Imam 'Ali's Theory of Justice

Revisited A LI P AYA

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ABSTRACT:

Justice is a topic which many thinkers in the East as well as the West have expressed diverse opinions about since antiquity. The differences between these views, as far as their belonging to the old or modern worlds are concerned, are such that subjecting them to even a cursory examination would suffice to reveal whether their authors are among the inhabitants of the modern world or the old world. The central thesis of this paper is that Imam 'Ali's views on justice have interesting conceptual capacities which liken them to modern doctrines of justice despite the fact that the author of those views was living in a pre-modern world and therefore his views should, of necessity, reflect his own time and place. The paper tries to show that the essence of Imam 'Ali's views on justice resembles the core of the ideas of some modern realist and rationalist philosophers. The importance of this point lies in the fact that it would provide, among other things, a strong argument for the objectivity of justice and against the views of those who regard it as a social construct and relative to differing social norms. In order to substantiate the main claim of the paper, the views of four prominent philosophers from antiquity and modern times are compared with each other and with Imam 'Ali's views. The four philosophers in question are Plato, Aristotle, Popper, and Rawls. It will be argued, without falling into the trap of anachronism, that the views of Imam 'Ali on justice are closer to the two modern thinkers than the two philosophers of antiquity whose ideas were dominant in ancient era.

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Plato on justice 1

Justice is among the most fundamental virtues in any society; it is deemed as one of the main principles that contribute to the durability of any social order. 2 The insightful adage attributed to the Prophet Muhammad that a state/political regime can survive blasphemy but not injustice, highlights the pivotal role of justice in social relations. 3 Evidence of serious deliberations on the notion of justice can be found among all nations and cultures and can be traced back to antiquity. However, the views of thinkers on this 'concept' or 'theoretical entity' have undergone a sea-change in the course of time.4

The Greeks, who are famed as having been the first people to engage in systematic philosophical investigations (that is, well-structured second-order reflections on phenomena and affairs), considered justice as an attribute for everything. Justice was as much an adjective for describing a city as it was for evaluating human beings.

In the Republic, Plato proposes a model for the introduction of justice in the city-state and then utilises the same model for characterising the just man.5 The model proposed by Plato presupposes the presence of three classes or groups of people in each city: the rulers (the guardians), the administrators (auxiliaries), and other citizens (such as soldiers and farmers). Each member of these three groups has his own virtues and functions. According to Plato, justice is realised when these members actualise their specific virtues and bring to fruition their special functions. A justice-based city-state, like an organic entity, can have harmonious growth only when justice is observed in all of its constituent parts. Failing to observe this harmonious relationship (based on the order that Plato defines) is tantamount to abandoning justice.6 In the Republic, Plato presents

different aspects of his views on justice through a dialogue between Socrates and a number of his disciples, and some of the sophists such as Thrasymachus. Contemplation on the dialectical process that Plato utilises in the dialogues between Socrates and his interlocutors reveals many points regarding the Platonic idea of justice and his approach to this concept. In the discussion on justice, Plato – who is presenting his views through Socrates' words – follows the routine Socratic method to broach different layers of meaning for the concept of justice. Then through providing counter-examples, Plato shows the inaccuracy of each of the proposed definitions and moves on to the next definition. Eventually he defines justice on the basis of what is just or fair for the city-state. A city-state whose system is just has the Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 7 highest level of benefit and expedience for the best government. In a just society, hierarchical order between various classes exists and is willingly respected and preserved by all members of the society. A just individual too is defined on the basis of such a system. Such an individual is the one whose 'internal constitution mirrors that of a just state': each and every constituent part of a just person's soul and body remains in its own place and helps to preserve the overall order of the of the whole.7 In society too, a just person occupies his specific place and respects the hierarchical social order.

To back his argument for his particular conception of justice, Plato utilises a 'noble lie' (or a 'kingly deception') and elevates the discussion to a cosmic-ontic level: God has made the essence of those who are able to rule from gold, that of the warriors from silver, and that of the rest of the classes from iron and copper-brass. Amalgamation of these metals results in the destruction of the city-state. In the third book of the Republic, in the course of a discussion between Socrates and Glaucon over whether the administrators (auxiliaries) should be chosen to govern the society or whether the guardians are better suited for this task, Plato explains the noble lie in the following manner:

'Very well, then,' I said. 'What is the next question we have to decide? Isn't it which of these people are to rule, and which be ruled?' […] 'Unquestionably.' 'Then we must select from the guardians the kind of men who on examination

strike us most strongly, their whole lives through, as being utterly determined to do what is in the city's interest, and refusing to act in any way against its interest. […] From our children, from our young and grown men, the one who under constant testing emerges as pure is the one who should be appointed as a ruler and guardian of our city.' […] 'I think my views are pretty much the same as yours,' he said. 'In that case, aren't they really the people who can most accurately, be called full guardians – making sure friends within do not want to harm it, and enemies without are not able to harm it? The young people whom we have been calling guardians up to now we can call auxiliaries, the defenders of rulers' beliefs.' Imam 'Ali's Theory of Justice Revisited Ali Paya 8 'I agree.' 'In that case,' I said, 'how can we contrive to use one of those necessary falsehoods we were talking about a little while back? We want one single, grand lie which will be believed by everybody – including the rulers, ideally, but failing that the rest of the city.' 'What kind of thing do you mean?' 'A very familiar story, of Phoenician origin. It has happened in the past, in several places. So the poets tell us, and they have found believers. But it has not happened in our time, and I don't even know if it could happen. People would take a lot of persuading.' 'You seem a bit reluctant to tell your story,' he said. 'With good reason – as you will see when I do tell you.' 'Don't worry,' he said. 'Tell it.' 'Very well. I will. Though I don't know how I shall have the nerve, or find the right words. I have to try and persuade first of all the rulers themselves and the soldiers, and then the rest of the city, that the entire upbringing and education we gave them, their whole experience of it happening to them, was after all merely a dream, something they imagined, and that in reality they spent that time being formed and raised deep within the earth – themselves, their weapons and the rest of the equipment which was made for them. When the process of making them was complete, the earth their mother released them, and now it is their duty to be responsible for defending the country in which they live against any attack – just as they would defend their mother or nurse – and to regard the rest of the citizens as their brothers, born from the earth.' 'No wonder you were so embarrassed about telling us your lie.' 'Yes, I had good reason,' I said. 'But you must listen to the second half of the story as well. "You are all brothers," our story will tell them, "all of you in the city. But when god made you, he used a mixture of gold in the creation of those of you who were fit to be rulers, which is why they are the Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 9

most valuable. He used silver for those who were to be auxiliaries, and iron and bronze for the farmers and the rest of the skilled workers. Most of your time you will father children of the same type as yourselves, but because you are all related, occasionally a silver child may be born from a golden parent, or a golden child from a silver parent, and likewise any type from any other type. The first and most important instruction god gives the rulers is that the thing they should be the best guardians of, the thing they should keep the most careful eye on, is the compound of these metals in the souls of the children. If their own child is born with a mixture of bronze or iron in him, they must feel no kind of pity for him, but give him the position in society his nature deserves, driving him out to join the skilled workers or farmers. On the other hand, any children from those groups born with a mixture of gold or silver should be given recognition, and promoted either to the position of guardian or to that of auxiliary. There is a prophecy, god tells them, that the end of the city will come when iron or bronze becomes its guardian." Well, that's the story. Can you think of any possible way of getting people to believe it?' 'No,' he said. 'Not the actual people you tell it to. But their children might, and their children after them, and the rest of the population in later generations.'8

Popper's criticism of Plato

Notwithstanding Plato's lofty status in the history of philosophy, one cannot help but shudder with fear when reading this passage. The Platonic perspective on politics and his theory of justice carries with it the seeds of political fascism, and rational 'justification' for racism and even eugenics. While it has not been appreciated by a number of writers, what Karl Popper, the renowned Austro-British philosopher, has argued in criticising the frightening consequences of Plato's political philosophy clearly shows the intellectual depth of the Viennese philosopher and his insightful analysis of an influential, and potentially very dangerous, system of political thought. In his highly influential Open Society and Its Enemies, Popper clearly and meticulously exposes the undesirable consequences of Plato's political viewpoints including opposition to Imam 'Ali's Theory of Justice Revisited Ali Paya 10 democracy,9 promotion of utopianism,

consolidation of a closed society, and providing justification for the policy of eugenics.

As for the Platonic perspective on justice, Popper shows, in a section called 'Totalitarian Justice', how Plato developed a theory of justice that was at odds with people's intuitive perception of 'justice'. According to Popper, in Plato's theory, many of the positive aspects of justice, which are better understood in the modern world, 10 are either ignored or suppressed.11

Popper explains that in modern times a better understanding of justice and its capacities has become possible. For those who belong to the modern world and subscribe to a humanitarian outlook, justice means: (a) an equal distribution of the burden of citizenship, i.e. of those limitations of freedom which are necessary in social life; (b) equal treatment of the citizens before the law, provided, of course, that (c) the laws show neither favour nor disfavour towards individual citizens or groups or classes; (d) impartiality of the courts of justice; and (e) an equal share in the advantages (and not only in the burden) which membership of the state may offer to its citizens. 12

Platonic justice, however, is quintessentially opposed to such perspective because it is based on an apartheid system of citizenship (a caste system). In the Platonic society special privileges are considered for certain individuals and the citizens are divided into first, second, and third class categories. Plato insists on persuading the citizens, through propaganda and deception, that this discrimination is predetermined and that Heaven has thus ordained it and it is not possible to change it. In this manner, in Plato's political system any attempt to change one's fate, and struggle against inequality, is deemed an improper and inappropriate activity and an endeavour in vain to alter an immutable order.

But political considerations aside, from an epistemological point of view, it can be pointed out that, according to Plato, justice is a construct of the elite and not an objective value. The elite can, and indeed must, turn their own narrative of justice into a comprehensive social fact through propaganda, and even deception and myth. This perspective, as will be noted later, has similarities with the views of the postmodern writers, 13 but it is in sharp contrast with the views of critical rationalists.14 Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 11

Aristotle's theory of justice

Another influential theory of justice in antiquity, comparable to that of Plato, was the theory of his disciple, Aristotle. Like his teacher, Aristotle did not have any interest in democracy. He too maintained that human beings did not all enjoy the same level of humanity. Slaves were not even considered as human beings but were viewed as 'animated tools'.15 Women too enjoyed only half of the human rights and citizenship rights accorded to men. Justice's full functions could only be exercised among free citizens. Workers and craftsmen would not be considered as citizens. Only citizens (i.e. the rulers and landowners) had the right to vote and participate in the political process.16 Later on we will discuss why the philosophers' view on democracy is closely connected to their theory of justice and why there is a close relationship between justice and democracy.

Although various aspects of Aristotle's philosophy, including his theory of justice, are heavily influenced by Plato's views, the fact remains that Aristotle has somewhat tempered some of Plato's rather extreme views and, like other areas of his philosophical system, has brought the Platonic ideas on justice from Heaven to earth.

Aristotle discusses the notion of justice in some of his writings including, at some length, in the fifth chapter of Nicomachean Ethics. 17 There he not only explains the general conception of justice, but also discusses some more specific theories

of justice, such as distributive justice, corrective justice, political justice and describes the difference between natural justice and legislative justice. But the main guiding principle for Aristotle in his discussion of justice is the famous doctrine of the 'mean'.18

Aristotle writes:

Justice is a kind of mean, but not in the same way as other virtues, but because it relates to an intermediate amount, while injustice relates to the extremes. And justice is that in virtue of which the just man is said to be a doer, by choice, of that which is just.19

As Lloyd has stated, Aristotle's doctrine of the mean was influenced, for a large part, by the prevalent medical and physiological views in Greece, according to which healthiness in the body and the soul depended upon some sort of balance between the four humours (phlegm, yellow bile, black bile, and blood) and their four qualities Imam 'Ali's Theory of Justice Revisited Ali Paya 12 (cold and moist, cold and dry, warm and dry, and warm and moist). In introducing his own doctrine of the mean, Aristotle himself uses two analogies – one related to art and crafts, and the other to medicine.20

The doctrine of the mean has received many criticisms. Among these criticisms, one of the most important states that this theory is vague and that it cannot provide an objective evaluation because its limits are not clear and it is subject to the vagaries of individual assessment. But aside from these critiques and other practical limitations of Aristotle's theory of justice, here too, just as in the case of Plato, one can highlight those epistemic limitations of this theory which would expose its attachment to the ancient world. Of course, it is possible to find some similarities between these ancient perspectives with some of the viewpoints that have been introduced in the modern era. These viewpoints, notwithstanding their introduction in modern era, are at loggerheads with a

rationalist modernity. 21 The epistemic limitations of Aristotle's viewpoint are rooted in his linguistic essentialism. Aristotle was of the view that one can reach the 'essence' of things through comprehensive and proper definitions. But this linguistic essentialism, as critical rationalists have shown, is sterile and does not provide an insight into the affairs of the world.22

I have chosen Plato's and Aristotle's theories of justice as two important and typical views of antiquity. One can also cite the views other thinkers of the classic era with regard to the notion of justice which bear resemblance to the theses of the two Greek philosophers. For instance, one can examine the views of Muslim philosophers on justice. The ideas of Plato and Aristotle, as we know, had influenced the views of many of Muslim thinkers, whether philosophers, theologians, jurists or mystics. But the aim of this short paper is not to evaluate the evolution of the views of different Muslim thinkers with regard to the notion of justice. Other researchers have attended to this topic.23 A case in point is 'Ali Akbar Alikhani who, at the end of a discussion on the viewpoints of earlier and later Muslim philosophers, writes, rather pessimistically:

On the whole it can be said that most of the consensus reached by earlier Muslim scholars on the idea of justice is achieved in the context of the discussion of the four types of virtues, namely, wisdom, bravery, chastity and justice. Such discussions concerning virtues are rooted in Greek thought. Other topics [in the works of earlier Muslim philosophers concerning the notion of justice] are either so similar that they cannot be separately classified and hence all of them Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 13 have to be viewed as belonging to the same category, or they are so different that one cannot locate a common denominator between them or view them as complementing one another. Moreover, in the arena of political philosophy no coherent, well-developed and scholarly theory, in its specialised sense, can be found in their works. […] Later generations of Muslim scholars have, each in their own way and from their own perspective, discussed the idea of justice but we cannot find any thinker in the Islamic world who has discussed the notion of justice in a comprehensive and specialised way […].24

Popper's and Rawls's theories of justice

In the West, however, with the onset of modernity, new paradigms and intellectual systems emerged; and diverse topics, including the crucial topic of 'justice', were evaluated comprehensively from new angles. In the course of such explorations, many interesting views emerged concerning these topics, in particular the notion of justice. 25 In this paper, from among different intellectual approaches to the concept of justice, I have chosen the views of two eminent philosophers, Karl Popper and John Rawls, as the main points of reference for critical assessment of various theses under consideration and further development of my main argument.

Popper is a critical rationalist, and John Rawls also, with some qualifications, could be included in this camp. 26 Critical rationalist philosophers (who are also realist) maintain that justice is an objective theoretical entity that has emerged in the sphere of values (part of what Popper calls World 3) 27 simultaneous with the emergence of human communities, and is concomitantly evolving along with the evolution of human societies and is unfolding new aspects of its objective values. As man's cognitive powers increase, his chances of discovering more aspects of justice (unknown to the previous generations) increase.28 In order to identify different aspects of justice as an objective value, we need to utilise the tools, technics, and technologies which can help extend and enhance our cognitive abilities. In the ancient world, religious teachings as well as the lifestyle they prescribed were among the tools that would assist people to better understand justice and its capacities. In the modern world, in addition to the tools inherited from the ancient world, human beings have succeeded in constructing a Imam 'Ali's Theory of Justice Revisited Ali Paya 14 powerful tool for exploring justice's capacities. In the same manner that a telescope's main function is to help us gain knowledge about the stars, the function of this new tool is to aid modern man to gain more detailed knowledge of vast and diverse potentials of justice. This modern tool is called 'democracy' which, as a

constantly improving technology, has remarkably lent a hand to modern man to discover new aspects of justice.29

One of the most effective and successful types of democracy is liberal democracy. Liberalism, as a theoretical framework and as a tool for social change, like other similar modern or traditional frameworks, has been subject to many changes and transformations since its inception (circa seventeenth century). Of various types of democracy, this paper draws on the models proposed by Popper and Rawls. These two thinkers have introduced profound insights with regard to the concept of justice and have paid attention to aspects of this theoretical entity that have been very helpful both from an epistemic as well as a practical standpoint.

The views of these two liberal philosophers of the twentieth century have recently been the topic of a comparative study by Alan Boyer whose views have been incorporated in this article.30 As a political philosopher, Rawls has mainly been preoccupied with issues in the field of political philosophy, and his favourite topic in this field has been justice on which he has written an important book: A Theory of Justice. 31 Popper, however, did not write a treatise specifically devoted to justice. His views on this topic are scattered in his different books, including Open Society and Its Enemies which is his major contribution to the field of political philosophy.

Despite a good deal of similarity between the views of the two philosophers with regard to the notion of justice, as Boyer's analysis shows and is also evident from the research projects of these two likeminded philosophers, Popper's views on justice are more effective and fruitful than those of Rawls in explaining different conceptual and theoretical aspects of justice. If Rawls had gained a more accurate grasp of Popper's views, which were extremely fertile due to Popper's mastery of different theoretical fields including philosophy, philosophy of science, ethics, social science, history and classics, he could have further

enriched his research project, which was in its own turn innovative and epoch-making.32

We have briefly referred to Popper's views on justice. Rawls fully approves of these views. For both philosophers, justice is essentially a Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 15 rejection of arbitrary privileges and establishing an appropriate share and equilibrium among competing claims within the structure of a social practice. 33 Both philosophers emphasise the role of freedom, reason-based and argument-based approaches, ethical attitudes and the existence of a 'life plan' for individuals; constructive and supportive (though not too intrusive) actions by the state; utilisation of democracy as a tool; and the importance of continually evolving institutions for promotion and realisation of justice. Both emphasise the struggle against oppression; efforts towards reducing human suffering instead of a utilitarian approach which aims at maximising the benefit for the maximum number of individuals; avoidance of utopianism; and utilising gradual, step-by-step methods, for improving the lot of humankind.

According to the views of these two liberal philosophers, justice, as was mentioned above, is not a social construct, at the beck and call of powerful classes. Both philosophers view justice as a real entity which, like other real entities, has a causal power to influence different fields of human interaction, and human beings can only succeed in realising its different aspects through attempts to better understand it.

A reconstruction of Imam Ali's theory of justice

For those who are familiar with the views of Imam 'Ali, as outlined in a collection of his sermons, letters, and aphorisms compiled by Sayyid Radi (c. eleventh century CE/fourth century AH) under the title of Nahj al-Balaghah (Peak of Eloquence) and in his other statements, letters, and sermons,34 the views of

Popper and Rawls concerning justice have a familiar ring. As we shall argue below, there appears to be a good deal of overlap between the views of Imam 'Ali, a religious leader who lived 1,400 years ago, with the views of the two ethical and humanist thinkers of the modern era concerning the pivotal concept of justice. I would argue that one of the most important aspects of this rather extensive overlap between the views of these thinkers from two different cultures and two different eras lies in the fact that the themes agreed upon by them are objective truths and objective values. This means that these truths and values can be discovered and utilised by other observers in other cultures and other time-space frameworks.

The significance of what was stated will be better understood when we realise that in the past decades and since the emergence of the intellectual fad of postmodernism, authors who follow this trend have Imam 'Ali's Theory of Justice Revisited Ali Paya 16 claimed that whatever is introduced in the field of human interaction, whether knowledge of natural phenomena or rules and regulations concerning what is utilised in the human society, is arbitrary, and that conventional identities and are all socially constructed. One of the epistemic corollaries of this perspective is that since social constructs emerge according to the needs of human beings, their identities change from one culture to the next. From here postmodern writers conclude that there are no universal concepts that can transcend specific cultures. I will elaborate on this later.

Imam 'Ali was not a philosopher in the strict sense of the word. Even though, according to critical rationalists, all human beings are by nature philosophers, in the sense that they all think about the socalled ultimate questions such as the nature of reality, their own place in the universe, and their moral responsibilities towards other creatures; and they try to find answers for these questions.35 At any rate, Imam 'Ali did not intend to establish a fully-fledged philosophical system regarding the concept of justice. However, what he has discussed with regard to the concept of justice and other concepts such as liberty, the relationship between the ruler and the ruled, living as is worthy of a true believer, and the like, could be considered as parts of such a system. Utilising

these parts, one can define, more or less, a system of philosophical thought based on his views. The set of evidence that follows is not the result of a comprehensive research. The cases cited below are meant to provide a general outline of a theory of justice which can be constructed based on some of the views expressed by Imam 'Ali.36 They do not represent an exhaustive study of his views on this subject. But it is my contention that even the few samples discussed here suffice to corroborate the main argument of the present paper.

1. Equality of human beings in their humanity

In his famous letter to his renowned commander Malik al-Ashtar at the time of his appointment as the governor of Egypt, Imam 'Ali advises him on how to rule in an appropriate manner. He stresses mercy, compassion and kindness towards the governed and avoidance of oppression of the ruled. It is worth pondering on the Imam's argument for explaining his point. He says, 'The people that you [Malik al-Ashtar] will be governing are of two types: they are either your brother in religion, or similar to you in creation.'37 Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 17

A comparison between this view and the views of Plato and Aristotle, both of whom maintained that people differ according to their different degrees of humanity, and also the views of Popper and Rawls who, influenced by Kantian thought, hold all human beings as equal, clearly shows that the Imam was promoting a position which had no affinity with the dominant philosophical positions of the ancient world. And yet his message, despite the fact that it had been penned many centuries ago, was rich with a content that sounds quite familiar for those who live in the modern era and subscribe to that trend of modernity which emerged with the Enlightenment and is regarded as the most rational manifestation of the project of modernity. It is this trend in modernity which has stressed the equality of human beings in their humanity as a fundamental ontological, epistemological, and methodological principle.38

2. Taking side with the oppressed in the struggle against the oppressor

In different sayings or short texts ascribed to him and in a manner totally consistent with other parts of his epistemic system, Imam 'Ali argues that siding with the oppressed in their struggle against the oppressor is a moral imperative for all human beings. For instance, in his last letter, which constitutes his Will and Testament, addressed to his two sons following the assassination attempt on his life by Ibn Muljam, the Kharijite,39 the Imam reminds them of a few important points. The letter is full of moral teachings and contains a wealth of inspirational ideas regarding humanity and justice. Imam 'Ali starts his letter by recommending his sons to remember God at all times and then exhorts them to speak the truth, take a stand against oppressors, and extend a helping hand to the oppressed. 40 The tone of the Imam's advice in the context of his letter makes it clear that, in his view, religion, race, and other cultural, historical, and genetic affiliations cannot and should not act as pretexts for disregarding this important moral obligation.

In the aftermath of an infamous incident during which golden anklets were forcefully removed from the ankle of a Jewish woman under his rule, the Imam's sharp rebuke of his companions and his stern warning to them are a glaring example of his justice-inspired attitude towards other fellow human beings. This attitude is wholly in tune with the intuition of the majority of the people in all times and Imam 'Ali's Theory of Justice Revisited Ali Paya 18 places, though of course diametrically opposed to the inclinations and preferences of those who are supporting a class-ridden society, in which a particular class, such as the aristocrats, the proletariats, the clerics, and their ilk, enjoy a privileged status at the expense of other classes.

The compatibility of the Imam's conception of justice with people's intuition of a just society further corroborates the position of the critical rationalists who

maintain that justice is an objective and universal value. Those who wish to undermine it must go to great lengths, as Plato's Noble Lie clearly shows.

3. Public participation

One of the other remarkable points about the political views of Imam 'Ali, which distinguishes him from the thinkers of his time and brings him closer to the views of modern thinkers, is the genuine importance that he attaches to people's political participation and their having an active role in defining their own destiny. The Imam's approach in this respect is congruent with modern democratic aspirations. Imam 'Ali thus makes a radical departure from the prevailing approaches of the tyrannical and autocratic rulers in the ancient world. In modern discussions regarding political justice, the focus of discussion is that all human beings are equal in humanity, and this is the foundation of the equal 'human rights' of all individuals (whether female or male, black or white, poor or rich). 41 Without endorsing this fundamental principle (which, of course, many regimes try to undermine) one cannot provide a robust and cogent argument for political justice. All despotic, dictatorial, totalitarian, authoritarian, and non-democratic regimes deny the principle of equality of people in their basic human rights, and in doing so they deprive all those whom they regard as 'the other' from political justice. Among the most important criteria of political justice is maximal and comprehensive political participation of the citizens. The model of governance generically known as democracy has made it clear that political justice cannot be realised without maximal political participation: citizens who are denied representation (let alone the right to be representatives) in the political arena remain voiceless. As a result their rights will be violated and indeed trampled; they will be deprived of necessary capacities for healthy development and will become the target of all sorts of discrimination while having no recourse to justice.

In the aftermath of the assassination of the third caliph, 'Uthman ibn 'Affan, Imam 'Ali demonstrated, in the clearest possible way, his Journal of Shi'a Islamic

democratic attitude, his deeply-held views concerning respect for people's right to self-determination, his full and comprehensive commitment to justice, and his deep conviction of the categorical status of the moral imperative of siding with the oppressed against the oppressor. When believers turned to him in droves, demanding that he accept the mantle of leadership of Islamic society, he made his position clear to them by stating the following in a famous sermon recorded for posterity in Nahj al-Balaghah:

If people had not come to me and supporters had not exhausted the argument [concerning the necessity of accepting the office of the caliph by me], and had it not been for the pledge taken by Allah from the learned that they should not acquiesce to the [practice of] the gluttonous tyrant and should assist the hungry who are oppressed, I would have cast the reins of caliphate on its own shoulders.42

It sounds as if the above statements are being made by a fully enlightened political leader in our time. In the above proclamation, the Imam stresses two points: (a) the significance of being knowledgeable about the situation and (b) the importance of being committed to one's responsibilities towards God and people. This clearly distinguishes the Imam from many leaders in the past and in the present who were/are power-hungry, careerist demagogues. The sincerity of the Imam's utterance is quite apparent and clearly shows that he does not aspire to occupy a political office for his own personal benefit. It is his concern for the oppressed and his responsibility to establish justice (in the profound sense that the Imam explains) that motivate him to take part in the political process and present his skills in dealing with the society's problems. It is the popular support plus his sense of duty – and not the political machinations and the promises and the material support of the mighty and the wealthy – that convinces him to accept this responsibility.

The Imam's statement also shows that if the premise of the conditional proposition in his proclamation, which made it incumbent upon him to accept the office of the leader, were negated – that is, if people were to give up their support – he too would not hesitate to abdicate the responsibility that the people had put on his shoulders. Unlike the demagogues in the circus of politics, be it in the modern world or in the ancient world, Imam 'Ali would not be attempting to stay in power through stratagem, subterfuge, deception, Imam 'Ali's Theory of Justice Revisited Ali Paya 20 or artifice; he would not be resorting to all sorts of immoral means like kickbacks and bribes, or using brute force for the sake of prolonging his term in the public office. The Imam's approach corresponds with the modern method that Popper discusses regarding the democratic way to assign political power. In a brilliant discussion concerning the conception of leadership in political philosophy, Popper, in his Open Society And Its Enemies, explains that since the time of Plato the main question in the field of politics has always been about the ways in which the most qualified person for managing affairs in the political arena should be chosen. Popper explains that this question is wrong. The correct question should be: what mechanisms should be in place so that if the ruler is not able render his/her duties and fails to sustain the support of the people, a new ruler can be appointed in his/her place without violence or bloodshed?

In his sermon, quoted above, Imam 'Ali has clearly defined this mechanism: real popular support and the oath of allegiance (or in modern parlance votes) votes of the citizens. Imam 'Ali makes it clear that if such support is not there, the leader must transfer power to the candidate on whom people have reached a consensus.

4. The objective nature of justice

That justice is a social construct is a view proposed by philosophers like Plato and Aristotle, their intellectual heirs, and also post-modern philosophers and their like-minded fellows in the modern world who believe that everything with

which human beings deal is socially constructed. The views of these philosophers are informed by the assumption that all things are post-social and even natural entities can only gain importance and significance when human beings choose to pay attention to them. This perspective, as demonstrated by critical rationalist philosophers, leads to a debilitating relativism which not only blocks the path to dialogue among groups, cultures, and civilisations, but also paves the way for violence.43 To say that justice is a construct means that those who are constructing it can decide to modify its conceptual capacities and interpret it in any manner that they please or their interests would require. In the world of Islam, the Ash'arites, in relation to the notion of Divine justice, maintained that justice is not an objective value which could be assessed by means of objective criteria; it is whatever God chooses to do.44 Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 21

Critical rationalist philosophers, as stated earlier, believe in the objective nature of justice and view democracy as a powerful instrument for exploring and realising its capacities. These philosophers apply the theory of the 'three worlds' to argue that justice, like other values and virtues, is among the entities that has emerged with the increase in the complexity of World 1 (reality as a whole) simultaneous with the formation of human societies. According to the theory of the 'three worlds', each individual uses his/her World 2 (which represents an individual's subjective cognitive and emotive capacities, memories, tacit knowledge, intuitions, and so on) in their interaction with World 1 and in response to the 'problems' introduced by reality (whether physical/natural reality or socially constructed reality) and come up with 'solutions' in the shape of conjectures, theories, stories, melodies, music, poetry, rules and laws, conventions, principles, technologies, and so on. World 3 represents the abode of all such products. World 3 is a real world since it possess causal power and can impact World 2 and thus make changes in World 1.45

What can be inferred from Imam 'Ali's comments on justice is that, according to him, justice is an objective concept and is not a man-made construct. 46 Imam 'Ali's reply to the question of whether justice is better than generosity is a case

in point which clearly shows his realistic views regarding justice. 47 He says: 'Justice is a universal path, while generosity is a particular case; hence, justice is the superior and nobler of the two.'48

In another sermon Imam 'Ali says: 'There is a vast capacity in justice. He who finds justice as a constraint, will [surely] find oppression much more restricting.'49 Here too the statement by the Imam shows that he views justice as an objective entity with vast real potentials into which we can tap to improve social conditions. The elimination of these capacities will make life difficult and unbearable for all.

5. Justice as fairness

In his discussion of justice, Rawls tries to show, through an ingenious thought experiment, that if all people are placed in a situation where they have to decide about their future without any privileged knowledge about their situation, then none of them, conscious of the fact that others are exactly in the same position with respect to deciding their own futures, would choose a privileged position. Each participant in the experiment would come to the conclusion that the best possible Imam 'Ali's Theory of Justice Revisited Ali Paya 22 situation for him/her is to be on an equal footing with the rest, with no extra head start. The participants would realise that in their bid to find a fair and just place in their future life, the only thing upon which they could/should rely is their innate abilities and not any external privileged status. In such a situation, what shapes one's future, apart from one's inherited and innate potentials, is one's determination and hard work (or lack thereof).50

Rawls's idea of 'justice as fairness', following its first appearance, became conceptually richer as a result of critical assessments by various critics and commentators. For instance, it was agreed that if certain individuals, through mental or physical disabilities, could not compete on a level playing field with

able-bodied individuals, certain measures would have to be adopted in their favour so that the possibility of [a fair] competition can be obtained. An important Popperian theme that can be used to enrich Rawls's view is the notion of cooperation through competition. This idea is rooted in the conjecture that in a democratic society, the vast and diverse capacities hidden in individuals and in the society/community will be realised/actualised only when all the individuals in the society participate in a never-ending competition which is based on moral principles and whose aim is not eliminating others but to add to the positive capacities in the society through epistemic exchanges and also cooperation in non-epistemic areas.51

The idea of justice as fairness appears to be the idea emphasised by Imam 'Ali. With respect to the notion of justice as fairness, the Imam says: 'Regarding God's injunction (in the Qur'an): 'Lo! Allah enjoineth justice and kindness, and giving to kinsfolk' (90:16), justice equals fairness and giving to kinsfolk equals kindness.'52 A cursory glance at the life and deeds of Imam 'Ali suggests that the idea of cooperation through competition is also endorsed by him. Imam 'Ali's constructive cooperation with the first three caliphs during the twenty-five years after the passing of the Prophet, despite the fact that according to the Shi'a he had been appointed by Prophet to serve as the Prophet's successor, is the best example that shows the Imam's strong conviction in the principle of cooperation through competition. During the period of twenty-five years after the death of the Prophet, Imam 'Ali never stopped providing the three caliphs with his wise and sincere counsel which combined advice with critical assessments.

We can mention other examples and refer to more diverse aspects of similarity/commensurability between the views of Imam 'Ali and the critical rationalist thinkers on justice and its rich conceptual Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 23 framework. But the important point that needs to be emphasised is that in the modern world, in contradistinction with the traditional world, institutions have gained central importance and 'institutional ethics' as opposed to 'individual ethics' has become the accepted norm in social interactions.

Imam 'Ali was, in modern parlance, a virtue ethicist.53 We can see this in the intellectual legacy that he left behind. But the important question that we need to ask, in relation to the main theme of this article, is this: was Imam 'Ali as concerned, as modern thinkers are, with the importance of institutions and the necessity of constant monitoring and critical assessment of their activities?

As was mentioned earlier regarding the selection of political leaders, modern thinkers, especially Popper and Rawls, maintain that even though the integrity and moral uprightness of individuals are important virtues that should be promoted by the educators in any society, being a moral agent – even being a moral agent with exceptional leadership capabilities – is not sufficient for making an individual fit for the purpose of managing the affairs of modern societies; for this purpose it is essential to establish appropriate and effective institutions, and continually increase their effectiveness through never-ending processes of critical assessment of their functions and activities.

We can only define Imam 'Ali's thought as being closer to modern thought than the views prevalent in the ancient world if we can show that he too, within the limits of his time and society, was not oblivious of the importance of institutions and the need for incessantly and critically monitoring their activities.

A close examination of Nahj al-Balaghah and other documents attributed to the Imam shows that, in addition to promoting virtuebased ethics, he was also keen on institution building, reforming institutions, and reforming the society through reforming the institutions, even though he may not have pursued such goals as explicitly and extensively as contemporary philosophers deal with them.

As an example of the Imam's awareness of the significance of the institutions, one need not to look further than the Imam's view on the way in which the Muslim treasury (bayt al-mal) should be managed. The Imam's discussions of

this issue in various contexts clearly show that he believed in the institutional audit of the bayt al-mal in a way in which the financial allocations of each individual would be calculated and any type of malfeasance would be punished. In reply to one of his companions, 'Abd Allah ibn Zama'ah, who had asked him for a Imam 'Ali's Theory of Justice Revisited Ali Paya 24 portion from the Muslim treasury, the Imam says: 'These funds are not mine or yours; they are public funds for all Muslims.'54

Exactly the same theme is raised in his letter to Masqalah ibn Hubayrah al-Shaybani, his representative in the city of Ardashir Khurrah (modern-day Firuzabad) in Fars: 'Beware that the Muslims who are with either you or us have the same right to this booty; they come to me, get what is rightfully theirs, and return.'55

Consistent with this same policy, which can be found in other parts of Nahj al-Balaghah, the Imam emphasises that he will return to the Muslim treasury whatever was illegally taken out during the time of caliph 'Uthman, even though this wealth might have already been spent for different purposes. In the same passage, he adds that there is a vast capacity in justice; if an individual or society cannot tolerate it, the same society or individual would have a harder time tolerating tyranny because tyranny does not have such a capacity. 56

An assessment of the intellectual legacy of Imam 'Ali shows that justice is one of the most pivotal concepts for him with respect to social interactions, not only at the level of individuals, but also as a principal social institution. The Imam's dialogues with his political opponents, his governors, other rulers, and the masses, which have been handed down to us in the form of letters, sermons, and sayings, clearly show his main concern. The Imam's recommendations regarding the responsibilities of ministers, judges, army personnel, scribes, and other governmental classes, as well as craftsmen and guild members, average people and the deprived, are all imbued with a concern for justice, not merely as an individual virtue, but as a main social institution.

Conclusion

One can cite further examples for the cases we have discussed above, but it appears that what has been mentioned suffices to corroborate the main argument of this paper. This paper has attempted to argue, within its limited scope, and by means of a number of specific cases, that Imam's 'Ali's theory of justice, unlike the theories of some of the greatest thinkers in the ancient world that were geared towards justification of injustice or creating special privileges for particular groups in the society, is compatible with some of the most important modern theories of justice. By emphasising the common nature of humanity and the equality of all human beings with respect to basic human rights, the Imam's theory – in line with these modern theories – Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 25 paves the way, in an effective way, for the promotion and dissemination of social and political justice.

It must nevertheless be emphasised that the claim of the present paper is a minimalist one. It only states that Imam 'Ali, despite belonging to a traditional world, has discussed some issues which, on a sympathetic reading, can be shown to be more or less similar to some of the most important themes discussed in modern theories of justice. But of course one cannot and should not conclude from what has been discussed that the totality of Imam 'Ali's epistemic constellation, or what has been handed down to us as his views, belongs to the modern world. Since Imam 'Ali was an inhabitant of the ancient world, and of necessity had to interact with people of his time, he had no choice but to modulate the horizons of his thought and action to make them commensurate with the historical capacity of his era.57 Despite this, the amazing insights that we have seen in the Imam's thought show that, notwithstanding what most anti-realist thinkers of the twentieth century have stressed with respect to the incommensurability of the ancient/traditional and modern paradigms, 58 Imam 'Ali was not a helpless prisoner of the paradigm of his time.

Notes

1 A shorter Persian version of this paper appeared in 'Ali Akbar 'Alikhani (ed.), Daramadi bar Nazariyih-yi Siyasi-yi 'Idalat dar Islam (Tehran: Pazhuhishkadih Mutali'at-i Farhangi va Ijtima'i: Danishgah-i Imam Sadiq, Markaz-i Tahqiqat, 1388 AH (solar)). A number of colleagues have read earlier drafts of this paper and have made constructive comments on it. I would like to thank in particular Yaser Mirdamadi, Daryoush Muhammadpoor, Mohammed Ali Ismail, and the anonymous referees of the Journal of Shi'a Islamic Studies for their helpful observations.

2 Cf. Harry Brighouse, Justice (Cambridge: Polity Press, 2004), vi.

3 Al-mulk yabqa ma'a al-kufr wa la yabqa ma'a al-zulm. Ayatollah Surush Mahhallati maintains that this statement has not been quoted in authentic sources on hadith; however, its content is so close to the Prophet's way of thinking that Muslim thinkers have accepted it as a hadith. Surush Mahallati, 'Kudam Dawlat?' (Muhammad Surush Mahallati, 1390 AH (solar)) . Accessed 22 January 2013.

4 For an overview of the most important theories on justice in Western history, see Alan Ryan, Justice (Oxford: Oxford University Press, 1993).

5 Plato, The Republic, ed. G.R.F. Ferrari, trans. T. Griffith (Cambridge: Cambridge University Press, 2003).

6 Brighouse, Justice, vi, note 4.

7 Brighouse, Justice, 2. Imam 'Ali's Theory of Justice Revisited Ali Paya 26

8 Plato, The Republic, 104-108 (Book 3, 414-415).

9 The question might arise whether the use of the term 'democracy' here is anachronistic, since some might hold that Plato would not affirm the modern concept of democracy which, in his era, would have come across as mob rule. This view would be factually accurate but not normatively valid. The fact that Plato regarded 'democracy' as the rule of mob does not mean that 'democracy', even then, was a horrible political system. Anti-democratic writers were doing their best to portray it in the worst possible light. For example, Heraclitus, whose ideas had greatly influenced Plato, writes: '[...] the mob fill their bellies like the beasts [...].They take the bards and popular belief as their guides, unaware that the many are bad and that only the few are good [...].The mob does not care, not even about the things they stumble upon; nor can they grasp a lesson – though they think they do.' (Heraclitus, Fragments, quoted in Popper, Open Society

and Its Enemies (London: Routledge, 1966), 12). Athenian democracy was against tyranny and oligarchy. Of course, like all man-made constructs it was not perfect. But relatively speaking it was superior to its rivals.

10 In this text I use the terms 'pre-modern'/'traditional'/'old world' as more or less interchangeable and in contrast to the term 'modern world'. The modern world is distinguished from the traditional world by a number of features including the rise of the bourgeoisie and capitalism; subjectivity and individualism; colonialism, Western imperialism and neo-Colonialism; the emergence of nation-states and nationalism; industrialisation and urbanisation; democratisation and the rise of mass culture (including mass movements, mass literacy, mass production and mass media); secularisation, disenchantment and re-enchantment with the world. The following three mottos by three modern thinkers nicely capture the spirit of the modern time: 'Have courage to use your own intellect!' (Kant); 'All that was solid melted into air' (Marx); 'Human, all too human' (Nietzsche).

11 Karl Popper, ibid., 255-351.

12 Ibid. 259-260.

13 Postmodernism is a broad church and comprises many views developed by writers from different fields. However, despite differences in style and subject-matter, a core of common themes can be identified in the works of almost all postmodern writers. The list includes belief in the relativity of truth, context-dependency of the criteria for assessing the validity of claims, the subjectivity of values, the universal validity of the claim to knowledge, and the social-constructedness of reality. For a critical reader of postmodernism see Peter Brook, Modernism/Postmodernism (London & New York: Longman, 1992); for a critique of postmodern approaches see David Miller, Out of Error: Further Essays on Critical Rationalism (Aldershot: Ashgate, 2006).

14 Critical rationalism is a philosophical school of thought introduced by Karl Popper in the twentieth century and further developed by his students. It is a realist school which maintains, among other things, that all knowledge is conjectural, and yet it is not impossible to get closer to the truth about reality by means of correcting our past mistakes. It also emphasises the objective nature of knowledge and truth, the importance of subjecting all views to critical assessment for the sake of exposing their shortcomings, and the objectivity of values. It takes an anti-justificationist and antifoundationist approach towards epistemic issues. For a thorough treatment of some

of the main themes of critical rationalism see Karl Popper, Conjectures and Refutations (London: Routledge, 1963); Objective Knowledge: An Evolutionary Approach (Oxford: Journal of Shi'a Islamic Studies Winter 2013 · Vol. VI · No. 1 27 Clarendon Press, 1979); David Miller, Critical Rationalism: A Restatement and Defence (Chicago Open Court, 1994); and David Miller Out of Error.

15 Otfried Höffe, Aristotle, trans. C. Salazar (Albany: State University of New York, 2003), 176.

16 Fred Miller, Nature, Justice, and Rights in Aristotle's Politics (Oxford: Clarendon Press, 1995).

17 Aristotle, The Ethics of Aristotle: the Nicomachean Ethics, trans. J. Thomson (Harmandsonworth: Penguin, 1973).

18 For a more comprehensive discussion of the doctrine of the 'mean', see G.E.R. Lloyd, Aristotle: The Growth and Structure of His Thought (Cambridge: Cambridge University Press, 1982), 217-223.

19 Aristotle, The Nicomachean Ethics, ed. L. Brown, tr. D. Ross (Oxford: Oxford University Press, 2009), 90.

20 G.E.R. Lloyd, Aristotle, 517.

21 Some post-modern writers have pointed out that post-modernism is, in one sense, a return to the pre-modern era. See, for instance, Ihab Hassan, The Postmodern Turn: Essays in Postmodern Theory and Culture (Columbus: Ohio State University Press, 1987).

22 Popper, Conjectures and Refutations, Ch. 11 ('The Aristotelian Roots Of Hegelianism').

23 See, for example, Majid Khadduri, The Islamic Conception of Justice (Baltimore & London, John Hopkins University Press, 1984); 'Ali Akbar 'Alikhani, ''Idalat az Didgahi Imam 'Ali' (PhD thesis, Imam Sadiq University, Tehran, 1996). I am indebted to Dr 'Alikhani for providing me with a copy of his thesis. I have benefitted from this thesis in developing some sections of the present paper.

24 'Alikhani, ''Idalat az Didgah-i Imam 'Ali'.

25 For development of theoretical discussions on justice, see Serge-Christophe Kolm, Modern Theories of Justice (Cambridge: MIT Press, 2002); Brian Barry, Theories of

Justice (Berkeley: University of California Press, 1991); Stewart Jay, Theories of Justice (Seattle: University of Washington School of Law, 1989).

26 Strictly speaking, John Rawls cannot be regarded as a thoroughgoing critical rationalist. However, there is a great deal of affinity between his views and the views of a philosopher like Karl Popper to qualify the former as a fellow critical rationalist. On this point see, Alan Boyer, 'Is an Open Society a Just Society? Popper and Rawls', in Learning for Democracy, vol. 1, no. 2 (2005), 7-

27. 27 For Popper's view on World 3 and his theory of three worlds see his Objective Knowledge.

28 For a theoretical discussion concerning the objective world of values in the realm of moral values, see Ali Paya, 'Systim-ha-yi Baz, System-ha-yi Bastih, va Falsafih Akhlaq-i Mubtani bar Isalat-i Misdaq' (Open Systems, Closed Systems and Particularism in Ethics), in Jashn namih-i Duktur Muhsin Jahanghiri (Tehran: Hermes Publications, 2007).

29 For a discussion on technologies, their main functions, and their role in responding to man's epistemic needs, see Ali Paya, Fannavari, Farhang va Akhlaq (Technology, Culture, and Ethics) (Tehran: Pazhuhishgah-i Farhang, Hunar va Irtibatati Islami, 2009); also Ali Paya, 'Critical Observations Concerning the Two Notions of "Islamic Science" and "Indigenous Science"', in Hikmat va Falsafih, vol. 3, nos. 2-3 (concurrent issues 10-11, Spring 2008), 39-76.

30 Alan Boyer, 'Is an Open Society a Just Society?'. Imam 'Ali's Theory of Justice Revisited Ali Paya 28

31 John Rawls, A Theory of Justice (Oxford: Oxford University Press, 1971).

32 In the conclusion of his comparison of the views of Popper and Rawls, Boyer writes: 'An open society is not necessarily a Rawlsian perfectly "just" one, but a Rawlsian just society would be necessarily an open society' (Boyer, 'Is an Open Society a Just Society?', 25). Boyer's point, due to its succinctness, can be misleading. The following explanation is aimed at making his point clearer. Where Boyer says that an open society is not necessarily a just society in a Rawlsian sense, he is referring to a very important difference between the Popperian and Rawlsian systems which needs to be examined. For Popper, an open society is a regulating principle, or an ideal type (in the Weberian sense); that is, it is an ideal model which societies should approach. In such a well-developed society, responsible citizens and rational institutions (whose functions are improved through critical evaluation) provide the best context for the realisation of justice. But from a Popperian point of view, the citizens' understanding of the concept of justice and its capacities, like their understanding of all other concepts and phenomena,

are constantly evolving and as a result, particular instances of justice which are produced in line with people's understanding of justice also constantly evolve. In this context, the openness of the society means exactly that the society's capacities for developing new approaches towards justice are never depleted and since no preconceived/a priori scheme governs the development of these approaches (rejection of determinism); and since according to the critical rationalism inductivism (i.e., the recurrence of past events or past order of things) is untenable, agents possessing freedom and rationality continually try to gain a better and newer understanding of justice by means of learning through and from their past mistakes. Hence, in the Popperian open society, the Rawlsian model of justice will only be one of the models that will be at the service of the agents till it will be replaced by a better, more accurate and more comprehensive model. Therefore, a Popperian open society is not necessarily a Rawlsian perfectly 'just' society. But as Boyer has mentioned, the reverse of this is not correct: no just society, including the society in which Rawlsian justice is established, can be a closed (i.e. a non-open) society. The Rawlsian model of justice, as Boyer has mentioned, is a static model despite all of its points of strength. In this model little attention has been paid to the unwanted negative consequences of institutions. The importance of critiques and the fact that individuals can always transcend themselves and achieve higher goals have not been duly developed in this model. Popper's keen insight in complementing Rawls's treatment of a 'life plan' clearly shows to what extent Popper's views can be utilised to enrich Rawls's ideas. That is why Boyer in his article has rightly stressed that 'Rawlsians should read Popper'. Ibid., 8.

33 J. Rawls, Collected Papers, ed. S. Freeman (Cambridge, MA: Harvard University Press, 1999), 191.

34 Another collection of the Imam's sermons, letters, and maxims was compiled by 'Abd al-Wahid Tamimi Amidi (c. twelfth century CE/fifth century AH) under the title of Ghurar al-Hikam wa Durar al-Kalim.

35 Karl Popper, 'How I see Philosophy', in In Search of a Better World: Letters & Essays from 30 Years (London, Routledge, 2000).

36 I have used the following source for a number of cases discussed above: 'Ali Ansariyan, al-Dalil 'ala Mawdu'at Nahj al-Balaghah (Tehran: Intisharat-i Mufid, 1357 AH).

37 Nahj al-Balaghah, letter 53.

38 For a philosophical discussion on the phenomenon of modernity see Jurgen Habermas, The Philosophical Discourse of Modernity (Cambridge: Polity, 1984); also see my paper 'Mulahizati Intiqadi dar barih Tajrubih Mudirniti dar Iran' (Critical Observations Concerning the Experience of Modernity in Iran), in Falsafih va Hikmat, no. 15 (Autumn, 2008), 63-90.

39 The Kharijites (lit. 'those that seceded') were members of the earliest sect in Islam who were part of Imam 'Ali's army in his battle against Mu'awiyah, the governor of Damascus and a close relative of 'Uthman. They rebelled against 'Ali because 'Ali, under their serious threat of killing him, had to enter into peace negotiations with Mu'awiyah despite having the upper hand. The Kharijites were very strict in their adherence to a literal interpretation of the Qur'an. They would not tolerate any deviation from their strict and dogmatic understanding of the teachings of Islam and would punish those who, in their eyes, had gone astray with the death penalty.

40 Nahj al-Balaghah, letter 47 ('usikum bi taqwa Allah…wa qawlan bil-haqq…wa kunna li al-zalim khasman wa li al-mazlum 'awnan').

41 Many writers have noted that 'human rights', though a modern invention or construct, is a notion whose general sentiment which can be traced back to many religious teachings. For example, the Qur'an clearly and explicitly states: 'O mankind, We have created you male and female, and appointed you races and tribes, that you may know one another. Surely the noblest among you in the sight of God is the most godfearing of you. God is All-knowing, All-aware.' (Qur'an 49:13, Arberry translation).

42 Law la hudur al-hadir wa qiyam al-hujjah bi-wujud al-nasir, wa ma akhadha Allah ta'ala 'ala al-'ulama' alla yuqaru 'ala kizzatin zalim, wa la saghab-i mazlum, la-alqaytu hablaha 'ala gharibiha.Translation from Imam Ali ibn Abu Talib, Peak of Eloquence,

Nahjul Balagha, ed. Yasin T. Al-Jibouri (New York: Tahrike Tarsile Qur'an, 2009), 316 (quoted with slight modification to the translation).

43 For critiques of the views of constructivists, relativists, and post-modern writers from the standpoint of critical rationalism, see: Popper, Open Society; Ali Paya, Falsafih Tahlili va Tahlil-i Falsafi: Masa'il, Chishmandaz-ha va Karburd-ha (Tehran, Tarh-i Naw, 1392 AH (solar)); Paul Boghossian, Fear of Knowledge: Against Relativism and Constructivism (Oxford: Clarendon, 2006). For the relationship between epistemic relativism and violence, see my Dialogue in the Real World (Tehran: Tarh-i Naw, 1381 AH (solar)); Karl Popper, The Myth of the Framework (London: Routledge, 1994).

44 See Murtada Mutahhari, Divine Justice, trans. S. Abidi et al. (Qum: International Center for Islamic Studies, 2004); Majid Fakhry, A History of Islamic Philosophy (New York: Columbia University Press, 2004).

45 Karl Popper, The Myth of the Framework.

46 Ayatollah Mutahhari in his Divine Justice extensively discusses the history of the discussions concerning justice in the Islamic culture. According to him the theories of Shi'a scholars on justice, inspired by the views of the Shi'a Imams, became much more refined and accurate in comparison to the views of the other Muslim scholars: Shi'a philosophers came to regard justice as an objective concept.

47 Muhammad 'Abduh (ed.), Nahj al-Balaghah (Beirut: al-Dar al-Islamiyyah, 1992), 605 (saying no. 431).

48 Ibid.

49 Nahj al-Balaghah, tr. J. Shahidi (Tehran: Intisharat-i 'Ilmi va Farhangi, 1992), 16 (sermon 15). Imam 'Ali's Theory of Justice Revisited Ali Paya 30

50 J. Rawls, Collected Papers, Ch. 18.

51 See Popper, Open Society And Its Enemies; Objective Knowledge; The Myth of the Framework.

52 Nahj al-Balaghah, trans. J. Shahidi, 399.

53 Virtue ethics is concerned with moral characters and traits. It main thesis is that moral agents can make better informed rightful moral decisions and better behave in accordance with the norms of morally good conduct through acquiring virtuous traits. For a general introduction to virtue ethics see Christine Swanton, Virtue Ethics: A Pluralistic View (Oxford: Oxford University Press, 2005).

54 Nahj al-Balaghah, trans. J. Shahidi, 265 (saying no. 232). There are numerous other occasions in the Imam's life in which he set high standards of probity with regards to dealing with what belongs to the people and the public domain. The following cases are just two examples of such an attitude. On one occasion when Imam was auditing the bayt al-mal in the middle of the night and a companion entered his chamber and asked him to advise him on a personal matter, the Imam immediately put out the lamp burning with oil paid for from the treasury and lit a lamp which had oil that he had purchased by himself. (Muhammad Baqir al-Majlisi, Bihar al-Anwar XL (Beirut: Dar Ihya' Turath al-'Arabi, 1403 AH, 136) On another occasion, his blind brother 'Aqil asked him to give him an extra amount from the treasury which was not due to him. In response, the Imam brought a very hot iron rod close to 'Aqil's hand and asked him to touch it. 'Aqil complained that the Imam had treated him unkindly. The Imam replied, 'You could not tolerate the pain caused by a man-made flame and yet you expect me to tolerate the fire of Hell' (Nahj al-Balaghah, sermon no. 215).

55 Nahj al-Balaghah, trans. J. Shahidi, 316.

56 'By God if I see that this [wealth] has been included as part of dowry of your wives, or for purchase of women slaves, I will reclaim it [for the Muslim treasury] because there

is plenitude in justice, and he who does not accept justice will find it harder to accept tyranny.' Ibid., 16.

57 In this context, some of the Imam's observations and proclamations which may seem not quite in tune with the above progressive attitude should be understood and interpreted. Imam 'Ali's approach to the entrenched and deep-rooted traditions in his society, just like the approach of the Prophet, and based on their understanding of the teachings of the Qur'an, was geared towards the policy of gradual improvement. It is clear from the way the Imam was trying to educate the people that he maintained that in the light of better understanding the true spirit of the Islamic teachings, people would be better prepared to get rid of unjust traditions, practices, customs, and institutions. The sad fact that the Imam's ideal and aspiration have not been fully actualised is not a refutation of the validity of his approach. It is rather a verdict against the policies of those who were/are supposed to promote and disseminate the Imam's project. 58 For the views of some the anti-realist philosophers and the notion of the 'incommensurability of paradigms' see Thomas Kuhn, The Structure of Scientific Revolutions (Chicago: University of Chicago Press, 1971); Paul Feyerabend, Against Method (London: Verso, 1988).

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