

JUSTICE AS FAIRNESS IN THE TRADITION OF SHI'Ī ISLAM: A GENERAL, PHILOSOPHICAL THEORY

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Abstract: An explanation and an aspect of social justice find expression in justice as fairness. Although some experts regard fairness as the whole social justice, some view it as the highest level of justice; it proves challenging to analyze fairness in terms of justice. Although man has an instinctive knowledge regards both of them, he never waits for the outcomes of the theories in this regard. In the Shi'ī Islamic tradition, fairness is one of the basic human principles. In this tradition, fairness has been emphasized as a strategic principle with regard to moral and legal relations. Moral philosophers regard fairness as a golden rule. Some practitioners of justice base their judgment on mere fairness. The present paper seeks to analyze the status of fairness, as the most conspicuous representation of social justice, as a general philosophical and moral theory, in the Shi'ī tradition, followed by highlighting its status in the system of moral and legal norms. Moreover finally, it makes a brief reference to a political reading of it.

Introduction

It is well-known that justice is the most sublime moral value, and affection is its effectual element; however, some experts believe in the existential and normative precedence of kindness over justice (Tūsī: 2000, 266; Narāqī: 1963, 1, 86-87; Shahrzuri: 2004, 3, 515), it has been one of the hopes of humankind throughout history. While the necessity for justice has seldom been discussed, its nature, quality, and basis have always remained man's concern.

Being provided with a basic conception of justice has remained one of the intellectual provisions of humankind; nevertheless, several different theories have been introduced to provide its intellectual explanation, scholarly analysis, philosophical and epistemological bases, and its outward manifestation. Theoreticians of justice have defined it based on other criteria, e.g., consent, entitlement, duty, need, reasonability, impartiality, loyalty, virtue, beneficence, utility, moral intuition, benevolence, equality, harmony, pleasure, communal will, rejection of personal benefit, liberty, divine imperative, and fairness.

The present paper does not intend to review such views and definitions; rather, it seeks to explicate the fair-mindedness aspect of justice, as expounded in the Shi'ī Islamic tradition. Despite the author's firm belief that there have been other definitions and justifications of justice in this tradition, there are other explanations of justice based on rightfulness, discipline, and deontology in this tradition, the present writer regards the fairness-oriented approach as more intriguing and effective for various reasons.

At the outset, it should be made clear and emphasized that what is being referred to as "justice as fairness" throughout this study is entirely different in

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respect to type, nature, content, and implications from what John Rawls has expounded in his works. Rawls's theory is concerned with social institutions. He discusses fairness-oriented justice as a virtue for social institutions based on which some principles take shape according to which social institutions pose limitations for determining the right authorities for certain posts, responsibilities, rights, and duties. Within this framework, justice and fairness have not been regarded as virtues of individual human actions or agents. In contrast to this, in the present study, justice is largely regarded as a virtue of certain actions vis-à-vis other people and sometimes as virtues of agents; hence, it is different from Rawls's exposition in terms of content and implications.

Rawls asserts that his conception of "justice as fairness" does not measure up to a comprehensive metaphysical and moral teaching; rather it is a political interpretation. Hence, maintaining those politics concerns fair social act(tion), depending on such basic ideas as Society as a Fair System of Cooperation, The Idea of a Well-Ordered Society, The Idea of the Basic Structure, The Idea of the Original Position, The Idea of Free and Equal Persons, The Idea of Public Justification, The Idea of Reflective Equilibrium, and The Idea of an Overlapping Consensus, Rawls asserts that if the structure of fundamental political institutions is fairly organized, then it would be possible to have a well-ordered society wherein based on a homogenous understanding of justice, people believe in the efficiency of the political institutions and structures for enacting justice, and do sense the justice. To put it differently, "justice as fairness," from his perspective, does not entail a theory of truth as fairness. According to him, if a political interpretation of this title, i.e., "justice as fairness," withstands tests, then he would attempt to develop it in the form of an all-embracing philosophical and moral doctrine. (Rawls, 2001, xvii, 14, 26-27, 33-34; 1999, 90-95) However, "justice as fairness," as explicated in the present paper, sheds light on a comprehensive philosophical and moral law. As such, readers will mold their expectations within this framework. (Rawls, 2001, xvii, 5, 8-9, 26-29; 1999, 7-10) However, in the final section of this study, a political interpretation of this general philosophical-cum-moral framework will finally be followed by a brief description of its political application. In brief, it will show that basic principles will emerge when a Shi'i interpretation of "justice as fairness," is mapped on political philosophy and the basis of public law. Hence, it will mark up its attributes of political interpretation. While the path that John Rawls initiated from particular instances to general(ized) rules for which he did not have time enough to develop and to turn it into a comprehensive philosophical-cum-moral theory, the present study seeks to explore the same route yet in a different manner, that is, from general principles to particular instances.

In certain Shi'i Islamic texts, justice has been explicated based on fairness. The first Infallible Imam 'Alī indicated the sense of the Quranic verse "Indeed Allah enjoins justice and kindness." (16: 90) that by "justice" is meant "fairness," and "charity" means "benignness" (Raḍī: 2009, apothegm 231). Elsewhere Imam 'Alī regarded fairness as an offshoot of justice and indicated it thus: "fair judgment stems from justice." (Āmodī: 1988, No. 1695), yet in another indication, he regarded fairness as the highest manifestation of justice, and maintained: "The justest person is one who prefers for others whatever he would prefer for himself

and abhors for others wherever he referred so for himself.” (Şadūq: 1997, 14). In his will to his elder son, the second infallible Imam al-Hasan, he recommended him in a comprehensive statement to regard the principle of fairness as a strategic criterion in interacting with other people, which finds expression as expressing kindness vs. hatred, good vs. bad behavior, contentment vs. dissatisfaction and complaining. It reads:

“O my dear son! Regard yourself as a criterion between yourself and others; therefore, prefer the same as you favor for yourself for others; regard abominable for others whatever you dislike for yourself; never oppress others as you do not like to be oppressed; be kind as you like to be treated kindly; regard disgusting from yourself whether you regard these from others; expect and accept from people whatever you would do the same in regard to them; never say to people whatever you detest to receive from them; never say whatever you do not know, even if what you know is meager, and never say whatever you do not want to be told (i.e., addressed). (Raḍī: 2009, 301)

It follows that it is essential to discuss first the significance of fairness in the Shi'i Islamic heritage, to be followed by its current and universal sense. Its status must be determined within the normative Shi'i ethical framework, to be compared with its universal status, its pillars and conditions must be explained, its nature must be expounded, with its causes of objective manifestations, and its individual and communal effects exposed.

I. The Conception of Fairness

Etymologically, the Arabic word *insāf* is derived from the root *n-s-f*, signifying taking half of two which are equal, meaning ‘to regard someone else on a par with oneself’. Hence, the fairness of a judge means to have equal regard to the two sides of a case. Fairness stands against partiality. (Kulaynī: 1985, 1, 22). On the other hand, partiality (*hamīyyah*) means averting some danger from something; hence the *hāmī* (supporter/patron) of a people is the one who supports them. (Ibn Athīr: 1986, 1, 447). In other words, *hamīyyah*, *defense for valuable personal belongings* being passionately zealous of propounding something, e.g., a religion, or a person, would instigate a person to transgress the limits of the right and justice. (Mullā Şadrā: 2004, 1, 461- 462). This last notion holds in interactions with others, e.g., on who recognizes other people’s vices but fails to detect his own faults, or an individual who demands his own right but fails to grant others the same rights as he demands for himself. (Mullā Şadrā: 1984, 85).

According to several contemporary Muslim philosophers, fairness means “to pass judgment without any sense of self-centeredness and/or egocentrism/self-partiality, without taking interest in one’s own loss or benefit.” In other words, fairness in the Shiite tradition means “unconditional support in favor of the (Āql) moral reason and the right.” This stands in contrast to biasedness’ which means ‘unconditional support for *jahl* (ignorance), i.e., the desires irrespective of moral reason and justice. Fairness is the highest level of justice, for the human power of justice-oriented judgment has three levels: (a) just conduct, (b) just conduct plus a tendency toward justness, and (c) just conduct plus internal tendency toward

justness as well as having faith in justness, that is, pure justice, and the epitome of having an inclination toward justice. At this last level, the tendency to just prove to be the faith of the person. (Ābedi: 2014, Session 4).

Fairness has coordination and relations with other moral concepts and institutions, e.g., legitimate defense, moral retaliation, self-esteem, future-regard, positive moral reaction (i.e., to return a bad act by a favorable one), and chivalry. It demands making finer distinctions between fairness and any of the aforementioned concepts and institutions.

1) Fairness and legitimate defense. The right and, even, moral duty makes sense with regard to legitimate defense, itself at issue at the level of acting in response to an individual's harmful act toward others. Absence of self-defense proves to be a kind of cooperation with the delinquent person in his/her committing a sin. Therefore, nobody is morally permitted to make any ground for anybody else to do any harm to him/her; likewise, nobody is permitted to wish evil for others. At the same time, fair conduct makes sense both with regard to one's treatment of others as well as during the interaction with as well as judging other people's conduct. In the light of this view, legitimate defense is shown to be a kind of fair-minded behavior, hence not in conflict with fairness, despite their different senses.

2) Fairness and moral retaliation. The content of the rule of moral retaliation is as follows: "Treat others as they do with you." A corollary of this rule is the prescription of punishment in its broad sense. Although retaliation qualifies the least measures of justness and morality, it is devoid of higher levels of morality and justice. This being so, the rule of moral retaliation seeks to fulfill the least requirement of morality and justice. The rule of fairness aspires to manifest their higher levels. Therefore, the rule of fairness has the power to counteract against the unfavorable effects of an earlier unfavorable deed, while the rule of retaliation by prescribing punishment doubles the unfavorable effects in that case, despite its prohibitive function.

3) Fairness and self-regard. Since fair-mindedness, in principle, do not prescribe retaliation, it appears to stand in contrast with self-regard. According to an interpretation, the content of the principle of self-regard suggests thus: "Treat yourself as you want others do with you." (Gensler: 2018, 118). According to the principle of self-regard, an individual decides on how to behave with oneself; however, according to the principle of fairness, the individual decides how to behave with others. It follows that these two principles have separate scopes.

4) Fairness and future regard. Based on the principle of fairness and future regard, the individual transfers his/her present situation to a similar one in the future. Since his/her present conduct would lead to a certain result or feedback in the future, she/he would adopt a certain policy such that it would not lead to her/his feeling sorry for its outcome in the future. (Gensler: 2018, 118-119) It follows that while future-regard depends on a hypothetical temporal transference of the present situation, the principle of fairness has no temporal aspect, all based on a hypothetical transference of the content and situation.

5) Fairness and positive moral reaction. The principle of positive moral reaction is based on answering unfavorable conduct with a favorable one, i. e., forbearance. (Majlesi: 1981, 1, 224-226). It also means "giving back other

people's rights to them, without requiring anything for oneself," i.e., *futuwwat*. (Mullā Ṣadrā: 1984, 85). This principle is based on kindness and amnesty, while the principle of fairness is maximally based on considering others on a par with oneself. Although none of the moral virtues, including conduct and the bases of conduct, never fall outside the realm of moral laws, that eternal principle fixes every virtue in its proper place, without affecting the status of any other virtue. According to Ibn Sina, this priority never implies any defect in fairness (Ibn Sina: 1982, 112; Paul: 1990, 394- 397)

II. The normative situation of fairness

As remarked earlier, the principle of fairness has universal application in its principle; it is accepted by all Divine religions, and moral schools justify it based on their own tenets. (Wattles: 1996, 15-89; 1987, 106-107; Gensler: 2018, 150-161; 2013, 34-57; Paul: 1990, 392-394; Jouni: 2005, 155-167) In a portion of the declaration "Toward a universal Declaration of a Global Ethics," this point is explicitly asserted. (PWR: 1993, 3; Leonard: 1999, 11-13) In the Chinese tradition, in the Confucian dialogues, in Buddhism, in the Mesopotamian civilization, in the ancient Greek civilization, in the thoughts of Socrates, Plato, and Aristotle, in Zoroastrianism, in the ancient Persian civilization, it can also be noticed. However, others regard it as a common denominator of universal ethics. In the teachings of the Divine religions, this principle is regarded as a fundamental and, at the same time, superior value. (Islami: 2010, 7-11). Moreover, this principle is mentioned in the Shiite tradition in the form of a couple of noteworthy and fundamental values.

Fairness is regarded as one of three superior moral deeds in some hadiths (Kulayni: 1985, 4, 428, hadiths: 2, and 7). Elsewhere, it is indicated that a fair-minded person is one of the three persons closer to God than others (Ibid: hadith 5), and even more, like the 'Prophet Muhammad (Ṣadūq: 1991, 4, 370). Fairness is one of the three Divinely- determined duties that are more critical in application than others. (Kulayni: 1985, 2, 145-146, hadiths: 6, 8, and 9). It is also described as a deed that is sufficient for attaining forgiveness and obtaining admittance to paradise (Kulayni: 1985, 146-148, hadiths: 10, 16, and 19). God instructed Adam that all His injunctions can be summarized in four words of which one is fairness. (Kulayni: 1985, 2, 146, hadith: 13) Its presence is an indication of belief in the individual (Kulayni: 1985, 147, hadith: 14), and finally fair conduct is a value that proves sufficient in itself for moral education. (Raḍī: 2009, Apothegm 412).

The above-mentioned hadiths prove that, first of all, fair conduct is in itself sufficient for human felicity, and secondly, it is one of the three or four preferred values in the Shi'ī Islamic moral tradition.

III. The Pillars and Conditions of Fairness

There are certain pillars and conditions for conforming to this rule. Their identification brings about clarification of their concept and nature, as well as shedding light on how to put them into practice. Some philosophers of ethics (Gensler: 2018, 107-109; 2013, 1-2) restrict the pillars and conditions of this rule

to the following two cases.

1) Awareness of the effects of one's own behavior on others. First, we are expected to study well the effects and consequences of our own behavior on others. This requires deliberation. Hasty and unthoughtful modes of behavior make us deprived of pondering on the effects of our deeds on others. Likewise, by making haste and behaving in an improper manner, we will deprive ourselves of the opportunity of assessing the effects of our behavior on ourselves as well.

2) To imagine oneself in the place of another. To fulfill this condition, the person is supposed to be capable of imagining oneself and sensing feelings in the place of other people. Homogeneity with the other party, sympathizing with him, having experienced similar situations, and the ability to free oneself from the present context of a situation can lead to a higher probability of achieving such an imagination. Many people in the position of a judge, especially when they assume a higher rank, have good faith in giving an unfair judgment; hence their judgment lack such a condition. It is held that when a man feels himself in place of another person, he will accept for himself what counts as an instance of doing good to oneself, all due to the instinct of self-love. Based on the same feeling, he would not wish ill for anybody else. Accordingly, he would treat others with equality. (Gensler: 2018, 107-109; Wattles, 1993, 76-77; Piper: 1991, 726-732) In addition to the above conditions, it seems that there is a need for some other conditions. Suppose that someone knows the effects of his own conduct and understands the situation of the other party pretty well. However, he considers the other party worthy of the very same conduct, while he knows the aftermaths of his own conduct, or even he may wrongly decide on showing a tyrant conduct for the other party even if he might be in the same situation; this rule cannot prohibit tyrant and unfair conduct with regard to other people. This is especially so in placing oneself virtually in place of another party; even to some degree, it may facilitate understanding and sensing the other party's real situation; it can never reproduce his precise situation. Based on the above consideration, it is likely that the two following conditions must be added to the aforementioned conditions.

3) To regard another party equal with oneself. This rule will function in the case that, having fulfilled the other two conditions, one regards another party equal with oneself and recognizes for him the same right and duty as with oneself. Many people who have double standards never regard others equal with themselves; therefore, they regard the unequal treatment as their right and according to their merit, yet at the same time, they know the effects of their conduct to them and can imagine themselves in the situation of the other party.

4) Following the imperatives of moral reason. All the above-mentioned three conditions might be fulfilled without the person having double standards. The person must have the same character, not conflicting characters; however, he proves an ill-wisher for himself and/or others. In other words, he would harm himself as he would do the same to others. For both himself and others, he would prefer transitory pleasure over permanent happiness. He would prefer other people's wretchedness to their happiness, as he follows the line of wickedness. Therefore, it is said that one who lacks something can never grant it to others.

According to this rule, benevolence for others is a function of benevolence for oneself. Man reaches the state of benevolence for himself when he follows the

injunctions of moral reason and human conscience, that is, the language of reason, and accordingly controls his carnal desires, interest-seeking /self-interest, and egocentrism by means of practical and moral reason.

IV. The Nature of Fairness Rule: Formal or Substantive

Is the present fairness rule a formal one, hence of the nature of formal logic and subject to being good or bad, or in addition to establishing a formal behavioral discipline and prohibiting from applying double standards, it contains goodness and badness, hence capable of molding the form and content of one's behavior in a just-like situation?

Many moral philosophers and philosophers of law in the West in recent centuries have rendered a formal-cum-procedural interpretation of this rule. (Wattles: 1996, 122-127; Hooker: 2005, 3-5; Gensler: 2018, 108; Brook: 1987, 363-364) From their perspective, this rule functions as procedural justice and remains just one of the end-means consistency principles of behavior. That is to say, it coordinates, on the one hand, the mind and deed of the person in himself, i.e., it leads to sincerity to oneself. Moreover, on the other hand, it leads to "end-means" consistency between his outward and social relations, his judgment and conduct in relation to others, and between his judgments when he is placed in the same situation as those of others. It prevents any duplicity of one's inner and outward mode of behavior. However, it does not, and cannot, say what it must be applied equivocally equal? That is to say, it does not have the power to determine what is good or bad. Therefore, fairness is merely a formal rule and a manifestation of procedural justice. (Gensler 2018: 108)

Notwithstanding, with a view to the conditions delineated for the moral and legal Shi'i theoretical foundations, and particularly the last condition, the fairness rule is not merely something formal; rather, it encapsulates good or bad content. It means that when a man considers the effects of his conduct on others, imagines himself in place of others, and regards others on a par with himself, hence deserving respect and benevolence, it is due to the inherent goodness or badness of human conducts that is a fundamental Shiite paradigm in theology, ethics, and law, and with the relative capability of the reason for identification of the good vs. the evil that it first tries to identify good vs. bad conduct in the intended situation, and then, with the presence of the above-mentioned conditions, it will dictate the same conduct for others in similar situations. In such identification, theoretical, practical, and moral reason will help the fair-minded person. This judgment is based on the general law of moral reason; not individual and personal decision based on desires, tastes, preferences, and personal ideals; as some writers believe, and based on this belief, they Saied that universalizability and generalization of the Golden are impossible, unacceptable and absurd. (Hooker 2005: 3-5; Gewirth 1978: 133-134)

Without identification of good vs. bad, fair-minded and judicious conduct makes little sense. In fact, imagining oneself in place of others and sensing the other person's feelings implies merely the structure and morale of the fairness rule; hence its consideration should not lead to emptying the fairness rule from its content. This golden rule comprises belief in the equality of mankind, respecting

people, the necessity of benevolence for them, inherent goodness or badness of deeds, the capability of a thorough reason, itself made up of theoretical, applied, and moral reasons, for identification of the good vs. the bad, and finally obligation regarding what must and must not be. Otherwise, (Ábedi 2017: 582- 586) mere content less prescription of any obligation can lead to the permission of extended oppression, misconduct, and immorality. It is precisely in a normative-content framework that the fairness rule can prove the gist of all human and moral teachings of the Divine religions, or some of their superior values, or even a universal effective value. Such confirmation does not apply to a value-free fairness rule that remains impartial to goodness and badness; it can be filled by extended goodness and badness. That fairness is subject to the right and good is clearly expounded in the words of the first Infallible Imam Áli: “The right proves the broadest phenomenon for description; however, its status as fairness is the narrowest when people demand fair treatment from one another. Nobody has any right except that they have duties; nobody has any duty except that they have certain right.” (Rađi 2009: 248).

V. The Causes of Fairness

Having identified the concept, pillars, and conditions of fairness, the next question pertains to the existential causes of fairness. Why is it the case that while some people show relatively fair conduct, others seldom behave in this way? How can modes of fair conduct be extended? With regard to a great gulf between talking of justice and fairness, on the one hand, and its application, on the other hand, the above-mentioned Imam Áli’s clarification remains forceful in that “The right proves the broadest phenomenon for description; however, its status as fairness is the narrowest when people demand fair treatment from one another”. (Rađi: 2009, 301) This means that although there are many people who speak of the right and fairness, hence the right and fairness have been the themes of much discourse, yet they have received the least application. The least amount of human conduct proves to be fair conduct. Some moral philosophers have pointed to some of these causes. First, the philosophers’ statements are examined, and then they are followed by relevant Shiite thoughts.

1) Following the Conscience. Anybody who behaves fairly, ought to have a moral conscience to follow its imperatives. As for conscience, it is explained that having conscience means: “keep your actions and desires in harmony with your moral beliefs.” (Gensler 2018: 108). In the Shiite tradition, such a cause has received the label ‘sincerely’. (Kulayni 1985: 6, 492). Perhaps the first stage of sincerity is sincere with oneself. Anybody who does not manifest sincerity to oneself can hardly remain so with God, devoid of sincerity in dealing with others. Such a person is expected to behave others in a way very much different from the way he wishes everything for himself.

2) Impartiality. The term ‘impartiality’ is defined as: “make similar evaluations about similar actions.” (Gensler 2018: 108) It follows that fairness has some features common with impartiality; that is to say, impartiality itself is both a quintessential feature of fairness and a cause for its emergence and outward representation. As it was earlier remarked on defining the characteristics of

fairness, in the Shiite tradition, impartiality is not only a quintessential element but a pillar of fairness.

3) Modesty and Feeling of Guilt. When an individual never feels guilt for duplicity of and in words and deeds, when such a person cannot sense the guilt of acting duplicitously owing to being as a witness for not having the right dignity, such a person will not be able to have any fair conduct. One who behaves unfairly, first drops his own human truth from being an honored witness so that it results in his not feeling guilty for his unfair conduct. The sixth Infallible Imam Ja'far al-Ṣādiq is explicit: "Prefer for people whatever you prefer for yourselves; is it not shameful for a person to teach his own right to his neighbor, while he fails to learn his neighbor's right?" (Kulayni 1985: 6, 483).

4) Humility. Earlier in the conditions of fairness rule, it was indicated that once a person regards himself superior to others, even if he is well aware of the other person's status as well as the effects of his own conduct, with consideration of imaging himself in that person's position, he may probably issue a judgment for someone else which he would not issue in his favor in a similar situation. Therefore, one of the significant existential causes of fairness is humility, non-egocentrism, and lack of narcissism. In this way, at least the person would not regard oneself superior to others, hence recognizing for them a status on a par with his own. Based on this rationale, the eighth Infallible Imam 'Alī al-Riḍā issued the following statement: "Humility is to give people whatever you would like them to give to you." (Kulayni 1985: 2, 134). The late 'Allama Muhammad-Bāqir Majlisī explicated it thus: "you should respect people in the way you like them to do with you." (Majlisī 1982: 8, 256).

VI. Functions of Fairness

Manifestation of fair conduct leaves some effects in individual and social life. Recognizing these functions on the structure of high human values complements these studies; hence they deserve to be mentioned here. The most significant effects of these functions from a Shi'ī perspective can be summarized thus:

1) Peacemaking and friendship. Retaliation proves significant and prohibits repetition of aggression in the future, leading to some extent to establishing peace and order. However, fairness is capable of minimizing the unfavorable, negative consequences of even the initial hostility, hence restricting the doubling of the effects of retaliation. The oppressed person and /or the victim may expect forgiveness or amnesty and gracious treatment when he imagines himself in the place of the delinquent with similar conditions. Sensing such a condition leads to the oppressed individual's forgiveness of the delinquent. In such a context, the sixth Imam al-Ṣādiq said: "So long as two parties behave with fairness, there would happen no quarrel unless one party does not accept it and seeks superiority." (Kulaynī 1985: 2, 426). The first Infallible Imam 'Alī maintained thus: "Should you want people like you, you have to want for them whatever you prefer for yourself." (Rāghib: n. d., 146), and emphasized that: "Fairness leads to acquiring higher a number of friends." (Raḍī 2009: apothegm 224).

2) A Method for Moral Education. The first Infallible Imam 'Alī regarded fairness as an independent and sufficient method for giving moral education and

attaining moral habits and moral virtues, where he mentioned, “For your moral improvement, it is sufficient to avert from whatever annoys you in other people’s behavior.” (Raḍī 2009: apothegm: 412)

3) (Self-) Esteem and prominence. At first sight, it might seem that fairness that entails doing good in return to vices may bring about a kind of denigration and humiliation. However, from a profound and precise outlook, such a reaction displays the personality grandeur of a fair-minded individual, not the highness of the delinquent and the baseness of the oppressed. Human desires and lusts deserve retaliation. Great men who control their desires and lusts act at the command of their intellect; hence they counteract against their carnal desires and return bad treatment with doing good. In this regard, the sixth Infallible Imam Ja’far al-Ṣādiq’s direction was thus: “Beware that one who treats people with fairness, Allah (God) shall certainly add to his dignity” (Kulaynī 1985: 2, 144, hadith 4).

4) Redemption and Felicity. All those people who aspire to attain spiritual and after-life redemption and felicity constantly seek ways to reach them. Plainness and untwistedness prove to be part of their functions. Most people seek to apply the same plain method that guarantees their redemption and felicity. It follows that once a man got hold of the reign of the Prophet Muhammad’s horse and implored to him for a job that would lead him to paradise. The prophet then returned thus: “Do to people whatever you wish them to do to you, and never do to people whatever you hate them to do to you.” (Kulaynī 1985: 2, 146, hadith 10).

VII. A Political Reading of Justice as Fairness in the Shi’i Islam

In a logical formulization, the main fundamental queries posed vis-à-vis the political structure can be outlined as follows: 1) what is the moral justification for a state? 2) What authority has the right to establish a state? In other words, what is the precise founding body or authority? And what is the legitimate manner for establishing a state? 3) What kind of people are authorized to rule? What are their attributes? Who selects them? 4) What is the nature of the relationship between people and the state: agency or guardianship? 5) What must be the aim(s) of the state? What are we safeguarding public welfare, the good, maintaining peace, retaining public freedom, or upgrading public moral education? 6) What is the rule of exercising authority? What kind of rule gets authority: people-made law, the laws devised by the rulers, the law of the reason, or the law of God? 7) Do people have the right to civil disobedience or revolution?

In the dominant normative Shi’i thought, political thought functions as a paradigm that entails epistemology, ontology, anthropology, sociology, theological bases, and a general theology of ethics. (Fārābī 1992: 33-43; 1982: 119-122, 182-192, 251-277; Ṭūsī 1989: 38-40, 253-265, 299-322; Mullā Ṣadrā 2003, 2, 822-830) The queries mentioned above fall beyond the scope of the present study, yet they are regarded as their presuppositions. Hence, the concentration is exclusively on the main moral theories in the Shi’i moral philosophy such that “justice as fairness in Shi’i tradition” must be apprehended in the light of these theories. This is followed by the answers to the above seven queries based on a Shi’i interpretation of justice as fairness in the sense of a general philosophical-cum-moral theory.

According to Shi'i ethics, there are at least three general theories reading how to explain ethical norms: 1) The Golden Mean theory with some modifications made to its Aristotelian version in terms of Quranic teachings and Shi'ite traditions ('Adī's 1992: 6-11; Ibn Miskawaih 1992: 33-39; Ṭūsī 1989: 97-101); 2) the theory of rational intrinsic good and evil (thereby wrong and right involuntary actions) that has a formal resemblance to natural law; (Lahiji 2009: 343-347; Khorasani, n. d, 330; Isfahani 1994, 3, 31-32, 340-341; Mozaffar, n. d, 1, 216-236); 3) The nomos (law) of Ethics that is based on universalizability of the moral rule that comes from comprehensive reason (itself a combination of theoretical reason, practical reason, and moral reason), and resembles Kant's/Kantian ethical theory. (Ābedi 2017: 13)

This third of these three moral general theories is never in conflict with one another: they stand in the transaction and complete one another. Based on these general moral theories, and based on the philosophical-cum-moral theory of "justice as fairness" in the Shi'i tradition, the political questions posed are answered as follows:

1) Deontologists, especially Kantians, regard administration obligation as a barrier for formation of good will. (Kant 1996: 15-22) Utilitarianists regard public good/ or benefit, even though administrative influence/ enforcement as sufficient, even for political action. (Mill 2003: 80-81, 158) Right-oriented believe that the existence of the administration's authority is necessary for safeguarding major public rights and freedom, an action that leads to indirect expansion of morality. (Dworkin 1984: Ch.7) As existentialists regard an inherent/intrinsic value for freedom; therefore, attaining it, even though the administrator's enforcement, is valuable. (Atendt 1965: 24) For perfectionists, manifestation of perfection allows for administrative enforcement. (Aquinas 1965: 3); some scholars believe that the prevention of evils and their harms cannot be done save by government authority. (Feinberg 1987: 16-29) In the light of "a general theory of justice as fairness in the Shi'i tradition", the necessity of having a state can be justified at least for two reasons: First, anybody wishes that a dominant and legitimate power prevents them from the fouls' harmful acts. They expect the government to show appropriate reaction against the fouls and spread discipline and security. Fairness compels everybody to accept this rule even against oneself. Secondly, everybody wishes to witness people's cooperation for achieving the good in their social life, part of this cooperation and perfections cannot be attained save through a legitimate and authoritative state.

2) Based on Shi'i theological-and-anthropological bases, man has certain philosophical freedom, which is sufficient for his moral responsibility. Human rationality and free will make a background of human moral transcendence, which entails personal individual rights and duties. Hence, in the case of aversion, he would be responsible. A fair interpretation of justice necessitates that people will introduce their men. It follows that people should be constituent power of the state so that they will constitute it according to their own states and that in any case of breaking the law, they will be regarded as responsible. In addition, according to metaphysical laws, despotic government would not remain eternal. (Mullā Ṣadrā 1999: 347)

3) Entitlement and capacity of exercising the gist of fair justice concern the

characteristics of rulers. Social, and particularly political, positions and offices should not turn into bait for the rulers, such that anybody might be entitled to have access to it; rather it is a deposit entrusted to them; hence they are expected to discharge their responsibilities competently. (Raḡī 2009: 274, Letter.5) It is entirely both unfair and unwise to entrust political offices to people devoid of moral virtues and the required knowledge.

4) In a theologically and rather moral-oriented system, the query concerning the relationship between people and state proves to be one of the most intricate topics. An answer to this query must necessarily come next to answering a question related to the law overseeing the basic state structure. Hence, a triad appears God, people, and state. Briefly, it expresses that the state represents people in accomplishing the Divine laws that people accept.

5) Based on the answer to the second question, Shi'i fair justice implies (and entails) that a perfectionist state follows public good in the context of material and moral good and fosters ahead rights and social freedom in proportion to human dignity and moral nobility. It must be indicated that certain Shi'i philosophers hold that upgrading people's spiritual and moral stance would hardly be feasible until and unless people's material and worldly interests are guaranteed in a wise proportion to their worldly and material needs. (Mullā Ṣadrā 2003: 835)

6) Determination of the governing law on the basic state structure is a function of general epistemology and epistemology of value. In the epistemology of (moral and legal) value from a Shi'i perspective, fair justice implies and necessitates that the governing law of the basic state structure is a junction of law of reason (theoretical, practical, and moral) and the Divine law that both people and rulers accept.

7) Based on a fair interpretation of justice within a Shi'i paradigm, in the case of the rulers' major aversion from or infringement of the covenant based on which the basic political structures have been formed, just according to the same reasoning in the second item, people resume the right for civil disobedience. In the case of the state's total diversion from the same norms, people's right to work out a revolution. This right and duty in the Islamic tradition are known and recognized as commending people for doing the good and prohibiting them from what is forbidden.

Conclusion

The present relatively short piece of research shows that justice as fairness is at least one of the most sensitive and intriguing interpretations of justice. This is because it includes its hardcore elements' humility, sympathy, imaging other people's situations, good faith, benevolence, and self-restraint. Each of these elements can singly enable a person with the honor of humanity, to prevent maliciousness and assaulting others, to answer good deeds from other people in a far better way, and to resort to self-restraint in the face of malicious treatment, or not to react harshly.

Fairness enjoys the status of being a highly moral and legal principle; it is regarded as a few higher human values. The scope of this principle includes all rational, free-will, and responsible creatures. Being one of the moral foundations

of all free will and responsible conducts, it is one of the elemental rights and duties in all human and sensible legal systems. As a functionally operative and effectual rule, it can singly manage human social relations on a moral and legal level on a kindness-based, respect-arising, and judicious ground, leading to peace and public discipline. The same rule has a firm root in the Divine religions; it enjoys a lofty position in the Shiite Islamic culture.

This rule brings about ends-means consistency and sincerity in the inner character of the individual; it coordinates the overt and covert deeds of people with regard to both God and people. It is a rule of conduct; it enables one to understand clearly the good and the bad and to act properly according to it. Based on this point, it functions as the logic of discriminating between the good and the bad, and at the same time, it is the practical logic of fidelity to them.

Fairness is both the virtue and art of those who enjoy a tint of kindness, benevolence and respect for others. Such people regard all individuals as belonging to the same bigger family, hence acting at the command of moral reason, not those who are the slaves of, and fond of, their own thoughts and desires. Cherishing themselves, they always regard the requirements of their desires as rightful and good.

In the present paper, justice as fairness within the Shi'i paradigm is explicated and treated as a general philosophical and moral theory, followed by a brief political reading. It is attempted to render a balanced view of the triad of (a) rights and modes of freedom, (b) duties, and (c) people's moral and legal responsibility.

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