (Balance or Scale) appear in Quran and Hadith usually in various contexts. The last term, 'balance' has several meanings, among which there is a special emphasis on justice as a balance.3 In the paper, I mainly talk about the type of justice that offers a fair share and establishes a proper social order, which is distributive justice. Fair punishments for misdemeanors, such as the *hadd, ta'zir* and *qisas* in the case of Islamic law, is the subject of retributive justice.

The Difference Principle

In the difference principle, the citizens agree on the allocation that maximizes the opportunities for the least advantageous group of the citizens. Since

1 Norman P. Barry, *An Introduction to Modern Political Theory*, Macmillan Education UK, London 1995, p. 175.

2 John Rawls, *A Theory of Justice*, Rev. ed., Mass: Belknap Press of Harvard University Press, Cambridge 1999.

3 Seyyed Hossein Nasr, "Introduction", *The Sacred Foundations of Justice in Islam: The Teachings of 'Ali ibn Abi Talib*, ed.: M. Ali Lakhani, Reza Shah-Kazemi, Leonard Lewisohn, M. Ali Lakhani, Perennial philosophy series, World Wisdom; Sacred Web Pub, Bloomington, Ind., North Vancouver, B.C., Canada 2006, p. xi–xvi.

behind the 'veil of ignorance' no one knows if they end up being one of those among the least privileged group and since all are rationally self-interested, they agree that all opportunities should be distributed equally unless unequal distribution would benefit the least advantaged. Thus, a society is just if the least advantaged is equally well.[4]

If we assume that in our society people's destiny is not determined by the circumstances but by decisions we make, and if one materially succeed in a society of equal opportunity due to his efforts, and not because of his natural or social upper hand, then, unequal income is fair, as it is deserved. One's fate would not and should not be privileged or unfortunate owing to arbitrary factors of race, ethnicity, etc. The desert-based principle would argue that success or failure is the result of people's own effort. Therefore, whatever success one may achieve due to his own effort, it is merit-based and should be rewarded in accordance with the impact. However, if more gifted people benefit from their talents, while some are unjustly deprived with physical and mental disabilities, in conformity with the difference principle the given set of social benefits of privileged is same to that of a person with disabilities, who would have to bear an additional cost of treatment and other expenses. The burden which is unfairly incumbent for the disabled is not a subject of a choice or effort, but a chance. Thus, the difference principle here allows and does not eliminate such burden.[5] It is unfair if there is an undeserved social inequality, (being born in a privileged family or being a low caste) but the same may be applied to other random inequalities (someone with a talent and someone with natural disabilities). Kymlicka argues that the second case may be considered unfair as well.[6] Hence, to minimize inequality, either no one should benefit from these natural inequalities, which is unreasonable, or as Rawls offers, these inequalities should benefit those with social or natural limitations. Rawls writes:[7]

> Thus we are led to the difference principle if we wish to set up the social system so that no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return.

4 There is a hadith quoted in Ibn Arabi that says "All men are asleep (in this world); only when they die do they wake up." Here, in the condition of heedlessness (ghafla), humanity is veiled from God. See M. Ali Lakhani, "The Metaphysics Of Human Governance: Imam 'Ali, Truth and Justice", *The Sacred Foundations of Justice in Islam: The Teachings of 'Ali ibn Abi Talib*, ed.: M. Ali Lakhani, Reza Shah-Kazemi, Leonard Lewisohn, M. Ali Lakhani, Perennial philosophy series, World Wisdom; Sacred Web Pub, Bloomington, Ind., North Vancouver, B.C., Canada 2006, p. 32.

5 Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2. edisyon, Oxford University Press, New York 2002, p. 103.

6 Kymlicka, *a.g.e.*, p. 86.

7 Rawls, *A Theory of Justice*, p. 87.

This, surely, does not fully remove inequality; it rather softens the unfavorable consequences of social and natural circumstances. Some are still better off than others. Kymlicka explains this Rawlsian idea and raises some questions regarding the equality of opportunity.[8] 1) Social inequalities are undeserved and should be corrected or compensated for, the influence of natural inequalities on distribution is possible, carried out in accordance with the principle of equality of opportunity. From Rawls' point of view, natural and social inequalities are equally undeserved. 2) Social inequalities are to be compensated, and natural inequality should not affect the distribution. However, if the natural and social inequities really are equally undeserved, this position is also unstable. Therefore, we may admit the more desired next position. 3) Both natural and social inequalities should be compensated. According to Rawls, people belonging to the lower class or discriminated race are entitled to compensation for their disadvantage.

Such an idea of distributive justice may correlate with the notion of justice in Islam. Mirakhor and Askari argue that there is an important difference between Islam's position and those that along with Rawls, have been proposed by the philosophers such as Dworkin, G.A. Cohen, and Nozick.[9] The distinction is made based on the idea of the market, as the aforementioned concepts apply only to "market economies." Markets, indeed, are significant in Islam. Yet, epistemologically, there is a big difference, while for one the concept of the market is an ideology, for the other the concept of the market is an instrument. In the market economy societies, market norms are crucial to social relations. As the characteristics of the market norms based on the self-interest, they dictate the rational behavior by maximizing what interests the self, narrowly. Thus, they determine the pattern of preferences of individuals. The authors say that in Islam it is the opposite:

> ...the market is an instrument. It is not an organism that determines the rules and norms of behavior, not even those of its own operation. Rules that determine the pattern of preferences of participants are determined outside the market. Participants internalize them before entering the market. The behavior of consumers, producers, and traders, informed by their preferences, are subject to rules determined outside the market. Rules such as no waste (***itlaf***); no overconsumption or overuse (***israf***); no opulence or extravagance (***itraf***); no harm or injury (***la dharar wa la dhirar***) to anyone; faithfulness to contracts, covenants and promises, as well as trustworthiness are general rules of behavior that are internalized by consumers, producers, and traders before they enter the market.

8 Kymlicka, *Contemporary Political Philosophy*, p. 104.

9 Mirakhor and Askari, *Islam and The Path to Human and Economic Development*, 1. edition, Palgrave Macmillan, New York 2010, p. 175.

Another major difference between the ideas of Islamic distributive justice and the justice presented by Rawls, as well as other major Western political philosophers, is that the latter needs constant intervention by government in order to correct the unjust patterns of distribution, mainly resulting from the operations of the market. Even in the libertarian outlook of Nozick, the government interferes if the processes lead to the unjust outcomes. The state in Islamic society, is rather an administrator, supervisor, and protector of its people. The justice is secured by the members of society. The existence of poverty is prima facie evidence of noncompliance with the rules governing economic relations in Islam.[10] Nonetheless, the notions of public reason and fraternity in the idealized society of Rawls, which are going to be discussed later, share some similarities with such self-regulating society.

Priority for the worst off plays a central role in the argument for Rawls' principle. The principles of justice are not intended to guide every choice and policy. They are projected only for the specific task of assessing the justice of social institutions.[11] Hallaq explains that *Shari'a*'s law is not an abstraction that applies equally to all.[12] Each individual and each case is treated as unique. Islam rejects the notion of blind justice as it allows the rich and powerful to stand on a par with the poor and weak. The defense of the difference principle, especially considering utilitarian principles, also better to be done from the original position. Pogge writes that:[13]

> ...as part of a public criterion of justice, the difference principle beats the principle of average utility in regard to clear and transparent public applicability. Happiness, however, understood, is difficult to measure and even harder to estimate, as must be done in the comparison of alternative basic structure designs. The principle permits precise measurements and more solid estimates. Moreover, the difference principle is informationally less demanding: To compare alternative basic structure designs, one need aggregate well-being information only about the least advantaged, not about all citizens. The identification of the least advantaged does require information about the other citizens, to be sure. But here simple ordinal data suffices. For the vast majority of the population, one does not need to know how well off they are but only that they are better off than the least advantaged.

While the principle of average utility does not specify a notion of reciprocity between the worse off and the better off, the difference principle does. The worse off accept the advantages of the better off, and the better off accepting that such inequality is permissible only insofar as it increases the position of the worse off in absolute terms.[14]

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10 Mirakhor ve Askari, *a.g.e.*, p. 176–77.

11 Thomas Scanlon, *What We Owe to Each Other*, Belknap Press of Harvard University Press, Cambridge 1998, p. 228.

12 Wael B. Hallaq, *An Introduction to Islamic Law*, Cambridge University Press, New York 2009, p. 166.

13 Thomas Pogge, *John Rawls: His Life and Theory of Justice*, çev.: Michelle Kosch, Oxford University Press, New York 2007, p. 118.

14 Thomas Pogge, *a.g.e.*, p. 119.

G. A. Cohen divides the difference principle into two ways of reading where the question of the split is how we are to take the word necessary in John Rawls's difference principle. Inequalities are just if they are necessary to improve the position of the worst off.[15] The first reading is strict, counts inequalities as necessary only when they are strict, necessary, apart from people's chosen intentions. The second is lax, where it also features intention-relative necessities. Cohen argues that each of these readings is incompatible so that Rawls has in effect two positions on the matter. He says that those who are loyal to the principle would go with the strict reading, mainly based on the ideas of dignity and fraternity. Cohen has not rejected the difference principle in its lax reading as a principle of public policy; he also has not denied that it can be optimal from the point of view of distributive justice in the absence of an egalitarian ethos and does not doubt that there are contexts where it is right to apply it.

Although the contemporary liberal-democratic theory mainly focuses on the concepts of liberty and equality, Rawls says that the concept of fraternity is essential as well since it implies civic friendship and social solidarity.[16] In forming the social justice, the difference principle is central to the concept of fraternity. Rawls writes that the difference principle:

> ...does seem to correspond to a natural meaning of fraternity: namely, to the idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off. The family, in its ideal conception and often in practice, is one place where the principle of maximizing the sum of advantages is rejected. Members of a family commonly do not wish to gain unless they can do so in ways that further the interests of the rest.

Multiple surahs and hadith talk about the importance of brotherly relations in society and community. The concepts of ummah, tariqat, and jamaat resemble what is described by Rawls.

In Islam, while prayer is limited to the bodily and spiritual spheres, (what people owe to the God) ***huququ'llah***, and lies outside the social and material aspects of life, ***zakāt*** (***Zakāt al-Mal***), alms-tax, another pillar of Islam, is one of the most important instruments of social justice, (what we owe to the fellow people), huququl'ibad. Hallaq says that ***zakāt*** has a dualistic character, where it is an integral part of religious ritual, as well as when it functions within the legal sphere, constituting itself as a "tax law".[17] Therefore, financial responsibility merges into rituality; rituality merges into the moral

15 Gerald A. Cohen, *Rescuing Justice and Equality*, Harvard University Press, Cambridge, Mass 2008, p. 68–86.

16 Rawls, *A Theory of Justice*, p. 90–91.

17 Wael B. Hallaq, *The Impossible State: Islam, Politics, and Modernity's Moral Predicament*, Ciltsiz Edisyon, Columbia University Press, New York 2014, chapter 5.

accountability for society's welfare. A duty may be distinguished from an imposed obligation, as there is a difference between asking for the best one can give away and what one *must* give away irrespective of willingness or ability. The rate of taxation by ***zakāt*** is levied generally at the rate of 2.5 percent of growth on one's wealth; after all, amounts needed for subsistence have been deducted. The exemption, known as ***niqāb***, represents a size of wealth below which no ***zakāt*** can be applied. Hallaq explains:

> Literally meaning growth, ***zakat*** bears the extended connotation of paying out of the growth on one's property with a view to purifying that property. In one sense, ***zakat*** is the financial/material parallel of ritual ablution: just as washing removes ritual filth, ***zakāt*** removes the moral burden that accompanies the garnering of wealth. In other words, and to state a major Islamic tenet, to be wealthy is potentially a moral liability that requires dispensation and the means of such dispensation is the sharing of that wealth with those who are in need. The sharing of excess in wealth with the Qur'ānically specified beneficiaries (the poor, needy, and wayfarers) is seen not only as such a means of purification but reflects, among other things, the belief that all things ultimately belong to God and that Muslims are the trustees of earthly wealth accountable, furthermore, for the ways in which they dispose of it. Hoarding wealth is a cause for divine condemnation as well as for the eternal punishment of the Hereafter.

The hadith says, "When you pay the zakāt you have fulfilled what is required of you."[18] Zakāt is to prevent people to become selfish and greedy. Also, along with justice, it provides order, as it helps the poor and prevents him to cultivate hatred and jealousy towards the rich.[19] In addition, the potential exploitation of the poor is dealt by forbidding the usury (ribā). Besides zakāt, there are tools of social justice of a similar kind such as sadaqah - voluntary charity, fitrah (Zakāt al-Fitrah) - required charity at the end of the Islamic holy month of Ramadan (Eid al-Fitr), charity during the Sacrifice Fiest (Eid al-Adhā).

Public Reason

In 'The Law of Peoples', Rawls asks to imagine an idealized predominantly Muslim populated country, which he gave a made up name 'Kazanistan'. It is not secular, and all of the political power is held only by Muslims. Other religions are tolerated and are given the civic rights with an exception of the possibility of holding the higher political and judicial positions. This is what makes it different from the liberal democratic societies where political offices are open to all. The philosopher counts the potential virtues of such society in which these loyal subjects consisted of non-Muslims minorities are neither discriminated nor treated inferior in comparison to their fellow Muslim citi-

18 Muhammad ibn Īsá Tirmidhī 2/618, *Jami AtTirmidhi 6 Volumes: Vol 1 to 6 Arabic and English*, ed. Abū āhir Zubayr AlīZaī, çev.: Abū Khalīl, 1. edisyon., Darussalam, Riyadh 2007, Cilt 2, p. 77.

19 Osman Nuri Topbaş, *Islam: Spirit and Form*, Erkam, Istanbul 2014, p. 188.

zens. Rawls clarifies that this is not a vapid utopianism as the prerequisites of this realistic Utopia existed in the Ottoman Empire.[20]

Rawls adds more to this by imagining the possibility of an organized consultation hierarchy, which changes over time to meet the needs of its people of all the groups legally represented in this hierarchy. Based on this, the philosopher identifies its six compulsory characteristics, where the first three provides that interests of all groups are taken into account. Precisely, all groups are consulted. Second, every individual in the society belongs to a group. Third, there are members of each group in an entity that represents their interests. Fourth, the rulers that make the final decision take into consideration the views and claims of each of the bodies consulted, and, if called upon, judges and other officials explain the rulers' decision. Thus, the consultation with each body may affect the result. Fifth, the decision is made in accordance with the countries priorities among which decent and rational Muslim people respecting the religious minorities within it. The priorities are respected by all members, including the non-Muslims, who, even though, may be less devoted to some of them. Lastly, such special priorities must fit into an overall scheme of cooperation. Within the basic structure of the country, the representatives may object to certain decisions, and governments ought to reply. In time, this system will provide reforms that will develop it further. Rawls explains that such society may not be perfectly just, but at least it is decent. Rawls says:[21]

> Rather, it seems to me that something like Kazanistan is the best we can realistically—and coherently—hope for. It is an enlightened society in its treatment of religious minorities. I think enlightenment about the limits of liberalism recommends trying to conceive a reasonably just Law of Peoples that liberal and nonliberal peoples could together endorse. The alternative is a fatalistic cynicism which conceives the good of life solely in terms of power.

Rawls mentions the work by Abdullahi An-Na'im who talks about a reconsideration of the traditional interpretation of the divine law, that is the *Shari'a*, which historically has been developed during the Medina period of Mohammed. Instead, according to Na'im, it is teachings in Mecca that should be given the priority since it contains the fundamental message of Islam. Furthermore, he gives a number of reasons for it, such as that it is more practical, pro-constitutional, proposes gender equality, and so on.[22] He supports the idea of a radical incommensurability between the political and the religi-

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20 John Rawls, *The Law of Peoples: The Idea of Public Reason Revisited ile birlikte*, Harvard University Press, Cambridge, Mass 1999, p. 76.

21 Rawls, *a.g.e.*, p. 77-78.

22 Daniel A. Dombrowski, *Rawls and religion: the case for political liberalism*, State University of New York Press, Albany 2001, p. 92.

ous. Fadel writes that Na'im is concerned with the religious takeovers of the state, but not, for example, a takeover of the state by comprehensive liberals.[23]

Comprehensive liberalism is one of two types of liberalism mainly discussed in Anglo-American philosophy. Nussbaum clarifies that most of its forms are the perfectionist. She explains that such liberalism, which is advocated by Berlin and Raz, builds its political principles on the comprehensive concept about human life that covers not only the political domain but also the domain of human conduct in general.[24] The non-perfectionist form is supported by Dworkin. The other type of liberalism is political liberalism. This idea was developed by Larmore, and in most detail by Rawls. The Rawlsian notion is within political and juridical. A person has his own set of moral principles, but as a member of plural society, he is respectful to others, who, in turn, have their own moralities. Nussbaum considers that the political liberalism of Rawls superior to the perfectionist liberalism as a basis for political principles in a pluralistic society and that major religions may accept it, whereas they cannot accept Raz's version.

There is a clear incomparability between liberalism and Islam, yet Rawls proposes that they may agree on enough political propositions, which is called 'overlapping consensus'. This consensus exists when citizens agree on basic principles of the political structure of society, which sufficiently reasonable on a moral level, regardless of their fundamental differences among themselves.[25] Fadel says that public reason is legitimate from the perspective of Islamic theology, ethics and law. There are types of rules which contradict public reason, precisely:

- permissive rules (such as the right of polygamy)
- mandatory laws voluntary compliance could be consistent with the requirements of public reason (Islamic inheritance law)
- mandatory rules that are categorically repugnant to public reason (the criminalization of apostasy).[26]

Fadel counts a number of Islamic laws that are inconsistent with public reason.[27]

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23 Mohammad H. Fadel, "The Competing Claims of Law and Religion: Seeking an Islamic Reflective Equilibrium: A Response to Abdullahi A. An-Nacim's Complementary, Not Competing, Claims of Law and Religion: An Islamic Perspective", *Pepp. L. Rev.*, 2013, C. 39., p: 5.

24 Martha C. Nussbaum, "Perfectionist Liberalism and Political Liberalism", *Philosophy & Public Affairs*, 2011, v: 39, p: 1.

25 Mohammad H. Fadel, "Public Reasons as a Strategy for Principled Reconciliation: The Case of Islamic Law and International Human Rights Law", *Chicago Journal of International Law*, 2007, v: 8, issue: 1, p. 4.

26 Fadel, *a.g.m.*, p. 6.

27 Fadel, *a.g.m.*, p. 7.

> (i) the government is the agent of the governed and therefore exists to further the welfare of the ruled; (ii) individuals are rights-bearers whose rights cannot be infringed without due process of law; (iii) mature individuals have the legal capacity to direct their affairs autonomously without the interference of the state or others; (iv) parties to judicial proceedings must be given notice and an opportunity to be heard, a right that includes the right to present evidence and impeaches the other party's evidence; (v) judges must be neutral and disinterested and are to rule based on evidence admitted pursuant to general rules of evidence rather than their personal knowledge of the case; (vi) government agents are subject to the law; and (vii) the government may not take private property except for a permitted purpose and with compensation to the owner. Similarly, Islamic private law, while perhaps obsolete, is generally not-discriminatory and therefore already consistent with public reason.

Fadel argues that based on religious conduct a Muslim woman cannot marry a non-Muslim; however, for a Muslim man marrying a non-Muslim woman, it is not considered as a sinful act.[28] This is not the case of human rights law. If a state interferes by prohibiting a Muslim woman to marry a non-Muslim, due to the violation of Islamic law - human rights violation occurs. If an individual's deviation voluntarily motivated, it is within the human rights to free exercise of religion, even if it causes inequality. Non-egalitarian outcomes should not be a problem for liberals, as long as it was not backed up by a state's coercive power. The same applies to Muslims, as long as the laws do not force them to act inappropriately in terms of the Islamic code of conduct.

As for the permissive rules, elimination of these rights normally should not be problematic. However, it would be contradicting the faith of some Muslims based on metaphysical grounds, as they may not accept a particular justification of the regulation. Consequently, a traditional Muslim would express opposition to the rule in question, even if on the personal level it were not problematic in terms of his faith.[29] In his Political Liberalism, Rawls states that:[30]

> To say that a society is well-ordered conveys three things: first (and implied by the idea of publicly recognized conception of justice), it isa society in which everyone accepts, and knows that everyone else accepts, the very same principles of justice; and second (implied by the idea of the effective regulation of such conception), its basic structure - that is, its main political and social institutions and how they fit together as one system of cooperation - is publicly known, or with good reason believed, to satisfy these principles. And third, its citizens have a normally effective sense of justice and so they generally comply with society's basic institutions, which they regard as just. In such a society the publicly recognized conception of justice establishes a shared point of view from which citizens' claim on society can be adjudicated. This is a ***highly idealized*** concept. ***Yet any conception of justice that cannot well order a constitutional democracy is inadequate as a democratic conception.***

28 Fadel, *a.g.m.*, p. 3-4.

29 Fadel, *a.g.m.*, p. 10.

30 John Rawls, *Political Liberalism*, Expanded ed., Columbia Univ. Press, New York 2005, p. 35.

Hallaq says that what Rawls describes, in Islamic governance has been taken for granted. Rawlsian theory of public reason, robust guarantees of freedom of religion should protect the interests of those Muslims whose are concerned with the integrity of their way of life, as well as respecting the rights of non-Muslims. Fadel explains that this would require some Muslims to abandon their perfectionist vision of Islamic state building.[31] The Rawlsian approach would be advantageous in finding common ground between international human rights law and Islamic law as both sides would not need to forsake their basic principles.

The positive outlook on the Ottoman society by Rawls, to some extent, is shared by other contemporary liberal philosophers. The Empire, which is non-liberal and where minorities are tolerated and respected, has been briefly discussed by John Gray and Will Kymlicka. For Gray, the foundations of liberalism fail in seeking to demonstrate that universal reason can be appealed to privilege a narrow set of human goods over others.[32] There is a conflict of the basic human values. Therefore, they are incommensurable. Pluralism in the conceptualization of Gray precisely deals with the case of incommensurability and guarantees people's safety. Gray adopts some of the arguments of Berlin. Gray defends value pluralism on grounds that liberalism is not able to base on rationality and consistency. Regarding the Ottomans, he acknowledges some basic moral principles that the Empire were able to provide to its subjects. He says that such moral minimum.[33]

> ... can be upheld by regimes that do not honor liberal values. At its best, the Ottoman Empire protected its subjects –Christians, Jews, and Muslims – from religious persecution better than some liberal regimes have done.

The type of liberalism in the works of Berlin, Gray called the 'Agonistic Liberalism, which is a truly 'political liberalism' as the primacy of the political as opposed to legal or theoretical is affirmed.[34] The Agonistic Liberalism of Gray shares similarities with the political liberalism by Rawls. Rawlsian liberalism has a legal and political neutrality. To Gray demanding neutrality of the law in respect of specific conception of the good requires the legal disestablishment of morality.[35]At the same time, Gray is highly critical of the notion of toleration, which has been dominant in liberal-democratic societies.

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31 Fadel, "Public Reasons as a Strategy for Principled Reconciliation", p. 19–20.

32 George Crowder, "John Gray's pluralist critique of liberalism", *Journal of Applied Philosophy*, 1998, v: 15, issue: 3, p. 287.

33 John Gray, "Reply to Critics", *The Political Theory of John Gray.*, ed.: John Horton, Glen Newey, Taylor and Francis, Hoboken 2013, p. 218.

34 John Gray, *Enlightenment's Wake: Politics and Culture at the Close of the Modern Age*, Routledge, London; New York 2007, p. 112.

35 Gray, *a.g.e.*, p. 118.

He says that today it is rather judgmental and presupposes the objects of toleration to be at least inferior. To Rawls, as well as to Dworkin, justice demands that policies of a government practice neutrality, not toleration in regard to rival notions. Gray, clarifying his criticisms on neutrality, exemplifies: 1) a drinking man could be identified as an alcoholic, but among drinking people there are also those whose condition is not a way of life but an illness; 2) on the other hand, the life of a housewife may be falsely characterized as if she is under oppression, while in reality, it is her way of life. Consequently, while some minorities would be able to obtain certain legal rights, other minorities could be subjects of unfair policies.[36] To eliminate discrimination, neutrality, unlike toleration, legally prohibits its rivals. In other words, as it rules out the policy of toleration, it becomes an idea of radical equality that promotes the legal disestablishment of morality, the morality which becomes a private habit of behavior rather than a common way of life.[37] Kymlicka says that in the Rawlsian political theory, the neutrality is an extension of the liberal state's ideology. Modood regarding the minority rights supports Kymlicka's claims on Rawlsian state neutrality as being impossible.[38] He says when applied such a non-promotion/imposition of any 'conception of the good' principle, or the attitude of 'when in Rome, do as the Romans do', is to treat minorities as second-class citizens.

Kymlicka also mentions the Ottomans in the context of non-liberal religious toleration.[39] He recognizes that under the 'millet system' all the groups, the Muslims, the Christians, and the Jews were self-governing units. He says that the system was generally humane, tolerant, but as it was not a liberal society it did not recognize the individual freedom. It was a sort of a federation of theocracies, and far from the liberal values. Kymlicka says that though such model can be found in other times and places, the millet system of the Ottomans the most developed model of non-liberal religious tolerance.

Conclusion

The difference principle as a part of justice principles in the philosophy of Rawls as well as the public reason has been widely discussed in academia. The former is an attempt to establish a just society. There are scholars both within Western and Islamic traditions, which think to fit Islamic doctrines to

36 Gray, *a.g.e.*, p. 31.

37 Gray, *a.g.e.*, p. 30.

38 Tariq Modood, *Multiculturalism: A Civic Idea*, 2. edisyon, Polity, Cambridge, UK, Malden, MA 2013, p. 23–24.

39 Will Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Clarendon Press; Oxford University Press, New York 1995, p. 157–58.

the idea of the modern, that is, in our case, by securing public reason. Thus, the latter is to establish a well-ordered society. In political liberalism, citizens are not required to embrace its principles of justice for the same reasons. In the idea of an overlapping consensus, citizens may find reasons for acceptance from within their own respective comprehensive doctrines.[40] Rawls' position declares while political liberalism can be non-foundational, at the same time allow religious believers and philosophers to be foundational as long as they are reasonable.[41]

The virtue of justice is a pivotal component of the ideal Islamic society. It is said that the Abbasid caliph Al-Mansur built a round capital city in Baghdad so that unlike a square city, despite the sections of a round city, some parts of it would not be closer to the center, that is to the caliph, than others.42 Thus, equal distance here suggests justice. *Early Muslims schools of theology and jurisprudence; numerous Muslim thinkers, both classical and modern, from Ibn Khaldun to Sayyid Qutb and Ali Shariati yielded perceptions regarding the topic.* Overall, this is a modern perspective, therefore not unbiased. *In present days, it is especially hard to develop a complete and all-inclusive idea of justice, when centrifugal and centripetal forces, globalization and nationalism, modernity and tradition exist simultaneously.*

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40 Andrew Valls, "Rawls, Islam, and Political Constructivism: Some Questions for Tampio", *Contemporary Political Theory*, 2012, volume: 11, issue: 3, p. 5.

41 Dombrowski, *Rawls and Religion*, p. 158.

42 Bernard Lewis, *The Political Language of Islam*, University of Chicago Press, Chicago 1988, p. 23.

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