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Ph.D. Thesis in Political Theory

Political Liberalism for Muslim Majority Societies

SUMMARY

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Focusing on Rawls's political liberalism, our dissertation includes one long introduction (chapter I), *Part One* on justification (chapters II and III), and *Part Two* on stability (chapters IV and V). As the introduction to whole dissertation, chapter I clarifies our main question by demonstrating why speaking of a Rawlsian constitutional democracy is appropriate in Muslim majority societies with strong prodemocracy movements. Referring to Arab Spring in Tunisia, Egypt, Libya, Syria and other Middle Eastern countries, and particularly having in mind Iran's Green Movement, in chapter I we demonstrate that Muslim world seems slowly shifting towards post-ideological situation. Particularly in the case of Iran the age of ideological convictions in Islamism, Marxism, or any other religious or secular conviction is more or less over. The younger Iranian generation seems to be postideological, being cured of its parental generations' traumas, though still learning from history. In other words, the dominant political parameters of Third World Socialism, anticolonial nationalism, and militant Islamism are replaced by strong trends towards universal human rights and democracy. As a result of all these events, Islamic fundamentalism is gradually shading away in favor of a more democratic understanding of Islam in in the Muslim societies.

However, the democratic movements in Middle Eastern countries face considerable opposition from the pro-autocratic sides of the past regimes of their countries. Thus, in chapter I we suggest that the Rawslain effort to formulate the most reasonable conception of justice as the moral basis for a constitutional democracy can contribute in the democratization process of the Middle East. Thus, we argued that our dissertation aims to formulate a Rawlsian theory of constitutional democracy for Muslim majority societies with strong contemporary democratic movements. We argue that political philosophy needs to assume the role Kant gave to it: the defense of reasonable faith in the possibility of a just constitutional regime. Our justifiable and

reasonable faith in democracy affects our thoughts and attitudes in actual politics and the way we confront anti-democratic forces.

In the second part of chapter I we try to justify why this dissertation has selected Rawls and political liberalism for its debate on Islam, democracy and Muslim world. We respond that, first, Rawls is a theorist of justice and the crisis about the correct meaning of justice seems to be one of the main sources of conflict in Muslim majority societies. The problems similar to those which caused Rawls to develop his theory seem to be existent in many contemporary Muslim societies. Rawls's justice as fairness denies that the loss of freedom for some is made legitimate by a greater good shared by others. Yet, the corrupt elites who usually have been or are ruling Muslim countries— for example the dictators which were overthrown in the Arab spring– usually sacrifice the freedom and social welfare for some, for the benefits of a small privileged group. Similarly, one of the problems which modern Muslim majority societies face is to reconcile between freedom and equality. Rawls's theory of justice offers a reasonable proposition for the reconciliation by trying to reconcile the conflict between the tradition associated with Locke, which emphasized on liberty, and the tradition associated with Rousseau, which focuses on equality.

The third reason for why Rawls's philosophy seems to be appealing from a Muslim majority perspective, as we argue in the second part of chapter I, is the idea of public reason. Particularly Rawls's latest account of this idea might be seen as providing a workable framework to reconcile between religious and nonreligious citizens in public political debates. Public reason is very relevant to the situations where the debate over secularism and its limits in a democratic framework is prevailing. Most of the body of scholarly literature which has produced on the relationship between Islam and democracy in the last two decades is indifferent to public reason.

On the other hand, among the large body of literature which has produced on public reason only a small part addresses Islam and even that is mostly concerned with Sunni Islam, neglecting the case of Shiites as the Islam of majority in Iran, Lebanon and Iraq. We argue that this dissertation is aimed to fill these gaps.

As the fourth reason for choosing Rawls we need to address the superiority of political liberalism to comprehensive liberalism in 'Islam and Liberalism' debate within the context of Muslim societies. According to Fadel and March, political liberalism regards that the philosophical incompatibility of Islam with liberalism is insufficient to conclude that believing Muslims cannot engage in a fair social cooperation with other citizens. The whole project of political liberalism, in contrast to comprehensive liberalism, aims to avoid basing liberalism on the public affirmation of controversial truth-claims. Put in another way, in renouncing any claim to metaphysical truth as the basis for social cooperation, and in requiring of individuals no controversial moral or secular views in order to participate in constitutional politics, political liberalism seems to be superior to the comprehensive traditional comprehensive liberalism. Furthermore, the fact that Rawls regards political liberalism only applicable to the basic structure and no other domains of life is an advantage for political liberalism in Islam and democracy debate.

The third part of chapter I is on the fact of post-colonialism in Muslim world. As we know from political liberalism, John Rawls puts much emphasis on Reformation and its aftermath Wars of Religion, as the significant historical ground of liberalism in Europe and even North America. Rawls regards these events as deeply changing the public political culture of Western societies. In the case of Muslim Majority countries, however, it seems the only event which is comparable to the European Wars of Religion in the depth and influence is colonialism.

Thus, we can speak of "the fact of post-colonialism" in Muslim majority countries, similar to John Rawls who speaks about the fact of reasonable pluralism, the fact of oppression, and the similar facts in studying the origins of liberalism in Europe and North America. In contrast to Europe, the rise of modern state in Muslim societies was more or less a result of colonialism and its aftermath. Although by the second half of the twentieth century the era of colonialism formally ended in all Muslim countries, the social psychological effects of the long periods of colonialism still profoundly exist in Muslim majority societies. The rise of Islamic fundamentalism can be regarded as an emotional reaction towards the fact of colonialism. However, John Rawls is quite sensitive about the fact of colonialism. One of the main reasons he finds the toleration of decent societies by the liberal peoples as quite necessary is rejecting any imperialistic attitude by liberal states towards non liberal (Muslim and non-Muslim) societies. Colonialism is obviously contradicting the respect which is embedded in Rawls's the Law of Peoples.

For Rawls colonial powers are not well-ordered and just. Thus, the European and North American colonial powers which occupied the Muslim territories in the sixteenth to twentieth centuries have been violating the Law of Peoples and have to be regarded as unreasonable. Reasonable liberal peoples are never involved in "empire building" like the European colonial powers of colonialism era. For Rawls, colonial states are not liberal democracies. If their basic structure was reasonable, that is to say if it was regulated according to the criterion of reciprocity, those states would not get involved in colonialism.

Finally, at the last section of chapter I we answer to the possible objections towards our project. The first objection is *liberalism as hegemony a*ccording to which Muslim societies have horrible memories of the state-imposed secularism by pro-Western elites and since Rawlsian liberalism is equal to forceful up-down imposition of secularism, it needs to be

rejected. In reaction to this objection, we said it is totally acceptable that in order to be legitimate, liberal democracy needs to emerge in a bottom-up process via an organic negotiation within the civil society. We asserted that our dissertation tries to develop an indigenous theory of political liberalism for Muslim societies, contributing to the democratization in a bottom–up manner via getting involved in the philosophical debates of Muslim civil society. This is very different from the up-down methods of state secularization by some post-colonial states in the Muslim world which have provided resentment among Muslims.

The second objection which we tried to rebut in chapter I is the idea of Islamic State according to which Islam has its own authentic model of government. The doctrine of Islamic state regard Rawlsian or any other account of constitutional democracy as incompatible with Islam and the form of the government it favors. We provide two set of answers to the objection of Islamic state: one offered in chapter V while discussing Haeri Yazdi's criticism of guardianship of the jurist as an unreasonable doctrine. The second in chapter I following Abdullah An-Naim. An-Naim argues that the idea of Islamic state does not have sufficient background in medieval and pre-colonial Islamic law. Although the states that historically ruled over Muslim societies did seek Islamic legitimacy in variety of ways, they were not claimed to be "Islamic states." Put another way, in An-Naim's argument the notion of an Islamic state is a postcolonial innovation based on a European model of the nation-state.

The third objection which is refuted in chapter I is *lack of pluralism* according to which Islamic societies are either not pluralist at all, or do not have the kind of pluralism which politically liberal justification demands. To this objection we answer that we may consider the first feature of reasonableness as both necessary and sufficient criterion of reasonableness. In other words, it seems possible if we keep the first condition of Rawls's reasonableness in

political liberalism (willingness to getting involved in social cooperation provided that others do the same), and exclude the second one (the burdens of judgment). That is because establishing the liberal idea of toleration on the recognition of the burdens of judgment might be problematic from the point of view of a significant number of religious people. Furthermore, the burdens of judgment are not the only account of reasonable pluralism compatible with political liberalism. As an alternative account of reasonable disagreement, in chapter I we introduce Abdolkarim Soroush's thesis of *contraction and expansion of religious knowledge*. By distinguishing between the religious texts such as Quran and the religious knowledge which results from their interpretation, the thesis of expansion and contraction of religious knowledge casts religion as a kind of human knowledge, subject to the collectivity and competitiveness of the human reason. According to Soroush's theory, religious knowledge is a variety of human knowledge, subject to change, exchange, and reasonable disagreement.

The fourth objection which is addressed in chapter I is communitarianism objection to liberalism. According to this objection, as applied to the context of Islamic world, in Muslim societies we need a political theory which is based on the traditional values of our own communities. Rawlsian normative concepts such as public reason and overlapping consensus are simply foreign to "our" authentic Islamic culture, and thus should be discarded. As the reaction to the communitarian objection we argued that although contextual factors are important, they should not be allowed to override the commonalities of the human reason. Indeed, in political theory we should study each concept or institution in terms of its relevance for the argument we are making, regardless of its presumed origin. For the sake of illustration, we referr to the so called Golden Age of Islamic civilization, asserting that if borrowing political philosophical concepts from foreign traditions is anti-Islamic and non-useful, we would not have many

branches of science and art which are now considered as part of Islamic heritage. This is so because many Muslim arts and sciences are not directly existent in Quran or hadith, but rather are taken from Hellenic, Persian, Roman, or Indian sources. Obviously, this way of looking into Muslim culture seems to be problematic.

The fifth and final objection which we refute in chapter I is Islamic Orthodoxy objection. According to this, our reliance on modernist interpretation of Islam is not acceptable to orthodox Muslims and thus is unsatisfactory. In his debate with Abdullah An-Naim on the idea of secular state in Muslim majority societies, Fadel's argues that orthodox Shiite Muslims categorically reject the idea of secular state in favor of the need for a divinely-inspired Imam who is the political leader in the meanwhile. An Islamist Muslim such as Khomeini may regard the historical practice of pre-contemporary Muslim polities as a failure resulting from insufficient commitment to Islamic ideals rather than as evidence of an Islamic position in favor of the secular state, as An-Naim asserts.

As response to the above objection, we argue that any ahistorical and fixed definition of Islamic orthodoxy is problematic and questionable. For example, as the post-revolutionary experience of Shiism in Iran demonstrates, the meaning of orthodoxy cannot be regarded as independent from the daily life and experience of living Muslims. In contrast to the fixed view of Islamic orthodoxy, one might argue that via the deep influences of historical experiences and through gradual transformation in the mentality of individual Muslims, the concept of religious orthodoxy changes. An orthodox comprehensive doctrine, for example Shiite Islam, normally belongs to a tradition of thought and thus is not subject to sudden, unexplained, and random changes. However, it does not conclude that it is not prone to gradual evolvement. Indeed, as Rawls puts, a comprehensive doctrine tends to evolve in the light of what, from the point of view

of its adherents, is conceived as persuading and sufficient grounds. This gradual and slow change is a result of sophisticated sociological and historical mechanism. A well-known example is that of Catholicism and the change in the meaning of orthodoxy within this religion from medieval period century until the Vatican II Council in 1965 in which Catholic Church fully accepted liberal constitutionalism for the first time.

Part One of the dissertation (including chapters II and III) focuses on justification. *Part Two* (covering chapters IV and V) deals with stability. Many commentators of Rawls have argued that the kind of justification which supports justice as fairness is limited in its scope: political constructivism only justifies the principles of justice within the scope of those societies which already have liberal constitutions with long "political tradition" of democracy. Those societies, to use Rawls's own terms, already have certain "public traditions" of interpreting liberal public law and a substantive amount of democratic "historic texts and documents" that are now part of the "common knowledge" of their citizens (PL 13-14). Put another way, political liberalism appears to presuppose a society in which liberal values are already well entrenched. It seems that political liberalism has not any justification to offer to "aspiring democracies", to use Scheffler's phrase, which do not have liberal traditions and whose public political cultures therefore lack the implicit ideas to which Rawls appeals. Disagreeing with this idea, in chapters II and III we argue that strong liberal traditions and institutions are not necessary in order to create the conditions that make reflective equilibrium and the original position possible. We assert that political liberalism has enough materials to give reasonable individuals living in nonwestern countries strong reasons in defense of justice as fairness as a candidate for the most reasonable basis of democracy. The scopes of the reflective equilibrium and the original position, as Rawls's two interrelated methods of justification for justice as fairness, are not simply limited

to the persons who live in Western democracies, but rather have much more broader global audience. Put another way, political constructivism is not limited to East or West.

Chapter II of *Part One* is in the reflective equilibrium. In PL Rawls argues that in discussing his philosophy we should be careful to distinguish between three points of views: that of "the parties in the original position" (hereafter v1), that of "citizens in a well-ordered society"(hereafter v2), and finally that of "ourselves-of you and me who are elaborating justice as fairness and examining it as a political conception of justice"(hereafter v3) (PL 28). It is the third point of view with which reflective equilibrium is concerned. v3 exemplifies the philosophical deliberations of me and you, here and now, as members of the global civil society. Considering the method of wide reflective equilibrium, we argue that the justification Rawls proposes for justice as fairness has a global status, to include Muslim majority and other nonwestern societies. Furthermore, distinguishing between narrow and wide reflective equilibrium, it is uttered that in wide reflective equilibrium we have to take into account the view of other individuals with whom we live in the same country, even though we disagree with them. The difference between narrow and wide reflective equilibriums is that in the former the person is presented only with conceptions of political justice which match more or less her existing judgments except for minor differences, whereas in the latter the deliberating person considers all possible conceptions of justice favoured by other individuals in her particular society, together with all relevant philosophical arguments for them. In addition, the method of reflective equilibrium connects the abstract dimensions of the original position to the living world and avoids political philosophy to be detached from the society and the world.

Furthermore, we assert that for Rawls political philosophy has no authority; all the debates of political philosophy, except few historical exceptions, belong to the global civil

society or what he calls background culture plus nonpublic political culture. The only type of authority political philosophy has is the authority of human reason. Whether a text in political philosophy is successful in making appeal to the authority of human reason is a collective judgment of the persons in the civil society of a particular country, made over time. Rawls's political philosopher cannot be "Plato's philosopher king" or "Lenin's revolutionary vanguard", whose knowledge of the truth authorizes her to control the outcome of politics (LHPP 3-4). As a free and equal citizen, philosopher simply speaks conscientiously in addressing other free and equal citizens about political questions she finds more important or appealing. She does it through her books, via conference lectures in which she presents her ideas, through her undergraduate and graduate university courses, and via professional and academic journals in which he publishes her articles.

As a result of the global status of the reflective equilibrium argument, dividing the types of world societies into liberals, decents, burdened societies, benevolent absolutisms and outlaw states following Rawls's LoP (LoP 63), one might argue that a person who lives in any of these five type of societies, which for Rawls cover all the globe, may enter into a reflective dialogue with Rawls provided that she reads and thinks about his books or articles. Put in other words, to be addressed by the reflective equilibrium we do not need to be living in a well-ordered European or North American society which has a long tradition of liberal institutions. The reflective equilibrium is an endless dialogue with others with whom we live in the same country until we reach to the most reasonable account of justice and the most reasonable setting for the original position. It is similar to Habermas's ideal discourse situation. Both reflective equilibrium and Habermas's ideal discourse situation are "a point at infinity we can never reach, though we may get closer to it in the sense that through discussion, our ideals, principles and

judgments seem more reasonable to us and we regard them as better founded than they were before." (PL 385) This can happen in the civil society of Iran, Turkey, or any other Muslim majority or nonwestern society. Any Muslim majority society which has spirit and vitality— for example the civil society of Iran, Turkey, or any other Muslim majority society—is open to endless philosophical discussions on justice. Not all civil societies of the world need to be liberal in order to be able to understand and debate on the political philosophy texts of any kind in a wide reflective equilibrium.

Chapter III is concerned with political constructivism. According to the idea of political constructivism, the principles of political justice (content) may be represented as the outcome of a certain procedure of construction (structure).This procedure of construction is modeled by *the original position* in which rational agents, subject to restraints of the veil of ignorance, select two principles of justice to regulate the basic structure of their society. The original position is a device of representation. One of the main communitarian objections to the constructivist argument Rawls develops in his TJ has been that Rawls's characterization of the person in the original position is biased and would contest Rawls's claim that justice as fairness is equally valuable to all ways of life. Communitarian and some other critiques claim that the original position reflects a western, metaphysically liberal understanding of "human life" which is incompatible with some religious and communal values. These critiques neglect the fact that the original position is a device of representation which we may enter it at any time simply by reasoning for justice in accordance with the enumerated restrictions on information.

In political constructivism, justice as fairness does not proceed from practical reason alone, but is developed from the union of practical reason with particular conceptions of society and person which are modeled in the original position. Although the basic principles of practical

reason appear to remain fixed in Rawls's notion of justification, perhaps different conceptions of society and person will lead to different accounts of practical reason. In a democratic context, the society is regarded as a fair system of cooperation and persons are assumed as free and equal citizens. However, in a decent hierarchical society, instead of free and equal citizens, persons are regarded as responsible members of society and of different groups. This is so because justification proceeds from what is held in common. Democratic conceptions of society and person are the common points upon which constructivism are built.

In the first chapter of PL Rawls utters that the content of political conception of justice "is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society." These fundamental ideas are particularly three: first, the idea of "society as a fair system of cooperation over time, from one generation to the next", second "the idea of citizens (those engaged in cooperation) as free and equal persons", and finally third "the idea of a well-ordered society as a society effectively regulated by political conception of justice" (PL 14). We argued that these three ideas can be reduced to two: *society* and *person*. Thus, in contrast to the mainstream interpretation which concludes from the above phrases that political constructivism only addresses long established liberal democratic states, these phrases implement that only those comprehensive doctrines which include the appropriate and required conceptions of society and person are addressed by political constructivism.

Thus, in chapter III we examine the content of the particular conceptions of society and person which are modeled in political constructivism. Political constructivism perceives society as a fair system of cooperation over time, from one generation to the next. This conception of society is incompatible for example with viewing the social order as a fixed natural order, or as a religious or aristocratic hierarchy. The idea of society in political liberalism

is closely tied with the idea of reciprocity. Furthermore, political constructivism perceives an idea of person who takes part, or plays a role, in social life. Justice as fairness conceives a person as someone who can be a citizen, that is, a fully cooperating member of society who at the same time is regarded as free and equal. Conceiving of persons as full participants in a fair system of social cooperation, political constructivism ascribes to them two moral powers connected with different elements of the fundamental idea of society: First a capacity for a sense of justice and second, a capacity for a conception of the good. In addition, the original position models persons as free in three respects. The first sense of freedom is to regard individuals as having the moral power to form, revise and rationally pursue a conception of good. The second respect in which political constructivism conceives persons as free is regarding them as self-authenticating sources of valid claims. Finally, the third aspect in which persons are viewed as free is to describe them as capable of taking responsibility for their ends.

From these we concluded that political constructivism seems to model only those individuals who endorse the fundamental conception of society as a fair system of cooperation and persons as free and equal citizens. Since only reasonable doctrines share these understandings of society and person, only they are addressed by constructivism. Rawls asserts very clearly that the reasonable is part of the conception of the society as a fair system of cooperation. In political constructivism reasonableness is modeled by the fair and symmetrical setting of parties and the restrictions imposed on the information by the veil of ignorance in which no one has superior bargaining position over others. Also reasonableness is modeled by the original position as a whole. Distinct from the reasonable, rationality applies to how one's ends are given priority, and how they cohere with each other over the whole course of life. Rationality of individuals is modeled in the original position by the rational autonomy of the

parties (rational autonomy of v1). The three senses of freedom which are attributed to individuals are related to the idea of rational. Connected to reasonable and rational is the idea of reasonable comprehensive doctrine. Reasonable comprehensive doctrine is a comprehensive doctrine which is affirmed by reasonable and rational persons. All main conceptions of political liberalism which are dependent on justice as fairness, particularly those of overlapping consensus and public reason, address simply individuals who hold a *reasonable* religious, moral, or philosophical comprehensive doctrines throughout all countries of the world. Put another way, only those comprehensive doctrines are modeled by the original position which are reasonable.

As a conclusion, in contrast to what is argued commonly in chapter III we argue that the validity of the arguments presented in political liberalism is not dependant on the pre-existence of particular liberal societies. Political constructivism addresses all individuals who embody the idea of free and equal citizenship in their comprehensive doctrines, no matter in which part of the globe they are located. Thus, all the reasonable individuals of Muslim majority societies (for example those who regard Islam similar to Haeri Yazdi , Fadel, An-Naim and other reformists) are addressed by constructivism. Neither the decent Islam (for instance Islam of Hadji Haidar or the Ottoman Rulers), nor the unreasonable understanding of the religion (for example guardianship of the jurist theory or Sayyed Qotb) are modeled by the original position.

Although what Rawls attributes to decency in LoP is primarily concerned with the people, rather than the individuals, a further excavation of LoP shows that decency is a normative idea of social cooperation, similar to reasonableness, though weaker than it. In the last part of chapter III we assert that similar to the reasonableness decency includes particular ideas of person and society. In contrast to the reasonable, the decent view of society is "associationist". The decent perceives society as a decent hierarchical community, and regards persons as member

of different religious (or nonreligious) communities, rather than free and equal citizens. A decent conception of society lacks the democratic idea of citizenship, according to which one person has one vote. We may assume that decent persons hold only decent comprehensive doctrines. The same as the reasonable, decent and rational persons are responsible members of their society and play a part in social life and cooperation. Indeed for Rawls definite minimum conceptions of society and person are essential elements of any conception of justice and community. That is why Rawls argues that every society must honor certain human rights if it is to give rise to morally binding obligations and not merely coercion. Any normative conception of society and person, to remain valid, needs to meet the minimalist understanding of human rights. Otherwise we may not have a society but a slave system.

In *Part Two* of the dissertation we consider how justice as fairness can be stable in non-western societies, particularly speaking of Muslim ones. In Rawls's major political philosophy works, including TJ, PL and LoP, principles of justice are presented in two main stages: in the first stage the most reasonable principles of justice—either for the domestic or international case— are selected from among a list of rival principles, without taking into account stability. In the second stage, however, we check whether the society regulated by the principles selected in the first stage is stable. Both in the case of domestic and international, the argument for the principles of justice is incomplete unless we have these two stages and unless we are able to show the political conception selected in the first level is sufficiently stable in the second level. We can combine these two fundamental questions within the context of Muslim majority societies by asking: "how is it possible for there to exist over time a just and stable democratic society of free and equal citizens, which remains divided by religious and moral

doctrines, within the context of Muslim majority societies with strong pro-democracy movements?"

The same as *Part One*, the chapters of *Part Two* are divided into two. Chapter IV deals with the stability, specially the idea of an overlapping consensus. For Rawls overlapping consensus is the most reasonable basis of social unity available to citizens of a modern constitutional democracy. The political conception that would not be supported by at least some of the doctrines that persist within a society regulated by it in an overlapping consensus fails to meet the pluralist consensus test and is, to that extent unacceptable. Particularly it is important to see whether those doctrines which are likely to persist and have a lot of adherents endorse justice as fairness in this procedure. In an overlapping consensus a reasonable conception of justice needs to be embedded, or mapped into different doctrines citizens affirm.

Overlapping consensus is tied with the liberal principle of legitimacy. According to the liberal principle of legitimacy, in a constitutional democracy the coercive power of state which citizens may impose over each other is legitimate only when the individual members of that particular society already have endorsed the fundamental ideas of justice and liberal constitutionalism from within their comprehensive doctrine. The liberal principle of legitimacy is an ideal, a realistic utopia, which a constitutional democracy needs to get closer to it, though may never reach it thoroughly and completely. In other words, overlapping consensus is part of the idea of a "realistic utopia" of a just and well-ordered constitutional democracy. Overlapping consensus shows our aim from social reform.

An overlapping consensus is closely tied to what Rawls calls full justification. Full justification is carried out by individual citizens as members of background culture or within their non-public political debates. Full justification, as part of the stage of stability (*Part Two* of

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the dissertation), comes to the scene only as a complement to the constructivist justification as modeled in the original position and reflective equilibrium (*Part One*).

The idea of overlapping consensus works in conjunction with three ideas: the idea of public justification, the idea of full reflective equilibrium, and stability for right reasons. Public justification happens when all the reasonable members of a political society achieve a full justification of the political conception by embedding it in their reasonable comprehensive doctrines. There is no public justification without a reasonable overlapping consensus. In addition, in a public justification individuals give weight to the considered convictions of other reasonable citizens in a general and wide reflective equilibrium. In a well-ordered society which is regulated by political conception we have a wide and general reflective equilibrium, or what Rawls calls "full reflective equilibrium" by almost all citizens. Finally, overlapping consensus leads to stability for right reasons. To this we need to add that overlapping consensus is not the same as empirical consensus. To find a reasonable political conception we do not look at known comprehensive doctrines in our society with the aim of striking a balance or average between them. In other words, overlapping consensus is not a compromise among a sufficient number of the doctrines actually available in our society by tailoring the political conception to fit those doctrines.

However, what if public justification or full reflective equilibrium, fails in a society? Answering to this question, in the next section of chapter IV we argued that overlapping consensus arises through two steps. At this first step, a constitutional consensus is predicted on general liberal principles, accepted simply as what we may call them all together *modus vivendi* reasons. Contrary to an overlapping consensus in which those who support the political conception of justice do it for its own sake, modus vivendi depends on luck and a balance of

relative forces. Thus, modus vivendi is an unsatisfactory basis for stability. Although

constitutional consensus (step 1) starts with prudential reasoning, in an overlapping consensus

(step 2) they come to affirm liberalism on its own merit. In the second step, newer generations

came to endorse principles of liberty and equality on their own merits. In this process, citizens'

comprehensive doctrines are usually shifted from affirmation of liberal principles out of pure self

or class interests, custom and traditional attitudes, desire to conform to what is normally

expected by the society, to affirming liberal principles of justice in a deeper manner in which

justice is valued in itself. The development from modus vivendi towards overlapping consensus

is slow, gradual and time taking. In such transformation, a justice basic structure has a role.

Persons growing under just and reasonable institutions will normally be moved to act from

justice because of acquiring a sense of justice under those institutions. A person living in a

society whose institutions are regulated by a political conception more easily flourishes her sense

of justice as compared to others who lack this advantage.

   The last, and yet highly important, part of chapter IV is concerned with justificatory

ethics. Justificatory ethics is part of the idea of the stability of justice as fairness in non-western

societies, particularly Muslim majority ones. Justificatory ethics is based on the idea that

comprehensive doctrines play a central role in providing their adherents sufficient arguments to

support liberal institutions. Alfred Stepan objects that political liberalism is developed in

ignorance about how in the modern democracies actual political secularism have democratically

become part of public political culture through negotiation about the role of religion in politics.

According to Stepan, in polities where a considerable portion of individuals may be under the

authority of a doctrinally based nonliberal religious view, one of the major tasks of political and

spiritual leaders who wish to strengthen democratic political values in their religious community

will be to advance theologically persuading public arguments about the authentic multivocality of their religion. The "serious flaw" of political liberalism is that it neglects this fact.

In our interpretation of Rawls, Stepan's reading of Rawls is incomplete and inadequate because it neglects two kinds of nonpublic reasons, named "declaration" and "conjecture", or as we prefer to call "justificatory ethics. In justificatory ethics, as John Rawls says in PRR, we argue from what we believe, or conjecture, are other people's basic doctrines, and try to show them that, despite what they might think, they can still endorse a reasonable political conception (PRR 786). Explaining justificatory ethics we argued that the problem of stability of political liberalism—particularly in the context of Muslim societies— is twofold: first, political liberalism itself does not publicly offer full justification for itself and thus does not provide unreasonable or decent persons with a complete metaphysical account of how liberal principles fit into the larger domain of non-political or comprehensive life-values. On the other hand, many religious or even non-religious citizens might be motivated to oppose political liberalism in the name of what they believe to be true, good, or the most rational. Here we face a justificatory gap in political liberalism. Aiming to fill this gap, in justificatory ethics one aims to develop reasonable convincing arguments in favor of liberal conception based on an unreasonable or decent comprehensive view.

Further in chapter IV we address the difference between declaration and conjecture. Declaration is a full justification as developed by a believer who addresses a comprehensive doctrine which she believes in to demonstrate how it is compatible with the political conception. Conjecture, on the other hand, is a full justification for political conception of justice as sincerely and sympathetically developed by a non-believer. The aim of declaration is to assure others who affirm different reasonable comprehensive doctrines that we also endorse a political conception

belonging to the family of reasonable conceptions of justice. In conjecture, nevertheless, we argue from what we believe are other people's basic religious or moral doctrines.

In the earlier version of PL (1993) Rawls finds justificatory ethics important in the in the context of religious societies which are at the initial stages of the establishment of liberal democratic institutions. In such societies, he argues, justificatory ethics is necessary in order to strengthen the ideal of public reason and encourage citizens to honor it. Rawls gives the example of abolitionists who used to base their arguments against slavery on religious grounds. Another example is Martin Luther King's discourse in the civil rights movement in twentieth century America. Religious doctrines were significant in both King's and abolitionists' appeals. Rawls admits that without prior historical conditions in which religious arguments are commonly proposed in favour of the idea of public reason, a well-ordered society in which the idea of public reason is respected by the majority of persons cannot come about.

Finally, referring to the division of our dissertation into *Part One* and *Part Two*, we conclude that declaration and conjecture, in one hand as part of the idea of overlapping consensus, and reflective equilibrium and the original position, on the other hand as part of the idea of political constructivism, are complementary to each other. Whereas the latter is more persuading in the case of persons who already have reasonable comprehensive doctrines and already share democratic idea of citizenship and society as a system of fair cooperation, justificatory ethics—declaration plus conjecture— is designed for the persons who hold decent (not fully reasonable) or unreasonable comprehensive views which lack those fundamental ideas as the starting point of political constructivism. In addition to this, justificatory ethics is part of what Stepan calls the hypothesis of multivocality, according to which all great religious

civilizations are multivocal (Stepan, "Twin" 48). According to this idea religious doctrines are not univocally prodemocratic or antidemocratic.

The final chapter of the dissertation, or chapter V, is a work of Islamic justificatory ethics. Here we demonstrate how Shiite Islam can be regarded as a reasonable comprehensive doctrine of good on due interpretation. In addition, chapter V demonstrates multivocality of Shiite Islam. Our arguments in this chapter are based on the political theory of the renown contemporary Iranian thinker Mehdi Haeri Yazdi, as expressed in his *Hekmat va Hokumat* (*Philosophy and Government*)(1995). As a continuation of our debates on political constructivism, in chapter V we show how two fundamental ideas of society as a fair system of cooperation and persons as free and equal citizens exist in Islam as a comprehensive doctrine.

Islamic philosophy (*hekmat*) is a much referred term by Haeri Yazdi in his democratic account of Islamic political thought. This is a type of philosophy which is initially developed and produced by the interpretations, translations and commentaries of Al-Farabi, Ibn Sina (in Latin Avicenna), Ibn Rushd (in Latin Averroes), Shahab addin Suhravardi (Sheykh-e Eshraq), and Sadruddin Shirazi (Mulla Sadra) and other Islamic thinkers. Many contemporary Muslims consider Islamic philosophy as part of their comprehensive doctrine, regardless of the question what the origins of Islamic philosophy historically speaking are. Another term which is much referred by Haeri Yazdi is guardianship of the jurist (*velayat-e faqih*). As the contemporary Shiite version of the idea of Islamic state, this theory is closely tied to a particular reading of Shiite doctrine of Imamate. For orthodox Twelver Shiites an Imam is both a political leader and a saint who occupies an ontological place in the existence of the world. Orthodox Shiite believes that Mahdi, the Twelfth Imam who is also called Hidden Imam, will return before the end of time and will establish a just global government. In the period of Mahdi's occultation, some of

his duties are transferred to Shiite jurists. However, until 1979 revolution, regardless of few exceptions orthodox Shiite jurisprudence never regarded the essential duties of jurists as part of a theory of Islamic state. The formation of Islamic state by 1979 revolution caused *the orthodoxy crisis in contemporary Shiite view of politics*.

The idea of the guardianship of the jurist, as a very powerful principle, was embedded in Iran's constitution through the efforts of ayatollah Ruhollah Khomeini (1902-1989) and the group of clerics and non-clerics who followed his ideas. In his book on the guardianship of the jurist (late 1960th) Khomeini argues that the enactment of the Islamic law necessitates the formation of a government by the Prophet of Islam. Khomeini tries to make a linkage between the orthodox Shiite belief in the right of the Prophet and Twelve Imams to rule and the political authority of the Shiite jurists. In Khomeini's interpretation of Quran, the claim that the laws of Islam may remain in suspension or were restricted to a particular time or place is contrary to the essentials of Islam. Without the formation of a government and the establishment of the institutions which ensure that Sharia law is enacted, chaos and anarchy will prevail. According to Khomeini, the guardianship that the Prophet and the Imams had in establishing a government, executing laws, and administering affairs, exists also for the Islamic jurist (*faqīh*). Khomeini regarded the slogan of the separation between state and religion as being advanced by the imperialists and their political agents in order to prevent religion from ordering the affairs of this world and shaping Muslim society.

Defining the terms Islamic philosophy and guardianship of the jurist, in the third part of chapter V we explain Haeri's arguments on the priority of philosophy to jurisprudence. In *Hekmat va Hokumat* (*Philosophy and Government*) Haeri demonstrates that the normative fundamental ideas of free and equal citizenship and society as a system of reciprocal cooperation

exist in Islamic philosophical and legal traditions. In book's title, *hekmat* (philosophy) refers to Islamic practical philosophy, whereas *hokumat* (government) draws upon the notions of state and politics. According to the thesis of the priority of Islamic philosophy to Islamic Jurisprudence, *hekmat* (Islamic practical philosophy) and *hokumat* (Government) are inherently connected to each other; an Islamic political theory cannot be achieved without taking Islamic practical philosophy seriously. Considering Islamic jurisprudence *per se* is not enough. The result of this understanding of Islam is the rejection of the idea of Islamic government. In arguing so, Haeri appears to propose that in the cases of conflict between Islamic practical philosophy on one side and Islamic jurisprudence on the other side, the side has to be taken with practical philosophy, as reasonably interpreted.

In the last two chapters of his *Philosophy and Government*, Haeri rejects the theory of *velayat-e faqih*. In the Islamic law, he argues there, guardianship is only relevant in some "private law" cases where a minor, underage child or person of unsound mind is incompetent to protect her rights and property. Applying this model to state-individual relationship is totally misleading and unacceptable. Such application leads in depriving individuals from their rights and rejecting their personal autonomy. One of the foundations of the theory of the guardianship of the jurist is to implicitly or explicitly considering the supreme jurist/ leader/ guardian as the most knowledgeable person in the society. Thus, another argument Haeri develops against guardianship of the jurist is to reject this assumption based on an analysis of the conception of knowledge (*ilm)* in Islam. Following Mulla Sadra, Sheykh-e Ishraq, Ibn Sina (Avicenna) and other Islamic philosophers Haeri argues that in spiritual Islam the highest kind of knowledge is the illuminative knowledge. This knowledge only belongs to the prophets, Imams and Saints, but not jurists. Thus, jurists *per se* are not the most knowledgeable.

According to Haeri, revelation appoints an infallible prophet or Imam as the political leader, only in case people's consensus already exists. For instance, although Ali (the first Shiite Imam after the prophet) was infallible, his political leadership became actualized only when the individuals of his time became mature enough to discover his particular talents and chose him as the ruler. Considering all these, guardianship of the jurist is an unreasonable doctrine from a Rawlsian perspective. In contrast to the reasonable and the decent, those who firmly hold guardianship of the jurist, similar to any unreasonable comprehensive view, are unwilling to engage in social cooperation unless there is selfinterest. In other words, guardianship is unwilling to honor, or to propose, any standard or principle of justice for specifying the fair terms of cooperation.

Then, in part four of chapter V we discuss *Philosophy and Government*'s main theory, which is government as agency of joint owners. This theory, as an Islamic account of social contract, demonstrates how the fundamental democratic ideals of the society as a fair system of cooperation and citizens as free and equal persons are available in Islamic traditions of jurisprudence and philosophy. Haeri argues that before entering into the society and in what philosophers call the state of nature, the persons develop a sense of belonging to the particular place they have occupied. This sense of belonging is a result of human corporality and by time turns into the fact of ownership. The fact of being an inhabitant of a specific place is called *particular ownership,* if it is limited to a small and almost private space. By time, the persons who live in a shared place jointly become *joint owners* of the natural inhabitance. Both particular and joint ownerships are essentials of the life of humans in the state of nature.

In the state of nature we may come into a situation where different occupants have conflicting claims about the ownership share of their joint residence. Under such situation, there

should be a system through which occupants be protected from egoistic excesses of each other. Joint occupants' sense of justice, in addition to other powers they already had in the state of nature, lead individuals to construct a mechanism in order to divide equally and justly the shares among joint inhabitants. In order to achieve this aim, joint occupants select a group of agents among themselves, as their representatives, in order to guarantee equal distribution of joint ownership. Here the notion of democratic citizenship is born based on the Islamic idea of agency contract (Persian: *aqd-e vekalat*).

The joint owners make an agency contract between themselves and one or a group of elected agents in order to put their affairs in order. The fact that the ownership is joint implies that the agents work for all the citizens in an equal and fair manner, not preferring one proprietor to others. The joint owners transfer their power to their agents through an agency contract. Thus, the duties of agents or governors/politicians are limited to what is transmitted to them by the owners. If agents commit breach of trust they will be deposed from their job automatically and immediately. By grounding national government on the fact of natural joint ownership regardless of gender, religious belief, social status and race of the owners, Haeri Yazdi's government as agency of joint owners' theory formulates a principled idea of democratic toleration which has significant weight in reasonableness of a comprehensive doctrine for Rawls. People are equals because they have equal shares of the agency contract regardless of their race and even religion. Both the conceptions of *agency* and *joint ownership* imply the idea of willingness to propose and abide by the principles of fair cooperation, provided others do the same. Obviously, this is for Rawls the main condition of reasonableness of a comprehensive doctrine, as explained in the previous chapter. As a result, the model of Islam Haeri Yazdi proposes is fully reasonable from the perspective of political liberalism.

The fifth section of chapter V is a defense of individualism based on Muslim logic. Here we regard linguistic analysis as a major method of Islamic philosophy and logic. The main analytic device Haeri uses to attack Holism from a right-based liberal point of view is Islamic philosophers' linguistic distinction between "whole" (*koll*) and "universal" (*kolli*). In Muslim logic "whole" is the integral or collection of all components, whereas "universal" is a natural kind which includes all the members of an assumed class or group. The members of universal are called "individuals" while in the case of whole we use the term "parts". In an appropriate theory of democracy we have to explain the relationship between political society and individuals with universal-individual model rather than whole-part one.

Nevertheless, methodological holism, as favored by Rousseau, puts the relation between political society and persons under the category of whole-part explanation. This afflicts their doctrine with many brutal problems. Critique of Rousseau is a main theme in Haeri's political thought. In dealing with Rousseau, his primary concern is to demonstrate the faults of holism and to develop an account of ontological individualism based on Islamic philosophical tradition. Holism and similar theories, Haeri asserts, introduce the wrong notion of public person and equate that wrong notion with the people. In such a view, persons are merely regarded as parts of the political community without having a politically autonomous status. In a reasonable theory of democracy, however, we have to consider political society as a "universal" rather than a "whole". Confusing between universal and whole is the fundamental fault of a Rousseau's Communitarian view of the person. Yet, Islam acknowledges that the same as being independence in existence, human individuals are autonomous in moral responsibility and religious duties. Haeri argues that in the wholly Quran, *Sharia* commandments address simply individuals rather than a collective whole.

In the sixth and final section of chapter V we explain Haeri's idea that the enforcement of Sharia via the coercive power of the state is self-contradictory. While implementing philosophical secularism as incompatible with Islamic faith, Haeri regards political secularism as a requirement of Sharia. Sharia cannot remain God's law if it is imposed by the state power upon all the individuals in the community. In other words, the enforcement of Sharia by the force of state is incompatible with the Islamic salvation. When the law of Sharia is enforced coercively by the state, it is not the rule of God that is vindicated, but rather, the state's law. Acting upon Sharia needs freedom of conscience and being voluntary.

Haeri does not make clear what he means by the voluntary status of Islamic law. For example it is not clear whether Haeri's theory would permit or prohibit orthodox Muslims, in a Muslim majority society, to adhere to discriminatory parts of Sharia, such as *hudud* penalties. In our conjecture Haeri's interpretation of *hudud* or other parts of Islamic law which are challenging from the perspective of political liberalism might be similar to Mohammad Fadel's interpretation in his debate on Islam and public reason. Thus we explain Fadel's interpretation of Islamic penalties at the last part of the thesis. In Fadel's reading of Islamic law, the justification for the *hudud* penalties is religious, rather than secular, from an Islamic perspective. He utters that Islamic law should be able to tolerate revising the scope of the *hudud* penalties so that they are applicable only to persons who specifically consent to the application of the *hudud* punishment. In other words, it seems that in both Haeri and Fadel's interpretation, Islamic punishments are to be applied only to those persons who voluntarily consented to those penalties.