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RIGHTEOUS GOVERNMENT IN VIRTUES TEST WITH A VIEW ON JOHN RAWLS' THEORY OF JUSTICE

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ABSTRACT

Stability and durability of the state are subject to justice and fair treatment. But what is the righteous state and how is it going to deal with different issues? Equal behavior toward the citizens by the government is undoubtedly one of the criteria for fair treatment. Nevertheless, establishment of arrangements in which certain privileges are granted to certain individuals or groups of society may also be considered as part of the implementation of justice for special interests or occasions. The great contemporary philosopher John Rawls takes the inequality into account only to be acceptable when the most benefited from such an arrangement is given to the most deprived individuals of the community. In his theory of "priority of the right over the good," he practically founds conferring concessions not on the basis of the protection of virtue, but merely on the basis of compensation for deprivation. Rawls also rejects the use of political power to promote a meaningful universal doctrine, which may involve the promotion and excellence of virtue. Adopting such an approach can put the state in a completely impartial position on the various virtues of the community; therefore, the view that a righteous state when facing virtues cannot prefer one to another and, thereby, give privilege for the citizens relative to each other. This study seeks to explain the foundations of this theory, consider its implications and finally examine the possibility of state neutrality towards virtue.

Keywords: Government, Justice, Virtue, Impartiality, John Rawls

INTRODUCTION

One of the most important issues surrounding the government in contemporary political thought is how a government that, under the constitution, has the duty to preserve, protect, and promote certain virtues, can simultaneously meet the rights of all, even those who do not adhere or attach aforementioned virtues. Indeed, the importance of the subject in the situation where we are is how a modern state can uphold, both its own nationals' rights and the pivotal virtues given in the constitution. In order to achieve these goals, it is important to know what the principles of justice underlie our theory, what rights and obligations these principles set and what virtues are included within the scope depicted by these principles of justice. Another issue is how can these virtues and those mentioned rights and duties be respected coincidentally and in a consistent design, and whether a righteous state, when confronting this test, is allowed to sacrifice virtue in the favor of the right or vice versa?

Concepts and Approaches

- ***Rawls approach precedent to justice***

Justice, in the sense that Rawls sought in his early writings, was in contrary to the teachings of the liberal tradition. He believed that the ethical theory provided by his predecessors, including

Hume, Smith, Bentham and Mill, was a framework for satisfying the needs of their vast intellectual interests, and a plan of universal teaching of utilitarianism thought (Vaezi, 2007: 49-50). Rawls was interested in a plan of justice that would go beyond the boundary of utilitarianism aiming at protecting individuals from self-serving profit beyond personal gain (Bashirieh, 2014: 115)

✓ *Original position concept and its conditions*

To justify the considered principles of justice, Rawls portrays an exquisite pattern called original position. In such a position, all people are under the brink of ignorance, meaning that they have no idea of race, social status, religion, or any other distinctive factor. (Jackson et al., 2012: 36). This ignorance is the guarantee of fairness in a state in which people reach an agreement and will give rise to getting fair of their settled principles. (Wolf, 2012: 266)

✓ *Rationality*

Precedent Rawls describes original position parties as rational people attempting to choose the basics and fundamentals of social life structure for securing their long-term rational interests and goals. People who, despite their lack of abundant knowledge about their individual situation, understand political affairs, the principles of economic theory, the basic structure of society, and the laws of psychology (Brown and Collinson and Wilkinson, 2003: 164)

• *Late Rawls approach on justice*

Rawls' attempt, especially after 1982, was aimed at correcting his theory in such a way that he could remedy the criticisms while maintaining the framework and content of the theory. As a result, the generalist hypotheses of his early writings were partially reformed in the book of "political liberalism." (Haywood, 2013: 87)

✓ *Concept of Reasonability*

Beside late Rawls, individuals become rational beings to reasonable people whose purpose of decision-making and choosing is not to determine the moral principles of good social life. This rationality is a characteristic which is pertained to the preparation for the proposition of the principles and standards governing the fair conditions of cooperation, as well as reasonable persons are those who accept the conditions in a certainty that others are also in the position to do so. (O'Neill, 2016: p. 110)

✓ *Overlapping consensus and reasonable pluralism*

The nature of Rawls's agreement in his ideal community is not just a simple compromise. He accounts this agreement for being a product of an overlapping consensus of reasonable pluralism doctrines and states that if justice is to be based on fairness (or any other political conception) of the possibility of gaining overlapping consensus support, then the difference of diverse teachings should be regarded; (Rawls, 2013 B: 18) There are pluralism teachings that tolerance towards them is one of the fundamental values of a well-ordered society: "One of the basic characteristics of democracy is the fact of reasonable pluralism, that is being said the plurality of comprehensive religious, philosophical, and ethical teachings which are contradictory, but reasonable, is the natural outcome of the cultural democracy and its liberal institutions." (Rawls, 1999, p.573)

✓ *Cognitive avoidance is a prerequisite for consensus formation*

Rawls in order to expand the circle of influence of his claimed overlapping consensus, insisted on avoiding entry into the rejection or confirmation of different perceptions of goodness or philosophical statements related to truth or position of values; so that justice as fairness and



fairness as impartiality are portrayed to individuals in such a way to preserve their personal understanding of goodness. (Mandos, 2016: 37). In such an agreement, each of the philosophical, religious, and moral teaching accepts justice as fairness in their own way; that is, every learning teaching, from its own standpoint, admits public arguments about justice, which have been obtained using the criteria of justice as fairness. (Rawls, 2015: 91-92)

Principles of justice

- *Contents of justice principles*

After recalling the reasonable pluralism and drawing the boundaries of a minimalist theory of good, so that the consensus needed to sustain a single well-ordered society can have the maximum coverage, Rawls arises the question that citizens in the light of which perceptions of justice can legitimize the use of political power as a force majeure.

By saying that such an understanding of justice should necessarily be political, he proposes the principles of justice to tune up social and economic inequality in shaping the political structure of society:

"Principle 1: everyone has the same and unconditional right to a fully-fledged plan of equal political liberties that is consistent with the same scheme of liberties for all.

Principle 2: social and economic inequalities must satisfy these two conditions:

- A. They must be specific to the positions and situations in which fair equality conditions of opportunities are available to all.
- B. They must have the greatest benefit to members of the community who benefit from the lowest privileges. "(Rawls, 2015: 84)

- *Ambiguities of justice principles*

These principles formulate a conception of justice that not only does not count the unreasonable sacrifice of resources (including property, liberty and opportunity) of a few for others, but also proposes a structure that does not hinder the most deprived because their position of benefiting facilities equal to others. (Hampton, 2010: 244). This question immediately comes to mind how the above-mentioned principles can be applied in various economic and social contexts.

- ✓ *solutions*

The content and essence of Rawls justice principles focuses on the institutions. Although the sight of institutional selection is not a sign of his disregard for social realities. From the perspective of justice as fairness, a composition of the structure of righteous institutions and coherent behavior based on universal tolerance shape social realities. The ones that are specified in the process of transition from institutions to the current conditions of society. (Sen, 2012: 507). Of course, it is not necessary that future solutions for the transition to current conditions involve the neglect of the benefits of individuals in society. But the basic structure can be adjusted in such a way that these advantages can be used to improve the situation of the most deprived ones.

- *Virtues: promotion or impartiality*

- ✓ *Rejection of virtue protection as a justice orientation*

Rawls justice theory rejects this hypothesis on the general rule that distributing goodness in life must be built on the moral merits of human beings. Undoubtedly, there is a powerful belief among people that justice is a virtue-centered prosperity; this partly-unreachable goal in line with distributive justice is seemingly justifiable, however, it should be seen to the extent to



which the choice of such a principal in original position adapts aforesaid-status pre-assumptions. It does not seem possible to set benchmarks for defining virtues in the original position. The parties, due to the level, extent, and impact of their participation in fair organizations/processes, gain certain rights that must be respected in a fairly distributed system. But, what these parties are deserved to achieve has not inconsistency with their intrinsic value. Orientation of the distributive justice system, based on what stems from the principles of justice, tends to be proportional distribution with the need and provider of equal opportunities. And, if a series of lawful discriminations is inclined to this side, they cannot objectively demonstrate the idea of granting concessions on the basis of ethical competence, because to the same extent the stated objectives in the distribution system are concentrated, the moral value loses its centrality in the cited system.

- **Position of liberal values in justice theory**

- ✓ **Values of public reason**

Justice as a fairness in political perceptions has multiple references to the values of liberal societies, including equal political and civil liberties, fair equal opportunities, retaliation in kind, and values concerned with "public reason", which explicitly illustrates the situation that citizens participating in a given political activity are qualified to a public politeness in order to justify their decisions on fundamental political issues only by adhering to public values and standards.

(Stanford Encyclopedia of Philosophy, John Rawls, available at <https://plato.stanford.edu/entries/rawls>)

- ✓ **Evolution of the concept of public reason to late Rawls: from a public concept to a specific one**

From the Rawls perspective, no single form of public reason exists, while several forms of this concept can be presented. In fact, he goes from the specific-to-public concept of public reason. (Tohid Fam, 2012 116). In such a sense, universal rational teachings, whether religious and non-religious, can be raised in the political arena and provide reasons for justifying the political conduct of their own when voting.

- ✓ **Distinction between public and non-public reasons**

While the public reason is pertained to sharing rules and values of reason adduction and methods of justification, non-public reasons are related to intra-community individuals and associations; indeed, they are reasons for playing the appropriate role in personal, family and associative decision-makings. Consequently, the values of public reasons are internal values for congregations such as churches, universities, academic associations, and private clubs that pursue different goals and desires within the framework of the limits of political justice.

- **Benefit of distinction: the license to promote virtues for the state**

This distinction enables Rawls to provide his explanation in such a way, while maintaining the impartiality of a righteous government toward the virtues associated with comprehensive teachings, help citizens develop their own virtues that they are right to know by participating in the framework of the nongovernmental organizations. (Rawls, 2014: 339)

- ✓ **Virtues of the theory of justice; result of the political realm explanation**

This distinction cannot be made except by explaining the realm of the political and drawing its boundaries with moral, personal and family affairs. Rawls idea is a political conception and the philosophy of ethics is not applicable. It means that its principles, norms and values are not the



product of acting autonomous religious, philosophical or moral teachings, but a formulation of values that are properly related to the basic structure of the society. These values are political values because of specific characteristics of the political relation that are distinct from other relations. (Rawls, 2013: 301).

Righteous government and areas of applying reasonable power

The realization of justice's second principle requires the acceptance of some of the inequalities that often encounter moral disagreements and will inevitably require the use of force majeure. Since the use of legitimate force requires an agreement by all parties, the need to accept an unequal distribution system is an overlapping consensus among people in this regard; however, people in this legal system that started with equal distribution can take actions through the government, which will result in an unequal distribution of property rights. (Steiner, 2003: 39)

- ***Denial of the perfectionist state***

Despite the mentioned consensus, the impartial state can implement a pattern of wealth distribution, but the impartiality of the state means that the suitability of this pattern does not require the presumption that one or more styles are bestowed or abandoned among different styles of desired living. (Rulc, 2010: 113) Rawls dismisses perfectionist goals with the argument that they are not accepted by all reasonable members of the community and legitimate the proper way to pursue those goals through voluntary associations to which they belong. (Nigel, 2015: 170-171)

- ***Rejection of political power to promote particular teachings***

We saw that if we wanted to find a legal and legitimate support for the implementation of the principles of justice, we would not be reluctant to rely on the legitimate force majeure of the state. And, If an impartial government is to be somewhere within the concept of justice in a constitutional system, its scopes must be accepted for adaptation to the reality of reasonable plurality. (Rawls, 2013 A: 302)

- ***Non-interference of government in religious ethical and philosophical areas***

Accepting the reality of reasonable plurality requires to admit the idea that mobilizing political power to impose our widespread religious, philosophical, or moral viewpoint, as the perspective we confirm with full certainty as true or sensible, is unreasonable. (Teiliss, 2016: 152)

Criticisms on John Rawls's theory of justice

- ***Cognitive avoidance criticism***

- ✓ ***Truth and justice; Two distinct virtues from Rawls perspective***

A "theory of justice" begins with a phrase that is key to understanding the truth and justice proportion in Rawls thought: "Justice is the first virtue of social institutions, as truth is the first virtue of thought systems." (Rawls, 2014: 43) While truth is a virtue relating to systems of thought, justice belongs to the realm of social institutions; the way those two items have is separated.

Although failure to enter into the truth and untruth of inclusive teachings exempts Rawls from the confrontation of overlapping consensus difficulties, it alters the nature of his theory from a philosophical theory to a social-political solution. (Mousavi, 2010: 224).

- ✓ ***Inevitable dilemma: impracticability or skepticism***



Some critics of Rawls argue that in avoiding the introduction of the truth and untruth context of universal teachings, he has practically ignored the moral and philosophical truths holding the content of justice. They emphasize the impact of the content of any theory of justice and its principles on truly existing philosophical and moral truths. (Beheshti, 2016: 183-206; Vaezi, 2007: 245-254). In this sense, Rawls is exposed to an inevitable dilemma: the first way is to accept that his principles of justice, due to the ignorance of these facts, have provided an unreliable interpretation of social justice; and the second is the acknowledgment that there are no absolute truths that would mean accepting skepticism in the field of our perceptions is ethics and religion. (Barry, 1995: 68-88). Indeed, this requires the acceptance of the notion that various types of perceptions should not be involved in determining the content of the principles of justice. Because their legitimacy and credibility are distorted and vague. (Vaezi, 2014: 301).

✓ *Ethical background existence of Rawls political perception of justice*

Nonetheless, Rawls to have a defensive guard against criticism through other thinkers, tries to protect his theory of justice from referring to any notion of merit or virtue, as if it sounds he did not achieve to his goal. (Lestaph, 2013: 349-350) Rawls' expression of the concept of reasonableness is a reflection of a supportive ethical notion. His attention to political virtues unveils this notion, which overlapping consensus-embraced political perception is a conception that is based on ethics. (Rawls, 2013 A, 314). This confirms the views of those critics who question the neutrality of Rawls's theory in encountering ethical values and believe that some of the important elements of the theory cannot completely abandon the character of liberals; in particular, it promotes a specific type of political and social life in the results and works. (Mousavi, 2012: 106).

✓ *Refusal to abandon moral presuppositions*

Any theory of justice that is to be implemented in the community needs to be outlined in the text of ethical values accepted by the people of that society in such a way as to intrigue maximum desired consensus. People do not always act merely on the basis of template reason and logic. Their deep beliefs and values are an important factor in their decision making which acquire through their families, social groups, experiences, or religion. Either political philosophy or ethical one must take this into account. (Thompson, 2016: 156)

• *Socialists' criticism of Rawls*

Socialism is an attitude based on the belief that ethical judgments must derive from the context of cultural traditions and is a critical reaction to liberalism, especially Rawls' reading of that. (Baratalipour, 2006: 63) Alasdair MacIntyre, Michael Sandel, Charles Taylor and Michael Walzer are the most important socialist thinkers.

In MacIntyre's view, providing a set of accepted principles for the formation of a well-ordered community of the owners of inconsistent perceptions of good leads to the prohibition of any attempt to re-form a social life according to a particular notion of good. As a result, liberal tolerance is severely restricted to competing perceptions of good. (Mullen and Swift, 2007: 119) Sandel and Taylor argued that impartiality could threaten the structure of society, and in order for the society to be stable, the state instead of staying neutral between existing perceptions of good, must promote civil virtues and shared values. (Mesean, 2009: 40-41)

Walzer speaks of complex equality: "When we see why a social good has a certain form and is distributed in a certain way, we find out why another good must be different ... welfare



markets and systems, offices and families, schools and governments are governed by different principles.” (Walzer, 2010: 527). This idea, relying on the reality of cultural diversity and the plurality of perceived goodness in any particular culture, rejects Rawls's claim to publicity and the inclusion of the principles of justice for reasonable people believing in universal teachings.

Rawls theory and political legal context of the Islamic Republic of Iran

The theory of justice as fairness of Rawls, with all its criticisms, can come to our notice. A look at the system of granting concessions / subsidies in the current legal system reveals how different kinds of goodness are distributed in Iranian society. Such a distribution cannot be neutral to various virtues and those of sacrifice, jihad, martyrdom, and other virtues that political system is founded on them determine the orientation of this distribution system in many ways. This orientation is understandable, according to the constitution. Since, first principle of the third item obliges the government "to stablish an apt environment for the growth of ethical virtues based on faith and piety and the fight against all corruption and ruin manifestations.

Some constitutional commentators have argued in this section that, although faith and piety are necessary conditions for creating an enabling environment for the growth of the moral virtues of society, it is not enough because the risk of corruption always threatens every society, and as a guarantee of universal avoidance does not exist, therefore, it must fight all manifestations of corruption and ruin and not be indifferent to them (Malekzadeh, 2011: 99) "Combating corruption manifestations" and "developing an enabling environment for the growth of virtues," inevitably necessitate the utilization of legal power and is incompatible with any avoidance of epistemology, as Rawls prescribes. Notwithstanding, the third principle can now be interpreted differently. Paragraphs 7 and 8 of the same principle discuss the provision of political and social liberties within the law and the public participation in determining their political, economic, social and cultural background. Most importantly, paragraph 9 of the third constitutional principle refers to the elimination of undue discriminations and the creation of fair circumstances for all, in all material and spiritual matters, as the duty of the government. The wisdom of the legislator is required in order to avoid misunderstanding above-mentioned assignments with each other. In a clearer sense, prevalence of virtues and the struggle against vices cannot and should not be achieved through ruling undue discriminations or allocating special facilities for some, and depriving others of those facilities. Implications of the constitution in principles 19 and 20 can also be seen as a clear sign on the path to the just promotion of virtues. According to these principles, all people of the nation should be satisfied equally and in accordance with the standards of Islam with human, political, economic, social and cultural rights. The broad interpretation of "Islamic standards" may lead to a disproportionate degree of enjoyment of rights. The deputy chairman of the parliament in reviewing the constitutional states that: "in the fourth principle we included the constraint “according to Islamic standards”, to refrain from repeating it in every principle, but now we see that they regularly propose its iteration. Therefore, as investigated in the group, no need for such a statement requires. "(Secretariat of the Assembly of Experts on Leadership Website, An outline of parliamentary negotiations on final review of the constitution of the Islamic Republic of: 694).

The ambiguity of the concept of "Islamic standards" has led some scholars to note recognizing and limiting the meaning and purpose of this term, which, has been used in other principles



with the titles of Islamic laws, Islamic criteria, etc., as well as identifying its examples from the Guardian Council. (Taqizadeh, 2014: 27) As in other cases that are the subject of fundamental human rights, in this case so, the constitutional commentator is also required to determine the scope and examples of the case in which the minimum constraint on the rights conferred by the main legislator is established and this is possible with a narrow interpretation. The narrow interpretation itself requires the insight that in the light of which the magnitude of the Islamic standards to be re-recognized and to avoid personal perceptions in interpreting this term and drawing its constraints.

By verifying the extent of what is considered Islamic standards, rights can be safeguarded while respecting Islamic standards. Neither can, nor should, under the pretext of protecting virtue or eliminating vices, threaten or limit the advantage of any of these rights.

As John Rawls permits the development of virtues through nongovernmental institutions, but not through the use of state power, the Iranian legal system can promote the virtues and struggle against vices through various non-statehood groups and institutions, and even what we saw the theory of justice through the creation of an atmosphere suitable for these groups and categories. The logic of "people stand with justice" also requires the promotion of the virtues by the people of the Islamic community and, as far as possible, avoiding the use of force - albeit legitimate. With this assumption, the government can take advantage of these virtues instead of awarding privileges due to virtues like altruism and jihad, to create the right environment for nongovernmental institutions promoting these virtues.

However, if a person or people in the community lost a large part of their interests by sacrificing their lives or property for the benefit of others, or waived their benefit in the favor of others, as they could be considered among the most deprived, according to John Rawls second principle of justice, one can rule based on compensation for lost privileges or providing opportunities for them in a fair position to compete with others in positions/goodness, not on the basis of promoting virtue of altruism.

CONCLUSION

John Rawls's theory of justice cannot be merely political, legal or moral. This multifaceted theory has a lot to say in all areas. Rawls, by separating the realm of political affairs from personal, family and associative ones, endeavors to define his theory as much as possible in the realm of the politic; but again, as we saw, his political theory is not solely completely different from the ethical perception. This theory relies on certain political virtues in such a way that it cannot be properly depicted without these virtues. It can be claimed that the theory of justice as fairness is not generally indifferent and neutral to the virtues. However, the notion of fairness in the sense of impartiality prohibits the government from rewarding or awarding privileges or establishing subsidies for the protection of virtue; unless these privileges or subsidies substantially reflect the content of the Rawls justice principles, meant that they could be effective in attaining maximum equal liberties or making available equitable opportunities or improving the quality of life of the most deprived.

Except this, Rawls by allowing the cultivation of virtues through participation in communities and private associations and the like, modifies the neutral position of the state against virtues, and even encourages the government to motivate citizens in this field, nonetheless it uses common public resources to the extent that it is consistent with justice principles. Unlike some



other liberal philosophers, Rawls recognizes the importance and role of the government in realizing the principles of justice. Nevertheless, he considers the force majeure of government to be a tool in the hands of the people as a single legal person, which, given the important reality of reasonable pluralism, cannot serve the promotion of a pervasive teaching, although this teaching is accepted by the majority of the citizens. If the teaching is correlated with a set of religious, moral, or philosophical values, mobilizing political power is even rejected to promote the virtue that most respectable citizens regard.

There is a great deal of objection about the impartiality of Rawls's theory of justice concerning liberal values, which makes it impossible to apply the theory in Iranian society without forethought on them. If the principles of justice are to be agreed upon by the people of a society, they cannot be indifferent to the virtues they are cultivated in the context of the tradition and culture of that particular society. Just as John Rawls's theory is based on some of the liberal values as the default. The constitution of the Islamic Republic of Iran does not undermine the neutrality against virtues and, is inconsistent with some of the necessities of the aforementioned theory, including avoidance, separation of the political domain from the moral viewpoint, founded on the moral values of the liberal.

Nevertheless, some of the concepts of Rawls's theory, such as the minimal theory of good, as well as the content of justice principles can be used to some extent in the legal system of Iran today, just like justice as fairness based on universal perception admitted by liberal societies, the domestic theory of justice must also be founded on the virtues accepted in the political culture and nurtured in the context of Iranian society. The minimal theory template of goodness in drawing interpretation boundaries of the legal authorities from "Islamic standards" can be applied in such a way that it impedes the application of endless constraints arising from the various perceptions of various religious and philosophical scholars. Indeed, to stabilize the structure of society and its well-ordered status, it is essential do a narrow interpretation for benchmarking the different theories in the field of Sharia in such a way that one can always conceive the greatest number of people in society under the umbrella of the constitution. Such a magnitude of the meaning of Islamic standards must, of course, be designed in a manner consistent with the constitution and indigenous requirements of Iran. Rawls's dual principles of justice, regardless of their justification, do not severely conflict with the constitutional principles outlined above. The second principle of Rawls justice can be used in prescribing certain measures aimed at eliminating deprivation and placing individuals in equal situations with others. Eventually, applying John Rawls's theory of justice, the state can encourage the acceptable virtues of society by enhancing the level of groups and communities promoting these virtues.



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