

**SOCIAL JUSTICE
IN WESTERN AND ISLAMIC THOUGHT
(A COMPARATIVE STUDY OF JOHN RAWLS'S
AND SAYYID QUTB'S THEORIES OF SOCIAL JUSTICE)**

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Abstract

This study tries to identify and analyze two types of thought, i.e. Western and Islamic thought, in dealing with the problems of social justice. This study, then, is a comparison of two theories of social justice using conceptual analysis, investigating conceptions or meanings in a concept. By this method, it is found that the West, which is here represented by John Rawls, shows that the problems of social justice are the problems of inequality, distribution, capability, and stability. By this framework, Islam, represented by Sayyid Qutb, has its own answers to such aforementioned questions.

Hence, by using a comparative method of analysis, the present writer attempts to search similarities and differences between the two thinkers being examined. In the level of concepts, both thinkers have the same framework, i.e. the problems, the methodology, and the solutions to the questions of social justice. In the level of conceptions, however, both writers have differences.

Concerning methodology, Rawls shows that the West only concerns that the problems of social justice should be solved in this world. Here, the West not needs divine answer to the problems. Therefore, to Rawls, the references to think about social justice are around human reason, history, and intuition. From such references, Rawls creates a methodology to find the solution of social justice, i.e., by going back to the original position. This original position is a hypothetical stipulation that if we do not know our destiny in the future, we can enact the similar principles of justice.

Qutb, on the other hand, states that Islamic sphere of thought is a holistic sphere, including the spheres of this world and the next world. Qutb affirms that all human problems answered by the revelation of God. Thus, for Qutb, the reference to think about social justice is revelation, reason, history, and conscience. From these references Qutb calls for applying Islamic teachings in all aspects of life, including social life. Qutb, then, proposes a methodology of returning to Islam (Islam in power). It is by returning to Islam that the principles of justice can be known and practiced.

To the problems of social justice, both writers have different answers. To the problem of inequality, Rawls says that it can be minimized by way of maximizing the minimum (*maximin*), that is, the most advantaged should satisfy the least advantaged. All social practices should be directed to equality of human dignity, so that in due process, all differences in social and economic classes will not influence anymore to the public life. It is in the public life that humans feel and get equality. Qutb, meanwhile, states that Islam has no problem in any form of social and economic differences, for Islam has its own system to handle the problem. In Islamic society, all differences are nothing if they are backed by piety. To this, all should have an opportunity to gain the piety. Otherwise, the social system should help those who could not do spiritual things by way of –among others—*zakat*, charity, and the like.

To the problem of distribution, Rawls asserts that the state has a right to distribute social primary goods such as liberty, opportunity, income, wealth, and self-respect; so that there is no one being the victim of injustices. To the same problem,

Qutb suggests that distribution can be done by the authority by the maxim “*In order that it may not (merely) make a circuit between the wealthy among you.*” Qutb adds that this principle of distribution should be strengthened by personal will, i.e. by ways of charity, gift, etc.

On the problem of capability, Rawls insists that the social system should urge everyone to improve and make others to be improved at the same time. The attempt to do this is providing the means to support human equality. Education, for example, should take the disabled and the poor as the standard. Qutb also says that Islam urges the improvement of the individuals. Nevertheless, individual outstanding talents are common assets of Islamic community. On the level of capability, then, there is no difference because of genealogy, race, etc.

To the problem of stability, Rawls stresses that a just society should provide formulations for stability. And Rawls holds to the individual faith for internal stability and the supremacy of law for external stability. Here, Qutb agrees with Rawls. The difference is that the law proposed by Rawls is the law made by everyone, and thus it is a just law. Qutb, on the other hand, declares that a just law is made by no one, for it should be made only by God.

The solution to the problems of justice, finally, is the birth of the principles of justice and the creation of just structures of society. The principles of justice are the principles of liberty, equality, and solidarity. Both writers have such framework of the principles of justice as follow: (1) In the principle of justice it is found that a just society should uphold liberty and admit basic liberties, where liberty of conscience is the standard, that the limitation of liberty is for the sake of liberty itself, that limitation of liberty is for the society, that the choice of basic liberties can be done by feeling it by all in an initial situation of equality, and that liberty should be prioritized than any other principles. (2) In the principle of equality it is found that a just society should acknowledge equality before the law, equality of citizenship, and equality of opportunity. (3) In the difference principle or the principle of solidarity, it is found that society must be based on the principles of redress, reciprocity, fraternity, and social unity.

In the social structure of justice, both writers have the same idea that the political and economic structures of justice are needed. In Rawls, the just structure of society, politically, is a condition where there are political levels like the level of original position, levels of constitutional, legal, and executive/ judicative. Here, Rawls requires constitutionalism, participation, political obligation, political legitimation and delegitimation, and the rule of law. Like Rawls, Qutb also requires the division of power, but the level of initial situation is not the original position, but a contract between the ruler and the ruled in the concept of *bay'ah* (vow of allegation). All other things in Rawls's framework are approved by Qutb. The difference is that Qutb's teaching is more accentuated in making the individuals just, and not in the institutions as what Rawls's thought.

To Rawls, the structure of economic justice is where there is a competitive market, intervention of the state, equality of opportunity, system of income, wide distribution, the standard of social minimum, and inter-generational justice. Qutb also

has similar thought. The difference is that in inter-generational justice, Qutb less stressing on the just savings, even though in general he suggests not to leave Muslim descendants as the weak community.

By searching similarities and differences in both thinkers above, it can be stipulated that this present writing attempts to seek inter-civilizational understanding in a multiculturalism of the world today. By this understanding, it is hoped that social justice, the conceptions of which answered each side, can be pertained in each sphere of culture, including its sphere of jurisdiction. Besides, each conception of social justice can also colorize inter-civilizational relationship, so that it can be applied in an international level and can create a universal justice.

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INTRODUCTION

A. Background

The post-World War II was an era of crisis. Economic crisis occurred in line with popular movements around the world, brought about the end of political apathy of the 1950s and early 1960s. Women rose to challenge sexual and remaining oppression in every aspect of life, even though they have had formal equality of political rights, resulting ideas on feminism. Minority groups protested against continued official or unofficial discrimination. Students protested to hierarchical educational institutions and insisted rights to formulate their own educational system. Meanwhile, some groups struggling for a revolutionary Socialism –but not in the form of Soviet Communism—had more attention and supports, yet with a very limited power. An attention to the problems of environment as long term effects of the present forms of industry also has grown widely to be a public attention. The ideology of ecologism or environmentalism, in turn, comes to this end.¹

All of these concerns have become themes of modern thought on social life. Just as the conflict between Feudalism and Capitalism in the early modernization of the West as a source of attention in social thought, conflict between various forms of Capitalism and Socialism in twentieth century was an unavoidable attention as well. Practically and theoretically this conflict formulates social actions, suggestions on social change, and the more abstract responses, including thoughts.

Involving a sort of thing as thought is because of; firstly, existing activities and institutions have strongly been colored by the old social thought. Secondly, those discourses on social problems were always determined by how those problems elucidated and how the new developments responded to them.

In the past, social thought frequently has been concerned with the problems of right or wrong in the distribution of labor and property. Today, social thinkers attempt realistically to reveal some reasons for managing social life in certain ways. They converse from the top to defend certain practices of inequality, whether they

¹ Hans Fink, *Social Philosophy*, London and New York: Methuen, 1981, p. 108.

insist that injustice is something normal or they maintain that natural justice is not suitable with the real injustice.¹ These kinds of arguments are usually elucidated by the liberals.²

Liberalism, however, were likely not enough. In the United States particularly, the Civil Rights movements and the Black Liberation movements, followed by Anti-Vietnam War movement, brought people into conflict with existing institutions and policies. These movements raised, in a sharp form, fundamental questions about the justice of basic socio-political institutions, and questions on the just use of political power. Liberal moral and political judgements have challenged liberal political institutions, and these institutions were finally defended also by liberal political arguments.³

It is from the problems mentioned above that a thick book (more than 500 pages) raised with the title *A Theory of Justice* (1971). The book written by John Rawls, a contemporary American philosopher, proposes the principles of justice as principles dedicated to the public life of humanity when these principles confused and betrayed.⁴ Since then John Rawls is known as a substantive thinker, yet he is in an analytical tradition. The unique thing in Rawls is that he attempts to find out an alternative way between liberalist view which only searches individual happiness and socialist view which claims to seek happiness for many people.⁵

This middle way was also appeared in another sphere of the world, i.e. the World of Islam. Islamic World revived after the withdrawal of the Western colonialist seems has a necessary attempt to discover another way besides what have been offered by the West (Liberalism and Socialism), namely by raising Islam as a system

¹ *Ibid.*, p. 110.

² James P. Sterba, *Social and Political Philosophy: Classical Western Texts in Feminist and Multicultural Perspectives*, 2nd Edition, Belmont, California: Wadsworth, 1998, p. 1.

³ Norman Daniels (ed.), *Reading Rawls: Critical Studies on Rawls' A Theory of Justice*, Oxford: Basil Blackwell, 1975, pp. xiv-xv.

⁴ Marshall Cohen, "The Social Contract Explained and Defended", *New York Times Book Review*, 16 July 1972, p. 1 as quoted by Norman Daniels, "Introduction" in Norman Daniels (ed.), *Reading Rawls: Critical Studies on Rawls' A Theory of Justice*, Oxford: Basil Blackwell, 1975, p. xv.

⁵ Robert Paul Wolff, *Understanding Rawls: A Reconstruction and Critique of A Theory of Justice*, Princeton, New Jersey: Princeton University Press, 1977, p. 15.

by which every socio-political problems would be answered, including the problem of justice. This thought is, particularly, raised by Sayyid Qutb with his famous book, *Al-‘Adalah al-Ijtima‘iyah fi al-Islam [Social Justice in Islam]* (1949).¹

It is interesting, then, to discuss the world’s ideologies through this theme of justice. The ideologies here come from the Western and Islamic tradition. Why the West and Islam? Western and Islamic cultures are the most important cultures to this age, if we see them from their endurance to many changes, like the emergence of modernism and postmodernism.² Both cultures have been global cultures after the decline of Marxism.³

The question, then, is why should Rawls represent the West and Qutb represent Islam in thinking about a theory of social justice? Rawls is very important in representing Western thought, for he is the most advanced thinker of contemporary Western philosophy in the field of social justice. After Rawls, says Robert Nozick, one only has to follow him or against him.⁴ Qutb is also an important representative of Islamic civilization. It is the credit for Qutb that Islamic resurgence in our age has its own theoretical basis. His theory to resurrect “forms of collective nostalgia which seek to restructure the world in terms of more simple entities and communal cultural relations”⁵ has been inspiring the movements calling for genuine Islam throughout the world, up till today.⁶

¹ Hamid Algar, “Introduction” in Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie, translation revised by Hamid Algar, Kuala Lumpur, Islamic Book Trust, 2000, p. 12.

² Bryan S. Turner, *Orientalism, Postmodernism and Globalism*, London and New York: Routledge, 1994, p. 84.

³ Ernest Gellner, *Nationalism*, Washington Square, New York: New York University Press, pp. 85-89.

⁴ Nozick says that “*A Theory of Justice* is a powerful, deep, subtle, wide-ranging, systematic work in political and moral philosophy which has not seen its like since the writings of John Stuart Mill, ... Political philosophers now must either work within Rawls’ theory of explain why not. ... And it is impossible to finish his book without a new and inspiring vision of what a moral theory may attempt to do and unite; of how *beautiful* a whole theory can be.” Robert Nozick, *Anarchy, State, and Utopia*, Oxford: Basil Blackwell, 1974, p. 183.

⁵ It is Turner’s expression for Islamic fundamentalism. Turner, *loc. cit.* Here I use the expression for Qutb, as a representative of Islamic resurgence movement. About how important Sayyid Qutb in the movement see William E. Shepard, “Sayyid Qutb’s Doctrine of Jahiliyya,” in *International Journal of Middle East Studies*, Number 35, 2003, p. 521.

⁶ Discussions on the influence of Qutb can be seen, among others, in Robert D. Lee, *Overcoming Tradition and Modernity: the Search for Islamic Authenticity*, Westview Press, 1997; Younes Soualhi, “Fundamentals and Fundamentalism: An Islamic Politico-Legal Analysis” in *The Islamic Quarterly*, Vol. 49, Issue 2, Second Quarter, 1426/2005; Roberto Marin-Guzman, “The Doctrines of al-‘Uzla al-Shu‘uriyya and al-Hijra

The above discussion brings me to construe that it is enough to see world's theories of social justice by comparing Western and Islamic theories. And it is also enough to see the comparison of the theories by comparing the two thinkers. To this effect, the appropriate title is most likely, "Social Justice in Western and Islamic Thought (A Comparative Study of John Rawls's and Sayyid Qutb's Theories of Social Justice)."

B. Framework of Study

According to Western literature, the quest for justice was firstly raised by Plato of ancient Greek written in the *Republic*. Plato's question is regarded as starting political thought in the West. The question itself, however, is something unavoidably emerged in any society when its members start thinking reflectively about arrangements within which they live. Through a contact with other society, one may aware that those social arrangements are not natural phenomena, but human creation. And whatever created by man can be changed by man too. This awareness organizes levels for the emergence of theories on justice. For a theory of justice is a theory on the kinds of defensible social arrangements.¹

Those theories are significant to defend because it is a kind of legitimacy for unequal relationship between people.² It is undeniable that our society has inequalities of power, social relationship, and economic resource possession. Degree of inequalities may be different from one society to another. Nevertheless, in every society there is always the ruler and the ruled, who governs and who governed, who obeyed and who gives obedience, the most advantaged and the least advantaged.

The theories view that this random injustice is undeniable consequences from the operation of social arrangements with the benefits such as liberty, security, or

among Egyptian Muslim Fundamentalists: Ideals and Political Praxis," in *The Islamic Quarterly*, vol. 48, Issue 3, Third Quarter, 1425/2004.

¹ Brian Barry, *Theories of Justice*, Berkeley & Los Angeles: University of California Press, 1989, p. 3.

² Sterba, *loc. cit.*

prosperity. Whether those arguments valid or not, are key questions which should be explained by a theory of justice.¹

The idea of distributive justice has been for a long time – ancient Greek philosopher Aristotle (384-322 SM) wrote about it. Aristotle did not use this term for social goal, but for numbers and quantitative one.² That is the reason why some say that *social* justice is different from distributive justice.³ Swift remarks that the idea of social justice is relatively new, use from about 1850 on. It grew up only since the philosophers have seen key social and economic institutions in society, which crucially determine the distribution of benefits and burdens, as the appropriate objects for moral and political investigations.⁴ The problems of social justice are the problems of distribution of benefits and burdens, so the term of distributive justice in this sense is also emerged in accordance with the term of social justice. Finally, social justice is frequently used to cover distributive justice.⁵ Moreover, there are some who say that both are identical.⁶ The obvious thing is that both mind with justice and society. Besides, the prime nature of the two is that both are positive: they are the products of custom and human experience rather than the order of reason or the command of God.⁷

The distinction between social or distributive justice and another concept of justice comes from the question of what does it mean that *society* is just or not? This question distinguishes between social and/or distributive justice and retributive (legal) justice.⁸ Retributive justice is something to do with a justification of punishment, so that the punishment is suitable with the crime. This justice usually addresses to the first question, namely about people act justly or unjustly. The second

¹ Brian Barry, *op. cit.*, p. 4.

² Majid Khadduri, *The Islamic Conception of Justice*, Baltimore: The John Hopkins University Press, 1984, p. 213.

³ Adam Swift, *Political Philosophy: A Beginner's Guide for Students and Politicians*, Cambridge: Polity Press, 2001, p. 9.

⁴ *Ibid.*

⁵ Khadduri, *loc. cit.*

⁶ Barry, *op. cit.*, p. 355.

⁷ Khadduri, *loc. cit.*

⁸ Jeremiah Newman, *Foundations of Justice: A Historico-Critical Study in Thomism*, Cork: Cork University Press, 1954, p. xvi.

question, about whether a society just or unjust, has nothing to do with the kind of justice administered by criminal justice system, but more as a substantive¹ question on what should the society we live in really be like.²

It is this last question which made the contemporary American philosopher John Rawls has a need to raise the famous essay “Justice as Fairness” (1958)³ which became a starting point of new celebration of debate on the concept of justice. Following that essay, Rawls generated similar tone essays, such as “The Sense of Justice” (1963)⁴, “Constitutional Liberty and the Concept of Justice” (1963)⁵ and “Distributive Justice” (1967)⁶. Nevertheless, something shocks the world of philosophy is the emergence of Rawls’s thick book, *A Theory of Justice* (1971).⁷

A theory of justice raised by Rawls is not a theory of justice in general sense, especially to confuse with the theory of retributive (punishment) justice. It is a theory of social justice. This is because Rawls clearly states that “justice is the first virtue of social institutions”. Rawls also views that

...social justice depends positively on two things, on the equality of distribution (understood as equality in levels of well-being) and total welfare (understood as the sum of utilities taken over all individuals). On this view one social system is better than another without ambiguity if it is better on both counts, that is, if the expectations it defines are both less unequal and sum to a larger total.⁸

According to Rawls, the best principles of justice are produced by an agreement of free and rational persons an initial position of equality. This ‘original position’, says Rawls, requires ‘veil of ignorance’. And this veil of ignorance makes

¹ Substantive means something to do with substance or content and not just a form.

² Adam Swift, *op. cit.*, p. 10.

³ John Rawls, “Justice as Fairness”, in *Philosophical Review*, LXVII (1958), pp. 164-94.

⁴ John Rawls, “The Sense of Justice”, in *Philosophical Review*, LXXII (1963), pp. 281-305.

⁵ John Rawls, “Constitutional Liberty and the Concept of Justice” (1963), *Nomos*, VI (1963), pp. 98-125.

⁶ John Rawls, “Distributive Justice”, in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (3rd series), Oxford: Basil Blackwell (1967), 1969.

⁷ John Rawls, *A Theory of Justice*, Cambridge, Mass.: Harvard University Press, 1971. In this writing I use the revised edition published in 1999 by the same publisher.

⁸ John Rawls, “Distributive Justice”, in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (3rd series), Oxford: Basil Blackwell (1967), 1969, p. 80.

those persons in the original position have no knowledge needed for proposing their own interest in the means that morally subjective.

From the original position, Rawls declares, there are such principles of justice as follows:

I. Special conception of justice, which is divided into:

1. Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
2. Social and economic inequalities are to be arranged so that they are both:
(a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.¹

II. General conception of justice.

All social values –liberty and opportunity, income and wealth, and the social bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone’s advantage.²

In *A Theory of Justice* Rawls apparently wants three things: he wants to reveal the principles of justice as the basic of dominant moral and political viewpoints of our age. He also wants to show that these principles could be seen as the result of selection procedure which everybody could agree as fair (so that, ‘justice as fairness’). And he wants to demonstrate that these principles could explain a workable social arrangement.³

Rawls’s principles of justice and ‘ideal theory’ in general finally bring about a challenge to the existing social and political institutions. Rawls even suggest that this project would result something in accordance with economic social systems different from those of Capitalism and Socialism.⁴

Yet there is another thing from this thesis, namely to elucidate another perspective on social justice, i.e. from Islamic perspective. This kind of perspective exposed by a famous writer coming from Egypt, that is, Sayyid Qutb (1906-1966)

¹ These well known two principles are quoted in its final version from *A Theory of Justice*, p. 266.

² *Ibid.*, p. 54.

³ Norman Daniels, *op. cit.*, p. xiv.

⁴ *Ibid.*, p. xv.

with his book *Al-‘Adalah al-Ijtima‘iyah fi al-Islam [Social Justice in Islam]* (1949).¹ In the Muslim world, this book is so well known, might be caused by its simplicity or its always relevant matter. *Al-‘Adalah* has been translated into Islamic world languages such as Persian, Turkish, Urdu, and Malay/Indonesian. It is also the earliest and the most influential work exposing the subject.²

This book is the first book of Sayyid Qutb on Islamic political thought and dedicated to individuals struggling for and dedicating their lives to God.³ It is something about religion and society both in Christianity and Islam and about the conflict between Capitalism and Socialism. Qutb traces the history of the separation between religion and politics and considers this separation as un-Islamic. The book’s thesis is that Islam revealed for all ages, although the Qur’an itself was revealed in a certain historical time. Islam provides expanded general principles and comprehensive rules which are always valid. It is the foundation for the true spirit and the foundation of justice. The book contains nine chapters discussing about religion and society and most importantly on justice: its nature, its foundations, its methods, its political and economic structures, its historical development, and its future.

For Qutb, there are two basic ideologies challenging Islam: Communism and Capitalism. Islam itself is on the crossroads. Owing to the bank interest, monopoly, exploitation, and injustice, Qutb rejects to see Capitalism or Capitalist system as a model for Islam to follow and to imitate. Furthermore, Capitalism has been closely related to Nationalism by which Western countries—in the name of their national interests—claims to have rights to exploit, invade, and occupy other countries in the Middle East, Asia, Africa, and Latin America. On the other side, although Socialism

¹ This book published for the first time in 1949. Soon after that, however, this book has been frequently republished and each edition has its own revision, so that the first edition is very much different from the seventh edition in its own tendency. The study of these differences was done by William E. Shepard in his book, *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*, Leiden: E. J. Brill, 1996.

² Hamid Algar, “Introduction” in Sayyid Qutb, *Social Justice in Islam*, p. 12.

³ Before this book, Qutb was well known as a liberal critic on literature. His Islam before this book, then, can be categorized as cultural Islam. See William E. Shepard, “Introduction” in his *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*, Leiden: E. J. Brill, 1996, p. xv and xxix.

and Islam has parallelism in such essential points as in advocating minimum standard security in life, work, property, and social justice; Islamic system of economy is an integral part of Islam and based on the *Tawhid*.¹

Qutb's thought on social justice in Islam is based on his view that Western social justice principles are based merely on Secularism, in which religion is only for education of consciousness and purification of soul, whereas it is a temporary and secular law ordering society and organizing human life. Islam is not like that, says Qutb. He affirms that

...we have no good grounds for any hostility between Islam and the struggle for social justice, such as the hostility persists between Christianity and Communism. For Islam prescribes the basic principles of social justice and establishes the claim of the poor to the wealth of the rich; it lays down a just principle for power and for money and therefore has no need to drug the minds of men and summon them to neglect their earthly rights in favor of their expectations in heaven.²

In his thought about social justice in Islam, Qutb provides two basic principles: (1) the unity of harmony, balanced, and absolute between individuals and community, (2) general mutual responsibility between individuals and community. Justice, for Qutb, is an ethical as well as a basic concept for governance in Islam. Owing to the trust of authority from God, the ruler should manifest this trust in, firstly, the obedience to the Islamic law (*Shari'ah*) and secondly to the social, economic, and political justice.³ Qutb also identifies three principles: complete liberation of consciousness, human equality, and mutual social responsibility. In order to secure the administration of social justice, Qutb needs to strengthen political and economic justice by following the doctrines of the Qur'an and the Sunnah.⁴

¹ Ahmed Salah Al-Din Moussalli, *Contemporary Islamic Political Thought: Sayyid Qutb*, Ph.D. Thesis, University of Maryland, 1985, p. 114.

² Qutb, *Social Justice*, p. 32-33.

³ *Ibid.*, p. 47-49.

⁴ *Ibid.*, p. 52.

Here it is the core problem of my study: comparing the two answers on social justice. The first comes from the Western tradition based primarily on reason¹ and at the same time not on the divine revelation in their scientific tradition,² so that we can call this Rawls' thought as a special Western thought.³ The second comes from Islamic tradition based especially on the revelation and religion in the Muslim scientific tradition,⁴ so that we can call this Qutb's thought as a special Islamic thought.⁵

Something similar in these two thoughts is that both intend to answer the challenge of modernity. Rawls says that his social justice theory is in the frame of modern democracy.⁶ The same intention is also said by Qutb, in saying that the aim

¹ Karl Popper says that without such thing as rationalism the West itself could not even exist. "For nothing is more characteristic of our western civilization than the fact that it is inextricably linked with science." Karl Popper, "What Does the West Believe In?" in Karl Popper, *In Search of A Better World: Lectures and Essays from Thirty Years*, translated by Laura J. Bennett, London: Routledge, (1994) 1996, p. 209.

² Popper furthermore says that the West is not a Christian society. It is because "the Christian religion demands from us a purity of action and thought that only saints can attain. This is why so many attempts to build a society imbued with the spirit of Christianity have been failures. They have always, and inevitably, led to intolerance, to fanaticism." Karl Popper, *ibid.*, p. 211. It is for this context that Gellner cynically says: "It is ourselves, our way of life, that we revere and worship, and if we use a transcendent or Biblical idiom for so doing, well, you understand, one has to use *some* language." Ernest Gellner, *op. cit.*, h. 83.

³ For Rawls, an alternative source for his thinking on social justice is the historical tradition of moral and political philosophy, i.e., within the Western tradition. That is, the tradition experienced inter-religious wars which have brought to the various arguments for religious tolerance. For this reason, Rawls assumes that it is impossible that social cooperation based on mutual respect would be achieved by a different faith; or –in Rawls language— "with those who affirm a fundamentally different conception of the good". See John Rawls, "The Basic Liberties and Their Priority", in Sterling M. McMurrin (ed.), *Liberty, Equality, and Law: Selected Tanner Lectures on Moral Philosophy*, Salt Lake City: University of Utah Press, 1987, p. 8 and 17.

⁴ Seyyed Hossein Nasr says that "for Muslims the purpose of human life is to confirm the Absolute and the Sacred without which the human being is only accidentally human." So, Muslims choose "to accept the rights of God before the rights of man". Seyyed Hossein Nasr, "Metaphysical Roots of Tolerance and Intolerance: An Islamic Interpretation" in Mehdi Amin Razavi and David Ambuel (eds.), *Philosophy, Religion, and the Question of Intolerance*, Albany, New York: State University of New York Press, 1997, pp. 50-51. This view is common for Muslim writers, especially in contrast to Western modernism. For a deep discussion on Islamic worldview see, among others, Syed Naquib al-Attas, *Prolegomena to the Metaphysics of Islam: An Exposition of the Fundamental Elements of Worldview of Islam*, Kuala Lumpur: ISTAC, 1995; and Alparslan Acikgenc, *Islamic Science: Towards A Definition*, Kuala Lumpur: ISTAC, 1997.

⁵ Qutb says that by his book he wants to call Muslims not to follow Western secular pattern, which is not compatible with Islamic history. He calls Muslims for going back to the Islamic heritage and values in order to apply it in the modern society. Qutb, *Social Justice*, pp. 34-35.

⁶ "...the aim is to work out a conception of political and social justice which is congenial to the most deep-seated convictions and traditions of modern democratic state." Rawls, *op. cit.*, 14.

of his writing on *Social Justice in Islam* is to elucidate Islamic values for modern society.¹

Comparing the two thoughts from such different traditions might be has any difficulties. To make it easier, I try to get their core thoughts by questioning their methodologies, problems, and solutions to the subject of social justice. By these three frameworks it is hoped that my attempt to do a comparative study would be fruitful.

C. Statements of Problems

There are some problems to be questioned in this study:

1. What are the answers to the problems of social justice provided by Western and Islamic traditions?
2. What are Rawls's and Qutb's methodologies to understand the concept of social justice?
3. What are the problems around the concept of social justice being answered by the two thinkers?
4. What are the solutions of Rawls and Qutb for the problems of social justice?
5. What are similarities and differences between the two thoughts being examined?

D. Objective of Study

The general basis for Rawls and Qutb is the concept of social justice. Their solutions to the questions about social justice have similar frameworks, although coming from two different traditions. But these traditions also have differences. Therefore, by studying Rawls and Qutb, the objectives of the study are:

1. To acquire comparable knowledge in the Western and Islamic literature on the problems of social justice.
2. To improve our understanding on how Western and Islamic world deal with the problems of social justice.

¹ One of his formulations of problems is, "Can we be sure that it [early Islam] is suitable for application to other periods of history whose circumstances differ to a greater or lesser degree from those which obtained in the age which gave birth to Islam?" Qutb, *Social Justice*, p. 33 and 35.

3. To find out some positive and applicable solutions for our life from the thoughts being examined.

E. Significance of Study

This kind of study is significant, not only for a cross cultural understanding but also for a mutual dialogue between civilizations. If thinking is a human effort for understanding society and human's position within it, it is necessary to have an inter-civilization mutual dialogue to realize this aim. Moreover, if this is considered as objectively the same problems in humanity in each culture, the social problems in each culture are regarded as its subjective problems; even in this case, a cultural dialogue will help to solve social problems. Hence, both are about objective and subjective problems. Therefore, this kind of comparative study places a significant position in any kind of study.

Studying Rawls is significant for he is the most outstanding figure for the theory of social justice in contemporary era. His book, *A Theory of Justice*, is the most read book written on political, moral philosophy. To this, he is the most important thinker in contemporary Western literature dealing with the philosophical problems of Justice.

Qutb is also significant to study for he is the most famous and influential thinker in the contemporary Muslim world. His book, *Social Justice in Islam*, is the first book dealing with contemporary problem of social justice. Hence, he is the representative figure in the Muslim literature, especially for the issue of social justice.

F. Field and Scope of Study

This field of study is social and political philosophy. For social justice is a topic of active controversy in social and political life, rather than, say, a topic of

metaphysics. Social and political philosophy promises “a deep understanding of the values at stake in daily strife,”¹ and social justice is one of those values.

This scope of study is particularly a theoretical thought on social justice in Western and Islamic thought. The case of comparison is taken from John Rawls, especially by his book of *A Theory of Justice*, as a representation of Western thought and Sayyid Qutb, particularly by his book of *Social Justice in Islam*, as a representation of Islamic thought. *A Theory of Justice* is a comprehensive book of Rawls’s thought so that he did not revise his major thinking on it. In 1999 he revised it in order to answer the critics of the 1971 edition, but in fact he defended it. He also published another book defending *A Theory of Justice* two years before he died, that is, *Justice as Fairness: A Restatement* (2001). So, I have no worry to lose my understanding of Rawls if I rely mostly on *A Theory of Justice*.

It is also in Qutb’s book, *Social Justice in Islam*. This book was published for the first time in 1949, but then was republished many times and every edition has revisions, so that the 1st edition is different with the 6th edition. A study on these differences was done by William E. Shepard in his book *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*, Leiden: E. J. Brill, 1996. The book I am using in this thesis is the English translation translated by B. Hardie from the first edition of the Arabic revised by Hamid Algar based on the fifth edition of the Arabic, republished in Malaysia in 2000. Nevertheless, Algar says that in case there are differences between the first and the fifth editions, he chooses the first edition, owing to its logical and documentary value. Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie (1952), revised translation by Hamid Algar, Kuala Lumpur: Islamic Book Trust, 2000. Besides, I also use the 7th edition of the Arabic as the comparison. This 7th edition is an unchanged edition of the 6th which is the last revised edition by Qutb himself. Qutb, Sayyid, *Al-‘AdÉlah al-IjtimÉ‘iyyah fÊ al-IslÉm*, 7th edition, Cairo: DÉR al-ShurËq, 1980. The last edition of *Al-‘AdÉlah* can be seen as the last thought of Qutb, the content of which is the same as many

¹ For an explanation of the task of social philosophy, see, for example, Hans Fink, *op. cit.* and for the task of political philosophy see, for example, Dudley Knowles, *Political Philosophy*, London: Routledge, 2001.

other later books, even compared to the well known *The Milestones*. Again, I have no worry not to get the major ideas of Qutb on social justice merely depend on *Social Justice in Islam*.

Besides, this study is also supported by their other thoughts relating to their primary thoughts on justice. Relating their thoughts in the two books and their other works is subjected to know continuity and change of the two thinkers on social justice which has been established in the two books.

Besides the primary study on their thoughts on social justice, this study also has a necessary question on the historicity of the thoughts in their own worlds, i.e. in the West and the Islamic world, equally before their thoughts being articulated, within the emergence of the thoughts, and after. Therefore, a glance study on their biography is elucidated here. It is within the examination of the thought and its context that this study will reach its comprehension.

G. Methodology

The entire study is composed by a library research. This research examines two things: (1) the formal objects such as studying the thinkers and the history of the concepts related to the thinkers in their own traditions, and (2) the material objects composing the idea of social justice in the thinkers examined, i.e. social justice.

For the first object the method is historical. Historical method is useful in order to discover historical context in which the ideas of the two thinkers were written, or how their thoughts developed over their lifetime, or anything ‘historical’ related to them such as studying their own predecessors. Here I would also like to trace and examine changes in their ideas, or apparent inconsistencies between their various writings in order to help us render their views more precise.¹ So, my historical method is focused in the history of ideas.

The second object is examined by ‘conceptual analysis.’ By this I would like to work out what the two writers mean when they say things, so that the purpose is the

¹ Swift, *op. cit.*, p. 5.

clarification and explication of their moral political concepts.¹ The analysis should be conceptual, for the two thinkers have constructed something systematic as an accumulation of and interrelation between concepts they built. Rawls has built a theory of justice, which can be understood ‘as a systematization of the moral and political judgments.’² And Qutb also has established a system of social justice in Islam as he says that Islam is a *nizam* (system) claiming that ‘the various parts of it are interrelated directly with each other’.³ By this Qutb can be classified as an opposite from the ‘atomism’ that Gibb ascribes to traditional Arab thinking.⁴

We also face the problems of translation on certain concepts which have not been in a culture being discussed. One may claim that it is not relevant in the case of philosophical and scientific concepts, but we do not approve this stand. Because, there so many concepts built by Sayyid Qutb are not found in the terminology of Western civilization. For example, the concept of *fitrah* (human nature) could not be expressed in the Western conceptual scheme of thinking. Similar things also happen in John Rawls’s terminology. The question is, then, ‘is it possible to compare two thinkers from different civilizations?’ This question can be answered from two perspectives; firstly, there are concepts, theories, doctrines, and ideas from each civilization which are *objectively* similar. For, on one side, what is being investigated is coming from similar reality; and, on the other, the faculty of rational cognitive of the investigator itself operates in the same manner. Hence, it is not a kind of useless effort to raise these similarities. Secondly, there may be ideas, concepts, and doctrines which *subjectively* similar; that is, ideas and the others may be exactly similar, but because everything is in a civilization, so everything signs a different meaning. In other words, the context of similarity revealed differently. This second

¹ For further explanation of conceptual analysis see Joseph S. Murphy, *Political Theory: A Conceptual Analysis*, Homewood, Illionis: The Dorsey Press, 1968, vii.

² Knowles, *op. cit.*, p. 4.

³ The quotation is Shepard’s as a conclusion from Qutb’s saying, “‘Religion’ ... is synonymous with the word ‘system (*nizam*)’ in modern terminology, with the complete meaning of a creed in the heart, ethical principles in behavior and *Shari’ah* in society.” See Shepard, *op. cit.*, pp. xl-xli.

⁴ H.A.R. Gibbs, *Modern Trends in Islam*, Chicago: University of Chicago Press, 1947, pp. 5-8 as mentioned by Shepard, *loc. cit.*

perspective is significant especially for studying other civilizations, in order to appreciate the civilizations.

Those above methods are combined by a comparative method, for this thesis is going to understand two thoughts from two different traditions. Unfortunately, in this comparative study Rawls comes first and Qutb second. The reason is clear: the background of this thesis is Western condition for changing ideologies seeking social justice. And this thesis seeks the answer for that. And representation of Rawls is only one of those ideologies. In Islam, however, those changing ideologies had not been happened, for ideologically Islam had not changed from time to time. And Qutb is only a contemporary model of that unchanged Islamic ideology. Something new from Qutb is that he formulates theory of social justice in a contemporary fashion. Therefore, having discussed Rawls's and Western theories of social justice, Qutb's and Islamic theories of it comes to be explained. There is no consideration of chronological order here. This thesis only wants to show that from the bulk of Western ideological debates there is Rawls and that from the Islamic ideological basis there is Qutb. This thesis is not going to ask who influences whom, for there is no contact between Rawls and Qutb. And this should not be cried for, since they present their own theories in isolated, unique fashion. But it would be useful for us to study, for they tend to universalize their ideas.

H. Literature Review

The celebration of intellectual sphere to Rawls's *A Theory of Justice* has been documented for example in *Reading Rawls: Critical Studies of A Theory of Justice*, edited by Norman Daniels (Basic Books, 1974). Among the many interesting essays in Daniels's book are those by Thomas Nagel, Ronald Dworkin, Gerald Dworkin, T. M. Scanlon, H. L. A. Hart, and Benjamin Barber. A book as an approval treatment of Rawls's theory came to emerge by Brian Barry, *The Liberal Theory of Justice: A Critical Examination of the Principal Doctrines in A Theory of Justice by John Rawls* (Oxford, 1973), whereas a disapproval treatment of the book is provided by Robert Paul Wolff, *Understanding Rawls: A Reconstruction and Critique of A*

Theory of Justice (Princeton University Press, 1977); and *Society and global justice in Rawls's 'The Law of Peoples'*, by Eckert, Amy E., PhD, (University of Denver, 2005). Here, we can see that a comparative study on Rawls and Qutb or any other Muslim theoretician is not found in the Western literature.

Sayyid Qutb is an Islamic theoretician. In the West, his most interesting theory, however, is around Islamic radical or fundamentalist matter. To this, many works written in the West (even by Muslims) only cover the radical side of Qutb. Here are among others: Olivier Carré, *Mystique et politique: Lecture révolutionnaire du Coran par Sayyid Qutb, frère musulman radical* (Paris, 1984); Yvonne Y. Haddad, "Sayyid Qutb: Ideologue of Islamic Revival" in *Voices of Resurgent Islam*, edited by John L. Esposito (Oxford, 1983, pp. 67-98); Ahmad S. Moussali, *Radical Islamic Fundamentalism: The Ideological and Political Discourses of Sayyid Qutb* (Beirut: 1992); and Aref Ali Nayed, "The Radical Qur'anic Hermeneutics of Sayyid Qutb" in *Islamic Studies* (Islamabad) 31, no. 3 (Autumn 1413/1992), pp. 355-363;¹ *Sayyid Qutb: "Pious hero of Islam" or terrorist theoretician?* by Barnes, Lindsay Aileen, M.A. (The University of Kansas, 2006); *Sayyid Qutb: An historical and contextual analysis of jihadist theory*, by Bozek, Joseph D., M.S.C.J. (Grand Valley State University, 2008); *From secularism to Jihad: Sayyid Qutb and the foundations of radical Islamism*, by Adnan Musallam (Kuala Lumpur: Greenwood Publishing Group, 2007); *Differentiating Islam: Colonialism, Sayyid Qutb, and religious transformation in modern Egypt*, by Elfenbein, Caleb Heart Iyer, Ph.D. (University of California, Santa Barbara, 2008), and *Listening to Islam: with Thomas Merton, Sayyid Qutb, Kenneth Cragg and Ziauddin Sardar: praise, reason and reflection*, by John H. Watson (Sussex Academic Press, 2005).

Also in the Muslim circles, Qutb is well-known for his Islamic militant figure, but of course that he is written with praise. There are roomy works to mention here among others: Yusuf al-'Azm, *Ra'id al-Fikr al-Islami, al-Shahid Sayyid Qutb* (Beirut, 1980); Ibrahim b. 'Abd al-Rahman al-Bahili, *Sayyid Qutb wa Turathuhu al-Adabi wa al-Fikri* (Riyad, 1972); Muhammad Taufiq Barakat, *Sayyid Qutb:*

¹ For listing by Algar, see Sayyid Qutb, *op. cit.*, pp. 325-6.

Khulasah Hayatihi wa Minhajuhu fi al-Harakah (Beirut, 1977); Muhammad Hafiz al-Diyyab, *Sayyid Qutb: al-Khitab wa al-Idi'uluziya* (Beirut, 1988); Mahdi Fadl Allah, *Ma'a Sayyid Qutb fi Fikrihi al-Siyasi wa al-Dini* (Beirut, 1984); 'Adil Hamuda, *Sayyid Qutb min al-Qaryah ila al-Mashnaqa* (Cairo, 1987); 'Abd Allah al-Khabbas, *Sayyid Qutb, al-Adib al-Naqid* (Amman, 1983); Salah 'Abd al-Fattah al-Khalidi, *Sayyid Qutb, al-Shahid al-Hayy* (Amman, 1981); and Muhammad Qutb, *Sayyid Qutb, al-Shahid al-Azali* (Cairo, 1974).

Concerning Qutb's thought on social justice is hard to find. A chronological, analytical study of William E. Shepard on social justice, *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam* (Leiden: E. J. Brill, 1996) is probably the first study on Qutb's conception of social justice.

Again, there is rarely comparative study concerning Rawls and Qutb and their theories on social justice in academic circles. Kabuye Uthman Sulaiman's M.A. thesis includes Rawls and Qutb in its examination although the precise title is *Justice as Conceived by Selected Muslim and Western Thinkers*, Kuala Lumpur: IIUM, 1998. He also wrote his Ph.D. thesis with more precise thinkers entitling *Distributive Justice: A Comparative Analysis of the Views of Sayyid Qutb, Muhammad Baqir Al-Sadr, John Rawls, and Robert Nozick*, Kuala Lumpur: ISTAC, 2005. My reading is that Kabuye's focus is on the economic sphere of social justice.

Nevertheless, a study focuses on Rawls and Qutb in their theories of justice by following their conceptions, so that it is systematically constructed, is not clearly done by anyone. Here, then, this thesis gains the momentum to dig more deeply to Rawls's *A Theory of Justice* and Qutb's *Social Justice in Islam*.

I. Organization of Thesis

This study constitutes four chapters with additional chapters on Introduction and Conclusion. It would be written by an organization as follows.

Some main ideas considered as the background of the emergence of problem in this study are explained in the Introduction. The background is the development of ideologies in the West to answer the problems of social justice. Following this

background, it is automatically understood why Rawls should be firstly put in this comparative study although chronologically inappropriate. The Muslim world, meanwhile, had no such dynamic social development in answering the problems of social justice. It is understood since Muslims have the same consensus in dealing with the problems of life: the Qur'an and the Sunnah. It is justified, then, if Qutb, who has his own original conception of social justice, only comes second after Rawls in the whole explanation of social justice in this thesis. The question of who follows whom is not relevant here, for there was no contact between Rawls and Qutb. The presentation of Qutb after Rawls is only for the sake of comparison: that Islam has its own idea on social justice.

Still in this introductory chapter, there are explanations of statements of problems, objectives, significance, method, field and scope, and the limitation of the study.

Chapter I examines historical study on social justice in Western and Islamic tradition. Its examination reveals on primary problems on justice both in the problematic and theories emerged in the two traditions by elucidating some scholars viewed as representatives of their ages. Those scholars being chosen are: Plato, Aristotle, St. Augustine, St. Thomas Aquinas, Rousseau, Adam Smith, Marx, Al-Mawardi, Ibn Taymiyah, Asad, and Shariati. They are chosen because they have their own ideas on social justice, for they wrote significant books on the topic and on political and social life in general and they also influence the later generations of scholars, including Rawls and Qutb. This short examination of them is important to place the position of Rawls and Qutb in their own traditions: the West and Islam. Is there any continuity and change in their lines of thinking? That is the question to be answered in this chapter.

An assessment on Rawls, Qutb, and their theories of social justice (in an introductory fashion) fills Chapter II. The chapter outlines in detail concerning Rawls and Qutb, their works, their theories of justice (in its nature and methodology) and the responses toward them.

The chapters containing substantial discussion of the study are chapters of comparison on social justice in both thinkers' solutions to the problems of social justice. These discussions fill the chapters of III and IV.

Finally, there is a conclusion and suggestion in accordance with the findings in the study. It is put in the General Conclusion.

CHAPTER I

THE IDEA OF SOCIAL JUSTICE

IN WESTERN AND ISLAMIC TRADITIONS

John Rawls and Sayyid Qutb came from two different traditions: Western and Islamic. To know the place of two thinkers in their traditions a comparative study of both traditions answering the problems of social justice should be elucidated first. Plato, Aristotle, St. Augustine, St. Thomas Aquinas, Rousseau, Adam Smith, Marx are chosen as representatives of Western tradition. The Prophet, the early Guided Caliphs, Al-Mawardi, Ibn Taymiyah, Asad, and Shariati are chosen as representatives of Islamic tradition. All are chosen because their huge influences in answering socio-political problems to the Western and Islamic worlds.

And the problems trying to be answered here by those aforementioned theoreticians are: the problems of inequality, distribution, capability, and stability. Inequality is the main problem of social justice. To cope with inequality, one refers to distribution as the solution. Distribution itself, however, becomes another problem, so that a theory of justice should also answer this problem too. A question on capability is important to know how a theory of justice deals with different capabilities of individuals. A question on stability is also significant to know how a theory of justice answers the problems of order and consensus of the ideal society being arranged.¹

A. Social Justice in Western Tradition

In Western history, the idea of social justice has experienced such a long journey, so that it can be categorized into three levels of development: classical, medieval, and modern. The classical is usually addressed to Greek and Roman

¹ Rawls, John, "Distributive Justice," in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (3rd series), Oxford: Basil Blackwell (1967), 1969, p. 67; Amartya Sen, "Justice and Capability," *Inequality Reexamined*, New York: Russell Sage Foundation, 1992, pp. 73-87; Brian Barry, "John Rawls and the Search for Stability," in *Ethics*, No. 105 (July 1995), pp. 874-915.

cultures, the medieval to the Christian, and the modern to the development after the age of Christian assigned by the emergence of secular nations.¹

In this writing, the ancient Greek thoughts are represented by Plato and Aristotle. The reason why the ancient Greek represents the classical West is to the fact that it was in the ancient Greek that human thoughts began² and that the idea of democratic government was formed and practiced for the first time, and that the values of human liberty, justice, and individual destiny were admitted, and that the seeds of Western civilization were cultivated and conserved.³

Meanwhile, it is acknowledged that Christian civilization ruled the West in the Middle Ages. Christian doctrines not only endured for a long time, it had also formed the future of Western history.⁴ The whole of modern political and social life in the West is influenced by Christian values and practices.⁵ From such a huge civilization, there are two outstanding figures: St. Augustine and St. Thomas Aquinas. It is to these figures the questions of social justice being proposed in this writing.

Finally, it is undeniable that the last civilization of the West is the secularized one. Here, human liberation from “the shackles” of the Middle Age authority goes together with the emergence of belief in human capability to understand the problems of the universe. In the early of 17th century the West attempted to search the exact method to discover social and political order with the means of rationalism, in the 18th century it was empiricism, and in the 19th century in dialectics.⁶ Although there were many giant influential theorists in social and political thought, for this examination of social justice, it is enough to examine Rousseau’s thought from the rationalist school, Adam Smith’s from the empiricists, and Karl Marx from the dialectics.

¹ Schmandt, Henry J., *A History of Political Philosophy*, Milwaukee: The Bruce Publishing Company, 1960, 40.

² Sir Ernest Barker, *Greek Political Theory: Plato and His Predecessors*, Bungay, Suffolk: Methuen & Co. Ltd., (1918), 1964, pp. 136.

³ Irwin, Terence (ed.), *Classical Philosophy*, Oxford: University Press, 1999, pp. 1-5.

⁴ Chroust, Anton-Hermann, “The Function of Law and Justice in the Ancient World and the Middle Ages,” in *Journal of the History of Ideas*, Vol. VII, No. 3, 1946, pp. 312.

⁵ Erik A. Havelock, *The Liberal Temper in Greek Politics*, New Haven and London: Yale University Press, (1957), 1964, pp. 13-15.

⁶ *Ibid.*, pp. 15-16.

1. Plato

In a context of ancient Greek Socrates had begun a discussion on justice by naming himself as the fighter of justice.¹ Because Socrates did not write anything, and that systematic political thought emerged for the first time in Plato,² here, then, the examination on the classical Western conception of social justice is begun with Plato.

Using Socrates's mouth, Plato refuses existing conceptions of justice at that time: justice in traditional conception (Cephalus and Polemarchus), authoritarian (Thrasymachus), and pragmatic (Glaucou). definition of justice coming from commercial world as mentioned by Cephalus that justice is honesty, not cheating, and paying all debts either to a god for sacrifice or to a man for money.³ For, to him, such actions are not always true. Also, the conception revealed by Polemarchus saying that justice is "to render every man his due,"⁴ is refused by Plato, saying that it cannot be applied to someone who is insane. Afterward, Polemarchus says that justice is rendering services to friends and injuries to enemies. Again, Plato repudiates such definition because between friends and enemies is often vague. In addition, Plato firmly states that hurting enemy means hurting man, and it means injustice.⁵

Cephalus's and Polemarchus's failures to give right definition on justice makes Thrasymachus, a Sophist being there during the conversation between Socrates and Cephalus and Polemarchus, who can really not able to restrain himself to talk, immediately brings up his own definition on justice. To Thrasymachus, 'just' or 'right' means nothing but what is 'to the interest of the stronger party.'⁶

Different from other lines of thinking, Glaucou exposes a principle of pragmatism in his conception of justice. To him, the rules of justice are for the

¹ Plato, *Apology*, 31C-32E, in Irwin, *op. cit.*, p. 352.

² Schmandt, *op.cit.*, pp. 40-1.

³ *Republic*, I. 331, p. 7. (Plato, *The Republic of Plato*, translated with Introduction and Notes by Francis MacDonald Cornford, London: Oxford University Press, (1941), 1971, Book VII, line 525. Otherwise stated, all quotations of the *Republic* in this thesis are taken from this book.)

⁴ *Republic*, I. 332, p. 9.

⁵ *Republic*, I, 333-5, pp. 11-4.

⁶ *Republic*, I, 336 B-347 E, p. 18.

interests of everyone. Hence, it is for the interests of everyone to accept an agreement for establishing the rules of justice requiring admiration to other's interests.¹

Naturally, all definitions of three streams of thought cannot be justified by Plato. Hence, it should be immediately revealed a true definition, the one which will put aside all erroneous definitions. A true definition is only made when someone has got a true understanding of justice itself. To Plato, there is individual justice and justice in a state. To find a true understanding on individual justice, first it should be found the nature of justice in a state, for a state and a man has similar qualities whereas the size of state is bigger than an individual. In a larger scale, everything would be easier to see and understand.²

Of course Plato does not intend to identify individual justice with social justice, for it is clear that there is a difference between individual justice and justice of a state. But, "in so far as the quality of justice is concern, there will be no difference between a just man and a just society."³

In reply to the three streams of thought on justice mentioned above, Plato makes a parallelism between divisions of class in an ideal state with divisions of soul in an individual.⁴ Here Plato relates the three parts of the soul (reason, spirit, and appetite) with four cardinal virtues called as soul's morality or excellence.⁵ The four cardinal virtues are wisdom, courage, temperance, and justice. Mind or reason, is related to wisdom; spirit or courage, is related to fortitude; whereas appetite, passion or need, is related to temperance. All three parts are wholly related with justice to conserve harmony and balance between each parts of the soul, which is called a psychological harmony.⁶

¹ *Republic*, II, 358 E, p. 44.

² *Republic*, IV, 434, p. 130. See also *Republic*, II, 368, p. 55.

³ *Republic*, IV, 434, p. 131.

⁴ *Republic*, IV, 434, p. 131.

⁵ Plato's doctrine on divisions of human soul is known as "Plato's tripartite theory of the soul" saying that human soul is divided into three parts in correspondence with his own natural capacity with which he differentiates with other living creatures. The first of the three is reason or mind (*nous*) which is rational part (*to logistikon*), the second is spirit or courage (*thumos*) which is courage part (*to thymoeides*), and the third is appetite, passion or need (*epithumia*) which is need part (*to epithymêtikon*). George Klosko, *The Development of Plato's Political Theory*, New York and London: Methuen, 1986, p. 68.

⁶ *Republic*, IV. 442-3, pp. 141-2.

To find the character and nature of justice in a state, Plato firstly refers to the origin of a state analytically examined by economic, and not historical, reason. Plato begins with human needs which are numerous and various in each daily life. Then, he shows the fact that an individual cannot fulfill his numerous wants and various needs by his own ability and aptitude. For this reason, human beings basically need one another for each own interest. So, they agree to cooperate in accordance with their own talents, abilities and aptitudes in a place lived in common. This division of labor based on natural aptitudes constructs a state.¹

It is clear that a state is born by the existence of various human needs. The first need is food, the second is shelter, and the third is clothes, and then the other needs to follow. To fulfill such needs there should be farmers, builders, weavers, and can be added shoemakers, smiths, and so on.²

For Plato, division of labor based on talents, specialization, and abilities of the citizens is called justice (*dikaisone*).³ When everyone and every class in a state functions as it should be, human various needs would be fulfilled, so that the state would be prosperous and that unity and concord would be well preserved. Here, justice is related to specialization.

Individual justice is only accomplished by temperance. Temperance is only attained when the rational part could control the two other parts, i.e. the spirit or courage and the appetite and passion. In an allegory of a charioteer driving two horses (the good and the bad), it is clear that justice exists when the charioteer can control and command the two horses.⁴ When someone can control himself, he can function naturally in accordance with his calling based on his talent, ability, and aptitude. There is nothing to make someone happy besides getting a job in conformity

¹ *Republic*, IV, 427, p. 120 (editor's note).

² *Republic*, IV, 427, p. 120 (editor's note). See also *Republic*, II, 369, p. 56.

³ Plato states that "when each order—tradesman, Auxiliary, Guardian—keeps to its own proper business in the commonwealth and does its own work, that is justice and what makes a just society." *Republic*, IV, 434 C-D, p. 129.

⁴ Plato, *Phaedrus*, Penguin 60s Classics, translated by Walter Hamilton, London: Penguin Books, 1973, pp. 40-3.

with his talent, ability and aptitude. By such natural work he can function optimally well, and can perform himself in line with his honorable virtue.

Therefore, it can be considered that, for Plato, individual justice is the function of someone who can control himself in accordance with his calling based on his talent, ability, and aptitude. Social justice, then, is a harmonization of various talents, abilities, and aptitudes in a community.

The diversity of talents and capabilities is naturally written, says Plato.¹ Nevertheless, Plato continues, golden parents can have silver children, or silver parents own golden children.² Therefore, education and nurture are needed to elevate the quality of self.³

Plato also proposes that harmony should be the ideal order of society. And the differences of classes are natural, so that men can only adjust themselves to their positions.⁴ Also, harmony needs cooperation and fair treatment between human beings.⁵

Furthermore, Plato proposes a thesis of communism, where women, children and properties are belonged together.⁶ Even the self should be cooperated for the common interests.⁷ Therefore, there is no chance for the ruling holders to “rend the community asunder by each applying that word ‘mine’ to different things.”⁸

¹ *Republic*, III, 415.

² *Republic*, III, 415.

³ *Republic*, IV, 423.

⁴ *Republic*, IX, 590.

⁵ *Republic*, I, 351.

⁶ “You’ll find the ideal society and state, and the best code of laws, where the old saying ‘friends’ property is genuinely shared’ is put into practice as widely as possible throughout the entire state. Now I don’t know whether in fact this situation—a community of wives, children and all property—exists anywhere today, or will ever exist, but at any rate in such a state the notion of ‘private property’ will have been by hook or by crook completely eliminated from life.” *The Laws*, V, 739. (Plato, *The Laws*, translated with an introduction by Trevor J. Saunders, Hammondsworth: Penguin Books, 1970, Book IX, line 875a. All quotations of the *Laws* in this thesis are taken from this book.)

⁷ “Everything possible will have been done to throw into a sort of common pool even what is by nature ‘my own’, like eyes and ears and hands, in the sense that to judge by appearances they all see and hear and act in concert. Everybody feels pleasure and pain at the same things, so that they all praise and blame with complete unanimity.” *The Laws*, V, 739.

⁸ *Republic*, V, 464.

2. Aristotle

Justice is in accordance with the law, says Aristotle.¹ It “implies a relation to persons as well as to things, and a just distribution.”² And there are some categories of justice in Aristotle’s thought:

1. General Justice (as a complete virtue): justice for the political society. Here justice is anything lawful in our behavior to others.³
2. Particular justice:
 - a. Distributive: “distributions of honor or money or the other things that fall to be divided among those who have share in the constitution.”⁴
 - b. Retributive: “rectifying part in transactions between man and man.”⁵ Or more exactly is justice in a courtroom (administration of justice).

Theoretically, Plato emphasizes that justice is attained by a harmony of individuals to do each job specialization. Everyone with each own work creates justice. By this Plato wants to prove that just conduct is required by the interest of the agent. In other words, Plato stresses that the cardinal social virtue is in the individual’s ethical foundation. That kind of ethics, however, is seemingly not in his pupil’s moral philosophy. To Aristotle, justice is a virtue aiming at the good of others. This altruism emerged for the first time in Greek classical philosophy, that is, a conduct without any support of seeking happiness of the agent.⁶

Aristotle says that we can see how love of self necessitates concern for the good of others when we understand what is meant by talking of self-love and self-interest. What we think in our self-interest depends on what we think the self is, and on what kinds of wants to be satisfied in order to reach its interest. Aristotle mentions

¹ *NE*, V, 1. (Aristotle, *Nicomachean Ethics*, translated by W. D. Ross, in Richard McKeon (ed.), *The Basic Works of Aristotle*, New York: Random House, 1941, Book V, Chapter 1).

² *Politics*, III, 9. (Aristotle, *Politics*, translated by Benjamin Jowett, in Richard McKeon (ed.), *op. cit.*, Book III, Chapter 9).

³ *NE*, V, 1.

⁴ *NE*, V, 2.

⁵ *NE*, V, 2.

⁶ *NE*, V, 1.

that a human self is basically social, so that something is missing from our good if all our attention is purely self-regarding.¹

What Aristotle means for the virtuous person is ‘another self’. If we are virtuous, we care about the friend in the way we care about ourselves; we can therefore take an interest that we would not otherwise take in what the friend does. Concern for others does not interfere with our interests, but expands them.² Aristotle describes this attitude to virtuous actions by saying that virtuous people choose them “because they are fine (*kalon*)”, or “for the sake of the fine.”³

Like Plato, Aristotle says that the social nature of human beings is also the basis of justice. To Aristotle, however, the aim of state is not merely life as such or to the interests of similarities of place, security, and economy; but more to the good and just quality of life.⁴ Therefore, Aristotle says that we need of law enforcement for preserving justice.⁵

Inequality is always a problem of social justice. Aristotle’s solution, however, is not complete. For, persons from a lower class cannot be citizens, “since leisure is necessary both for the development of virtue and the performance of political duties.”⁶ Consequently, the right of political participation cannot be given to them.⁷

In examining classes in society, Aristotle says that there are three components in every state “one class is very rich, another very poor, and a third is a mean.” To him, the best administered state is the situation “in which the middle class is large, and stronger if possible, than both the other classes, or at any rate than either singly.”⁸

In addition, inequality should be handled by distributive justice. Aristotle’s distributive justice is based on the maxim “to each according to his merit.” And that the standard of merit, in practice, differs: in a democratic state it is liberty (i.e.,

¹ Irwin, *op. cit.*, 316-318.

² *NE*, IX, 9.

³ Irwin, *op. cit.*, p. 316-8.

⁴ Sir Ernest Barker, *Greek Political Theory: Plato and His Predecessors*, Bungay, Suffolk: Methuen & Co. Ltd., (1918), 1964, pp. 136-9.

⁵ Aristotle, *Politics*, 1253a26-38. Aristotle, *The Politics of Aristotle*, translated with notes by Ernest Barker, London: Oxford University Press, (1948), 1960, p. 8.

⁶ *Politics*, VII, 9.

⁷ *Politics*, III, 5.

⁸ *Politics*, IV, 1.

everyone who is not a slave has the same rights); in an oligarchy it is wealthy; in an aristocracy it is genealogy; in a true aristocracy, it is virtue.¹

Therefore, man's political position is regarded according to his involvement in society: the more he contributes, the better his position;² even though only few people are capable.³

Besides being solved by legal and managerial ways, social justice finally should be solved by virtue: friendship.⁴ Man is a relational being, so that deviation of relation will hurt the friendship and the common interest.⁵

That is Aristotle. Like his predecessor, Plato, he shows that justice is a part of the happiness, that justice is an attempt to make social harmony, that we have enough reason to do justice, and that a just man should choose a just action only for the sake of justice itself.

3. St. Augustine

St. Augustine⁶ lived in the middle of the ruin of Roman Empire and the growth of the Church as a social force.⁷ Therefore, Augustine's writings were more as systematic formulations on Christian position in the middle of humanity.⁸

Plato's idea on justice as harmony between individual specializations⁹ is transformed –by Augustine—into a religious conception. For Augustine, the nature of justice (*aequitas*) is a proportional and true relation between man and God producing

¹ *NE*, V, 3.

² *Politics*, III, 9.

³ *Politics*, III, 8.

⁴ Irwin, *op. cit.*, 316-318.

⁵ *Politics*, I, 6.

⁶ St. Augustine (354-430) was born in Thagaste, a town in North Africa with a landowner pagan father, Patricius, and a Christian mother, Monica. In 370 he went to the University of Carthage and joined with the Manicheans. He was a headmaster at Thagaste; a teacher of rhetoric in Carthage (377), and a professor of rhetoric in Milan (384). In 387 he embraced Christian. Went back to Africa in 388, seven years later he became the Bishop of Hippo (now Bona in Algeria). In 400 he wrote *Confessions*, an important document to understand his other works. From 413 to 426, in the middle of administrative business, he wrote *De Civitate Dei* (the City of God). He passed away in 430, with the Vandals outside his wall of the city. Bowle, John, *Western Political Thought: An Historical Introduction from the Origins to Rousseau*, London: Methuen, (1947), 1961, pp. 124-5 n. 2.

⁷ Bowle, *ibid.*, p. 133.

⁸ Schmandt, *op. cit.*, 115.

⁹ *Republic*, I, 331.

the creation of proportional and true relation between human beings. Therefore, for Augustine, justice is the most natural basis in the life of a state. A state cannot be arranged and managed as it should be if there is no justice, or more exactly true justice. Augustine says that truth is coming from the fountain of justice. So, if the true justice does not exist, the truth is also extinct. For God is the true God, He is also the most Just. God is the True Justice and He is the most appropriate to be called as the fountain of Justice. God is the real source of justice. Hence, only when one has the true relationship with God, he will be overwhelmed by the truth coming from the fountain of justice. The condition is also similar with a state; if a state is commanded by God, the state will be overwhelmed by the fountain of justice.¹

Augustine's theory of justice, then, is a theory based on divine revelation, without which human beings will not have any adequate idea on objective and absolute justice. It is based on his thinking that justice in the sense of "giving everyone his due" is giving God His rights, and giving a man his due. Consequently, if each is not in its place means it is not true justice.²

By justice based on the revelation it infers that justice voiced by Augustine is cosmological justice where individual and social justice being the parts of it.³ This cosmological justice is within the structure of heavenly city. Augustine says that his heavenly city is a spiritual, and not political, society. It is a higher, universal society. Here it is the importance of justice for a state and for an individual.

According to Augustine, justice is the most cardinal virtue. A state or a kingdom which is not based on justice is much more like a group of robbers.⁴ In other words, for Augustine, a state is called a real state if it is based on justice. And because the true justice is God himself, without God, then, a state is only a flock of plunderers.⁵

¹ *City of God*, XIX, 21. (Augustine, St., *The City of God*, trans. Marcus Dods, London: Encyclopaedia Britannica, Inc., 1952).

² *City of God*, XIX, 21.

³ "Hence, when a man does not serve God, what justice can we ascribe to him, since in this case his soul cannot exercise a just control over the body, nor his reason over his vices? And if there is no justice in such an individual, certainly there can be none in a community composed of such persons." *City of God*, XIX, 21.

⁴ *City of God*, IV, 4.

⁵ *City of God*, XIX, 21.

Therefore, Augustine insists that a true political society, something which is called as a state, should bring justice into reality. But justice cannot be applied in the state which not serves God. Justice cannot be existed in a pagan state. Here, then, the pagan Roman Empire cannot be a real state, for it was not based on the true justice, and, therefore, cannot apply justice.¹

The City of God is full of the truth and justice, for God Himself is the Commander and the Sovereign. To this, Augustine appraises the Heavenly City and nobles its Ruler (God).²

It can be inferred that Augustine's theory of justice has the following characteristics:

1. Divine justice. Any action contrary to the Law of God cannot be just.³
2. Natural justice. Augustine says that justice "proceeds from nature," from the very essence as well as order of all things.⁴ This kind of justice is, for instance, the rule that "not to do to others what you do not want others do to you."⁵
3. Justice is higher than material goods.⁶
4. Absolute and relative justice. Divine Law, the basic principles of morality and justice, is eternal and unchangeable,⁷ but specific and detail customs and positive laws arranging human relationships can be different according to time and space.⁸

Now we go on discussing the application of Augustine's theory of justice to the problems of social justice. The first problem to be answered by Augustine is the problem of inequality. The followings are Augustine's viewpoint on inequality:

¹ *City of God*, XIX, 21-24.

² *City of God*, II, 21.

³ "But those things which are done against God's law cannot be just." Augustine, St., *Contra Mendacium*, XV, 31 as mentioned by Deane, Herbert A., *The Political and Social Ideas of St. Augustine*, New York & London: Columbia University Press, 1963, p. 286.

⁴ Augustine, St., *De Diversis Quaestionibus*, 31 as quoted by Chroust, Anton-Hermann, "The Function of Law and Justice in the Ancient World and the Middle Ages," in *Journal of the History of Ideas*, Vol. VII, No. 3, 1946, pp. 312-3. See also *Confessions*, II, 4, 9. (Augustine, St., *The Confessions*, trans. Edward Bouverie Pusey, London: Encyclopaedia Britannica, Inc., 1952).

⁵ *On Christian Doctrine*, III, 14, 22. (Augustine, St., *On Christian Doctrine*, trans. J. F. Shaw, London: Encyclopaedia Britannica, Inc., 1952, book III, chapter 14, note 22.)

⁶ "What sort of justice is that which is retained for the sake of gold, as if gold were a more precious thing than justice herself, or as if when a man denieth the deposit of another man's goods, ..." Augustine, St., *En. In Ps.*, LXXII, 18 as mentioned by Deane, *op. cit.*, 84.

⁷ *On Christian Doctrine*, III, xiv, 22.

⁸ *Confessions*, III, vii, 13.

1. Natural inequality is God's providence.¹ One's rise and fall are caused by the Will and Power of God. Here, Augustine's view is rather fatalistic.²
2. Social and political inequalities are coming from human laws, and not God's law, for God equalizes all human beings.³
3. The origin of attitude to inequality comes from pride.⁴ Hence, social inequality is based on sin. Slavery, for example, is originated from sin, not from nature, for naturally, human beings are equals.⁵ And sin itself is not God's providence, it is human choice.⁶
4. Inequality should not bring envy. A true Christian is not envious to the things owned by his brothers who love also God.⁷
5. Inequality is not aggravated by such violence as plundering,⁸ but should be solved by brotherhood.⁹

In the matter of social justice, Augustine gives more attention to harmony, and not to equality. Here, he does not allow enmity between human beings merely for the sake of mundane matters. To him, for the sake of harmony, all Christian followers, regardless their classes should follow earthly rules.¹⁰ Such is because human hope should be directed to the heavenly justice.¹¹

Therefore, the idea of equality in Augustine is equality of opportunity for worship, and not for mundane matters. Even if one has nothing to charity, the will itself is enough.¹²

¹ *City of God*, XVIII, 2.

² *City of God*, V, 1.

³ Augustine, St., *In Ioann. Evangel.*, VI, 25-26 as quoted by Deane, *op. cit.*, 105.

⁴ "It is thus that pride in its perversity apes God. It abhors equality with other men under Him...." *City of God*, XIX, 12.

⁵ *City of God*, XIX, 15.

⁶ *Free Will*, iii, 11. (Augustine, St., *On Grace and Free Will*, trans. A. W. Haddan, rev. W. G. T. Shedd, in Whitney J. Oates (ed.), *Basic Writings of Saint Augustine*, New York: Random House Publishers, 1948, book iii, chapter 11.)

⁷ *En. In Ps.*, XXXIII, 2, 6 as mentioned by Deane, *op. cit.*, 84.

⁸ Augustine, St., *Ep.*, XII, 50. as quoted by Deane, *op. cit.*, 106.

⁹ *City of God*, XII, 22.

¹⁰ *City of God*, II, 19.

¹¹ *City of God*, XIX, 15.

¹² *En. In Ps.*, LXXXV, 3. as quoted by Deane, *op. cit.*, 110.

Mutualism in social justice is also admitted by Augustine. To him, social justice should be mutual, no double standard or free rider.¹ Mutual means considering others, as well as himself.² For instance, harmony exists when there is mutual symbiosis between the master and the slave.³

Crossing over social justice, Augustine says that the true justice of Christians is not merely equality and fairness but the real love—that is, love of and attention to his neighbors—coming from consciousness.⁴

In distributive justice, therefore, thing to be distributed is not goods, but love.⁵ Such is because, money and temporal goods like wives, children, health, or “the world’s dignity”, cannot be the true goods. Augustine says that anyone—whether he is good or bad person—can have those temporal goods.⁶ In doing distribution, one who distributes should not pride to himself, says Augustine. Because that gold and silver belong to God, and not belong to human beings, one who gives to the poor is giving what belongs to God and not his, and therefore, there is no reason to be pride.⁷

Finally, to do social justice, the principle of friendship,⁸ and not egotism, is needed.⁹ Without friendship, humanity is corrupt. To this, Augustine has this maxim: “there is nothing so social by nature, so unsocial by its corruption, as this race.”¹⁰

4. St. Thomas Aquinas

Thomas Aquinas¹¹ is well-known as a dominant thinker of the Middle Ages, one of the great philosophers of the world, or an outstanding defender and a symbol

¹ “For what thief will tolerate another thief stealing from him? Even a rich thief will not tolerate a poor thief who is driven to theft by want.” *Confessions*, II, 4, 9.

² *On Christian Doctrine*, I, 26, 27.

³ “Each one of you doth need the other. Therefore neither of you is truly lord and neither of you truly servant.” *En. In Ps.*, LXIX, 7. as quoted by Deane, *op. cit.*, 295 n. 160.

⁴ *In Ioann. Evangel.*, XXXII, 4, as mentioned by Deane, *op. cit.*, 83.

⁵ Augustine, St., *De Sermone Domini*, I, xix, 59 as quoted by Deane, *op. cit.*, 115.

⁶ *Sermo LXXXV*, 6-7 as quoted by Deane, *op. cit.*, 112.

⁷ *Sermo L*, I, 2 as mentioned by Deane, *op. cit.*, 293 n. 122.

⁸ *City of God*, XIX, 12.

⁹ *De Trinitate*, IV, ix, 12. as quoted by Deane, *op. cit.*, 93.

¹⁰ *City of God*, XII, 28.

¹¹ St. Thomas Aquinas (1225-1274) was born in Rocca Sicca in Southern Italy, from an honourable family, a part of which is coming from German and northern Italy. In 1231, he was sent to Benedictine monastery at Monte Cassino. When the monastery was destroyed by the Imperial soldiers in 1239, he moved to Naples.

of dignity in Catholic Church.¹ He developed his moral theory based on theological, psychological, and epistemological inferences.²

In theory of justice, Aquinas states that justice is a principle of equality enacted to the outer human action.³ The scope of justice is “to regulate men in their relations with others.”⁴ So, generally, “justice is a habit whereby a man renders to each one his due by a constant and perpetual will”⁵

There are some characteristics of justice in Aquinas’s thought:

1. Justice comes from moral and spiritual virtue. As a moral virtue, justice is coming from will⁶ which can trace sensitive appetites by rational control and train the passion to the spiritual attitude for human full contentment.⁷
2. Justice is a virtue standing above other virtues, for it emphasizes common good,⁸ and it is directed toward the good of others.⁹
3. To uphold justice needs law.¹⁰ Here, individual rights should be concerned by law.¹¹ To mention holistically, the illumination of justice is coming from eternal law,¹² through natural law¹³ and divine law.¹⁴ It can be enacted as human law.¹⁵

Later, he escaped from his family’s castle to be a Dominican at the age of 18. He went to Köln to study theology under Albertus Magnus, then to Paris in 1245. In 1252 he was a sub-regent of Dominican school there. He got the title of Doctor in theology in 1257. In 1263 he was ordered by Pope Urbanus IV to make some commentaries on Aristotle. He died in 1274 in Naples. Among his works are *Summa Theologica*, *Summa Contra Gentiles*, *Commentaries on Aristotle’s Ethics and Politics*, and *De Regimine Principum*. Bowle, *op. cit.*, 200-1.

¹ Schmandt, *op. cit.*, 147.

² Aspell, Patrick J., *Medieval Western Philosophy: The European Emergence*, Washington, D. C.: The Council for Research in Values and Philosophy, 1999, p. 194.

³ *Summa Theologica*, II-II, 57, 2, c. (Aquinas, St. Thomas, *The Summa Theologica*, trans. by Fathers of the English Dominican Province, rev. by Daniel J. Sullivan, London: Encyclopaedia Britannica, Inc., 1952).

⁴ *Summa Theologica*, II-II, 58, 5, c.

⁵ *Summa Theologica*, II-II, 58, 1.

⁶ *Summa Theologica*, II-II, 58, 12.

⁷ *Summa Theologica*, II-II, 58, 4.

⁸ *Summa Theologica*, II-II, 58, 12.

⁹ *Summa Theologica*, II-II, 58, 12.

¹⁰ *Summa Theologica*, II-II, 57-81 and q. 17, a. 4.

¹¹ *Summa Theologica*, I-II, 96, 1.

¹² Eternal Law is Divine reason ordering and arranging all creation. This law is called eternal since “the divine reason’s conception of things is not subject to time.” *Summa Theologica*, I-II, 96, 3.

¹³ Natural Law is part of eternal law which can be understood by human reason. *Summa Theologica*, I-II, 94, 2.

¹⁴ Divine Law is part of eternal law revealed by God for human beings through the Old and New Testament. *Summa Theologica*, I-II, 91, 4.

¹⁵ *Summa Theologica*, I-II, 91, 3; I-II, 95, 2; I-II, 95, 3.

In general, Aquinas says, justice is a virtue giving everyone his due and making a balance between rights and duties. Justice divides into two categories: general justice and particular justice. General or legal justice is addressed to the state to arrange common good¹ of the community as a whole and particular justice is addressed to the individual to protect individual or association of individuals' rights.²

Particular justice is divided into two: commutative and distributive justice. Commutative justice (*justitia commutativa*) is an exchange of giving and receiving in a fair situation between persons. Distributive justice (*justitia distributiva*) is a fair division on what can be divided of the community's property. Both kinds of justice serve individuals' interests and get from individuals' intention.³

The following is the difference between commutative and distributive justice in Aquinas's thought:

Table 1.1. Commutative and Distributive Justice According to Aquinas

No.	Subject	Commutative Justice	Distributive Justice	Source
1.	Relationship	Egalitarian	Aristocratic	ST, II-II, 61, 2, 3
2.	Standard	Legal	Merit	ST, II-II, 61, 2, 3
3.	Nature	Fixed	Flexible	ST, II-II, 63, 1, 3, 4, ad 1

Now, let us see Aquinas's opinion on social justice. In addition to general justice, i.e., in the form of general welfare, social justice can also be got from particular justice, i.e., distributive justice. In the latter, it is addressed to persons, as private citizens in managing their group, or as public servants of the state in dividing the benefits coming from the community. The subject of social justice is personal

¹ "Common good" is different in kind, not only in the amount and level, from totality of individual good. *Summa Theologica*, II-II, 58, 7, ad. 2.

² *Summa Theologica*, II-II, 58, 5, 6; I-II, 55, 4, ad 4.

³ *Summa Theologica*, II-II, 61, 1.

will; the object is personal right, and not the welfare of the whole community, which is the object of general justice.¹

Social justice is the virtue addressed especially to handle inequality. To Aquinas, in the beginning we should believe in God's providence that natural inequality such as differences in body structure, beauty, and fate always exists.² Even for something acquired by human efforts like spiritual capacity for justice, knowledge, actions and intentions there are also differentiation.³

Inequality in property, on the other hand, originates from human agreement, and not from natural law. For the reason that material goods are created for human needs, inequality should be solved by charity from the rich to the poor, for the rich is owed to the poor for their sustenance.⁴ And if it is not distributed, the destitute people can take it for their subsistence without considered to be a sinner.⁵ Also, the principle is that one's nobility depends on his benefit to others.⁶

Besides charity, the thing to be done by the society in the matter of distribution is the need of the ruler to distribute divine economics. Here, says Aquinas, there should be a divine delegation, that is, a command to which the rulers apply the necessary functions to place the individual members in the appropriate positions in the divine economics.⁷ Worldly kings, according to Aquinas, are instituted by God, not for their benefits, but in order to serve the common good.⁸ Here, then, Aquinas called the king as "the guardian of what is just" (*custos justitiae*) or "the personification of what is just" (*justum animatum*).⁹

¹ *Summa Theologica*, II-II, 58, 7.

² *Summa Contra Gentiles*, III, 93. (Aquinas, St. Thomas, *Summa Contra Gentiles*, in Anton C. Pegis (ed.), *Basic Writings of Saint Thomas Aquinas*, New York: Random House, 1945).

³ *Summa Theologica*, I, 96, 3.

⁴ *Summa Theologica*, II-II, 66, 2, 1 and 7, c.

⁵ *Summa Theologica*, II-II, 66, 7.

⁶ *Summa Theologica*, I, 96, 4.

⁷ *Summa Theologica*, I-II, 93, 3.

⁸ Aquinas, St. Thomas, *On Princely Government*, (Book One), in D'Entrèves, A. P. (ed.), *Aquinas: Selected Political Writings*, trans. J. G. Dawson, Oxford: Basil Blackwell, 1974, I, 1-3.

⁹ *Summa Theologica*, II-II, 58, 1.

Aquinas was not really burdened by the problem of social class. Social class, to him, is based on natural talent. It is the fact that some people are born with a capability of leadership and some others have only capacity to follow them.¹

Differences of levels, to Aquinas, are reflections of the perfect of nature.² Here, then, justice demands the inferiors obey the superiors, for the reason of stability.³ In other words, various classes or capabilities should be directed towards the good of society.⁴

5. Jean Jacques Rousseau

Rousseau⁵ is one of the philosophers of Enlightenment. His ideas have been admitted as an illumination of French and American Revolutions.⁶ Rousseau developed a tradition of social contract saying that social order is coming from the contracts between the members of the society.

In his moral theory, Rousseau includes in the rationalist category.⁷ This tradition has shown that “the principles of right and justice spring from our nature and are not at odds with our good.”⁸ Consequently, his theory of justice is coming

¹ *Contra Gentiles*, III, 81.

² *I Sentences*, 44.1.2.6. as quoted by Bigongiari, Dino (ed.), *The Political Ideas of St. Thomas Aquinas: Representative Selections*, New York: Hafner Publishing Company, 1953, p. xi.

³ *Summa Theologica*, II-II, 104, 6.

⁴ *On Princely Government*, I, 15.

⁵ Rousseau, Jean-Jacques (1712-1778), is French philosopher in the age of Enlightenment. He is known as an essayist writer, a novelist, and a musician. He is famous for his theories on social liberty and social rights, education, and religion. Born in Geneva, he was an autodidact and he moved to France when he was teenager. For the most of his life he moved between Paris and the surrounding provinces of France and several times went abroad (including a stay with Hume in Scotland) and back to Geneva, where he reembraced Protestant after a conversion to Catholic when he was young. Among his well-known works are *Discourse on the Origin and Foundation of Inequality Among Mankind* (1755), *The Social Contract or Principles of Political Right* (1762), and *Emile* (1762). See *The Cambridge Dictionary of Philosophy*, Robert Audi (gen. ed.), Cambridge: Cambridge University Press, 1995, p. 698.

⁶ *The Cambridge Dictionary of Philosophy*, *ibid.*, p. 746.

⁷ In his research on the origins of inequality, Rousseau says that he “deduced from the nature of man merely by the light of reason, and independently of those sacred dogmas which give the sanction of divine right to sovereign authority.” Rousseau, Jean Jacques, *A Discourse on the Origin of Inequality* [hereinafter *Inequality*], in *The Social Contract and Discourses*, tr. G. D. H. Cole, New York: Everyman’s Library, (1913), 1968, p. 221.

⁸ Rawls refers this to Rousseau’s *Emile*, especially book II and IV. The quotation is Rawls’s, *Theory*, 402-3.

from “human conventions”, that is, “a universal justice emanating from reason alone”¹

Besides on the reason, Rousseau’s principles of social justice are based on the nature of reality, that is, from human’s natural feeling of compassion.²

Generally, Rousseau emphasizes a conception of mutuality to his theory of justice. Justice should be mutual, says Rousseau, because:

- 1) There is everyone’s right in mutuality.³
- 2) Mutuality is effective.⁴
- 3) There is fairness in mutuality. Man would deny if he is differentiated.⁵
- 4) Mutuality is instinctive.⁶

In his maxim of mutualism, Rousseau intends to change traditional maxim of “*Do to others as you would have them do unto you,*” into “*Do good to yourself with as little evil as possible to others.*”⁷

Concerning social justice, Rousseau begins his discussion with analyzing the origins of inequality. In general, says Rousseau, social inequality comes from the right of property. Factually, inequality has brought about bad habits like rivalry, competition, and conflict of interests to human beings, which will, in turn, obliterate benevolence and sense of justice.⁸

Inequality, however, has two kinds: (1) natural or physical inequality, for it is established by nature, such as differences of ages, healthy, durability, and qualities of reason and soul; (2) moral or political inequality, for it depends on the kind of convention, and it is established, at least authorized, by human consent. Such difference is assigned by privileges allowing some people enjoy what others’

¹ SC, II.vi.2. (*The Social Contract*, Book II, Chapter vi, paragraph 2). All quotations from *The Social Contract* are taken from Rousseau, Jean Jacques, *The Social Contract* [hereinafter SC], tr. G. D. H. Cole, *op. cit.*

² SC, I.iv.11; *Inequality*, 184.

³ SC, II.iv.5.

⁴ SC, II.vi.2.

⁵ SC, II.iv.5.

⁶ Rousseau, Jean Jacques, *Emile*, tr. William Boyd, London: William Heinemann Ltd., 1956, p. 105.

⁷ *Inequality*, 185.

⁸ *Inequality*, 199 and 203.

prejudiced; such as richer, more honorable, more powerful, or even in a position to be obeyed.¹

To bring humanity back to justice, social inequality could be equalized by convention and rights. And that the convention and law should give a redress to the lost side the rights caused by obeying the law.²

Within justice, equal distribution is important, for a mistake in distribution will cause evil.³ Distribution, then, should be equal, and exception can be made based on merit, virtue, and patriotic service, the distinction of which is not inherited.⁴

Here, then, Rousseau states that the duty of government is not only protecting the citizens (negative justice), but also doing distribution (positive justice).⁵ Such is because, without the state's intervention, the poor will be under the tyranny of the rich and there will be an 'extreme inequality of fortunes.'⁶

Rousseau admits that no matter what, social class will be there in the society. The standard to be used, however, should be moral. Because, even though everyone should be treated alike, to differentiate between good man and bad man, differentiation should be made. And because Rousseau's thought is civil society, he shows that the standard is service to the community.⁷

For the sake of social justice, Rousseau proposes equality of opportunity in education for all citizens.⁸ Equality of opportunity should also be opened in every aspect of life, including to work and search for a living.⁹ Therefore, "everyone may see the road to any attainment open before him".¹⁰

¹ *Inequality*, 160.

² *SC*, I.ix.8 and vi.8

³ *Inequality*, 221.

⁴ Rousseau, Jean Jacques, *Constitutional Project for Corsica* [hereinafter *Corsica*], in Rousseau, *Political Writings*, tr. and ed. by Frederick Watkins, Edinburgh: Nelson, 1953, p. 289.

⁵ Rousseau, Jean Jacques, *A Discourse on Political Economy* [hereinafter *Political Economy*], tr. G. D. H. Cole, *op. cit.*, pp. 239-254.

⁶ *Political Economy*, 250.

⁷ *Inequality*, 216.

⁸ Rousseau, Jean Jacques, *Considerations on Poland* [hereinafter *Poland*], tr. and ed. by Frederick Watkins, *op. cit.*, p. 98.

⁹ *Corsica*, 308.

¹⁰ *Poland*, 257.

Finally, for the sake of social justice, Rousseau's formulation of political structure is a strong nation and weak citizens. This is what he calls as "the fundamental principle of the prosperity of the nation."¹ Nevertheless, the right of property still exists, but should be regulated and subordinated to the public good.²

6. Adam Smith

Besides such tradition of political liberalism as developed by Rousseau, the West also has a tradition of economic liberalism. This economic liberalism was firstly developed by Adam Smith.³ His ideas have been admitted as a sign of English Industrial Revolution. The liberal economic doctrines of Adam Smith were derived from the tradition of empiricism.⁴ Smith blatantly denies rationalist view that reason is the only standard of morality and behavior. He affirms that experience is one which can make moral laws.⁵

In the field of morality, Smith takes his moral theory from justice, that is, by his idea of the importance of the "impartial spectator."⁶ For Smith, the principle of impartiality is the principle of universality. What is approved by the impartial

¹ *Corsica*, 308.

² *Corsica*, 317.

³ Adam Smith (1723-1790) was born in Kirkcaldy, Fife. He was educated in Glasgow and Oxford; pointed as the Director of Logic and Moral Philosophy in Glasgow University; retired in 1762 and went to Continental Europe. Backed in 1766; he was, then, promoted to be King's Rector at Glasgow in 1787. He is known as Scottish economist and philosopher, a founder of modern political economy and a main contributor to ethics and moral psychology. His first work, *The Theory of Moral Sentiments* (1759), had made him famous and considered to be in the class of Hume, Burke, and Kant. His second work, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) was a very influential work, bearing an inhuman force which was later called "Capitalism." Other works are notes of his lectures published by his students such as *Lectures on Justice, Police, Revenue, and Arms* and *Adam Smith's Early Writings*. See *The Cambridge Dictionary of Philosophy*, Robert Audi (gen. ed.), Cambridge: Cambridge University Press, 1995, ("Smith, Adam" by C.L.G.) p. 743-4.; Adam Smith, *The Wealth of Nations*, 2 vols., Introduction by Professor Edwin R. A. Seligman, London: J. M. Dent & Sons Ltd., 1910.

⁴ The tradition includes David Hume's *A Treatise of Human Nature* (1739) and *An Enquiry Concerning the Principles of Morals* (1751), Nicholas of Cusa's *De docta ignorantia* (1440), Francis Bacon's *Novum Organum* (1620), and Newton's *Principia* (1678) are among Western works developed the tradition of empiricism. Brown, Maurice, *Adam Smith Economics: Its Place in the Development of Economic Thought*, London: Routledge, 1988, p. 56; Rawls, *A Theory of Justice*, (1971), 1999, p. 20.

⁵ *TMS*, VI.iii.2.6-7 (Adam Smith, *The Theory of the Moral Sentiments*, (1759), Washington DC: Lincoln-Rembrandt Publication, 1907, part VI, section iii, chapter 2, paragraphs 6-7).

⁶ *TMS*, II.i.2.2.

spectator is what will be approved by everyone, if the information being given is true. This, in other words, is something which can be called as the general rule.¹

In its operation, this impartial spectator is based on the feeling of sympathy. To Smith, the interaction of sympathy is something which creates the existence of society, and not only certain arrangements of social structure. Sympathy is not only the bearer of human rationality, but also the mechanism which “universalizes” individuals by binding them into social groupings.²

Smith connects justice with utility.³ But he does not emphasize it merely to utility⁴ as other utilitarians do.⁵ For he says that “sense of propriety” (a judgment that something is right) is also based on the motivation of the doer. Hence, there are two kinds of sympathy: approval/not approval to the doer of the action and approval/not approval to the acceptor of the action. And this judgment is done by the impartial spectator. Smith says that the sentiment or affection of the heart, from which any action proceeds, and upon which its whole virtue or vice depends, may be considered under two different aspects, or in two different relations: first *in relation to the cause* or object which excites it; and secondly, *in relation to the end* which it proposes, or the effect which it tends to produce.⁶

Concerning the importance of justice in society, Smith says that while society can exist without benevolence, it cannot endure without justice.⁷ If there is no justice “the great, the immense fabric of human society ... must in a moment crumble into atoms.”⁸

According to Smith, the aim of justice is “to secure from injury.” One can be injured in his position as a man, a member of a family, and a member of a state. As a

¹ K. Haakonsen, *The Science of a Legislator*, Cambridge: Cambridge University Press, 1981 as quoted by Brown, *op. cit.*, p. 66.

² *TMS*, I.i.1.1. See also Brown, *op. cit.*, p. 92.

³ *TMS*, II.ii.3.

⁴ Adam Smith, *Lectures on Justice, Police, Revenue and Arms*, reported by a student in 1763, edited by Edwin Cannan, New York: Kelley & Millman, Inc., 1956, p. 110.

⁵ David Hume, for example, says that moral approval and disapproval are the results of sympathy with something which affected by an action. Raphael, D.D., “Hume and Adam Smith on Justice and Utility”, *Proceedings of the Aristotelian Society*, New Series, Vol. LXXIII, 1972/73, p. 93.

⁶ *TMS*, II.i.2; *TMS*, I.i.3.8.

⁷ *TMS*, II.ii.3.2.

⁸ *TMS*, II.ii.3.3-4.

man, he can be injured in his body, his reputation, and his property.¹ In another place Smith states that “the most sacred laws of justice” are things which can control life and person, followed by control on property, and the right to do contracts.² Here, then, an institution of justice is needed, that is, to prevent injustice, social mess, and revenge.³

Nevertheless, for Smith, justice is the second duty of sovereignty,⁴ after security.⁵ Both, however, are the protective function of government. It means also negative function of government, that is, not to bother anyone. The third duty of government, on the other hand, is positive, that is, to make society prosperous.⁶ Such is because, for Smith, the development of civilization can be in line with the improvement of the standard of material relief enjoyed by the working class, which is the majority of the society.⁷

On inequality in society, Smith says, like Rousseau: it is the effect of property. To Smith, before the stage of property or in the stage of primitive hunting, inequality was not exist, for “the universal poverty establishes there universal equality.”⁸ Since the stage of husbandry, however, inequality begins, because of the introduction of property. To save property, then, people need a civil government.⁹

It can be said that Smith’s position is in between Platonic feudal specialization and the Welfare State. Plato says that social justice is best when every individual specializes according to each own “natural talent” and Smith affirms that it is especially a product of education and environment; in other words, it is “nurture” rather than “nature.”¹⁰

¹ *Lectures on Justice, etc.*, ed. Cannan, p. 5.

² *TMS*, II.ii.2.2.

³ *TMS*, II.ii.3.9. See also *TMS*, VI.iv.36.

⁴ *WN*, v.i.b.1.

⁵ *WN*, v.i.a.1.

⁶ *WN*, II.ii.c.1.

⁷ *WN*, I.viii.36.

⁸ *WN*, V.i.b.7.

⁹ *WN*, V.i.b.2.

¹⁰ *WN*, I.ii.4.

On distributive justice, Smith says that distribution based on *desert* is natural and can improve the interest of society.¹ Such is because every position has its own “price” based on education and the risk of work.² Elevation of one’s income, for instance, is in consistence with his increase in productivity.³ Here it seems that the maxim of “to each according to his contribution” is believed by Smith.

Such class differentiation as ‘the lower rank’ and ‘the higher rank’ is admitted by Smith.⁴ But this is not to be worried. According to Smith, the real human happiness depends upon the “ease of body and peace of mind,” so that “the beggar who suns himself by the side of the highway possesses that security which kings are fighting for.”⁵ So, wealthy and greatness sometimes are more as burdens rather than benefits to the bearers.⁶ Here, Smith’s handling to inequality is more like entertaining the poor by spiritual medicine. It is this kind of entertainment which is called by Marx as “opium”,⁷ although this time it is not coming from a religion, but from a philosophical thought.

Concerning opportunity to change the destiny, Smith considers that it should be done individually. To this, Smith proposes the values which should be cultivated by the lower class if they want to attain honor and attention of the society.⁸

That, however, does not bring Smith to sympathize the lower class, especially the working class. It can be seen that in the production, Adam Smith did not differentiate between work as a source and work as an exchange value. For Smith, the quantity of work equals the value of work.⁹ For him this calculation is ‘natural’, and therefore, ‘just.’ However, Adam Smith’s *labor theory of value* became the basis of capitalism. It is to this theory that Karl Marx violently attacked and said that Smith

¹ This is what he calls as ‘*an invisible hand*’. *TMS*, IV.i.10.

² Adam Smith, *Lectures on Justice*, 1766, p. 494 as quoted by Brown, *op. cit.*, p. 142.

³ *WN*, I.vii.22.

⁴ *TMS*, I.iii.2.1.

⁵ *TMS*, IV.i.10.

⁶ *TMS*, VI.i.8.

⁷ Bottomore, T. B. (ed.), *Karl Marx, Early Writings*, New York, 1964, p. 44.

⁸ *TMS*, I.iii.2.5.

⁹ *WN*, I.vi.1.

did not anticipate the development of capitalism.¹ And for an explanation of how capitalism is unjust we should discover Karl Marx's thoughts.

7. Karl Marx

The third tradition being discussed in examining the conception of social justice in the modern Western thought here comes from the tradition of Socialism. Socialism actually grew in the modern Europe, but it had not revolutionary effects,² until there was Karl Marx.³ Marx's ideas have been admitted as an illumination of Socialist Revolutions, including those Russian and Chinese Socialist Revolutions.

The spirit brought by Marx in criticizing capitalism came essentially from a moral philosophy of justice and the ideal of social change towards socio-economic justice. In his work entitled *Das Kapital* (The Capital), basically Marx utters on the case of how that the process of injustice happened in economic aspect. Marx's analysis focuses on the core of injustice hidden in the relationship between societies within the system of Capitalism.

By his research, Marx defines justice through injustice. To him, the injustices of Capitalism are:

1. Individualistic. Capitalism validated possessive individualist conception of justice used by the bourgeoisie to justify their rights of private property and market liberty. It was by this kind of individualism the bourgeoisie exploited labor power

¹ Karl Marx, *Theories of Surplus Value*, London: Lawrence & Wishart, 1971, p. 71 as quoted by Brown, *op. cit.*, p. 88 and 91n.

² In Europe, Socialism was indeed emerged before Marx. It was developed by such French and English thinkers as Babeuf, Saint Simon, Fourier, Louis Blanc, and Owen. All attacked the existing system of Capitalism, and proposed the way of living based on a form of collective control. Nevertheless, the offered solutions were far from reality, too utopian and very romantic, so that they cannot be regarded as successful movements. Their failures were generally caused by unfulfilled practical benefits for the workers. Schmandt, *op. cit.*, p. 384-5.

³ Karl Marx (1818-1883) was born in Trier from a Jewish-German family who converted to be Christians. Having fulfilled his student years in Bonn and Berlin, Marx became a social philosopher, economic theorist, and a revolutionary. He lived and worked as a journalist in Cologne, Paris, and Brussels. After the revolutions of 1848 in Europe, he lived in London, did researches, and wrote, and got salary as a correspondent for the *New York Tribune*. Among his works are *Das Kapital* (1867), *The Poverty of Philosophy*, *Theories of Surplus Value*, *The German Ideology* and of course *The Communist Manifesto* written by his friend, Friedrich Engels. See *The Cambridge Dictionary of Philosophy*, Robert Audi (gen. ed.), Cambridge: Cambridge University Press, 1995, ("Marx, Karl" by W.L.M), p. 398; Marx, Karl, *Grundrisse: Foundations of the Critique of Political Economy* [hereinafter *Grundrisse*], (Rough Draft), translated with a Foreword by Martin Nicolaus, Harmondsworth: Penguin Books, 1973, p. i.

by the reason of “fair” wage, although at the same time the workers had surrendered their destiny to the Capitalists.¹

2. Unequal exchange. Capitalist principle that “equal things to be exchanged equally” in reality was not applied. According to Marx, the wage system of Capitalism was ‘only illusory’, ‘mere semblance’, or ‘form’.² In saying that the Capitalists did cunning tactic in searching benefit by not giving proper wage to the workers, Marx uses the words of “without equivalent,”³ “unpaid surplus labour,”⁴ “theft,”⁵ etc.
3. Exploitation. For Marx, Capitalist mode of production was not an example of liberalist claim that “liberty, with equal liberty for others,” or that “liberty, but not to bother others,” because Capitalists were really free to exploit.⁶
4. Improper distribution. In the field of distribution, Capitalism hold to the maxim that “each by his own contribution”. For Marx, it is unfair because in doing contribution everyone has a different capacity. Also, in the field of need, everyone is unique because of different conditions, there are married and unmarried people; there are who had more children and they are who had not.⁷
5. Pauperization or emiseration. The existence of chronic unemployed groups, i.e. “reserve army” in industry, is a necessary condition for Capitalism. This reserve army of industry, the troops of which are the ascending amounts of workers caused by mechanization, provided a potential source of low-paid workers, and hindered any effort to improve their own destiny. So, while the Capitalists saved their own property, the wage of working class had never raised and cannot afford the basic necessities of life.⁸

¹ Marx, Karl, *Capital*, 3 vols., vol. I, Moscow: Foreign Languages Publishing House, 1887, I, p. 762.

² Marx, Karl, *Grundrisse: Foundations of the Critique of Political Economy*, (Rough Draft), translated with a Foreword by Martin Nicolaus, Harmondsworth: Penguin Books, 1973, pp. 458, 509, 551, 674.

³ *Grundrisse*, 674.

⁴ *Grundrisse*, 457.

⁵ *Grundrisse*, 705.

⁶ *Grundrisse*, p. 674.

⁷ Marx, *Critique of the Gotha Programme*, in *Selected Works*, II, p. 21-24. As selected in *Essential Writings of Karl Marx* [hereinafter *Essential Writings*], selected by David Caute, London: Panther, 1967, p. 249.

⁸ *Capital* I, 632, 644, 645.

Justice, to Marx, can be attained if the order of Capitalist society is replaced by the order of Communist society. In the Communist order of society, people would not be suffering anymore because of exploitation, but all get their needs and all work for the society. The maxim for his social justice is “*from each according to his ability, to each according to his need.*”¹

By the above maxim of production and distribution, Marx, along with Engels, offered the programs for the order of social justice in the Communist society, which are:

- 1) Abolition of property in land and application of all rents of land to public purposes;
- 2) A heavy progressive or graduated income tax;
- 3) Abolition of all right of inheritance;
- 4) Confiscation of the property of all emigrants and rebels;
- 5) Centralization of credit in the hands of the State, by means of a national bank with State capital and an exclusive monopoly;
- 6) Centralization of the means of communication and transport in the hands of the State;
- 7) Extension of factories and instruments of production owned by the State; the bringing into cultivation of wastelands, and the improvement of the soil generally in accordance with a common plan;
- 8) Equal liability of all to labour. Establishment of industrial armies, especially for agriculture;
- 9) Combination of agriculture with manufacturing industries; gradual abolition of the distinction between town and country, by a more equable distribution of the population over the country;
- 10) Free education for all children in public schools. Abolition of children’s factory labour in its present form. Combination of education with industrial production, etc., etc.²

In addition, for the reason that the emiserized side by the injustice of Capitalism is the working class, and that the society is divided into two conflicting classes (the bourgeoisie and the proletariat),³ Marx viewed the necessity of the

¹ *Critique of the Gotha Programme*, (1875) in *Essential Writings*, p. 249.

² Marx, Karl and Engels, Friedrich, *The Communist Manifesto*, translated by Samuel Moore (1888), Introduction and Notes by A.J.P. Taylor, Baltimore: Penguin Books, 1967, p. 104-5.

³ “By bourgeoisie is meant the class of modern Capitalists, owners of the means of social production and employers of wage labour. By proletariat, the class of modern wage-labourers who, having no means of production of their own, are reduced to selling their labour power in order to live.” [A note by Engels for English edition of 1883]. *The Communist Manifesto*, pp. 79-80.

working class to do class struggle for omitting the misery, oppression, slavery, degradation, exploitation brought about by the Capitalists.¹

What Marx's believes in this class struggle is:

- 1) that the *existence of classes* is only bound up with *particular historical phases in the development of production*;
- 2) that the class struggle necessarily leads to *the dictatorship of the proletariat*;
- 3) that this dictatorship itself only constitutes the transition to the *abolition of all classes* and to a *classless society*...²

Marx's idea is certainly ideal, or *beyond justice*. So, when it was applied by Lenin, there were handicaps being witnessed by the World, and finally the Soviet Union as a project of the application of Marx's theory collapsed. Such is because Marx's theory is reductionist in nature, that is, only from the perspective of class analysis. Hence, after Marx there were Neo-Marxian theories of justice which were not merely focused in class theory, but widened into a theory of hegemony, a theory of justice for women (feminism), a theory of justice in education, etc.

B. Social Justice in Islamic Tradition

Islamic tradition here means a reference of Muslims in their thoughts and actions. It constitutes perspectives forming a chain of culture which is specifically Islamic. This tradition contains various thoughts and works of Muslims from the time of the Prophet until today. It is a long, wide, and deep tradition, as wide as the area inhabited by the Muslims and as innumerable as their works and cultures. An endeavor to reach it by writing it will certainly meet failures. Nevertheless, a highlight is always done to describe it. And this writing tries to get the highlights. Hence, for the sake of this writing, the questions on social justice to the accessible written are proposed here. That is, firstly, to the Qur'an and Sunnah as the main sources of Muslim reference, and as the witnesses of Islamic thought and life of the Prophet's time. Later on, an examination on the thoughts and actions of the four

¹ *Capital I*, p. 763.

² Marx's letter to Weydemeyer in New York. Marx, Karl and Engels, Friedrich, *Selected Works*, (3 vol.), vol. I, Moscow: Progress Publishers, (1969), 1973, p. 528.

Caliphs is also done. These two eras constitute what can be called as the Formative Period of Islamic history or –in Qutb’s words—“the age which gave birth to Islam”.¹ It is this period which is the main source of the next Muslim generations, before and after the Western Modern Age.

From the end of the Rightly Guided Caliphs to the age of modernization brought by the Western colonizers to the Islamic world is the longest age. This period recorded many influences of non-Islamic knowledge, as well as many excavations of Islamic thoughts and cultures, to the stock of knowledge of the Muslims. It can be seen, for instance, in the works of Al-Mawardi. Yet, an endeavor to go back to the pristine purity of early Muslims was also done in this period. It can be seen, among others, in the works of Ibn Taymiyah. For the sake of complementing this thesis, it is to both religious scholars aforementioned that the questions of social justice here elucidated.

Finally, even though Islamic modern age is considered as a short period (about a century), it records various reactions of Muslims to various problems, including the problems of social justice. Here, then, we should select some scholars, to whom the questions of social justice should be addressed. So, Muhammad Asad is picked up, for he was the first ‘modern’ Muslim who systematically and specifically offered Islamic answers to the problems of statecraft. He chose a reference of puritan Sunni Islam as his basis of thought. Owing to his pioneering works, especially in the field of political thought, Asad had been a reference of the Muslim world. But the Muslim world was also shocked by the success of Shi‘ite Muslims in forming a state based on the Islamic teachings. The Islamic Revolution of Iran in 1979 had proven that Muslims can still form a social order based on their pure ideology in this very modern era. One who involved in forming, even said as the first initiator, the revolution was Ali Shariati. Hence, Asad and Shariati can be categorized as the representatives of the modern Muslim thinkers, to whom the questions of social justice are proposed in the present writing.

¹ *Social Justice*, p. 33.

1. Social Justice in the Prophet's Era

The Muslim society in the formative period, i.e. the period of the Prophet and the Rightly Guided Caliphs, is the ideal period which is always dreamt to be implemented by the generations after it.¹ Such is because this period had implemented Islamic teaching in its real form, either in the worldly or in the future life matters. Hence, by discussing a problem, like that of social justice, during this period, we can see that the thought of this period will be referred by the next generation of the Muslims. Here, then, some highlights on Islamic perspective on social justice at that period.

Prophet Muhammad (571-632) is the last prophet having the last revelation of God.² He is not only known as a prophet, but also as a statesman forming a body politic based on religion.³

To understand the theory of justice in the Prophet's era, let us see what the Qur'an says about it. First, we can trace the principles of justice, i.e., philosophical bases on justice according to the Qur'an. Among the principles of justice in the Qur'an are:

1. The honorable dignity of mankind (QS. 17: 70); which is seen from the acknowledgment of mankind as the best form of the creatures (QS. 95: 4), has a perfect soul (QS. 91: 7), and the appointment of mankind as the vicegerent (*khalifah*) of God on earth (QS. 2: 30; 6: 165; 11: 61; 45: 13; 14: 32).
2. Human's equality; which can be seen from the affirmation that human beings are coming from the same, one element (clay) (QS. 23: 12), from one man (Adam) (QS. 4: 1; 49: 13), that human beings are one nation (*ummah*) (QS. 2: 213; 10: 19), that all human beings are being under the same law of causality (QS. 53: 39; 2: 134; 35: 18; 37: 39; 74: 38), that they should have the same opportunity in enjoying God's bless (QS. 16: 71; 59: 7), and have the same opportunity of education (QS. 80: 1-8).

¹ Bellah, Robert N., *Beyond Belief: essays on Religion in a Post-Traditionalist World*, Berkeley: University of California Press, (1970), 1991, p. 149.

² Kausar Ali, *A Study of Islamic History*, Delhi: Idarah-i Adabiyat-i Delli, 1950, pp. 25-79.

³ Muir, William, *Life of Mohamet*, (London, 1861), Osnabrück: Bibliooverlag, 1988, p. ccxl.

3. Human's liberty; that human beings have the right to freedom (QS. 49: 13; 2: 177; 9: 60), the right to religious liberty (QS. 50: 45; 18: 29; 2: 256), freedom of thought and conscience (QS. 29: 20; 2: 170), and freedom from fear (QS. 4: 148; 24: 33).

In general, justice in the Qur'anic language contains in the words of '*adl*' (mentioned 28 times) and of '*qist*' (mentioned 25 times).¹ Yet, sometimes the word '*al-haqq*' (originally means truth) means also justice.²

Besides understanding from linguistic perspective let us try to understand the concept of justice in the Qur'an within its context and meaning. Here are some affirmations of the Qur'an on justice:

1. God's messengers and holy books for justice. To uphold justice, God sent the messengers and holy books.³
2. The Prophet for justice. All messengers brought God's teachings to uphold justice, and Prophet Muhammad (p.b.u.h.) also brought the same duty.⁴
3. Upholding justice as human's duty. The duty to sustain justice is not only for the prophets, but all human beings also obliged to do justice.⁵
4. Legal justice. The kind of justice frequently uttered in the Qur'an is justice in legal judgments.⁶ This justice can be explained as follows:
 - a. Justice in handling conflicts (QS. 49: 9).
 - b. Justice in dealing with non-Muslims (QS. 42: 15).
 - c. Doing justice even though to the hated man (QS. 5: 8).
 - d. Justice without the intervention passions (QS. 5: 49).
 - e. Justice as impartiality (QS. 4: 135).
 - f. Justice in witnessing (QS. 65: 2).

¹ 'Abd al-Baqi, Muhammad Fu'ad, *Al-Mu'jam al-Mufahras Li Alfaz al-Qur'an al-Karim*, Indonesia: Maktabah Dahlan, n.d., pp. 448-9 and 544-5.

² QS. 38: 26. Yusuf Ali, *op. cit.*, p. 1377.

³ QS. 57: 25. Yusuf Ali, *op. cit.*, 1697. The same injunctions can be found in QS. 4: 58 and 10: 47.

⁴ QS. 7: 29. Yusuf Ali, *op. cit.*, 404.

⁵ QS. 16: 90. Yusuf Ali, *op. cit.*, 760.

⁶ QS. 4: 58. Yusuf Ali, *op. cit.*, 228.

5. Economic justice. As an example, the Qur'an teaches to do justice in measuring and doing economic business.¹

The concept of justice in the Qur'an is known from the forms of justice acknowledged by the Qur'an. This acknowledgment can be seen from the following human rights:

1. Civil and political rights; admiring the right to life (QS. 5: 32; 6: 151; 6: 140), the right to freedom (QS. 4: 75; 24: 33, QS. 41: 46), the right of security (QS. 40: 31; 5: 45, 4: 90; 8: 61), the right to have a just trial (QS. 49: 9), the right to ask protection (QS. 9: 6), the right to justice (QS. 6: 165; 5: 8; 16: 97), the right to have respect (QS. 49: 11-12), the right to have a shelter (QS. 8: 72; 24: 27-29), the right to defend the self (QS. 42: 41-2; 2: 190; 9: 36; 22: 39-40), the right to speak and have an opinion (QS. 3: 159; 4: 148; 21: 52-4), and the right to unify and coalesce (QS. 42: 38; 5: 2).
2. Economic, social, and cultural rights; which include the right to property (QS. 45: 12-13; 2: 188; 5: 38; 4: 32), the right to get economic justice (QS. 16: 71; 59: 7; 6: 152), the right to have social involvement (QS. 4: 1), the right to love (QS. 30: 21; 4: 3), the right to have trust (QS. 4: 58), the right to have aid (QS. 90: 4; 5: 2), the right to get education (QS. 96: 1-5; 80: 8-11), and the right to work (QS. 67: 15; 39: 39; 16: 97).

Social justice is closely related to the concept of right. For every human being has certain rights and justice means rendering everyone each due.² It also means not to deprive other's rights.³ Owing to its social nature justice should be done by society as a whole.⁴ Here, any kind of injustice will face Islamic society as a whole.¹ A ruler

¹ QS. 55: 9. Yusuf Ali, *op. cit.*, 1661. It can be found also in the QS. 6: 152 and QS. 11: 85.

² During the Farewell Hajj, the Prophet said: "*O people! You have rights over your wives and your wives have rights over you ... Treat your wives with kindness. Verily, you have taken them on the security of Allah and made them lawful unto you by the words of Allah. And feed your slaves as you feed yourselves and clothe your slaves as you clothe yourselves. If they commit a fault which you are unwilling to forgive, then sell them, for they are the servants of Allah and are not to be harshly treated.*" As quoted by Kausar Ali, *op. cit.*, 66.

³ In his Farewell Hajj address, the Prophet said: "*As you are one brotherhood, you will not take your brother's belongings which he will not give you out of goodwill. Guard yourself from committing injustice.*" As quoted by Kausar Ali, *op. cit.*, 67.

⁴ The maxims of "rendering everyone each due" and "not taking one's right arbitrarily" became the social ethics of Islamic society. The first maxim is based on a Hadith narrated by al-Tirmidhi on the authority of

is important in managing public service. So, justice depends on the ruler.² And the ruler is obeyed so long as he does not order sins.³

Inequality is God's providence,⁴ so that it is natural,⁵ but should make everyone better in conduct.⁶ Besides, social inequality can be answered also by unity and cooperation.⁷ In the Medinan model, the Prophet had developed Islamic communion (*ummah*) by brothering (*mu'akhah*) between Medinan Muslims (*Ansar*, Helpers) and Meccan Muslims (*Muhajirun*, Migrants), that is, a community based on brotherhood, equality, and social justice.⁸ But this communion extended itself into political community in which non-Muslims also can have such kind of brotherhood.⁹

For social justice, the principle of equality of opportunity is acknowledged by Islam. Opportunity is open for everyone to work¹⁰ and develop himself.¹¹ Such is because Islam emphasizes individual endeavor.¹²

And for those who are less fortunate, Islam provides a lenient system of distribution, that is, by dividing *zakat* (alms-tax)¹ and charity.² It is based on the

Salman, whereas the second maxim is based on a Hadith narrated by Muslim on the authority of Abu Sa'id al-Khudri. See *Sunan al-Tirmidhi*, Kitab al-Zuhd, Vol. 4, Hadith No. 2413; *Sahih Muslim al-Nawawi*, Kitab al-Zakah, Vol. 7, p. 141.

¹ This is declared in the Charter of Medina. See Ibn Hisham, *Sirah*, tr. Inas A. Farid, ed. Umm Faruq Cook, Cairo: Al-Falah, 2000, p. 109 and 111.

² To this importance of a king, The Prophet said: "*Verily, the most beloved person among human beings to Allah on the Judgment Day and the closest of them to Him is a just ruler, and the most hated person among human beings to Allah and the furthest of them to Him is an unjust ruler.*" (al-Tirmidhi from Abu Sa'id). *Sunan al-Tirmidhi*, Kitab Ahkam, Vol. 3, Hadith No. 1329, p. 608.

³ The Prophet said: "*To listen and obey a command is binding on every Muslim whether he likes it or not except that (the ruler) commands something sinful, and when he does command anything sinful, neither listening nor obeying is binding in sin.*" (Muttafaq 'Alaih from 'Abd Allah). Al-Bukhari, *Sahih Al-Bukhari*, Vol. IX, Kitab Ahkam, (Cairo: Dar al-Hadith, Vol. III, p. 518).

⁴ QS. 6: 165. Yusuf Ali, *op. cit.*, 395.

⁵ QS. 43: 32. Yusuf Ali, *op. cit.*, 1504.

⁶ Based on a Hadith, saying: "*Allah looks not at your forms nor at your wealth, He looks into your hearts and into your actions.*" (Ahmad, Muslim and Ibn Majah, from Abu Hurairah). *Sahih Muslim al-Nawawi*, Kitab al-Birr, Vol. 16, (al-Matba'ah al-Misriyah, 1924), p. 121.

⁷ The Prophet said, "*One Muslim for another is like a house so that one part of the building supports the other.*" (al-Bukhari and Muslim from Abu Musa). *Sahih Muslim al-Nawawi*, Kitab al-Birr, Vol. 16, p. 139.

⁸ Based on the Traditions narrated by Muslim on the authority of Anas and Jabir ibn Mut'im. See *Sahih Muslim al-Nawawi*, Bab Mu'akhah al-Nabiy baina Ashabih, Vol. 16, p. 82.

⁹ This is declared in the Charter of Medina. See Ibn Hisham, *Sirah*, *op. cit.*, p. 109; Lings, Martin, *Muhammad: His Life Based on the Earliest Sources*, Kuala Lumpur: A. S. Noordeen, 1983, 125.

¹⁰ QS. 28: 77; QS. 62: 10; QS. 78: 10-11. Yusuf Ali, *op. cit.*, 1143, 1748, 1881.

¹¹ The Prophet said: "*Searching knowledge is compulsory for every Muslim.*" (Ibn Majah). Al-Albani says that this Hadith is Cogent (*Sahih*). See Muhammad Nasir al-Din al-Albani, *Da'if Sunan Ibn Majah*, Beirut: al-Maktab al-Islami, 1988, p. 17.

¹² QS. 52: 21; QS. 2: 286. Yusuf Ali, *op. cit.*, 1627, 132-3.

maxim “in order that it may not (merely) make a circuit between the wealthy.”³ The principle of redistribution in worldly affairs is highly stressed by Islam.⁴

Social justice is highly upheld by Islam. The Prophet himself had never differentiated between “the upper class”, “the lower class”,⁵ or even to his family.⁶ Such is because, in Islam, there is no difference between human beings;⁷ the admitted difference is only in piety and awareness of Allah.⁸

2. Social Justice in the Era of the Rightly Guided Caliphs

The Era of rightly guided Caliphs (*al-Khulafa' al-Rashidun*) was an era when the Muslims, having left by the Prophet, were led by four first Caliphs, i.e., Abu Bakr al-Siddiq, ‘Umar ibn al-Khattab, ‘Uthman ibn ‘Affan, and ‘Ali ibn Abi Talib.⁹ This first caliphate is a caliphate guided by the Prophet; for those caliphs lived together with him, so that their thought and conduct were exactly in the Prophet’s guidance. The fact that those first caliphs are the persons guaranteed to enter the Heaven shows that their interpretation of Islamic principles, including on the matters of public life,

¹ QS. 9: 60.

² QS. 2: 177. Yusuf Ali, *op. cit.*, 71-2.

³ QS. 59: 7. Yusuf Ali, *op. cit.*, 1718.

⁴ The Prophet said: “One who seeks for bread winning for the widows and the poor, is like one who wage jihad in the way of Allah or one who performs worship and not sleeps or one who performs fasting and not breaks.” (al-Bukhari, Muslim, Tirmidhi, and Nasa’i). *Sahih Muslim al-Nawawi*, Kitab al-Zuhd, Vol. 18, p. 112.

⁵ The Prophet said that the majority of those who enter the Heaven are the poor. Since the aim of everyone’s achievement is not here in this world, but in the next world, the poor should not to be worry about their destiny. *Sahih Muslim al-Nawawi*, Kitab al-Riqaq, Vol. 17, p. 53.

⁶ The Prophet said: “The society before you was destroyed because when the most noble of them did steal, they forgave him; and when the weak or humble amongst them stole, they executed the penalty on him. By Whom in Whose hand the life of Muhammad is, if Fatimah, the daughter of Muhammad should steal, I shall cut off her hand.” (al-Bukhari and Ibn Majah). Al-Bukhari, *Sahih Al-Bukhari*, Vol. 5, Bab Ghazwah al-Fath. (Cairo: Dar al-Hadith, Vol. II, pp. 448-9).

⁷ “Human beings constitute the family of God.” (al-Baihaqi). As quoted by Ahmed, Manzoorudiin, Dr., *Islamic Political System in the Modern Age: Theory and Practice*, Karachi: Saad Publications, 1983, p. 62.

⁸ When liberated Makkah, by the door of Ka’bah, the Prophet said, “Man is from Adam and Adam is from dust,” then he recited QS. 49:13. He also said, “Your genealogy is not such a thing that you scorn others for that reason; all of you are descendants of Adam, seer for seer (equal in measure) no one has any superiority over others except in religion and piety.” (al-Baihaqi from ‘Uqbah ibn ‘Amir). Ibn Hisham, *op. cit.*, 224-5; Yusuf Ali, *op. cit.*, 1593; The Hadith is quoted by Ahmed, *op. cit.*, 62.

⁹ Al-Suyuti, Jalal al-Din, *History of the Caliphs*, tr. Major H. S. Jarrett, Pakistan: Karimsons, (1881), 1980, pp. 25-9; Kausar Ali, *op. cit.*, 80; Hasan, Masudul, *Hadrat Abu Bakr*, Lahore: Islamic Publications Ltd., 1984, pp. 1-11, 251.

is guaranteed to be true.¹ And in making a decision, before they have independent opinion (*ijtihad*),² the caliphs referred firstly to the Qur'an and Hadith.³

There are things which can be identified as the characters of justice in the reign of the pious caliphs:

1. Justice is treating everyone equally.⁴
2. Justice in political life constituted in the rights and duties between the ruler (*al-ra'i*) and the ruled (*al-ra'iyyah*). The caliph gives the people's rights and the people give their loyalty.⁵ It is the biggest right which becomes the basis of love (*ulfah*) and admiration to the religion.⁶
3. Justice begins from individuals. It means cleaning oneself from his passions (*nafya al-hawa*). For it is from his heart a man judged.⁷
4. Injustice (*al-zulm*) to others should be punished.⁸ For if not here in this world, in the hereafter the punishment will be more painful.⁹
5. Injustice to human beings means injustice to God.¹⁰
6. Justice is universal (*'amm*). It is agreed by the common people.¹¹

On the problem of inequality, the caliphs stated that Islam is based on the principle of equality. In Islam, there is no distinction between the rich and the poor.¹² Also, there is no difference between the ruler and the people.¹³ The existing

¹ It can be said as "the value of personality factor in the political process." Al-Suyuti, *passim.*; Ahmed, *op. cit.*, 170.

² See the Prophet's conversation with Mu'adh ibn Jabal. (Narrated by al-Tirmidhi and Abu Dawud, on the authority of Mu'adh ibn Jabal). *Sunan al-Tirmidhi*, Kitab Ahkam, Vol. 3, Hadith No. 1327, p. 608.

³ Abu Bakr's Inaugural Address, cited in Hasan, *op. cit.*, 252.

⁴ Abu Bakr said: "In the matter of justice, all should be equal in your eyes." As quoted by Hasan, 250.

⁵ 'Ali ibn Abi Talib, *Nahj al-Balaghah*, explanation by Muhammad 'Abduh, ed. Fatan Muhammad Khalil al-Labun, Beirut: Mu'assasah al-Tarikh al-'Arabi, 2005, p. 78; Ali, Imam, *Nahjul Balagha: Sermons, Letters and Sayings of Imam Ali*, Sermon 34, To prepare the people for fighting with the people of Syria, Qum: Ansariyan Publications, 1989, pp. 117-8.

⁶ *Nahj al-Balaghah*, 360; Sermon, 214, at the battle of Siffin, *Nahjul*, 363.

⁷ *Nahj al-Balaghah*, 136; Sermon 85, *Nahjul*, 162-3.

⁸ *Nahj al-Balaghah*, 282; Sermon, 174, *Nahjul*, 291.

⁹ *Nahj al-Balaghah*, 550; Saying, 238, *Nahjul*, 539.

¹⁰ *Nahj al-Balaghah*, 459; Instrument of Instruction No. 53, for Malik Ashtar Nakha'iyy as governor of Egypt and surrounding areas, *Nahjul*, 457.

¹¹ *Nahj al-Balaghah*, 459-60; Instrument of Instruction No. 53, for Malik Ashtar Nakha'iyy as governor of Egypt and surrounding areas, *Nahjul*, 457.

¹² Translator Preface, in Numani, Shibli, *Al-Farooq: The Life of Omar the Great*, tr. Maulana Zafar Ali Khan, New Delhi: Adam Publishers, 2003, xi.

¹³ As narrated by Numani, *op. cit.*, 363.

inequality in property should be perceived by contentment (*qana'ah*): a man should remain satisfied with what he gets and should not complain if he gets less.¹

Therefore, on classes in the society, the caliphs say that class division (*al-tabaqat*) is natural. On the way to arrange each share, Allah had given the arrangement in the Qur'an and Sunnah.² So, the upper class should not be so proud, for they will also die.³ For every mundane excess over other men means nothing to God.⁴

On equality of opportunity, the caliphs say that endeavor (*al-tadbir*) comes first before the destiny (*al-taqdir*).⁵ Therefore, opportunity (*al-fursah*) should not be flown away.⁶ And that capability (*al-maqrurah*) of every individual should be discovered, for it can bring goodness and reduce desires.⁷ Such is because, in principle, working is better than asking charity, for asking will give the Muslims burden.⁸

On distribution, there are things which can be inferred from the caliphs' thought and action:

1. Distribution depends upon the value of justice. Equal distribution (*al-taswiyah*) was done by Abu Bakr,⁹ since his reign was an era of struggle, in which the principle of equal feeling should be applied. Differential distribution was done by 'Umar. Such is because 'Umar was able to identify the difference by which he categorized the people and their shares.¹⁰ The synthesis of both was done by Ali, that is, equality with a consideration of right.¹¹

¹ *Nahj al-Balaghah*, 514; Saying, 57, *Nahjul*, 503.

² *Nahj al-Balaghah*, 462; Instrument of Instruction No. 53, for Malik Ashtar Nakha'iy as governor of Egypt and surrounding areas, *Nahjul*, 459.

³ As said by Abu Bakr. Hasan, *op. cit.*, 252.

⁴ As said by Abu Bakr. Hasan, *op. cit.*, 254.

⁵ *Nahj al-Balaghah*, 505; Saying 15, *Nahjul*, 494.

⁶ *Nahj al-Balaghah*, 506; Saying 20, *Nahjul*, 495.

⁷ *Nahj al-Balaghah*, 551; Saying 241, *Nahjul*, 540.

⁸ As said by 'Umar. Numani, *op. cit.*, 378 quoting Ibn Jauzi, *Sirah al-'Umarain*.

⁹ Hasan, *op. cit.*, 242-3.

¹⁰ Ibn Taymiyah, *Al-Siyasah al-Shar'iyah fi Islah al-Ra'i wa al-Ra'iyah*, Beirut: Dar al-Kutub al-'Arabiyyah, n.d., p. 45.

¹¹ *Nahj al-Balaghah*, 211; Sermon 124, When Ali was spoken ill of for equality in the distribution (of shares from Baitul Mal), *Nahjul*, 222.

2. Rendering everyone each due by the ruler. For the lower class (*al-tabaqah al-sufila*), however, their right is not based on their work, it is based on their right to life.¹
3. Distribution by awareness (charity). The wealthy people should distribute their wealth for public benefit.² On the way to distribute, Islam teaches that it should be done by well and respect.³ On this charity, poor people also can do it, just for make them more pious.⁴
4. Indiscriminate distribution. There is no differentiation between Muslims and non-Muslims in social justice.⁵

3. Al-Mawardi

Having left by the Righteous Caliphs the Muslims were authorized by the power of political and hereditary caliphate and sultanate. Nevertheless, the '*ulama*' (religious scholars) always emerged and gave comments and admonition to those Muslim rulers and the *ummah* (Muslim community) in general. By this condition, Al-Mawardi and Ibn Taymiyah, as two representatives of '*ulama*' in the age before the modern age, gave their moral Islamic viewpoints, even to such worldly matters as social justice.

According to Al-Mawardi,⁶ from the aspect of relation, there are three directions of justice without which a political order can be disintegrated:

¹ *Nahj al-Balaghah*, 470; Instrument of Instruction No. 53, for Malik Ashtar Nakha'iy as governor of Egypt and surrounding areas, *Nahjul*, 465.

² *Nahj al-Balaghah*, 226; Sermon, 140, *Nahjul*, 241.

³ Abu Bakr said: "When you offer any charity (*Sadaqah*) to a beggar, do it with humility and respect, for what you are offering is an offer to Allah." As quoted by Hasan, *op. cit.*, 249.

⁴ Hasan, *op. cit.*, 253.

⁵ On this 'Umar says that the meaning of the poor (*fuqara*) and the destitute (*masakin*) in the Qur'an is to show that the poor are the Muslim poor, and that the destitute are the non-Muslim poor. Numani, *op. cit.*, 375-6.

⁶ Abu al-Hasan Al-Mawardi (974-1058) was a Shafi'ite scholar born in Basra. He studied with many '*ulama*', and traveled a lot and many times appointed to be a judge (*qadi*) in various provincial cities, later went to Baghdad to serve Caliph al-Qadir (991-1031) as a Supreme Judge (*Aqda al-Qudat*). His writings include Qur'anic exegesis, voluminous works on Shafi'ite jurisprudence, treatises on language, anthology of aphorism (*Kitab al-Amthal wa al-Hikam*), etc. His works on political ethics are *Adab al-Dunya wa al-Din* (The Discipline of Religious and Worldly Matters), *Al-Ahkam al-Sultaniyyah* (Government Ordinances), *Nasihah al-Muluk* (Admonition to Kings), *Tashil al-Nazar wa Ta'jil al-Zafar* (Facilitating Administration and Hastening Success), and *Qawanin al-Wizarat* (Rules of the Wazirate) respectively. Muhammad 'Imarah,

1. Justice towards the inferiors;
2. Justice towards the superiors, including God;
3. Justice towards the equals.¹ It means that it is just:
 - a. to prevent the self from a dominating person
 - b. to restrain the self to be arrogant
 - c. not to hurt other people.

From etymological sense, justice is included in moderation or equilibrium (*i'tidal*), as is seen from the origin of the words. And like such other virtues as courage, wisdom, prudence, peace, loyalty, liberality, etc., it is a mean between two extremes.²

According to Al-Mawardi, social justice is coming from individual justice.³ The natures of harmony and soul should be trained by discipline and education, something which should be cultivated from the very beginning of life.⁴

As a virtue needed by society, justice should be owned by the ruler.⁵ Here, the model is the first four Caliphs: those who “considered the sole purpose of the caliphate to be the vitalization of religion and the welfare of the Muslims.”⁶

Justice is not only based on religion, it is also based on custom, for it is usually agreed by most of the people.⁷

There are things considered to be the guidance of upholding social justice from Al-Mawardi:

Shakhsiyat Laha Tarikh, Cairo: Dar al-Salam, 2005, pp. 96-7; Sherwani, Haroon Khan, *Early Muslim Political Thought and Administration*, Delhi: Idarah-i Adabiyat-i, (1942), 1976, pp. 148-50.

¹ Al-Mawardi, Abu al-Hasan ‘Ali, *Adab al-Dunya wa al-Din* (Hereinafter *Adab*), edited by Mustafa al-Saqqā’, (Cairo, 1955), this edition Jakarta: Shirkah Nur al-Thaqafah al-Islamiyyah, n.d., 142-3.

² *Adab*, 143.

³ *Adab*, 141.

⁴ *Adab*, 226.

⁵ Besides justice (*‘adl*), a ruler should have knowledge (*‘ilm*), health of reception (*salamah al-hawass*), health of body (*salamah al-a‘da’*), capability to make a decision (*ra‘y*), courage (*shaja‘ah wa najdah*), and heredity (*nasab*). Al-Mawardi, Abu al-Hasan ‘Ali, *Al-Ahkam al-Sultaniyyah*, edited by M. Enger, Bonn, 1853, 5.

⁶ Al-Mawardi, Abu al-Hasan ‘Ali, *Nasihah al-Muluk*, Paris: Bibliotheque National, Arabic MS No. 24473, fol. 16a.

⁷ Al-Mawardi, Abu al-Hasan ‘Ali, *Qawanin al-Wizarat wa Siyasat al-Mulk* [hereinafter *Qawanin*], edited by Dr. Ridwan al-Sayyid, Beirut: Dar al-Tali‘ah li al-Taba‘ah wa al-Nashr, 2nd edition, 1993, p. 142.

1. Prioritizing the right of the people. Al-Mawardi states that among people's rights are:
 - a. Freedom of endeavor and the right of private ownership.¹ Here, the ruler should not intervene economic activities, for it will hinder the people to make a living.²
 - b. Two ways of communication. People has a right to express their wants,³ therefore, the ruler should be accessible for everyone.⁴
2. Inequality is corrected by ethics. Rich or poor is a matter of choice, either one can damage life.⁵ Inequality is accepted, but the poor should have a minimum level of economic welfare, so that envy is diminished and hatred resulting from destitution is eliminated.⁶ Here, then, inequality is cured by ethics. For it is ethics which is important, whether for the rich or the poor.⁷ That is, to be contented (*qana'ah*) is to have a good, pure life (*hayah tayyibah*).⁸
3. Opportunity should be open based on the will and capabilities of the individuals.⁹ Bureaucratic positions, for instance, cannot be hereditary given to the children, without any consideration of capabilities.¹⁰
4. Distribution is based on the command of God and done by the ruler.¹¹
5. Religion as a basis for all classes. For, basing merely on reason, social classes could not be equalized.¹

¹ *Ahkam*, 138.

² Here Al-Mawardi quotes the prophetic tradition: “when the ruler takes the trade, the flock is neglected.” *Qawanin*, 143 (Mikhail's translation).

³ *Nasihah*, fol. 97.

⁴ *Nasihah*, fol. 16a.

⁵ For “the need resulting from poverty is loathed (*makruh*), the arrogance resulting from wealth is condemned (*madhmum*).” *Adab*, 219 (Thoreya's translation).

⁶ *Adab*, 145-6.

⁷ Concerning this Al-Mawardi quotes the QS. 20: 131) and a Prophet's saying: “Whoever does not betake himself with the Discipline of God, May He Be Exalted, will have his heart torn to pieces in sorrow for what he has not attained in this world.” *Adab*, 223; Yusuf 'Ali, 912-3; Thoreya, 228.

⁸ Here Al-Mawardi approves Mujahid's interpretation on the meaning of “a pure, good life” in the QS. 16: 97. *Adab*, 223; Yusuf 'Ali, 762-3.

⁹ Here Al-Mawardi quotes a poem of Al-Shafi'i as said by al-Rabi'i: “... Fortune brings all distant things closer, and effort opens every closed door. The most deserving person is he who has great ambitions, although his livelihood is poor.” *Adab*, 221-2 (Thoreya's translation).

¹⁰ Al-Mawardi, Abu al-Hasan 'Ali, *Tashil al-Nazar wa Ta'jil al-Zafar*, edited by Muhyi Hilal al-Sarhan, Beirut: Dar al-Nahdah al-'Arabiyah, 1981, 248.

¹¹ *Ahkam*, 3.

4. Ibn Taymiyah

Ibn Taymiyah² is a religious scholar from Hanbalite tradition who attempted to restore Islam to its original purity. In his method of thought, he is more in line with Zahirite model, emphasizing the literal sense of the Islamic texts (al-Quran and al-Hadith) which was used before by Ibn Hazm.³ Besides the Qur'an and Sunnah, Ibn Taymiyah says that the legacy of (*sunnah*) the Righteous Caliphs (*al-Khulafa' al-Rashidun*) can also be regarded as the argument (*hujjah*) of Islam.⁴

Ibn Taymiyah wrote voluminously and almost in every aspect of Islam. His works are instrumental in creating Wahhabism and reform movements of modern Islam in general.⁵

Justice is a universal concept arranging social affairs. Ibn Taymiyah says that justice is a sentiment universally shared and is innate in human consciousness, "for no-one disputes that the consequence of wrong is dreadful and that the result of justice is noble."⁶

In theory of justice, Ibn Taymiyah bases his perspective on the concept of *amanah* (trust). *Amanah* is doing justice and delivering to the citizens their dues.⁷

¹ *Tashil*, 146.

² Taqiy al-Din Ibn Taymiyah (1263-1328) was born in Harran, Syria. He was educated by his father in Harran. Caused by the attack of the Tartars, he and his family migrated to Damascus where later studied in a Hanbalite education institute. Actively involved in politics and wars brought he died in prison. Among his works on politics are *Minhaj al-Sunnah al-Nabawiyah fi naqd Kalam al-Shi'ah wa al-Qadariyah* (The Path of the Prophetic Sunnah in Refutation of the Belief of the Shi'ites and the Qadarites), *al-Siyasah al-Shar'iyah* (Government by the Islamic Law), and *al-Hisbah fi al-Islam* (Inspection of Public Duties in Islam). Khan, Qamaruddin, *The Political Thought of Ibn Taymiyah*, Islamabad: Islamic Research Institute, (1973), 1985, pp. i-v; 'Imarah, *Shakhsiyat, op. cit.*, pp. 131-4.

³ Rosenthal, Erwin I. J., *Political Thought in Medieval Islam: An Introductory Outline*, Cambridge: Cambridge University Press, 1968, p. 245 n. 84. quoting I. Goldziher, *Die Zahiriten* (Leipzig, 1884).

⁴ Ibn Taymiyah, *Majmu'ah al-Fatawa*, vol. 20, Medina: Dar al-Wafa' li al-Taba'ah wa al-Nashr wa al-Tauzi', 1997, p. 312.

⁵ Khan, *op. cit.*, i-ii.

⁶ It is related here, then, a saying that "God aids the just state even if it be infidel and does not help the tyrannous even if it be believing." Ibn Taymiyah, *Public Duties in Islam: The Institution of the Hisba*, tr. Muhtar Holland, London: The Islamic Foundation, 1982, p. 20.

⁷ On political office (*imarah*), the Prophet said to Abu Dharr al-Ghifari, "verily it is a trust. And on the Judgment Day, it is a disgrace and regret, unless one receives it in the right way and delivers of this trust to those who are entitled to it." (Narrated by Muslim). *Al-Siyasah*, 13.

Even though everyone is a trust bearer, who should be trusted in doing each own burden,¹ the most important to uphold justice is the ruler.²

In the *Shari'ah* based state, justice needs people who can apply duties and prevent the forbidden things for the sake of achieving goodness in worldly and religious affairs. Its leader is very careful for not taking what is not his rights. Ibn Taymiyah mentions the model of the ruler to the Prophet (p.b.u.h.).³

By the very concept of trust, injustice can be clearly identified as:

1. Injustice is caused by the domination of the passions (*al-ahwa'*). It is such passion that bears the attitudes of dissident and ignores the values of justice.⁴
2. Injustice is caused by love of power or wealth.⁵ By a *hadith* on the parable of two wolves,⁶ Ibn Taymiyah personalizes such two groups to Pharaoh as a power hunter and Korah as a greed seeker of wealth.⁷

From the above affirmation of justice and negation of injustice, it can be identified Ibn Taymiyah's answers to the problems of social justice. To Ibn Taymiyah, social justice or equity is the condition for social welfare.⁸

Concerning social inequality, Ibn Taymiyah says that it is God's providence,⁹ in order that there is division of labour,¹⁰ so that it should be accepted by doing

¹ Ibn Taymiyah bases his opinion on the hadith, "*Behold, every one of you is a shepherd; and every one is responsible for his flock. ...*" (Al-Bukhari and Muslim, on the authority of 'Abd Allah ibn 'Umar)." Translation of the hadith is from Asad, Muhammad, *The Principles of State and Government in Islam*, (1961), Kuala Lumpur: Islamic Book Trust, 2000, 87-8.

² Besides trusty, the ruler should also be strong. This is based on the QS. 28: 26. *Al-Siyasah*, 15; Yusuf 'Ali, 1126.

³ Here Ibn Taymiyah quotes the QS. 4: 58. Besides Prophet Muhammad, Ibn Taymiyah mentions his model of political ruler to Prophet Joseph, as mentioned in the QS. 12: 54. *Al-Siyasah*, 52-3, 15; Yusuf 'Ali, 228, 646.

⁴ *Al-Siyasah*, 127.

⁵ *Al-Siyasah*, 140.

⁶ A quoted hadith is related to Ka'b ibn Malik saying that the Prophet said: "*If two hungry wolves were let among sheep, they would cause no more devastation among these sheep than man's craving for money and prestige would do to his Religion.*" (Tirmidhi said that this is an authentic and good Tradition). *Al-Siyasah*, 140; *Public*, 189.

⁷ *Al-Siyasah*, 140.

⁸ Equity (*'adl*) "is the basis of the welfare of the people, then neither [the affairs of] this life nor of the other life may prosper without equity." *Al-Siyasah*, 134; *Public*, 179.

⁹ Based on the QS. 6: 165. *Al-Siyasah*, 142; Yusuf 'Ali, 395.

¹⁰ Based on the QS. 43: 32. *Al-Siyasah*, 142; Yusuf 'Ali, 1504.

worthy.¹ Nevertheless, inequality coming from human attitude is injustice (*zulm*).² This kind of arrogance by degrading human dignity will be hated by and be a hostile to other human beings.³

Concerning distribution, Ibn Taymiyah views it very important in social life. For it is often considered as the determinant factor in the subsistence or a political power.⁴

In Islamic state, the wealth of the country as embodied in its treasury can be divided into two: those which coming from *zakat* and non-*zakat*. From *zakat* treasury, the receivers are the eight groups (*asnÉf*).⁵ From non-*zakat* treasury, following ‘Umar,⁶ Ibn Taymiyah states that the distribution should be divided into four groups of citizens:

1. The group of victory determiners who waged wars since they embraced Islam earlier (*dhawu al-sawabiq*).
2. The group of public servants whether in worldly affairs (*umara*) or in religious affairs (*‘ulama*).
3. The group that has heavy burdens in keeping the citizens secure from dangers (*daf‘ al-darar*).
4. The group who really need (*dhawu al-hajat*).⁷

Therefore, the maxim of distribution in Ibn Taymiyah’s thought is the combination between “to each according to his merit” (*qadra ‘amalihi*) and “to each according to his needs” (*bihasabi hajatihi*).⁸ Here it signs Islamic social justice as

¹ Here Ibn Taymiyah quotes a hadith, saying: “Allah looks not at your forms nor at your wealth, He looks into your hearts and into your actions.” (HR. Ahmad, Muslim and Ibn Majah, from Abu Hurayrah). *Al-Siyasah*, 142; *Public*, 192.

² Here Ibn Taymiyah quotes the QS. 28: 4. *Al-Siyasah*, 140-1; Yusuf ‘Ali, 1117

³ *Al-Siyasah*, 141-2; *Public*, 191.

⁴ *Al-Siyasah*, 51; *Public*, 69.

⁵ Based on QS. 9: 60, they are: the poor, the destitute, those employed on the tax itself, those whose hearts are to be reconciled, slaves, debtors, in the way of *AllÉh*, and the wayfarer.

⁶ ‘Umar said: “No one has more right to this (income of the state) than another. The underlying principles in this connection are: precedence in embracing Islam, utility to the community, feats in war and personal needs.” *Al-Siyasah*, 45; *Public*, 62.

⁷ *Al-Siyasah*, 45.

⁸ *Al-Siyasah*, 45-6; *Public*, 62.

‘the middle way’ between the so called capitalism (based on merit) and socialism (based on need).

Yet Ibn Taymiyah objects such following distribution:

1. Distribution based on selfish interest (*hawa nafs*), for instance, based on relationship or love;
2. Distribution based on the forbidden service (*manfa‘ah muharramah*), such as giving aids to fortune-tellers, prostitutes, singers, clowns, etc.¹

On the matter of social class, Ibn Taymiyah says that:

1. There is no class before the law.²
2. There is no class between Muslims. Based on a Prophet’s tradition, Ibn Taymiyah declares that Muslims are equals.³
3. Class differentiation caused by religion. It can be seen from the status of blood between the infidels and Muslims. To Ibn Taymiyah, the status of blood of *zimmi* (Jews or Christians living in an Islamic state) is not the same as the blood of Muslims. But for the infidels asking security to live in Islamic state (*musta‘man*), Ibn Taymiyah says that some ‘*ulama*’ perceive it as equal in blood between such persons and the Muslims.⁴

5. Muhammad Asad

As a thinker of Islamic political movement in the middle of 20th century, Asad⁵ has his own theory on justice. There are some statements on justice in Asad’s thought:

¹ *Al-Siyasah*, 46; *Public*, 62.

² The Prophet said: “By Whom in Whose hand the life of Muhammad is, if Fatimah, the daughter of Muhammad should steal, I shall cut off her hand.” *Al-Siyasah*, 59; *Public*, 75.

³ *Al-Siyasah*, 126; *Public*, 166-7.

⁴ *Al-Siyasah*, 128.

⁵ Muhammad Asad (1900-1992) was born under the name Leopold Weiss in Lvov, Poland of a Jewish family. Later he was a journalist and traveled to the Middle East as a correspondent for *Frankfurter Zeitung*, a German newspaper. Having converted to Islam, he traveled again and worked in the Muslim world including Saudi Arabia, Iran, Jordan, North Africa, and Pakistan. In Pakistan he had the opportunity to apply his thinking of Islamic politics. In 1953 he was appointed as Pakistan’s Plenipotentiary for the United Nations. After that, he moved from Swiss, to Morocco, and later to Spain and died there. Asad’s works on Islam and Muslims had been a witness of Islamic revival for a half of century, that is, from 1920s to 1980s. Except his first book, *Unromantisches Morgenland* (1924), the other books are written in English. His

1. Justice is the aim of the state.¹
2. Justice determines the fall and rise of the state.²
3. The concept of justice and brotherhood based on the *Shari'ah* should be upheld by the ruler and the ruled.³

On social justice, Asad is highly against structural inequality. To Asad, poverty is a danger and threat to spiritual development, and often all of the society is out of the way of God into the soul-destroying materialism.⁴

Asad affirms that as a vicegerent of God on Earth, Islamic state should make sure that justice is widened to the whole population.⁵ Men, women, children, all should get enough food, clothe, and shelter. It does not mean that wealth should be abolished. It only means that poverty should be abolished, for when poverty side by side with abundant wealth can only obliterate the basis of brotherhood.⁶

According to Asad, the principles of distribution in social justice in an Islamic state are:

1. In an Islamic state there shall be no soul-grinding poverty side by side with affluence.
2. All the resources of the state must be harnessed to the task of providing adequate means of livelihood for all its citizens.
3. All the opportunities should be open to all citizens equally.

writings include *Islam at the Crossroads* (1934); *Sahih Al-Bukhari* (1935); *Islamic Constitution Making* (1948); *The Road to Mecca* (1954); *The Principles of State and Government in Islam* (1961); *The Message of the Qur'an* (1980); *This Law of Ours and Other Essays* (1987). Mushtaq Parker, "Muhammad Asad", in *Periodica Islamica: An International Journal*, Kuala Lumpur: Berita Publishing, 1992, Vol. II, No. 1, pp. ix-x; Muhammad Asad, *The Road to Mecca*, London: The Stellar Press, Ltd., 1954, 1st edition, pp. 66-67; Elma Truth Harder (Tr.), "Muhammad Asad and The Road to Mecca (Text of Muhammad Asad's Interview with Karl Gunter Simon)," *Islamic Studies*, 37:4, 1998, p. 536.

¹ *State*, p. 30.

² Quoting some hadithes on brotherhood and quoting QS. 3:110, Asad believes that the principle of "enjoining of right and forbidding of wrong" as an ethical value and an ideal of justice in Islamic society is the *raison d'être* of the Islamic state. *State*, 33.

³ *State*, 30-31.

⁴ Here, Asad quotes a hadith saying: "*Poverty may sometimes turn into unbelief [kufir].*" Al-Suyuti in his *Al-Jami' al-Saghir* as quoted by Asad, *State*, 90-1.

⁵ *State*, 34.

⁶ Asad bases his opinion on a hadith saying, "*By Him in Whose hand I repose! No one has real faith unless he desires for his brother that which he desires for himself.*" (Al-Bukhari and Muslim, on the authority of Anas). *State*, 91.

4. No person should enjoy a high standard of living at the expense of others.¹

To manage social justice, an Islamic government is entitled:

1. to impose *zakat* and any additional taxes and levies for the welfare of the community;²
2. to restrict private ownership of certain kinds of properties, means of production, or natural resources with a view to their being administered by the state as public utilities;
3. to subject all able-bodied citizens to compulsory military service in defense of the state.³

And based on such a right of the state, its duty to the citizens are the following:

1. Protection. According to Asad, the state should guarantee the inalienable rights of the citizens, including non-Muslims,⁴ on their souls,⁵ properties, lives and dignity,⁶ which means preventing the state from doing activities violating this principle.⁷
2. Education. Quoting hadithes on the virtue and obligation of searching knowledge, Asad says that the state based on Islamic law should make education is not only accessible, but also a compulsory for the citizens. And because all facilities of life are given to the non-Muslims, free and compulsory education also must be given to them.⁸ To Asad, the improvement of education brings the

¹ *State*, 88.

² On other taxes besides *zakat* Asad bases his opinion on a hadith saying that “*There is indeed a duty [haqq] on property apart from zakat.*” al-Tirmidhi and Ibn Majah, from Fatimah bint Qays. *State*, 91.

³ *State*, 70.

⁴ On securing non-Muslim rights, Asad bases his opinion on the QS. 2:256. *This Law*, 159; *State*, p. 71 and pp. 73-74.

⁵ Based on the following “*Behold, your lives and your possessions shall be as inviolable among you as the sacred inviolability of this very day [of Pilgrimage].*” (Muslim, on the authority of Jabir ibn ‘Abd Allah), and “*The blood, property and honour of a Muslim must be sacred [haram] to every [other] Muslim.*” (Muslim, on the authority of Abu Hurayrah) Asad proposes the following clause in the constitution: “the lives, persons, and possessions of the citizens are inviolable, and that none shall be deprived of his life, freedom, or property, except by due process of law.” *State*, 84.

⁶ Here Asad quotes the verses and hadiths on the prohibition of prejudicing, spying (QS. 49:12), slandering (QS. 104:1), announcing shame, and the ethics on entering a Muslim’s house (QS. 24:27). *State*, 85-86.

⁷ According to Asad, such activities as spying citizens; capturing them merely based on prejudice; locking up or arresting without any judicial process really violate the principle of inviolability rights. *State*, 85-86.

⁸ *State*, 86-87.

citizens into supervising the government by responsible means and directing towards the advancement.¹

3. Economic security.² According to Asad, economic security is not only taught by Islam, but also practiced in its history. He refers this to Islamic government in the age of ‘Umar.³

Finally, to apply the ideal of social justice, Asad proposes such a clause for the constitution of Islamic state as follows:

Every citizen has a right to:

- a) productive and remunerative work while of working age and in good health,
- b) training—at the expense of the state, if necessary—for such productive work,
- c) free and efficient health services in case of illness,
- d) a provision by the state of adequate nourishment, clothing and shelter in cases of disability resulting from illness, widowhood, unemployment due to circumstances beyond individual control, old age, or under-age.⁴

6. Ali Shariati

In modern Iran, Shariati⁵ is acknowledged as one who brought young generation to Islam.¹ Next to Khomeini, Shariati was the most influential figure in

¹ *State*, 83-84.

² To strengthen his opinion, Asad quotes such following Hadits as: “*The Faithful are to one another like [parts of] a building—each part strengthening the others.*” (Al-Bukhari and Muslim, on the authority of Abu Musa). “*He is not a Faithful who eats his fill while his neighbor remains hungry by his side*”, (Bayhaqi, on the authority of Ibn ‘Abbas). “*The Faithful are like one man: if his eye suffers, his whole body suffers; and if his head suffers, his whole body suffers.*” (Muslim, on the authority of Nu‘man ibn Bashir). *State*, 88-90.

³ Asad mentions that ‘Umar “inaugurated a special government department, called *diwan*, for the purpose of holding a census of the population at regular intervals. On the basis of this census, annual state pensions were fixed for: (a) widows and orphans, (b) all persons who had been in the forefront of the struggle for Islam during the lifetime of the Prophet, beginning with his widows, the survivors of the Battle of Badr, the early *muhajirs*, and so forth, and (c) all disabled, sick, and old persons....” Ibn Sa‘ad, vol. III, pp. 213-220 as mentioned by Asad, *State*, 92.

⁴ *State*, 91.

⁵ Ali Shariati (1933-1977) was born in Mashad, Iran, from a modern preacher family. He studied in Mashad and Paris, where he got titles of B.A., M.A., and doctorate in the fields of Persian literature, sociology, and history of religions. He was the founder of The Liberation Movement of Iran Abroad and the main figure of Husayniyah Irshad Institute in Tehran. He was jailed by Shah’s regime in 1970s and, then, he moved to London where he passed away mysteriously with a perception that there was Shah’s secret police (SAVAK)’s involvement. Among his writings translated and studied throughout the Muslim world are *What*

Islamic movement carrying revolution in 1979.² He was even called as the initial ideologue.³

Now, let us see Shariati's thought on theory of justice. According to Shariati, injustices are coming from materialistic and anti-religious world-views.⁴ Injustices constantly spread out as a disease in the world, the only medicine of which is justice.⁵

Shariati affirms that justice is the first slogan of Islam.⁶ And, in Islam, justice is based on *tawhid* (monotheism). Here, *tawhid* means affirmation of equality.⁷ It also means that there is no contradiction in the society.⁸

The relationship between justice and injustice in human history, according to Shariati, can be inferred from the symbolization of Cain and Abel.⁹ Injustice is represented by Cain's descendants. In the beginning, the Cainian ruler was represented by a single, powerful individual. Later, in its development, it can be a coalition between three parts, or can be called as "social polytheism"¹⁰ doing exploitative social order: the avaricious and brutal (*mala'*); the gluttons and the overfed (*mutraf*); and the official clergy, the long-bearded demagogues (*rahib*).¹¹

Justice, meanwhile, is represented by Abel's descendants.¹² That is, the class of people (*al-nas*), in opposition to the ruling class (king-owner-aristocracy) above. In the social meaning, this class of people is a representative of God: power belongs to

Is To Be Done?, On the Sociology of Islam, Man and Islam, Marxism and Other Western Fallacies, The History of Religions, Existentialism, and Martyrdom. Shahrugh Akhavi, *Religion and Politics in Contemporary Iran: Clergy-State Relations in the Pahlavi Period*, Albany, New York: 1980, pp. 144-7.

¹ Bazargan and Ayatullah Mutahhari mentioned it in their letter read after the death of Shariati. Chehabi, H. E., *Iranian Politics and Religious Modernism: The Liberation Movement of Iran Under the Shah and Khomeini*, London: I.B. Tauris & Co. Ltd., 1990, p. 70.

² *Ibid.*, 187.

³ Ayubi, Nazih, *Political Islam: Religion and Politics in the Arab World*, London: Routledge, 1991, p. 147 quoting Abrahamian, 1988, 289-97.

⁴ Shariati, Ali, *Man and Islam*, tr. by Dr. Fatollah Marjani, Houston, Texas: Free Islamic Lit., Inc., 1981, 23.

⁵ According to Shariati, Islam teaches three things to cure social diseases, i.e., mysticism, justice/equality and individual freedom. Benson, Steven R., "Islam and Social Change in the Writings of 'Ali Shari'ati: His *Hajj* as a Mystical Handbook for Revolutionaries," in *The Muslim World*, LXXXI, 1991, pp. 17-8 quoting Shariati, *Marxism and Other Western Fallacies: An Islamic Critique*, tr. R. Campbell (Berkeley: Mizan Press, 1980), p. 97.

⁶ *Man and Islam*, 90.

⁷ Shariati, Ali, *On the Sociology of Islam*, tr. by Hamid Algar, Berkeley: Mizan Press, 1979, 87.

⁸ *On the Sociology of Islam*, 86.

⁹ *On the Sociology of Islam*, 108-9.

¹⁰ *Man and Islam*, 22.

¹¹ *Man and Islam*, 19; Cf. *On the Sociology of Islam*, 115.

¹² *On the Sociology of Islam*, 109.

God means it belongs to the people; property belongs to God means it belongs to the people as a whole;¹ justice belongs to God, so that it is belongs to the people.² This justice is guarded by the prophets symbolizing the shepherds.³

Here, then, Shariati's symbolization on social justice between Cain and Abel's descendants is completed. Cain's children are 'wolves', 'foxes' and 'rats' who always make Abel's children (the people) as 'sheep'⁴ by ways of exploitation, brainwashing, and despotism. It is to defend the people "a shepherd or illiterate one from the heart of the desert suddenly arises and leaves his flock to become the leader and liberate the victims of Cain's power."⁵

As the Prophet passed away, justice was upheld by the companions,⁶ the outstanding of which can be seen in the personality of Abu Dharr, as the first socialist Muslim upholding egalitarian values.⁷ Therefore, the struggle should be continued by the mass or the people (*al-nas*). For, in Islam, it is the mass which is the determinant factor in history and society. Here, everyone should be involved in justice.⁸

By his theory of justice, we can describe things to be social justice in Shariati's view:

1. Social justice is equity (*qist*), that is, equality of rights based on morality the struggle of which is needed to change fundamentally the structure of the society.⁹
2. Inequality is human creation. It is Cain and his descendants who make human beings into different contradicting classes.¹⁰
3. Islamic social system is a classless society.¹¹

¹ *On the Sociology of Islam*, 116-7.

² Shariati, Ali, *The Hajj*, tr. by Ali A. Behzadnia and Najla Denny, (1977), Petaling Jaya, Malaysia: Islamic Book Trust, 2003, 150-1 n. 4.

³ Shariati also quotes the QS. 2: 213. *The Hajj*, 151 and 159.

⁴ *The Hajj*, 12.

⁵ Here Shariati quotes the QS. 57: 25. *The Hajj*, 152.

⁶ *Man and Islam*, 9.

⁷ Chehabi mentions it based on Shariati's book entitled *Abu Zarr: Khoda parast-e sosialist* (Abu Dharr: The God-fearing socialist) (1958). Chehabi, *op. cit.*, 188.

⁸ *Man and Islam*, 100; *On the Sociology of Islam*, 49 and 109.

⁹ *On the Sociology of Islam*, 109 n. 6.

¹⁰ *The Hajj*, 11-2.

¹¹ *On the Sociology of Islam*, 119.

4. Muslims as Abel's descendants who are poor and oppressed by Cainian system, even though they hold the truth and justice, should be prepared to a global revolution of justice.¹
5. Distribution is based on the rights. Everyone should give the poor their due.²
6. Opportunity is the right of everyone. There are things to note in this opportunity:
 - a. Opportunity should be searched by consciousness, for consciousness is the power which will employ and direct knowledge.³
 - b. Opportunity should be found by everyone through learning or autodidact.⁴
 - c. Opportunity should be found together.⁵
 - d. Opportunity should be struggled, not to be waited passively (*Intizar-i manfi*),⁶ but should be done by *jihad*. And the duty should be begun by the enlightened. Even though, there are always threats from the ruler.⁷
7. Instead of being solved by the principle of equality, all differences should also be solved by the principle of brotherhood. And the meaning of brotherhood is based on the ideology, for it is what the Prophet had taught.⁸
8. The final end is peace. Therefore, having destroyed "all existing idols in the world", Muslims should "find the three powers of ownership, sovereignty and divinity in Almighty God alone",⁹ so that they can live in secure, peace, free, and equal.¹⁰

C. Conclusion

It is slightly difficult to identify Western school of thought as one single school, for there was a Middle Age school which was religious, i.e., an age where

¹ *The Hajj*, 157-8.

² Shariati bases his opinion on the QS. 2: 188. *The Hajj*, 108-9.

³ *The Hajj*, 73 and 15.

⁴ *The Hajj*, 108, 158-9.

⁵ Based on the QS. 48: 10. *The Hajj*, 36.

⁶ Akhavi, *op. cit.*, 153.

⁷ *The Hajj*, 110, 134-5, 152.

⁸ *On the Sociology of Islam*, 77; "Thar", 256.

⁹ The opinion is based on the QS. 114: 1-3. *On the Sociology of Islam*, 118.

¹⁰ *The Hajj*, 134, 168 and 129.

Christian thought was dominant. Therefore, Western conception on social justice is variable, compare to Islamic conception which is more homogenous.

The concept of social justice in the West was understood as a harmony of various talents and abilities in a community (Plato); as a virtue based on altruism (Aristotle); as a conformity with the ontological order (St. Augustine and St. Thomas Aquinas); as a consequence of living together based on the principle of mutualism (Rousseau); as a consequence of economic liberty (Adam Smith); and as an ideal condition of a class-less society (Marx).

In Islamic conception –which relatively homogenous from age to age—social justice is understood as a consequence of God’s law. It is a matter of faith. Islam also admits that social justice aims at a harmony of human life, legitimizes it as a social virtue, as following ontological order, and as a consequence of living together. But Islam not legitimizes it based on the principle of economic freedom (*laissez faire*) as said by Smith and a class-less society as understood by Marx. It is clear that Islam, by a big hope on the future life, denies that economic life is the right motivation for doing justice. Islam also denies the conception of a class-less society, for inequality in the society is God’s providence, which cannot be changed. Islam focuses more on a personal deed, i.e., something to be valued is one’s piety, and not any other reasons.

In the aspect of methodology of understanding social justice, Western thought can be divided into three schools: rationalism represented by Plato and Rousseau, divine knowledge represented by the Church, and empiricism represented by Aristotle, Smith, and Marx. From contemporary perspective, it seems that rationalism still works in the West, by the emergence of a theory of substantive justice by John Rawls. Religious justice, however, begins to extinct in the West. It is outside the mainstream of Western thought. Empiricism is actually the most influential stream in the West today. It is practiced by the most Western politician and also backed by such outstanding theoreticians as Hayek, Nozick, Kenneth Arrow, Amartya Sen, etc.

In Islamic world, the methodology to understand social justice is relatively homogenous. It is based on the guidance of God and the example of His messenger, along with the adjustments of experience without going away from the original

doctrines. The institution of *zakat*, for example, is a goodness valued as religious as well as social. Also, other taxes outside the *zakat* are not only based on conditional developments of needs, they are also based on divine teaching.

In the problems of social justice, however, either Western or Islamic civilization admits that those problems are around the questions of inequality, distribution, capability, and stability.

Even to those problems, the West has various answers. Nevertheless, almost all thinkers being examined here acknowledge that there are natural inequalities which cannot be equalized by human beings. But there are also inequalities which could be changed by human beings such as social, economic, and political inequalities.

According to Plato, all inequalities are natural, so that human beings can only adjust to them. Nevertheless, Plato has an idea to make an outstanding society: communism. Here, the state organizes talents by obliterating individualism and constructing society—including wives and children—as belong together. Those children, then, are educated and organized to become technocratic and military talents being useful for the state.

To Aristotle, societies can be different in perceiving inequalities, based on their societal leanings, whether the slant is democratic, oligarchic, or monarchy. Every society, then, has its own recipe to eliminate such inequalities. Therefore, natural talents are left to grow themselves. All should be adjusted to the condition. This is a realist conception. Nevertheless, Aristotle believes that the principle of virtue will make human beings worthy and love each other. To this, Aristotle leans to democracy, for it treats human beings equally and also has an element of brotherhood.

To the group of Church, inequality is God's providence and those social and political inequalities are caused by human sins. For St. Augustine and Aquinas, the pride of the most fortunate and the plundering from the least advantaged are sins. The solution is human goodness: love and brotherhood. Here, harmony, and not equality, is the key word. Equality they are talking about is only equality of opportunity to worship God.

To Rousseau, inequality is divided into two: the natural and physical; and the moral and political. To the first inequality, human beings cannot do anything; whereas to the second, they can do conditioning into conformity with human's equality of dignity by ways of conventions and legal rights. By these ways compensation to the least advantaged is given, for they had also done their duty: loyalty to the law.

To Adam Smith, inequality should be repaired by individual efforts, such as education. Therefore, Smith corrects Plato's theory of specialization of natural talents by his theory of division of labour based on education (nurture). His theory is based merely on commercial society. Smith is firmly pessimist to the radical cyclone of destiny. But he amuses the society that the wealthier or the more powerful people will have more burdens.

To Marx, Plato's idea on communism is framed in an extreme way by creating the idea of a class-less society. It is more extreme to the way that his theory refuses different capabilities as a reward basis for economic inequality. For Marx, however great one's talent, he should be in the same class with the whole people, including the lowest class of economy. Therefore, personal competition is less workable in that kind of society. Following this, his theory of harmony was then ruined, for everyone in the society wants to enjoy each own talent for each own benefit. Therefore, the society agrees those kinds of inequalities. Also, Marx's recipe will make poverty for everyone, even for the capable persons.

In Islam, inequality is admitted as God's providence, so that it does not really matter if inequality happens in a societal life. A concept of division of labor for interpreting inequality is also admitted by the Muslims. The only thing to differentiate between Muslims is their piety. Besides, Islamic efforts to equalize human beings are done by ways of supremacy of law, wide distribution of property, equality of opportunity, and anything just according to the religion and human needs.

Distribution in Plato, basically, is based on voluntary relationship: everyone does his own talents and duties. By distribution, state can mobilize the wealth and talents of the society. The idea of distributive justice is also accentuated by Aristotle,

yet by an emphasis on the duty to fulfill common good for the state and the duty to other's good for the individual endeavor.

This Aristotelian idea of distribution was later on embraced by the Church group and Adam Smith. To Augustine and Aquinas distribution depends upon the voluntary virtue, based on love and organized by the Church. The state, then, is functioned more as the protector of the society and the maker of infrastructures. The relationship in the society is merely based on personal will, such as charity. Adam Smith follows this Aristotelian line of thought. In this Aristotelian group, the state does not to distribute anything like income, for its maxim is that "to each according to his contribution" and that distribution is done by charity with a virtue of sympathy.

It is in Rousseau and Marx that distribution is done massively by the state and should be based on equality. To Rousseau, differentiation of distribution is allowed by the condition of merit, virtue, and service to the state. To Marx, however, differentiation of distribution should be based on personal need by the maxim of "to each according to his need."

Islamic discourse on distribution, however, is more to the choice of the middle way, i.e. distribution is based on merit and need. Personal achievement is urged by Islam, and at the same time, everyone's basic need should be fulfilled. Islamic maxim of distribution is "in order that the property is not only circuit among the wealthy among you."

To the problem of capability, both Western and Islamic discourses talk about individual capability. In the West, however, the meaning is various. Even in the non-Church doctrines, it is variable. To the idea that individuals can change themselves, there are some (Plato, Aristotle, and Smith); some others are optimists (Rousseau and Marx). The Church doctrines, meanwhile, are more pessimistic, for the more important to the Church is the deed of human beings, and not outward capabilities.

Islamic discourse assigns more to the optimism in individual capabilities. Here, social justice means the widest opening for every individual to develop himself and change his/her own destiny.

To the problem of stability, both Western and Islamic discourses based it on the obedience to the law. Non-Church sides say that law should be based on the needs of the society. Changes in law, then, should be based merely on human needs. Thus, law is positive. It is dictated by human reason (Plato and Rousseau); adjusted with condition (Aristotle), especially economic condition (Smith); or radically changed by certain class of society (Marx).

The Church side, however, stresses more to the need of divine guidance in the making of law, even though, at the same time, should always obey to the kings of the world. Hence, positive law is the convergence of human needs and divine guidance. Christians, then, are obliged to obey mundane as well as religious laws. The laws are separate things, but done at the same time.

Islam, however, states that divine law (*Shari'ah*) has covered both mundane and religious laws. Therefore, obedience to the law is a totality, for it brings into the happiness in the world and in the hereafter. Changes of law, in essence, are none. Adjustments with human needs in technical terms are admitted, but not in terms of doctrines.

The above conclusion bears some inferences on similarities and differences between the two civilizations being discussed:

1. All admit the need to uphold social justice by human beings on earth.
2. All acknowledge natural inequality, but all agree to make adjustments to it.
3. All require distribution whether channelized by the state or the individuals.
4. All demand that individuals should improve their capabilities in order to change their own destiny.
5. All command the stability in the society, especially through the supremacy of law.

Besides all similarities above, there are such differences between Western and Islamic discourses on social justice as following:

1. Western conception on social justice is various depending upon the condition of the society, growing from the era of city-states (*polis*), feudal-religious (Kings-Church), and modern national states. Islamic conception, on the other hand, is firmed, although follows the changes in the mode of political life. Such is because

that Muslims always base their ideas on the Islamic teachings (based on the Qur'an and the Sunnah), the principles of which are not changeable.

2. Western thinkers (except Augustine and Aquinas) mostly assign social justice as a mundane matter, the stabilization of which need the principles of justice; while Islamic thinkers affirm that mundane virtues like social justice are ways to the good life in the hereafter, the principles of which are written in the revelation of God.
3. Western thinkers mostly think that the calls for the change towards justice should be done for the present life, without the intention for the future world. Islamic thinkers, however, teach that the change for justice is for the happiness in this as well as the future life.
4. The West relies more on the change for justice through the enforcement of institutions. Islam, however, focuses more on the strengthening people's personal virtues, for finally, it is the persons who will control the power of the institution, whatever the name of the institution is.
5. To the system of property, the West has different conceptions. There are at least two attitudes: personal property (Aristotle, Church, and Smith) and common property (Plato, Rousseau, and Marx). In Islam, on the other hand, the system of property is based on personal property; with the state has an authority to intervene for the common wealth and the common good.

Viewing the above explanation on social justice, it can be said that Western wisdom is always changing and should be fit with the condition. In linguistics and historiography this is called as diachronic phenomenon. Islamic wisdom, on the other hand, is firm from the beginning (synchronic). Such is because Muslims have a great consensus in this life: the Qur'an and the Tradition of the Prophet (*al-Sunnah*).

CHAPTER II
JOHN RAWLS, SAYYID QUTB
AND THEIR THEORETICAL CONTEXTS
OF SOCIAL JUSTICE

Before discussing their theoretical contexts, however, a short introduction on who are Rawls and Qutb and their works is elucidated first. The theories being discussed are exactly coming from two different traditions: the West and Islam. To this, the nature, methodology, and sketch of both theories are examined.

A. John Rawls and His Theoretical Contexts of Social Justice

1. John Rawls's Life and Works

a. John Rawls's Life (1921-2002)

John Rawls was born in Baltimore in 1921. He was graduated from the Kent School, a well-known preparation school, in 1939. After that, he was educated in the University of Princeton, where he was an undergraduate student before the World War II¹ and received the Ph.D. in philosophy from the same university in 1950. He was an instructor in his *alma mater* for two years.²

Having been a Fulbright fellow at the Oxford University (1952-1953) he taught philosophy at Cornell University and Massachusetts Institute of Technology (MIT) before joined with Harvard University in 1962. Professor Rawls was also a Guggenheim visiting professor at the Post-Graduate Study Center of Behavioral Sciences. In 1971, he published his work which became very famous, *A Theory of Justice*, which has been translated into many European languages, and also Chinese, Japanese, Indonesian and Korean languages.³

¹ During the World War II Rawls was listed as an infantry of the United States in New Guinea, the Philippines, and Japan. Sterba, James P., *Social and Political Philosophy: Classical Western Texts in Feminist and Multicultural Perspectives*, 2nd Edition, Belmont, California: Wadsworth, 1998, 401.

² *Ibid.*

³ *Ibid.*

Rawls gave lectures in many universities, for example he gave Tanner Lecture at Oxford University in May 1978 and Dewey Lecture at University of Columbia in April 1980. The lecture materials were finally made into a fairly thick book (400s pages), that is, *Political Liberalism* in 1993.¹

Rawls's life, then, was circumscribed by academic life. It seems that he was not involved in activist life like that of Sayyid Qutb, one whose thought compared with his in this thesis. Rawls's activities are in the philosophical area. He was a member of American Philosophical Association (and was its president in 1974), American Academy of Arts and Sciences, American Association of Political and Legal Philosophy (president, 1970-1972), American Philosophical Society, British Academy, and Norwegian Academy of Sciences. In 1999, he was awarded a National Humanities Medal from National Endowment for the Humanities.²

Although his life seems ordinary, Rawls has an outstanding idealism for establishing justice, by way of offering theories on it from a reflective-intuitive theory (*A Theory of Justice*, 1971), socio-political (*Political Liberalism*, 1993) to global-international (*The Law of Peoples*, 1999).

Rawls passed away caused by heart failure in his house in Lexington, Massachusetts in 2002. He had experienced debilitating stroke disabling him to work. He left his wife, Margaret Warfield Fox Rawls, four children (Anne Warfield, Robert Lee, Alexander Emory, and Elizabeth Fox) and four grandchildren.³

b. John Rawls's Works

As a young associate professor in early 1950s, Rawls dedicated himself to the development of ideas on liberty, equality, and justice which finally made himself as the most influential moral philosopher in his time. But he did not publish his first book, the famous *A Theory of Justice*,⁴ until 1971, when he was 50 years old. His

¹ Sterling M. McMurrin (ed), *Liberty, Equality, and Law: Selected Tanner Lectures on Moral Philosophy*, Salt Lake City: University of Utah Press, 1987.

² Sterba, *loc. cit.*

³ *Ibid.*

⁴ Cambridge: Harvard, 1971.

second book, *Political Liberalism*,¹ born as a response to the criticism attacked to his first book, was not emerged until 1993, two years after Rawls retired. In 1999, when he was 78 years old, he published two more books: *The Law of Peoples* and *Collected Papers*. *The Law of Peoples*² is a compact book within which he develops a liberal theory of international law and foreign affairs. In *Collected Papers*³ he brought the majority of his unpublished scientific essays. Nevertheless, for this book he elaborated and modified his interpretation on moral and political duty of liberalism. Then, in *Lectures on the History of Moral Philosophy*⁴ Rawls provided his constant and provocative exploration on theoretical foundations of his liberalism. Finally, in *Justice as Fairness: A Restatement*,⁵ Rawls tried to provide his final and unified statement of his ideas.

Let us begin to understand those Rawls's works. The first Rawls's book seems coming from a question such as this, "What kind of society would you choose if you do not know exactly your position in it?" Rawls's *A Theory of Justice* provides principles to construct a fair and just society by imagining the response of a free and rational person to this question. The book has transformed political philosophy. It rejuvenates the tradition of social contract developed by Locke, Rousseau and Kant.⁶ Although complicated and in some places rather dry, this book is one of the most read books on political philosophy in the twentieth century.⁷

A Theory of Justice, twenty years in making, immediately becomes a classic. It is not only determining work in Rawls's career, but it is also establishing an agenda for all thereafter generation of moral philosophers and political theoreticians. Within 600s pages full of theories and arguments, Rawls tries to show that a clear conception of justice is implicit in a simple human "intuition", and that intuition has a

¹ New York: Columbia, 1993.

² Cambridge: Harvard, 1999.

³ Cambridge: Harvard, 1999.

⁴ Cambridge: Harvard, 2000.

⁵ Cambridge: Harvard, 2001.

⁶ John Rawls, *A Theory of Justice*, Cambridge: Harvard, (1971), 1999, p. xviii. Hereinafter *Theory*.

⁷ Nigel Warburton, *Philosophy: The Classics*, London and New York: Routledge, Second Edition, (1998), 2000, p. 340.

determining implication for constitutional law and basic organization of political institutions.¹

The key device to bridge our intuition is the “original position”. It is actually a hypothetical condition constructed by Rawls in order to determine what choices will be made if someone asked to design a society. In order to be understood more precisely, Rawls proposes to place the hypothetical subject behind the “veil of ignorance”. The veil of ignorance omits attributes that differentiate someone with someone else. To make sure that their choices on the fair principles for social cooperation are not influenced by factors morally irrelevant or arbitrary, he is deprived his knowledge on his family and friends, his social class and political opinion, his nation and religious belief, his height and weight and sex, and whether he is healthy, wealthy, or smart. Nevertheless, he knows that in the designed society, he has some clear sketches: will to need someone else to satisfy; rationality enables him to choose different aims; sense of justice; and capacity to formulate ideas on what is the good. This is the “original position”.²

According to *A Theory of Justice*, anyone in the original position will rationally choose to live under the conception of justice established on two principles. The first principle, the principle of equal liberty, says that “each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all”.³ This principle has a priority; it cannot be destroyed, even in the name of others. The second, the principle of equal opportunity and what would be said as the difference principle, says that “social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity.”⁴ These principles, formed by reasoning in the original position, represent an interpretation of moral and political significance of human liberty and equality.

¹ *Theory*, p. 13.

² *Theory*, p. 11.

³ *Theory*, p. 266.

⁴ *Theory*, p. 266.

In *Political Liberalism*, Rawls tries to settle down criticisms that *A Theory of Justice* has been too far, by making a comprehensive claim on morality and politics which failed to appreciate the boundaries of reason and the values of tradition and faith. Rawls's answer is that what was criticized is not the essential in his conception. His liberalism, says Rawls, is not to defend a comprehensive moral claim or his controversial principles, and not for values and common agreements in the liberal system nowadays, but should be understood as something "political, not metaphysical". Hence, in this book, the principle of "justice as fairness" is represented as political conception—a conception that the economical claim can grasp and endure the loyalty of rational man to different philosophical and religious commitments.¹

Rawls's conception on political liberalism is less ambitious in two ways. First, its normative-substantive claim which is limited to the political sphere: all what he aspires is a theory of liberal justice. Second, he says that liberalism can escape from metaphysical and moral foundations: merely political. After *Political Liberalism* has been published, the term "political liberalism" immediately used to indicate this rather specific version of liberalism, the normative claim of which merely political, and the core of which is not to describe "comprehensive moral doctrines," or on unsustainable metaphysical claims.²

Rawls's conception on justice is certainly political rather than metaphysical, in the sense that what should be counted as reasoned in searching political principles and standards is the thought of citizen with similar political identity, searching additional agreement area in developing basic principles and intuitions from their similar political life. It is a public reasoning, that is, "citizens' reasoning in the public forum about constitutional essentials and basic questions of justice".³

¹ Leif Wenar, "Political Liberalism: An Internal Critique" *Ethics*, number 106, October 1995, p. 32.

² O'Neill, Onora, "Political Liberalism and Public Reason: A Critical Notice of John Rawls, *Political Liberalism*", in *The Philosophical Review*, Vol. 106, No. 3 (July 1997), p. 411.

³ Rawls, John, *Political Liberalism*, New York: Columbia University Press, 1993, p. 10. Hereinafter *Political Liberalism*.

Rawls is formally a contractualist. His view on public justification is a view on the basis for the convergence of desire among citizens. As in *A Theory of Justice*, Rawls attempts to rework the theory of social contract.¹

*The Laws of Peoples*² is a global version from what domestically conceptualized as political liberalism. In the elaboration, Rawls imagine the representatives of liberal countries participated in the “original position” in order to reach global justice principles. As in the domestic original position, the parties in the global original position are also deprived their knowledge on the facts which morally irrelevant by placing them behind the “veil of ignorance”. They do not know “the size of the territory, or the population, or the relative strength of the people whose fundamental interests they represent.... They do not know the extent of their natural resources, or level of their economic development, or any such related information”.³ Under these fair hypothetical and equal states, Rawls believes that the liberal representatives will agree with the following global principles:

1. Peoples are free and equal, and their freedoms are to be respected by other peoples.
2. Peoples are equal and parties to their own agreements.
3. Peoples have the right to self-defense but not to wage war.
4. Peoples are to observe the duty of nonintervention.
5. Peoples are to observe treaties.
6. Peoples are to observe justice in war.
7. Peoples are to honor basic human rights.⁴

*Collected Papers*⁵ combines almost all Rawls’s unpublished papers. It reflects the development of Rawls’s thought since twenty years before *A Theory of Justice*, until its transition in *Political Liberalism*, and after. The collection includes twenty

¹ *Theory*, p. 11.

² Rawls rather chooses the term of “peoples” than “nations” in his thought of a just world.

³ As quoted by Kok-Chor Tan, “Liberal Toleration in Rawls’s Law of Peoples”, *Ethics*, no. 108, January, 1998, pp. 276-280.

⁴ *Ibid.*

⁵ John Rawls, *Collected Papers*, Cambridge: Harvard University Press, 1999, xxi+656 pages.

five papers plus the Foreword for French Edition of *A Theory of Justice*, and an interview published in *Commonweal*. Samuel Freeman, the editor, provides a short Foreword informatively and analytical index to detect what Rawls outlined in *A Theory of Justice* and *Political Liberalism*.¹

Rawls's earlier papers, like in *A Theory of Justice*, do not sharply differentiate moral and political issues, and those papers aspire to develop the true comprehensive moral theory. Later papers, like what in the *Political Liberalism*, consider basic theory ("justice as fairness") only as "political conception", by which will emerge "common consensus" among the believers of religious doctrines or reasonable comprehensive moral doctrines. So, the principles of "justice as fairness" offered without establishing it as "true" or valid by ignoring historical condition. *Papers*, like Rawls's other books, reflects his influential view on how moral and political theories could be constructed and justified. What has been proven by Rawls, however, is not deductive evidence from self-evident premises, but more as "reflective equilibrium" in our thought after we survey all aspects from a theory and its alternatives in the light of relevant facts and arguments.² By following the middle way in determining an ethical thought, it seems that Rawls is Aristotelian whose thought is that the best ethics is the middle way (*phronesis*).³

Lectures on the History of Moral Philosophy is an anthology of Rawls's lectures in Harvard University on the history of ethics. It is begun by surveying many thinkers, including Aristotle, Immanuel Kant, and J. S. Mill. In the middle of 1970s, however, Rawls changed the focus of his lectures to Kant.⁴

In beginning his lecture, Rawls demonstrates that there are differences between classical ethics and modern ethics. The ancients accentuate more on "the most rational way to true happiness" which is more "attractive" and "ideal". Ethical writers

¹ A book review by Thomas E. Hill, Jr. of John Rawls's book *Collected Papers*, *The Journal of Philosophy*, Vol. XCVIII, Number 5, May 2001, p. 269.

² *Ibid.*, p. 271.

³ Theodore Gomperz, *Greek Thinkers: A History of Ancient Philosophy*, Vol. IV, translated by G. G. Berry, B.A., London: John Murray, (1912), 1964, p. 20.

⁴ A book reviewed by R Stephen Darwall of John Rawls's *Lectures on the History of Moral Philosophy*, *The Journal of Philosophy*, Vol. XCIX, Number 1, January 2002, p. 49.

since seventeenth century, however, tend to use such “quasi-jural notions” as “obligation,” “authority,” and “imperatives” or “dictates of reason.” The reason why ancient ethics is more substantive whereas modern ethics is more procedural, for Rawls, is the context of each history. For Greeks, religion was no more than civil ritual, so that they could freely explore the field of ethics by their own rational way. For medieval Western people, meanwhile, Christianity had been a doctrine of salvation claiming absolute authority. So, when there was a challenge from religious Reformation –like Luther and Calvin—the condition of society became unsafe. It is for this situation modern Western people should conceptualize morality as a law binding all, without considering these different religious doctrines.¹

After the Introduction, *Lectures* provides five chapters on David Hume, two on Leibniz, ten on Kant, and two on Hegel. In evaluating the history of Western moral philosophy, Rawls explains that his method of history, firstly, always considers the thinkers’ viewpoints in their strongest form, but only as long as supported by the texts, never seeking enlargement. Secondly, it considers issues as they emerged for the thinkers, in their intellectual contexts, rather in terms might help contribute to improvement in our time.²

2. John Rawls’s Theoretical Context of Social Justice

To know briefly about Rawls’s theory of justice, the flow of explanation would be answering the problems of the nature of social justice, the method to comprehend social justice, and the solution to the problems of social justice.

Rawls’s conception is not really new in Western literature. He only revitalizes the contractarian tradition as voiced by Immanuel Kant, Rousseau, and Locke. This tradition had been buried by the celebration of utilitarian thinking in the West especially as voiced by Bentham, John Stuart Mill, and Adam Smith. To this utilitarian thinking there was also challenge from the Marxian thought. These two kinds of thinking only spoke on formal social justice. By going back to the

¹ *Ibid.*

² *Ibid.*

contractarian tradition, then, Rawls is proposing the fundamental or substantive idea of social justice, the nature of which is the combination of utilitarian and Marxist traditions.

According to Rawls, social justice is “the virtue of practices where there are competing interests and where persons feel entitled to press their rights on each other.”¹ To this justice, there is a need of a conception of social justice, that is, “a characteristic set of principles for assigning basic rights and duties and ... the proper distribution of the benefits and burdens of social cooperation.”²

Here, Rawls has his own recipe. He mentions two steps to solve the social problems, the first is the view on human goodness and the second is the institutional design to realize it. The first is moral, and the second is political and economic. The first materializes the principles of social justice, and the second creates the structures of social justice.³

Before discussing moral and structural constructs, we are conditioned to understand the nature and method of Rawls’s theory of justice, a theory called as “justice as fairness” and its method called as “the original position.”

a. Transcendental Justice: Justice as fairness

Before dealing with Rawls’s theory of justice, we need to know first on his scope of thought and the sources referred by him in his system of thought. It is found that in his scope of thought, Rawls places himself in the secular side, whereas in the sources to be referred, he uses reason, history, and intuition. Here is the list of his epistemological resources.

1. Secular. Rawls affirms that his scope of thought is a mundane sphere,⁴ human world, and natural world.¹ Although admitting that religious doctrines can live in

¹ *Theory*, 112.

² *Theory*, 5.

³ *Theory*, 229.

⁴ It “is not a perspective from a certain place beyond the world, nor the point of view of a transcendent being; rather it is a certain form of thought and feeling that rational persons can adopt within the world.” *Theory*, 514.

his system,² Rawls insists that those comprehensive doctrines, including the religious ones, should participate and agree in the overlapping consensus,³ which is of course liberal.⁴ And if those comprehensive doctrines do not agree with the overlapping consensus, they are not reasonable. Therefore, Rawls names his system as political liberalism.⁵

2. Reason. According to Rawls, justice as fairness is a philosophical conception,⁶ based on rational thought. Rationality is how one reasons well,⁷ i.e., an effort to avoid “errors of calculation or reasoning,” and to assess the facts correctly.⁸ Rawls does not require that the thought is the product of a philosopher, or one who has abundant information.⁹ Rationality in Rawls’s system is rationality “acceptable to all”, including that of common people, so that the decision making is just, that is, based on “equal freedom of thought.”¹⁰ With this condition, there will be a “common sense of justice”¹¹ that “men can require one another to follow.”¹² It is “a great collective asset which requires the cooperation of many to maintain.”¹³ Nevertheless, Rawls asserts that “the concept of rationality by itself is not an adequate basis for the concept of right.”¹⁴

¹ “Certainly we have a natural religious interest in the ethics of creation. But it would appear to outrun human comprehension...A problem of choice is well defined only if the alternatives are suitably restricted by natural laws and other constrains.” *Theory*, 137-8.

² *Political Liberalism*, p. xviii.

³ Rawls, John, “The Domain of the Political and Overlapping Consensus” [hereinafter “Domain”], in Robert E. Goodin and Philip Pettit (eds.), *Contemporary Political Philosophy: An Anthology*, Oxford: Blackwell, 1997, p. 277. Ample detail on the overlapping consensus, see Chapter III under sub-title Legitimation in this thesis.

⁴ Even though Rawls affirms that the principles of justice will be found in an equal initial situation, the parties in the original position –based on their rational choice—will agree with liberal values such as liberty, autonomy, equality, and justice as a consensus in arranging the basic structure of society. Hence, in political sphere, those comprehensive doctrines do not play any role. The doctrine to be enacted is liberal doctrine of justice. Swift, Adam, *Political Philosophy: A Beginner’s Guide for Students and Politicians*, Cambridge: Polity Press, 2001, p. 100.

⁵ “Domain,” 277-8.

⁶ *Theory*, xi.

⁷ *Theory*, 349.

⁸ *Theory*, 366.

⁹ *Theory*, 349.

¹⁰ *Theory*, 187.

¹¹ *Theory*, 321.

¹² Here Rawls affirms that it is not based on “the affirmations of religious faith and love”, for “they cannot demand that everyone accept.” *Theory*, 337.

¹³ *Theory*, 340.

¹⁴ *Theory*, 354-5.

3. History (experience). For his theory of justice, Rawls believes that history is a common experience out of which the lessons can be taken.¹ The history of religious conflicts in Europe, for instance, raised a theory of toleration.² History also teaches how humans enacted constitutional guarantees on specific liberties as found, for example, in various bills of rights and declarations of human rights.³ Yet, Rawls needs to emphasize that the judgment merely historical is not relevant in dealing with justice. So, Rawls suggests that we should search an interpretation which is independent from historical comparison.⁴ For, the important thing is not history itself, but the outlines of social structure itself which should be just.⁵
4. Intuition (Conscience). The last thing referred by Rawls in his epistemology is intuition or conscience. Intuition is important in supporting a theory of justice, which contains “the balance of reason.”⁶ For, “purity of heart”, as Rawls says, “would be to see clearly and to act with grace and self-command from this point of view.”⁷ Here, then, Rawls feels that his theory is “highly intuitive throughout.”⁸

Rawls mentions that his theory is an ideal theory which, he believes, can provide a basis for systematic handling to the problems of social justice.⁹ This Rawls’s way of thinking can be categorized as transcendental justice. For he offers an ideal justice of a society isolated from other societies. The question being concerned most in Rawls’s thought is “What is a just society?”¹⁰

¹ *Political Liberalism*, xviii.

² John Rawls, “The Basic Liberties and Their Priority”, in Sterling M. McMurrin (ed.), *Liberty, Equality, and Law: Selected Tanner Lectures on Moral Philosophy*, Salt Lake City: University of Utah Press, 1987, p. 8 and 17.

³ *Political Liberalism*, p. 292.

⁴ “Distributive,” 63.

⁵ *Theory*, 228, 242.

⁶ *Theory*, 108.

⁷ *Theory*, 514.

⁸ *Theory*, 105.

⁹ *Theory*, 8.

¹⁰ Amartya Sen distinguishes between “transcendental” approach to justice, focusing merely on identifying perfectly just societal arrangements and “comparative” approach, concentrating on ranking alternative societal arrangements (which one is “less just” or “more just”). Amartya Sen, “What Do We Want from A Theory of Justice?” in *The Journal of Philosophy*, Vol. CIII, No. 5, May 2006, p. 216.

The core idea of Rawls's theory of justice –which is called as “justice as fairness”¹—is the “original position”. It is a thought experiment. The idea is to help us knowing what happens if the subject is deprived his knowledge which could differentiate him from another in order to decide altogether about how to organize their own society. Justice, in short, should be understood as something emerged as the content of hypothetical contract or agreement of people deprived their knowledge knowing which will make the agreement unfair. The intuitive idea is the relationship between “fair” and “ignorance.”²

Concerning this Rawls offers a simple example: a number of men are to divide a cake. If the man who divides the cake will get the last piece after the others being allowed their pick before him, he will divide the cake equally, for in this way he ensures for himself the biggest share possible.³

The following is Rawls's statement on what he calls as “justice as fairness”:

[T]he guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. These principles are to regulate all further agreements; they specify the kinds of social cooperation that can be entered into and the forms of government that can be established. This way of regarding the principles of justice I shall call *justice as fairness*.⁴

According to Rawls, the main idea of justice as fairness is to prepare “the way for extending the definition of good to the larger questions of moral goodness.”⁵ For justice as fairness is a deontological theory, which not specifies the good as independent from the right, nor interprets the right as maximizing the good. It is assumed that “the persons in the original position would choose a principle of equal

¹ Rawls says “The name does not mean that the concepts of justice and fairness are the same, any more than the phrase ‘poetry as metaphor’ means that the concepts of poetry and metaphor are the same.” *Theory*, p. 11.

² Adam Swift, *op. cit.*, p. 21.

³ *Theory*, 74.

⁴ *Theory*, 10. Italics added.

⁵ *Theory*, 384.

liberty and restrict economic and social inequalities to those in everyone's interests." Here, the concept of right is prior to that of the good.¹

Furthermore, a society satisfying the principle of justice as fairness becomes a society in a voluntary scheme. For justice as fairness is contractual in nature,² in which the principles coming from free and equal persons are agreed in a fair condition. In this case, "the members are autonomous and the obligations they recognized self-imposed."³

Finally, we could say that this justice as fairness is the spirit of justice in Rawls's whole idea of social justice. We can see the application of it in the following chapters on the principles and the structures of social justice.

b. Methodology: Original Position

Rawls affirms that in justice as fairness the original position of equality corresponds to the state of nature in the traditional theory of social contract.⁴ This original position is, of course, neither to be perceived as an actual, historic condition, nor a primitive culture condition. It is understood as a purely hypothetical situation characterized as leading to a certain conception of justice.⁵

The idea of original position is to arrange a fair procedure, so that any principle to be agreed will be fair. In order to do this, Rawls proposes that "the parties are situated behind *a veil of ignorance*."⁶ Behind the veil of ignorance, no one knows the destiny of himself like his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, does anyone know his conception of the good, his rational plan of life, his religion, or his psychology. Moreover, the parties do not know the particular circumstances of their own society including its economic or

¹ *Theory*, 26-8.

² *Theory*, 99.

³ *Theory*, 12.

⁴ *Theory*, 11.

⁵ *Theory*, 104 and 11.

⁶ *Theory*, 118. Italics added.

political situation, or the level of civilization and culture.¹ To Rawls, “an absence of information” is not misinformation,² but more as an effort to feel the sense of justice. The only fact known in this original position is that their society will be made as a circumstance for justice. And what also known here is the general facts of human society.³

A question may emerge from this situation: how do we know our rights if we ignore all the ‘positions’? We should imagine that we have knowledge on the consequences and rights, but we do not know our destiny in the future, so that we should make some arrangements by which we can live in a just order. Again, we can see it in a story of some men dividing a cake. If the man cutting the cake knows that he would pick it for the first time, he would divide for himself the bigger one, but if the man should pick the last piece of the cake, he would cut the cake as the same size as possible.

By this original position, Rawls wants to bring human condition from individual to social. Here Rawls wants “to account for the social values, for the intrinsic good of institutional, community, and associative activities, by a conception of justice that in its theoretical basis is individualistic.” Nevertheless, his theory is not based on the concept of community, supposing that “society is an organic whole with a life of its own distinct from and superior to that of all its members in their relations with one another.” It is individualistic with the value of community, without which his theory of justice is failure to be social.⁴

Finally, the followings are the characteristics of the original position:⁵

1. The Nature of the Parties: continuing persons (family heads, or genetic lines). They who include in the original position thinking about just arrangements are the heads of families, so that they could think about inter-generational justice and just savings. Here, the parties are not single individuals or associations (states, churches, or other corporate bodies).

¹ *Theory*, 118.

² *Theory*, 133.

³ *Theory*, 119.

⁴ *Theory*, 233-4.

⁵ *Theory*, 126-7.

2. Subject of Justice: basic structure of society. The parties should only think about the basic social institutions by which they in general could live justly. Here, they should not think about rules of corporate associations or law of nations.
3. Presentation of Alternatives: shorter (or longer) list. In making their decisions the parties make a series of comparisons in pairs.¹ Here, they do not talk about general characterization of the possibilities.
4. Time of Entry: any time (during the age of reason) for living persons. This indicates universality of idea, including time. We could imagine this fairness from original position any time, in the past or in the future. Here, we do not talk about all actual persons (those alive at some time) simultaneously.
5. Circumstances of Justice: conditions of moderate scarcity. The economy is in a moderate condition, and not with further extremes, whether too scarcity or too abundance.
6. Formal Conditions on Principles: general, universal, public, ordering, and final. A conception of right is a set of principles, general in form and universal in application, that is, to be publicly recognized as a final court of appeal for ordering the conflicting claims of moral persons.²
7. Knowledge and Beliefs: veil of ignorance. The parties do not know their actual position, so that they are free and equal; but they know the general facts about human society.³ There is no full information and partial knowledge here.
8. Motivation of the Parties: mutual disinterestedness (limited altruism). The parties do not have elements of social solidarity and good will or even some feelings of perfect altruism.
9. Rationality: taking effective means to ends with unified expectations and objective interpretation of probability. The parties should be rational and exclude arbitrary and pointless principles.⁴

¹ *Theory*, 106.

² *Theory*, 117.

³ *Theory*, 119.

⁴ *Theory*, 130.

10. Agreement Condition: unanimity in perpetuity. The parties should totally agree on the basic structure of the society. There is no majority acceptance for limited period.
11. Compliance Condition: strict compliance. The parties should comply with the arrangements they made. There is no partial compliance in various degrees.
12. No Agreement Point: general egoism. General egoism is inadmissible here, for if everyone is authorized to advance his aims as he pleases, or if everyone ought to advance his own interests, competing claims are not ranked at all and the outcome is determined by force and cunning.¹

c. Moral Principles

In the above hypothetical original position, what are the rational principles for the subject to adopt the organization of society? The idea of asking this question is to obliterate all irrelevant pictures on our actual life which otherwise tending to enforce our insight on what kind of society should be there. Rawls assumes that the principles selected rationally under the condition of original position will claim to be just, and therefore we should adopt.²

The principles coming from this process will not be controversial since if we have done the thought experiment effectively there will be no difference between any related individuals within it. It is because in the original position all elements differing us one another should be abolished. Therefore, those principles should combine with which all rational participants will agree. In doing this thought experiment Rawls arrives at two basic principles, one concerning liberty, and the other concerning a fair distribution. These principles, in its turn, form Rawls's political conclusion which is liberal but egalitarian at the same time.³

¹ *Theory*, 117.

² Rawls equalizes this coordination as Bentham's idea on the artificial identification of interests or Adam Smith's idea on the invisible hand. *Theory*, p. 49.

³ *Theory*, 104 and 233.

Unlike other social contract theoreticians, Rawls does not state that we should implicitly agree with these principles;¹ he even uses thought experiment of original position as a way to transpire basic principles for ordering a just society and then compare them to the uninstalled institutions to formulate good changes. In his books Rawls believes that the principles to order the society coming altogether will surface the name “justice as fairness”, for the principles have come to the rational and impartial processes.

The first of those principles is the principle of liberty. Rawls’s principle of liberty states that “each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.”²

In other words, in choosing behind the veil of ignorance, a rational agent will hope that everyone in the society has equal rights to the basic liberties like those others. Otherwise, that agent will end as a victim of discrimination. For instance, freedom of conscience, freedom to perform religion or any comprehensive secular faith, is a basic liberty to which the state has no right to restrict it. Only when the agent’s behavior threatens others’ liberty then the state interference would be validated, for his liberty in this sense does not correspond with equal liberty for others. This rule is important to guarantee various liberties to which every member of the society has rights.³

Rawls states that the principles he proposed as rational choices for someone in the original position are in the lexical order.⁴ It means that as the first principle the right to have equal liberty is the most basic principle in his theory, and always takes the priority. The claim to this principle should firstly be assembled, and more important than the claim of the second principle. Rawls’s image on justice society, then, is something in which right to get equal liberty for all is supported and sustained by law.

¹ *Theory*, 392.

² *Theory*, p. 266.

³ *Theory*, p. 53.

⁴ Lexical order is coming from lexicographical order. Rawls simplifies that. Lexical order derives from the way to order as in the dictionary. A dictionary inevitably begins with “a”, then “b”, etc. Rawls substitutes “a” with “1”, “b” with “2”, etc. *Theory*, 37.

Rawls's second principle is: "social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and (b) attached to offices and positions open to all under conditions of fair equality of opportunity."¹

The second principle related to a fair distribution of primary goods. It has two principles: the principle of fair equality of opportunity and the difference principle. In general, this second principle has lexical priority over any principles of efficiency. It means that justice is more important than utility.²

The principle of fair equality of opportunity states that social or economic inequality associated by certain status or occupation will be tolerated only if the status or occupation opens for everyone under the condition of fair equality of opportunity. No one exempt from, for example, high-paid occupation, on such irrelevant basis as sexual orientation or race. For Rawls, equality of opportunity is more than anti-discrimination. It includes, for instance, provision of education to enable all people to develop their talents.³

The difference principle emphasizes that social or economic inequality is tolerable in condition that those inequalities are to the greatest benefit for the least advantaged. This is an implementation of a strategy known as "*maximin*". *Maximin* is an abbreviation of "*maximum minimorum*" (maximizing the minimum), choosing the best solution for the worst case. It will be easy for us to take an example of fair wage in a just society. Imagine two situations. In the first case, most people have high wages, but 10% of the inhabitants live in scarcity. In the second case, even though the average standard of life far lower, the worst 10% of the inhabitants have a plausible standard of life. For someone choosing in the original position, Rawls claims, the

¹ *Theory*, p. 266. Concerning 'just savings principle' Zajac says that Rawls means it as an inter-generational problem on how one generation inherits resources to the next. The key to attain the just saving from one generation to the next is included in representation of all generations in the original position. For no one knows in the original position to which generation he will enter, all want to make a contract in order to prevent a generation wastes resources which will finally cause disadvantages for the next generation. Edward E. Zajac, *Political Economy of Fairness*, Cambridge: MIT Press, 1995, p. 84.

² It is specifically called by Rawls as "Second Priority Rule (The Priority of Justice over Efficiency and Welfare)" which the first priority is "First Priority Rule (The Priority of Liberty)" which has been explained before in the section on the principle of liberty. *Theory*, p. 266.

³ *Theory*, pp. 75-76.

second of the two situations will be more preferable, for it guarantees that everyone in the society will have a reasonable standard of life: even the least advantaged is not really bad. In the first case, however, even though there is a chance to be rich, but there is also a significant risk to be in a wage which make the life hard to survive. By adopting *maximin* strategy, we should minimize the worst risks, and therefore should choose the second case.¹

d. Institutional Method

According to Rawls, in justice, we are demanded not only shared principles, but also similar ways in applying the principles in certain cases, so that a final ordering of conflicting claims can be defined.² Thus, Rawls recommends some kinds of just structure of society, i.e., political constitution and principle economic and social arrangements.³

To Rawls, this institutional structure of just society should describe a comprehensive scheme of general rules.⁴ The rules, for instance, state that there is no arbitrary distinction between people in determining their rights and duties,⁵ that the institution should be impartial,⁶ and that the institution should advance the shared ends of the people.⁷ Finally, this institutional structure should be trusted publicly, so that it can work effectively.⁸

In Rawls's theory, having situated the principles of justice in the level of original position the parties will continue their steps to the next levels –constitutional convention level, legislative level, and judicial/administrative level—which will make them think in detail on how basic structure of a just society designed.⁹

¹ *Theory*, pp. 83-84.

² *Theory*, 394.

³ *Theory*, pp. 3-6.

⁴ *Theory*, 299.

⁵ *Theory*, 5.

⁶ *Theory*, 50-1.

⁷ *Theory*, 83.

⁸ *Theory*, 274-5.

⁹ Here Rawls admits that the four stages are inspired by the United States Constitution and its history. *Theory*, p. 172.

To this political justice, Rawls proposes that political institution should be independent from personal economic interest,¹ that it should not only be enforced for protection, but should also propose proactively to advance society,² and it should guarantee social condition of fairness.³

Besides political institution, economic institution is proposed by Rawls to enunciate a just structure of ideal society. Here Rawls tries to find practical application of justice as fairness by imagining that citizens try to organize their examination on a just economic institution.⁴

To Rawls, a just economic system is not only an institutional means for satisfying present wants and needs but also a means for creating and arranging desires in the future.⁵ And this also needs not an abundant wealth. The important thing is that humans cooperate in a just basic institution.⁶

To this economic justice, Rawls needs to follow the sketch of the “ideal scheme” begins with “four branch” model of public finance enunciated by Musgrave (1959). That is, the government is assumed to include (1) an allocation branch consisting the free market but with taxes and subsidies and changes in property rights designed to evaluate the “more obvious departures from efficiency caused by the failure of prices to measure accurately social benefits and costs”;⁷ (2) a stabilization branch to guarantee full employment; (3) a transfer branch to ensure a social minimum of resources; and (4) a distribution branch “to preserve an approximate justice in distributive shares by means of taxation and the necessary adjustments in the rights of property.”⁸

Such is Rawls’s position on the question of social justice. From a contract point of view, Rawls proposes that his theory is applicable or practical. In short,

¹ *Theory*, 198.

² *Theory*, 75-76.

³ *Theory*, 63.

⁴ *Theory*, 234.

⁵ *Theory*, 229.

⁶ *Theory*, 258.

⁷ *Theory*, p. 244.

⁸ *Theory*, p. 245.

Rawls has some thoughts on how social justice based on basic values to embrace and how basic structure of society to implement.

3. Reactions and Comments on Rawls's Theory of Justice

The main criticism of Rawls's original position is that it is impossible psychologically to free ourselves from our knowledge on who and what we are, even in a thought experiment. Undeniably our prejudice will avoid such censorships. The critics to this Rawls's approach claim that what all Rawls's doing with a thought experiment of original position actually confirms pre-exist liberal prejudices and given to the prejudices which the aura of principles chosen rationally. It is unrealistic to think that we do not imagine what we know and fundamental in our individual existence.¹

The problem, then, is the difficulty in using thought experiment effectively. However, it might be the best tool we have to come out principles for ordering society, even when, because of human psychological pictures, it seems imperfect in many things. It is easy, however, to see that it can reduce some bias principles as not clear triggers.²

Nevertheless, original position has developed some basic assumptions. Rawls takes up the principles providing vision of liberal society in which people can live side-by-side and get their own conception on what is right and true. The way the thought experiment arranged gives a higher priority to autonomy, that is, our capacity to make our own decisions on how we should accomplish our life. They who come from cultural or religious traditions emphasizing hierarchy, tradition and obedience may see little reason to be involved in the thought experiment of original position, for it has a bias attached to liberal and Kantian conception on what should be done to be a rational, moral agent.

Although Rawls wrote *A Theory of Justice* to give an alternative to the developed utilitarianism, utilitarians may say that in fact there is similarity with

¹ Warburton, *op. cit.*, p. 242.

² *Ibid.*

Rawls's position. It can be seen in Rawls's statement in his *maximin* criteria that in choosing the allocation of goods, every individual in original position wants to maximize his hope, similar to the utilitarian principles, that is to maximize the sum of utilities.¹ Utilitarians, however, have some objections to universalize Rawls's principles based on the consideration that specific application of the principles will be different depending upon different life experience, especially if it is to be confronted with the principle of productivity.²

In addition, one of main objectives that Rawls wrote *A Theory of Justice* in order to defend a set of rights to liberty, and especially to implement the difference principle, seems not to maximize happiness. Since when the difference principle applied it will bring society to poverty altogether, for the benefits of the least advantaged means loss for the most advantaged, precisely as the procedure in the medical world to make people staying alive however minimal the satisfaction may be.³

Rawls also gets some objections from libertarians. Libertarian philosophers, like Robert Nozick (1938-), affirm that besides preserving basic rights, the state should not be involved in controlling social institutions. Nozick insists that it is a minimal state which is valid, that is, to protect individuals against thieves and to enforce contracts, but any activity more extensive than these will harm certain rights which are in fact not to be forced. In contrast, Rawls's just society will, for instance, tax properties in order to correct or fix the distribution of wealth.⁴

Here Nozick assumes that the unforced rights are more fundamental than equality in any kind, and that rights such as property rights should be a priority over any other consideration. Rawls makes different assumptions: he thinks that his principles, especially his principle on right to have equal liberty, are the fundamentals

¹ Kenneth J. Arrow, *Social Choice and Justice*, Oxford: Basil Blackwell, 1984, pp. 101-102.

² *Ibid.*, p. 99 and 113.

³ *Ibid.*, pp. 102-103.

⁴ Swift, *op. cit.*, p. 30.

of a just society. Hence, Rawls's and Nozick's priorities of right represent two different and unfit approaches in political philosophy.¹

Criticism for Rawls comes also from the communitarians. Among contemporary philosophers, the prominent communitarians are Alasdair MacIntyre, Charles Taylor, Michael Sandel and Michael Walzer. What they deny from Rawls is the impossibility of doing this intellectual abstraction, or, if possible, such abstraction will not produce the principles of justice commanding our loyalty once we have departed the original position and place ourselves back to our given, historically conditioned community.²

Hence, thing focused by communitarians is Rawls's philosophical methodology rather than his contributions especially to the discussions on distributive justice. But communitarian position is about a claim on our limit to reason, on how far we can escape when we think of values framing our concrete social identity.³

In short, Rawls gains criticism from two polar of social philosophy, from the individualist such as the libertarians and from the socialist such as the communitarians. It is because he takes the middle way between the two. He combines the principles of liberty and equality in one theory: justice as fairness. It means that all individuals have rights to free life and for this liberty they demand a fair distribution of resources ordering a social union.⁴ It is the justice voiced by Rawls.

Therefore, although Rawls's ideas are controversial, all critics acknowledge the value of how serious his thought is. He has tried to advance our thought on justice. Something inspires Rawls's student generation is how he has been an example as a teacher, philosopher and humanist. Those honorable qualities will be proven if we read his works. For example, although his writings focus on abstract principles and arguments in impersonal styles, readers will not miss to note the humanity of the author, his fairness, his intellectual integrity, and his deep commitment to a highest rational achievement as a response to social injustices.

¹ *Ibid.*, p. 32.

² Dudley Knowles, *Political Philosophy*, London: Routledge, 2001, p. 235.

³ *Ibid.*, 237.

⁴ *Theory*, pp. 456-64.

B. Sayyid Qutb and His Theoretical Contexts of Social Justice

Social justice is likely a relative concept. When an individual says that he is just, it should be proper with the established public order in which certain scale of justice recognized. Scale of justice is different from one culture to another and every scale is restricted and finally determined by each society to be fit with its public order. Such is because that social justice is always in accordance with the operative norms and values, “which the public is prepared to accept by habit, inertia, or other reasons.”¹ Nevertheless, however different those scales may be, the scales have certain similar elements, which can be called as objective and universal moral virtue.²

Epistemologically, there are two kinds of society to determine how the scales of social justice are conceived. There is a society believes that man can determine individual or collective interests, and therefore believes that they are endowed with innate capacities,³ individually or collectively, to establish relevant social order stated by tacit concurrence or formal agreement. This kind of justice, which is a result of interaction between individual or social expectations and existing socio-moral condition, may be called positive justice.⁴ It is positive because this kind of justice does not claim to be perfect and therefore there should always be continuing efforts by that society to refine and improve it. Here ideal justice is a mirage, and the real is developed by improvisation, from one generation to the next. This is Western social justice.⁵

The other society presumes that the true knowledge is knowledge coming from the human Creator, i.e., God. Here man’s knowledge should be in line or at least not

¹ Khadduri, Majid, *The Islamic Conception of Justice*, Baltimore: The John Hopkins University Press, 1984, p. 174.

² Abdulaziz A. Sachedina, “The Creation of A Just Social Order in Islam,” in Mumtaz Ahmad (ed.), *State, Politics, and Islam*, Indianapolis, Indiana: American Trust Publications, 1986, p. 119.

³ This is Western society. To this, Rawls says that since the Age of Enlightenment (about eighteenth century) the West has chosen a philosophically secular way by which the basis of moral knowledge independent of ecclesiastical authority and merely legitimized by reason, conscience and experience of ordinary person. John Rawls, *Political Liberalism*, New York: Columbia University Press, 1999, p. xviii and pp. xxvi-xxvii.

⁴ Khadduri, *loc. cit.*

⁵ The dominant notions of social justice exist in the West can be classified into two main schools: Utilitarian and Social Contract. See Rawls, *Theory*.

to contradict with God's knowledge. In such society, therefore, divine guidance is invoked to guide both norms and basic principles for social organization. The kind of justice that springs from the source, and which is implemented by representation of divine authority on earth, such as a prophet, commands the administration of justice in such a society. Hence, such justice is considered as universally applicable to all humankind.¹

Although Islamic notion of justice essentially falls into the second category, it also recognizes elements of positive justice to be valid standard in ordering society. To know more detail on the concept of social justice in Islam, let us see little further what was voiced by Sayyid Qutb in his book, *Al-‘AdÉlah al-IjtimÉ‘iyyah fÊ al-IslÉm* (Social Justice in Islam). Before it, however, we need to trace a short introduction of Qutb's life and works.

1. Sayyid Qutb's Life and Works

a. Sayyid Qutb's Life (1906-1966)

Sayyid Qutb came from a well-to-do farmer family in a village called Musha in Egypt in 1906. As a Muslim child, Qutb received traditional religious education. His father, an educated and Egyptian nationalist, was another source of his intellectual inspiration. Having finished his high school Qutb entered "Dar al-‘Ulum", a famous liberal literary academy in Cairo. It is in the academy that he was interested in controversial opinions of ‘Ali ‘Abd al-Raziq, Taha Husayn, Salama Musa, Muhammad Husayn Haykal, and especially ‘Abbas Mahmud al-‘Aqqad, his own mentor.² In this intellectual avenue Qutb took a new literary way emphasizing principles of innovation and self-expression culturally based on Eastern spirit, Islamic spirit, in its socio-cultural sense.³

¹ Sachedina, *loc. cit.*

² Ibrahim Abu Rabi, "Sayyid Qutb: From Religious Realism to Radical Social Criticism" in *The Islamic Quarterly*, Vol. XXIII, No. 2, 1984.

³ John Calvert, "The Individual and the Nation: Sayyid Qutb's *Ùifl min al-Qarya* (Child from the Village)," *The Muslim World*, Vol. 90, Spring, 2000, p. 112-114.

Having graduated from Dar ul-‘Ulum in 1939, Qutb became a journalist, a job giving him an opportunity to develop his literary talent. Before going to the United States in 1948, Qutb actually had finished his book of *Social Justice* (published later in 1949 when he was in America).¹ The book clearly states that Qutb was not sympathetic to Western ideologies² both liberalism and socialism. Here, there is no indication that Qutb made some contacts with Western thinkers, including with Rawls, although they have same concern in thinking about social justice. Rather, Qutb had some approvals on the thoughts of Bernard Shaw and Alexis Carrel.³

Later, however, by his living in America for two years (1948-1950) his antipathy to the Western materialistic civilization became more powerful and his desire to seek sources of cultural and moral authenticity became stronger,⁴ something felt when he was involved in literary before.⁵ His way of thinking, especially his appreciation to Islamic thought, became clearer when he denied American system of education and American way of life. This denial is appropriate with his believe that Islamic way of life is suitable for this age.⁶

Qutb’s symbolic return to Islam as a comprehensive way of life began by his physical return to Egypt in 1950. Qutb found Islam as a comprehensive doctrine not by accident, but by the power of will. Nevertheless, Qutb still did not place himself at the level of Islamic movement. Until a few months before the 1952 revolution Qutb was admitting himself merely as “a friend for Islamic propagation”, and was

¹ Shepard, *Activism*, p. xvi.

² A short definition on ideology was presented by Louis J. Halle (1972), that is “body of doctrine that present themselves as affording systems of believe so complete that whole populations may live by them alone...” Louis J. Halle, *The Ideological Imagination*, London: Chatto & Windus, 1972, p. 32. By Marx, the term used to signify a false consciousness embraced by members of certain social class. For example, members of capitalist class share the ideology that the laws of competitive market are natural and impersonal, so that workers in the market paid all that can be. *The Cambridge Dictionary of Philosophy*, Robert Audi (gen. ed.), Cambridge: 1995, p. 360.

³ Quġb, Sayyid, *Al-IslĒm wa MushkilĒt al-×alĒrah*, Cairo: ‘ŌsĒ al-BĒb al-HalabĒ wa al-Shirkah, 1962; *Al-‘AdĒlah*, p. 262; *Social Justice*, p. 278-9.

⁴ Nazih N. Ayubi, *Political Islam: Religion and Politics in the Arab World*, London: Routledge, 1991, p. 137.

⁵ Calvert, *loc. cit.*

⁶ Abu Rabi, *op. cit.*, p. 106.

sometimes critical to the positions adopted by *IkhwĒn* activists. Finally he joined the *al-IkhwĒn al-MuslimĒn* (the Muslim Brothers) in 1953.¹

Qutb's choice to *al-IkhwĒn al-MuslimĒn* rather than any other trends of Islam in Egypt at that time shows the huge political and intellectual influences of the movement in the country. The Institutional *salĒfĒ* trend represented by the 'Ulama' (religious scholars) of al-Azhar, a secular-oriented Muslim trend as represented by intellectuals trying to combine Islam with Western science and the Sufi trend did not attract him. To Qutb these different trends lacked appropriate tools to enact Islamic rule comprehensively in Egypt.²

Just one year being active in the Brothers, however, Qutb was sentenced to fifteen years of prison. His release in 1964 came after the intervention of Iraqi president, Abdel Salam A'raf. But less than two years passed Qutb was rearrested on very grave charges. He was accused of planning a coup against the legitimate government of Nasser. On August 29, 1966 Qutb was ailed, and his execution sent the Brothers underground for years.³

This tragedy of the Brothers irreversibly confirmed Qutbian thought as the dominant in the movement. This thinking, especially Qutb's new ideas, came out of a suffocating atmosphere of prison so that conducive to feeling of anger and to an inclination to be abstract and simple. This new idea is very different with the idea before his imprisonment that is more literary and social in tone. This new thinking influenced especially by Mawdudi and Nadwi reproduced such ideas in "a more-extreme, single-minded, and action-oriented fashion."⁴ It is this Qutb's new thinking which influences many contemporary political Islamic movements.

¹ *Al-IkhwĒn al-MuslimĒn* (hereinafter the Brothers) is an Islamic organization built by Hasan al-Banna emphasizing Islam's comprehensive character in 1920s. Beside its propagation activities, the Brothers were also active in many aspects of human activities such as education, business and industry. These al-Banna's "practical" inclinations, changed to the "political" by the influence of Sayyid Qutb since 1950s. Until now, however, these two trends exist within the Brothers. Ayubi, *op. cit.*, pp. 134-137, 142 and 244f.

² Abu Rabi, *op. cit.*, p. 106.

³ Ayubi, *op. cit.*, p. 137; Shepard, *Activism*, p. xvii; Abu Rabi, *loc. cit.*

⁴ Ayubi, *loc. cit.*

b. Sayyid Qutb's Works

If we follow the list of Sayyid Qutb's books published by Dar al-Shuruq and with the consideration of the author's life experience, we can classify the books into four kinds:¹

1. Literary and general thought books. That is, Qutb's thought before his interest in Islamic matters. These books were written in 1940s and earlier. Some of these books, in chronological sense, overlap with the second stage of Qutb's works. The books fell into this category include: 1) *Kutub wa Shakhîyyât* (Books and Personalities), 2) *Muhimmat al-ShÉ'ir fi al-HayÉh* (The Task of the Poet in Life) (Beirut: Dar al-Shuruq, [1932]), 3) *al-Naqd al-AdabÉ: UÎËluhu wa ManÉhijuhu* (Literary Criticism: the Origin and Method) (Cairo: Dar al-Fikr al-'Arabi, 1947), 4) *FÊ al-TÉrÊkh Fikrah wa ManhÉj* (On History of Thought and Method); 5) *Ûifl min al-Qaryah* (Child from the Village) (Beirut: Dar al-Hikmah, 1946), and a novel 6) *AshwÉk* (Thorns) (Cairo: Dar Sa'd Misr, [1947]).

2. The books of literary study on the Qur'an. That is, Qutb's view on artistic portrayal of the Qur'an written in the mid 1940s. This second period is a period of transition from Qutb's literary interest to his interest of Islam. The books are: 1) *al-TaÎwÊr al-FannÉ FÊ al-Qur'Én* (Artistic Portrayal in the Qur'an) (Cairo, 1945) and 2) *MashÉhid al-QiyÉmah FÊ al-Qur'Én* (Testimonies to the Resurrection in the Qur'an) (Cairo, 1945).

3. The books of religious social realism. That is, Qutb's perspective on the excellence of Islam in dealing with social and political life. The books categorized in this kind are: 1) *Al-'AdÉlah al-IjtimÉ'iyah fÊ al-IslÉm* (Social Justice in Islam) (Cairo, 1949); 2) *Ma'rakat al-IslÉm wa al-Ra'smÉliyyah* (The Battle between Islam and Capitalism) (Cairo, 1950), dan 3) *al-SalÉm al-'ÓlamÉ wa al-IslÉm* (World Peace and Islam) (Cairo, 1951).

¹ Citation of the years of Qutb's book publication is based on information from Calvert, *op. cit.* and Shepard, *Activism*. I follow Abu Rabi for the classification of periods of Qutb's works. Abu Rabi classifies Qutb's works after Qutb's involvement into Islamic discourses (literary-religious, social realism and radical criticism). Pretending to complete course of Qutb's whole works, therefore, I add the first period, i.e. fairly secular and literary works. Abu Rabi, *op. cit.*, pp. 106-107.

4. Ideological books. That is, Qutb's committed ideological writings. The books were written in 1953-1966, when Qutb became an ideologue of the Brothers. These writings include: 1) *Na'íwa Mujtama' IslÉmÉ* (Towards Islamic Society) (Cairo, 1952); 2) *FÉ ÚilÉl al-Qur'Én* (Under the Shades of the Qur'an) (Cairo, 1954-1964); 3) *DirÉsÉt IslÉmiyyah* (Islamic Studies) (Cairo, 1954), 4) *HÉdhÉ al-DÉn* (This Religion) (Cairo, 1954); 5) *al-Mustaqbal LihÉdhÉ al-DÉn* (The Future Belongs to This Religion) (Cairo, 1954); 6) *Al-IslÉm wa MushkilÉt al-HaÏÉrah* (Islam and the Problems of Civilization); 7) *TafsÉr SËrah al-ShËrÉ* (Commentary on Surah al-Shura); 8) *TafsÉr ÓyÉt al-RibÉ* (Commentary on Usury Verses); 9) *Ma'arakatunÉ Ma'a al-YahÉd* (Our Struggle with the Jews); 10) *KhaÏÉ'iÏ al-TaÁawwur al-IslÉmÉ wa MuqawwimÉtuhu* (Characteristics of the Islamic Conception and Its Components) (1962); and 11) *Ma'Élim fÉ al-ÙarÉq* (Milestones) (Cairo, 1964).

Although there are many books written by Sayyid Qutb, the most famous of them are only three: *Al-'AdÉlah al-IjtimÉ'iyyah fÉ al-IslÉm*, *FÉ ÚilÉl al-Qur'Én* and *Ma'Élim fÉ al-ÙarÉq*.¹ Hence, for knowing general picture of Sayyid Qutb's thought we can dive these three books as a sample. Before that, however, to follow the classification of Qutb's books above, it is better for us to talk a little more about some books as a representation of his first periods that is *Ùifl min al-Qaryah* of the first period and *al-TaÁwÉr al-FannÉ FÉ al-Qur'Én* of the second. Then we can discuss *Al-'AdÉlah al-IjtimÉ'iyyah fÉ al-IslÉm* of the third period and *FÉ ÚilÉl al-Qur'Én* and *Ma'Élim fÉ al-ÙarÉq* both are from the fourth (last) period.

Ùifl min al-Qaryah (Child from the Village) (1946), is a Qutb's autobiography written in his secular times.² Making himself as a protagonist, Qutb saw his village as an integral part of Egypt's national identity. Therefore, here Qutb implicitly proposed to establish authentic cultural identity of Egypt, different from the West. It should be based on Islam, which was at that time only as a cultural pattern.³ Here we can say

¹ Such is Hamid Algar's opinion in his introduction for Qutb's book translation into English. Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie (1952), revised translation by Hamid Algar, Kuala Lumpur, Islamic Book Trust, 2000, p. 11.

² Calvert, *op. cit.*, p. 109.

³ *Ibid.*, pp. 110-111.

that from the earlier times Qutb expected a kind of independence –especially to the West—something later in his end of life found in Islam, at this time as an ideology.

Al-Ta'wîr al-Fannî Fî al-Qur'ân (Artistic Portrayal in the Qur'an) is a witness of a transition of Qutb's desires from only literary focus to the Islamic one by diving into literary dimension of the Qur'an. This book is Qutb's experiment to combine literary and religious thought.¹ It is because, to Qutb, the Qur'an has religious aims (*al-gharî al-dînî*) as well as literary objectives (*al-gharî al-fannî*).² Even though its literary dimension is thick, so that Najib Mahfuz calls it only as an introduction into understanding of literary style of the Qur'an,³ the messages of the Qur'an, however, remain in the heart of Qutb. The book was frequently referred in the later books.⁴ Even *Fî Úilîl al-Qur'ân*, his most valuable work, is also an extended version of this book especially in term of its method.⁵

Al-'Adâlah al-Ijtim'iyah fî al-Islâm (*Social Justice in Islam*) (1949)⁶ is a celebrated book, may be caused by its concise or by its continuous relevant subject. *Al-'Adâlah al-Ijtim'iyah fî al-Islâm* has been translated into Islamic world

¹ To this book Afif Muhammad feels hard to differentiate whether the book is literary or religious thought, so that he offers to call this properly enough, that is a literary as well as religious book. Dr. Afif Muhammad, MA., *Dari Teologi ke Ideologi: Telaah Atas Metode dan Pemikiran Teologi Sayyid Qutb*, Bandung: Pena Merah, 2004, p. 64.

² Sayyid Qutb, *Al-Ta'wîr al-Fannî Fî al-Qur'ân*, 6th edition, Cairo: Dar al-Shuruq, 1980, p. 191.

³ Fallullah, *Ma'a Sayyid Qu'ib*, p. 35 as quoted by Afif Muhammad, *op. cit.*, p. 65.

⁴ *Al-'Adâlah*, for example, needs to refer to this book to demonstrate a united movement of messengers of God in spreading the religion. *Al-'Adâlah*, p. 30.

⁵ According to Muhammad Qutb, Sayyid Qutb's younger brother, when Sayyid Qutb had finished the book he said that he hoped to examine all contents of the Qur'an in the similar perspective of the book. And his dream became true by finishing the *Fî Úilîl al-Qur'ân*. An interview of Salah 'Abd al-Fattah al-Khalidi with Muhammad Qutb as quoted by Afif Muhammad, *op. cit.*, p. 66.

⁶ This book was published for the first time in 1949, but then was republished many times and every edition has revisions, so that the 1st edition is different with the 6th edition. A study on these differences was done by William E. Shepard in his book *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*, Leiden: E. J. Brill, 1996. The book I am using in this thesis is English translation by B. Hardie from the first edition of the Arabic revised by Hamid Algar based on the fifth edition of the Arabic, published in Malaysia in 2000. Nevertheless, Hamid Algar says that in case there are differences between the first and the fifth editions, he chooses the first edition, owing to its logical and documentary value. Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie (1952), revised translation by Hamid Algar, Kuala Lumpur: Islamic Book Trust, 2000. Besides, I also use the 7th edition of the Arabic as the comparison. This 7th edition is the unchanged edition of the 6th which is the last revised edition by Qutb himself. Qutb, Sayyid, *Al-'Adâlah al-Ijtim'iyah fî al-Islâm*, 7th edition, Cairo: DÉR al-ShurÛq, 1980.

language such as Persian, Turkish, Urdu, and Malay/Indonesian, and it is the earliest and most influential book discussing the subject.¹

The book is Sayyid Qutb's first book on Islamic political thought and dedicated to individuals struggling for, and dedicated their lives to, God. It is on religion and society both in Christianity and in Islam and on conflict between capitalism and socialism. Qutb traces the history of separation between religion and politics and considers the separation as un-Islamic. The book's thesis is that Islam is revealed for all times, although the Qur'an itself was revealed in a certain historical event. And Islam provides wide and general principles and comprehensive rules which are always valid. It is a foundation for true spirit and justice. The book contains nine chapters on religion and society, the nature of Islamic social justice, its foundations, methods, and its theories of politics and economics, its historical development, and its future.²

To Qutb, there are two basic ideologies challenging Islam: Communism, on the one hand, and Capitalism, on the other. Islam itself is on the crossroads. Because of usury, monopoly, exploitation, and injustices, Qutb denies seeing Capitalism or capitalist system as a model for Islam to follow and imitate. Since Capitalism was closely connected with Nationalism in which Western countries in the name of national interests claim to have rights to exploit, invade, and occupy other countries in the Middle East, Asia, Africa, and Latin America. On the other hand, although Socialism and Islam encounter the same essential points such as in advocating assurance of minimum standard of life, work, housing and social justice, but Islamic economic system is an integral part of Islam and based on *Tawhîd*.³

The most well-known book of Qutb is his commentary of the Qur'an, *FÊ ÚilÉl al-Qur'Én* (Under the Shades of the Qur'an) (1952-1964). This book is firstly written for monthly writing in the magazine of *al-MuslimÉn*, sponsored by the Brothers. One year writings (1952) finally became the first volume of *ÚilÉl* in the end of the year.

¹ Hamid Algar, "Introduction" in Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie, revised trans. by Hamid Algar, Kuala Lumpur, Islamic Book Trust, 2000, p. 12.

² Ahmed Salah Al-Din Moussalli, *Contemporary Islamic Political Thought: Sayyid Qutb*, Ph.D. Dissertation, University of Maryland, 1985, p. 21.

³ *Ibid.*, p. 114.

Between 1952 and 1954 Qutb had successfully published his fourteen part (*juz* ') commentary of the whole thirty parts of the Qur'an. And, finally, from 1954 until 1964, under the suffocating condition of prison, he finished his whole chapters of *ÚilÉl*.¹

The whole characteristics of *ÚilÉl* aim at specific objectives of the author's thinking, which is always said in his commentary. The objective is that the Qur'an meant to be understood by all and especially who have responsibility for *da'wah, amr bi al-ma'rĕf* dan *nahy 'an al-munkar*,² an indispensable responsibility in order to advance life spiritually and materially in his short life in this planet.

It is for the *da'wah* objective that in his commentary Qutb avoids such controversial problems as complicated theological and legal problems or Hebraic (*isrĕliyyĕt*) stories. In legal (*fiqh*) problems, for example, Qutb avoids seeking 'illah (legal reason) in the determination of Islamic law (*shara* '), such as in seeking why fig is prohibited to eat. Qutb says that the only one who knows the reason is God. So far we can do is only thinking of its wisdom (*Īkmah*), doing which we still only in the circumstances of estimation.³

Qutb's avoidance of religious problems in detail is because of his consideration that if we are involved with such problematic things, the main message of Islam, i.e. *da'wah* would be hindered.⁴ The important thing offered by Qutb is something about how lovely it is to live under the shades of the Qur'an, something which is frequently said to be a divine method (*minhaj rabbĕnĕ*).⁵

Ma'ĕlim fĕ al-Īarĕq (Milestones) (1964), is a pamphlet of modern Islamic movement struggle which can be compared to Marx and Engels's pamphlet, *The Communist Manifesto* as a pamphlet for struggle of world's proletariat movement.⁶

¹ For an introduction into the *Fĕ ÚilÉl al-Qur'ĕn* see Badmas 'Lanre Yusuf, "The History of *Fĕ ÚilÉl al-Qur'ĕn*", *The Islamic Quarterly*, Vol. XLI, No. 2, Second Quarter, 1997.

² *Da'wah* means propagation of Islam, *amr bi al-ma'rĕf* means enjoining the virtues while *nahy 'an al-munkar* means discouraging the vices.

³ *ÚilÉl*, juz' VI, p. 840.

⁴ *ÚilÉl*, juz' XV, pp. 2277-2278.

⁵ *ÚilÉl*, juz' I, p. 3.

⁶ Shepard needs to say that Marxian thought has influenced the form, if not the content, of Qutb's doctrine, especially his dichotomy between Islam and *jahiliyya* owes something to Marxist ideas about revolutionary

This last Qutb's book contains some of Qutb's letters sent from the prison and some important parts of *FÊ ÚilÉl al-Qur'Én*. It represents a compact and strong concise of Qutb's main ideas: the *jÉhilÉ* nature of society, existing government and culture, and long-term programs needed for establishing Islamic order.

In *Ma'Élim fÊ al-ÛarÊq*, Qutb's intention is to establish a new society. It is because, according to him, the existing society is *jÉhiliyyah* society, something like what happened in the past when Islam was born. "Our whole environment, people's beliefs and ideas, habits and arts, rules and laws, is *jÉhiliyyah*, even to the extent that what we consider to be Islamic culture, Islamic sources, Islamic philosophy, and Islamic thought are also constructs of *jÉhiliyyah*," says Qutb.¹

According to *Ma'Élim*, the new society will be created by an active Islamic movement bringing Islamic message as done by the first generation of Prophet's Companions, an Islamic generation separating themselves from *jahÉlÉ* society and then creating a new society: an Islamic society.

2. Sayyid Qutb's Theoretical Contexts of Social Justice

a. Transcendental Justice: Islamic Justice

Before delving into Qutb's theory of justice, we can see how Qutb bases his knowledge, so that he can interpret justice with his own conception. His theory of knowledge can be seen from his scope of thought and his reference. The following is a resume to see his epistemology:

1. Religious in all aspects. Qutb asserts that nature is one. All are coming from and under the reign of law of God. Hence, it is God's law which should be obeyed. And it means that God's law given in the form of the Qur'an and exemplified by Prophet Muhammad should be followed. This includes political or other worldly affairs. Such is because Islam as embodied in the teachings of the Qur'an and the

struggle between Communism and Capitalism. See William E. Shepard, "Sayyid Qutb's Doctrine of *JÉhiliyya*", *International Journal of Middle East Studies*, no. 35, 2003, p. 535.

¹ Sayyid Qutb, *Ma'Élim fÊ al-ÛarÊq*, Cairo: Dar al-Shuruq, 1981, p. 21.

Sunnah is certainly in accordance with humans in their nature and development. It is also a universal system for the future of humanity.¹

2. Reason and Revelation. Qutb states that Islam admires human capability to reason,² for it is with his reason that man can reach nobility.³ But reason alone is not enough.⁴ It should be guided by God's revelation, so that He gives the Qur'an and His messenger to all mankind.⁵ By this integrative force of reason and revelation, Islam proves that there is no gulf yawning between religion and science.⁶
3. Islamic history. Qutb says that history is his illumination in writing his theory of Islamic justice.⁷ History is the third source after the Qur'an and the Traditions of Prophet. What Qutb means by history is Islamic history, done by the Prophet in his life (*sirah*) and his everyday customs (*al-sunan al-'amaliyah*),⁸ history of the Prophet's Companions, and history of those who practiced Islamic spirit.⁹ History being referred by Qutb, then, is history of heroism of "the galaxy of remarkable character" (*al-shakhsyat al-'ajabiyah*).¹⁰
4. Intuition (conscience). The last source of Qutb's theory of knowledge is conscience (*al-damir*). For it is in the conscience that "the true values"

¹ *Al-'AdÉlah*, 31-2, 102-4; *Social Justice*, 43, 117-9.

² *Al-'AdÉlah*, 196; *Social Justice*, 197.

³ *Al-'Adālah*, 151; *Social Justice*, 163.

⁴ *Al-'Adālah*, 275; *Social Justice*, 292.

⁵ *Al-'Adālah*, 21-5; *Social Justice*, 33-8.

⁶ "a religion which associates piety with science, making the latter the pathway to a knowledge and reverence to Allah." *Al-'Adālah*, 19; *Social Justice*, 31-2.

⁷ Qutb says: "In writing my *'Adalah* and *al-SalÉm al-'ÓlamÉ*, I was not in need of going back to commentaries, since the original wellsprings of Islam can be found in the Qur'an, the Sunnah, *sirah* and history which were sufficient in helping me write these two books." Sayyid Qutb, *Ma'rakat al-Islam*, p. 85 as quoted by Abu-Rabi', Ibrahim M., *Intellectual Origins of Islamic Resurgence in the Modern Arab World*, Albany: State University of New York Press, 1996, p. 124.

⁸ *Al-'Adālah*, 24-5; *Social Justice*, 38.

⁹ "This spirit to which we have referred has left its mark on the historical reality of Islam, this faith, which is at once a philosophy and a theology, has taken on various personalities in the course of history but never has it been merely a set of barren theories, a collection of maxims and warnings, of stories and fables. Rather, it has taken the form of living human examples and actual historical events, customs and habits, which can be seen by the eye and heard by the ear, and which have left their traces on the reality of life and on the events of history. It is as if that spirit infused itself magically into all the personalities Islam has assumed in its history, transforming them and renewing them." *Al-'AdÉlah*, 168; *Social Justice*, 170.

¹⁰ *Al-'AdÉlah*, 168; *Social Justice*, 170-1.

(*ma'nawiyah dhatiyah*) exist.¹ In other words, it serves “the highest purposes of mankind” (*waqi' insani asma*).² Thus, Islamic order “stands on the foundation of conscience, in addition to law.”³ Therefore, Islam is always in accordance with human nature (*fitrah*), including their conscience.⁴ Such is because Islam is God's Will, and “His perfect Will is constant throughout all the world, constant, too, over every individual part of the universe at all times.”⁵

In *Social Justice in Islam*⁶ Qutb does not interpret Islam as an obsolete system of morality. Rather, it is a concrete social and political force in the whole Muslim world. Here Qutb opposes 'Ali 'Abd al-Raziq and Taha Husayn, who hold that Islam and politics are not compatible. Qutb views that there is no reason to make a separation between Islam and the different manifestations of society and politics.

In thinking on social justice, however, Qutb has no clear conception of what he means by 'justice' (*al-'adÉlah*) and 'social' (*al-ijtimÉ'iyah*). He has only construction of how a society should be just. Just like Rawls, he misses some confusing definitions in order to make a clear, well-built construction of the society.

Qutb's thinking on social justice in Islam is based on his view that Western principles of social justice are based on secular Western worldview, where religion is only for conscious education and purification of the soul, while it is the temporary and secular laws are to order society and organize human life. Islam is not like that, says Qutb.

...we have no good grounds for any hostility between Islam and the struggle for social justice, such as the hostility which persists between Christianity and Communism. For Islam prescribes the basic principles of social justice and establishes the claim of the poor to the wealth of the rich; it lays down a just principle for power and for money and therefore has no need to drug the minds

¹ Qutb adds “and his deeds.” *Al-'Adālah*, 47; *Social Justice*, 60.

² *Al-'AdÉlah*, 40; *Social Justice*, 53.

³ *Al-'Adalah*, 112; *Social Justice*, 125-6.

⁴ Here Quġb declares, “Islam, by its own flexibility and universality opens its protective wings to any form of human experience which is in line with humanity, and is surely suitable with all condition and situation with its highest aim for developing and improving life.” *Al-'AdÉlah*, 247.

⁵ *Al-'AdÉlah*, 28; *Social Justice*, 41.

⁶ Sayyid Qutb, *Social Justice in Islam*, trans. John B. Hardie (1952), revised trans. by Hamid Algar, Kuala Lumpur, Islamic Book Trust, 2000, hereinafter *Social Justice*. And Sayyid Qutb, *Al-'AdÉlah al-IjtimÉ'iyah fÉ al-IslÉm*, 7th edition, Cairo: Dar al-Shuruq, 1980, hereinafter the Dar al-Shuruq printing of 1980 is cited as *Al-'AdÉlah*.

of men and summon them to neglect their earthly rights in favor of their expectations in heaven.¹

What Qutb formulates is an idea of social justice based on revelation. That is, the *ummah* (Islamic community) should take moral construction of social justice from the Qur'an interpreted concretely and successfully by Prophet Muhammad (p.b.u.h.) and his Companions.² To Qutb, this prophetic tradition always comes to appear from time to time even though many obstacles drowning the tradition.³ Therefore, Qutb's theory of social justice is an ideal theory for an isolated –philosophically—society from other societies. It is therefore a transcendental justice.

b. Methodology: Islam in Power

What should be Islamic in social justice is the social justice as revealed by the Qur'an and done by the Prophet and his Companions, therefore, the theory of social justice offered by Qutb is a stipulation that Islam is in power. With this power, Islam commands the society to be in line with it in the morality as well as the structure of society.⁴ To Qutb, as long as the law of God is not established, Muslims should struggle for establishing it. Political realm is not a persuasive arena, but an arena which should be replaced by the new rule, Islamic rule; so that society will be replaced by the new society (*al-mujtama' al-mutajaddidah*), a society based on Islam.⁵

According to Qutb, social justice in Islam has a special character, i.e., the unity of harmony. Islam views human society as a harmonic unity and as a part of larger harmony of universe under the command of the Creator. Islamic justice balances the

¹ *Al-'AdÉlah*, 20; *Social Justice*, 32-33.

² *Al-'AdÉlah*, 55-56; *Social Justice*, 68.

³ According to Qutb, although this tradition has been down frequently by injustice regimes, Islamic history has proven the existence of the galaxy of remarkable characters such as Prophet Muhammad (p.b.u.h.) himself, *al-KhulafÉ' al-RÉshidÉn* (the Righteous Caliphs, i.e. Abu Bakr al-Siddiq, 'Umar ibn al-Khattab, 'Uthman ibn 'Affan, and 'Ali ibn Abi Talib), 'Umar ibn 'Abd al-'Aziz, etc. modeling how social justice being established. Ample details about this see Chapter VII on "The Historical Reality of Justice in Islam" of *Social Justice*, pp. 169-260; *Al-'AdÉlah*, pp. 167-247.

⁴ *Al-'AdÉlah*, 118; *Social Justice*, 132.

⁵ *Al-'AdÉlah*, pp. 296-8.

capacity and the limit of man, individuals and groups, economic and spiritual matters and variety of individual abilities. It is in favor of equality of opportunity and encourages competition. It guarantees a minimum life for anyone and opposes luxury, but it does not expect a similarity in wealth.¹

The following is Qutb's statements, in concise, on the character of Islamic social justice:

There are, then, these two great facts: the absolute, just, and coherent unity of existence, and the general, mutual responsibility of individuals and societies. On these two facts Islam bases its realization of social justice, having regard for the basic elements of the nature of man, yet not unmindful of human abilities.²

To enact social justice Islam has specific methods, i.e. appreciation of ethics and establishment of society. These methods have shown to be successfully done by the generation of the Prophet (p.b.u.h.). Such methods are interwoven between the two, for without ethical appreciation obedience to the structure of society will lose its spiritual foundation. Similarly, ethical admiration without establishing the structure of society will end in an individual ethics, the permanence of which is not guaranteed.³

Therefore, to Qutb, moral principles should be combined with the just structures of the society. And these just structures should be under the guidance of the Qur'an and the Sunnah. The implementation of the *Shari'ah*, then, is the concrete interpretation to establish social justice.

This is why my conclusion to Qutb's methodology is 'Islam in power', for Qutb says that in constructing social justice, Islam has a perfect recipe to apply with, especially by its just law. By this just law, Muslims have a standard to choose just authorities managing their public life. And if the authority contradicts this just law, Muslims can delegitimize it. For further explanation on it see Chapter IV on Political Structure of Social Justice.

¹ *Social Justice*, pp. 37-50; *Al- 'AdÉlah*, pp. 24-37.

² *Social Justice*, p. 45; *Al- 'AdÉlah*, p. 33.

³ *Social Justice*, p. 53 and 285; *Al- 'AdÉlah*, p. 40 and 269.

In discussing social justice Qutb also says that Islam is in harmony with humanity. Therefore, Islam is not in favor of purely spiritual thinking as the Christians do, for humans have their rights to material life.¹ Also, Islam is not in agreement with merely material thinking as the Communists and other Western materialists do,² since humans have their rights to reach lofty spiritual life.

We can see from previous chapter that social justice in Christian thought is theoretically secular with the weight on spiritual life. To Augustine, the Church is perfect and sovereign in *spiritual order* of peace and salvation, the State is good in *corporeal order* of concord and harmony. For the reason that each has its own rights and laws, opposition is not necessary. And Christian society should obey those two societies based on love of God.³

Secular thinking also exists in the materialists and Communists, but the weight is on the material life. This material preference of Western social life comes some arguments. Rousseau prefers the argument that religion always brings intolerance, so that it can destroy public order.⁴ Rawls says that religion and liberty, since justice must be securely established by common experience of ordinary people, not only experience of pious people.⁵ Marx even says that material happiness is the elixir of human life, so that there is no need of religion, for religion is only ‘opium of the people.’⁶

¹ *Social Justice*, pp. 53-68; *Al-‘AdÉlah*, pp. 40-55.

² Quoting Asad, Qutb says, “The average European, whether he is a democrat or a fascist, a capitalist or a Bolshevik, a worker or an intellectual, knows only one necessary religion –the worship of material progress; the only belief that he holds is that there is but one goal in life—the making of that life easier and easier.” *Al-‘AdÉlah*, p. 266; *Social Justice*, pp. 282.

³ St. Augustine, *Letter*, 185, 2, 8. as quoted by Aspell, Patrick J., *Medieval Western Philosophy: The European Emergence*, Washington, D. C.: The Council for Research in Values and Philosophy, 1999, p. 39.

⁴ Responding to the issue of “Outside the Church is no salvation” (*Extra ecclesiam nulla salus*) stated by Aquinas and the Catholics, Rousseau states: “It is impossible to live at peace with those we regard as damned; to love them would be to hate God who punishes them: we positively must either reclaim or torment them. Wherever theological intolerance is admitted, it must inevitably have some civil effect...” Rousseau, Jean Jacques, *The Social Contract* [hereinafter *SC*], in *The Social Contract and Discourses*, tr. G. D. H. Cole, New York: Everyman’s Library, (1913), 1968, Bk. IV, Ch. Viii, par. 33.

⁵ *Theory*, 189-90.

⁶ Marx says, “Religion makes religion, religion does not make man...But man is not an abstract being, squatting outside the world. Man is the world of men, the State, and society...Religion is the sigh of the oppressed creature, the sentiment of a heartless world, and the soul of soulless conditions. It is the opium of the people. The abolition of religion, as the illusory happiness of men, is a demand for their real happiness...The immediate task is to unmask human alienation in its secular form....” Marx, Karl, *Marx-*

But that is a Western experience. Islamic experience is different since it recognizes both material and spiritual needs of human beings. So, Qutb is right when he speaks on the perfection of Islam combining spiritual and material life, so that the rights of humans to have the perfect, just life are satisfied. And this is not only confirmed by a Muslim like Qutb. A Western materialist like Rousseau confirms that Islam is perfect, combining political and religious life.¹

c. Moral Principles

Qutb begins his discussion on the importance of justice in Islam from the perspective of ethics (moral philosophy). Justice, therefore, is an ethical concept, which is a priori in Islam.² This ethics is rooted on what he says as the foundations of social justice. The foundations of social justice in Islam, to Qutb, are three: complete liberation of conscience, human equality, and mutual social responsibility.

Firstly, in upholding social justice humans need liberty. To Qutb, liberation of conscience is liberation from every kind of service beside God, and therefore liberation from fear and servitude to wealth, desires and ambition. In discussing it he also mentions many things of the principle of liberty in social ethics, but the emphasis is more to freedom of conscience. This freedom of conscience is very important for Qutb, because it differentiates Islam with the materialistic West (both the capitalists and socialists). Therefore by liberating conscience from merely material desires, social justice will be organized well in the society.³

We can see here that Qutb has a new idea on Islamic social life. He accentuates liberty as one of the principles of justice. Other Muslim writers before him had no such idea. It could be because Qutb lived in an age that Muslims should liberate themselves from Western colonialization. But his message is clear that liberty should be prioritized in order to have justice. This clarity is clearer when he speaks of liberty

Engels Gesamtausgabe Vi/I, pp. 552-3 as compiled and edited by Bottomore, T.B. and Rubel, Maximilien, *Karl Marx: Selected Writings in Sociology and Social Philosophy*, Harmondsworth: Penguin Books, 196.

¹ SC, IV.viii.34.

² *Al-‘Adalah*, 80-1; *Social Justice*, 92-3.

³ *Social Justice*, pp. 53-68; *Al-‘AdÉlah*, pp. 40-55.

as liberty of conscience, liberating humanity from material goods, for by psychological and spiritual life humans will be the same.

We could not see that the idea of liberty in Islam is just begun by Qutb, so that Islam only follows, says, the West. The idea of liberty itself is new, even in the West. We can see in the Chapter I of this thesis that there is no discussion of liberty both in ancient and Middle Age Western civilizations. Constant says the so-called liberty of the moderns is of greater value than the liberty of the ancients.¹ As showed by Qutb in his book, Islam respects liberty of human beings, so that they can be the ruler of this earthly life.

Secondly, social justice requires the principle of equality. To Qutb, human equality hampers any superiority based on birth, race, religion, patriotism or sex, by certain requirements for equality of sex. The idea of human equality is especially based on the unity of origin and descendant and also similarity in human physics and psychology. This human equality should emphasize on the dignity of humanity itself, and not merely on struggling for economic equality.²

Qutb's idea of the principle of equality is truly Islamic doctrine. This can be seen from previous Muslim writers such as Ibn Taymiyah saying that there is no class before the law. Based on a careful research, a contemporary friend of Qutb, Asad also states that the aim of Islamic state is to develop human society in enjoining equity and justice.³

Finally, social justice demands the principle of solidarity. Social solidarity maintains equilibrium of individual rights and mutual responsibility in society. It is also moral evidence and legal protection of law and society (including *Áadd*

¹ Benjamin Constant, *Political Writings*, (1819), translated and edited by Biancamaria Fontana, Cambridge: Cambridge University Press, 1988 as quoted by Rawls, John, *Political Liberalism*, New York: Columbia University Press, 1993, p. 5.

² *Social Justice*, pp. 68-79; *Al-‘AdÉlah*, pp. 55-66.

³ “the goal being the growth of a community of people who stand up for equity and justice, for right and against wrong –or, to put it more precisely, a community of people who work for the creation and maintenance of such social conditions as would enable the greatest possible number of human beings to live, morally as well as physically, in accordance with the natural Law of God, Islam.” Asad, Muhammad, *The Principles of State and Government in Islam*, (1961), Kuala Lumpur: Islamic Book Trust, 2000, p. 30.

punishment). It is from this term the principle of social cooperation emerges. This principle, in its turn, can promote social welfare.¹

Qutb's idea of solidarity as a principle of social justice is actually acknowledged by another Muslim thinker such as Ali Shariati. To Shariati, "All men are not simply equal; they are brothers. The difference between equality and brotherhood is quite clear. Equality is a legal concept, while brotherhood proclaims the uniform nature and disposition of all men; all men originate from a single source, whatever their color".²

d. Institutional Method

Besides an ethical conception, social justice is also a basic structure of society in Islam. Such is because without its practice in society, justice is only a utopian concept.³

Talking about structure of society, Qutb likely says that Islamic society is organic in nature. All Muslims are like one body, each feels other's feeling, and when there is one who has an injury, all other members of the society will feel it too. Also, Islamic organic society is like a building, the parts of which strengthen each other.⁴ The organic nature of Islamic society is also showed by Qutb by saying that the best society is something like a family, the order of which is very solid.⁵

By its organic and practical character, therefore, Islamic social justice can produce its own structure of society. To Qutb, this structure of society could be framed in two forms, i.e. political and economic frameworks.

To Qutb, political structure is important because it deals with the implementation of law, management of society, and distribution of wealth according to Islamic principles. In this political structure Islam has its own system, independent and dissimilar to Western phenomena. It is based on the unity of human race and the

¹ *Social Justice*, pp. 79-92; *Al-‘AdÉlah*, pp. 66-80.

² Shariati, Ali, *On the Sociology of Islam*, tr. by Hamid Algar, Berkeley: Mizan Press, 1979, p. 77.

³ *Social Justice*, 53; *Al-‘AdÉlah*, 40.

⁴ Here Qutb quotes the traditions of the Prophet. *Al-‘Adālah*, 77; *Social Justice*, 90.

⁵ *Al-‘AdÉlah*, 69; *Social Justice*, 82.

only divine way for all, but humans are not forced. The government is firstly based on divine sovereignty and then based on justice of the ruler, obedience of the ruled (who choose the ruler and whose obedience based on the ruler's loyalty to God) and consultation (*shËrË*) between the ruler and the ruled. Although personal privileges of the ruler are limited, he has a wide authority to manage the needs of society.¹

In the structure of economy Islam supports personal property, as a just balance between reward and effort and for other reasons, but this right is from the community and then from God, the ultimate owner. Islam opposes concentration of wealth; some property should be public and some should be transferred to the poor. Property normally be gained by work but also can be as a gift like bequest, which is controlled. There is liberty for increasing wealth, but only within legal limits, while anything usury is rejected in Islam. One can spend some reasonable amount for himself but should avoid luxury. Qutb's discussion on *zakat* lead to the discussion on *maËliË mursalah* ("unrestricted benefits") and a long quotation from the book of *al-Imam Malik* by Abu Zahrah in this Islamic structure of economy.²

In short, by its nature, methods, ethics, and systemic structure of society Islam demonstrates that social justice is not only a dream.³ It is something very needed by mankind –so that always become a social idea—and Islam can fulfill this. Therefore, Qutb convinces, when Muslims always holds this Islamic social justice system they will always be the best society (*khair ummah*) which is in turn will lead the world to enjoin the virtues and discourage the vices.⁴

¹ *Social Justice*, pp. 113-126; *Al-'AdËlah*, pp. 97-112.

² *Social Justice*, pp. 127-168; *Al-'AdËlah*, pp. 113-166. The quotation from Abu Zahra's book of *al-Imam Malik* includes in Chapter VIII on "Present State and Prospects of Islam" in the first edition (see *Social Justice*, pp. 296-313) while in the seventh edition includes in Chapter VI on "Economic Theory in Islam" (see *Al-'AdËlah*, pp. 158-166).

³ Western economists like Hayek and Arrow insist on the impossibility of social justice in society. Social justice, for them, is a mirage. See F. A. Hayek, *Law, Legislation and Liberty, Vol. II: The Mirage of Social Justice*, Chicago: The University of Chicago Press, 1976 and Kenneth J. Arrow, *Social Choice and Justice*, Oxford: Basil Blackwell, 1984.

⁴ *Social Justice*, p. 35; *Al-'AdËlah*, p. 23. by quoting QS. 3: 110. And in *Al-'AdËlah* there is addition of quotation of QS. 2: 143 meaning "Thus have We made of you an Ummat justly balanced. That ye might be witnesses over the nations, and the Messenger a witness over yourselves." English translation of the verse is from Abdullah Yusuf Ali, *The Holy Qur-an: English translation of the meanings and Commentary*, Al-Madinah Al-Munawarah: King Fahd Holy Qur-an Printing Complex, 1410 H., p. 57.

And this complete nature of Islam, actually, can answer the accusation of Marx that religion is only ‘spiritual thing’, so that in order to implement justice in the society humans need to transform heaven to earth, religion to law, theology to politics.¹ Such is because Islam is also, law and has its own just structure of society. The problem is only how to implement it. And this implementation should be helped by the ruler (*al-hakim*).² Here, Qutb shares the similar idea of Al-Mawardi conditioning a powerful ruler (*al-sultan al-qahir*) to the enforcement of the principles of peace and justice. For whether religion or reason cannot do anything except they are enforced by superior authority of the powerful ruler.³

3. Reactions and Comments on Qutb’s Theory of Social Justice

According to Algar, Sayyid Qutb can be seen as the first person in Islamic world to articulate the problem of social justice in modern time.⁴ His theory of social justice is so central in his thought, so that he always refines it.⁵ Possibly other Qutb’s theories such as *jÉhiliyyah*, *ÍÉkimiyah*, and *thawrah* (revolution), raised in line with his activism in the Brothers and his dialogue with the Qur’an –until he finished his commentary *FÊ ÚilÉl al-Qur’Én* to 30 juz ‘—but something he defended until the end of his life is his theory of social justice in Islam.⁶ Probably it is because the topic can relate theology to social reality, a relation which becomes his core of thinking, i.e. Islam as a concrete social and political force.

According to Shepard, even though the topic taken is relatively secular that is social justice Qutb ends his discussion with full of theocentrism emphasizing the application of *SharÉ’ah* as a bridge to realize social justice. Such is because, to Qutb,

¹ Marx, *loc. cit.*

² *Al-‘AdÉlah*, 97-112; *Social Justice*, 113-126.

³ Al-Mawardi, Abu al-Hasan ‘Ali, *Adab al-Dunya wa al-Din*, edited by Mustafa al-Saqqa’, (Cairo, 1955), this edition Jakarta: Shirkah Nur al-Thaqafah al-Islamiyyah, n.d., p. 137.

⁴ Hamid Algar, “Introduction” in *Social Justice*, pp. 12-13.

⁵ It seems odd to call Qutb’s view on Islamic social justice as a theory. By constructing Qur’anic verses, traditions of the Prophet and Islamic history to his own construction, however, Qutb has made a theory of Islamic social justice projected to be established in the present and the future times.

⁶ It can be seen from his desire to always improve his own theory by revising *Al-‘AdÉlah al-IjtimÉ’iyah fÊ al-IslÉm* five times after the original. A study of the differences between those six editions has been done by William E. Shepard in his book *Sayyid Qutb and Islamic Activism: A Translation and Critical Analysis of Social Justice in Islam*, Leiden: E. J. Brill, 1996.

it is only God who knows how to realize social justice truthfully. Therefore, it is what God describes in the Qur'an and implemented by the Prophet that mankind should follow. And the heritage of those Qur'anic description and Prophetic implementation is *SharĒ'ah* which should be applied.

Nevertheless, Moussalli objects to such Qutb's theory, since such view has obscured vision on what should be related to the existing structures practically. To Moussalli, Qutb's thinking on the necessity to transcend space and time has brought to an idealistic description hampering meaningful interactions with realities.¹

The reality, of course, includes the existence of *ummah* who are not in a cultural vacuum. Muslims are in the middle of different cultural circles in their lives and cultures which are not fully Islamic as it is modeled by the Prophet and his Companions. Here, then, Qutb says that Muslims are in a condition of *jĒhiliyyah*. To him, Islam does not "exist" anymore.² While the *jĒhiliyyah* should be destroyed by the Muslims, they are in the middle of it. So how the idea of purification should be done?

For answering the question Qutb gives an elixir done by Prophet Muhammad (p.b.u.h.) and his Companions, i.e., forming a small group (*jamĒ'ah*) committed to God in every aspect of their life, doing emotional separation (*'uzlah shuĒriyyah*), developing Qur'anic generation, and finally preparing social, legal order or building society.³

It is clear that Sayyid Qutb is not doing a rapprochement to the West, even though his theme of social justice is caused by the flood of "vitality of Marxism".⁴

¹ Ahmad S. Moussalli, "The Views of Islamic Fundamentalism on Epistemology and Political Philosophy", *The Islamic Quarterly*, Vol. XXXVII, No. 3, Third Quarter, 1993, p. 186.

² In the beginning of Chapter VIII of the last edition of *Al-'AdĒlah* Qutb states: "We call for the restoration of Islamic life in an Islamic society governed by the Islamic creed and the Islamic conception as well as by the Islamic *Shari'ah* and the Islamic order. We know that Islamic life—in this sense—stopped a long time ago in all parts of the world and that the 'existence' (*wujĒd*) of Islam itself has therefore stopped. And we state this last fact openly, in spite of the shock, alarm, and loss of hope it may cause to many who like to think of themselves as 'Muslims'!" *Al-'AdĒlah*, p. 248.

³ Although Qutb's call for establishing Islamic society is mostly in *MaĒĒlim*, his clear and detail program is in *Al-'AdĒlah*. About how to make a committee to return *ummah* into Islamic social condition see *MaĒĒlim*, passim.

⁴ The term of "vitality of Marxism" is Algar's in *Social Justice*, p. 13.

What he is doing is a detachment to the West by proposing Islamic recipe which is stable, balance, and comprehensive.

However lively criticism on Sayyid Qutb's thinking may be, his thought on social justice in Islam is relatively accepted by many. It is because Qutb provides that for a moral appeal, Islam also has a basic ethics on social justice. It is not that criticism which exists, but imitation or closeness to Qutb's theory is much. All existing books or articles on social justice in Islam are more or less similar to what was written by Qutb.¹

Such is because Qutb and many other Muslim writers based their thinking on the same sources: the *Qur'an* and the *Sunnah*. And so long as his thought is being a theory, we can accept it moderately.² As much as what happens to John Rawls's *A Theory of Justice* which is still in a theoretical level, Western people still accept it. Even for Rawls people give praises, since by his theory we can advance our way of thinking on justice.³

Therefore, to take it positively, Qutb's theory of social justice in Islam can always remind us on Islamic moral perspective of social justice; so that in social life Muslims can always strive for making it more just, fairer, and better, the theory of which has been shown by Qutb.

C. Conclusion

From the contexts of both thinkers being examined, we can illustrate that Rawls merely calls for another way of thinking on social justice, whereas Qutb calls

¹ Hamid Algar mentions that after this Qutb's book (1949) emerged a book similar in tone in Syria that is *Ishtir'akiyyat al-Islam [Islamic Socialism]* (1951) by Mustafa al-Siba'i, an Indonesian book *Keadilan Sosial dalam Islam [Social Justice in Islam]* (1951) by Hamka, and an Iranian book *Iqtisaduna [Our Economy]* by Ayat Allah Muhammad Baqir al-Sadr. Algar in *Social Justice*, pp. 12-13. A more theoretical book in examining social justice in Islamic tradition is Majid Khadduri, *The Islamic Conception of Justice*. The more recent articles closer to that Qutb's are among others Abdulaziz A. Sachedina, "The Creation of A Just Social Order in Islam," in Mumtaz Ahmad (ed.), *State, Politics, and Islam*, Indianapolis, Indiana: American Trust Publications, 1986 and Javid Iqbal, "Democracy and Justice: Islam's Political Message Restated" in Ron Bontekoe and Marietta Stepaniants (eds.), *Justice and Democracy: Cross-Cultural Perspectives*, Honolulu: University of Hawaii Press, 1997.

² According to Qutb, the achievement of justice in Islamic history is often failure. Nevertheless, Muslims should not be desperate to enact it continually in their own capacities. *Social Justice*, p. 170; *Al-'AdÉlah*, p. 168.

³ Dudley Knowles, *Political Philosophy*, London: Routledge, 2001, p. 236.

to change the situation. Such is because Rawls lived in liberal democratic circumstances, a social condition which was wanted by him. Qutb, on the other hand, lived in secular circumstance, a political condition which was not wanted by him. Therefore, their approaches are different: Rawls takes an evolutionary way, while Qutb the revolutionary one.

It will be different if, for instance, Rawls lived in a socialist-totalitarian political regime (like in the USSR sometime in the past) and Qutb lived in an Islamic political regime (like in the Afghanistan during the reign of Taliban). It may be that the situation will be reversed: Rawls will think in a revolutionary fashion, that is, to change the situation into democratic way; and Qutb will think in an evolutionary fashion, that is, correcting the things which are not Islamic yet.

Rawls's evolutionary way can be traced in that his ideas are addressed to the academicians, so that it is more indirect in changing the situation, and not to social practitioners or decision makers. Here, he is more like other Western philosophers such as Plato, Aristotle, Augustine, Aquinas, Rousseau, and Smith rather than an activist like Karl Marx. Qutb, meanwhile, addresses his ideas more to the young generation of Muslims and Islamic activists in general, with a calling to change the situation into the more Islamic way. In Islamic history, he is more like Ibn Taymiyah, Asad, and Shariati rather than Al-Mawardi. In short, Qutb is more revolutionary than Rawls.

Rawls also admits that his idea is influenced most by the climate of Western democracy. Yet, Rawls wants to correct the dominant thinking at his time, i.e. utilitarianism.¹ Rawls accuses that by utilitarian slogan of 'the greatest happiness for the greatest number' it will come to a condition that "economic gains of technocratic but authoritarian institutions might be so great as to justify the sacrifice of basic freedoms."² So, Rawls proposes to rethink the concept of social justice by another line of thinking in the West, which is almost forgotten, i.e. contractarianism, by

¹ As we know that having criticized by Marxian thinkers and then those Marxian states like USSR collapsed, Western thinking comes back to utilitarianist like what has said by Adam Smith.

² *Theory*, 231.

which he is proposing a substantive justice. Here, Rawls insists that justice is not only an end-result story, but in the process there should be justice too.

Qutb, on the other hand, blatantly criticizes Western thinking in general, which enters gradually into the Muslim world.¹ The situation, to Qutb, then is not Islamic anymore.² Here, in order to change the situation, Qutb proposes an idea to go back to the pure Islamic thinking.

By calling to an old idea of contractarianism in Rawls and calling to go back to the pure Islamic thought, both thinkers have a ‘romantic’ spirit.

The works of both writers show how each of them is consistent. Rawls’s *A Theory of Justice* inspires all his works. The case is also for Qutb. Other Qutb’s works can be read as having been influenced by his *Social Justice*. Such is because Qutb was changed to be an Islamic activist after he wrote the book. The key frame of the book is the relevance of Islam with social problems, an idea which he held with a tightening grip until he died.

In their theories of social justice, they show that they have read a systematic reading to the problems of social justice. And they also answer the problems, with their own theories, which can be divided into: the nature, methodology, and solution of the questions of social justice.

Theoretically, both have transcendent theories, by discussing social justice closely in one kind of society, without doing a comparison with any other societies. So, even though there is certain comparison to other societies in their works, but the comparison is simply a minor illustration. Both Rawls and Qutb dig more into their own theories. Only that their transcendence is different. Rawls prefers more to the dictate of hypothetical convention, which is called as the original position, and

¹ As Qutb says, “But when it is a matter of importing principles and customs and laws, we do no such thing; we continually cast aside all our own spiritual heritage, all our intellectual endowment, and all the solutions which might well be revealed by a glance at these things; we cast aside our own fundamental principles and doctrines, and we bring in those of democracy, or socialism, or communism.” *Al-‘AdÉlah*, p. 7; *Social Justice*, p. 19.

² Reflecting the situation in Egypt at his time, Qutb says, “At the same time we profess Islam as a state religion, we claim in all sincerity to be true Muslims –if indeed we do not claim to be the guardians and propagators of Islam. Yet we have divorced our faith from our practical life, condemning it to remain in ideal isolation, with no jurisdiction over life, no connection with its affairs, and no remedy for its problems.” *Al-‘AdÉlah*, p. 7-8; *Social Justice*, p. 20.

therefore rational. Compared to the history of ideas in the West, Rawls is more like Rousseau who has the idea of social contract with a rational basis. Qutb, on the other side, chooses more doing the transcendence with the dictate of Islamic doctrines, and therefore prophetic or revelational. This revelational basis is always the basic doctrine for Muslim thinkers in Islamic history. We can see it in the thoughts on social justice of the early Muslim caliphs, Al-Mawardi, Ibn Taymiyah, Asad and Shariati.

It is the original position in Rawls and Islam in power in Qutb, which become their methodology in examining social justice. From that stage, there are the ideas of the principles of social justice and the just structures of the society. In their framework of examination, then, they have similarities. But in their methodologies, both are in their own places with a yawning gap in between. In the scope of thought, Rawls only thinks of his scope as merely human, mundane, or natural sphere. Qutb, on the other hand, prefers more in this world and the future world as his scope of thought. Such is also in their theoretical bases. Rawls bases his thought on reason, history, and intuition. Besides those three mentioned by Rawls, Qutb adds a reference to the prophetic or revelational basis.

Rawls, with his original position, shows that men can produce the just principles of life when they are in an initial situation of equality, behind the veil of ignorance. And this veil can make men feel that they are morally free and equal. Such is because they do not know their destiny in the future. It is by their ignorance that men can set up social arrangements, in the forms of the principles of justice and the just social order.

Qutb, meanwhile, also shows that men can produce the principles of justice when they go back to Islamic teachings. Islam is in accordance with human nature (*fitrah*). So, it is from the Islamic teachings that men can arrange social order of justice. Hence, both have slightly similar frameworks in their theories, i.e. the framework of the principles and the framework of social structure.

To answer such problems of social justice as inequality, distribution, capability, and stability; both thinkers conclude that there are the principles of justice

and the just social structures of life. Besides the principles of justice (which will be discussed in the Chapter III of this thesis), both writers have their own applicative framework forming the political and economic structures of social justice. Unfortunately, the discussion is not in this chapter, but in the Chapter IV of this thesis.

The commentaries on Rawls and his theory of justice are around his philosophical methodology. It is felt that to empty our knowledge behind the veil of ignorance will be difficult. Utilitarians cannot accept Rawls's idea for the reason that it is unproductive and not to maximize happiness. Libertarians criticize Rawls's theory as giving the big role of the state, whereas for them, the just structure is where there is no intervention from the state in doing everyone's interest in economic liberty. Communitarians, however, do not accept it for the reason that it is not practical when it is applied in the real society, for societies are different in their circumstances and histories.

The criticisms to Rawls, however, had strengthened Rawls in the arena of discourse in the social and political philosophy. Rawls, for instance, is mentioned as a thinker returning political philosophy into its substance, something like what was done by Rousseau. Some others say that Rawls had advanced our thinking on justice, i.e. by mixing the ideas of Adam Smith and Karl Marx. And Rawls also brings an idea of regulation of society in order to attain the just society, something which irritates the liberal economists, but it is always needed.¹ And regulation is mentioned as the most needed in the stability of the society as said by Plato, Aristotle, and Aquinas.

The criticisms on Qutb are around too theocentric nature of Qutb's theory, whereas the problem is the mundane matter. The critics also say that Qutb's theory is too idealist, whereas the Muslims cannot escape from their mundane cultures. Qutb, then, is regarded as unrealistic.

¹ In this case, Durkheim says that the "defenders of the old economic theories are mistaken in thinking that regulation is not necessary today." As quoted by Giddens, Anthony, *Capitalism and Modern Social Theory: An analysis of the writings of Marx, Durkheim and Max Weber*, Cambridge: Cambridge University Press, 1971, p. 105.

However, the ideal theory is not only confirmed by Qutb. Rawls also admits that his theory is an ideal theory. The difference is that Rawls is more rational, whereas Qutb is more theocentric. But in the middle of injustice which always there in our society, an ideal theory can play a big role in guiding humans, in order not to be trapped by narrow realities which only make humans live mechanically. A transcendence to achieve the lofty ideals, then, is always needed.

Finally, to make the comparison clearer, here are the similarities and the differences between Rawls and Qutb:

1. Comparison between Rawls and Qutb in the Methodology of Explanation of Social Justice

- 1) Romanticism of the past. Rawls to the Contractarianism, Qutb to Islam in power.
- 2) Consistency in their works.
- 3) Systematic.
- 4) Nature of theory: transcendent and ideal
- 5) Problems of social injustice: inequality, distribution, capability, and stability.
- 6) Principles of social justice: liberty, equality, and solidarity.
- 7) Social structures: political and economic structures.
- 8) Social differences between humans should be admitted and solved by social cooperation.
- 9) Methodology of thinking: philosophical.
- 10) Method of application requires a big role of the state.

2. Contrasts in the Methodology of Explanation on Social Justice

Table 2.1. Some Contrasts between Rawls's and Qutb's Thoughts On the Methodology of Explanation of Social Justice

No.	Subject	Rawls	Qutb
1.	Position of thinker	Academician	Activist
2.	Context of thought	Democratic West (something wanted by the thinker)	Secular Muslim (something not wanted by the thinker)
3.	Alternative of thinking	Think another way	Change
4.	Approach of movement	Evolutionary	Revolutionary
5.	Target of thought	* Academician	* Muslim young generation * Muslim activists
6.	Way of communication	Indirect	Direct

7.	Target of criticism	Utilitarianism	Secularism
8.	Nature of thought	Rational transcendent	Islamic transcendent
9.	Model of thought	Original position	Islam in power
10.	Area of thought	* Human * Mundane * Natural	* Human * Mundane & Sacred * Prophetic

CHAPTER III

THE PRINCIPLES OF SOCIAL JUSTICE

IN JOHN RAWLS'S AND SAYYID QUTB'S THOUGHT

This is the chapter on what sort of principles should be in a conception of justice, so that such principles can form a complete structure of society, in accordance with the basic idea of justice. These principles have been a comprehensive social ideal. Such principles as liberty, equality and solidarity have been traditional principles in the West. Therefore, the entrance of those principles into a conception of justice only means that those principles are aspects of a conception of justice, not as a solitary social ideal.¹

Here we are not talking about liberty in the sense of liberalism, nor equality in the sense of communism and egalitarianism, not even solidarity in the sense of populism, whatsoever. The three principles aforementioned are only the principles within the idea of social justice. Justice itself, according to Rawls, essentially means “reducing arbitrary inequalities and establishing, in a structure of social practice,² a proper balance between the competing claims.”³

Rawls actually has two principles to formulate in maxims. The first is called as the equal liberty principle. The second is divided into two, i.e. the equal opportunity principle and the difference principle. So, in sum, there are three principles, even though the last two are in one principle, equality.

Rawls admits that his idea corresponds to traditional ideas, such as the one launched in the French Revolution: liberty corresponds to the first principle, equality

¹ To differentiate, Rawls gives a clearance between justice and equality as follows: “There may well be inequalities which one concedes are just, or at least not unjust, but which, nevertheless, one wishes, on other grounds, to do away with.” Rawls, John, “Justice as Fairness” [hereinafter “Justice as Fairness”], in *Philosophical Review*, LXVII (1958), p. 165. Therefore, for people to whom egalitarianism is social ideal, inequality is always not right, while for the principle of justice, it can be tolerated.

² ‘*Social practice*’ or ‘*practice*’ is an activity specified by a system or rule determining office, role, movement, punishment, defense, and others, that giving the structure to those activities. Rawls exemplifies it by games and ritual, court and parliament, market and system of property. Rawls, John, “Two Concepts of Rules,” *Philosophical Review*, LXIV (1955), pp. 3-32.

³ “Justice as Fairness”, p. 165.

to the idea on equality in the first principle together with fair equality of opportunity in the second principle, and brotherhood to the difference principle in the second principle.¹

In this comparative study of thought it is found that Qutb also has three principles elucidated ordinarily, i.e. the principle of conscientious freedom, the principle of human equality, and the principle of social responsibility.

There are some similarities and differences between Rawls and Qutb. Their similarities are coming from the principle of freedom and equality as the primary principles of social justice. The difference is that Rawls adds the difference principle in his conception, which is also in Qutb's, but in a minor sense of meaning. Also, what is felt by Qutb as one of the principles, i.e. the principle of social responsibility, is not the primary principle in Rawls's, although he has similar idea. To compare their thought, then, we can frame in the traditional framework: the principle of liberty, equality, and solidarity.

A. The Principle of Liberty

1. Meaning and Significance of Liberty

At glance what can be understood from the concept of liberty is “the absence of constraint from another's will” whether “another” is an individual, a group, or a state.² Or in another definition, one's liberty is “the absence of human interference with his exercise of his power”.³ Social justice requires the existence of liberty principle in order to admit another's presence who has the same right of liberty. This is the one called as the principle of *alteritas* (equality of acknowledgement).⁴

For the sake of social justice, therefore, one's liberty can be a barrier for another's liberty. This is because that human being is defined by space and time. Freedom of speech does not mean that everyone can speak whenever he wants,

¹ Rawls, John, *A Theory of Justice* [hereinafter *Theory*], Cambridge: Harvard University Press, (1971), 1999, p. 91. I will also omit some mark of “p.” to mention “page” in the footnote for the sake of simplicity.

² Irani, K. D., “Values and Rights Underlying Social Justice” in Braham, Randolph L. (ed.), *Social Justice*, The Hague: Martinus Nijhoff Publishing, 1981, pp. 32-33.

³ Baldwin, R. W., *Social Justice*, Oxford: Pergamon Press, 1966, p. 8.

⁴ *Ibid.*

because sometimes he should wait for his turn to speak. Freedom of movement is also constraint if anyone should see traffic signs in the road. Freedom of movement also forbids anyone to move and live in some place if in that place anyone else might take it to his own purpose. These facts of time and special limits, or the constraints of material resources, make a consideration of the relation between freedom and justice.¹

The connection between justice and liberty is also acknowledged in Western tradition of thought² which is for now represented by John Rawls.³ In his book, *A Theory of Justice* (1971), Rawls proposes his general conception of justice—which is tightly linked with his idea on liberty—as follows:

All social values—liberty and opportunity, income and wealth, and the social bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage.⁴

This general conception of justice shows an equal distribution of liberty but not in its maximization and extensive matter. In fact, Rawls's book examines much on the specific interpretation of this general conception addressed to maximization and equality of liberty. The main feature of Rawls's specific conception of justice is:

First Principle [‘the principle of greatest equal liberty’⁵]

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.⁶

Second Principle

Social and economic inequalities are to be arranged so that they are ... to the greatest benefit of the least advantaged¹

¹ *Ibid.*

² In the history of western thought, an attempt to develop distribution of equal liberty is made, for example, by Immanuel Kant. In his book, *Metaphysical Elements of Justice*, Kant says that there is only one innate rights and this he formulates it in the framework of equal distribution of liberty: “Freedom, insofar as it is compatible with the freedom of everyone else in accordance with a universal law, is the one sole and original right that belongs to every human being by virtue of his humanity.” As quoted by Irani, K. D., *op. cit.*, p. 33.

³ Unfortunately Rawls avoids discussing anything about definition of ‘liberty.’ Here are his words: “In discussing the application of the first principle of justice I shall try to bypass the dispute about the meaning of liberty that has so often troubled this topic.” *Theory*, 176.

⁴ *Theory*, 54.

⁵ *Theory*, 107.

⁶ *Theory*, 266.

To these two principles there are certain priority rules the most important of which is that liberty is prioritized than all other benefits, so that it is restricted or distributed unequally only for the sake of liberty itself, and not for any other social, economic, or other benefits.² Such is a short introduction on how important the principle of liberty in Rawls's conception of social justice.

Liberty is also a foundation of another conception of social justice, i.e. the one originated from Islamic tradition. According to Sayyid Qutb,³ Islam emphasizes liberty as the first condition for social justice.⁴ For the liberty is to assign the nobility of man and his rightful share in social justice.⁵ We could not find any definition coming from Qutb on this liberty. But Qutb insists that even though there are many liberties acknowledged by Islam, they should be seen as a system which should be one, united, balanced, and in harmony.⁶

Like Rawls, Qutb also stresses the priority of liberty than any other benefit, especially economic profit. It is because, says Qutb, if we still have loyalty to money, power, dignity, or heredity, we still have not reach the true liberty.⁷ Qutb denies making material benefit as a fair reward for the value of human freedom. For him, Islam does not want to change this life into some kind of thing valued by a piece of bread, physical capacity, or some amount of money by which it should suppress human desire to be free.⁸

¹ *Theory*, 266. Here I follow H. L. A. Hart in omitting provision for the principle of just savings and for fair equality of opportunity, which included in Rawls's second principle, because those things are not relevant in this examination. Hart, H. L. A., "Rawls on Liberty and its Priority" in Norman Daniels (ed.), *Reading Rawls: Critical Studies on Rawls' A Theory of Justice*, Oxford: Basil Blackwell, 1975.

² Hart, "Rawls on Liberty and its Priority", p. 232.

³ Qutb, Sayyid, *Al-'Adalah al-Ijtima'iyah fi al-Islam* [hereinafter *Al-'Adalah*], 7th edition, Cairo: Dar al-Shuruq, 1980, p. 55; Qutb, Sayyid, *Social Justice in Islam* [hereinafter *Social Justice*], translated by John B. Hardie from the first edition (1949), trans. revised by Hamid Algar, Kuala Lumpur, Islamic Book Trust, 2000, p. 68. I will also omit some mark of "p." to mention "page" in the footnote for the sake of simplicity.

⁴ *Al-'Adalah*, 55; *Social Justice*, 68. In another place Qutb quotes the QS. 4:97 and a hadith, "He who is killed while attempting to remedy injustice, the same is a martyr." (Narrated by al-Nasa'i). *Al-'Adalah*, 20; *Social Justice*, 33; Yusuf 'Ali, 245-6.

⁵ *Al-'Adalah*, 54-5; *Social Justice*, 67-8.

⁶ *Al-'Adalah*, 32; *Social Justice*, 45.

⁷ *Al-'Adalah*, 47; *Social Justice*, 60.

⁸ *Al-'Adalah*, 36-7; *Social Justice*, 49.

Therefore, both writers observe the importance of acknowledgement of human dignity in which free will is a foundation for developing social justice. Whenever the acknowledgement of human dignity as free creature is reached, justice will be earned in social life.

2. Liberty and Basic Liberties

a. Rawls

In explaining liberty for social justice, Rawls's explicit formulation of liberty is not in general sense anymore, but refers to basic or fundamental liberties, understood as legally admitted and protected from intervention.¹ So, the last formulation of his idea of liberty is:

Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all...
[L]iberty can be restricted only for the sake of liberty. There are two cases: (a) a less extensive liberty must strengthen the total system of liberty shared by all; (b) a less than equal liberty must be acceptable to those with the lesser liberty.²

Even for this formulation, the full accuracy should be focused on the last words, for Rawls also emphasizes that liberty "must be acceptable to those with the lesser liberty" means not accepted on any reason, but only acceptable "by the larger security of their other liberties".³

Questions can be emerged here on what Rawls means by 'less extensive liberty', 'the total system of liberty', 'less than equal liberty' and 'the lesser liberty'? How can he measure the quality of liberty? This is the problematic of Rawls, for there is no explanation from Rawls himself.⁴ What can be inferred here is that Rawls likely wants to say that liberty should be optimal: extensive liberty without destroying the lesser liberty. It means that those who have more extensive liberty should not destroy those who have less extensive liberty.

¹ *Theory*, 177.

² *Theory*, 266.

³ *Theory*, 204.

⁴ This confusion is also admitted by Barber. See Barber, Benjamin R., "Justifying Justice: Problems of Psychology, Politics and Measurement in Rawls," in Norman Daniels (ed.), *op. cit.*, pp. 292-318.

Basic liberties referred by Rawls's principle are identified by the parties in the original position¹ beyond the veil of ignorance as an essential thing to achieve their aims, whatever the aims are, so that can determine their forms of society. Therefore, it is not surprising if the basic liberties are fairly small in numbers and Rawls gives the list which is said as significant. Those basic liberties include political liberty (the right to choose and hold public office), freedom of speech and association; freedom of conscience and freedom of thought; personal liberty, including freedom from psychological suppression and physical assault and destruction (of people's integrity); rights to have personal property and freedom from arbitrary capture and hostages.²

Nevertheless, Rawls reminds us that those basic liberties should be evaluated holistically, as a system. The worth of one liberty depends on the specification of other liberties. Basic liberties aforementioned only represent the most fundamental interests. And by specific listing of those basic liberties, we can evaluate whether an institution or law has admit them or not. Therefore, by pointing out those basic liberties, we can recognize the best total system of liberty.³

Also, Rawls does not require, except in cases of political liberties (right to participate in government and freedom of speech), that those basic liberties should be the same in value, or similar substantially.⁴

Rawls also needs to differentiate between liberty and worth of liberty. Liberty is represented by a complete system of equal liberties of citizens, whereas worth of liberty is for individuals or groups by their capacity of which they can acquire their goals within the framework of system. Therefore, worth of liberty is not similar for everyone. Some people have bigger authority and wealth so that have facilities to

¹ Rawls, for example, mentions that equal conscientious liberty is the first principle which can be acknowledged by the parties in the original position. *Theory*, 181.

² *Theory*, 53. Rawls says that his choice is based on the consideration that in the history of democratic thought something being focused is the achievement of certain liberties and constitutional guarantees, as found, for example, in various constitutions of rights and declarations of human rights. Hence, his thought on basic liberties follows this tradition. See Rawls, John, *Political Liberalism*, New York: Columbia University Press, 1993, p. 292.

³ *Theory*, 178.

⁴ Concerning hierarchy or peace to the conflict between basic liberties will be examined later under the heading, "liberty for the sake of liberty".

achieve their goals, but some have not.¹ What is needed, then, is a formal condition that the rules regulating income, distribution, and scope of property rights should be the same for everyone.²

In sum, the significant thing for Rawls is that for the sake of upholding these basic liberties in society there is a need for institutional protection to the sphere of application. It is also needed to think that those basic liberties can be made compatible with one another, at least within their “central range of application,”³ the public sphere.

b. Qutb

In general, Qutb admits the importance of equal liberty in social justice. Theoretically, however, he does not mention basic liberties. He only illustrates some examples of liberties acknowledged by Islam. Although there is no theoretical account on basic liberties, still we can see that Qutb’s explanation shows that these examples are basic liberties. Let us compare Qutb’s idea on it by reference to Rawls’s.

Concerning political liberties, Qutb says that Islamic system of government is humane.⁴ Here Qutb also states that Islam admits liberty of everyone to participate in politics (to choose and hold public office), even for a Negro slave.⁵ However, for the head of state, either in the central government or in the branch one, Qutb stresses that they should be Muslim.⁶ Such is because the state Qutb develops is Islamic state, which is based on Islamic foundation, so that all head of authorities in government should be Muslim.

¹ *Theory*, 179.

² *Theory*, 55-56.

³ Rawls, John, “The Basic Liberties and Their Priority” [hereinafter “Basic Liberties”], in Sterling M. McMurrin (ed.), *Liberty, Equality, and Law: Selected Tanner Lectures on Moral Philosophy*, Salt Lake City: University of Utah Press, 1987, p. 11.

⁴ *Al-‘Adalah*, 100-1; *Social Justice*, 116.

⁵ Qutb bases his opinion on a hadith, “*Hear and obey –even if your ruler is an Abyssinian slave with a head like a raisin, so long as he observes the Book of Allah the Exalted.*” (Narrated by al-Bukhari). *Al-‘Adalah*, 106; *Social Justice*, 121.

⁶ *Al-‘Adalah*, 100; *Social Justice*, 116.

On freedom of speech and association, Qutb says that Islam highly emphasizes the significance of freedom of soul which, in turn, produces freedom of speech and conscience. Freedom of speech even urged if it is for the aim of correction. Not only freedom of speech, coercion is also accepted if it is for correction.¹

About freedom of conscience and freedom of thought, Qutb says that social justice requires its community to have those liberties to let the individuals maintain the just order.²

Concerning freedom of persons, that is freedom from psychological suppression and physical assault and obliterating (one's integrity); Qutb says that Islam highly supports the continuation of human dignity and nobility, upholding courage for defending truth in their heart, guaranteeing the emergence of absolute social justice.³ Islam urges everyone to free himself from psychological suppression, physical assault and destroying one's integrity, for example caused by fear of one's office. Because, says Qutb, anyone has no legitimate power to the other in this case.⁴ About this Qutb exemplifies the readiness of the Prophet to accept some *qisas* beat if anyone around him had been beaten by him.⁵

Regarding freedom of arbitrary capture and detention Qutb does not examine it in the chapter of the foundation of social justice. This, however, can be found in the chapter of history of social justice in Islam, i.e. in Qutb's explanation on an *'alim* (Islamic scholar) captured and arrested by an authority arbitrarily. According to Qutb, the *'alim*'s attitude by giving no mercy to the authority is an Islamic attitude encouraging the principle of liberty.⁶ Such is because in Islam, "no ruler may oppress the souls or the bodies of Muslims, nor dare he infringe upon their sanctities, nor touch their wealth."⁷

¹ *Al-'Adalah*, 189; *Social Justice*, 192.

² *Al-'Adalah*, 40; *Social Justice*, 53.

³ *Al-'Adalah*, 45; *Social Justice*, 58.

⁴ *Al-'Adalah*, 47; *Social Justice*, 59.

⁵ *Al-'Adalah*, 188; *Social Justice*, 191.

⁶ The *'alim* was Judge Hanafiyah Bakkar ibn Qutaiba and the authority was Ahmad ibn Tulun, Governor of Egypt during 254-270 H (868-883 M) which was effectively independent from the Caliph and built his own dynasty under his name. *Al-'Adalah*, 191; *Social Justice*, 194 and 323 n. 36.

⁷ *Al-'Adalah*, 110; *Social Justice*, 124.

Relating to the rights to have personal property, Qutb states that Islam admits human rights to have wealth and family, even though it derives from them neither profit nor loss, neither uplift nor dropping off the true status of humanity.¹ As a result of this acknowledgement Islam protects the rights of personal property from stealing, plundering, or cheating in any means. To all these crimes, an Islamic state has a right to punish all those evil things to secure the right of private property perfectly and to prevent anyone of targeting other people's property.² Qutb also emphasizes that the right of personal property is upholding justice (meaning balance) between the effort done and the reward accepted.³ However, Qutb needs to state that Islam gives priority to the right to live and to the right to possess a competence rather than to the right of individual possession, and then determines the principle of mutual responsibility in society.⁴

Here is Qutb who shows that Islam protects soul, body, sanctity and wealth of everyone in its society.⁵ It should also be noted that Qutb insists that even though basic liberties are vary, they should be seen as a system, produced by Islamic system.⁶ Because in one system, those liberties are united, balanced, and in harmony. It is because "the Islamic belief is that humanity is an essential unity; its scattered elements must be brought together, its diversity must give place to unity, its variety of creeds must in the end be brought into one."⁷

3. Freedom of Conscience as the Standard

a. Rawls

¹ *Al-'Adalah*, 48; *Social Justice*, 61.

² *Al-'Adalah*, 115.

³ *Al-'Adalah*, 116; *Social Justice*, 130.

⁴ *Al-'Adalah*, 205; *Social Justice*, 206.

⁵ For this statement Qutb quotes the verses on prohibition of entering a house without permission (QS. 24:27), prohibition entering a house from its back (QS. 2:189), no searching anyone's mistakes (QS. 49:12), and a Hadith on the privilege of blood, honor, and wealth of any Muslim to other Muslim (Narrated by al-Bukhari-Muslim), and many others. *Al-'Adalah*, 110; *Social Justice*, 124.

⁶ *Al-'Adalah*, 32; *Social Justice*, 45.

⁷ *Al-'Adalah*, 28; *Social Justice*, 41.

Rawls defines liberty of conscience as liberty to pursue moral, philosophical, or religious interests without legal restrictions to engage or not to engage in any particular form of religious or other practice, and that other men have a legal duty not to interfere.¹

By this liberty of conscience, Rawls shows that the West does not only hold to voting method in which every time a decision can be changed owing to the number of votes, which is by implication its system of ethics is relative. This accusation is because of a perspective seeing that the West has only one system, i.e. democracy, the core of which is voting as a sign of a majority rule. It is by the principle of *justice as fairness*, then, Rawls wants to show that the West is not relative, it has an undisputable belief. We will see it by Rawls's explanation on liberty of conscience which has many things to discuss.

The first is that liberty of conscience is not being democraticized. People cannot take advantage by their freedom by paving the way that the dominant religious or moral doctrine to punish or suppress others. Such is because it means that the people do not consider holding religion and morality as a serious matter, so that it can be forced. It also means that there is no such respect to anyone's beliefs.²

The second is that liberty of conscience cannot be seen from its utility. In this case "their freedom would be subject to the calculus of social interests" and they would be leading to a greater net balance of satisfaction, as formulated by the utilitarian. Such is because what is called by "interests of the community" is very vague.³ In short, religion or morality cannot be related to the utility.

The third, liberty of conscience cannot be sold. Liberty of conscience cannot be fulfilled for promoting other interests such as economic and social benefits.⁴ If economy became a reason to be religious or moral, the religion or morality is under the power of economy. So, the idea that if not beneficial means not to be religious or moral is a wrong conclusion.

¹ *Theory*, 177.

² *Theory*, 181.

³ *Theory*, 182.

⁴ Rawls says that "greater economic and social benefits are not a sufficient reason for accepting less than an equal liberty." *Theory*, 182.

Finally, liberty of conscience cannot be understood by other conscience.¹ Men, certainly, have often acted as if others are in error and miss the way to their salvation, but we cannot expect others to acquiesce that anyone or any group is in an inferior liberty.² For it means a betrayal of anyone's rights to determine other's faith.

By this explanation, Rawls wants to say that a society is considered as just if they recognize individual liberty of conscience. The limitation to this is that owing to its scope as public, social justice means equal liberty in public institution,³ and not in any other place or sphere. From this understanding there comes another concept to propose: tolerance. Tolerance becomes important when individual liberties of conscience meet in a public sphere. From original position point of view, people should respect others to embrace other religions.⁴

Rawls also introduced that the liberty is imprescriptible: "a person is always free to change his faith and this right does not depend upon his having exercised his powers of choice regularly or intelligently."⁵ The principle of tolerance justifies "no one in demanding in law or politics a greater liberty for himself."⁶

Nevertheless, liberty of conscience can be tolerable, if it does not bother public order which should always be defended. In short, liberty of conscience is limited "by the common interest in public order and security."⁷ The reference to limit this liberty of conscience is a common knowledge and understanding of the world.⁸ By this, Rawls refers to ordinary thought of everyone. For it is in line with equal freedom of thought. It is this general thought which can form understanding on the security of public order.

¹ "The duty to religious and divine law being absolute, no understanding among persons of different faiths is permissible from a religious point of view." *Theory*, 182.

² "Much less can we ask them to recognize us as the proper interpreter of their religious duties or moral obligations." *Theory*, 182-183.

³ *Theory*, 180, n. 6.

⁴ "No particular interpretation of religious truth can be acknowledged as binding upon citizens generally; nor can it be agreed that there should be one authority with the right to settle questions of theological doctrine. Each person must insist upon an equal right to decide what his religious obligations are." *Theory*, 191.

⁵ *Theory*, 191.

⁶ *Theory*, 191.

⁷ *Theory*, 186.

⁸ *Theory*, 187.

This acknowledgement of the liberty of conscience becomes a standard for the acknowledgement of any other liberties.¹ Therefore, ideally, all basic liberties are like liberty of conscience: cannot be democraticized, not to be seen from its utility, cannot be sold, and cannot be interpreted by others. In many other things than liberty of conscience, however, there are common interests to the public sphere, which in turn becomes limitations for personal liberty.

b. Qutb

In general, there is a different sense of meaning between Rawls and Qutb on liberty of conscience and freedom of thought. By calling liberty of conscience and freedom of thought Rawls tends to emphasize the liberty of anyone to choose his own religious inclination or philosophy. Qutb, however, stresses more on the liberation of conscience from any mundane burden.² Nevertheless, there is similar attention between the two. Like Qutb, Rawls also thinks about freedom from economic suppression, by proposing equal liberty in politics.³ At the same time, Qutb also examines religious freedom, but in a smaller portion compare to Rawls.

What is really concerned by Qutb is that his liberty of conscience is not social liberation, but psychological liberation. It is practiced by individuals, not by society. Theoretically, if individuals practice this liberty, the society will have a sense of social justice. Here Qutb's thought is closer to the Sufis (or Gandhi's political program), i.e. withdrawal from the love of mundane life.⁴

¹ *Theory*, 181.

² *Al-Adalah*, 41-2; *Social Justice*, 54-5.

³ To some extent, Rawls does also not progressive to the mundane life. His conception of justice is more like anticipation to the risk of loosing rather than an idea to progress or to face the challenge. Here, Rawls's solution to the problems of avarice and social jealousy impacted by capitalist life is like Qutb's. Therefore, Rawls proposes *maximin* theory, a theory of giving the last cake to anyone who divides it. Rawls's question is "what if we lose?" Hence, his liberation of mundane life, in the sense of liberation from economic inequalities, is because of a psychological attitude of afraid of loosing. Barber, Benjamin R., "Justifying Justice: Problems of Psychology, Politics and Measurement in Rawls" in Daniels, Norman (ed.), *Reading Rawls: Critical Studies on Rawls' A Theory of Justice*, Oxford: Basil Blackwell, 1975, p. 296.

⁴ See Ramjee Singh, "Gandhi's Conception of Democracy," in Ron Bontekoe and Marietta Spaniants (eds.), *Justice and Democracy: Cross-Cultural Perspectives*, Honolulu: University of Hawaii Press, 1997, pp. 231-40.

Something different of Qutb and Rawls, therefore, is motivation. Qutb's motivation is theological-ontological, whereas Rawls's is rational-epistemological. To solve economic inequalities, Qutb calls for liberation of economic idolatry to self-purification which is, in turn, political. Rawls, on the other hand, calls for liberation of economic inequalities to political equality. Nevertheless, their arguments can be similar. The following is how Qutb's think about liberty of conscience in parallel with Rawls's.

The first is about liberty of conscience as a standard. Like Rawls, Qutb views that liberty of conscience can be a standard to see how far liberty is acknowledged as a part of social justice. To Qutb, Islam respects liberty of conscience of everyone by not letting anyone to force to other's religion (QS. 2: 256), not to damage religious houses (QS. 22: 39-40), and to uphold social justice without any difference between some religious adherents and the others.¹ Such is because justice cannot be applied "unless it arises from an inner conviction of the spirit", for this liberty of conscience "will serve the highest purposes of mankind."²

Here Qutb states that liberty of conscience cannot be democraticized. He shows that in its history Islam gave freedom "to conquered peoples to observe their own religious practices and the protection that it afforded to their synagogues and churches, their sanctuaries, their rabbis, and their monks."³

From the above opinion it is understood that according to Qutb liberty of conscience in Islam cannot be seen from its utility in social reality. Hence, anyone's religion or faith cannot comply with "interests of community" in an Islamic state. In addition, this liberty of conscience cannot also be sold or exchanged with economic values.⁴

¹ *Al-Adalah*, 102-3; *Social Justice*, 117-8.

² *Al-Adalah*, 40; *Social Justice*, 53.

³ *Al-Adalah*, 200; *Social Justice*, 201.

⁴ Qutb says that "Islam refuses to admit that life can be reckoned in terms of a mouthful of bread, the appetites of the body, or a handful of money." *Al-Adalah*, 36-7; *Social Justice*, 49.

It is clear also from the above that a matter of faith cannot be viewed from any other faith. So, even though Muslims believe that their religion is true, but they have never forced others to embrace their religion.¹

Here, Qutb states that liberty of conscience in Islam produces tolerance. But this tolerance cannot dampen the application of *Shari'ah* in public sphere, for Qutb's conception is for an Islamic state.

It does not mean, however, that there is discrimination in public affairs. Because, in Islam, justice is “derived from the permanent and fundamental rights of humanity; no difference is made between one religion and another.”²

The difference between Rawls and Qutb is about legitimation. Rawls says that tolerance is the fruit of ordinary thought, saying that it is natural to generate tolerance in consideration that everyone has different belief of religion and morality. Qutb, however, does not only rely on ordinary thought, he also quotes verses of the holy Qur'an to legitimize it. By this, Qutb shows that the principle of tolerance is also coming from the knowledge of God, the true of which is absolute.³

4. Limiting Liberty: for Liberty vs. for Responsibility

a. Rawls

To Rawls, simply speaking, liberty can be limited only for the sake of liberty itself means “only to insure that the same liberty or a different basic liberty is properly protected and to adjust the one system of liberties in the best way.”⁴

In expressing the principle that liberty can only be limited for the sake of liberty,⁵ Rawls uses different ways, such as that basic liberties to be limited or distributed unequally only for “the best total system of liberty”;⁶ that limitation appeals to produce “a greater equal liberty”⁷ or “the best total system of equal liberty”

¹ *Al-'Adalah*, 200; *Social Justice*, 201.

² *Al-'Adalah*, 102; *Social Justice*, 117.

³ *Al-'Adalah*, 102; *Social Justice*, 118.

⁴ *Theory*, 179.

⁵ *Theory*, 266.

⁶ *Theory*, 178.

⁷ *Theory*, 201.

or “strengthen” such system¹ or become “a gain for ... freedom on balance”.² There is no Rawls’s further explanation on these phrases, so that we can say that those words are simply Rawls’s gimmick for comparing liberties.

Then, what should be the one can limit liberty for the sake of liberty itself? Rawls gives some examples permitted by his principles. The simplest case is the recognition of certain rules of order for regulating discussion,³ which can limit freedom of speech when we want it. Without this limitation freedom of speech and proposing what we want will really make an inquiry or debate chaotic and losing its value. Hence, when the rules are proposed a balance will emerge and liberty valued as less important or less valuable should be under another significant liberty for the context.⁴

Another example suggested by Rawls is conscription “by the end of preserving just institutions”.⁵ Here limiting liberty temporarily can be allowed to prevent or preclude damaging the greater liberty. Also, limitation “by the common interest in public order and security” can be justified only for eradicating bigger hindrances for liberty to act.⁶

Rawls admits that different opinion on values of conflicting liberties will affect the way people see this conflict.⁷ Nevertheless he proposes to apply the principle of common interest or common good to select those conditions necessary for all equally to further their aims, so that they can guarantee to maintain public order and security, or efficient measures for public health and safety.⁸

Now we can examine on how the principle of limiting liberty only for the sake of liberty provides adequate limitations on the conducts causing injury to others. Those dangerous conducts in some cases may be an excess of using some basic

¹ *Theory*, 219.

² *Theory*, 214.

³ *Theory*, 178.

⁴ *Theory*, 178.

⁵ *Theory*, 333-334.

⁶ *Theory*, 83, 186-187.

⁷ *Theory*, 202.

⁸ *Theory*, 83.

liberties, like freedom of speech or freedom to use properties, although in other cases liberty to have properties is not a basic liberty according to Rawls.

It is an extraordinary thing if the principles of justice claimed generally in line with considered judgments are not including (owing to that limitation is only for the sake of liberty itself) laws limiting defamation or publication breaking private matters, or limitations on using personal property (like a car) designed to protect environment and public social facilities. Limitations of basic liberties such as freedom of speech and private property is generally accepted as not to limit liberty for liberty, but liberty to get protection of damage or loss of real facilities or utility elements. It is this view which will guarantee the maintenance of common liberty, which is a manifest of the sense of justice in a public sphere. Here, then, the stability of just society will be fruitful.¹

b. Qutb

Qutb is also aware of the importance of limiting liberty for the sake of liberty itself. To this he says that Islam has made the rules guaranteeing the avoidance of the dangers caused by absolute liberty given to the individuals.²

Qutb also states that basic liberties are to be limited for the sake of total system of liberty.³ This limitation of liberty is done by regulating common rules. It is because, says Qutb, without binding rules, the destruction not only damages the society, but it also harms the members of society themselves.⁴ For this, then, Islam says that in every right there is obligation to do.⁵ Every liberty has its own responsibility.

¹ "Sense of Justice," 293.

² *Al-'Adalah*, 117; *Social Justice*, 131.

³ "No form of life can be satisfactory in which every individual is bent on the enjoyment of his absolute freedom without bounds or limits. Such freedom he might be led to expect by his belief in the absolute quality that exists between himself and all other individuals, in respect of all his privileges; but such an expectation is responsible for the destruction not only of society, but also of the individual himself." *Al-'Adalah*, 67; *Social Justice*, 79-80.

⁴ *Al-'Adalah*, 66; *Social Justice*, 79.

⁵ *Al-'Adalah*, 127; *Social Justice*, 142.

Unlike Rawls's, liberty in Qutb's conception, then, is based on responsibility, as a consequence of the principle of social cooperation (*al-takaful al-ijtima'i*). Qutb explains that this principle exists in every layers of life: between a man and his own person, between a man and his immediate family, between the individuals and the society, between one community and the others, and between one generation and the other generations that succeed it.¹

Again, we can differentiate between Qutb and Rawls: Qutb emphasizes an order in every layer of life, so complete until the scope of individuals. Whereas the subject of social justice makes Rawls away of concern to individual life, Qutb, however, suggests that every individual should be responsible to himself.²

Qutb shares the idea with Rawls in this limitation of liberty for the sake of public order and security. We can see this in Qutb's legitimation of war in Islam. To Qutb, a legitimated war is when it is done for the public order and security of the *ummah*.³

These basic liberties, finally, can be limited by compromise. That is, by the principle of cooperation⁴ and unity in Islam.⁵ If those basic liberties are hard to be compromised, a selection should be done. Rawls says that selection can be done by proposing common interest. In a rather similar tone, Qutb states that the limitation of liberty is for the sake of the interests of the community.⁶ This view is explained by the principle of blocking the means (*sadd al-dhara'i'*),⁷ that is, something is not regarded from individual aims and intentions, "but to the encouragement of public

¹ *Al-'Adalah*, 67; *Social Justice*, 80.

² As Qutb says, "we have the responsibilities which a man has to himself. He must restrain himself from being carried away by his appetites, and he must cleanse and purify these appetites; he must make them follow the path of righteousness and salvation and must not let them go down in degradation." *Al-'Adalah*, 67-8; *Social Justice*, 80.

³ *Social Justice*, 118.

⁴ *Al-'Adalah*, 31; *Social Justice*, 44.

⁵ *Al-'Adalah*, 39; *Social Justice*, 52.

⁶ *Al-'Adalah*, 66; *Social Justice*, 79.

⁷ Qutb explains that *al-dhara'i'*: singular *dhari'ah* is means (*al-wasilah*), and *sadd al-dhara'i'* is blocking the means. "The sense of the phrase is that anything that conduces to a forbidden end is itself forbidden, while anything conducive to a desirable end is itself desirable. Thus, for example, adultery is forbidden, and therefore to admire the charms of a strange woman is also forbidden, as being a means towards adultery. On the other side, attendance at *Jum'ah* prayer is compulsory, and therefore an effort to attend the prayer is also compulsory, as is leaving one's business to make that effort. *Al-'Adalah*, 161; *Social Justice*, 299-300.

welfare and to the prevention of public evil. Thus it must take account of the consequences along with the intention, or even of the consequences alone.”¹

To Qutb, something can be count as a model for limiting liberty for the sake of society is an institution of family. It is in a family there are limitations of liberty for the harmony of the whole family. For, the family can produce morality of a society.²

Qutb also admits that the limitation of liberty is justified when the liberty injures others. This can be seen from his opinion that whoever disturbs the safety of a community the punishment is very grave, much heavier if the disturbance and defamation are done by many people.³ Another example is the prohibition of monopoly. According to Qutb, monopoly (*al-ihthikar*) is forbidden because it is “a means to oppress the people in all things that are considered to be essential.”⁴ Such is because to him, “Islam lays down a complete liberty for the individual, within limits which will not injure him and will not damage society on his behalf”.⁵

Something unique in Qutb in this limitation of liberty is his consideration on the interests of society and the individuals, it should also not to be conflicted with the higher purposes of life.⁶ And these higher purposes of life are only acknowledged by the religion, i.e. Islam.⁷

5. The Choice of Basic Liberties

a. Rawls

¹ *Al-‘Adalah*, 162; *Social Justice*, 301.

² For Qutb, Family “is the nest in which and around which are produced all the morals and the manners that are peculiar to the human race; these are essentially the morals of society, which is raised by them above the license of the animals and above the anarchy of a rabble.” *Al-‘Adalah*, 69; *Social Justice*, 82.

³ Qutb bases his opinion on the QS. 5: 33. *Al-‘Adalah*, 79; *Social Justice*, 92; Yusuf Ali, 293.

⁴ Concerning this Qutb quotes a Hadith, “*Only sinners hold monopolies.*” (Narrated by Muslim, Abu Dawud and al-Tirmidhi). Nevertheless, Qutb mentions that it is for the reason of injury to the people that monopoly is forbidden, so that “there is no law against a monopoly in any article that cannot injure the people by being withheld, such as cosmetics and the like.” *Al-‘Adalah*, 163; *Social Justice*, 302.

⁵ *Al-‘Adalah*, 79-80, 96, 117; *Social Justice*, 92, 110, 131.

⁶ *Al-‘Adalah*, 34; *Social Justice*, 46.

⁷ *Al-‘Adalah*, 67; *Social Justice*, 80.

The choice of basic liberties, according to Rawls, is a rational choice. He considers that from the viewpoint of original position, it is rational for the parties (in the original position) want as much as possible the common liberty, for they are not forced to accept more if they do not want it.¹ The limitation for this choice, finally, is the reciprocal principle, that is, the more liberty, the more also limitation, for one liberty means a demand that others permit it.

In addition, since the liberty is a shared liberty, even though one wants liberty as widest as possible, others must not being injured from the extended liberty. It is the principle of optimal liberty. The question, however, is whether the shared liberties are really wanted by everyone? Here, again, Rawls uses his principle of natural duty to declare that people will choose certain limitations for generalized liberties.² It is because, says Rawls, in connection with social justice, discussion on liberty is focused on the structure of institution, that is, the system of certain public rules limiting the rights and duties.³

It is the structure of institution which describes a comprehensive scheme of general rules. Therefore, we can rely on the amalgamation of certain procedures to evade the significance of conflicting elements from particular situations when we take the wider long-term view.⁴

Therefore, the larger view can help us to focus our intuitive judgments on the right questions. In practice, then, if we focus on the full conception of system of justice, one can “perform that action which of all those available to him is reasonably judged the right one (or a best one) in the light of the full system (including the priority rules).”⁵

b. Qutb

¹ *Theory*, 248.

² *Theory*, 98.

³ *Theory*, 177.

⁴ *Theory*, 299.

⁵ *Theory*, 299-300.

The basic liberties thought by Qutb are not liberties should be chosen by rational choice in the original position. The basic liberties in Qutb's conception are liberties not conflicting the existing rule, the *Shari'ah*. Nevertheless, those rules could be overruled if the case allows such overlooked. One of well-known example is the avoidance of a theft from the punishment if the stealing is done to the affluent people for the reason of merely survival. To this Qutb agrees with Ibn Hazm's saying that if a community restrained food and caused a starving death to anyone, the community should pay blood-money (*diyat*) to his family because they had killed him.¹

The reciprocal rule that 'the more liberty, the more limitations,' exists also in Qutb's conception. This can be seen that law at all times follows every human conduct: the freer the situation, the tighter the law. One of the examples is the punishment of *zina* (fornication). Qutb says that the adulterer should be punished² because it destroys honor, sanctity, family ties, and the feelings of fatherhood and sonship.³

Qutb says that the reason of choice of basic liberties is that it is a shared liberty and that others are not suffered because of the liberty. To this, Qutb proposes a note that its basis should be lied in the *Shari'ah* and its applications.⁴

Islam successfully grows human society, in balance and symmetrical.⁵ The structure of institutions of Islamic justice, then, helps the intuitive choice of every individual.⁶ So, the structure of Islamic institutions is the amalgamation of human choice of freedom, for Islam is compatible with human conscience and social justice.

6. Comparison and Contrast

¹ As firmid by 'Umar ibn Khattab. Qutb approves 'Umar's execution for not to punish the usual punishment based on the QS. 2: 173. Qutb, Sayyid, *Al-Salam al-'Alami wa al-Islam* [hereinafter *Al-Salam al-'Alami*], Cairo: Dar al-Shuruq, 1980, pp. 138 and 141.

² That is with a hundred lashes, based on QS. 24: 2. *Al-'Adalah*, 78; *Social Justice*, 91.

³ *Al-'Adalah*, 78; *Social Justice*, 91.

⁴ *Al-'Adalah*, 41; *Social Justice*, 54.

⁵ *Al-'Adalah*, 84; *Social Justice*, 97.

⁶ *Al-'Adalah*, 83; *Social Justice*, 96.

The above explanation bears some comparisons and contrasts between Rawls and Qutb on the principle of liberty in social justice.

What we can get from the above description on their similarities are:

1. Liberty is the first aspect of social justice.
2. The principle of liberty bears the importance of recognition on human dignity with its free will as a basis for upholding social justice.
3. Human beings are equally free. Being equals they are in a situation of fairness, and that fairness is just.
4. Liberty cannot be replaced by economic advantages or calculations of social interests.
5. There are some basic liberties should be owned by everyone: political liberty, freedom of speech and association, liberty of conscience and freedom of thought, personal liberty, and liberty to have personal property.
6. Liberty of conscience can be viewed as a standard for liberty in general.
7. Liberty of conscience cannot be democratized, cannot be seen from its utility, cannot be sold, and cannot be understood by other faiths.
8. The recognition of liberty is in the public sphere, so that, restricted by common interests.
9. The limitation of liberty is for the sake of liberty itself.
10. The conflicts between basic liberties are handled by compromising them.
11. The limitation of liberty is for public security, including protection of public goods.
12. There is a reciprocal principle in liberty: the more liberty, the more restriction. It means that people will ask liberty and at the same time will choose certain limitations in order that liberty being generalized.
13. Liberty should be chosen optimally: the widest liberty while others are not suffered because of it.
14. Liberty requires the fulfillment of minimum material needs of everyone as well as social conditions which can uphold the liberty itself, such as political and legal protection.

We can find some differences between the two in the principle of liberty of social justice. Those are:

1. On the source of reference of basic liberties, Rawls relies on the history of democratic thought in the West; while Qutb relies it on the the revelation: the Qur'anic verses and the Prophetic traditions.
2. The choice of basic liberties, for Rawls, can be done in the original position; for Qutb, meanwhile, it can be done by the principle of "not to contradict with the Qur'an and the Sunnah."
3. Rawls's system of liberty is democracy, in which humans who determine it; while Qutb's system is in the God's will (*iradah*).
4. Rationality of liberty, for Rawls, is the ordinary thought of the common people, meaning that it is in everybody's thought. In contrast, to Qutb, rationality is in the Divine command, meaning that it is in no one's thought, while at the same time it is believed that God's knowledge is for the good of everyone.
5. The motivation of liberty, to Rawls, is rational-epistemological; to Qutb, however, it is theological-ontological.
6. The limitation of liberty, to Rawls, can be done by considering the common interests; while to Qutb, it is done by the common interests as it is explained by or not to contradict with religious law.
7. In political liberty, Rawls says that the right to choose and be chosen in public office is for everybody. Qutb says the same thing, except that for the highest office in a district/province/country should be Muslim, for what is Qutb talking is Islamic state.
8. In freedom of speech and association, Rawls says that all of these should be within the corridor of non-violence. Qutb, on the other hand, says that coercion is tolerated if it is for the aim of correction.
9. The focus of liberty of conscience, in Rawls, is social; in Qutb, however, it is psychological (cleaning the heart from the seductions of mundane life), and then social in effect.

10. The end of liberty, for Rawls, is liberty itself, that is, the system of total liberty. For Qutb, however, its end is in the principle of social responsibility.

If we look at the aspects which both thinkers are disagreed in, especially with regards to the source, system, motivation and the end of liberty, it seems that the outcomes of their idea are different although one might see that they are in certain formal aspects are similar.

If it is drawn in a figure, the contrasts between Rawls's and Qutb's thoughts on the principle of liberty in social justice are the following:

Table 3.1. Some Contrasts between Rawls's and Qutb's Thoughts On the Principle of Liberty in Social Justice

No.	Subject	Rawls	Qutb
1.	Reference of basic liberties	History of democratic thought in the West	Religious texts: The Qur'an and the Hadith
2.	Choice of basic liberties	Original position	Human needs with the condition of not to contradict with the Qur'an and the Sunnah
3.	System of liberty	Democracy (man-made)	Will of God
4.	Rationality of liberty	Ordinary thought of common people, everyone	Divine command, no one
5.	Motivation of liberty	Rational-epistemological	Theological-ontological
6.	Limitation of liberty	Common interest	Common interest, in accordance with the Islamic law
7.	Political liberty	Liberty to choose and be chosen of public office for everyone	Political liberty for everyone, except for the highest office should be Muslim
8.	Freedom of speech and association	Within the corridor of non-violence	Coercion is tolerated for the aim of correction
9.	Focus of liberty of conscience	Social	Psychological and social
10.	End of liberty	Liberty	Social responsibility

B. The Principle of Equality

Equality is the second principle after the principle of liberty. It is said that the idea of equality is more controversial than the idea of liberty. Many refuse the idea of

equality. For, it is perceived as blowing ‘the politics of envy,’ developing the culture of dependency, where individuals looked after by the state relinquishing all sense of responsibility, and showing deliberate reluctance of functional requirements of the dynamics of modern economy operating in global market.¹

1. Meaning and Significance of Equality

Owing to the possibility to be misperceived, it is important for Rawls, to differentiate ‘sense of equality’ as one of the aspects of the conception of justice and the sense owned by the more comprehensive social ideal. In the first sense, there are inequalities accepted as just, or at least not unjust. In the latter sense, however, all kinds of inequalities should be eliminated. This can be called as a ‘comprehensive doctrine.’² This last meaning is not here, in this thesis, to talk about. Our topic here is around the scope of justice, so that equality here is in the sense of social justice.

Rawls states that the principle of equality in his theory of social justice is in his first principle (the principle of equal liberty) together with the principle of fair equality of opportunity in the second part of his second principle.³

For Qutb, the idea of equality (*al-musāwah*) does not mean as a comprehensive doctrine. The word proposed by Qutb for this principle of equality is “equality of humanity” (*al-musāwah al-insāniyah*).⁴ It looks that he talks about the equality of human dignity, the acknowledgment of which can bear justice in human relationship.

Thus, the two writers discussed here propose the principle of equality as one of the pillars of social justice. The equality is equality of humanity or dignity, and not in social or economic status, or others. By this, inequality which can be tolerated by

¹ Swift, Adam, *Political Philosophy: A Beginner’s Guide for Students and Politicians*, Cambridge: Polity Press, 2001, p. 90.

² “Justice as Fairness”, 165.

³ *Theory*, 91. The first principle states that “each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.” The second part of the second principle says that “social and economic inequalities are to be arranged so that they are both ... attached to offices and positions open to all under conditions of fair equality of opportunity.” *Theory*, p. 266.

⁴ Like Rawls, Qutb also mentions the French Revolution in his examination on the principle of equality. Qutb notices that the idea of equality was firstly developed by Islam since fourteen centuries ago. *Al-‘Adālah*, 56; *Social Justice*, 69.

social justice is also admitted by both writers, the explanation of which will be in the next section of this chapter, that is, in the examination of “the principle of solidarity.”

a. Rawls

According to Rawls, the subject of social justice is social institution. So, for him, to uphold justice means that the institution should be just, that is, upholding equality.¹

How to feel this equality, in Rawls’s framework, is by supposition that we are in “original position”, where we do not know our destiny in the future. Rawls says that it is reasonable to suppose that those parties in the original position are equal. That is, all have the same right in the procedure for choosing the principles; everyone can make proposals, affirm reasons for their acceptance, etc. The purpose of this conditioning, says Rawls, is to represent equality.²

By this principle of equality, Rawls attempts to mitigate inequalities in society. To him, inequalities can be divided into three: (1) inequalities caused by natural contingency, such as health and vigor, intelligence and imagination;³ (2) inequalities caused by social fortune, such as because of heredity or inheritance;⁴ (3) inequalities by social practice or agent.⁵

The main mission of Rawls in his conception of justice is to obliterate public effects of inequalities brought by natural lottery. All those inequalities, then, should be eradicated in order to make equality into reality.⁶

Such is because moral judgment would say that “no one deserves his place in the distribution of natural assets.”⁷ And, if it is neglected, the disorder situation would always be inherited from one generation to the next. By this, we let social law happen

¹ *Theory*, 5-6.

² *Theory*, 17.

³ *Theory*, 54.

⁴ *Theory*, 82.

⁵ “Justice as Fairness”, 167.

⁶ In setting up the social system, Rawls states that “no one gains or loses from his arbitrary place in the distribution of natural assets or his initial position in society without giving or receiving compensating advantages in return.” *Theory*, 87.

⁷ We cannot say that one deserves to have affluent wealth or great talents as such because everyone can be deserved or everyone cannot be deserved, why should be differentiated? *Theory*, 274.

naturally, without any intervention of the scheme of justice. What happens here is natural law, the stronger is the winner.¹

In fact, Rawls believes that everyone has a desire to be acknowledged equally. So, firstly, justice means “equal consideration of humanity.”² This principle is known as the principle of *alteritas* (equal consideration).³

Equality of humanity brings about procedural equality, that is, everyone should be under the same procedure. The principle of equality defines “a procedural presumption” as “persons are to be treated alike.” Equal treatment is that “each case to be defended and judged impartially by the same system of principles that hold for all.”⁴

For Rawls, however, this procedural equality is not the essence of justice, for “[t]he real assurance of equality lies in the content of the principles of justice.”⁵ Here, the equality to be upheld is not equality per se, but having the principles of justice and obligations and natural duties been acknowledged.⁶

“Those who can give justice are owed justice,” says Rawls. The basis of equality in *justice as fairness* avoids the matters of natural talent and social contingency; it is a matter of having or not having the capacity for a sense of justice. Here, then, the principle of reciprocity is fulfilled.⁷

Rawls mentions two conceptions of equality: equality of distribution and equality of respect. The first kind of equality is defined by the second principle of justice (as mentioned above) arranging the structure of organizations and distribution, so that the social cooperation is efficient and fair. But the second kind of equality is more fundamental. It is defined by the first principle of justice (as quoted above) and by natural duties such as mutual respect; it is also owned by humans as moral

¹ *Theory*, xv and 89.

² *Theory*, 462 and 444-5.

³ For ample detail on the principle of *alteritas* see Baldwin, R. W., *Social Justice*, Oxford: Pergamon Press, 1966, p. 12.

⁴ *Theory*, 444.

⁵ *Theory*, 444.

⁶ Rawls says, “a person who has complied with the scheme and done his share has a right to be treated accordingly by others.” *Theory*, 275.

⁷ *Theory*, 446-7.

persons. The priority, then, is “to avoid balancing these conceptions of equality in an ad hoc manner.”¹

For the sake of explanation here in this writing, however, the first principle had been discussed before under the section of ‘the principle of liberty’ of this chapter. Something left in the principle of equality, then, is equality of opportunity. Nevertheless, before going to the matter of equality of opportunity, there are two famous kinds of equality, that is, equality before the law and equality of citizenship, which are also within Rawls’s conception of justice.

b. Qutb

Qutb also admits that equality is the second pillar of social justice after liberty. According to him, when human conscience feels liberty, “it will seek equality as its right and will strive to ensure that right; it will guard it carefully when it is gained, and it will accept no substitute for it.”²

The above quotation implies that the one who uphold justice is an agent, especially individuals. Thinking about institution is really less in Qutb. The doer of social justice, in Qutb’s thought, is an agent, in the sense of individuals, whether the ruler or the ruled.

In addition, if Rawls states the necessity of equality when we were in a situation of not knowing in the future (a position called as original position), Qutb states that equality is a value absolutely taken for granted in human life, because Islam teaches that. Qutb’s argument, then, is the argument of “divine command.” Knowledge on equality is clearly, firmly, and explicitly written in the holy book. Those texts, according to Qutb, “leave no room for doubt that this theory is profound and fundamental to the construction of Islamic thought on humanity.”³

Nevertheless, there are some parallelisms between Rawls and Qutb by which Qutb can be categorized as modern enough. Such parallel lines are: that the idea of

¹ *Theory*, 447.

² *Al-‘Adālah*, 55; *Social Justice*, 68.

³ *Al-‘Adālah*, 55 and 183-4; *Social Justice*, 68 and 186.

justice for eradicating natural lottery, that justice means equal consideration, and that equality is a part of justice.

The principle of equality is proposed to eradicate natural lottery, for Islam disapproves the existence of class distinctions and introduces human equality.¹ The acknowledgement of human equality, for Qutb, is to the humanity itself, and not to the other considerations. Because, if we still have the loyalty to money, power, dignity, genealogy, means that we have not any feel about real equality with others.²

Theoretically, Qutb does not differentiate between ‘equality’ which is part of the theory of justice with ‘complete equality’ as a comprehensive doctrine, as Rawls does. Nevertheless, we know that what Qutb’s talking about is equality in justice when he states that inequality, whether in economy or social, is tolerable. He attacks Communism because of its equality is only narrow equality of economy, that is, equality of wages without any differences in economic aspects.³ Also, he defends Islam that there is no discrimination against women except in physical capacity, procedure of habit, and responsibility. And that the right of inheritance is different between men and women, because of the hard responsibility of men.⁴

Hence, for Qutb, equality lies on the spiritual things, and not the material ones. Qutb attacks the West since Western ideas of emancipation only for the sake of material things.⁵ Here, Qutb has the same idea with Rawls in conceptualizing anti-materialist equality of humans. The difference is that Qutb sees it ‘spiritually,’ Rawls, on the other hand, sees it ‘publicly,’ that is, that men are equal when they are equally acknowledged and upholding justice.

Beside all issues above, parallelism of examination between Rawls and Qutb is seen when they talk about equality before the law, equality of citizenship, and equality of opportunity. Let us see the examination of the principle of equality in social justice in the following sections.

¹ *Al-‘Adālah*, 35, 56 and 152; *Social Justice*, 47, 69, and 164.

² *Al-‘Adālah*, 51-2; *Social Justice*, 60.

³ *Al-‘Adālah*, 35; *Social Justice*, 47.

⁴ *Al-‘Adālah*, 61-63; *Social Justice*, 73-75.

⁵ *Al-‘Adālah*, 63-65; *Social Justice*, 75-78.

2. Equality Before the Law

a. Rawls

Equality before the law means that law is applied to everyone without any exception: that there is no one law for the rich and another for the poor or that different law depends on the status of man –owner, slave, or others.¹

In examining equality before the law, Rawls states that social institutions should be impartially and consistently administered by judges and other officials. This impartial and consistent administration of laws and institutions is called by Rawls as “formal justice.” Rawls also says that “similar cases are treated similarly,” identified by the existing norms.²

In other words, equality before the law, in Rawls’s frame of thinking, exists when the concept of equality applied to “the administration of institutions as public systems of rules.” This is the first applicative level of equality.³ In this case, equality is essentially “justice as regularity.”⁴

As a consequence of equality before the law is that inequality would not affect the law. It means that inequalities in existing resources could not affect their positions and their relationship with the process of law in general.⁵

Equality before the law is not only that everyone can access the law, the principle also admits everyone’s right to make the law and to determine the outcome of it.⁶ Such right should be written in the constitution, which is a basic law of citizenship.⁷

¹ Swift, *op. cit.*, p. 95.

² *Theory*, 50-1.

³ The second is application of equality to ‘the substantive structure of institutions.’ Here the meaning of equality is specified by the principles of justice which require that equal basic rights be assigned to all persons. The third is application of equality to ‘the moral persons.’ Here equality is applied because everyone has moral personality: having each own good (as expressed by a rational plan of life) and having each own sense of justice (a normally effective desire to apply and to act upon the principles of justice, at least to a certain minimum degree). *Theory*, 441-2.

⁴ *Theory*, 441-2.

⁵ *Theory*, 443.

⁶ *Theory*, 194. In another place Rawls affirms that “people want to exercise control over the laws and rules that govern their association, either by directly taking part themselves in its affairs or indirectly through representatives with whom they are affiliated by ties of culture and social situation.” *Theory*, 476.

⁷ *Theory*, 200.

Rawls says that his thinking is not for moral rules; it is for the rules of law or the rules of games, or the like. Hence, what Rawls's doing is justifying the system of rules itself. And that rules of law imply the precept that similar cases should be treated similarly. Consequently, any difference will make a different treatment.¹

In addition, equality in law also requires every individual to be fair.² Although equality before the law is important, Rawls, however, admits that it is not enough. To him, "the real assurance of equality lies in the content of the principles of justice and not in the procedural assumptions."³

b. Qutb

Qutb also stresses that in the framework of justice there should be equality before the law, i.e. the religious law (*Shari'ah*).⁴

Qutb says that economic or social inequality should not affect the law. To Qutb, every individual enjoys the same justice; there is no discrimination between people because of genealogy and wealth.⁵

Qutb also states that everyone can access the law. He bases this on the Prophet's saying to his Companions that they should demand their rights, because "every right holder should be respected (*li sahib al-haqq maqalan*)."⁶

As a part of formulation of justice, the precept that similar cases should be treated similarly is also admitted by Qutb. Social position, then, cannot affect the law.⁷ He says that it was exemplified by the Prophet himself.⁸

¹ *Theory*, 208-9.

² *Theory*, 52.

³ *Theory*, 444.

⁴ *Al-'Adalah*, 17; *Social Justice*, 30.

⁵ *Al-'Adalah*, 105; *Social Justice*, 120.

⁶ *Al-'Adalah*, 109; *Social Justice*, 123.

⁷ To Qutb, "a ruler, therefore, has no extra privileges (*haqq za'id*) as regards the law, or as regards wealth, and his family have no such privileges either, beyond those of the generality of Muslims." Qutb bases this on the following hadith, "...if Fatimah the daughter of Muhammad stole, I certainly the one who cut her hand." (Narrated by the Assembly). *Al-'Adalah*, 109.

⁸ Qutb says that the Prophet was always ready to be retaliated (*qisas*) by whoever had a right to do so, except when the retaliator (*sahib al-haqq*) freed the Prophet from the demand, and when there was a creditor (*sahib dain*) came to him, he paid the debt. *Al-'Adalah*, 109; *Social Justice*, 123.

In Qutb's view, participation in a process of law means being involved in consultation (*shura*). This consultation is one of the principles of Islamic statecraft; its specific technique, however, had not been determined. By this, the format leaves plenty of rooms to the significance and needs of the *ummah*. Nevertheless, this participation cannot allow people violating religious law (*Shari'ah*).¹

Qutb also states that Islam protects soul, body, sanctity and wealth of everyone in its society equally. It is faith, then, which safeguards society by its clear and unmistakable commands.²

3. Equality of Citizenship

a. Rawls

By equality of citizenship, Rawls intends to state that in a just society, there is only one equal class of citizens defining a common status for all.³ The position of equality of citizenship, then, is defined by rights and liberties required by the principle of equal liberty and the principle of fair equality of opportunity.⁴

This equality of citizenship brings us to political equality. To Rawls, equality of citizenship means that all citizens have equal rights to choose and be chosen for public office, freedom of speech and assembly, and liberty of thought and conscience.⁵ Practically, everyone "is eligible to join political parties, to run for elective positions, and to hold places of authority."⁶ And, to design a just procedure in political life, liberties of equal citizenship must be included in and protected by the

¹ *Al-'Adalah*, 108; *Social Justice*, 122. Some further detail on religious law in Qutb's thought see the next chapter (Chapter IV The Structure of Society, part A. Political Structure under sub-title "The Rule of Law").

² For this statement Qutb quotes the verses on prohibition of entering a house without permission (QS. 24:27), prohibition entering a house from its back (QS. 2:189), no searching anyone's mistakes (QS. 49:12), and the hadith on the privilege of blood, honor, and wealth of any Muslim to other Muslim (Narrated by al-Bukhari-Muslim), and many others. *Al-'Adalah*, 110; *Social Justice*, 124.

³ Rawls, John, "Distributive Justice" [hereinafter "Distributive"], in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (3rd series), Oxford: Basil Blackwell (1967), 1969, p. 66.

⁴ *Theory*, 82.

⁵ *Theory*, 197.

⁶ *Theory*, 195-6.

constitution, for it is the foundation of the social structure and with this all have the common status of equal citizen.¹

In addition to those liberties above, all citizens have a kind of right to get economic liberty or the so called ‘positive rights’. It is the minimum level of social goods in relevance to their proper roles as citizens: education, health, free from destitute, etc. These primary goods are characterized as what people need in their status as free and equal citizens, and as the normal members who fully cooperative in societal life. To do this, says Rawls, is to make a comparative index of needs.²

According to Rawls, some questions on social policy can be considered from the perspective of equality of citizenship, since there are matters dealing with everyone’s interests and to which distributive effects being immaterial and irrelevant. It is in these cases that the principle of “common interest” applied.³

Also, it should be stressed that the citizens are equal in public affairs. Rawls describes that as equal citizens, we are similar cases, and in the matters related to the equality of our citizenship, we should be treated similarly.⁴

In a just society, says Rawls, the public forum is made free and open for all, and also a continual session, so that everyone can use it. Here, all citizens could have information about political issues, could make proposals to the agenda for political discussion and for their well-being.⁵ In short, Rawls mentions that everyone has similar and guaranteed status when they meet to conduct common affairs of the wider society within the principle of equality of rights and mutual respect.⁶

In public affairs, therefore, there are no distinctions made owing to the differences in social or economic status. Rawls says that to ignore differences in wealth and that circumstance can be made easier “by the fact that when citizens do

¹ *Theory*, 200.

² *Theory*, xiii.

³ *Theory*, 83.

⁴ *Theory*, 82 and 5.

⁵ *Theory*, 198.

⁶ *Theory*, 477.

meet one another, as they must in public affairs at least, the principles of equal justice are acknowledged.”¹

So, personally, they are who endowed with similar talents and motivation should have roughly similar chance of reaching positions of political authority irrespective of their economic and social positions.² Institutionally, at the same time, political parties are to be made independent from private interests.³

In a just society, equal liberties of citizenship are taken for granted.⁴ To Rawls, the idea is not merely to help those who lose out because of accident or misfortune, but to place all citizens in a position to manage their own affairs and to take part in social cooperation based on mutual respect under appropriately equal condition.⁵ The matter to deal with is how to make everyone capable to participate in social and political life.

Finally, the aim to be achieved by Rawls’s scheme in equality of citizenship is liberty.⁶

b. Qutb

Qutb also says that for the sake of justice, there should be equality of citizenship. Here, Qutb talks about social setting of Islamic world when Islam controlled a very wide region.⁷ Qutb states that there was no difference between Muslims in the center and the periphery: all have the same privileges.⁸

¹ *Theory*, 470.

² *Theory*, 197.

³ *Theory*, 198.

⁴ “Distributive,” 59.

⁵ *Theory*, xv and 470.

⁶ *Theory*, 477-8.

⁷ Here Qutb talks about one of the differences between Western empire (like in the age of Romans) and Islamic empire (during the golden age of Muslims), although Qutb feels that the term itself addressed to Islam is problematic if it means centralistic and exploitative. *Al-‘Adālah*, 100; *Social Justice*, 115-6.

⁸ According to Qutb, “Islam holds that there is an equality for Muslims in all parts of the world, ... it does not make its provinces into mere colonies or places to be exploited, sources from which supplies may be poured into the capital for its sole profit. Each region is a member of the body of the Islamic world, and its people have the same privileges as the people of the capital.” *Al-‘Adālah*, 101; *Social Justice*, 116.

Unavoidably, Qutb affirms that in citizenship, there is only one class of society in Islamic state.¹ Here, Islam “raises the status all men without exception” (*yarfa‘ qayyim al-nas jami‘an*).²

Equality is political, not economical. Qutb’s solving to the problem of inequality is not equalizing men into one similar class in the sense of economy, but bringing the least fortunate to the degree making them equal in public affairs. Equality of citizenship brings us to the equality of political rights, i.e. rights to choose and be chosen in public office. And Qutb affirms this positively, in the sense that he requires equality of political rights in upholding social justice.

Qutb exemplifies the criteria to be chosen in Islamic region. To him, it is only as a Muslim who is suitable for the position of the peak power, but in the outer area, he is not as a colonial governor. Qutb shows that Islam had demonstrated that the regions being conquered were always open to be governed by their native people. And the native is not the criteria, the criteria is only that the ruler was “a Muslim suitable for the position” (*musliman salihan lihadhihi al-wilayah*).³

The criteria of “fit and proper”, by Qutb, is added by the requirement of Muslims’ consent and the condition of not to contradict with the *Shari‘ah*. To him, a ruler “occupies his position only by the completely and absolutely free choice of all Muslims,” so, “when the Muslim community is no longer satisfied with him his office must lapse; and even if they are satisfied with him, any dereliction of the law on his part means that he no longer has the right to obedience.”⁴

Equality of citizenship also requires another thing: equality in social minimum, which means the fulfillment of basic needs. Qutb takes that in a proposition that basically humans are ennobled and one.⁵ This nobility enables them to get better, spiritual things.⁶ Hence, in order that humans reach lofty ideals, their problems of

¹ *Social Justice*, 116.

² *Al-‘Adalah*, 146; *Social Justice*, 157.

³ *Al-‘Adalah*, 100; *Social Justice*, 116.

⁴ *Al-‘Adalah*, 107; *Social Justice*, 122.

⁵ *Al-‘Adalah*, 65-7, 151; *Social Justice*, 78-9, 163. Ample detail concerning this would be explained in the next chapter, section “Economic Justice” under the sub-title “Standard of Social Minimum.”

⁶ Qutb bases his thinking on the QS. 17: 70. *Al-‘Adalah*, 151; *Social Justice*, 163. Yusuf Ali, 799.

basic needs should be satisfied first. It is for this reason so that *zakat* is enforced. Qutb says that Islam orders the society to collect *zakat* in order: to supply their bodily needs (*hajjah al-jasad*), to preserve their dignity (*karamah al-nafs*), and to protect their power of conscience (‘*izzah al-wijdan*). Concerning who should run the stability of these basic needs, Qutb says that it is burdened to the state (*al-daulah*) and the capable people of the community (*al-qadirun fi al-ummah*).¹

Qutb also confirms that in public affairs, all citizens should be treated alike. Even though the state in Qutb’s conception is based on Islam, therefore an Islamic state, Qutb requires equality of citizenship, regardless of religion, especially when it brings to the human basic needs in general.² This is the universality of Islamic state: the fact that the state based on the religion does not make any differences of its citizens, whatever their religions are.

According to Qutb, social and economic inequalities should not affect the equality of human dignity in public affairs. For “all individuals enjoy the same justice, no discrimination arising from descent or rank, wealth, or influence.”³

Like Rawls, Qutb’s examination on equality of citizenship can reach liberty, so that the liberty can eradicate injustices.⁴

4. Equality of Opportunity

a. Rawls

Opportunity implies more than that of liberty. It is a circumstantial condition giving someone a chance to do the liberty. If the effort can be done by oneself, it is still in the scope of liberty. But if it should be done by the assistance of others, it is called an opportunity. To make the assistance being fair requires equality of opportunity. Hence, this equality of opportunity should be secured deliberately by human agents, often by the state.⁵

¹ *Al-‘Adālah*, 54; *Social Justice*, 66-7.

² *Social Justice*, 117.

³ *Al-‘Adālah*, 105; *Social Justice*, 120.

⁴ *Al-‘Adālah*, 54-5; *Social Justice*, 67-8.

⁵ Baldwin, *op. cit.*, 17.

To Rawls, the principle of fair equality of opportunity¹ requires that social or economic inequalities associated with certain offices or positions exist if the offices or the positions are widely open. No one exempt from, for example, positions with big salaries, for the reasons of sexual, race, or others.² Otherwise, says Rawls, “if some offices were not open, those excluded would normally be justified in feeling unjustly treated.”³

Rawls says that holistically, the second principle has a lexical priority of any principles of efficiency. What is meant here is that equality of opportunity is more important than utility.⁴

For Rawls, equality of opportunity is more than anti-discrimination. It includes, for example, provision of education to make everyone able to develop their own talents.⁵ Hence, for Rawls, there should be efforts to equalize the result of social institution, such as education, by equalizing the procedure. Therefore, says Rawls, the government should provide equality of opportunity in education either by subsidizing private schools or by running the system of public schools. The government should also strengthen and secure equality of opportunity in “commercial ventures” and in “free choice of occupation.”⁶

Something to be required first in this equality is procedural equality. Concerning this, Rawls takes an example of dividing a cake for some group of people. If the one who divided the cake would be given the last piece of the cake, having the others taken before him (so that he did not know which part of the cake he would get), he would divide the cake equally, for it is the way he would get the largest share possible.⁷

¹ According to Rawls, equality of opportunity exists in the second part of his principles of justice, that is: “social and economic inequalities are to be arranged so that they are ... attached to offices and positions open to all under conditions of fair equality of opportunity.” *Theory*, 266.

² *Theory*, 75.

³ “Justice as Fairness,” 169.

⁴ It is specifically called by Rawls as “Second Priority Rule (The Priority of Justice over Efficiency and Welfare)” where the first priority is “First Priority Rule (The Priority of Liberty)” which has been discussed before in the section of “the Principle of Liberty” in this chapter. *Theory*, 266.

⁵ *Theory*, 75-76.

⁶ “Distributive,” 69.

⁷ *Theory*, 74.

That illustration of cake brings Rawls to talk about perfect procedural justice. Such is because the problem of equality of opportunity is equality of opportunity agreed by all. Rawls, then, proposes two characteristics of the perfect procedural justice:¹

- (1) There is an independent criterion for a fair division, a criterion defined separately from, and prior to the procedure which is to be followed.
- (2) It is possible to devise a procedure that is sure to give the desired outcome.

For Rawls, the role of the principle of fair equality of opportunity is to ensure that “the system of cooperation is one of pure procedural justice.” Rawls gives an example on the market. To him, the market should preserve “the social conditions necessary for fair equality of opportunity.”²

Also, equality of opportunity can be connected with the aim of life. According to Rawls, the members of society are “rational persons able to adjust their conceptions of the good to their situation.” So, for the sake of justice, “[e]veryone is assured an equal liberty to pursue whatever plan of life he pleases as long as it does not violate what justice demands.”³

In explaining the principle of fair equality of opportunity in the structure of society, Rawls states that “positions are to be not only open in a formal sense, but that all should have a fair chance to attain them.”⁴ Rawls, then, is of the opinion that equality of opportunity should be made deliberately. For him, the issue is not merely relevant ‘*competence*,’ but also the ‘*chance*’ to ‘*get*’ the relevant competence. It is about, for instance, how to be equally smart. It is anticipated by observing more to the least advantaged. In the field of education, the curricula are addressed more to the

¹ To differentiate between perfect procedural justice and imperfect procedural justice Rawls makes an explanation. To him, imperfect procedural justice is exemplified by a criminal trial, which not always brings to the correct result. Such is because the judgment is not purely human fault, but “from a fortuitous combination of circumstances which defeats the purpose of the legal rules.” The result, then, “an innocent man may be found guilty, a guilty man may be set free.” *Theory*, 74-75; “Distributive,” 77.

² *Theory*, 76 and 63.

³ *Theory*, 81.

⁴ *Theory*, 63.

less intelligent, and the help must give to those with fewer native assets. At least, says Rawls, it is done in the earlier years of school.¹

Another step is that economic gap should be narrowed down, so that the determination is the natural ability and the choice to be made. Here, Rawls expresses the need to make some efforts “to mitigate the influence of social contingencies and natural fortune on distributive shares.” And to accomplish this end, says Rawls, we should focus on developing basic structural conditions on the social system.²

Surely, this matter of equality of opportunity needs political and legal supports. To Rawls, political and legal institutions are important in “preventing excessive accumulations of property and wealth” and “maintaining equal opportunities of education for all.” All, says Rawls, should be designed to even out class barriers.³

Rawls admits that distribution of natural assets is a natural fact and there is nothing to change it, or even to think about it. However, to some extent, this distribution is also affected by the social system. A caste system, for example, can divide natural assets based on genealogy.⁴

Hence, something to be concerned about justice or injustice is the way the institutions solve these facts.⁵ Here, deliberation becomes an avoidable condition (*conditio sine qua non*). The deliberation of the significance of equality of opportunity is done by going back to the ‘original position.’ By this, Rawls believes that the parties being involved in the initial agreement require equal justice.⁶

Another important thing in the equality of opportunity is that it is a tool for efficiency. If an intelligent child of a poor family could not attend a university whereas the less intelligent of a rich family could do it, there is an inefficiency here. Or in economic term, it is a kind of ‘sub-optimal allocation of resources.’⁷ Here, the

¹ *Theory*, 86.

² *Theory*, 63.

³ *Theory*, 63.

⁴ *Theory*, 92.

⁵ *Theory*, 87.

⁶ *Theory*, 87 and 446.

⁷ Swift, *op. cit.*, 103.

rejection of inequality of opportunity is not the problem of fairness anymore, but a matter of efficiency.

By this, Rawls urges the just society “to preserve the general level of natural abilities and to prevent the diffusion of serious defects.” Again, Rawls stresses that all these “are to be guided by principles that the parties would be willing to consent to for the sake of their successors.”¹ Rawls hopes that eventually we would “reach a society with the greatest equal liberty the members of which enjoy the greatest equal talent.”²

Finally, the result is liberty. It means that there will be liberty out of equality of opportunity. Here, having full of information of the consequences, persons can make the choice themselves. Therefore, the difference of income is not a problem of inequality, but a matter of choice.

b. Qutb

The importance of equality of opportunity in the framework of social justice is also stressed by Qutb. To Qutb, Islam drives everyone to be well-to-do by way of work, so that it is an obligation for a society to provide a field of work (*an tahi'a al-'amal*) for every individual.³

Qutb declares that this equality of opportunity should be done first before any transfer effort in upholding justice. Because, for Qutb, “Islam disapproves of people being in poverty and need; it decrees that every man earns his living by his own work so long as he can, but that he receives his share from the public monies when for any reason he is unable to work.”⁴

Qutb also admits necessity of equality of education to reach equality of opportunity. To this, he proposes to subsidize public education. He states that the domain of ‘in the way of Allah (*fi sabil Allah*)’ as one of the *zakat* receivers is the domain for public expenditure such as for the expense of education of the people,

¹ *Theory*, 92.

² *Theory*, 92-3.

³ *Al-'Adalah*, 154-155.

⁴ *Al-'Adalah*, 151; *Social Justice*, 163.

especially those who could not afford the costs. In due process, then, the needy can work as far as he can and not rely on social assistance, and get a nobler form of life.¹

In framing the equality of procedure in society, Qutb holds on the verse, “*In order that it may not (merely) make a circuit between the wealthy among you.*”² It means that property may not be passed around between certain members of society, whereas other groups of people could not taste it. The procedure, then, is providing equality of opportunity as wide as possible.³

Nevertheless, the above procedure of equality of opportunity would not be fair if there is no expense for the disabled. It should be admitted, says Qutb, that the natural abilities of individuals are not equal: some individuals are born with endowments of disposition, such as healthiness, or perfection, or stamina; while others are born with a predisposition to sickness, or debility, or weakness. The widest opportunity is to be given to those who have outstanding endowments to produce their greatest results; “then from these results we may take that which appears to be of permanent profit to society.”⁴

Equality of opportunity also means equality of chasing ideals. Qutb says that Islam gives the fullest opportunity to the individuals, lets them developing their own talents within the boundaries set by the higher purposes of life.⁵

By providing a wide room for opportunity means that searching equality of opportunity should be deliberately done. Qutb says that Islam warns those who abdicate their natural rights that they will be severely punished in the next world, and it calls them “self-oppressors” (*Zalimi anfusihim*).⁶ Hence, equality of opportunity should be deliberated purposively, by migration if necessary. And that deliberation is not done individually, but socially.⁷

¹ *Al-‘Adālah*, 154-5; *Social Justice*, 166-7.

² QS. 59:7. *Al-‘Adālah*, 120 and 151; *Social Justice*, 163.

³ *Al-‘Adālah*, 35; *Social Justice*, 47.

⁴ *Al-‘Adālah*, 35; *Social Justice*, 47-8.

⁵ *Al-‘Adālah*, 35; *Social Justice*, 47.

⁶ Qutb bases this opinion on the QS. 4: 97. *Al-‘Adalah*, 20; *Social Justice*, 33; Yusuf Ali, 245-6.

⁷ Qutb says that Islam “lays on the community the prime responsibility of providing work for each of its individual members.” *Al-‘Adālah*, 154; *Social Justice*, 166.

There were examples in Islamic history on how equality of opportunity was deliberately done by the Prophet and his Companions. Those are:

- (1) Marriage. One of the great movements of the Prophet was that he arranged the married of his client, Zayd, with Zainab binti Jahsh, a nobler woman belonged to the Hashemite clan of Quraish. Marriage is a sensitive matter in which the question of human equality arises more than in any other. And to this the Prophet took affirmative action.¹
- (2) Merit. Merit can also bring someone to an equal position. It is told that ‘Umar called Suhaib and Bilal, clients and poor people, first to face him when he was a Caliph rather than Abu Sufyan, a nobler Quraish. Such conduct of ‘Umar was because of that Suhaib and Bilal were of those who had fought at Badr war and were of the Companions closer to the Prophet.²
- (3) Ability. Qutb exemplifies this by ‘Umar’s justification to Nafi‘ ibn al-Harith (then mayor of Mecca) who promoted a *maula* (client, a liberated slave) as an administrator of a district. Such justification was given to Nafi‘ having said that the *maula* (Ibn Abza) is a diligent student of the Qur’anic studies and the study of inheritance, and a just judge.³

The above efforts show that Islam proposes an authority to deliberate a condition of equality of opportunity. This authority in the West is called institution. If the above prophetic efforts mentioned by Qutb can be called as ‘*prophetic institution*’ because of its coming from the authority of the Prophet,⁴ our age, therefore, needs another authority such as ‘*constitutional institution*’. This conclusion can be made for the reason that Qutb was striving for a change, of which mentioning the authority of the Qur’an and the Prophetic traditions is only a way of reference. Today, there are

¹ *Al-‘Adālah*, 184; *Social Justice*, 187.

² *Al-‘Adālah*, 185; *Social Justice*, 188.

³ To this ‘Umar cried: “*Of a truth, your Prophet once said that by this Book, Allah raises some and puts down others.*” *Al-‘Adalah*, 186; *Social Justice*, 189.

⁴ ‘Umar’s conduct can be called as ‘*prophetic authority*’, for it was influenced by the Prophet’s teachings. For more information on how the actions, sayings, and the principles of the Companions becomes a source of law in Islam see the preceding chapters (Chapter I on ‘Islamic Tradition’ and Chapter II on Qutb’s ‘Transcendental Justice’).

many things to do besides those three examples of deliberating equality of opportunity.

Qutb admits that equality of opportunity is a tool for efficiency in societal life.¹

Qutb also says that having the opportunity reached, liberty is also attained.²

5. Comparison and Contrast

The above explanation brings us to make some comparisons and contrasts between Rawls's and Qutb's thinking.

And some similarities between the two thinkers in the principle of equality in social justice are:

- 1) The position of the principle of equality in social justice is the second after the principle of liberty.
- 2) Justice means equality of consideration.
- 3) Equality is part of justice, and not equality per se (equality for equality).
- 4) The denial of conversion of inequality in social or economic domain into political (public) domain.
- 5) Equality is to the non-material things.
- 6) Inequality cannot influence equality before the law.
- 7) Everyone can access the law.
- 8) Similar cases are to be treated similarly.
- 9) The law is not dangerous.
- 10) There is only equal one class in citizenship.
- 11) In public affairs, citizens are equal.
- 12) It is the right of every citizen to have equally social minimum.
- 13) Equality of opportunity requires equality of human dignity.
- 14) Equality of opportunity is a tool of efficiency.
- 15) Equality of opportunity provides everyone to pursue each own ideals.
- 16) Equality of opportunity is to be made deliberately.

¹ *Al-'Adālah*, 34; *Social Justice*, 46.

² *Al-'Adālah*, 187; *Social Justice*, 190.

- 17) Deliberating equality of opportunity is to be made by equalizing the procedure.
- 18) The formula of procedure: fairness and subsidy.
- 19) The aim of equality is liberty as a way to social justice.

Concerning differences between the two thinkers on the principle of equality, here are the following:

- 1) Agent of social change. For Rawls, it is institution, for Qutb, however, it is individuals, either the ruler or the ruled.
- 2) Reason of sense of equality. To Rawls, it is coming from the original position, whereas to Qutb, it is from the divine commands.
- 3) The origin of the principles of justice. To Rawls, the principles are the product of the original position by deliberate rationality. To Qutb, on the other hand, those are taken from divine texts.
- 4) Non-material equality. For Rawls, equality must be applied in the public affairs. For Qutb, however, it is applied in the spiritual affairs.
- 5) Participation in the process of law. For Rawls, participation is fully human; but for Qutb, it should be backed up by God's law.
- 6) Legitimation of the right of equality. For Rawls, it is written in the constitution; whereas for Qutb, it is written in divine texts.
- 7) Public policy, for Rawls, is taken from the common interest; for Qutb, it is coming from the common interest which is not contradicting God's law.
- 8) Authority of deliberate maker of equality of opportunity. To Rawls, it is in the hand of constitutional institution. To Qutb, it is in the hand of the prophetic institution in the direction of constitutional institution.

To make the differences between Rawls's and Qutb's thinking into a clear picture, a chart on the principle of equality in social justice in the thought of the two thinkers can be made as follow:

**Table 3.2. Some Contrasts between Rawls’s and Qutb’s Thoughts
On the Principle of Equality in Social Justice**

No.	Subject	Rawls	Qutb
1.	Agent of social change	Institution	Individual
2.	Reason for sense of equality	Original Position	Divine Doctrines
3.	Origin of the principles	Original Position with deliberate rationality	Divine Texts
4.	Non-material equality	Public	Spiritual
5.	Participation in the process of law	Full participation of citizen	Participation, controlled by religious law
6.	Legitimation of equality right	Written in the constitution	Written in the Divine texts
7.	Public policy	Common interest	Common interest, not contradict with religious law
8.	Authority of deliberation in equality of opportunity	Constitutional institution	Prophetic institution to constitutional institution

C. The Principle of Solidarity

The attempt to include the principles of liberty and equality as important aspects in social justice, in fact, cannot obliterate inequality. Inequality is still there in the society. To this fact, some perceive that striving for social justice –even the idea of social justice itself—is a mirage.¹

Rawls admits that inequality will always exist in the society.² Qutb also admits that “the natural endowments of individuals are not equal.”³ To solve this problem there is another principle considered by Rawls and Qutb to be included as an aspect of social justice, i.e. the principle of solidarity.

1. Meaning and Significance of Solidarity

The word ‘solidarity’ today tends to bring our minds to trade or worker’s unions. The older word, which is politically not appropriate anymore, is ‘fraternity’ or brotherhood. The word now tends to be a trend is ‘community’ which is wider in

¹ Hayek, F.A., *Law, Legislation, and Liberty*, h. xv-xvi, dan *Vol. II: The Mirage of Social Justice*, Chicago: The University of Chicago Press, 1976, *passim*.

² *Theory*, 275.

³ *Al-‘Adālah*, 35; *Social Justice*, 47-8.

scope.¹ Rawls himself, referring to the Western traditional idea (the French Revolution), calls it as ‘the difference principle’.² Qutb, at the same issue, names it as ‘social responsibility’ (*al-takāful al-ijtimā’ī*).³ To converge those two thinking in a parallelism, the word ‘solidarity’, in a widest sense, can be taken as the principle placing those terms in one basket.

Here, then, the comparison between the two writers will be examined by the principles to be in the content of solidarity such as the principle of redress, the principle of reciprocity, the principle of fraternity, and the principle of social unity.

Before delving into their ideas on the content of solidarity, there should be a clarification on what are exactly the terms they are using in. As said before, on ‘the principle of solidarity’ Rawls prefers the term of ‘the difference principle’, Qutb’s choice, however, is ‘social responsibility’ (*al-takāful al-ijtimā’ī*). Rawls mentions ‘principles of redress’, whereas Qutb calls it ‘claim of the poor’ (*huquq li al-fuqara*).⁴ Rawls says about ‘reciprocity’ and Qutb terms it ‘mutuality’ as in Arabic ways of mutual (*musharakah*) for mutual-aid (*al-ta’awun*), mutual-recognition (*al-ta’aruf*), and mutual-responsibility (*al-takaful*), and this mutuality is the principle (*al-asl*).⁵ Rawls favors ‘fraternity’ and Qutb prefers ‘brotherhood’ (*ikhwah*).⁶ And for ‘social unity’ Rawls chooses more as ‘social union’ whereas Qutb selects such terms as ‘sharing’ (*ishtirak*).⁷

Those terms can reflect their ideas, although there are many more terms interrelated. The important thing, however, is how they construct their ideas on social justice, so that their conceptions are clear, and not merely focused on the concepts and definitions. For the sake of that substantive study let us continue to discuss it piece by piece.

¹ Swift, *op. cit.*, 133.

² *Theory*, 91.

³ *Al-‘Adālah*, 66.

⁴ *Al-‘Adālah*, 37.

⁵ *Al-‘Adālah*, 29.

⁶ *Al-‘Adālah*, 58.

⁷ *Al-Salam al-‘Alami*, 131.

2. The Principle of Redress

a. Rawls

According to Rawls, his difference principle expresses an egalitarian conception of justice. To support his thinking he argues that his difference principle can produce the principles of redress, reciprocity, and fraternity. Let us follow Rawls's arguments on them.

To Rawls, the difference principle proposes the principle of redress. The principle of redress states that the improper inequality should be redressed; and because that inequality owing to the born and natural endowments is improper, the inequality should be compensated. So, in order to treat everyone alike, the society should give more attention to those less natural assets and to those who are born from the least fortunate families. In education, for instance, we should give more attention to less intelligent, at least in the early years of the school. This is to advance long-term hope of the least advantaged.¹ It means that they will, eventually, be equal with the most advantaged.

To develop a society, says Rawls, is not to emphasize social efficiency and technocratic values. Developing society, for him, is also involving human dignity.² Here, those who are more fortunate because of the nature may search for their fortune but in the framework of advancing the situation of the least fortunate. By this principle, says Rawls, there is no one gains or loses because of the natural lottery.³

For Rawls it is a *prima facie* that one side should be weighed in balance of the other. And in this emphasis, Rawls is in the side of the least fortunate. Consequently, those who are in the higher positions should be ready to lower their class, to be similar with the least advantaged.⁴

¹ *Theory*, 86-7.

² *Theory*, 87.

³ *Theory*, 87.

⁴ *Theory*, 86 and 61.

To the least advantaged, some efforts should be made to equalize material things. For example, it is done by equalizing education and culture. And Rawls's criterion in this education and culture is human dignity.¹

To Rawls, in the difference principle, individual's ability is a common asset.² Greater talents, however, are not to be reduced. Here, then, it is legitimated for everyone to have greater natural assets. The rule is that the more fortunate will get benefits only in the way that they can help the least fortunate.³ With this formula, says Rawls, "we would eventually reach a society with the greatest equal liberty the members of which enjoy the greatest equal talent."⁴

By accepting the principle of redress, says Rawls, "the natural distribution of assets and the contingencies of social circumstances can more easily be accepted."⁵

b. Qutb

In this regard, Qutb proposes that the wealthy of the society must be ready to lower their own dignity in order to narrow the gap between them and the poor, so that equality, in due process, will be produced. To Qutb, the principle of solidarity, "will be accepted as a rise in status (*tasami*) for the weak and for the strong as humility (*tawadu*')." ⁶

Qutb also says that Islam teaches that the least fortunate should be compensated.⁷ And he says that in the framework of social compensation, it is needed to narrow the gap between the rich and the poor by equalizing education and culture. For Qutb, education is everyone's right. And whoever has the capability, as a result

¹ *Theory*, 92.

² *Theory*, 87.

³ *Theory*, 156.

⁴ *Theory*, 92-3.

⁵ *Theory*, 448.

⁶ *Al-'Adālah*, 41 and 188; *Social Justice*, 54 and 191.

⁷ To Qutb, Islam "prescribes the claims of the poor upon the wealth of the rich, according to their needs, and according to the best interests of society, so that social life may be balanced, just, and productive." *Al-'Adālah*, 37; *Social Justice*, 49.

of his education, even though coming from the lower class, can get the work he wants.¹

Therefore, the door is always open for such lower classes as clients or slaves to achieve the higher level in any field. On the success story of the *maula* (clients), Qutb quotes al-Jundi's saying,

“When we hear of ‘Abd Allah ibn ‘Abbas we hear of his client ‘Ikrimah along with him. So with ‘Abd Allah ibn ‘Umar and his client Nafi‘, Anas ibn Malik and his client Ibn Sirin, and Abu Hurayrah and his client ‘Abd al-Rahman ibn Hurmuz. In Basra there was Hasan al-Basri, while in Mecca there were Mujahid ibn Jabr, ‘Ata’ ibn Abi Rabah, and Tawus ibn Kaysan, all jurists. In Egypt the principal jurist consulted in the days of ‘Umar ibn ‘Abd al-‘Aziz was Yazid ibn Abi Habib, who was a client of Aswad from Danqalah....”²

For Qutb, individual ability is a common asset of the society.³ And that common asset happens when the society takes the result of individual capability. Qutb states, “we must reckon with all these endowments, and to all of them we must give the opportunity to produce their greatest results; then from these results we may take that which appears to be of permanent profit to society.”⁴

3. The Principle of Reciprocity

a. Rawls

The principle of solidarity bears the principle of reciprocity. And this principle also sustains such principles of mutuality as mutual respect, mutual benefit, and mutual aid.

“Those who can give justice are owed justice,” says Rawls. For him, the thing to distribute is not material thing, but justice itself. He says that the only determinant

¹ Qutb exemplifies this by ‘Umar’s justification to the decision of Nafi‘ ibn al-Harith (then mayor of Mecca) in promoting a *maula* (client, liberated slave) as a leader in a region. Such is because Nafi‘ said that the *maula*, i.e. Ibn Abza, is a diligent student of the Qur’an, an expert of the science of inheritance (*Fara’id*), and a just judge. *Al-‘Adalah*, 186; *Social Justice*, 189.

² *Al-‘Adalah*, 186-7; *Social Justice*, 190.

³ *Al-‘Adalah*, 34; *Social Justice*, 46.

⁴ *Al-‘Adalah*, 35; *Social Justice*, 48.

thing in social justice is having or not having the capacity of ‘sense of justice.’ This assigns the fulfillment of the principle of reciprocity.¹

To Rawls, the difference principle also expresses a conception of reciprocity. It is the principle of mutual benefit.² Such is because, states Rawls, society is ‘a fair system of cooperation.’³ And that scheme of cooperation, says Rawls, is the accumulation of everyone’s desire.⁴

To Rawls, this principle of reciprocity can produce ‘the sense of respect’ to humanity, even to the unfortunate.⁵ To do this, we should be in the side of the weak, for the strong has already been strong, so that there is no need to defend them. Rawls explains that inequality in expectation is like chain-connected, that is, if the benefit has lift up the expectation of lower position, it will also lift up the expectation of all positions in the middle. For example, if the best expectation of entrepreneurs is giving benefit to the unskilled worker, it can also give benefit to the semi-skilled worker, and so on.⁶

By this principle, economic and social inequalities are evaluated in the frame of long-term expectation of the least advantaged. This principle says that the right of the persons is based on each need. This principle does not accept the opinion that justice is based on the rights taken from merit, desert or entitlement. That basis only means that we let the social law works naturally, without any intervention of the scheme of justice. Meanwhile, the scheme of justice answers to what humans have the rights to it. It satisfies their legitimate expectations based on social institution.⁷

For Rawls the scheme of justice ‘gives everyone each due’ means that it gives everyone who has the right to it as defined by the scheme itself.⁸

Meanwhile, Rawls explains that ‘the principle of charity’ is outside the scheme of social justice. It is because of its nature as moral desert. It makes the most

¹ *Theory*, 446-7.

² *Theory*, 88.

³ *Theory*, xv.

⁴ *Theory*, 13.

⁵ *Theory*, 156.

⁶ *Theory*, 88 and 69-70.

⁷ *Theory*, 39, 89, and 273.

⁸ *Theory*, 276.

fortunate to have ‘superior moral character.’ Such moral benefit, to Rawls, only means affront to our sense of justice. In a just society, “everyone is of equal moral worth,” although it “does not entail that distributive shares are equal.”¹

Rawls is in the opinion that the natural sense is the achievement of harmony of social interest meaning that only reciprocal benefit to be allowed.²

Rawls stresses that the idea of solidarity not only assists the lose-out because of mishap or detriment (although it should be done), but also places all citizens in the position to manage their own affairs and to participate in the social cooperation based on mutual respect under the proper equal conditions.³

In the principle of reciprocity, to Rawls, the duty of mutual respect is one of natural duties to uphold justice. ‘Mutual respect’ gives everyone’s respect which is his own right to be moral being, that is, as a creature with the sense of justice and the conception of good. Mutual respect is shown in “our willingness to see the situation of others from their point of view.” Hence, persons care each other and “cannot withstand the indifference much less the contempt of others.”⁴

Rawls admits that our self-respect depends on the respect of others. If our endeavors are not respected by others, it is hard, even impossible for us to keep believing that our aims are worthy. Here, to Rawls, the principle of mutual respect asks us “to treat one another civilly and to be willing to explain the grounds of their actions, especially when the claims of others are overruled.”⁵

Another thing in the principle of reciprocity is the principle of ‘mutual aid.’ It is natural duty to support a just society. Here, Rawls follows Kant in saying that we will always need other’s help, and not admitting this principle means releasing us from such other’s help. Rawls says that “the primary value of the principle is not measured by the help we actually receive but rather by the sense of confidence and trust in other men’s good intentions and the knowledge that they are there if we need

¹ *Theory*, 273-6.

² *Theory*, 89.

³ *Theory*, xv.

⁴ *Theory*, 297.

⁵ *Theory*, 155-6.

them.” Rawls emphasizes the nature of public guarantee here. To this, Rawls states the consequence if it is reversed: indifference or not disdaining for human beings.¹

Finally, Rawls brings back to his two principles of justice as the requirements of making justice, which can, for him, uphold self-respect.² Rawls also insists that “the basis for self-respect in a just society is not then one’s income share but the publicly affirmed distribution of fundamental rights and liberties.” A society is just when “equal rights and the public attitudes of mutual respect have an essential place in maintaining a political balance and in assuring citizens of their own worth.”³

b. Qutb

The core of solidarity, says Qutb, is the principle of reciprocity, which means social cooperation.⁴ Qutb stresses that to uphold justice in Islamic society unavoidably there must be the duty to cooperate and the condition of taking and giving.⁵ “The welfare of the community must be promoted by mutual help among the individuals –always within the limits of honesty and uprightness,” says Qutb.⁶ And that principle of mutual help only exists in a situation of fair: everyone is responsible.⁷

Qutb also requires that the principle of mutuality should be in the side of the weak.⁸ It is in this principle of reciprocity, then, the life expectation of the society is to be measured by the needy. Hence, Islam maintains the norms of social justice and guarantees the rights of the poor within the wealth of the rich.⁹

Zakat is the right must be collected by the state to be used for the interests of the Muslims in fulfilling their physical needs and preserving their souls and

¹ *Theory*, 298.

² *Theory*, 155-6.

³ *Theory*, 477.

⁴ *Al-‘Adālah*, 29; *Social Justice*, 41-2.

⁵ *Social Justice*, 286.

⁶ To this Qutb quotes the QS. 9:71. *Al-‘Adālah*, 74-5; *Social Justice*, 86-88. Yusuf Ali, 523.

⁷ Here Qutb quotes the following hadith, “Everyone of you is a leader and has responsibility of what being led.” (Narrated by al-Bukhari and Muslim). *Al-‘Adālah*, 74; *Social Justice*, 86.

⁸ Qutb bases his view on the QS. 4: 6. *Al-‘Adālah*, 76; *Social Justice*, 89. Yusuf Ali, 207-8.

⁹ *Al-‘Adālah*, 76 and 20; *Social Justice*, 89 and 32-3.

protecting their honor. If this *zakat* is not enough, Islam determines the duty for the wealthy to give some of their wealth to the weak and the poor.¹

Even though Qutb suggests the way of charity,² but *zakat* and other financial obligation is not charity and gift which makes the giver has a nobler dignity than the bestowed. For Islam places the bestow giver and the bestowed in the equal degree.³

Therefore, like Rawls, Qutb says that his principle in the distribution is not based on merit, but based on the legitimated expectation. To Qutb, “*zakat* is prescribed as a compulsory duty on property; it is the right of those who receive, and not a gift of those who pay it [*la tafdilān min mukhrijihā*].”⁴

In this principle of reciprocity, the goal is the harmony of social interest. To Qutb, in Islamic view, “life is a matter of mutual help and mutual responsibility.”⁵ In this social harmony, the interests to be harmonized, in Qutb’s conception, are not only between individuals and groups, but also between generations.⁶ Furthermore, Qutb does not only stress on the harmony of society, but ontologically, harmony with nature.⁷

Something needed to uphold a just society, in this framework of mutuality, according to Qutb, is mutual-respect. Such is because, for Qutb, every kind of humans has each own respect which cannot be lowered.⁸ For Qutb, *Allah* gives such honor is because of their nature as humans (*bi jinsihim*), and not by their persons or their races or their tribes. Thus, all alike have nobility which must not be degraded, and at which none may scoff.⁹

¹ Qutb says, “If this is not enough, the rich are obliged to contribute as much as will meet the wants of the needy; there is no restriction and no condition, except that there shall be a sufficiency.” *Al-‘Adālah*, 76, 20 and 54; *Social Justice*, 89, 32-3, and 67.

² Qutb calls charity as the second way, after the obligation of *zakat*. To him, distribution by way of charity (*sadaqah*) has two aims: to establish inner refinement of the conscience (*al-tahdhib al-wijdani al-‘amiq*) and to foster a belief in the inherent solidarity of mankind (*al-tadaman al-insani al-wathiq*). *Al-‘Adālah*, 85-6; *Social Justice*, 99.

³ *Al-‘Adālah*, 94; *Social Justice*, 108.

⁴ *Al-‘Adālah*, 153; *Social Justice*, 164.

⁵ *Al-‘Adālah*, 34; *Social Justice*, 47.

⁶ *Al-‘Adālah*, 31; *Social Justice*, 44.

⁷ *Al-‘Adālah*, 30; *Social Justice*, 42-3.

⁸ Qutb bases his thinking on the QS. 17: 70. *Al-‘Adalah*, 151; *Social Justice*, 163; Yusuf Ali, 799.

⁹ Qutb quotes the QS. 49:11. *Al-‘Adalah*, 65; *Social Justice*, 78. Yusuf Ali, 1591-2.

Qutb gives some examples on how Islam emphasizes human self-esteem very deeply. On the *zakat* for the debtors (*gharimin*), Qutb says that their right of *zakat* is to help them freeing from their burden, and they are helped towards a more respected life [*al-hayah al-karimah*].¹

In Islam, says Qutb, this principle of reciprocity has brought us to the matter of mutual aid.² Qutb also emphasizes that the products of law in Islam are to save human condition which should stress on mutual help.³ It is understood, then, if Qutb condemns dishonesty in business, usury, etc. because it hurts mutual help between human beings.⁴

4. The Principle of Fraternity

a. Rawls

According to Rawls, his ‘difference principle’ also contains the principle of brotherhood. In his sense the fraternity implies:⁵

- 1) Certain attitudes of mind and forms of conduct without which we would lose sight of the values expressed by the democratic rights.
- 2) A certain equality of social esteem manifests in various public conventions.
- 3) The absence of manners of deference and servility.
- 4) A sense of civic friendship.⁶
- 5) A sense of social solidarity.
- 6) The idea of not wanting to have greater advantages unless this is to the benefit of others who are less well off.

¹ *Al-‘Adālah*, 154; *Social Justice*, 166.

² *Al-‘Adālah*, 133; *Social Justice*, 147.

³ Here Qutb quotes the QS. 5: 91. *Al-‘Adālah*, 129; *Social Justice*, 143; Yusuf Ali, 315.

⁴ “For, dishonesty in business is a defiling of the conscience; it involves the harming of others and the destruction of the trusting nature of men; and there can be no mutual help without trust [*thiqah*].” *Al-‘Adālah*, 133; *Social Justice*, 147.

⁵ *Theory*, 90.

⁶ Rawls explains that, “The members of the community have a common sense of justice and they are bound by ties of civic friendship.” *Theory*, 470.

Explaining the last point, Rawls says that “the confident sense of their own worth should be sought for the least favored and this limits the forms of hierarchy and the degrees of inequality that justice permits.” It is this which gives a special sense to Rawls.¹

Rawls mentions that the principle of fraternity can be based on the essential primary good of self-respect. For example, to feel the sense of human worth, education does not only aim at ‘producing productive trained abilities,’ but also ‘enriching the personal and social life of the citizens.’²

To Rawls, friendship is an essential thing for humans. Also, friendship is an important element in justice, for if men did not do what justice requires “they would lack certain essential elements of humanity.”³

b. Qutb

Qutb affirms the nature of fraternity as the absence of ‘deference’ and ‘servility.’ To Qutb, such attitude of brotherhood is Islamic. Qutb exemplifies this by the reluctance of an *‘alim* (religious scholar), i.e. al-Syaikh Hasan al-‘Adawi, to bow low till the ground (*sujud*) and greet as Turkish to Sultan ‘Abd al-‘Aziz when the Caliph visited Egypt. Another example elucidated by Qutb is the reluctance of Professor Hasan al-Tawil to wear formal clothes in a convocation ceremony at Dar al-‘Ulum attended by Khedive Taufiq Pasha.⁴

To Qutb, inequality is not to be avoided passively. Actively, states Qutb, humans should affirm their dignity as humans, and not other values. It is this sense of humanity which will drive the existence of civic friendship.⁵

Something amazed Qutb in civic friendship in Islamic history is when the Prophet instituted a brotherhood between individual Emigrants (*Muhajirin*) and

¹ *Theory*, 92 and 90.

² *Theory*, 92.

³ “Sense,” 281.

⁴ *Al-‘Adālah*, 193-5; *Social Justice*, 195-7.

⁵ *Al-‘Adālah*, 44 and 47; *Social Justice*, 57 and 60.

Helpers (*Ansar*) after migrating to Medina. To Qutb, “this relationship was no mere matter of words, but was a lifelong connection, just as strong as blood relationship.”¹

In addition, social solidarity is also a core teaching of Islam. Qutb refers this to the saying of the Prophet: “*When there is someone hunger in a region, Allah will cut His guarantee to all the inhabitants.*” (Musnad Ahmad Shakir, 4880). And again, “*Not one of you will be a Believer until he loves his brother as himself.*” (Narrated by Muttafaq ‘Alaih).²

It is clear, here, the difference between a social conception based on religion, as done by Qutb, and a social conception based on merely philosophy as done by Rawls. Rawls, radically, characterizes that without the attitude of fraternity we will lose our ‘sense of humanity’; Qutb, also radically, characterizes that without it we will lose our ‘sense of religiosity.’³

5. Social Unity

a. Rawls

Finally, in this principle of solidarity, Rawls talks about social unity. Rawls says that social unity is not coming from obligations, but from rights. Nevertheless, his idea on fairness in playing the rule of game in societal life implies also to the sense of responsibility.

Rawls calls his just society as ‘well-ordered society.’ This society is cooperation for mutual benefit. Here, the citizens should “act together so as to produce a greater sum of benefits and assigns to each certain recognized claims to a share in the proceeds.”⁴

¹ *Al-‘Adālah*, 184; *Social Justice*, 187.

² *Al-‘Adālah*, 152; *Social Justice*, 164.

³ Qutb says, “mercy is a fundamental part of faith in Islam, as it is one of its characteristic signs; it indicates the acceptance of religion by the conscience, and it testifies, to the existence of that human spirit without which, in the Islamic view, there can be no religion.” *Al-‘Adālah*, 86; *Social Justice*, 100.

⁴ *Theory*, 74.

Social unity is very important, so that it is within the core of the principles of social justice. We can see it in the content of Rawls's definition of the principles of social justice which is actually a social cooperation.¹

Social justice itself is a development of human social nature. To Rawls, there are some existing instrumental perceptions on society:²

- 1) society is necessary for human life;
- 2) society is a place to work together for mutual advantage;
- 3) social life is a condition for our developing the ability to speak and think;
- 4) society allows individuals to take part in the common activities of society and culture;
- 5) society is a place to describe our plans and situation;
- 6) society is a place to give voice to our personal wants and purposes;
- 7) society is a system of belief and thought;
- 8) society is the outcome of the collective efforts of a long tradition.

Such above views, to Rawls, stress too much on 'goodness as rationality,' that the good is the rational; and that relationship between persons is merely seen from instrumental relationship.³

For Rawls, the social nature of human is good to be seen by a conception of 'private society.' Private society is not formed by public conviction that the basic arrangement is just and good in itself, but "by the calculation of everyone, or sufficiently many to maintain the scheme, that any practicable changes would reduce the stock of means whereby they pursue their personal ends."⁴

This is so until there is the final aim shared by everyone and that all respect their institutions and common activities to be good in themselves.⁵ Rawls emphasizes that the important thing is the existence of the shared final aim and that the way to propose it can be accepted and can be acknowledged publicly as the achievement of everyone. When this goal is reached, says Rawls, everyone finds satisfaction to the

¹ *Theory*, 4.

² *Theory*, 458.

³ *Theory*, 458.

⁴ *Theory*, 458.

⁵ *Theory*, 458.

same thing; and this fact is in line with the complementary nature of the good of the individuals affirming the tie of the community.¹

To Rawls, social unity also aims at establishing goodness and preventing badness. It always preserves stability and denies the spread of serious defects.²

Generally, justice requires the existence of social unity. Human beings are not separated fragments. Rawls insists that “part of ourselves that we directly realize is joined to a wider and just arrangement the aims of which we affirm.” For him, the division of labor, “is overcome not by each becoming complete in himself, but by willing and meaningful work within a just social union of social unions in which all can freely participate as they so incline.”³

By the principle of social unity, in Rawls’s conception, plurality is accepted as normal. To him, in a just society, all talents and associations are accepted in a condition that the principles of equal justice are acknowledged. Therefore, the plurality of persons is addressed to manage their frame of cooperation in a situation giving them a fair representation of moral being.⁴

Unavoidably, in a just society, the difference of potentials brings about cooperation. To Rawls, different persons with similar or complementary capacities may cooperate in realizing their common or matching nature. Here, the good of each is an element in the complete activity the whole of which concentrated to and gives the pleasure to all. This reminds us to platonic justice, that specialization makes social balance. Rawls calls it as an orchestra within which everyone plays his own instrument like others.⁵

Even though the connection between justice and social unity is so close, it does not ignore individual interests. For Rawls, society also means the realization of

¹ *Theory*, 461.

² *Theory*, 92.

³ *Theory*, 464.

⁴ *Theory*, 92, 470, and 493.

⁵ *Theory*, 459.

individual plans. The society and the individuals, then, have a relation of mutual support.¹

If a just society is created, states Rawls, the accumulation of it will make a just civilization. For civilization is cooperation between generations or in Rawls's words "the joint contributions of successive generations." By this just civilization, human beings, even individually, are perfectly formed as just beings.² Therefore, to create a just civilization, it is needed to make cooperative efforts between societies and individuals.³ To this, social institutions are needed to be just. For institutional justice is a mirror of social unity.⁴

Hence, social unity has finally to necessitate and oblige realization of the principles of justice. This public realization of justice is a value of community, and it does not allow establishing a dominant end, such as national power and prestige. Here, the interests of all individuals and associations should also be considered.⁵

Something being thought by Rawls on social unity and social responsibility is 'a well-ordered society.' A well ordered-society is "a society in which institutions are just and this fact is publicly recognized." Rawls also requires that "its members also have a strong sense of justice, an effective desire to comply with the existing rules and to give one another that to which they are entitled."⁶

b. Qutb

The sense of social unity is also in Qutb's thinking. To him, an awareness of the unity of human origin can secure social justice. By this thought, then, the management of society will be easier.⁷

To Qutb, humans are live socially in order to grow together peacefully (*tuma'ninah*). Here, then, humans need laws (*al-tashri'*) and constitution (*al-qanun*).

¹ To Rawls, "the plan of each person is given a more ample and rich structure than it would otherwise have; it is adjusted to the plans of others by mutually acceptable principles." *Theory*, 463.

² *Theory*, 459-60.

³ *Theory*, 493-4.

⁴ *Theory*, 462.

⁵ *Theory*, 463.

⁶ *Theory*, 274-5.

⁷ *Al-Salam al-'Alami*, 106.

To him, every individual shares the life of society (*al-fard mushtarikan fi jama'ah*), so that a social life can work only if all of the members save and secure.¹

To this end, fragmentations in the society could not make the social unity to be dispersed in their sense of humanity. To Qutb, the existence of individuals and society is not for their own selves or their followers, but for the whole humanity (*li al-insaniyah jami'an*).²

It is clear here that Qutb is in the opinion of that society is 'organic.' The mirror of the society, in Qutb's sense, is 'Islamic society,' of course. For Islamic society is like one body.³ In another illustration, the organic nature of Islamic society is like one building, the members of which strengthen each other.⁴ It is in this society that Muslims can live in mutual help and mutual guarantee.

Qutb also affirms that the end of social unity is to sustain the goodness (*amar ma'ruf*) and prevent the badness (*nahy munkar*).⁵ To Qutb, cooperation between all members of the society is a duty to preserve common interest within the boundaries of good conduct.⁶ To this effort Qutb also proposes the principle of *sadd al-dhara'i'* (blocking the means), that is, something "has regard not then to individual aims and intentions, ... but to the encouragement of public welfare (*al-naf' al-'am*) and to the prevention of public evil (*daf' al-fasad al-'am*)."⁷

To sustain justice, says Qutb, we need a social unity. Qutb describes this by an illustration of ship in the Prophet's tradition saying that "Life is like a ship at sea whose crews are all concerned for her safety; none of them may make a hole even in his own part of her in the name of his individual freedom."⁸

¹ *Al-Salam al-'Alami*, 109 and 130-1.

² *Al-Salam al-'Alami*, 118.

³ To this Qutb bases on the hadith narrated by Muttafaq 'Alaih. *Al-'Adalah*, 77; *Social Justice*, 90.

⁴ Narrated by Bukhari-Muslim. *Al-'Adalah*, 77; *Social Justice*, 90.

⁵ To him, Islam follows its natural principles, like it does in preventing injury (*man'i al-darar*) to men and in creating the spirit of cooperation and mutual help between all men. *Al-'Adalah*, 133; *Social Justice*, 147.

⁶ To this, he refers to the QS. 5: 2 and 3: 104. *Al-'Adalah*, 74; *Social Justice*, 86-7.

⁷ Here, Qutb continues, "it must take account of the consequences along with the intention, or even the consequences (*al-natijah*) alone." *Al-'Adalah*, 162; *Social Justice*, 301.

⁸ Narrated by Bukhari and al-Tirmidhi, with Bukhari version. *Al-'Adalah*, 73; *Social Justice*, 86. In the *Social Justice*, however, the hadith quoted is different.

Qutb concludes that, by this hadith, in Islamic just society, the power of majority is above the individual interest. For, every individual, is charged with the welfare of the society (*masalih al-jama'ah*), as if he were a watchman over it (*haris laha*), responsible for its safety (*muwakkil biha*).¹

Nevertheless, Qutb also admits that plurality must also be accepted as the fact of life. He says that society is like the universe (*al-kaun*) “its power too is a unity, though diverse in appearance (*dhi al-quwwah al-wahidah al-muta'addud al-mazahir*).”² Hence, in an Islamic just society, the difference of potentials would produce cooperation. To Qutb, “the differences of color, race, or religion would not be barriers for everyone to have the opportunity of exerting their natural zeal for the common good.”³

Qutb states that Islam sees the life from multiple perspectives, and views its individuals as the players, the difference of which is still within its guarantee and guidance. Islam obliges each individual to fulfill his duties to grow the life and drive it to advance, and to secure its effort to realize the universal end of humanity.⁴

Qutb also connects between individuals and society as the supporters of justice. In Qutb's opinion, humans are various in their roles (*waza'if mukhtalifah*). In order to create social unity, Islamic law plays the role to maintain the cooperation (*al-takaful*) between the members of society. Also, Islamic law guarantees “the fundamental basis of a righteous and dignified community, in which all men are equals (*al-kull fihi mutasawun*).”⁵

Like Rawls, Qutb also stresses that the benefit is to be divided based on the principle of mutuality. To Qutb, “Islam connects individuals with their society through common responsibility for their own good (*lisalihim jami'an*).”⁶

Because it is coming from the common responsibility (*al-wajib al-mafrud 'alaihim jami'an*), the result is also to be enjoyed by all. It means that public goods

¹ *Al-Adalah*, 73; *Social Justice*, 86.

² *Al-Adalah*, 29; *Social Justice*, 42.

³ *Al-Adalah*, 199; *Social Justice*, 201.

⁴ *Al-Adalah*, 65; *Social Justice*, 78.

⁵ *Al-Adalah*, 65, 29, and 14; *Social Justice*, 78, 41-2, and 27.

⁶ *Al-Salam al-Alami*, 114.

are for everyone's benefit. Qutb exemplifies that in Islam there are kinds of wealth to be owned by the whole community, and cannot be owned by certain individuals: water, herbage, and fire.¹ To Qutb, the reason is that those goods are needed by the whole inhabitants in an ancient Arabian plate. Qutb views that these kinds of common goods can be changed depending upon the time and place. To this, he proposes analogy (*qiyas*), which is one of Islamic principles in inferring law, to broaden the application of this category based on the similarities of the case.²

Like Rawls, Qutb also admits that a just society would create a just civilization. Qutb also agrees that civilization is a result of cooperation between generations. Civilization, for him, is “a common heritage of all the peoples of the world, in which we already have a fundamental part.”³

Unlike Rawls, however, Qutb emphasizes that although civilization is accumulation of individuals and societies, it is coming from one law and end, i.e. God.⁴ To be suitable with the God's law, Islamic society has its own measurement to build its civilization, that is, things which would be called as the basic theory of Islam (*fikrah al-Islam al-asasiyah*) and the general spirit of Islam (*ruh al-Islam al-'amah*).⁵

A just society should have just institutions, says Rawls. Qutb, however, has no idea on the concept of institution. He emphasizes more to the authority as the one should be just,⁶ for it is in its hand that all societal affairs to be governed.⁷

The lack of Qutb's attention on the matter of institution is owing to the fact that in the matter of institution, Islamic history had no precedence. The idea of

¹ A hadith narrated by the author of book *Masabih al-Sunnah fi al-Hisan*, as quoted by Qutb, *Al-'Adalah*, 122; *Social Justice*, 137.

² *Al-'Adalah*, 122-123.

³ *Social Justice*, 286. It should be noted that in the last editions of *Al-'Adalah*, this statement is not exist anymore, replaced by the emphasis on the importance of Islamic nativism, and the emphasis on worship (*'ibadah*) and obedience to God's law (*hakimiyah*). *Al-'Adalah*, 270.

⁴ *Al-'Adalah*, 31.

⁵ *Al-'Adalah*, 268; *Social Justice*, 284.

⁶ *Al-'Adalah*, 111; *Social Justice*, 125.

⁷ On this Qutb quotes the hadith, “*Verily on the Day of Resurrection he who is dearest of all men to Allah, and he who is nearest to Him will be the just leader; but he who is most hated by Allah on that Day, and he who is most bitterly punished will be the tyrannical leader*”. (Narrated by Bukhari, Muslim and al-Tirmidhi). *Al-'Adalah*, 105; *Social Justice*, 120.

tolerant caliphate had not emerged again in the Islamic history.¹ To change political institution in the Islamic world, therefore, is a difficult and long-term effort.²

Nevertheless, Qutb states that justice must be in the hand of the leader, or to be more exact, in the authority of governance. Therefore, if the authority means institutions, Qutb can also say that the institutions are to be just.

Qutb is also in the opinion that social unity should realize the principles of justice. Qutb emphasizes that Islam obliges its followers to be just.³ That is, they should be just to all humans,⁴ whether to their own families⁵ or even to the enemies.⁶

By the realization of justice, a well-ordered society, as had been realized in the earlier generations of Muslim society, would be also realized in contemporary Islamic society. To this Qutb states:

Islam forms a flexible social system, capable of directing human life at all times and in all circumstances, while preserving its general spirit and principles. Its duty is to ensure a form of life that will be virtuous, sound, productive, and strong; to ensure a comprehensive social justice based on all the foundations of human nature and aiming at giving every man his due. But it must never stand in the way of fruitful individual activity nor must it permit that activity to become a harmful egotism.⁷

6. Comparison and Contrast

The above explanation produces some similarities and differences between Rawls's and Qutb's thought on the principle of solidarity in the framework of social justice.

The similarities between the two in this principle of solidarity are:

- 1) The existence of common interest to be striven by everyone.
- 2) The needs of efforts to identify the least fortunate.
- 3) The strong or the rich must be ready to lower their dignity.

¹ *Social Justice*, 263.

² *Al-'Adālah*, 261; *Social Justice*, 277.

³ Qutb quotes the QS. 16: 90. *Al-'Adālah*, 105; *Social Justice*, 120; Yusuf Ali, 760.

⁴ Here the verse quoted is QS. 4: 58. *Al-'Adālah*, 105; *Social Justice*, 120; Yusuf Ali, 228.

⁵ Qutb quotes the QS. 6: 152. *Al-'Adālah*, 105; *Social Justice*, 120; Yusuf Ali, 390.

⁶ The verse quoted is QS. 5: 8. *Al-'Adālah*, 105; *Social Justice*, 120; Yusuf Ali, 283.

⁷ *Social Justice*, 313.

- 4) Narrowing the gap between the rich and the poor by equalizing education and culture.
- 5) The principle in distribution is not based on merit or desert, but based on need or legitimate expectation.
- 6) The framework of mutuality requires duties of mutual-respect and mutual-aid.
- 7) No deference and servility between humans.
- 8) The need for the existence of civic friendship.
- 9) The aim of social unity is to uphold goodness and to prevent badness.
- 10) Plurality is accepted.
- 11) Individuals and society as the supporters of justice.
- 12) Benefits are to be divided based on the principle of mutuality.
- 13) A just society can create a just civilization.
- 14) Social unity must realize the principles of justice.
- 15) Realization of justice makes a well-ordered society.

Even though not many, there are differences between Rawls and Qutb on this principle of solidarity. To mention them, here is the list:

- 1) For the sake of solidarity, both writers mention the need of listing social minimum. To Rawls, the list is taken from the original position; whereas to Qutb, it is based simply on human instinct.
- 2) Both thinkers talk about the danger of the society which has no such attitude of brotherhood. For Rawls, it will wipe out the sense of humanity; for Qutb, besides the absence of the sense of humanity, it will also omit the sense of religiosity.
- 3) Both thinkers talk about the importance of social cooperation as a realization of solidarity. Rawls mentions it in term of 'common interest.' Qutb, however, says

that besides for common interest, it should be taken into account that it is for the goodness, and not the badness, in view of Islam.

- 4) Concerning civilization, Rawls says that it is created by individuals and societies, and even generations. Therefore, it is inductive in nature. Qutb, on the other hand, says that besides as human creation, it is also based on God's law. Therefore, it is more deductive rather than inductive.
- 5) Both thinkers state the necessity of support to social unity. To Rawls the support is done by the justice of institutions. To Qutb, however, it is done by the justice of authority.

To make it simpler, the differences between Rawls's and Qutb's thinking on the principle of solidarity in social justice can be in such a matrix as follow:

Table 3.3. Some Contrasts Between Rawls's and Qutb's Thoughts On the Principle of Solidarity in Social Justice

No.	Subject	Rawls	Qutb
1.	List of social minimum	Taken from the original position	Taken from the human instinct
2.	If there is no such attitude as brotherhood	The loss of sense of humanity	The loss of sense of humanity and religiosity
3.	Social cooperation	Common interest	Common interest on condition that it is for the goodness, and not the badness
4.	Human civilization	* Creation of individuals, societies, and generations * Inductive	* Created by humans, in line with the God's law * Deductive
5.	Support to social unity	Justice of social institutions	Justice of authority

D. Concluding Remark

We could say here that humans, in general, can have the same problem, but the methodology and the solution they made can be different. We can see from above explanation that Rawls and Qutb have the same problem of morality principles of

social justice. They have similar thoughts that the principles are three the two of which are almost similar: the principles of liberty and equality. The third principle is different in terms but essentially the same. To Rawls it is the difference principle and to Qutb it is social solidarity.

1. Principle of Liberty

It should not be noticed that this liberty as a principle of social justice is not liberty in the sense of liberalism. It may be the case that this liberty brings Rawls to his idea of political liberalism with the principle of the greatest equal liberty, but for Qutb, his principle of liberty does not bear any political liberalism whatsoever, for his idea is truly religious.

Rawls emphasizes that liberty should be prioritized in social justice, more than any other social values. Such is because priority of liberty is the first thought of every human being. So in social justice, liberty is above the principle of equality of opportunity and the difference principle. The less extensive liberty is to secure the lesser liberty. Liberty is to be prioritized in order not to be a matter of political bargaining or a calculus of social interests.

Without reading any Rawls's books, Qutb is in opinion that priority of liberty as the first capital of human being to attain social justice. By this priority of liberty, says Qutb, other social values, including the economic one, are relegated to their true and reasonable place. For it is in liberty that human dignity takes place.

In this principle of liberty, both thinkers admit two things: total liberty as liberty in general and basic liberties as kinds of liberties. Nevertheless, Rawls is inductive in saying that the total liberty should be viewed from the acknowledgment of basic liberties, the liberties by which can evaluate so far as a society respects liberty.¹ Qutb, on the other hand, views more deductively: those basic liberties should be viewed as one system. Hence, those liberties are match, in balance, and harmony. Such is because those basic liberties come from the will (*iradah*) of Allah.

¹ Those basic liberties are: political liberty, freedom of speech and assembly, liberty of conscience and freedom of thought, personal liberty, and liberty of personal property.

The importance of liberty of conscience as a standard of respect of humanity is not that after all there is no system needed. In fact, if liberty of conscience is respected, the system upholding it is just. Rawls and Qutb admit this. To Qutb, however, this liberty is not only for social concern; it is also for spiritual concern. To him, life is not a matter of outer acknowledgement that everyone is respected in regard to each own believe; it should be noticed that in order to have dignity, everyone should be free from the jail of mundane life. It is can be called as spiritual liberation of conscience.

Rawls says that for the sake of justice, liberty must be restricted. But the limitation is for the sake of liberty itself. That is, basic liberties are limited for the sake of total system of liberty, by preventing or limiting attacks of the greater liberty. Here it seems that Rawls ended with the reason of responsibility, for he says this limitation of liberty is done through a common rule, i.e. in the name of public order and security. This is different with Qutb who says blatantly that the restriction of liberty is for the sake of responsibility. So, Rawls emphasizes the right to liberty, but Qutb stresses more to the duty of responsibility. That is because the reasons are different: Rawls is individual-contractual and Qutb is social-organic.

Rawls admits that sometimes basic liberties contradict each other. For instance, which one is preferable: personal liberty or political liberty? To this, there should be rational and optimal choice. Also, there should be a reciprocal principle in this choice: the more liberty, the more limitations. The chosen one, then, is liberty which is commonly felt, by which others are not suffered. Qutb admits such kind of thinking. To him, however, the choice cannot merely base it on rational choice without the legitimacy of *Shari'ah*. For Islam based on the knowledge of Allah and that Allah is omniscience.

To conclude, we could not find any definitions both from Rawls and Qutb on what exactly liberty is. It seems that both thinkers focus more on the respect of liberty of humanity rather than merely definitions. And this respect of liberty is measured by the admiration to basic liberties. These basic liberties are rights which can be measured, at least, can be defined. And the most important basic liberties are political

liberty, freedom of speech and assembly, liberty of conscience and freedom of thought, personal liberty, and liberty of personal property. In these basic liberties Rawls and Qutb are likely similar in their thinking. In their systems, however, they have different answers. For Rawls these basic liberties are coming from nature and enacted by everyone in the society. For Qutb, however, these basic liberties are coming from God and enacted by everyone in Islamic state. That is because that Rawls bases his thought on political liberalism whereas Qutb on political Islam.

2. Principle of Equality

Rawls says that equality is the second principle after the principle of liberty. The sense of equality, however, is one of the aspects of justice, not equality per se. There are inequalities accepted as just, or at least not unjust. For the defenders of equality per se, however, all kinds of inequalities should be eliminated. Here Rawls can be categorized as a conventional thinker (left-liberal), that is, the middle position between the minimalist (right-liberal) and the radical (Socialist). To make it more clearly, let us compare it to a simpler case. In a minimalist thinking, equality is the same when the job seekers are equally smart. In conventional thinking, it is not enough to let the procedure as it is, there should be some efforts to help the least fortunate in order to be equally smart. In radical thinking, however, smart or not is not important anymore, the important thing is that the result of work is to be equally divided.¹ That is the place of Rawls in Western political thinking.

Qutb places equality as the second principle in social justice. The sense of equality stated by Qutb is the sense of equality in justice, and not equality per se. Thus, inequality or differences, for Qutb, is not injustice; it is just if it is followed by equality in public and spiritual life.

In general, Rawls says, equality in social justice means equality of acknowledgement. Qutb's idea of equality starts with the equal existence of humans in their origins and return, i.e. Allah. For this reason, all humans are the same, except

¹ Swift, *op. cit.*, 99-100.

in their deeds (*'amal*). Therefore, the first thing to note in this equality is equality of consideration on human equality.

In equality before the law, Rawls states that inequality should not affect the law. Equality before the law also means that everyone can access the law, that similar cases should be treated similarly, that there should be participation of all in the processes of law making, and that law is not dangerous.

Concerning equality before the law, Qutb states that all humans are the same before the Islamic law (*Shari'ah*). Like Rawls, Qutb stresses that social or economic equality cannot influence the processes of law. Equality before the law means that everyone can access the law, that similar cases should be treated similarly, and that the law is not dangerous. Here, Qutb shares the idea of Rawls. In participation of law making, however, Qutb has different opinion. To Qutb, humans can make law but human law should not contradict with God's law.

In equality of citizenship, Rawls notes that there is only one class in public living. It means that political rights should be the same, that there is equality in standard of social minimum: health, education, free from poverty, etc. It also means that in public affairs persons to be treated alike, that social or economic inequality not to influence political life and equality means liberty for all citizens.

In equality of citizenship, Qutb also declares that in citizenship there is only one class. To him, equality of citizenship means that in public affairs all citizens should be treated alike. It also means that inequality not to influence the process of political life. It also means that citizens have the rights to have social security equally, and that equality can bring us to liberty and then to social justice. Something different between Qutb and Rawls is that in political rights Rawls gives liberty fully to the citizens in choosing or being chosen in public offices; Qutb, however, states an exception of the head of state or governor or head of district. These positions should be in the hands of the Muslims. Such is because of Qutb's conception of social justice is Islamic.

In equality of opportunity, Rawls mentions that we must give precedence to equality of opportunity rather than to the principle of utility. Equality of opportunity

should be strengthened by institutions; there should be provisions for equality of education for all citizens, for instance. Equality of opportunity requires equality of procedure. It should be done deliberately. It can be a means of efficiency. And finally, it can produce liberty.

Concerning equality of opportunity, Qutb declares that equality of opportunity is one of the requirements of social justice. Equality of opportunity respects equality of human dignity. By equality of opportunity, everyone has the right to pursue each own ideals. Qutb also admits that this equality of opportunity can be a tool of efficiency. It also can produce liberty, by which social justice can be made a clearer picture. For those reasons above, there should be deliberate efforts to uphold this equality of opportunity, by providing provision of education, for example. This deliberation is done by making procedural equality, that is, a neutral procedure puts into effect of everyone. The procedure upholds fairness and subsidy. These things are the same between Qutb and Rawls. The difference is the authority that makes deliberation. For Rawls, it is in the hand of constitutional institution; whereas for Qutb it is in the *prophetic* institution recommending constitutional institution.

3. Principle of Solidarity

The last principle of social justice after the principles of liberty and equality is the principle of solidarity. For the reason that the two precedent principles are not going to solve the problem of inequality which always exists, Rawls proposes the last principle: solidarity. By this principle of solidarity, the existing difference is made to give benefit to the least fortunate. The criteria, then, is maximin (maximize the minimum). With this maximin, the existing differences would eventually create cooperation.

To handle inequality which always exists, the principle of solidarity is also offered by Qutb as a pillar for upholding social justice. To him, social justice should be humane, and it means that all humans are brothers. Social justice, then, is not only for the individuals, but also for the society. To this extent, the effort to identify the

least advantaged must be done in order that the attempts to mutual help become measurable. The principle of solidarity, then, becomes a realization of human unity.

The principle of solidarity, or the difference principle in Rawls's framework, produces the principle of redress, the principle of reciprocity, and the principle of fraternity.

Rawls says that the principle of solidarity contains the principle of redress. The principle of redress happens when the parties of upper class are ready to lower their dignity to the same level as the least advantaged. In this principle, the least fortunate are to be compensated. To narrow the gap of differences, the efforts to equalize education and culture are to be made. Also by this principle, individual abilities are common assets by which there will be no one gains or loses of the natural lottery.

Qutb also says that the principle of solidarity is to be supported by the principle of redress. It means that (Islamic) social order can uplift the weak and make the strong to be humble (*tawadu'*). Here, then, the least fortunate is to be compensated. One of the attempts to narrow the gap between the rich and the poor is to equalize education and culture. Also, this principle says that individual abilities are common assets. Therefore, there is no one gains or loses in any differences made by God.

To Rawls, in the principle of reciprocity, social life means mutual advantage. The weigh to the weakest of the society is needed to this condition. To this, distribution is based on need, and not desert. By this mutuality there will be a creation of harmony of social interests. What is needed here is the sense of mutual-respect and mutual-aid.

The principle of reciprocity also exists in Qutb's thinking. Such is because, for him, social cooperation is in line with natural law. Here, the precept of taking and giving works. But there is a priority here, that is, the principle of mutuality must weigh the weak. To this, the life prospect of the society is to be measured by the reason of need or legitimate expectation. The state and the wealthy, in their turns, must be responsible for the needs of the poor. Nevertheless, the giver and the receiver are in the equal dignity. The aim of this reciprocity is the harmony of social interests. Here, social harmonization is not only between individuals or groups, but also

between societies and generations. In addition, Qutb also mentions the need of ontological harmonization, i.e. harmony with nature. The principle of mutuality produces the principle of mutual-respect and mutual-aid.

For the sake of this principle, Rawls blatantly says that his scheme of justice cannot accept 'charity', for it brings some 'superior moral character' to the giver and 'inferior' to the receiver. Here Rawls says that it only means 'affront' to our sense of justice. But Rawls miss a thing: the state could not fully redistribute to the people in a comprehensive way. Charity, on the other hand, induces people to distribute their own wealth for their own sake (voluntarily). So, it is needed to fulfill some handicap left by the state in the society.

So, Qutb is more comprehensive when he says that charity is needed in helping wide, even distribution of the wealth in the society. And Qutb is also complete. He shows that in Islam charity would not insult humanity. Here, charity can be adopted but with certain conditions: not to follow by hurting the receiver, not to mention it again and again, etc.

To Rawls, the principle of fraternity is an important part of the principle of solidarity, for it characterizes: the attitudes of mind and the forms of democratic behavior; equality of social self-esteem realized in public conventions; the absence of manners of deference and servility; the existence of the sense of civic friendship; the existence of social solidarity; and the intention to uplift the least advantaged.

The principle of fraternity is also admitted by Qutb as a form of solidarity. It can be seen from the Islamic doctrine on the absence of deference and servility between humans. Also, inequality is not to be avoided, but to be corrected by civic friendship. And that friendship is an essential thing in humanity, such what was done by the Prophet and his Companions who had made an example of just society.

On social unity, Rawls mentions that the society is not formed by the public belief that the basic arrangements are just and good in themselves, but by the calculation of everyone or many maintaining the scheme of the final end to be tasted by everyone and that they respect common institutions and activities as good in themselves. This is a doctrine coming from the contractarian tradition. Qutb,

however, views social unity as a human effort to guarantee justice and social security. So, for Qutb, social unity is an organic itself, more than an amalgamation of individuals as said by Rawls.

How the social unity can be achieved? Rawls says that it could be achieved by the existence of the final aim shared by everyone, cooperation between social unions, division of labor, balance of power, and realization of the principles of justice. For Qutb, social unity needs law and its application, division of labor, and the belief of the society to the law.

On the elements of social unity, Rawls mentions just institutions, just members of society, an effective desire to comply with the existing rules and the principle of fairness. To this, Qutb points out just leaders, just members of society, an effective implementation of the law in the society.

Why social unity is necessary? Rawls answers that owing to the consideration that society built by social cooperation for mutual benefit, social unity is needed to uphold that cooperation. Hence, for Rawls, social unity is for the sake of the individuals building it. To Qutb, social unity is needed to uphold the goodness and prevent the badness. Therefore, for Qutb, social unity is for the sake of the balance of the society itself. This is the doctrine coming from the socio-organic tradition.

Finally, it should be noticed that Rawls's idea is only an idea per se or utopian in nature. Qutb's idea, however, could be realized, for it was realized in the earlier generation of Muslims. So, in the methodology, Qutb shows historical evidences showing that the principles of justice were applied in the Muslim society; whereas Rawls could not offer any historical evidence to support his philosophical idea. Therefore, Qutb's conception is more applicable than Rawls's.

CHAPTER IV

THE STRUCTURE OF SOCIETY

IN RAWLS'S AND QUTB'S THEORIES OF SOCIAL JUSTICE

A conception of social justice does not only produce its principles, it also formats the social structure for organizing a just society. For Rawls, his principles of justice are employed for arranging the justice of institutions by controlling the performance of rights and duties in the whole social structure, beginning with adoption of political constitution based on the principles which would be applied in law making. This social structure includes political constitution and vital social economic institutions all of which define one's liberty and rights and influence his whole prospects.¹

This dual conception of justice is also uttered by Qutb. For Qutb, besides as an ethical concept, social justice is also a basis of social structure in Islam. Such is because without its practice in society justice is only a utopian concept. For Qutb, this structure of society could be formulated into two forms, i.e. political and economic framework.²

Hence, for a holistic explanation on the application of conception of justice in social structure it is easier if we organize this theme of social structure into political and economic structure. Political structure would be elucidated first since, according to Rawls, the effect of injustice in political system is far more serious and long lasting than market imperfection.³

The priority of political structure before economic structure is also admitted by Qutb. He says that the politics of governance should firstly be discussed owing to the

¹ Rawls, John, "Distributive Justice" [hereinafter "Distributive"] in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (3rd series), Oxford: Basil Blackwell (1967), 1969, pp. 61-62.

² Qutb, Sayyid, *Al-'AdÉlah al-IjtimÉ'iyah fÉ al-IslÉm* [hereinafter *Al-'AdÉlah*], 7th edition, Cairo: Dar al-Shuruq, 1980, p. 97; Qutb, Sayyid, *Social Justice in Islam* [hereinafter *Social Justice*], translated by John B. Hardie from the first edition (1949), trans. revised by Hamid Algar, Kuala Lumpur, Islamic Book Trust, 2000, p. 113. I will omit some mark of "p." to mention "page" in the footnote for the sake of simplicity.

³ Rawls, John, *A Theory of Justice* [hereinafter *Theory*], Cambridge: Harvard University Press, (1971), 1999, p. 199. I will also omit some mark of "p." to mention "page" in the footnote for the sake of simplicity.

fact that the politics of property would automatically follow it, and even it is its branch.¹

However, it should be noticed that both thinkers come from two different traditions of political thinking. The first originates from liberalism, so that it strives for enacting system of constitutional democracy; whereas the second derives from Islamic tradition, so that it strives for upholding Islamic system, even though it does not determined which kind of system would be parallelized in the modern world.

A. Political Structure

To maintain the endorsement of a just society, Rawls has his own view on the political structure should be built. His political structure is a modern democracy.² And in endorsing social justice, Rawls says that there are steps to undergo. He mentions four consecutive levels. The first is the *original position* in which the members of community will sign a kind of contract by agreeing the two principles of justice as their guidance.³ Having determined these principles they will continue to the next three levels –level of constitutional convention, legislative level, and judicial/administrative level—which will make them think in more detail on how a basic structure of a just society will be designed.⁴

Like Rawls who addresses his discussion of the just political structure to the modern society, Qutb also formulates his political structure to be applied also in modern time. Such is because the general objective of his writing *Social Justice in Islam* is to discuss Islamic value in modern society.⁵

¹ *Al-‘AdÉlah*, 205; *Social Justice*, 207.

² John Rawls, “The Basic Liberties and Their Priority” [hereinafter “Basic Liberties”], in Sterling M. McMurrin (ed.), *Liberty, Equality, and Law: Selected Tanner Lectures on Moral Philosophy*, Salt Lake City: University of Utah Press, 1987, p. 14.

³ On Rawls’s two principles of justice see Chapter II.

⁴ Here Rawls admit that those four steps are inspired by the Constitution of the United States of America and its history. *Theory*, p. 172, n. 1.

⁵ *Al-‘AdÉlah*, 21; *Social Justice*, 33 and 35.

Qutb's levels of political structure can be identified as four, that is level of agreement (*bay'ah*), constitutional, legislative, and executive/judicial.¹ *Level of agreement* means the level should be undergone before applying Islamic system of society. Here, political structure should be founded by the belief that Islam represents the universal system for the world (*al-nizÉm al- 'Élami al- 'Ém*). This agreement is important because Allah will not accept any other system.² Hence, Qutb proposes to go back to zero point or initial situation, which in Qutb's thought means to agree with Islam. Here, Qutb is also quite similar with Rawls. It is Rawls who calls for going back to initial situation; but it is he who also proposes the principles which will be agreed in the original position. Such is also in Qutb's thought. Although he calls for going back to the zero point, but there is already in hand an Islamic conception on justice. Hence, what proposed by both thinkers is not zero point per se, but zero point with each own conception of justice: the first is liberal conception and the second is Islamic.

According to Qutb, in this political structure Islam has its own independent system and cannot be compared to the Western phenomena. Islamic governance firstly based on Allah's sovereignty and then based on the justice of the authority, the obedience of the subject (who choose the authority and their obedience are based on the obedience of authority to Allah) and *shura* (mutual consultation) between the authority and the subject. Even though the personal privilege of the authority is restricted; he has wide authority to deal with the needs of the community.³

1. Constitutionalism and The Rule of Law

a. Rawls

Rawls says that justice in politics should begin with the justice of the constitution. A constitution is an end of political acts and a reference in making practical judgments. Therefore, constitution becomes a secure basis for inter citizen

¹ Qutb of course does not mention about those levels, he does, however, imply that. This explanation of levels is my understanding on Qutb's thought for pragmatic consideration to compare it to Rawls's.

² *Al- 'AdÉlah*, 102.

³ *Al- 'AdÉlah*, 97-112; *Social Justice*, 113-126.

relationship.¹ Here a Western Middle Age maxim that ‘what touches all concerns all’ should be taken seriously and be declared as public intention.²

For Rawls, political justice of constitution should contain two things: firstly, the constitution should be a just procedure satisfying the requirement of equal liberty; secondly, it should be framed so that all arrangements of justice would be feasible in the form of a just and effective system of legislation.³

In that constitutional regime, says Rawls, there are some important elements required:

- 1) Parliament. That is authority to determine basic social policies. It is a representative body elected for a limited term. It is elected by and responsible for the electorate. It is not only has a capacity for purely giving advices. It should have a power for legislating laws and not merely a hearing forum of executive’s explanation. It is also not political parties which merely appeal petition to the government for their own advantage. It is more likely as an institution the member of which proposing conception of public good.
- 2) General election. All adults, with certain exception, have rights to participate in politics. The precept is one elector one vote. Election is fair and free, and regularly performed. Sporadic and unpredictable examination of public sentiment like referendum, plebiscite or others, or something benefited only for the ruling power, is unaccepted.
- 3) Political freedom. There is a firm constitutional protection for certain liberties, especially freedom of speech and assembly, and freedom to make political association.
- 4) Opposition. The principle of loyal opposition is acknowledged. Clash of political conviction, conflict of interests and attitudes influencing such disagreements, are accepted as normal condition of human life. Lack of acclamation is a part of environment of justice, for disagreements are bound to exist even among the most honest people who want to follow similar political principles. Without such

¹ *Theory*, 193 and 205.

² *Theory*, 205.

³ *Theory*, 194.

conception of loyal opposition, and dependence to constitutional rules expressing and protecting it, democracy politics could not be performed accurately or constantly.¹ Nevertheless, opposition can only be tolerated if it is in the circumstances of liberty for all.²

Nonetheless, constitution is always imperfect procedure framed as far as the circumstances allow guaranteeing a just result. It is imperfect because there is no possible political process guaranteeing the laws enacted in conformity with it is just.³

Therefore, a just constitution should be based in many extents on the citizens and legislators adopting wide perspectives and accomplishing good politics in the application of the principles of justice.⁴

In applying a just constitution, citizens need another tool, i.e. rule of law.⁵ According to Rawls, institutional requirements and anything taken from social practices in general can be defined from the existing rules and how those rules are to be defined. As citizens our legal duties and obligations are settled by the law, as same as the players in a game are settled by the rules of the game.⁶

Rawls defines the rule of law as “a coercive order of public rules addressed to rational persons for the purpose of regulating their conduct and providing the framework for social cooperation.” And these rules are a basis for legitimate expectations of everyone in the framework of social cooperation.⁷

The rule of law also implies the precept that “similar cases be treated similarly,”⁸ that there is “no offense without a law” (*Nullum crimen sine lege*), and that there is natural justice containing the integrity, independency, rational, and impartiality.⁹

¹ *Theory*, 197.

² *Theory*, 203.

³ *Theory*, 311.

⁴ *Theory*, 317.

⁵ Law is different from constitution which is a main reference, before political processes. This rule of law is a product of political processes. By this, Rawls wants to elucidate that justice as regularity, i.e. the regular and impartial and fair administration of law. *Theory*, 207.

⁶ *Theory*, 306-7.

⁷ *Theory*, 207.

⁸ *Theory*, 208-9.

⁹ *Theory*, 210.

The relation between law and liberty is that law “is a complex of rights and duties defined by institutions”. Consequently, the subjects have a duty not to interfere each other. It will be vague and imprecise and the boundaries of our liberty are uncertain if, for example, the precept of “no crime without law” is violated. This is so because a law is a product of “the agreement of rational persons to establish for themselves the greatest equal liberty”.¹

Rawls believes the necessity of the coercive powers of government, so that they can guarantee the fruitful tax scheme and can be the interpreter of rules supported by collective sanctions. A public system of penalties is to remove “the grounds for thinking that others are not complying with the rules”. Thus, it “serves as men’s security to one another”.²

b. Qutb

Qutb says that the constitution highly uphold justice is the constitution based on Islam. Qutb believes that Islam enacted borders and guidance with which Muslims can only perform it without choosing anymore. Such is because it is based on the will of God who determines this religion (Islam). It means that the true constitution in the Islamic community is the texts, i.e. the Qur’an and the Sunnah.³

Hence, in Qutb’s conception, the nature of constitution as a secure basis, public intention, just and practical is second consideration after the texts.⁴ Nevertheless, Islamic conception itself guarantees security,⁵ considers public intention,⁶ upholds justice and practical.⁷ For within the borders and guidance of Islam there are societal good and individual good, with a highest dignity of life.⁸

¹ *Theory*, 210-11.

² *Theory*, 211.

³ *Al-‘AdÉlah*, 118, 108, and 106; *Social Justice*, 132, 122, and 120.

⁴ *Al-‘AdÉlah*, 159; *Social Justice*, 297.

⁵ *Al-‘AdÉlah*, 78; *Social Justice*, 90-1.

⁶ *Al-‘AdÉlah*, 159; *Social Justice*, 297.

⁷ *Al-‘AdÉlah*, 35; *Social Justice*, 47.

⁸ *Al-‘AdÉlah*, 118; *Social Justice*, 132.

Qutb likely says that Islam acknowledges parliament, general election, political liberty, and opposition. Even though, again should be stressed, that all those requirements are under the guidance of revelation and tradition of the Prophet.¹

According to Qutb, *shura* (mutual consultation) is a greatest system and institution determined by Islam. It is for human development that the interest and need of the *ummah* would determine its form whether it is parliamentary or not. Yet Qutb needs to emphasize that, whenever the texts were found to solve the problem, of course, in the very nature of the case “there was no room for consultation.”²

Qutb also admits general election. Islamic history told us that Muslim community had chosen a leader with election, although not in the form of ‘one elector one vote.’ Yet, again, Qutb stresses that the election could be aborted if the authority deviated from the Allah’s *Shari‘ah*.³

Concerning political freedom Qutb says that Muslim caliphs and kings always preserved liberty of opinions and aspirations coming from liberty of soul embraced by Islam into the heart of every Muslim, and absolute equality realized in every articulation and action. Nevertheless, all these should only be within the application of God’s Book or not in contradiction with it,⁴ not dangerous to the interests of society and individuals, also not in contradiction with this worthy aim of life.⁵ It does not mean that political life in Islam is very narrow, since life in Islam is very wide: *Everything that is not legally forbidden is perfectly permissible*.⁶

The concept of loyal opposition is also admitted by Qutb in order to maintain a just society. Qutb’s references here are such attitudes of Abu Bakr and ‘Umar. Qutb says that the recognition of opposition can be seen in the oration of Abu Bakr’s

¹ Qutb, Sayyid, *Al-Salam al-‘Alami wa al-Islam* [hereinafter *Al-Salam al-‘Alami*], Cairo: Dar al-Shuruq, 1980, 123.

² *Al-‘AdÉlah*, 108-9; *Social Justice*, 122-3.

³ Qutb says that an authority “occupies his position only by the completely and absolutely free choice of all Muslim; and they are not bound to elect him by any compact with his predecessor, nor likewise is there any necessity for the position to be hereditary in the family. ... When the Muslim community is no longer satisfied with him his office must lapse.” *Al-‘AdÉlah*, 107; *Social Justice*, 121-2.

⁴ *Al-‘AdÉlah*, 189 and 106; *Social Justice*, 192 and 121.

⁵ *Al-‘AdÉlah*, 34; *Social Justice*, 46.

⁶ *Al-‘AdÉlah*, 34; *Social Justice*, 47.

presidential address.¹ The acknowledgement of opposition can also be observed in ‘Umar’s gratitude to the one who will set him right if he deviates, even should be set by a sword.²

In the matter of consistency, Qutb also thinks that even if the constitution itself is perfect, it does not mean that the application will also perfect. It is because there is no guarantee for the realization of justice, for Islamic Law may possibly be deviated and covered by other things; judges, authorities, and everyone can every time be dishonest.³

Therefore, Qutb gives everything back to the conscience developed on the basis that Allah SWT is always present and the community always watches everything.⁴

In applying the constitution, Qutb needs the rule of law to maintain a just society.⁵ To Qutb, law is needed to arrange the relationship and life of a society and to organize its unity.⁶ For that, Islamic law attempts to unite human needs with social responsibility and prevent dangerous activities, since an Islamic state has absolute responsibility to the good of the *‘ummah* (Islamic community).⁷

Here, law means security for the subjects, individually and collectively. According to Qutb, Islamic principles of justice determine the precepts of social justice, guarantee security, safety and dignity of society,⁸ secure the rights of the least fortunate in the wealth of the most fortunate, and establish the rule of justice in the matters of law.⁹

According to Rawls, laws are a product of political process (man-made). To Qutb, meanwhile, they are two things: some are made by men (as political process)

¹ “Now O people, I have been made your ruler, though I am not the best among you. If I do what is right, support me. If I do what is wrong, set me right.” *Al-‘AdÉlah*, 209; *Social Justice*, 216.

² *Al-‘AdÉlah*, 189; *Social Justice*, 192.

³ *Al-‘AdÉlah*, 112; *Social Justice*, 126.

⁴ *Al-‘AdÉlah*, 112; *Social Justice*, 125-6.

⁵ *Al-‘AdÉlah*, 20; *Social Justice*, 32-3.

⁶ *Al-Salam al-‘Alami*, 160.

⁷ *Al-Salam al-‘Alami*, 163.

⁸ Among the textual evidences to support this statement Qutb quotes QS. 24:27; QS. 2:189; QS. 49:12; and a hadith saying on the sanctity of a Muslim (Narrated by al-Bukhari-Muslim); and QS. 5: 45. *Al-‘AdÉlah*, 110; *Social Justice*, 124. Yusuf Ali, 1011, 79, 1592, 298-9.

⁹ *Al-‘AdÉlah*, 20; *Social Justice*, 32-3.

and some are determined by Allah (as unchangeable *Shari'ah*). Also, it should be noticed that the one man made essentially could not oppose the *Shari'ah*.

Rawls argues that the existence of the rule of law as a form of justice in societal life is because the law is made by all. Qutb, in contrast, says that the law will be just if it is not made by anyone. The law is just because Allah made it.¹ Yet, the product of law is itself public, for Allah makes it public. To Qutb, in Islamic conception, Allah is the Greatest Law Giver and He has no reason to discriminate anyone or any group, for everyone is His-belongings equally. Every individual has the same rights and duties, and all are equal before the law.²

Qutb is also in opinion that humans are different from the perspective of their roles. In order to make a social unity, Islamic law plays a significant role to sustain the cooperation. And this cooperation acknowledges that its members are equal.³

Islamic rule of law also implies the precept that similar cases be treated similarly so that there is equality before the law. Qutb explains that the Prophet was always ready for *qis'as*-ing himself if there was someone who demanded it, except that the man forgave him; and that when a creditor of his came to him, he paid him. A ruler, therefore, has no extra privileges as regards the law, or as regards wealth.⁴

Like Rawls, Qutb also in opinion that the law should be public, not particular, either for privileges or for menace. About privileges, Qutb says that the law may not stop because of privileging any individual, origin, class, or any group.⁵ And about menace, Qutb says that “no ruler may oppress the souls or the bodies of Muslims, nor dare he infringe upon their sanctities, nor touch their wealth.”⁶

Concerning the precept of justice in law Qutb says that in applying the law in a correct way, Islam depends upon the clear code of the law, the soul of the judge, and the inspection of the community to the written law.⁷

¹ *Al-Salam al-'Alami*, 165; *Al-'AdÉlah*, 108; *Social Justice*, 123.

² *Al-Salam al-'Alami*, 165.

³ *Al-'AdÉlah*, 65, 29, and 14; *Social Justice*, 78, 41-2, and 27.

⁴ *Al-'AdÉlah*, 109-10; *Social Justice*, 123-4.

⁵ *Al-Salam al-'Alami*, 160-1; *Al-'Adalah*, 36; *Social Justice*, 49.

⁶ *Al-'AdÉlah*, 110; *Social Justice*, 124.

⁷ *Al-Salam al-'Alami*, 127.

Qutb implies that law is naturally for equal liberty between men. Islam declares that “mutual help cannot exist except on the basis of the safety of a man’s life, property, and honor”.¹ In addition, Qutb also illuminates an example of the birth of new law for the sake of this liberty. ‘Umar’s decision in executing *qisÉs* for a group of people because they jointly killed a man is concluded by Qutb as a policy to preserve blood and protect society.²

For Qutb the law should be coercive, and not voluntary. It can be seen in the obligation of *zakÉt* for the wealthy people. This obligation can be forced to fulfill, even by a war.³ This enforcement is important to secure the least advantaged.⁴ It is by such kind of law Islam secures the society.⁵ The enforcement itself, says Qutb, is not enough. It should be supported by public belief.⁶

As mentioned above, a society discussed by Qutb is an organic society, which means that responsibility is more significant than liberty. To Qutb, in a united society, if there is any evildoing spread out, it is obliged for everyone to protect this society.⁷ An example of protecting society is that the story of ‘Umar “poured out on the ground milk that had been adulterated with water, as a lesson to the man who had done it.” For Qutb this act is “akin to public interest, to show that people were not to adulterate goods.”⁸ Also, when saying about the importance of witness, Qutb says that it is for preserving the interest of the society. But this is also can be construed as preserving individual liberty, i.e. liberty to be treated justly.

¹ Qutb bases his view on a hadith, “Every Muslim is sacrosanct to every other Muslim, his blood, his honor, and his property.” (Narrated by al-Bukhari-Muslim). *Al-‘AdÉlah*, 77; *Social Justice*, 90.

² *Al-‘AdÉlah*, 160; *Social Justice*, 298-9.

³ *Al-‘AdÉlah*, 114; *Social Justice*, 128.

⁴ *Al-‘AdÉlah*, 54; *Social Justice*, 66-7.

⁵ *Al-Salam al-‘Alami*, 117.

⁶ *Al-‘AdÉlah*, 269; *Social Justice*, 285.

⁷ *Al-‘AdÉlah*, 74; *Social Justice*, 87.

⁸ *Al-‘AdÉlah*, 160; *Social Justice*, 298.

2. Participation

a. Rawls

Participation is very important in Rawls's political thinking of justice. The aim of this principle of participation is to convince that the government respects the rights and prosperity of its subjects (citizens).¹

For Rawls, participation in political life does not make individual master of himself, rather it gives him an equal voice together with others in handling how basic social conditions are to be arranged. So, everyone is required to moderate his claims by what everyone is able to recognize as just. 'The public will' to consult and to consider everyone's belief puts the foundations for civic friendship and forms the ethos of political culture. Hence, it is to enhance the self-esteem and the sense of political competence of the average citizen.²

Therefore, participation is an amusing activity that brings the participants to the wider conception of society and their own development of intellectual and moral faculties. Political life, however, is guided by the conception of justice and public good rather than by private interests. Technically, having explained and justified his views to others, a participant should call to the principles which can be accepted by others. Hence, his obedience is not only a manifestation of the will to obey to the law and government, but affirmed by a sense of duty and political obligation. Without this inclusive sentiment people is only a stranger and isolated in their small association such as family and friends.³

Such is because participation shows the existence of law commonly enacted in order to rule out the shared problems. Divine Law is not acknowledged in Rawls's conception, since for him a just law should emerge from a social contract. Hence, to Rawls, it is fair to obey to what has been commonly formulated, for everyone is the maker of the common rule. Everyone is equal, therefore it is just.

¹ *Theory*, 202.

² *Theory*, 205.

³ *Theory*, 205-6.

In short, the principle of equal liberty, when applied to political procedure defined by constitution is the principle of (equal) participation. It requires that all citizens have the same rights to participate in, and determine the results of, the constitutional process that enacts laws with which they are to comply.¹

Rawls suggests that system of constitutional democracy is very suitable to satisfy the principle of participation. This system can bear parliament, general election, political freedom and opposition which are phenomenal signs of the principle of participation.²

The principle of participation also establishes that all citizens have the same access, at least formally, to the public office. Everyone has a right to joint political parties, to attempt to be elected in a position, and to hold certain authority. All is addressed for they who adults and normal without unfair discrimination.³

Furthermore, on the worth of political liberty, Rawls says that constitution should take steps to augment the value of the equal rights of participation for all members of society. It must guarantee a fair opportunity to take part in and to influence the political process. All should be done irrespective of their economic and social class.⁴

Public forum should be free and open to all. Everyone has a right to use it, for all citizens have rights to get information about political issues. They should have a fair chance to propose and select political agenda for discussion.⁵

Political procedure as far as possible should be impartial. Political parties are to be independent of private economic interests, for example by giving fair money to every party. In addition, political parties may also not to take advantage for gerrymandering, for instance by adjusting boundaries to their political advantage.⁶

For this principle of participation Rawls concludes that a just constitution arranges a fair form of competition for political office and authority. Representatives,

¹ *Theory*, 194.

² *Theory*, 195.

³ *Theory*, 197.

⁴ *Theory*, 197.

⁵ *Theory*, 198.

⁶ *Theory*, 196-8.

then, should represent their constituents in a substantive sense: they must seek first to pass just and effective legislation, then must propose their constituents' other interests insofar as these are consistent with justice. And these representatives are those who were elected based on criteria of principles of justice.¹

Again, however, Rawls states that his principle of participation is applied to the institutions, and not to the individuals. Therefore, this principle does not mean to suggest that everyone should be active in politics. What important for Rawls is that this principle orders that constitution must develop equal rights to be involved in public affairs and measurements must be determined to maintain a fair value of political liberties.²

Even though liberty is the most important point of Rawls's thought, for stability of social politics however, it is also very vital to restrict political liberty. To this Rawls proposes some considerations to confine political liberty. One of the considerations is that restriction of political liberty should be done by a consideration that not doing it will injure public order of which the government should maintain. This rationale should be based on evidences and ways of thinking accepted by all.³

To restrict this participation Rawls still emphasizes to liberty. He says that, "the inequality of right would be accepted by the less favored in return for the greater protection of their other liberties that results from this restriction."⁴

Addressing to the political practices, Rawls mentions traditional devices of constitutionalism which can restrict the scope of the principle of participation, i.e. bicameral legislative, separation of powers in line with checks and balances, rule of law with judicial review.⁵

¹ *Theory*, 199-200.

² *Theory*, 200.

³ *Theory*, 187.

⁴ *Theory*, 203.

⁵ *Theory*, 197.

b. Qutb

In attempting to realize political justice, Qutb requires the acknowledgement of participation of all citizens so that there will be no regret if any undesirable things prevail.¹ Such is because in Islam there is equality of right among the citizens,² including the right to monitor the management of political life.³

Qutb also emphasizes equal voice of the citizens in order to manage public affairs.⁴ In order to equalize this voice there must be a prevention of influence of economic inequality into political life, for everyone must enjoy the same justice, and there is no discrimination between the most fortunate owing to the genealogy and wealth, money and office and the least fortunate.⁵

Qutb underlines that Islam accentuates the satisfaction of conscience when it enacts its *Shari'ah*, and in that enactment Islam is in line with the secure basis of society and the limits of general ability belonged by most of humankind. Here its sense of duty is Islam itself with which Muslims should comply and to which people should be called, for Islam is in accordance with humanity.⁶

The importance of equal political liberty is also heightened by Qutb. He says that the attempts of the Muslim caliphs and kings in the history to preserve freedom of opinion and aspiration sourced from freedom of soul implanted by Islam into the conscience of every Muslim should always be maintained in public life.⁷ Such is because that the target of societal life is not only to reach primary needs of life, it should also make life beautiful and honorable, and then enjoy the beauty and the honor, and thank God for everything He gives us.⁸

¹ *Al-Salam al-'Alami*, 123.

² *Social Justice*, 117.

³ *Al-'AdÉlah*, 213; *Social Justice*, 220.

⁴ *Social Justice*, 117.

⁵ Therefore Qutb agrees with Abu Bakr's presidential address to be the first caliph: "The weaker among you shall in my eyes be the stronger, until, if Allah will, I have redressed his wrong; the stronger in my eyes shall be the weaker, until, if Allah will, I have enforced justice upon him." *Al-'AdÉlah*, 105 and 209; *Social Justice*, 120 and 216.

⁶ *Al-'AdÉlah*, 96; *Social Justice*, 111.

⁷ *Al-'AdÉlah*, 189; *Social Justice*, 192.

⁸ *Al-'AdÉlah*, 154; *Social Justice*, 165.

Qutb connects political justice with law. The difference is that Rawls says that law is a product of participation, whereas Qutb says that law is God's order.¹ In other words, for Rawls law is just because it is made by all, whereas for Qutb it is just because nobody makes it. For Qutb the law of God is the truth because it is beyond human failure. Qutb believes that Islam establishes limitations and bounds by which Muslims can only perform them without any thinking of choice.²

Yet Qutb's system of politics is not rigid. There is plenty of room for humans to live with their own reasons. But a just public authority is really needed to arrange social justice. In mentioning public authority, Qutb calls it as an *Imam* (leader). Here everything threatens the *'ummah*, in any form, the *Imam* obligatorily should put it away; and everything benefits them, he should also realize it, with something to note that it is not contradict with religious texts (the *Shari'ah*).³

The question, then, is where is the principle of participation in Islamic political life as mentioned above? Qutb's answer most probably is that the matters under human examination are the things undetermined the exact judgment by religious texts. Here human ability is given a wide determination and let those things open to judge.⁴ The mechanism is a system of *shura* (mutual consultation), the mode of which is open by following the age matched with the interests and needs of the *ummah*.⁵

Nevertheless, Qutb needs to emphasize that political system suitable for justice is Islamic political system. Qutb's view on the most suitable political system to be applied is not based on inductive logic as Rawls: that system of constitutional democracy is suitable because it satisfies the principle of participation, therefore politically just. Qutb takes a deductive way that if the political system is Islam it is unquestionably just because it is made by Allah, The Most Just. The reason of participation is only second reason to strengthen the position of Islamic political

¹ *Al-Salam al-'Alami*, 123.

² *Al-'AdÉlah*, 118; *Social Justice*, 132.

³ *Al-'AdÉlah*, 111; *Social Justice*, 125.

⁴ *Social Justice*, 125.

⁵ *Al-'AdÉlah*, 108; *Social Justice*, 122-3.

system. Such is because Islam is the long lasting universal system, including for the future of humankind.¹

Concerning equal access for public office, Qutb says that different color, race,² religion or language is not the reason for anyone in any community to be hindered to release his potentials for the sake of common good.³ Qutb shows that in their history Muslims let some positions of governor of their liberated lands to be in the natives if they embraced Islam. The principle of participation is acknowledged by Islam, but for the office related to a state government, non-Muslims are exempt from the fair competition to hold it.⁴ Such is because the political system developed is based on religion, i.e. Islam.

Participation is not only hindered by religion. Qutb sadly says that there were also hereditary successions in Islamic history. He says that Mu‘awiyah of the Umayyads had begun to institutionalize a new system of political theory including the idea of hereditary succession and forced the people to accept it. For Qutb, the change of successive way into this kind is certainly stab the Islamic heart itself, ruins its system, and turns it from the right track.⁵

In terms of political participation Qutb also stresses that there must be a fair equality of opportunity to influence political processes. It can be seen from Qutb’s approval to the statements of Abu Bakr and ‘Umar to be ready to be criticized from anyone in order to straighten the way if there is deviation,⁶ even if should be corrected by a sword.⁷

¹ *Al-‘AdÉlah*, 97 and 102; *Social Justice*, 113 and 118.

² Concerning the issue on the outstanding tribe in the Arab world that it is the Quraish to hold Islamic leaders, Qutb says that the principles and the spirit of Islam does not request that it is the Quraish who should be placed more advent office than those other Muslims, for the Prophet himself says: “*Whoever slows in work, he will not be supported by his genealogy.*” (Narrated by Muslim, Abu Dawud and al-Tirmidhi). *Al-‘AdÉlah*, 206.

³ *Al-‘AdÉlah*, 199; *Social Justice*, 201.

⁴ *Al-‘AdÉlah*, 199; *Social Justice*, 200.

⁵ Qutb admits that he elucidates the problem of succession in Islamic history in order to sterilize Islamic purity in the principles and spirit from the viruses of the idea of hereditary succession, in order that idea of Islamic governance and authority resanitized. *Al-‘AdÉlah*, 209; *Social Justice*, 215-16.

⁶ *Al-‘AdÉlah*, 209; *Social Justice*, 216.

⁷ *Al-‘AdÉlah*, 189; *Social Justice*, 192.

Rawls says that multi-party system is very suitable for the principle of participation. Qutb, meanwhile, has a doubt about such system. Something doubtful about it is that the system leans to materialism and class conflict.¹ Generally, however, Qutb is in opinion that any procedure can be performed by individuals or community by requirements that it is for the good.² Therefore, if the system of party politics aims at common good, individually and socially, it seems that Qutb is not in opposition to accept it. For at the first place Qutb clearly approves the participation of the subject in leading the operation of government.³ He only denies the system practiced in the West.

Like Rawls who calls for restriction of liberty, Qutb also has the same basis of thought. The difference is that for Rawls the restriction is for protection of liberty, for Qutb, however, it is for the sake of social responsibility. According to Qutb, life could not possibly be maintained if every individual wants to enjoy absolute liberty without borders and limits.⁴

Concerning political means which can delineate the scope of the principle of participation, Qutb implies that Islam acknowledges legislative institution, separation of powers, rules of law with judicial review to the matters clearly not described by the religious texts. Judicial review, for example, can be seen in Ali's decision to change 'UthmÉn's policy giving public monies to his family into a system of equality in stipends.⁵

3. Political Obligation

a. Rawls

We have discussed political rights in the part of constitutionalism and the principle of participation. To make it short, however, it can be inferred that political rights in a just society are rights to choose and hold political offices, rights to be free

¹ *Al-Salam al-'Alami*, 104.

² *Al-'AdÉlah*, 96.

³ *Al-'AdÉlah*, 112; *Social Justice*, 125-6.

⁴ *Al-'AdÉlah*, 67; *Social Justice*, 79-80.

⁵ *Al-'AdÉlah*, 234; *Social Justice*, 245.

in expressing political idea and activities, rights to arrange the course of public affairs, and rights to be loyal opposition. The rest to discuss, then, is about political duty and obligation.

It is likely better to expose Rawls's conception on such key terms here as obligation, right and duty. But Rawls himself avoid defining those terms.¹ He only constructs those terms in his conception of social justice. He always relates those terms with his idea of the principles acknowledged in the original position. 'Right,' for example, is rights chosen by the parties in the original position.² To differentiate between 'duty' and 'obligation' Rawls states the following, "we have a natural duty to comply with the constitution, say, or with the basic laws regulating property (assuming them to be just), whereas we have an obligation to carry out the duties of an office that we have succeeded in winning, or to follow the rules of associations or activities that we have joined."³

According to Rawls, there are two sources of obligation why we should live politically. The first is from the natural duty or from being political animal and the second is from the principle of fairness or from being part of the games of life. 'Natural duty' is the primary principle of political duty for the citizens generally, the principle of fairness, however, takes the second role, i.e. the political role as expressed by institutions or offices.⁴

For Rawls, natural duty is a moral duty of every man. This moral duty is not an obligation from heaven, but it is a duty based on the interests of everyone's involved in political life. Therefore, it is not coming from merely an obligation; it is coming from a right.⁵ It is a thought based on the original position, based on the initial interests of everyone behind the veil of ignorance.

¹ On his avoidance of defining the terms Rawls says that: "There is no necessity to say that sameness of meaning holds between the word "right" (and its relatives) in its ordinary use and the more elaborate locutions needed to express this ideal contractarian concept of right." *Theory*, 95.

² On his concept of right, Rawls says, "the concept of something's being right is the same as, or better, may be replaced by, the concept of its being in accordance with the principles that in the original position would be acknowledged to apply to things of its kind." *Theory*, 95.

³ *Theory*, 302.

⁴ *Theory*, 310, n. 13.

⁵ *Theory*, 296.

Natural duties mentioned by Rawls are natural duty of justice, of mutual respect, and of mutual aid. The second and the third natural duties are explained in the previous chapter, under the heading of the principle of reciprocity. The rest to discuss, then, is the natural duty of justice.

The first natural duty is a duty to uphold and maintain just institutions. This duty has two parts: first, we should comply with and participate in just institutions when they exist and apply to us; and second, we should help to establish just arrangements when they do not exist.¹

Furthermore, for a contractual duty (an obligation), Rawls takes the legitimation from the principle of fairness. The requirements of this principle of fairness are that we should do it voluntarily and that the institution should be just. The absent of these two affects the absent of political obligation.²

According to Rawls, it is true that the better-situated members of society are more likely to have political obligations as different from political duties. For, they could gain political office and take advantage of the opportunities offered by the constitutional system. They are, therefore, bound even more tightly to the scheme of just institutions. Such is because political obligation emerges when everyone takes each part voluntarily, which then should follow the determined rules of the game. It is what required by the principle of fairness, the principle of preserving equal liberty and stabilizing cooperative agreements for mutual advantage. This principle is consistent with freedom of choice.³

In other words, freedom of choice means that everyone is ready to take the risk. That is, that when some people have assumed favored offices and positions, or they have taken advantage of certain opportunities to further their interests, it is obliged for them to do their part by the principle of fairness.⁴

Should we comply with unjust law? We should, says Rawls, for it is still important for citizens to comply with the existing order to preserve the stability.

¹ *Theory*, 293-4.

² *Theory*, 301.

³ *Theory*, 302-6.

⁴ *Theory*, 308.

Hence, our natural duty to uphold just institutions binds us to comply with unjust laws and policies, or at least not to oppose such laws by illegal ways provided that the laws do not cross the certain limits of injustice. We are required to uphold a just constitution; therefore, we are also to be in line with one of its essential principles, the majority rule.¹

Here Rawls wants to emphasize that the importance of democratic authority is equal share in inevitably imperfect constitutional system. Democracy is man's made which has certain limitations. Nevertheless, he says that we should trust it as binding, preventing our liability to break down in political life.²

b. Qutb

According to Qutb, why we should take a political life, because we should perform Islam. And why we should perform Islam, because Islam is in conformity with natural rules, which here means human nature (*fitrah*).³

Talking about Qutb's terms in political obligation, we could find that he avoids to be clearly defined. But we could find it in the construction of his idea. On 'right', for example, he prefers rights of society (*huquq li al-jama'ah*) rather than individual rights.⁴ It may be because his conception of social justice is based on Islamic, organic society. On 'duty', Qutb defines it more as natural duties (*qawÉ'id al-khalqiyah*) done by everyone like preventing injury to men and emphasizing the need for mutual help between all men.⁵ On 'obligation' (*al-wajibat*), Qutb focuses more to the obligation of a ruler.⁶

To Qutb, the right and obligation of political life are known by Islamic laws. So the unity of human ends is not happened on the level of thought behind the veil of ignorance like Rawls, but it is known by the religious laws. Like Rawls, Qutb also

¹ *Theory*, 308 and 311.

² *Theory*, 312.

³ *Al-'AdÉlah*, 79-80; *Social Justice*, 92.

⁴ *Al-'AdÉlah*, 80.

⁵ *Al-'AdÉlah*, 133; *Social Justice*, 147.

⁶ *Al-'AdÉlah*, 110.

bases political obligation on natural duties (*qawÉ'id al-khalqiyah*).¹ For Qutb, political obligations are a duty to be just, a duty to respect each other,² a duty to have mutual aid (*ta'Éwun*) between humans,³ and a duty to serve (*khidmah*) the society.⁴ Here we see the difference between Rawls and Qutb. Qutb adds the duty to serve the society which is, of course, coming not from the principle of right, but from the principle of responsibility. Whereas, as mentioned above, natural duties of politics for Rawls are only a duty to uphold just institutions, a duty of mutual respect, and a duty of mutual aid. For the aim of parallelism however, Qutb's duty of service will keep aside in this writing. And because that the two mutual duties had already been discussed in the previous chapter, there is no need here to make a repetition.

Qutb states that Islam obliges its adherents (*'ummah*) to be just.⁵ That is, to be just for all humans⁶ both to each own family⁷ and even to the enemy.⁸ Then, whenever anyone meets social damage and its chain, he must cut the chain and sweep the damage away.⁹ To be just, here, means to be ready to uphold just institutions.

It is likely that an obligation coming from the principle of fairness is also in Qutb's framework. The principle of fairness is coming from the principle of mutuality and responsibility. He says that Islam envisages for individuals the duties that differ one from another, but all are mutually connected and ordered.¹⁰ Here, someone who wants to be an authority should be ready for taking the responsibility.¹¹

Hence, in Islam, an authority is not an authority per se; he is also someone who must be responsible for the application of Islamic law. An authority definitely has no

¹ *Al-'AdÉlah*, 133; *Social Justice*, 147.

² *Social Justice*, 285.

³ *Al-'AdÉlah*, 133; *Social Justice*, 147.

⁴ *Al-'AdÉlah*, 79-80; *Social Justice*, 92.

⁵ Here Qutb quotes QS. 16: 90. *Al-'AdÉlah*, 105; *Social Justice*, 120; Yusuf Ali, 760.

⁶ To this extent a verse to quote by Qutb is QS. 4: 58. *Al-'AdÉlah*, 105; *Social Justice*, 120; Yusuf Ali, 228.

⁷ For this Qutb quotes QS. 6: 152. *Al-'AdÉlah*, 105; *Social Justice*, 120; Yusuf Ali, 390.

⁸ Here a verse quoted by Qutb is QS. 5: 8. *Al-'AdÉlah*, 105; *Social Justice*, 120; Yusuf Ali, 283.

⁹ *Social Justice*, 285.

¹⁰ *Al-'AdÉlah*, 65; *Social Justice*, 78.

¹¹ Here Qutb identifies Caliph 'Umar's presidential address as Islamic attitude: "You people have certain rights and duties to me, so please help me to perform those. You must see that I do not exact from you any tax or anything of what Allah has given you, except that which He allows. You must see that when I have control of the money nothing should be spent improperly. You must see that I do not keep you too long in posts of danger, or detain you unreasonably on the frontiers; for when you are away on military service I must be the father of your families." *Al-'AdÉlah*, 211; *Social Justice*, 218.

prerogative rights in penal matters and also has not in matters of property, and his family also has no rights except what their own like other Muslims.¹

Consequently, if there is someone violating the obligation, it is fair then to be dethroned, for the aim to elect an authority is to erect just institutions. Here Qutb gives an illustration of Caliph ‘Umar’s policy to depose his governors who were too busy in managing their properties so that mixed with public monies. To Qutb, this policy of deposing is a form of public interest (*al-maslahah al-mursÉlah*) because it was the interests of the governors to prevent them capitalizing on their power to amass money and heap up illegal plunder.²

Hence, to hold an office is to have its rights and duties, and this regulation is for everyone who holds it. Therefore, it is coming from the principle of fairness.³ Such is because, for Qutb, every right carries a corresponding responsibility in Islam.⁴

Therefore, the precept to quote here is that “a bigger power carries a bigger obligation.” In Islam, says Qutb, “no ruler may oppress the souls or the bodies of Muslims, nor dare he infringe upon their sanctities, nor touch their wealth.”⁵ Furthermore Qutb says that Abu Bakr always held himself responsible for the needs of every individual among his flock. To Qutb, this attitude is coming from a spirit implanted by Islam upon both ruler and ruled, and by a keen moral perception that it kindles in the conscience of all Muslims.⁶

Rawls says that we should comply with the law or majority rule, even though the result is not just. Here we can compare it to Qutb when he examines the succession of early caliphs.⁷ From this historical evidence Qutb concludes that the

¹ *Al-‘AdÉlah*, 109-10; *Social Justice*, 123-4.

² *Al-‘AdÉlah*, 160; *Social Justice*, 298.

³ To this Qutb, again, agrees with ‘Umar’s statement: “The property of Allah has the same standing with me as that of an orphan; if I have no need of it, I will leave it untouched, and if I need it, I will take only what is right.” *Al-‘AdÉlah*, 211; *Social Justice*, 218.

⁴ *Al-‘AdÉlah*, 127; *Social Justice*, 142.

⁵ *Al-‘AdÉlah*, 110; *Social Justice*, 124.

⁶ *Al-‘AdÉlah*, 210; *Social Justice*, 217.

⁷ In case of ignoring Ali in electing a caliph after ‘Umar, Qutb says that “this same neglect had a certain value as a practical illustration of Islamic political theory Thus, although the great Imam personally suffered an injustice in this way, yet the emphasis on the preceding fact was from every point of view infinitely more important.” *Al-‘AdÉlah*, 207; *Social Justice*, 209.

absolute will of Muslims is the only basis for governance. For individual interest cannot everlastingly be detached from societal interest.¹

By this Qutb admits that majority decision can sometimes be unjust if it is seen from personal point of view. But because the consideration that the *ummah* should be united, whatever the decision, as long as within permitted limits, can be accepted. So, even in regard to the choice of forms of government Qutb leave this to the interest and need of the *ummah* to decide and this can be in line with the development of age.²

4. Legitimation

a. Rawls

There are two legitimations for the idea of justice as fairness in the field of politics. The first is intuitive coming from common sense and common experience and the second is common legitimation or what he calls as overlapping consensus.

Firstly, to legitimize his just political structure Rawls proposes common thought and experience. He takes historical evidence of inter-religious conflict into consideration. This conflict had brought the secular idea of tolerance into political account.³ Here, historical evidence can legitimize political rules.

Secondly, legitimation can also come from consensus, in Rawls's term, 'overlapping consensus'. It is this kind of overlapping consensus which is an inevitable condition for developing a just society.⁴

In this overlapping consensus, says Rawls, there is a common agreement on the good commonly wanted or what he calls as 'the thin theory of the good.' It can be contrasted with 'the thick theory of the good' which is belonged by almost all comprehensive doctrines having theory of good for almost every conduct, including ethics, art, and so on. The difference of moral conception between the thin and the thick is merely a matter of scope. For the first, the scope is purely political, whereas

¹ *Al-AdÉlah*, 131; *Social Justice*, 146.

² *Al-AdÉlah*, 108; *Social Justice*, 123.

³ Rawls, John, *Political Liberalism*, New York: Columbia University Press, 1993, p. xviii.

⁴ Rawls, John, "The Domain of the Political and Overlapping Consensus" [hereinafter "Domain"], in Robert E. Goodin and Philip Pettit (eds.), *Contemporary Political Philosophy: An Anthology*, Oxford: Blackwell, 1997, p. 277.

the latter includes value conceptions in human life, the pursuit of happiness, and personal character, including non-political conduct (or our entire life).¹

In his further explanation Rawls says that the consensus is not an amalgamation of innate ideas of comprehensive doctrines. It is rather something understood as commonly needed by all comprehensive doctrines. Here, then, Rawls mentions his idea on political liberalism as an effort to articulate a conception of political justice which “can gain the support of a diversity of comprehensive doctrines”.²

Finally, by this idea Rawls proposes such liberal values as liberty, autonomy, equality and justice as a consensus in ordering basic social structure of society. Therefore, in political domain, comprehensive doctrines do not play any role. Here the only comprehensive doctrine to comply with is the doctrine of liberal justice.³ All comprehensive doctrines should follow this liberal justice; otherwise the doctrine is unreasonable because of contradicting each other. Rawls gives an example on a Christian doctrine saying that outside the Church there is no salvation (*Extra ecclesiam nulla salus*) as popularized by Thomas Aquinas. This doctrine states that a constitutional regime, guaranteeing religious freedom, cannot be accepted. And if this doctrine is accepted, it means that the authority can use the public’s political power to enforce it. Meanwhile, the power itself is the equal share of citizens. Also, the constitution hold by a society is an amalgamation of different values. Hence, religious doctrines, as other philosophical or moral doctrines, cannot be accepted in the public domain.⁴

By the above reasons Rawls wants to explain that legitimation of his conception of justice is based on the consideration that political domain is different from other domains. Here he is almost in line with mechanistic thought of Machiavelli seeing that political domain has its own laws. The difference is that while Machiavelli says that we should follow the political law which is mostly

¹ “Domain,” 276-277.

² “Domain,” 277.

³ Swift, Adam, *Political Philosophy: A Beginner’s Guide for Students and Politicians*, Cambridge: Polity Press, 2001, p. 100.

⁴ “Domain,” 278.

competition of power, without moral involvement;¹ Rawls says that we should uphold certain neutral political morality, from which everyone can take advantage.²

By this overlapping consensus Rawls proposes another term: public reason. By this public reason, Rawls says that political condition is belonged together because coming from common interest. It is the public reason which designs a government assumed to aim at the common good, maintains conditions and achieves objectives that are similarly to the advantage of everyone.³ Inevitably, by the idea of public reason, Rawls is in favor of the majority rule⁴

According to Rawls, the principle of majority rule can be accepted if everyone has a sense of justice, so that it can form a common conception of justice. If this agreement does not exist, the majority principle is difficult to be justified, for it is impossible to produce just policies.⁵

For further justification on the majority rule Rawls gives an illustration of a ship with its full passengers commonly wish to arrive safely. This illustration brings Rawls to a conclusion that “plural voting may be perfectly just.”⁶

In addition, Rawls also justifies majority rule by negative argument, that is, “if minority rule is allowed, there is no obvious criterion to select which one is to decide and equality is violated”. For Rawls, it is the naturalness of majority rule.⁷

To Rawls, majority rule also assigns that it is conducted after discussions among many persons. And this is more likely to arrive at the correct conclusion than the deliberation of any one of them by himself.⁸

The most important thing for Rawls is that majority rule is in conformity with the principle of equal liberty, the greatest principle of social justice.⁹

¹ Schmandt, Henry J., *A History of Political Philosophy*, Milwaukee: The Bruce Publishing Company, 1960, pp. 247-8.

² *Theory*, 13.

³ *Theory*, 205.

⁴ *Theory*, 197.

⁵ *Theory*, 203.

⁶ *Theory*, 205.

⁷ *Theory*, 313.

⁸ *Theory*, 315.

⁹ *Theory*, 313.

Rawls, however, differentiates between procedure and substance. Majority rule is only a procedure, while justice is a substance. This is because by majority rule, the majority has a constitutional right to make law, although it does not imply that the laws enacted are just.¹

For Rawls, even as a procedure the principle of majority should satisfy the conditions of the background of justice. The conditions to this extent are political liberties (freedom of speech and assembly, freedom to take part in public affairs and to influence by constitutional means the course of legislation) and the guarantee of the fair value of these liberties.²

Besides, the principle of majority should also begin with a discussion ideally done by many people. Such is because the exchange of opinion with others could check our partiality and widen our perspective.³

Now let us talk about Rawls's opinion that the majority rule is a procedure and that justice is a substance as mentioned above. For this Rawls shows the difference between markets and elections. To him, markets follow "the relative intensity of desire" and elections, on the other hand, are for public interest based on justice. To this Rawls concludes that "certainly economic theory does not fit the ideal procedure."⁴

Thus, the majority rule in politics does not follow the desire of interest. For in political justice, every legal thing should conform to the principles of justice. Collective judgment in politics, then, is to apply the correct principles. To this effect, "the intensity of desire or the strength of conviction is irrelevant when questions of justice arise."⁵

Rawls proposes that the majority rule is adopted as the most possible way to realize certain objectives, provided that it is antecedently defined by the principles of

¹ *Theory*, 313.

² The conditions are so significant that Rawls should emphasize "when this background is absent, the first principle of justice is not satisfied; yet even when it is present, there is no assurance that just legislation will be enacted". *Theory*, 313.

³ *Theory*, 315.

⁴ *Theory*, 316-7.

⁵ *Theory*, 317-8.

justice. If the laws chosen are within the domain reasonably agreed by rational legislators conscientiously trying to follow the principles of justice, says Rawls, “then the decision of the majority is practically authoritative, though not definitive.”¹

b. Qutb

It is worthy to note that Qutb is in opinion that Islam and human nature is absolutely compatible. Therefore, in need of legitimation of political justice Qutb also refers to the conformity of both. By this, there is no idea of overlapping consensus as Rawls’s in the matter of legitimation. For Qutb, human nature, including its intuition, is what explained by Islam and that Islam is human nature itself. Qutb says that Islam based on human conscience and a system of law so that it can establish comprehensive human justice.²

The system of law is Islamic law (*Shari‘ah*) taken from the revelation and the tradition of the Prophet. And the conscience is the one educated by Islam which is of course based on the religious texts.³

By seeing that the legitimation is an overlapping consensus in Rawls and Islam in Qutb it can be defined that Rawls represents a diachronic process and Qutb a synchronic one. That is, Rawls shows that legitimation is an historical process and a product of amalgamation between the members of society; whereas Qutb only takes the existing structure of Islam.⁴

In a negative sense, it seems that Qutb represents Islam as something stagnant and old-fashioned. However, we can see in another Qutb’s statement that Islam is not only suitable for the past, but also match for today and the future. Consequently, Islam is always suitable with human nature, including their inventions.⁵ Here, it is

¹ *Theory*, 318.

² *Al-‘AdÉlah*, 84; *Social Justice*, 97.

³ *Al-‘AdÉlah*, 83; *Social Justice*, 96.

⁴ Both phenomena of thought proves the explanation of Hassan Hanafi that the phenomena of European consciousness is built within history, upon a time, and on a place, has no initial subject and always changing; whereas the phenomena of Islamic consciousness is already in-hand from the beginning, so that there is no need to change. Hanafi, Hasan, *Muqaddimah fi ‘Ilm al-Istighrab*, Cairo: al-Mu’assasah al-Jami‘iyah al-Dirasat wa al-Nashr wa al-Tawabi’, 1991, p. 99.

⁵ *Al-‘AdÉlah*, 247.

clear that Islam has no need to change its own convictions, for it has long lasting doctrines.

Rawls says that common thought and experience are sources of legitimation to the social order developed for justice. He takes history of inter-religious conflict as a reason for legitimating his secular state. In Qutb, however, social conflict to consider is not inter-religious one –most probably because his theory is for Islamic-based state—but inter-class one. The reason why social conflict based on class consciousness should be considered more is that this conflict has brought about the divisions of society, especially in non-Muslim society. Such is because these societies are exceedingly dedicated to materialism and have not any honorable aim.¹

To Qutb, a comprehensive safety of society does not exist because of sacrificing either individuals or society. It can be realized for the advantage of all. Islam enforces laws representing both individuals and society and its impact is dedicated to the absolute justice. Islamic laws do not choose certain individuals or certain class, so that it is free from any prejudice related to such things as vested interests. The truth is that it is aimed at protecting its adherents from social conflict as it haunts non-Muslim societies.²

Such is because an ideal society developed by Qutb is an Islamic society. The question for Qutb, then, is the way that society agrees to his conception. Here he should need Islam as the authority. Without authority, it seems that Islamic society will not be formed. It is hard to imagine, how a plural society, especially its plurality in religion, takes the ideals of Islamic order as understood by Qutb.

Indeed, Qutb admits that Islam “grants to men the utmost freedom and protection to continue in their own religious beliefs”.³ That Islam is certainly based on humanity; no difference is made between one religion and another when it is in the matters of human needs in general.⁴

¹ *Al-Salam al-'Alami*, 104.

² *Al-Salam al-'Alami*, 104.

³ *Al-'AdÉlah*, 103; *Social Justice*, 118.

⁴ *Al-'AdÉlah*, 200; *Social Justice*, 201. See also *Social Justice*, 117.

Its public order, however, should always be in the influence of Islamic doctrines. By this, Islam in Qutb's thought has twofold: as a social order and a comprehensive doctrine. To owe Rawls's terms, Islam is "a thin theory of the good" as well as "a thick theory of the good" at the same time. Islam is not only a consensus of society idealized for the common good, but it is also a doctrine for such various fields of life as religion, art, morality, and so on. The scope of the first is merely political; whereas the second includes conceptions of value in human life, the ideals of virtue and personal character, and non-political conducts (or our entire life). The first is for all citizens in Islamic state, and the second is for only Muslims. Concerning this Qutb gives an example of paying taxes for all citizens. The duty of paying the *zakĀt* is for Muslims alone, while for non-Muslims the duty is only paying the poll tax (*jizyah*).¹

Islam becomes "a thin theory of the good" because that social security passes "beyond the limits of the purely Islamic world and was applied to mankind in general."² By Islam, then, social security is universal.

Nevertheless, Qutb refuses to admit that Islamic government is a theocracy. Theocracy as always accused by the West that the king is the holder of divine right (*al-haqq al-IlĀhi al-muqaddas*) on earth, is not Islamic. It was only historical accident in Muslim society from the days of the Umayyads until the days of the Abbasids. This theory of divine right was blatantly spoken out by an Abbasid Caliph, i.e. al-Manshur al-'AbbĀsi.³ Unfortunately, says Qutb, this claim of al-Manshur had been followed by the kings in the Islamic world, so that Islam lost its sense of *shura* in its very history.⁴

According to Qutb, Islamic government is not an authority hold by a certain organization, but it is all kinds of authority applying God's law (the *Shari'ah*). So, if

¹ *Al-'AdĀlah*, 103; *Social Justice*, 118.

² *Al-'AdĀlah*, 205; *Social Justice*, 206-7.

³ Al-Manshur al-'Abbasi said in his presidential address, "O people, I am the Sultan of Allah in His earth; I rule you by His help and support. I am His guard over His property, with which I may do what He wills and what He desires; I can give it away by His permission, for He has made me a lock on it. If He wishes, He can open the lock so that I give you gifts and provision; but if He wishes, He may keep me locked." *Al-'AdĀlah*, 227; *Social Justice*, 238.

⁴ *Al-'AdĀlah*, 209; *Social Justice*, 215-16.

theocracy means that the authority is only hold by a certain group, this meaning does absolutely not exist in Islam.¹

Overlapping consensus acknowledged as political necessity in Rawls really justifies Qutb's accusation to the modern West. Qutb agrees with Asad² that the European mind tends to be away of religion, though sometimes tolerant to religions and sometimes admits toleration as a social convention. Such is because, for the West, religious morality is out of the sphere of practical considerations of mundane life.³

For Qutb, Islam is not purely a comprehensive doctrine. It is a human overlapping consensus (although in absentia). Islam has its own picture in life. Islam came to the world for developing and improving life, and not for giving up to the existing reality happened in a certain place and time. The most important task of Islam, everlastingly, is motivating this life in order to be reformed, developed and improved, and advocating human potentials to realize liberty and highest dignity.⁴ Islam harmonizes all aspects of human life.⁵

The values of society, then, have already known by Islam. We are only to discover. Qutb mentions such values as liberty (*al-hurriyah*), equality (*al-musÉwah*), mutual responsibility (*al-takÉful al-ijtimÉ'i*), toleration (*tasÉmuh*), loftiness (*irtifÉ'*), and nobility (*tasÉm*).⁶ Here we find the same way but the different result in Qutb's and Rawls's ways of thinking. They both searching values which will be the overlapping consensus but the results are that Rawls elucidates liberal values whereas Qutb proposes Islamic ones.⁷

Finally Qutb should say that the values containing justice are not merely economic values, they are also not simply material values in general; they include meaningful and spiritual values. Therefore, the public reason to comply with is

¹ *Al-'AdÉlah*, 107.

² For the explanation of European culture here Qutb quotes Asad's book entitled *Islam at the Crossroads* (1934).

³ *Al-'AdÉlah*, 257; *Social Justice*, 281.

⁴ *Al-'AdÉlah*, 2501; *Social Justice*, 284-5.

⁵ *Al-'AdÉlah*, 32; *Social Justice*, 44.

⁶ *Al-'AdÉlah*, 80-1; *Social Justice*, 92-3.

⁷ *Al-'AdÉlah*, 65; *Social Justice*, 78.

Islamic public reason and the common good to be idealized is the common good compatible with Islam. Such is because Islam knows humans deeply whether their ideals, their tastes, or their thought.¹

Qutb's opinion that public reason is a majority rule can be traced in his explanation on illustration of a ship in a Hadith. By this, majority rule is above all individual interests. Here every individual is also a guardian who guarantees the interests of his society, so that there is no one would ruin the ship in the name of his individual freedom. Here Qutb concludes that Islam obliges individuals to comply with the interests of his society.²

Qutb exemplifies this in Islamic history. About the election of early caliphs, Qutb infers that the absolute will of Muslims is the only basis for performing government. And about ignoring Ali in the election of the caliph after 'Umar, Qutb concurs to state that majority can keep aside individual interests.³ For individual good at all times cannot be separated from the good of society.⁴

Rawls says that the majority rule is in a condition that the substance would be developed in a just society is a substance of justice, and that every individual has sense of justice. It is also said by Qutb. Yet, Qutb emphasizes that the one should be prioritized to be just is the authority,⁵ for it is in his hand that all affairs to be governed.⁶

Our discussion on the majority rule, the authority, and the subject brings us to a question on institution taken by Qutb as an institution compatible with Islam. Unfortunately, Qutb always avoids most questions on institution by saying that it should come out of Islamic society has already been constitutionalized. Yes Qutb in

¹ *Al-'AdÉlah*, 32 and 79-80; *Social Justice*, 44 and 92.

² *Al-'AdÉlah*, 73-4; *Social Justice*, 86.

³ *Al-'AdÉlah*, 207; *Social Justice*, 209.

⁴ *Al-'AdÉlah*, 131; *Social Justice*, 146.

⁵ *Al-'AdÉlah*, 111; *Social Justice*, 125.

⁶ *Al-'AdÉlah*, 105; *Social Justice*, 120.

many things follows Muhammad Asad and Sayyid Abu al-A‘lÉ al-Mawdudi, but in proposing which kind of Islamic government feasibly taken he refuses to define.¹

Qutb says that it depends on permanent Islamic “principles and doctrines”, but not on the institutions developed in other historical moments. Qutb never proposes that the institutions of State of Medina to revive after fourteen centuries left; only the principles of the institutions, have been clearly explained in the *Shari‘ah*, can be taken.²

The fundamental principle of this Islamic state is to establish the contract between the ruler and the ruled, to realize the safety between them, to let the choice made freely, to encourage conscious involvement and sincere obedience of the subject.³ However, the contract between the ruler and the ruled is conditional depending upon whether the government deviates or not from the *Shari‘ah*.⁴

For Qutb, an institution does not give any long lasting legitimation for individual rights and social stability. The important thing for Qutb is the existence of a just ruler, the obedience of the subject, and the mutual consultation between them.⁵

The emphasis to the leader as the one who hold huge authority reminds us to Hobbes⁶ in the Western history of political philosophy. To Qutb, an *imÉm* (leader) should live to keep social order and help to implement the will of God on earth. He should establish institutions and laws reflecting eternal laws with the consideration of specific place and time and the awareness that such effort will not maintain forever.⁷

Yet, it is not merely the authority who should be honored, but the law he brings. Qutb says that obeying the authority (*Waliy al-‘Amr*) in Islam is not because

¹ Lee, Robert D., *Overcoming Tradition and Modernity: the Search for Islamic Authenticity [Mencari Islam Autentik: Dari Nalar Puitis Iqbal Hingga Nalar Kritis Arkoun]*, translated by: Ahmad Baiquni, edited by: Rofik Suhud and Idi Subandy Ibrahim, Bandung: Mizan, 2000, p. 125.

² Lee, *Overcoming*, 126.

³ *Al-Salam al-‘Alami*, 126.

⁴ *Al-‘AdÉlah*, 106; *Social Justice*, 120.

⁵ *Al-‘AdÉlah*, 111 and 104; *Social Justice*, 125 and 119.

⁶ Thomas Hobbes (1588-1679) is a political theoretician well-known by his book *Leviathan*. This book assumed to be the first, greatest, and comprehensive philosophical book of general politics produced by a British thinker. It actually tries to lay down theoretical foundation for absolute government in general, whether by a monarchy, by a *Commonwealth* dictatorship, or even by a parliament. Schmandt, *op. cit.*, h. 228-229.

⁷ *Al-‘AdÉlah*, 110-111; *Social Justice*, 124.

of their position, but because of the implementation of the *Shari'ah* of Allah and His Prophet which should be established by them, and it is the implementation that should be obeyed.¹

The above explanation brings us to conclude that what is thought by Qutb is not the just *Imam per se*, but how the laws he brings are just. So, if there is a Western writer (like David Gauthier) defending Hobbes by saying that what Hobbes² thinks is not the absolute leader in a sense of man but a constitution;³ we can also make its parallel that what Qutb says about the just Imam is not a man, it is a constitution and institution fulfilling the requirements of the just *Im'Em*. By this thought, then, that the procedure of majority rule is fulfilled and the substance of justice in society is also satisfied.

5. Delegitimation

a. Rawls

According to Rawls, delegitimation arises by the emergence of civil disobedience and conscientious refusal caused by injustices “within a more or less just democratic state for those citizens who recognize and accept the legitimation of the constitution.”⁴

So, delegitimation is a kind of protest. In his just political structure Rawls does not see any necessary conduct for such mode of protest as militant action and resistance, “as a tactic for transforming or even overturning an unjust and corrupt system.”⁵ The principles of justice as the basis of initial agreement make Rawls not allowing such resistance.

¹ *Al-Ad'Elah*, 106; *Social Justice*, 120.

² That is that to maintain justice is required a full power leader, like he says, “The safety of the People, requireth further, from him, or them that have the Sovereign Power, that Justice be equally administered to all degrees of People.” Hobbes, *Leviathan*, Ch. 24, h. 183 as quoted by Macfarlane, L. J., *Modern Political Theory*, London: Nelson, 1970, p. 183.

³ Gauthier, David, “Between Hobbes and Rawls” in David Gauthier and Robert Sugden (eds.), *Rationality, Justice and the Social Contract: Themes from Morals by Agreement*, Ann Arbor: The University of Michigan Press, 1993, p. 33.

⁴ *Theory*, 319.

⁵ *Theory*, 319.

What needed, then, is the way to win the public condition for commonly admittance that the government policy has deviated from the foundation of justice. The government, meanwhile, is the amalgamation of legitimate will of the majority. Therefore, a call for civil disobedience is to regain the voice of majority.¹

Hence, in a constitutional regime, the courts may finally side with the dissenters (the doers of civil disobedience) and declare the law or policy objected to unconstitutional. Here the mechanism is challenging the majority rule.²

Those who oppose injustices within the boundaries of democratic environment can engage in civil disobedience. According to Rawls, the conditions of civil disobedience are:

- 1) Political. It is a matter of power, regulation on constitution and social institutions, and also agreeable by all.³
- 2) Public. Civil disobedience is a public act not only it is addressed to public principles, but it is done in public. It is open, not covert or secretive. An expression of profound and conscientious political conviction will not influence the public if not engaged in public form.⁴
- 3) Nonviolent. Civil disobedience tries to avoid the use of violence, especially against persons, for it means likely to injure and to hurt someone and therefore to disturb civil liberty. Thus, even though it technically may be that civil disobedience warn and admonish, it is not itself a threat.⁵
- 4) Fidelity to law. By its public and nonviolent nature of the act, civil disobedience shows that it is within the limits of fidelity to law, for it expresses recognition of the legitimation of the constitution to which it is opposed. It is “a sufficient moral basis in the political convictions of the community.”⁶

¹ defines civil disobedience as “a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government.” *Theory*, 320.

² Thus, “a minority forces the majority to consider, whether it wishes to have its actions construed in this way, or whether, in view of the common sense of justice, it wishes to acknowledge the legitimate claims of the minority.” *Theory*, 321.

³ *Theory*, 321 and 337.

⁴ *Theory*, 321.

⁵ *Theory*, 321-2.

⁶ *Theory*, 322-3.

Something should be noticed, then, is the kinds of wrongs that are appropriate objects of civil disobedience. Rawls says that they should be limited into instances of substantial and clear injustice. That is, “serious infringements of the first principle of justice, the principle of equal liberty, and to blatant violations of the second part of the second principle, the principle of fair equality of opportunity.” Besides, civil disobedience is needed if “the normal appeals to the political majority have already been made in good faith and that they have failed.”¹

Another kind of disobedience is conscientious refusal.² One of the examples of this conscientious refusal is the unwillingness of a pacifist to serve in the armed forces. According to Rawls, conscription cannot be justified by the desire for world power or national glory; nor is for purposes of economic gain or the acquisition of territory. It is because these ends are contrary to the conception of justice that defines a society’s legitimate interest. The only reason for conscription is for national security, since it is a drastic interference with the basic liberties of equal citizenship.³

There are some differences between conscientious refusal and civil disobedience. The first thing is that conscientious refusal is not a form of address appealing to the sense of justice of the majority. It has no expectation of changing laws or policies. It is also not necessarily based on political principles; it may be founded on religious or other principles at variance with the constitutional order.⁴

The lesson coming from conscientious refusal is that it prevents governments to commit easily in the citizens’ name.⁵ And the lesson coming from civil disobedience is that by engaging in this action “one intends, then, to address the sense of justice of the majority and to serve fair notice that in one’s sincere and considered opinion the conditions of free cooperation are being violated.”⁶

¹ *Theory*, 326-7.

² It is “noncompliance with a more or less direct legal injunction or administrative order.” *Theory*, 332-4.

³ *Theory*, 332-4.

⁴ *Theory*, 324.

⁵ *Theory*, 325.

⁶ *Theory*, 335.

To Rawls, if not democratic, civil disobedience is not in the appropriate place. He compares it to a government based on divine (theological) right.¹ It should be done in a democratic society because this society is construed as a scheme of cooperation between equal people. In this society, civil disobedience (and conscientious refusal as well) is one of the stabilizing devices of a constitutional system, even though by definition an illegal one. Along with such things as free and regular election and an independent judiciary empowered to interpret the constitution (not necessarily written), civil disobedience helps to maintain and strengthen just institutions. Or in Rawls's term, civil disobedience is "a morally correct way of maintaining a constitutional regime."²

Rawls states that a conception of civil disobedience is a part of free government theory. To this he contrasts between two forms of constitutionalism: the Middle Ages and modern. The significant difference is that in the former the supremacy of law was not secured by established institutional controls. Correcting an authority in his decisions and decrees opposing the sense of justice of community was limited for the most part to the right of resistance by the whole society, or any part. The effort was usually to put aside the unjust king.³

Rawls's civil disobedience, in other words, is based on the sense of justice. For it is this sense which affects "our interpretation of political life, our perception of the possible courses of action, our will to resist the justified protests of others, and so on."⁴

The sentiment of justice is viewed as a vital political power. In community life, this sentiment coming from the common sense of justice is a great collective asset requiring the cooperation of many to sustain. The intolerant can be seen as free-

¹ To him, "if the basic law is thought to reflect the order of nature and if the sovereign is held to govern by divine right as God's chosen lieutenant, then his subjects have only the right of suppliants. They can plead their cause but they cannot disobey should their appeal be denied. To do this would be to rebel against the final legitimate moral (and not simply legal) authority." *Theory*, 336.

² *Theory*, 336-7.

³ As Rawls says, "the Middle Ages lacked the basic ideas of modern constitutional government, the idea of the sovereign people who have final authority and the institutionalizing of this authority by means of elections and parliaments, and other constitutional forms." *Theory*, 338.

⁴ *Theory*, 339.

riders, that is, “persons who seek the advantages of just institutions while not doing their share to uphold them.”¹

In a democratic society, each constitutional agency, the legislature, the executive, and the court, proposes its interpretation of the constitution and the political ideals that inform it. Although the court may have the last say in handling cases, it is not immune from the strong political influences which can force a revision to the reading of the constitution. The last court is not the court, nor the executive, nor the legislature, but the electorate as a whole. There is no danger of anarchy from civil disobedience as long as there is enough agreement in conception of justice of the citizens and the conditions to choose civil disobedience are respected.²

To conclude Rawls says, that “if justified civil disobedience seems to threaten civic concord, the responsibility falls not upon those who protest but upon those whose abuse of authority and power justifies such opposition. For to employ the coercive apparatus of the state in order to maintain manifestly unjust institutions is itself a form of illegitimate force that men in due course have a right to resist.”³

b. Qutb

Qutb also defends the possibility of delegitimation caused by civil disobedience and conscientious refusal in Islamic political society.⁴ To Qutb, both actions are perceived as Islamic conduct. For, in Islam, everyone is demanded to abolish every kind of evildoing wherever he sees it.⁵

In Rawls’s system, owing to its democratic character, it is no need of militant action or transformation tactic. In Qutb’s, however, on account of its avoidance in defining the system rather than Islam, militant actions and transformation tactic can

¹ *Theory*, 340.

² *Theory*, 340.

³ *Theory*, 342.

⁴ Qutb of course does not theoretically mention both terms. However, that disobedience is legitimized by Islam is true. The reason here is not secular reason as elucidated by Rawls, it is a religious reason. It is not surprised, then, if the discussion about it colored by religious reasons, for Qutb seriously has an idea to form a just society based on Islam.

⁵ *Al-‘AdÉlah*, 74-5; *Social Justice*, 87-8.

be justified. For instance, Qutb justifies that the revolt against ‘UthmÉn “was more akin to the spirit and purposes of Islam”.¹

Nevertheless, Qutb says that the ways of conscientious refusal and civil disobedience are justified also to happen in Islamic society, besides the ways of action.² So, even though the political position of conscientious refusal is weak, it is a legitimate way of delegitimation in Islamic society. The difference between Qutb and Rawls is the difference of basis of thinking. Rawls bases conscientious refusal on liberty, whereas Qutb bases it on responsibility. Qutb states that everyone is responsible to any evildoing happen in society, even if he is alone.³

Conscientious refusal because of different thinking or religion with the mainstream, i.e. Islam, in Islamic political structure is not so known in Qutb’s conception. That is because those things are properly understood. For example, the duty of *zakÉt* and conscription are not burdened to other religious adherents than Islam. Hence, such characteristics of conscientious refusal as not calling to the majority, not to change the law or policy, not necessarily political are not crystallized in conscientious refusal based on Islam. Islamic conscientious refusal means always calling to the majority, attempting to change, and political; for they are all public. It is may be the difference between Rawls’s and Qutb’s political schools: the former based on the system of social contract and the latter based on the system of social organic.

Yet, this does not mean that Qutb has no examples of non-political conscientious refusal. Non-political it may be, however, Qutb perceives the attitudes as Islamic. The first example coming to appear in Qutb’s is about the refusal of an Islamic scholar, i.e. al-Shaikh Hasan al-‘Adawi to greet SultÉn ‘Abd al-‘Aziz by Turkish greeting (similar to *sujud* as in performing *salÉt*)⁴ when the Caliph visited

¹ *Al-‘AdÉlah*, 216; *Social Justice*, 224.

² To Qutb, there are three forms of refusal to injustice: action, discussion, and conscientious refusal. Qutb bases his thought on a hadith saying, “*Whoever among you sees any evildoing, let him change it with his hand; ...*” (Narrated by Muslim, Abu Dawud, al-Tirmidhi, and al-Nasa’i). *Al-‘AdÉlah*, 74; *Social Justice*, 87.

³ *Al-‘AdÉlah*, 74; *Social Justice*, 87.

⁴ Someone is doing *sujud* by touching earth to his bows, mouth, nose, and forehead. *Salat* is a ritual prayer obliged for every adult Muslim performed five times a day.

Egypt. Another example is the refusal of Professor Hasan al-Tawil to wear a robe and toga in convocation at DĒr al-‘Ulum visited by Khadive Taufiq Pasha. To these two men Qutb says that they know a freedom of mind and conscience from all false values and from all worldly consideration. And that is because of Islamic influence implanted into their souls.¹

An example of political conscientious refusal quoted by Qutb is about the refusal of Abu Dharr to the command of Caliph ‘UthmĒn for collecting money for public monies whereas Abu Dharr knew that these public monies were abused by the family of the Caliph for their own advantage. For this Abu Dharr was dismissed from the office.² It is political conscientious refusal such as this which, finally, grows to be massive. So, when it has already been massive to win the public condition, civil disobedience begins.

To Qutb, the effort to win the public condition for justice is always attempted by Islam. To injustices done by powerful people he says that Islam will not let these to happen.³

In Rawls’s theory, what is refused by the protesters is the unjust law or policy. This is because that the context of Rawls’s discussion is political life of modern democratic state. In Qutb’s, however, what is refused can be an attitude of an authority, for in ancient context of government, the attitude was law or policy itself. So, when there was a protest to this it means a protest to the law or policy. And if a judge wins the dissenters it means that the community is just. Thus, delegitimation is legitimated in an Islamic society.

A protest to the attitude of an authority happened in Caliph ‘Umar’s era and this is finally legitimated by the Caliph himself.⁴

¹ *Al-‘AdĒlah*, 193-5; *Social Justice*, 195-7.

² *Al-‘AdĒlah*, 217-8; *Social Justice*, 226.

³ *Al-‘AdĒlah*, 146; *Social Justice*, 157.

⁴ According to Qutb, ‘Umar once bargained with a man for a horse and rode it in order to try it out. The horse foundered, and he wished to return it to its owner, but the latter refused to have it. So, the two of them took the matter for decision to Shuraih, the judge. He heard both sides of the case and then said: “Commander of the Faithful, either keep what you bought, or else return it as you got it.” Said ‘Umar: “Could there be a better decision than that?” So, he made Shuraih judge over Kufa as a reward for such a fair and honest decision. *Al-‘AdĒlah*, 212-3; *Social Justice*, 219-20.

By giving an illustration on individual refusal and then calling to the majority, Qutb has shown that the first mechanism of this disobedience is minority against majority, such as in Rawls's conception. In 'UthmĒn's incident, the story began when people assembled, and then pointed 'Ali ibn Abi TĒlib to represent them to meet 'UthmĒn. Unfortunately, what was happened was not a constitutional political succession, but a succession by force, for when the style was the angry mob, the right and wrong were mixed.¹

To Rawls, the conditions for civil disobedience in a democratic environment are political, public, nonviolent, and fidelity to law. To Qutb, however, the conditions are political, public, and fidelity to law. Coercion for justice can be done in his conception. Let us take a look on Qutb's explanation one by one.

The first condition is political. As said before, for Qutb this condition is attached within the soul of Islamic society. It is because, for him, Islam is very political indeed, since this religion is a religion bringing a law for man. To establish Islamic law means to be political, either as an authority or as a protester.

The second condition is public. This condition does also exist in Qutb's conception. Such is because Islam itself is a religion calling to all mankind.² So, disobedience is done openly to call men to reestablish justice.

Concerning the condition of nonviolent, Qutb formerly elucidates the need of refusing the authority leaving the law by deeds or by words, and with the minimum use of violence.³ Qutb is sorry for what was happened to 'UthmĒn owing to its type of violence. Yet Qutb justifies that the action was based on Islamic spirit.⁴ Moreover, in another place, Qutb states that the basic Islamic principles are revolutionary. They

¹ *Al-'AdĒlah*, 215-6; *Social Justice*, 223-4.

² To this Qutb quotes QS. 2: 256 and QS. 16:125. *Al-'AdĒlah*, 196; *Social Justice*, 197-8; Yusuf Ali, 114 and 769-770.

³ Qutb quotes a hadith that the Prophet says, "*If anyone sees a tyrannical power which is contrary to the will of Allah, which violates the compact of Allah, and which produces evil or enmity among the servants of Allah, and if he does not try to change it by deed or by word, then it is Allah who must supply the initiative.*" This hadith does not exist in the edition of *Al-'Adalah* (1980). It only exists in Hardie's translation (*Social Justice*, 1953) which is a translation from the first edition of *Al-'AdĒlah* (1949). *Social Justice*, 121. The explanation and the hadith above may be left aside on purpose, for in the end of his life, Qutb was more to the conviction to call for a total change by any means, including legitimated violence.

⁴ *Al-'AdĒlah*, 216; *Social Justice*, 224.

are revolutions against human sovereignty, against injustice, and against political, economic, racial and religious prejudices.¹ Thus, the condition of civil disobedience to be nonviolent does not exist in Islamic political system, for coercion can be done if necessary.

Another condition is fidelity to law. Qutb shows that in Islam, to obey the authority is an obligation. But it is to the law, not to the authority, the obedience is given. So, whenever the authority deviates from the straightway, there should be a call for reestablish the supremacy of law which is burdened mostly by such authority.² Hence, in Islam, the call or the protest itself is within the corridor of law, and that the authority protested is the wrong according to the law.

About the reason to do disobedience, Qutb says that what should be opposed is any evildoing or any opposition to God and His Prophet. That is the specific in Qutb's conception. The other is a general conception that whenever the authority is unjust, there should be disobedience. Qutb mentioned a vow declared by 'Umar on the deprivation of the subject to obey him if he was wrong means that the unjust ruler has no claim to obedience.³

Concerning procedure of correction, Qutb implies that in Islamic society the first procedure is the same as the procedure of *da'wah* (calling to Islam): calling by wisdom, good advice, and debate.⁴ After that there could be civil disobedience. Finally, if there is no alteration, transformation with militant action is also justified, as what was happened in 'UthmÉn's case mentioned above.

Such is because the principle of societal life in Islam is "interdependence and solidarity of mankind, and whoever has lost sight of this principle must be brought back to it by any means (*bikulli tariq*)".⁵ Here the reason for disobedience is because of the condition for cooperation has been injured is similar between Qutb and Rawls.

¹ *Al-Salam al-'Alami*, 171.

² *Al-'AdÉlah*, 106 and 196; *Social Justice*, 120 and 197-8.

³ *Al-'AdÉlah*, 212-3; *Social Justice*, 219-20.

⁴ *Al-'AdÉlah*, 196; *Social Justice*, 197-8.

⁵ The evidences to quote are QS. 5:33; QS. 49:9; and QS. 2:251. *Al-'AdÉlah*, 28-9; *Social Justice*, 41; Yusuf Ali, 293, 1590-1, 112.

Yet, Rawls does not suggest reestablishing justice “by any means”, for his political structure is a constitutional democracy.

Qutb’s political structure, meanwhile, is a constitutional Islamic structure, whatever form it may be. So, there is one significant condition, i.e. based on Islamic constitution. Rawls’s accusation that within the divine (theological) based government civil disobedience could not happen, for it means disobedience to legitimate and final moral authority; is not appropriate for Qutb’s Islamic political structure. Qutb says that such kind of theocracy does not definitely exist in Islam. Qutb himself is very substantive so that for him any kind of government does not apply Islamic *Shari’ah* is not an Islamic government, however much it is named as Islamic or using Islamic symbols.¹ Therefore, civil disobedience can happen in Qutb’s Islamic political structure, i.e. constitutional Islamic political structure.

So, owing to similarly constitutional, Rawls’s and Qutb’s systems similarly construe civil disobedience aiming at stabilizing constitutional system. The difference is that, for Qutb, civil disobedience can go to the total change as far as militant action. It is because Qutb does not determine the kind of government to be followed by an Islamic state.

Generally, Qutb shows that the conception of justice in his political domain is constitutional. And the sense of justice in Islamic community should be defended for upholding a just society. So, civil disobedience is based on the sense of justice of society. It is by that sense of justice Muslim society can have mutual correction.²

Like Rawls, Qutb also address, finally, the collective sense of justice to every individual to establish it.³ To Qutb, every individual in Islamic society is responsible for preventing injustice, warning the government if it across the tolerable limits and giving advice to the judge if he is wrong. In Islam, an individual is a sinner if he does

¹ *Al-‘AdÉlah*, 107; *Social Justice*, 121..

² About this Qutb quotes the following hadiths: “*Whoever among you sees any evildoing, let him change it.*” (Narrated by al-Bukhari); “*Whoever among you sees a tyrant and not prevents it or hates it, he is responsible for Allah’s punishment.*” (Narrated by Abu Dawud and al-Tirmidhi); and, “*For God’s sake, either calls for virtue, prevents of evildoing and felony, hinders a tyrant by force him to go back to the truth and uphold justice, or Allah implants enmity in your heart, among each other.*” (Narrated by Abu Dawud and al-Tirmidhi). *Al-Salam al-‘Alami*, 120.

³ *Al-‘AdÉlah*, 108; *Social Justice*, 123.

not tell the truth (in giving testimony) or if he let any evil doing happen, or if he does not report if he is aware of such wrong.¹

Therefore, constitutional institutions such as the legislature, the executive and the judicial are institutions can be corrected by general force of society, for in origin it is not the law and policy which should be respected, but morality behind the law and policy which should be enacted. It is the one Qutb always emphasizes to notice.²

6. Comparison and Contrast

There are some similarities can be inferred from the above examination on the political structure of a just society in Rawls's and Qutb's framework. Among others are the following:

1. The principles of justice should be protected by the structure of society.
2. The political structure is more important and more serious than the economic structure.
3. The political structure is to guarantee the equality of citizens.
4. Constitution as a basis for sense of security, public intention, just and practical in nature.
5. Merely constitution cannot secure the application of justice.
6. Political participation of all citizens should be acknowledged as a part of justice.
7. Social or economic inequality must not affect political equality.
8. There should be a fair equality of opportunity to influence the political process.
9. Political liberty should be defined by common interest.
10. Political obligation is based on natural duties such as the duty to be just, the duty of mutual respect, and the duty of mutual aid.
11. The principle of fairness: the more power, the more responsibility.
12. Obedience to the principle of majority: the argument of a ship on the sea.
13. To comply with unjust law. It is obliged to comply with unjust law as long as the basic structure of the society is just in general.

¹ *Al-Salam al-'Alami*, 127.

² *Al-'AdÉlah*, 258; *Social Justice*, 283.

14. Political legitimation of justice: the majority rule as the procedure, justice as the substance.
15. Such delegitimation as *civil disobedience* and *conscientious refusal* are to be admitted as a part of the life of political justice.
16. The first mechanism of disobedience: minority against majority.
17. It is not only laws and rules which should be respected, but also morality behind the laws which should be maintained.
18. The rule of law is needed to uphold justice.
19. The procedure of law: rational evidence, independent and impartial judge, forbid anyone to judge his own case.
20. Law is coercive, and not voluntary.

There are also some differences to note between the two thinkers on the political structure of just society. This is the list of them:

1. Forms of political structure. To Rawls, it is modern constitutional democracy; to Qutb, it is modern, constitutional Islamic state.
2. Political levels. To Rawls, those are: original position, constitutional level, legislative, and administrative/judicial level; to Qutb, however, it is begun by the level of agreement (*bay'ah*), and then constitutional (*Shari'ah*), legislative (*shura*), and finally administrative/judicial level.
3. The zero point before the political process. For Rawls, it is in the original position with liberal conception; whereas for Qutb it is in the human nature itself (*fitrah*) which has agreed to follow Islamic conception.
4. Concerning constitution, Rawls says that it is from and for the public, to Qutb, meanwhile, it is from the divine texts for the public.
5. To Rawls, the constitution should admit parliament, general election, political liberty, and opposition; Qutb acknowledges all those mentioned above in condition that it should be under the guidance of the divine revelation (*wahy*).

6. The guardians of the constitution are citizens and legislators for Rawls; whereas for Qutb they are the citizens, and the conscience of the authority by emphasis that Allah is always present.
7. The origin of law, to Rawls is social contract; while to Qutb it is divine command.
8. Law, according to Rawls, is the product of political processes (man-made); while to Qutb, it is determined by Allah and the product of human political processes in condition not to contradict with the *Shari'ah*.
9. Participation, for Rawls, is for all citizens; for Qutb it is for all citizens under the guidance of Islamic law. To this, Qutb could not allow the leader of territory from other religious adherents than Muslims.
10. Sense of duty and political obligation, for Rawls are the shared principles; for Qutb, however, those are from religious obligation.
11. Political system, for Rawls, is constitutional democracy, for it satisfies the principle of participation; for Qutb, however, it is Islam, for it is made by God the Most Righteous.
12. Judicial review, for Rawls, is done for anything; but for Qutb, it is more to the problems unexplained by the religious texts.
13. Political rights and duties, to Rawls, are known from the original position; whereas for Qutb, they are known from the *Shari'ah*.
14. Political obligation, to Rawls, based on the rights; whereas to Qutb, it is based on the responsibility.
15. Political legitimacy, to Rawls, is taken from overlapping consensus, that is, from the common thought and experience; to Qutb, on the other hand, it is taken from the Islamic religious law (*Shari'ah*).
16. Process of legitimation, in Rawls, is diachronic in nature, i.e. based on experience or history; in Qutb, however, it is synchronic, i.e. it has already there, in Islamic doctrines.
17. System of consensus (*thin theory of the good*), for Rawls, is political liberalism; for Qutb, it is political Islam.

18. The political aim, to Rawls, is taken from public reason for common good; to Qutb, however, it is taken from Islam, for Islam is in line with public reason and common good.
19. Socio-political system, in Rawls's thought, is social contract; in Qutb, it is social organic.
20. Basis of political delegitimation, for Rawls, is liberty; for Qutb it is responsibility.
21. Reasons for political delegitimation, to Rawls, are condition of cooperation has been ruined, to stabilize constitutional system, based on the sense of justice; whereas to Qutb, besides all those mentioned by Rawls, they are not to contradict with Allah and His Messenger.
22. The problems to be corrected, for Rawls, are the unjust law and policies; for Qutb, however, they are more to the unjust decisions and attitudes of the authority.
23. The conditions for civil disobedience, to Rawls, are political, public, non-violent, and comply with the law; whereas to Qutb, they are political, public, and comply with the law. So, coercion is accepted in Qutb's system of political correction.

To make it simpler, the differences between Rawls's and Qutb's thinking on the political structure in the framework of social justice are in the following table.

**Table 4.1. Some Contrasts Between Rawls's and Qutb's Thoughts
On the Political Structure in Social Justice**

No.	Subject	Rawls	Qutb
1.	Form of political structure	* Modern * Constitutional * Democracy	* Modern * Constitutional * Islamic
2.	Political levels	* Original position * Constitutional * Legislative * Administrative/judicial	* Agreement (<i>bay'ah</i>) * Constitutional (<i>Shari'ah</i>) * Legislative (<i>shura</i>) * Administrative/judicial
3.	Zero point of pre-political processes	Original position by the liberal conception	Human nature (<i>fitrah</i>) by Islamic conception
4.	Constitution	From the public, for the public	From the religious texts, for the public
5.	Constitution should acknowledge	* Parliament * Election * Political liberty * Opposition	* Parliament * Election * Political liberty * Opposition

			(all under the guidance of divine revelation [<i>wahy</i>])
6.	Guardian of constitution	* Citizens * Legislators	* Citizens * conscience of the authority with an awareness that God is present
7.	Law	Product of political process (man-made)	* Determined by God * Product of political process (as long as not to contradict with the <i>Shari'ah</i>)
8.	Origin of law	Social contract	Divine command
9.	Participation	All citizens	All citizens under the guidance of Islamic law
10.	Sense of duty and political obligation	Common principles	Islam
11.	Political system	Constitutional democracy, for it satisfies the principle of participation	Islam, for it is coming from God, the Most Righteous
12.	Judicial review	In any problem	In the problems unexplained clearly by the religious texts
13.	Political rights and duties	From the original position	From the <i>Shari'ah</i>
14.	Political obligation	From the rights	From the responsibility
15.	Legitimation	Overlapping consensus: common thought and experience	Islamic religious law (<i>Shari'ah</i>)
16.	Legitimation process	Diachronic: historical process	Synchronic: taken from doctrines
17.	Consensus (<i>thin theory of the good</i>)	Political liberalism	Political Islam
18.	Political aims	From public reason for common good	Islam is suitable with public reason and common good
19.	Socio-political system	Social contract	Social organic
20.	Delegitimation basis	Liberty	Responsibility
21.	Reasons for delegitimation	* Condition of cooperation ruined * stabilize the system * sense of justice	* Condition of cooperation ruined * Stabilize the system * Sense of justice * Rebel God and His Messenger
22.	Problems to be corrected	Unjust laws and policies	Unjust decisions and attitudes of the authority
23.	Conditions for civil disobedience	* Political * Public * Non-violent	* Political * Public * Comply with the law.

		* Comply with the law	* Coercion, if necessary, is accepted
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B. Economic Structure

a. Rawls

While Rawls's first principle of justice requires the existence of political structure, his second principle necessitates the establishment of economic structure. It is not economic in a general sense; rather, it is economic structure in the domain of political economy, i.e. the standards evaluating economic arrangements and policies, and their institutional background. It is usually called welfare economics. And according to Rawls, doctrines of political economy should include interpretation of the public good based on the conception of justice.¹

Nevertheless, Rawls maintains that his topic is a theory of justice, and not economics. Rawls's theory is only connected with moral matters of political economy. The question raised in his theory is about the management of public savings, the arrangement of tax and property, and the organization of level of social minimum. In short, Rawls attempts to arrange ethical principles based on general facts and therefore a theory of justice for his basic structure to exemplify attention to these arrangements.² Hence, this Rawls's attempt is only to find practical application of "justice as fairness," that is, to imagine that citizens try to organize their judgments on the justice of economic institutions.³

Rawls states that the structure of economy conforming justice deprives from the existing economic systems. In other words, his economic structure can be pertained both by a capitalist system of economy (or in Rawls's words, the system of "private-property economy") and by a Socialist one. It is because, according to Rawls, those systems are the products of social tradition, institution, and its social

¹ *Theory*, 228-9.

² *Theory*, 234.

³ *Theory*, 234.

strength of each country with its certain historical circumstances. The important thing here is the content of the structure of economy which should be just.¹

According to Rawls, a system of economy rules what should be produce, with what way, who should accept and for what contribution and how wide the fraction in social resources dedicated to savings and provision for public good.² For this reason, if a social institution needs to be just, there should be a just economic system supporting it.³

There are some economic structures believed by Rawls to maintain his theory of social justice. The important thing is that its law and governance effectively act in sustaining the structure. Such structure is: a competitive market, fully employed resources, a widely distributed property and wealth, maintaining a proper standard of social minimum, a fair savings, and equality of opportunity secured by education for all.⁴

b. Qutb

For Qutb, to enact a just structure of economy, we should think as deep as we can, investigate the existing problems, and think carefully to reach the aim of human nature (*fitrah*). Consequently, the structure should follow outlines based on human propensity, human nature and human conduct. Qutb believes that the structure should, at first, admit the existence of the right of individual ownership. Such is because, according to him, it is the evidence of the experience of millions of years of human life on earth. Here he does not agree with the Communist thought for not admitting human nature inclining to accomplish individual ownership.⁵

But Qutb persists that Islam does not let individual ownership in an absolute state, without any control and limit. Qutb emphasizes that Islam performs limits and controls both the welfare of the community and the welfare of the individuals.⁶

¹ *Theory*, 228 and 242.

² *Theory*, 235-236.

³ *Theory*, 235.

⁴ "Distributive", 69.

⁵ *Al-Adalah*, 113.

⁶ *Al-Adalah*, 114.

In Islam, there are such individual obligations as *zakat* (alms), tax, and other obligations obliged by the state because it is needed. Qutb declares that such obligations are not a kind of voluntary action,¹ which will make the benefactor has a “moral worth,” but it is merely social obligation which should be fulfilled, otherwise the state does not responsible for the security of the wealthy both from evildoings such as robbery² and from the enforcement of the state itself.³

Therefore, to describe the thoughts of both thinkers on the justice of economic structure more specifically I will illustrate on what should be exist in such economic structure in order to establish social justice. These details are more about the existence of market, intervention of the state, system of income, system of distribution, social minimum standard, and inter-generational justice.

By those details above I follow a flow of economic life in a society. The first institution to give economy is ‘market’, by which everyone can exchange goods or services in order to have mutual benefit. By this there is economic life. But if market is merely done by the principle of supply and demand, sometimes there would be no consideration of justice: the poor poorer, the rich richer. Here, then, there should be ‘an intervention of the state,’ for it is the state which can regulate the market and do some redistribution. For an application of flow of economy citizens should have ‘a system of income’ in order to get the capital for their survival. With this system of income only some people can be left behind owing to their handicap and economic shortcomings. Here, then, there should be ‘a system of distribution,’ so that everyone can have each basic needs. By talking about basic needs we are talking about ‘social minimum’ should be fulfilled. There should be a standard here what it is. And the stability of theory of justice is not only talking about an economic structure in a

¹ *Al-‘Adalah*, 153.

² I conclude this from Qutb’s explanation of how legal to steal from the affluent people in order just to survive as said by ‘Umar ibn al-Khattab. Qutb also agrees with Ibn Hazm in saying that if a society refuses to give food to someone and make him death because of starving, so that they should give the payment (*dam*) to his family because they had killed him. Qutb agrees with both ‘Umar and Ibn Hazm based on QS. 2: 173. *Al-Salam al-‘Alami*, 138 and 141; Abdullah Yusuf Ali, 69-70.

³ For this Qutb says that the state is deserved to wage war to the people who refuse to give *zakat* (alms). *Al-‘Adalah*, 114.

certain generation. It should also talk about the next generation, for justice is not only for one generation. Here, then, a discussion on ‘inter-generational justice’ is needed.

Discussion on the existence of ‘market’ is important in scrutinizing what is the economic system adhered in a society and acknowledged as just. By the existence of market we could say whether a country is capitalist or socialist/communist. We could say that a country is capitalist when we see that its markets are celebrated as the way the citizens live. Here we could refer to ‘a commercial society’ as idealized by Adam Smith as a just society.¹ On the other hand, if we could not find any celebrated market in a country we could say it as a communist country, for everything economic is in the hands of the government. This brings us to mention a commanded economy as uttered by Karl Marx.²

1. Competitive Market

a. Rawls

Rawls believes that a competitive market will uphold social justice. Market is needed to play a central role, for it can determine price freely based on supply and demand. It is by the market, Rawls considers, the problems of distribution can be managed as a case for pure procedural justice.³

Such is because; market supports efficiency, liberty, and equality. Efficiency appears when competitive prices select produced goods and allocate resources to the production. A theory of general equilibrium says that information supplied by price will bear economic agents behave in adjusting ways for the result. A perfect competition is a perfect procedure to the extent of efficiency. However, market efficiency is also bothered by market failure and imperfection caused by monopoly,

¹ “Every man ... lives by exchanging, or becomes in some measure a merchant”. *WN*, Liv.1. (*Wealth of Nations*, book I, chapter iv, paragraph 1). Adam Smith, *The Wealth of Nations*, 2 vols., Introduction by Professor Edwin R. A. Seligman, London: J. M. Dent & Sons Ltd., 1910.

² Marx, Karl and Engels, Friedrich, *The Communist Manifesto*, translated by Samuel Moore (1888), Introduction and Notes by A.J.P. Taylor, Baltimore: Penguin Books, 1967, p. 104-5.

³ *Theory*, 239 and 242.

lack of information, and by external economy and diseconomy. Here, we need the government who know the situation and make some corrections of it.¹

Another advantage of market system is its provision to equal liberty and fair equality of opportunity. Citizens have free choice of career and employment. There is no reason at all for forcing and centralistic command of occupation. Market system, then, decentralizes the application of the economic power. Nevertheless, in order to sustain democracy, the government arranges economic climate by adjusting certain elements under its control such as the sum of total investment, rates, money quantity, etc.²

In short, a just economic structure requires the existence of free market for the reason that economic rewards will be just if the highly competitive system of price organized as “fair play.” Yet, the condition of economy should be circumscribed by a proper frame of institution. Therefore, economy should be arranged by a just constitution, controlled by four branches of government, by standards of social minimum, and also by a just savings.³

b. Qutb

Like Rawls, Qutb also prefers efficient market.⁴ It is because; market is a field for supporting individuals to make maximal efforts to satisfy his desire of possessing wealth. And as long as individuals work within the boundaries of the *Shari‘ah*, it will not harm anybody.⁵

In other words, to control market, Qutb suggests the society to uphold *Shari‘ah* limitations. To this, Qutb recommends the legislation of *zakat*, mutual responsibility of society, general taxation, nationalization of public resources, public interest and

¹ *Theory*, 240.

² *Theory*, 240-1.

³ “Distributive,” 78-79.

⁴ Qutb actually has no clear explanation about market. However, the context of his discourse of work, endeavor, and freedom and rules within these matters, shows Qutb’s concern on this very subject of market. For the sake of parallelism with Rawls, here is my recognizance that all Qutb’s opinion on those natural efforts as market in the sense of freedom to deal with buying and selling.

⁵ *Al-‘Adalah*, 129.

blocking of means, governing legacies, prohibits usury, gambling, prostitution and alcohol.¹

For the sake of such market efficiency, then, Qutb views that when there are parties deviate from determined restraints, there should be efforts to return them back to the proper way, but at the same time, not to stop their activities once for all and making them similar with the weak and disabled.²

Here it is the importance of market in both thinkers, so that attempts to ruin the market should be prevented. Market essentially should exist and effective, but should always be controlled in order to maintain the stability of society.

2. Intervention of the State

a. Rawls

The most important focus of the state in a just structure of economy is in public sector. There are two aspects in this public sector: means of production and public facility. In the means of production, the state can follow either socialist or liberal way. A socialist way takes more production, including various branches of production run by the state, whereas a liberal way takes less production, such as only in public means and transportation. And in a matter of public facility, the state should do it equally and could not be brought by certain parties wanting to control more than others. Some examples of this public facility are military equipments and medical service.³

Controlling public sectors by the state is to handle the problems of free-rider and externality. “Free-rider” is the one who does not want to contribute but want to enjoy the distribution. Somebody is a free-rider when he refuses the obligation of paying tax, while he himself get protection by the state from the foreign invasion as same as those who pay taxes. To uphold justice, the state can enforce it. Such is

¹ *Social Justice*, 303-13.

² *Al-‘Adalah*, 129.

³ *Theory*, 235, 239.

because that public sector is a product of collective arrangements which, therefore, a strong assurance should be given to all that they are all respected.¹

“Externality” means that certain parties use or harm public facility without any consideration of others. This includes hiding some goods or damaging environment for production. These social costs cannot be calculated by market. It should be corrected by law and government.²

Other thing in the public sector is natural condition. Here, the government should prevent irreversible damages and should manage natural resources and protect the environment.³

It is for these things an effective government needed. For, it is its efficacy that will play a central role in maintaining economic justice in the society.⁴

To Rawls, in supporting the above institutional system, it is needed for the continuation of the government which has “four branches” public financial model as pioneered by Musgrave:⁵ branches of allocation, stabilization, transfer, and distribution. Each branch contains various agencies or activities rule to maintain certain social and economic conditions. These branches come out of thinking about merely its functions, not from organizations of government usually exist.⁶

(1) Allocation branch aims at defending a competitive economic life from unreasonable market power formation. This branch also attempts to identify and correct the disorders caused by the market. It is accomplished, say, by suitable taxes and subsidies and by changes in the definition of property rights.⁷

(2) Stabilization branch struggles to secure extensive employment, so that there is no waste caused by misusing resources. By this stabilization branch those who want work can find it and the free choice of occupation and deployment of finance are backed up by strong effective demand.⁸

¹ *Theory*, 236.

² *Theory*, 237.

³ *Theory*, 239.

⁴ *Theory*, 238.

⁵ R. A. Musgrave, *The Theory of Public Finance*, New York: McGraw-Hill, 1959.

⁶ *Theory*, 243.

⁷ *Theory*, 244; “Distributive,” 70.

⁸ *Theory*, 244; “Distributive,” 70.

(3) Transfer branch addresses to guarantee social minimum resources. This branch of government takes needs into consideration and assigns them a suitable weight with respect to other claims. So, if competitive market only takes entitlement into account from the angles of education, training, experience or from the angles of responsibility and contribution, or others; this transfer branch guarantees certain level of wealth and honors as needed by the society. With this transfer, total income of the least advantaged in a well-ordered society is that of wages and other income plus transfer plus public facility. This is to maximize the least fortunate consistent with demands of liberty.¹

(4) Distribution branch strives to protect just distribution of income and wealth in due process to affect background condition of market from time to time. There are two aspects in this distribution: (a) imposing inheritance and gift taxes, and setting restrictions on the rights of bequest. The purpose of these levies and regulations is not to raise revenue (release resources to government) but gradually to correct the distribution of wealth and to inhibit concentration of power leaning to harm political liberty and equal opportunity. Consequently, inheritance is permissible provided that the resulting inequalities are to the advantage of the least fortunate and compatible with liberty and fair equality of opportunity.²

(b) The second aspect of the distribution branch is a scheme of taxation to raise the revenues that justice requires. It can provide for the public goods and make the transfer payments necessary for fulfilling the difference principle. The burden of taxation is to be justly shared and it points toward instituting just arrangements. There are some kinds of taxes to this extent, first expenditure tax. This tax imposes a levy according to how much a person takes out of the common store of goods and not according to how much he contributes. Next, progressive rates could also be used for income tax. It is necessary to forestall accumulations of property and power likely to undermine liberty and fair equality of opportunity.³

¹ *Theory*, 244; “Distributive,” 71.

² *Theory*, 245.

³ *Theory*, 244-246; “Distributive,” 71-72.

Besides proposing four branches of government, Rawls also adds the fifth branch: the exchange branch. With this branch, government can make trading arrangements for public goods and services especially when market mechanism has failed. It can be seen, for example, in the field of transportation controlled by the government. With this branch, the government is not only thinking about justice, but also benefit. Following the benefit principle, the government is not wrong, for eventually everything is for public benefit.¹

Concerning taxes, Rawls is not in favor of traditional thinking that taxes are to be levied according to benefits received or the ability to pay. For him, the scope of these criteria is regulated by the principles of justice. His tax scheme, then, is coming from his two principles of justice. Taxation is to satisfy the principle of equal liberty (Rawls's first principle of justice) and expenditure is to perform the second principle.²

By the state interference as what he said above, Rawls convinces that even a socialist will agree his thought. This is because that his economic structure can be based on the collective judgment. It is the motivation that can distinguish a socialist and a liberal. If socialists are moved largely by social and altruistic concerns, liberals moved especially by individual interest. Yet, individual interest in gaining justice, in Rawls's economy, eventually leads the individuals to more social. It is for this reason that Rawls admits that his principles of justice is suitable for various type of regimes.³

b. Qutb

Qutb also accentuates a huge role of the state in maintaining economic justice. Qutb, for instance, says that in Islam, the head of the state is obliged to wage a war to those who refuse to accomplish *zakat* obligation while they are able to do it. Here Qutb's way of thinking is parallel with what Rawls mentioned as prevention of the free-riders. Again, for Qutb, the state has a right to withdraw money of the wealthy

¹ *Theory*, 250-251.

² *Theory*, 247.

³ *Theory*, 248-9.

people in order to preclude hardship and do away with penury and preserve the well-being of the community. This, when necessary, is a claim similar to that of the *zakat*, a claim whose exercise depends on the communal welfare and on the justice of the ruler.¹

Besides, the state is also obliged to guard the right of individual ownership from theft, from being plundered or robbed, and from being cheated by any means whatsoever. To realize all this, it can punish those evil-doers to guarantee full protection of individual ownership and to prevent people coveting what is not their own.² Here, then, the state functions as corrective institution, especially to correct those free-riders and externality players in market behavior, something which is also thought by Rawls.³

This Qutb's thinking about intervention of the state is coming from his view that property belongs to the community in general, and the community receives it as a trust from God. The true owner of everything is God.⁴

Hence, for Qutb, the individual is in a way a steward of his property acting for the community [*al-wakil fi hadha al-mal 'an al-jama'ah*] and his tenure of the property is more of a duty than an actual right of possession. It implies here that morally the individual has a duty to spend and use his property appropriately. So strong this moral feeling that the individual will prepare to realize obligations burdened to him and will also obey the limits stated by God's Law in spending his property.⁵ It is for fulfilling individual obligation, then, that the state has its own right to interfere to the society by taking *zakat* and tax to those individuals.⁶

The state can also be a guardian of individual property. Qutb points this out when he talks about the state interference in case that there are parties who could not

¹ *Al-'Adalah*, 114.

² *Al-'Adalah*, 115.

³ *Al-'Adalah*, 131-132.

⁴ Qutb bases his opinion on QS. 57:7 and QS. 24:33. *Al-'Adalah*, 118-119. Yusuf Ali, 1688-9 and 1014.

⁵ *Al-'Adalah*, 118-9.

⁶ The opinion that the property truthfully belongs to the community, clearly shows that Qutb has a social-organic view, i.e. the community determines the individual, while Rawls has a social-contract view, i.e., the individual determines the community. We will see, however, that Rawls seems inconsistent with his view in taxing inheritance, gift and bequest.

hold their property properly. Those parties are called *al-sufaha* ' (the fools), i.e. those who are not being mature and being able to fulfill one's duties. Here the state, or in Qutb's term the ruler or society may withdraw this right of expenditure.¹ It is the state, then, which provides their expenditure until they can favorably manage their own well-being.

This intervention can also happen if a man died without any heir. It is the state which is the legal heir, then. Thus, Qutb says, the property in fact belongs to society and is merely *administered* by an individual, so that if he leaves no issue, the property reverts to its original ownership by the community.² And because the state is an institutional body of the community, intervention can be done by it in such a situation.

Concerning public sectors, Qutb mentions that in Islam there are some properties which are public in character, and cannot be owned by certain individual. The Prophet of *Allah* says three of them, i.e. water, herbage, and fire.³ To Qutb, the Prophet described the essentials for the life of the community in his native Arabia; therefore, the profitable use of these things must be for the community as a whole. Based on this perspective, Qutb sees that the necessities of communal life vary from one place to another and from one age to another. Here, then, he proposes *qiyas* (analogy for legal reasoning), which is one of the fundamental laws of Islam, to broaden the application of this category based on the legal reason (*'illat* or *hikmah*) within it.⁴ Hence, in Islamic society, it is this public sector which is the domain of the state's responsibility. Again, here Qutb has the same idea with Rawls.

Comparing to Rawls's idea regarding financial branches of the state, Qutb's idea is not presented conceptually though we can trace it by implication of his thought. To this, I would like to put Qutb's within Rawls's framework.

¹ For this Qutb bases his opinion on the QS. 4: 5. *Al-'Adalah*, 119.

² *Al-'Adalah*, 119.

³ As quoted by Qutb, *Al-'Adalah*, 122; *Social Justice*, 137.

⁴ *Al-'Adalah*, 122-123.

Even though Qutb does not mention the necessity of allocation branch of government, he does in favor of defending market to be always competitive and efficient.¹

Stabilization branch also exists in Qutb's thought. It can be seen by his favor to efficiency of resources. His thinking is coming from the maxim that "every hard work must be rewarded" [*fa al-jahdu lahu jaza'un*] Qutb says that this precept is one of the rules of life, having made flourishing the world, profiting the society, reforming the spirit of man, and purifying his conscience.² It implies from this the necessity for the authority to assure the stabilization of resources of work in economic structure of society.³

About transfer branch of government, Qutb strictly states that Islam guarantees everyone would have a good life to insure a social balance of society. Qutb states that in case of poverty, scarcity, shortage during traveling, and un-repayable debt, and that individual wage could not fulfill his necessary expenditure, the state should pay for it. Thus the inhabitants have rights to have allowances from the state taken from the public expenditure.⁴

To this transfer branch of government Qutb also shows an example from the life of the Prophet. He says that the Prophet, during which was the head of the state, paid the debt of the dead debtors, by the public treasury.⁵

Concerning the distribution branch in Rawls's term, we can find that it is not quite similar in Qutb's term. The basic idea, however, looks parallel. Qutb declares that Islam would not tolerate freedom for owning property absolutely without any control. Islam also states the undesirability of personal ownership when it remains in the hands of a small group or circulates only among them, so that others can have no

¹ *Al-'Adalah*, 129.

² *Al-'Adalah*, 129.

³ On the stabilization of work, Qutb also quotes many of Qur'anic verses and Prophetic hadiths saying on the nobility of work (e.g. QS. 9: 105; 67: 15) and the instruction to give properly the rights of workers, and the disgrace and the threat of being in the hell for those who deviate the truth way. *Al-'Adalah*, 126-128. It is true that Qutb does not clearly show the necessity of stabilization branch in the government. However, for performing his thinking on such stabilization of work, it is obviously necessary to have a branch of government guaranteeing such stability.

⁴ *Al-Salam al-'Alami*, 139-141.

⁵ *Al-'Adalah*, 141.

part in it. To this, Islam provides many ways in order that such property distributes to the least fortunate of the community.¹

To this extent, the authority in Islamic community has such rights as taking *zakat*, tax, or any other things needed during the time of emergency to the more advantaged. *Zakat* is a combination of worship and social obligation (*wajib ijtimai' ta'abudi*) for an able Muslim. To avoid *zakat* means to oppose society which is being his fortune giver, so that the avoidance should be banned and could be offended. Tax is the obligation of citizens in financing public necessities, firstly obliged to non-Muslims.² Other things needed by the state could also be taken from among the most fortunate of the community.³ Qutb says that one of these last actions is called by al-Shatibi as the *tauzif* (recourse obligation) which is better done by the state rather than borrowing in time of no prospect of repayment.⁴

On the first aspect of distribution branch in Rawls's framework, i.e. relating to tax of gifts, inheritance and bequest, Qutb at first does not mention the necessity of the state to interfere. Such is because that it is the rights of the giver and the given, it is the rights of family and familial relationship.⁵ Later, however, on the inheritance, there is Qutb's idea on the state's involvement.

In the area of gifts and presents, Qutb says that those are free of all restraints. In these matters the individual is given full liberty to give away or donate as much of his property as he wishes, while he is still alive. The reason for this freedom is that there is an inherent personal restriction on such giving, inasmuch as a man of property will give away only part of his money, so that his heir will not suffer.⁶

No intervention of government is also ensued in the case of bequest. The limit amount of giving bequest in Islam is one-third of the property being inherited. Less than that, no one intervene the bequest, including the state. Even when the authority

¹ *Al-'Adalah*, 129. To Qutb, the basis of guidance for this distribution branch is the QS. 59: 7. *Al-'Adalah*, 151; Yusuf Ali, 1718.

² *Al-'Adalah*, 151.

³ Qutb bases this on a hadith saying: "Truly in the property there is another obligation to give out other than zakat." Narrated by Tirmidhi. *Al-'Adalah*, 158.

⁴ *Al-'Adalah*, 161.

⁵ *Al-'Adalah*, 129-130.

⁶ *Al-'Adalah*, 130.

interferes the case for the reason that the bequest are more than one-third of the inheritance, the authority or the community will not have anything to take. The state is only an arbitrator, making the accomplishment of the bequest being well-performed.¹

But in the case of inheritance, Qutb states clearly the obligation of the state to interfere.² According to Qutb, in the inheritance there are rights of relatives, orphans and poor people; so that government, in its very nature, has the power of enforcement. The government can determine a reasonable part of the inheritance to distribute to the community. But this depends on the situation.³

Regarding the fifth branch of government, i.e. exchange branch, Qutb also says something. He says that the head of Islamic state must enforce the *Shari'ah* by making public goods state-owned, and fixing prices and costs so that they will be within the reach of the poorest. They may be bought or rented at equitable rates without excessive prices. Qutb adds that by such effort free-riders and externality would be reduced, the letting of which will damage equilibrium and indulge exploitation.⁴

From the above description, it looks that Rawls and Qutb shares similar points in thinking about the balance between individual and social interest, the result of which is social justice. Both agree that the duty to guarantee the equilibrium is particularly in the power of the state.

¹ *Al-'Adalah*, 130.

² This is based on the verse, “*But if at the time of division other relatives, or orphans, or poor, are present, give them out of the (property), and speak to them words of kindness and justice.*” (QS. 4: 8). The key argument in the case of intervention to the inheritance is Qutb’s interpretation to the word “present” in the above verse to mean virtual presence, that is to say, existence. Since, for Qutb, in every community there are orphans and poor, and there is no necessity for them to be “present in person” when an inheritance is being divided; they are already present in time and space. So, it is government’s obligation to enforce all duties by the power of law. *Social Justice*, 308.

³ Qutb compares this attempt with ‘Umar’s policy to pay out money to support recent converts (*mu'allaf*). *Social Justice*, 308.

⁴ *Social Justice*, 306-7.

3. System of Income

a. Rawls

Rawls examines the common sense precepts saying that “to each according to his effort” or “to each according to his contribution”. To Rawls, such precepts do not express a determinate theory of just or fair wages. These precepts only identify the demand or the supply side of the market, or both.¹

According to Rawls, we also should consider that everyone can have same efforts and can also have similar talents and contribution. Those similarities clearly would not bring about similar results. The important thing is that how market is arranged fairly. Thus we should think about institutions able to arrange the market.²

Rawls’s offer in this system of income, then, is not a possible alternative precept. Instead, those rules of common sense of the free market should be controlled by arrangements of a just economic structure.³ For example, someone can get certain job and leave his competitors, but he is burdened by obligation to pay income tax. This is also the case for the companies dominating the market; the more powerful they are, the more burdening the taxes.

Concerning those less paid, Rawls says that they have not only got from the (less) wage, but also from the transfer and benefits from public goods.⁴

b. Qutb

For Qutb, Islam has a fair competitive precept in its system of income, i.e. “justice between effort and recompense.”⁵ Such is because it is in line with human nature and in conformity with the fundamental inclinations of human soul. Qutb ensures that it encourages every individual to give his utmost to the advancement of life.⁶

¹ *Theory*, 268-9.

² *Theory*, 271.

³ *Theory*, 272.

⁴ *Theory*, 267.

⁵ *Al-‘Adalah*, 116. Hardie translates this into “an equality between effort and recompense.” *Social Justice*, 130.

⁶ *Al-‘Adalah*, 116.

Like Rawls, Qutb does not emphasize intervention to the market, which is in this case the market of jobs.¹ The important thing for Qutb is that how could the community take benefits from the individual efforts. It is needed, then, for Islamic government to enact the rules giving rights to the community for taking benefits of the individual exertion.²

It is because, says Qutb, social justice is not always conformed to individual desire, for it is justice for the individual and the community. Individual desire must conform the middle way between the interests of the individual and the community, and so we must have in our life justice in all its shapes and forms.³

Given that, here is similarity between Rawls and Qutb. Both are in the opinion that the job market should leave as it is, but there should be attempts to control the circumstances of the background of the market, so that the whole structure can make the society more just.

Like Rawls, Qutb has the opinion that for people who could not work of anything, or they who are in the position of need only; there would be income given by the authority by including them into the receivers of public monies, especially *zakat*.⁴

4. Wide Distribution

a. Rawls

By distributing the property widely Rawls believes that there will be a condition for economic justice. Distribution of goods or work is not arranged based on information of inclinations and claims of certain individuals. It works for everybody. Here it also means defining rights of property.⁵

¹ Unlike Rawls who does not mention any kind of job market, Qutb describes such first works legally recognized by Islam as: hunting, cultivating waste lands, the extraction of minerals hidden in the earth, raiding, working for a wage for others, assigning by the ruler of a piece of land that does not belong to anyone, and distribution of *zakat* monies. *Al-‘Adalah*, 123-129.

² *Al-‘Adalah*, 117.

³ *Al-‘Adalah*, 117.

⁴ Qutb bases his thinking on the QS. 9: 60. *Al-‘Adalah*, 128. Yusuf Ali, 519.

⁵ *Theory*, 267 and 250.

This thinking of justice in distribution is included in the first part of Rawls's second principle.¹ For Rawls, distribution of resources through redistributive taxes aims at:

- 1) Pointing the importance of reducing poverty. In order to treat everyone equally, also in order to prepare a pure equality of opportunity, the community should have more concern to those who have less private assets and to those who were born in the least advantaged social position.²
- 2) Focusing the resources to those who need most, such as for funding the need of training and educating unidentified natural talents.³
- 3) Ensuring that all members of society have ability to participate in common life.⁴

It is because that everyone is morally equal, poverty and social isolation could not be accepted in any means. In Rawls's theory of just society, there is no one can get (and lose) from his advantage of natural lottery of talent and ability, or from the place he starts in the society, without giving (or receiving) advantages as the compensation.⁵

The core of Rawls's distributive justice is the ignorance of people of the future (so that they prepare to be the least advantaged) and restricted by obligations to the descendants (so that they make a just savings). Here, then, people would like to take a conservative way: choosing the principle of *maximin* or "*maximum minimorum*" (maximizing the minimum).⁶ The *maximin* is, in fact, a principle for anticipating uncertainty and changes of the situation in the future.⁷

Talking about *maximin* is talking about who are the minimums, whom should be maximized? Rawls calls the least fortunate as they are who their origins of family

¹ That is: "social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, ..." *Theory*, 266.

² *Theory*, 86.

³ "Distributive," 68.

⁴ *Theory*, 236.

⁵ "Distributive," 68.

⁶ "Distributive," 61, n. 2.

⁷ *Theory*, 260.

and class are less advantaged compared to others, they are who their natural talents do not make them more comfortable, and they who their fortune in life changed into unhappy ending. All their condition is measured by normal and relevant tools based on social primary goods.¹

b. Qutb

One of Qutb's distribution principles is that the property could not in circulation of certain groups of community, while other groups could not take any benefit from it. This Qutb's opinion is based on the Qur'anic verse, "*In order that it may not (merely) make a circuit between the wealthy among you.*" (QS. 59: 7).² Here Qutb is in parallel with Rawls when the latter says that the aim of his conception of economic justice is "to prevent a small part of society from controlling the economy and indirectly political life itself."³

According to Qutb, an excess of wealth on one side and a lack of it on the other would generate a devastating effect, both to the most fortunate and to the least. For the over wealthy people the abundance would create a luxury life corrupting the soul and enervating the body, and producing forms of unhealthy activities such as liquors, gambling, prostitution, modern slavery, etc. The lack of wealth, meanwhile, would tend to take the form of sale or barter of personal honor, or the form of flattery, or falsehood, or the destruction of personality; all simply to satisfy desires of the wealthy and to pander to their false vanity. Also, the widen gap would produce hatred and rancor between the members of the community.⁴ It would, finally, create an insane society and damage humanity as well.

Meanwhile, Islam, emphasizing human dignity, looks out of any bad effect created by economic force. And it is at the same time does not allow the poor to work

¹ *Theory*, 83.

² *Al-'Adalah*, 151 and 120. Abdullah Yusuf Ali, 1718.

³ *Theory*, xiv-xv.

⁴ *Al-'Adalah*, 121-2.

beyond their endurance and outside their conviction, for simply fulfilling their own needs.¹

Qutb also accentuates that the aim of wide distribution is taking ‘greater things’ (‘public things’ in Rawls’s term) into consideration. Qutb says that Islam directs the *ummah* to ‘spiritual things’, so that it disapproves of people being in poverty or need.² Such is because, for Qutb, Allah “has given men a nobility through their minds and their emotions and through their spiritual yearnings for what is higher than mere physical needs.”³

This discussion on distribution brings Qutb to an explanation about who are the receivers of distributed transfer (or in Rawls’s term are ‘the minimums’ in his conception of *maximin*). Based on the Qur’an, Qutb clarifies that they are eight groups (*asnaf*): the poor (*fuqara*’), the destitute (*masakin*), those employed on the tax itself (*amilun*), those whose hearts are to be reconciled (*mu’allaf*), slaves (*fi al-riqab*), debtors (*gharimin*), in the way of Allah (*fi sabil Allah*), and the wayfarer (*ibn al-sabil*).⁴

Therefore, Qutb’s solution to the inequality is not making the whole members of society into one similar class, but bringing the unfortunate into the level which would make them equal in public affairs. Here, wide distribution is needed.

What the two thinkers think about is relative poverty, not the absolute one. By this, it is not the poverty per se which is to be questioned, but the gap between the poor and the wealthy people which should be narrowed down. Also, their aim is not equality of wealth, for both of them legitimize inequality. What they think is dignity for every individual.

¹ *Al-‘Adalah*, 122.

² Qutb bases his thinking on the QS. 17: 70. *Al-‘Adalah*, 151; *Social Justice*, 163; Yusuf Ali, 799.

³ *Al-‘Adalah*, 151; *Social Justice*, 163.

⁴ *Al-‘Adalah*, 153-4.

5. Standard of Social Minimum

a. Rawls

For Rawls, formulating the appropriate standard of social minimum is one of the requirements for economic justice. This idea is a continuation of the *maximin* idea. The principle of *maximin* requires a social minimum by which the least advantaged can be identified. It is by this identification, then, the maximization of distribution can be clearly applied: distribution for people's benefit.¹

According to Rawls, formulating the social minimum is not based on the mean of the state's wealth or based on the average expectation. It is because; both do not show any reasonable standard and ignore such relevant consideration as distribution. For Rawls, the difference principle can maximize the expectations of the lowest income class.²

Rawls adds that transfer payment and benefit from public facilities for the least advantaged can be supported by expenditure (or income) tax. Thus, increasing the social minimum involves intensifying constant proportion of which consumption (or income) taxed.³

This standard of social minimum presented by the authority by giving the least advantaged family allowances, special payment in time of illness and unemployment or by negative income taxes.⁴

b. Qutb

On this issue of social minimum, let us follow Qutb's thought. Qutb's formula for the social minimum is divided into three components: the original wage, transfer (from the *zakat*), and public facilities.⁵

This social minimum should be defined in order that life can be comfortable and beautiful, and human thought and feeling grows into the degree that more than

¹ Rawls, John, "Some Reasons for the Maximin Criterion" [hereinafter "Some Reasons"], in *American Economic Review, Papers and Proceedings*, LXIV (May 1974), p. 143.

² "Distributive," 73.

³ "Distributive," 74.

⁴ "Distributive," 69; *Theory*, 243.

⁵ *Al-Adalah*, 143.

thinking and feeling about merely basic needs, in order that their life can develop more and more to an excellence and perfection.¹

According to Qutb, this social minimum standard is a kind of balance between two extremes: self-denial (*al-hirman*) and luxury (*al-tarf*). The standard can be identified with the environment and common usage of the economy of the community (*mustawa al-ma'ishah al-'am li al-jama'ah*).²

And this common usage, says Qutb, is varied depending upon the level of affluence of the community. He says that American elites can live contentedly when the subjects are also live sufficiently. But for a country which has not enough pure water to drink and other daily necessities, it is luxury when there are some who drink imported beverages from overseas. Qutb is also in hostile with the usage of luxury for covering the Ka'bah with a velvet embroidered with gold. For, people are more deserving of the money that in spent in this way.³

Unlike Rawls who is making some mathematical accounts for this social minimum, Qutb sees the measure from the social conscience. Here Qutb is more intuitionist than Rawls. For, Qutb says, 'the social conscience' seldom errs in its estimation of such things.⁴

6. Inter-Generational Justice

a. Rawls

According to Rawls, a just society would be incomplete without thinking about justice between generations. For him, it is about how far the present generation is bound to respect the claims of its successors, for it is based on the principle of

¹ *Al-'Adalah*, 143.

² *Al-'Adalah*, 149-50; *Social Justice*, 160.

³ *Al-'Adalah*, 150; *Social Justice*, 161.

⁴ *Al-'Adalah*, 150; *Social Justice*, 162. I take the information of 'the social conscience' from Hardie's translation. I only find in *Al-'Adalah* I am using here the term of 'the heart of Muslim' (*al-qalb al-Muslim*).

equality: equality between generations.¹ And this thinking about inter-generational justice is included in the first part of Rawls's second principle of justice.²

Rawls means 'just savings principle' as an inter-generational problem about how one generation leaves resources for the next. The key for achieving the fair savings from one generation to the next includes representation from all generation in the original position. Because that there is no one in the original position knows into which generation he would enter, everybody wants to make a contract in order to prevent a generation wastes resources which would produce detriment for the next.³

According to Rawls, the relevant expectation of the least advantaged is their long-term expectation covering all generations. It means that in each period of time economy should save the appropriate amount of the real capital accumulation. And capital, for Rawls, is not only economy in the sense of factories and engines. It includes knowledge and culture, techniques and skills, and so on, that makes possible just institutions and the fair value of liberty.⁴

Hence, for Rawls, accumulation is a way towards a just society. In other words, the principle of just savings can be considered as inter-generational understanding to carry their fair share of the burden of realizing and maintaining a just society.⁵

This understanding can be arranged before we enter into the community. It is done by reflecting on the original position. The parties in the original position do not know to which generation they would be born; similarly, they do not know the level of economic advancement in their next community. Something important to ask is how much rate that they would save in every level by assumption that other generations would save it in the same rate. Likewise, all generations, except maybe the first generation, get from the reasonable rate of accumulation from their predecessors. The analogy is the fathers who want to save for their children, whereas at the same time get from their fathers. It is reasonable, then, to include the principle

¹ *Theory*, 251 and 259.

² That is: "social and economic inequalities are to be arranged so that they are both: (a) to the greatest benefit of the least advantaged, consistent with the just savings principle...." *Theory*, 266.

³ Edward E. Zajac, *Political Economy of Fairness*, Cambridge: MIT Press, 1995, h. 84.

⁴ "Distributive," 73; *Theory*, 252 and 256.

⁵ *Theory*, 256-7.

of reciprocity in cases of just savings. It means that each generation gives to their descendants and gets from their predecessors.¹

The important thing to the parties in the original position is that the aim of their accumulation process is the condition of the community with enough material bases to enact effective just institutions in which all basic liberties can be realized. For Rawls, this principle is the realization of scheme of cooperation in the line of historical time.²

The principle of savings can be connected with the difference principle by assumption that representatives from any generation are demanded to save for the least waged class. Rawls's way of thinking is that there are always various incomes in a community. These differences are naturally based on different level of education. Therefore, we should try to make education be experienced by all, including the least advantaged, so that the next generation of the least fortunate would experience the same education with the next generation of the most advantaged. It is the significance of the just savings. In other words, says Rawls, the savings would be reached by accepting political judgments of policies designed to advance life standard of the next generation of the least advantaged.³

The rate of savings is not really important, states Rawls. It should be in line with the condition of the community. The important thing is to be in accordance with economic agreement promoting accumulation. The savings of those least fortunate is done by accepting policies designed to advance the standard of life.⁴

Rawls says that although the amount of savings resulted is not the matter, it is ethically a significant tie. The most important thing is that the community approves on how to distribute the difficulties of economic structure and keeps maintaining a just society.⁵

Besides, it is also important to make this just savings in any situation. According to Rawls, it is a mistake if there is a view that a just and good society

¹ *Theory*, 257; "Distributive," 74-5.

² *Theory*, 256-7.

³ *Theory*, 270 and 258.

⁴ "Distributive," 75.

⁵ "Distributive," 76; *Theory*, 253.

should wait until a material standard of life advanced. The most wanted by men, for Rawls, is a meaningful work in free association with others. These associations order their relations with each other in the framework of just basic institutions. To reach this, it is not needed the existence of huge prosperity.¹

For Rawls, this system of economy is not only an institutional means to satisfy the present want and need, but also a way to create and adore wants in the future.²

b. Qutb

Inter-generational justice is also thought by Qutb. For him, Islam has a highest degree of justice, for it is fit with the interest of the society in the limits of universal perspectives, which is not limited for one generation only.³

Qutb also believes that Islam does not order this life merely based on desires of individuals or society, or based on the interests of one groups than others, or for one generation over other generation. Each of them has its own rights and duties based on justice and equality.⁴

Qutb demands a just society as a society thinking of the next generation. There is no explicit idea about just savings in Qutb's. What can be mentioned as savings in Qutb's conception possibly is national treasury called as *Bait al-Mal* (House of Wealth). Traditionally, notes Qutb, this treasury of Bait al-Mal becomes public monies for transfer (to the eight groups of receivers of *zakat*) and public goods such as military equipments.⁵ Speaking about modernity, however, Qutb says that the capital is also factories or work opportunity, stocks or foundations which can be permanent sources of income for society.⁶ But Qutb has no idea that the capital is also knowledge and culture, education and skills are also capitals for the next generation as thought by Rawls.

¹ *Theory*, 258.

² *Theory*, 229.

³ *Al-'Adalah*, 118.

⁴ *Al-'Adalah*, 31.

⁵ *Al-'Adalah*, 230; *Social Justice*, 241.

⁶ *Social Justice*, 304.

Besides thinking about the importance to think of the providence of the next generation, another similarity between Rawls and Qutb about inter-generational justice is that both declare that the important thing in societal life is human creativity in a fair social relationship.¹

7. Comparison and Contrast

There are some similarities between Rawls's and Qutb's thinking on economic structure of social justice, those are:

1. Competitive markets are needed for efficiency, liberty, and equality.
2. Markets should be controlled by handling their backgrounds, so that the whole structure can create justice to the society.
3. The role of the state is needed to allocate, stabilize, distribute, and transfer resources.
4. Public goods for everyone are controlled by the state.
5. The state can trade goods or services to its people for common advantages.
6. The state has a duty to balance individual and societal interests.
7. The importance of tax of inheritance.
8. Those who less paid earn transfers and benefits from public facilities.
9. Distribution should be done for: (a) handling poverty, (b) focusing resources to the most need them, (c) ensuring all members of society able to participate in common life.
10. Distribution is not to equalize people into the same class, but to bring the worst off to the level that they feel similar in public affairs.
11. A just society is a society thinking of the next generation.
12. The most important thing in societal life is a creation in a just social relationship.

There are also some differences between the two thinkers about economic justice:

¹ *Al-Adalah*, 31.

1. To control market, Rawls relies on a just constitution, effective government, standard of social minimum, and just savings. For Qutb, it relies on the *Shari'ah* and its application.
2. The owner of public goods, according to Rawls, is amalgamation of individuals, for Qutb, however, it is *Allah*.
3. Public monies, to Rawls, can be taken from: (a) tax of inheritance, gift, and bequest in order to prevent a concentration of power, and (b) tax to handle public expenses and transfers, that is, by enacting expenditure tax and progressive tax to income. For Qutb, the money is coming from *zakat*, tax (either Muslims or Non-Muslims), and *tauzif* (emergency fund).
4. The minimums to be maximized, to Rawls, are: those who come from the least advantaged family, those who their talents are not properly canalized, and those who experience a kind of bankruptcy. Qutb has such exact criteria as that those are the poor (*fuqara'*), the destitute (*masakin*), those employed on the tax itself (*'amilin*), those whose hearts are to be reconciled (*mu'allaf*), slaves (*fi al-riqab*), debtors (*gharimin*), in the way of *Allah* (*fi sabil Allah*), and the wayfarer (*ibn al-sabil*).
5. The standard of minimum, to Rawls, can be measured according to total income of the worst-off. To Qutb, however, it is measured based on the feeling of the common people.
6. The reference of economic structure, to Rawls, is the law; whereas to Qutb, is the law and morality as well.
7. Inter-generational justice, to Rawls, should have the principle of just savings; whereas to Qutb, it should fit with the rights and duties of each and whole generation.

If we make it into a matrix, the differences between Rawls's and Qutb's thinking on the economic structure of social justice, is the following:

**Table 4.2. Some Contrasts between Rawls's and Qutb's thinking
On the Economic Structure in Social Justice**

No.	Subject	Rawls	Qutb
1.	Control to the market	<ul style="list-style-type: none"> * Just constitution * Effective government * Standard of social minimum * Just savings 	<i>Shari 'ah</i> and its application
2.	The owner of public properties	Amalgamation of individuals	God
3.	Public monies	<ul style="list-style-type: none"> * Tax to inheritance, gift, and bequest * Expenditure tax and progressive tax to income 	<ul style="list-style-type: none"> * <i>zakat</i> * Taxes * <i>tauzif</i>
4.	The minimums	<ul style="list-style-type: none"> * from the least advantaged family * talents are not properly canalized * experience a kind of bankruptcy 	<ul style="list-style-type: none"> * the poor (<i>fuqara'</i>) * the destitute (<i>masakin</i>) * those employed on the tax itself (<i>'amilin</i>) * those whose hearts are to be reconciled (<i>mu'allaf</i>) * slaves (<i>fi al-riqab</i>) * debtors (<i>gharimin</i>) * in the way of Allah (<i>fi sabil Allah</i>) * the wayfarer (<i>ibn al-sabil</i>)

C. Concluding Remark

By discussing political and economic structure of just society in Rawls's and Qutb's thoughts we could see how a theory of justice proposes ways for the implementation. We could not say that their ways are similar, for conceptually their theories are fundamentally different. Their formal thinking, however, could be similar, for the problems of justice in implementation are also the same.

1. Political Structure

Justice in Rawls's political structure is framed in a constitutional democracy. By this he states that his arrangement defines an applicable political conception, as

well as an effort to close to and widens our considered judgment. By four level of political structure Rawls wants to explain how the principles for institutions are run. That is, before such existing political levels have been widely used as legislature and executive/judicial; there are philosophical level (original position) and constitutional level. By these two levels Rawls means to stress important things to consider and be constitutionalized in a liberal democracy state.

Qutb has shown that Islam admits equality between citizens. For Qutb, state is important for upholding the *Shari'ah*, balance, and welfare. Qutb acknowledges political levels of modern democracy, that is: philosophical level by going back to *fitrah* (human nature); constitutional level based on the texts of al-Qur'an and al-Sunnah; legislative (*shura*) level for public interests; and executive/judicial level within the borders of the *Shari'ah* and justice.

It may seem that Qutb is in favor of democracy. But Qutb does not to reconcile Islam with a commitment to democracy. He does not want to import anything from the West.¹ Democracy or not is not Qutb's business. For him, the important thing is to uphold justice. This is different from Asad who proposes presidential democracy as an Islamic political structure.² In this case, Qutb's ideas could be more long lasting than Asad's, for Qutb offers only the principles of statecraft, and not the forms of it.

Rawls requires constitutionalism in upholding justice. Rawls's constitutionalism, then, is a direct interpretation of his two principles of justice, i.e. equal liberty and a fair equality of opportunity together with the difference principle. As a reference for political decisions a constitution should be a security basis for citizens. A constitution, for example, should contain justification of parliament, general election, political freedom and opposition.

Qutb also mentions that his political structure is constitutional by stressing that the just constitution is divine guidance. So, Islamic constitution becomes a basis for security, public intention, just and practical life. Also, Islam admits parliament,

¹ *Al-Adalah*, 7.

² Asad provides normative foundations to validate possibilities to legalize modern democracy as legally Islamic. By quoting the Qur'an and the Sunnah, by his own *ijtihad*, Asad proposes a formation of statecraft as likely modern Western democracy, but based on Islam. See Asad, Muhammad, *The Principles of State and Government in Islam*, (1961), Kuala Lumpur: Islamic Book Trust, 2000, *passim*.

general election, political liberty, and opposition; all of which, however, should be under the guidance of revelation. Qutb believes that human procedure is practically imperfect. Hence, something left is the heart and the observance of the citizens.

In applying constitution, there is a need for enacting the rule of law. By rule of law, Rawls wants to elucidate “justice as regularity”, i.e. law of administration which is regulated, impartial, and fair. This rule of law is coercive, public, regulates and provides framework for social cooperation. These characteristics become a basis for legitimate expectations. It forms foundations on which everyone can rely each other and each has a right to refuse whenever their expectations are not fulfilled. Rule of law is a product of the principle of liberty, i.e. liberty in making it and accepting its consequences.

The rule of law is needed by Qutb to administer social justice. To him, the philosophy of law is to regulate relation and life of its society and to ease the unity. In addition, the principle of justice guarantees the security of law for all members of the community. Law in Qutb’s conception is two kinds: a product of political process and a command of God. The law itself, however, has its own system of stability. It arranges cooperation and becomes a reference of the subject. It also secures liberty. In the framework of justice, Islamic law treats the same case similarly. Islam requires independent and impartial judges in order to uphold justice. Justice of law also means maintaining equal liberty. Law is coercive, voluntary, and a guarantee for security; yet, should always be convinced by the subject. Sanction is for the sake of liberty, not merely for responsibility. And liberty, finally, is to eliminate injustices.

Participation is a significant principle in Rawls’s social justice framework. Without participation of citizens, Rawls’s principles of justice will be damaged, therefore become unjust. Participation means that the state admires its citizens. It also means that equal rights between citizens can bear civic friendship. By participation, political life will be guided by a conception of justice and common good rather than individual interests. However, it also means that the law operated in Rawls’s system of justice is human law, for it is the product of full participation of the citizens. To avoid inequalities in right for participation, law should be accepted by the least

capable for participation to protect more for their liberty. In order to eradicate inequalities Rawls proposes such democratic institutions as bicameral legislature, separation of power mixed with checks and balances, and supremacy of law with judicial review.

The principle of participation does also exist in Qutb's political conception of justice. To him, Islam urges participation in order not to exist any regret in the subject. By this participation Islam admits equal voice of the citizens and prevents economic inequalities entering political equality. As common good, Islam should be commonly belonged, and the one who does not faithfully accept should be called to. Qutb also stresses that Islam acknowledges political liberty for developing intellectual and moral sensibilities of the community. The foundation for political freedom is that the law is made by God, except something outside or not contradicts with religious texts. Hence, although not made by humans, Islam is a suitable system for humans by their needs, including political liberty. Also, by this participation Islam gives the right of equal access for public position, even though special for the government non-Muslims are exempt, since the state is based on religion. Nevertheless, everyone has a fair opportunity to influence political processes, citizens have free and open public forum, and that information is freely accessed. Islam also emphasizes that political procedure is impartial. Some thoughts of such political parties as party politics are less concerned by Qutb, yet for common good any procedure can be proceed. Qutb explains that political liberty should be restricted for protection of other people's liberty. Restriction can be done through: checks and balances and judicial review (in policies, not in Islamic principles).

According to Rawls, political duty is originated from natural duties based on rights and political obligation based on the principle of fairness. Natural duties mentioned by Rawls are natural duty of justice, of mutual respect, and of mutual aid; all based on the basis that as humans we have rights to be treated justly, to be helped, and to be respected. Meanwhile, political obligation which is based on the principle of fairness requires that it is done voluntarily and institution supporting it is a just institution. The principle of fairness states that everyone takes his own risk based on

his role. Therefore, whoever has a bigger power means that he has a bigger obligation too.

Furthermore, political obligation asks us to comply with unjust law if the institution established is just. This is because we should comply with the majority rule, the existing rule, for stability. The awareness to comply with unjust law brings us to the consideration that social political institution is man-made which always has lacks. So, as long as it does not harm the main justice, i.e. the principle of equal liberty and equality of opportunity, we should keep maintaining the institution as a whole.

Concerning rights and duties, Qutb declares that Islam is compatible with natural precepts, i.e. human nature (*fitrah*). Qutb says that political obligation individually comes from natural duties to be just, mutual aid, mutual respect and service. Social-political obligation coming from the principle of fairness is also admitted by Qutb. That is that every right has its own obligation. It means that the bigger the power, the bigger the obligation. Also, in principle Qutb says that citizens in Islamic state are not obliged to comply with unjust law. Yet, if it is not really unjust, citizens are obliged to comply with the majority rule, even though sometimes it makes certain individuals loss. Here is the difference between Rawls and Qutb. For Rawls, the rights and duties are addressed for the liberty of the individuals. For Qutb, however those are addressed for the responsibility to the society.

Rawls also states that legitimation in a just society is based on intuition and overlapping consensus. Intuition is common thought and experience, as that intuition for toleration is based on the history of inter-religious conflict. Meanwhile, overlapping consensus emerges as an agreement of common good. To Rawls, because that political liberalism is commonly needed, consensus means liberal values. Here, then, comprehensive doctrines could not be accepted in the political domain. Even though as a way, consensus is political morality. It is from this consensus there will be a public reason for common good. Unavoidably, then, this public reason is the majority rule. Majority rule is legitimated, for when the rule is under the minority it is unnatural, since that majority rule is common thought, and

because that majority rule is compatible with equal liberty. However, Rawls insists to emphasize that majority rule is only a matter of procedure, the substance should be justice. For that, the procedure of majority should satisfy a just background, should be preceded by common discussion, should be for the interest of justice, and not for vested interests.

For Qutb, Islamic state is not a theological state, in the sense of Western history of theological monarchy. Islamic state is for common good within which the public reason is the majority rule. Such majority rule is like a ship running compatible with the will of majority of the passengers. Yet, majority rule is only a procedure which should be accompanied by the substance of justice. Qutb states that institution is not really significant, what the matter is the just order. According to Islamic tradition, a just order begins with the authority. Authority in Qutb's interpretation is most likely what Hobbes thought about, i.e. an authority with huge power and determines the course of justice in political life. Nevertheless, authority (or institution) is only the upholder of law, for it is the law which should be upheld. To this, citizens should always observe which in turn, if there are some injustices, can delegitimize him/it.

In discussing the impossibility of overlapping consensus involving comprehensive doctrines Rawls thinks we should avoid religious foundations because we will never agree. Besides referring to the historical fact that there were inter-religious wars in the West, Rawls criticizes Aquinas's doctrine that 'there is no salvation outside the Church'. Rawls seems to agree with Rousseau in saying that we cannot live with those who regard us as the damned.¹ Here, actually, Rawls thinks that religious doctrines can influence social life. Perhaps he is not really wrong, since he argues that Aquinas says that the heretics must be punished to death² therefore there is no toleration if the state is based on religion.

¹ SC, IV.viii.34. (Rousseau, Jean Jacques, *The Social Contract* [hereinafter SC], in *The Social Contract and Discourses*, tr. G. D. H. Cole, New York: Everyman's Library, (1913), 1968, Book IV, Chapter viii, paragraph 34).

² *Theory*, 189 quoting *Summa Theologica*, II-II, q. 11, art. 3.

But Rawls's idea is wrong when it is addressed to Islamic state as idealized by Qutb. Such is because in Islamic state social life is secured, including for those who have different faith. Here, even though they are infidels, they can coexist with the Muslims. By this, Qutb shows that Islam has social as well as theological doctrines. This is the perfect of Islam. Not surprisingly, in an Islamic state, overlapping consensus is not truly needed in determining political principles and precepts. Such is because, to Qutb, Islam is already compatible with human social law, so that humans can only apply it.

To uphold his just society, Rawls needs to make a clause on delegitimation, especially within democratic state. Delegitimation happens when there is civil disobedience or conscientious refusal. Conscientious refusal happens if the refusing side does not call the majority, not want to change, and not necessarily political. The lesson from this conscientious refusal is that government should not easily do something in the name of citizens. Delegitimation by civil disobedience is massive because the aim is for winning the public condition, so that law finally can win the protesters. It is a story of minority against majority. To Rawls, civil disobedience requires: political, public, nonviolent, and fidelity to law. Meanwhile, legitimate reasons for doing civil disobedience is because the principles of justice have been damaged, it has been performed normal procedure but it was failed, and that the cooperation has been injured. Disobedience is only for democratic state, since in a theological based state, subjects are not sovereign, so that could not do any disobedience, for disobedience means disturbing morality, whereas the state itself is based on certain moral principles. That was what happened in the Middle Ages. In a modern democratic state, however, disobedience is necessary for stabilizing constitutional system. It happens if disobedience is based on the sense of justice of everyone. Here common sense of justice is a collective asset. So, when there is a civil disobedience, the wrong should be question is not the protesters, but the authority itself.

Qutb also provides a foundation for justifying delegitimation of political order, that is, by ways of civil disobedience and conscientious refusal. Delegitimation of

injustices is Islamic. And that delegitimation in Islamic constitutional state can go further to the militant tactics. Unlike Rawls, Qutb's conscientious refusal is based on responsibility, not on liberty. Conscientious refusal in Qutb's conception can be public, including the non-political one. Here, then, conscientious refusal transforms into civil disobedience to win public condition. By civil disobedience, the refused one can be government's policies meaning the attitudes of the authority. In that case, the court can make the protesters win. The requirements of civil disobedience between Qutb and Rawls are quite similar in political, public, and fidelity to law; but not so in nonviolent. Such is because coercion for the sake of justice can be done in Qutb's conception. And then, the valid reason for disobedience in Islam is the existence of wrong doing, evildoing to Allah and His Prophet, and injustices. The procedures in consecutive order of delegitimation are calling with wisdom, good advising, debating, civil disobedience, and militant tactics. Disobedience is badly needed because the condition for cooperation has been damaged. Therefore, disobedience is done to stabilize constitutional Islamic political structure. Qutb has an idea that disobedience based on individual sense of justice which can be a collective asset. By delegitimation Qutb stresses that the one should be upheld is not merely the law, but the morality behind the law.

2. Economic Structure

Rawls's idea on social justice in economic structure is to design a scheme that resulting distribution within the framework of cooperation and coming out of legitimate expectation of the members of the community.

Qutb also stresses on economic structure of society in his theory of social justice. Qutb, moreover, dares to say that it is economic justice which is the core of social justice. Like Rawls, Qutb prioritizes more to the global structure of his theory of social justice, not merely to the economy in technical sense. It is not surprised if

Qutb, as Rawls does, places his discussion of economic justice in the middle of his book,¹ having firstly explained the position of Islam in a scheme of social justice.

Thus, says Rawls, to enact a just distribution, a fair total system of institution should be created and arranged impartially. It should be performed as a basic scheme of just cooperation which can be understood publicly. Such structure requires a free market, for economic rewards would be just if the very competitive system of price being organized as a fair game. Nevertheless, economic condition should be circumscribed by an appropriate framework of institution, for the most efficient system of price would not determine a just distributive division if it is ignored. Hence, economy should be arranged by a just constitution, controlled by the four branches of government (allocation, stabilization, transfer, and distribution), and also by the function of just savings.

Qutb's economic structure also requires free market, intervention of the state, and consideration to the next generation. The structure also is not worry about social and economic inequalities between the members of the community, for such inequalities would become a way out to narrow the gap of difference by way of *zakat*, taxes or other obligations burdened by the state to the affluent people which would be transferred to the least advantaged by orderly ways and under the supervision of just state.

In explaining intervention of the state, Rawls only emphasizes the need of taxing the citizens. This is the incomplete economic structure of Rawls. Rawls says that his idea is substantive justice, but why he only proposes obligatory taxes, and not charity. With this, actually, his idea is formalistic justice, which is only arranged by the state. Here Aristotle and Aquinas are far better, for they propose particular and personal justice, along with general justice, to solve the problems of social justice.²

¹ The book of Qutb in this matter is his *Islam and Social Justice* (1949), and of Rawls is his *A Theory of Justice* (1971).

² *NE*, V, 2. (Aristotle, *Nicomachean Ethics*, translated by W. D. Ross, in Richard McKeon (ed.), *The Basic Works of Aristotle*, New York: Random House, 1941, Bk. V, Ch. 2); *Summa Theologica*, II-II, 61, 1. (Aquinas, St. Thomas, *The Summa Theologica*, trans. by Fathers of the English Dominican Province, rev. by Daniel J. Sullivan, London: Encyclopaedia Britannica, Inc., 1952, Part II of the Second Part, Question 61, article 1.).

Avoiding charity, Rawls is too extreme. He cannot integrate mercy into his liberal political philosophy owing to the fear that it will insult humanity. However, it should be noticed that redistribution merely by the state which is by a kind of coercion will not be succeeded, for it is not coming from the intention. Charity also urges continuity, whereas only redistribution by the state is only temporary. Charity brings also to stability. Rawls's idea of taxing cannot admit the support of people. Rawls, then, reject the idea of autonomy in the society as the organizing principle of their lives and politics.

Qutb says that besides from obligations such as *zakat*, public monies also can come from charity. Here, Qutb bases his conception of economic structure not merely on law, but also on morality, something not prioritized by Rawls who says that moral desert cannot satisfy legitimate expectations. Qutb shows that in Islam citizens are leaders themselves, so that their acts are responsible for promoting their idea of social justice.

By using these two principles of justice, a balance between equality and total welfare would be achieved, says Rawls. By this, Rawls wants to show that his 'contract doctrine' combines all principles, rules, and aims of policies emphasizing maximization of expectation of the lowest income class consistent with the required savings and maintains the system of equal liberty and equality of opportunity.

Rawls does not determine certain known system for his structure of economy. Such is because, for him, a system comes from various activities of social and economy. The choice of capitalist or socialist economy is a matter of taste and endowment, culture, tradition and history. Something matter for him is that the basic structure should operate the contents of the two principles of justice by showing the way these principles are perfectly satisfied and become its guidelines. Furthermore, Rawls states that his theory of social justice is more practicable than other traditional ideals. Such is because it is explicitly framed to coordinate the magnitude of possible criteria into a coherent and applicable conception.

Like Rawls, Qutb does not place his theory into any existing system, either capitalist or socialist. In addition, Qutb says that Islam enjoys the good of democratic

and socialistic doctrines without any weakness. Truthfully, says Qutb, Islamic laws concerning property is moderate and fulfills human nature, and prevent the community and individuals from class struggle.

Rawls feels that even though presumably his contract doctrine is rather special, he surely believes that it still expresses principles of justice as usually expressed in our daily judgment.

Rawls's theory of justice which is called as an ideal, for it is not based on historical experience and justification of existing condition; would finally be a real theory, for it is applicable. Applicable is because that this theory based on common individual desires of justice although may be different desires of conception of good. All can be processed in a political process.

Concerning the choice of Islam, Qutb says that Islamic scheme of justice is the best scheme of justice, for it is based on divine order the right of which is absolute. Besides, Islamic scheme of economic justice is also practical. It is proven in the history of Islam, especially which is performed by the Prophet and his Companions.

Furthermore, in this matter of economic justice, Qutb says that Islam has shown the ways of just economic life in its society, especially what was reflected in the first generation of Islamic society.

Hence, Qutb also stresses that the principles of economic justice in Islam can also answer the challenge of time, for Islam has the principles of *al-maslahah al-mursalah* (mission of good order) and *shadd al-dhara'i* (blocking the means) which is open, depended upon the necessity of society.

GENERAL CONCLUSION

A. Introduction

An effort of comparison between Islamic based thinking and Western based thinking is actually not be agreed by Qutb himself, for the comparison is only on the surface.¹ And Qutb is right; we can see the similarities are only in the themes, and not in the contents.

This effort of comparison, however, does not intend to approach Islam to the West. This effort is to show that even in the structure of Islam, where there is no influence from the West, can be found a modern structure as it is in the West.

The advantage which might be resulted from this comparison is that for they who study Western political philosophy will feel that essentially Western based theory can be compared to Islamic based theory. Therefore, this thesis can add their knowledge on Islam. Also, for those who study Islam, this thesis can add their knowledge on Western political philosophy. Here, then, there is dual benefit in complementing the stock of knowledge.

In the nature of their theories, Rawls and Qutb propose the same transcendental theories of justice,² which is, proposing justice in a special, closed society. The question being answered by both of them is “What is a just society?” Rawls suggests that the society being discussed by him is a Western conventional democratic society; whereas Qutb discusses on Islamic society in an ideal fashion per se. Some comparisons with other kinds of societies made by them are only small portions of illustrations.

From the aspect of sources, Rawls’s and Qutb’s theories are different. The first is rational and coming from a tradition of Western democracy and the second is prophetic and coming from Islamic tradition, without forgetting rationality.

¹ Qutb, Sayyid, *Al-‘Adalah al-Ijtima‘iyyah fi al-Islam* [hereinafter *Al-‘Adalah*], 7th edition, Cairo: Dar al-Shuruq, 1980, p. 99.

² “Transcendental” approach to justice focuses merely on identification of justice in a single just society. It is contrasted with “Comparative” approach, which concentrates on comparing one society to another in certain scale of justice. Amartya Sen, “What Do We Want from A Theory of Justice?” in *The Journal of Philosophy*, Vol. CIII, No. 5, May 2006, p. 216.

Nevertheless, both admit that they learn from history. For man is an historical creature.¹

Surprisingly enough, either Rawls or Qutb sees that his idea is the middle way, between the Capitalism and the Communism. It is clearly an influence of Marx in voicing social justice that the term ‘middle way’ comes to bear. It also assigns oppositions to Capitalism which is applied up till now by the West. But because both of them have their own traditions, each of them offers his tradition as the middle way. Rawls feels that the middle way can be taken from Western contractarian tradition. Qutb, meanwhile, feels that it is Islam which is the middle way.

Let us see the conclusion of both writers in dealing with the framework of social justice, that is, in the nature, problems, methodology, and the solution.

B. Formulation of Finding

As an academician, Rawls has a clearer examination in defining justice. He says that justice is the first virtue in a system of society, as the truth in a system of thought.² Therefore, an institution is just when there is no arbitrary distinction between the people.³ Qutb, meanwhile, does not examine justice in terms of definition. He likely feels that justice has already been understood by everyone.

According to Rawls, a theory of justice should be comprehensive in dealing with the problems of justice. Hence, only following the truth of logic and definition may not develop a substantive theory of justice. Such is because the basis is too thin only to follow conceptual and a priori analyses. A moral theory, suggests Rawls, should be free to use general assumptions and existing facts as extensive as might be.⁴ To Rawls, the first principles, or requirements, or definitions are really central

¹ On this Durkheim states, “history is not only the natural framework of human life; man is a product of history. If one separates men from history, if one tries to conceive of man outside time, fixed and immobile, one takes away his nature.” Durkheim, “Introduction a la morale” as quoted by Giddens, Anthony, *Capitalism and Modern Social Theory: An analysis of the writings of Marx, Durkheim and Max Weber*, Cambridge: Cambridge University Press, 1971, p. 106.

² Rawls, John, *A Theory of Justice* [hereinafter *Theory*], revised edition, Cambridge: Harvard University Press, (1971), 1999, p. 3.

³ *Theory*, p. 5.

⁴ *Theory*, p. 44.

elements or tools in a theory, but its justification is in all conception and how it adjusts itself with and organizes our deliberate judgments in a reflective equilibrium. In short, a justification of a theory is its mutual support between various considerations, so that everything is fit to develop a coherent view.¹

Qutb can agree with this. Such is because that Qutb exactly does not concerned with definition. He more cares in the contexts of how a different conception of social justice happened in history. That is, by enunciating that Christians did not care much on mundane matters, including social justice and he compared this with the materialist communism, which was too care with the problems of social justice so that it proposed that a just society is happened when their redistribution in all aspects of life is done.

Both writers, with their own methods, have their own clear and distinct theories. The frameworks, however, are quite similar or parallel; but in the contents and ends are slightly different.

Based on his secular scope of thought, his reference to reason, history and intuition, Rawls concludes that justice can be felt when we are in an initial condition of equality, where we do not know our destiny in the future. It is what he called the original position. So, because we are in the same ignorance, the original position creates a sense of justice coming from a fair condition, thus justice is fairness or “justice as fairness.” Qutb, on the other hand, based on his theological sphere as his scope of thought, his reference to reason, revelation, history, and intuition; says that an ideal justice can be known from Islamic teachings.

Even though it is different in their contents, both writers feel that their theories are universal; they can be applied anywhere and anytime. Rawls declares that the principles resulted from the stipulation of original position can be a universal theory.² Qutb also states that his theory is universal, for it is based on universal religion, which is in conformity with all kinds of humans.

¹ *Theory*, p. 507.

² *Theory*, pp. 108-9.

Unsurprisingly, their methods are deductive. Rawls admits that his original position is a deductive reasoning.¹ By saying that his theory based on Islam, Qutb, of course, can be categorized as deductive in his method of reasoning.

On the problems of social justice, both writers say that the problem is not in distributing the goods. Rawls mentions that the problem of justice is not allocating, without preparation (*ad libitum*), certain amounts of thing, whether it is money, or wealth, or anything, between certain individuals.² Qutb also says the same thing.³ So, the problems of justice being examined here are the problems of inequality, distribution, capability, and stability.

The main problem of social justice is the problem of inequality. For, injustice is “simply inequalities that are not to the benefit of all.”⁴ Rawls, indeed, admits that inequality always exists, for it is natural.⁵ But he states that what is just and unjust is how the institutions deal with this fact.⁶ Natural inequality is also admitted by Qutb. It is God’s providence. But, like Rawls, Qutb also thinks that humans can change their destiny by way of upholding justice in the society.

It is so, that the main mission of Rawls in his conception of justice is how to eliminate public effects of inequality which is a product of natural lottery. All inequalities, then, should be eradicated as good as we can so that there will be a condition of equality for all. Here Rawls insists that the effort is how the natural lottery not to make certain benefit and loss to humans.⁷ This is also voiced by Qutb, that is, there is no one gains or losses caused by the inequality, for it is only God who values human deeds. Big power, then, can be a weight burden, for every power will be accounted in front of God.

¹ *Theory*, p. 103.

² *Theory*, p. 136.

³ *Al-‘Adalah*, 47.

⁴ *Theory*, p. 54.

⁵ *Theory*, p. 275.

⁶ According to Rawls, aristocratic or caste society is unjust because they make this natural accident as a basis of attribution to have certain kind of privileges. The basic structure of society is unified with arbitrary as given by nature. But there is no reason for man to surrender to this accident. A social system is not an unchangeable order beyond human control; it is a pattern of human conduct. *Theory*, p. 92; Rawls, John, “Justice as Fairness” [hereinafter “Justice as Fairness”], in *Philosophical Review*, LXVII (1958), p. 170.

⁷ *Theory*, p. 87.

An effort of justice, for Rawls, is letting the inequality be inefficient.¹ Such is because men are morally equal, so that inequality cannot so be accepted. To this, a theory of justice should try to set up a basic structure of society, so that there is no one gains (also loses) from his fortunate in a natural lottery of talent and ability, or from the place he begins in a society, without giving (or receiving) benefit which becomes the compensation.² Qutb's thought is also around that. That is, the wealthy should give and the poor should receive. For human equality, to Qutb, is legitimated both religiously and socially.

So, Rawls proposes that for dealing with inequality we should go back to an initial situation of fairness.³ From that situation, men can agree to take advantages from natural and social coincidence only if doing it is for common benefit.⁴ Qutb, on the other hand, states that inequality can be handled by going back to the religion, for before God, all are the same, and therefore, it is fair.

Rawls mentions that inequality for common advantage⁵ is fruitful if we give first to the least advantaged.⁶ Such is because the standard of fixing the inequality is in the position of the least fortunate.⁷ By such aim of common advantage as that, inequality makes people respect each other.⁸ Here, Qutb also articulates that social justice is for the sake of common advantage. He also shows that this problem of inequality should be seen to the poor and oppressed, for defending them will be very worthy in front of God. Hence, it is by way of social cooperation (*takaful al-ijtima'i*) that inequality is not felt as misery; it even brings to the feeling of nobility as humans.

Besides, from an aspect of planning, inequality should be examined in a long term framework.⁹ So, if this planning is practiced in the society, it is fair enough if

¹ *Theory*, pp. 92-3.

² Rawls, John, "Distributive Justice" [hereinafter "Distributive"], in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics and Society* (3rd series), Oxford: Basil Blackwell (1967), 1969, p. 68.

³ *Theory*, p. 462.

⁴ "Justice as Fairness", p. 167.

⁵ *Theory*, pp. 72-73 and 132-136.

⁶ *Theory*, pp. 69-70.

⁷ *Theory*, p. 92.

⁸ *Theory*, p. 156.

⁹ *Theory*, p. 39.

the bigger expectations allowed to a group of businessmen in elevating the life expectations of the working class, by way of education, for instance.¹ The same thing is voiced by Qutb. For him, Islam urges the improvement of everyone, even such a lower class as slave, to fix his destiny, including by education.

To cope with inequality, one refers to distribution as the solution. Distribution itself, however, becomes another problem, so that a theory of justice should also answer this problem too.² Rawls states that there is no one deserved on his position in distribution of natural asset.³ And if this natural asset is being left alone, the arbitrariness will be inherited from one generation to the next.⁴ It means that we should let social laws happen in a natural way, without the intervention of scheme of justice. Here, the rule is natural law: the stronger is the winner.⁵ Then, there is a need of submitting distribution or redistribution in developing justice in the society. In this distribution, Qutb also asserts on the need of arrangements to narrow the gap between the classes in the society. He even condemns the attitudes of lavishness or luxury, for it is not in accordance with Islamic teachings and creates abhorrence and hostility between humans.

Rawls says that the end of distribution is eradicating poverty,⁶ flourishing talents,⁷ and involving the most fortunate.⁸ Here, Qutb also shares the understanding, which is based on the maxim, “in order that the property is not only circuit in the hands of the wealthy among you.” Flourishing talents, meanwhile, is urged by Islam by a command that, for example, “searching knowledge is compulsory for every Muslim.”

By Rawls, distribution is perceived as a bound of unity in a societal life.⁹ Distribution of natural talents, then, should be considered as common assets for

¹ “Distributive,” p. 67.

² “Distributive,” p. 67.

³ *Theory*, p. 274.

⁴ *Theory*, p. xv.

⁵ *Theory*, p. 89.

⁶ *Theory*, p. 86.

⁷ “Distributive,” p. 68.

⁸ *Theory*, p. 236.

⁹ “Distributive,” p. 76.

improving the least advantaged.¹ Qutb here is similar in tone, by saying that differences in luck can strengthen brotherhood. Society, here, is like a building the parts of which strengthen each other.

But Rawls also says that this distribution should be accompanied by respect of humanity.² Qutb also affirms that, by saying that the giver and the receiver are both noble. To this, Islam has an ethic in the way of charity, such as that giving should not be followed by humiliation to the receiver, the giver should not mention it many times, and it should not be shown to the people (as a sign of pride).

Nevertheless, Rawls says that people should not only wait for the distribution, they should also give a contribution.³ Qutb, here has a similar thinking with Rawls. Qutb says that one's effort for himself is better than waiting for the transfer from the *zakat* (alms) or charity from others. This discussion on effort brings us to another problem of social justice, i.e. the problem of capability.

A question on capability is important to know how a theory of justice deals with different capabilities of individuals.⁴ To this problem of capability, Rawls says that all members of society should be guaranteed to have capabilities in participating in public life,⁵ such as in capability of political life.⁶ It is recommended, then, that equality of opportunity in education should be obliged in the society. But Rawls also affirms that education is not only for training on productive abilities, but also to enrich personal and social life of the citizens, including those who are not fortunate.⁷ Here, it is clear that Rawls urges the ability of society for progress, but at the same time also feels the need of upholding justice.

Such thinking on capability as Rawls above, also uttered by Qutb. For Qutb, all members of society are not only pushed for participating in public life, but also have the capability to do spiritual things. Therefore, a comfortable life should be searched.

¹ *Theory*, p. 87.

² *Theory*, p. 447.

³ *Theory*, pp. 236.

⁴ See Amartya Sen, "Justice and Capability," *Inequality Reexamined*, New York: Russell Sage Foundation, 1992, pp. 73-87.

⁵ *Theory*, p. 236.

⁶ *Theory*, p. 205.

⁷ *Theory*, p. 92.

It is the search of this life that creates an obligation to improve each self, whether through education or training, to make the self better. Morality from the religion, meanwhile, should also be absorbed to every Muslim individual, in order to be in line with the Will of God. It is by the morality of religion that social justice is felt as a kind of worship, and not only a social matter.

A question on stability is also important to know how a theory of justice answers the problems of order and consensus of the ideal society being arranged.¹ According to Rawls, the scheme of social cooperation should be stable; it must regularly make everyone obey and that the basic rules are practicable; and when violations occurred, the stabilizing forces should exist so that can prevent those infringements to continue and can also fix the arrangements of justice.² To Rawls, the problem of stability can be answered by two things: internal and external. Internally, everyone should have a belief and morality of justice, so that he can extinguish the diseases of heart such as spite, anchor, and envy.³ What should be in individual belief is the sense of justice, the conception of good, the principle of fairness, and the principle of natural duties. Externally, stability should be guaranteed by law with the government has a coercive power to eradicate the thinking that someone else not obeys the law. Thus, it is an effective security between the people.⁴

To Qutb, the problem of stability in social cooperation is also viewed as a very important condition. He says that the heart of Muslim and the *Shari'ah* (Islamic law) are the guardian of stability.⁵ And this is also forced by the authority.⁶

In discussing stability, actually, we are in a discussion on the solution to the problems of social justice. But, if the answer of both writers being discussed to the

¹ See Brian Barry, "John Rawls and the Search for Stability," in *Ethics*, No. 105 (July 1995), pp. 874-915.

² *Theory*, p. 6.

³ *Theory*, p. 125.

⁴ *Theory*, p. 211.

⁵ *Al-'Adalah*, p. 96.

⁶ The ruler, for instance, may "introduce other taxes by which to encourage equality and justice; by these he may check malice and ill-feeling, and by these he may remove from the community the evils of luxury and penury, as well as that of artificially high prices, all of which evils are the product of the growth of excessive wealth. And, similarly, with all the other matters that are within the disposal of the ruler." *Al-'Adalah*, p. 111; *Social Justice*, p. 125.

problems of justice above is substantial answer, in this section of solution we discuss it in the formal one.

Formally, to form a just society, Rawls has three criteria. That is, it is accepted by everyone, supported by basic structures, and supported by effective sense of justice.¹ Because the third has already been discussed in the section of stability above, the clearer formulation is in the principles of justice and the basic structure which become a solution to social justice.

Qutb's formulation has also two forms: that a society will be just if it is based on the principles of justice, and the just basic structures.² Both are contained in the *Shari'ah*.

To Rawls, the principles of justice are the principle of liberty, the principle of equality, and the difference principle, which are simplified into two maxims of principles. To Qutb, however, the principles are already three: liberty of conscience, human equality, and social cooperation. Hence, there is similarity in this matter of principle. The difference is that Rawls's third principle is mentioned as the difference principle; whereas for Qutb, it is called the principle of social cooperation. Essentially both think the same thing: social differences between humans should be admitted and handled with social cooperation. Rawls, then, take his last principle to a social condition or in a form of question; whereas for Qutb, it is a kind of answer or solution.

In the first principle or the principle of liberty, both writers feel that essentially to feel justice is a necessity of admittance to human freedom. Nevertheless, the contents of the principles are different in the two thinkers being examined. Rawls chooses more to an idea that liberties which should be acknowledged by a just society are social and political liberties. In Qutb, however, the chosen liberties are based on human liberation of mundane life, so that humans should not question much on mundane life, and therefore, they can do spiritual things.

¹ *Political Liberalism*, p. 35; *Theory*, pp. 453-4.

² *Al-'Adalah*, pp. 80-1.

In the principle of equality, Rawls stresses more on the principle of fair equality of opportunity. To Qutb, however, it is more emphasized on human equality of dignity, based on the similarity of kind of creature, descendant, and history. Both have similar vision, i.e. that humans should be urged to feel the sameness in such various activities as transfer from the rich to the poor and that there should be equality of opportunity in education to improve each self towards equality, either in the world of job or any other kinds of life.

In the principle of solidarity or Rawls's difference principle it is found that society should be based on the principles of redress, reciprocity, brotherhood, and social unity. For Qutb, these principles are stressed more definitely, for Islamic society is an organic society, like a human body, where there is a pain in the part of it, the whole body will feel it too. The difference is that Rawls always thinks about the harmony of society in this mundane life; whereas for Qutb, a good conduct like brotherhood can have a reward in the future life, besides, of course, the harmony in this world.

Rawls and Qutb divide the basic structure of justice into two: the political structure and economic structure of justice. Concerning the political structure, both writers show some similarities, especially in the acknowledgement of the necessity of the just constitution and the supremacy of law in the society. And this is applied in various levels of governance, either in the legislature, judicative, or even executive or administrative. The difference between them is about the source of law. Rawls's source of law is the result of political participation, which means it is made by men. For Qutb, however, the source of law is God, with the openness in technical adjustments with the development of human culture. Besides, both thinkers are different in thinking about the agent of change towards the just society. To Rawls, the agent is institutional; whereas to Qutb the agent is personal, i.e. the leader. Both writers require justice to those two kinds of agents.

Constitutional democracy seems to be thought by Qutb, i.e. the supremacy of the *Shari'ah*. Islamic image illustrated by him covering Islamic history which is in a kingship fashion does not make his idea obsolete. In fact, his view that Islam is for all

times¹ can be a turning point for making Islam as an ideal political structure in the modern era.

In the matter of economic justice, both thinkers say that economic prosperity is not a requirement of the structure of economic justice. The important thing is how economic condition can make the people live in an economic justice. The fortunate subsidizes and the least fortunate accepts. It is what can be called as social cooperation.

There are some characteristics of economic structure believed by Rawls as supporting his theory of social justice. He requires that the law and the government should act effectively in sustaining the structure. The structure includes: competitive market, fully worked resources, property and wealth distributed widely, a proper standard of social minimum, just savings, and equality of opportunity guaranteed by education for all. In general, Qutb agrees with Rawls's aforementioned structure of economy. The difference is that the society in Qutb's is an Islamic society which has its own system of income and distribution.

In short, the framework of justice in these two writers can be parallelized, but the content and conception are different. To Rawls, it is more an effort of equalizing all humans in all opportunities in social and political life. To Qutb, on the other hand, it is more an effort to equalize them in all opportunities in spiritual life. Yet both of them require the same thing to support their ideas: biological and cultural needs of humans should be fulfilled first.

C. Comment and Implication of Study

The rationale that there are similarities between the two thinkers being examined is that social justice is a universal concept. This is why both writers answer it by universalizing their ideas. Here, their ideas should be understood by others. By their efforts we can see that they reach the same path in explaining social justice. Also, by this examination, we can see conformity between reason and religion.

¹ *Al-'Adalah*, pp. 108-9.

Rawls's theory of justice, which is based on reason, can meet Qutb's theory, which is based on revelation. Of course that Qutb does some references to human reason in his thinking, but here we are talking about the dominant idea of him. Yet, Qutb's belief that Islam (revelational religion) is suitable with reason can be seen more closely here in this comparison of thinking.

The reason that there are differences between Rawls's and Qutb's theories of justice is that the orientations of both writers are different, may be radically different. Rawls addresses his idea to uphold social justice in a political liberalist sphere, whereas Qutb addresses his idea in a political Islamic sphere. The difference is consequential. Take an example: to a homosexual, moral philosophy of political liberalism has nothing to worry about, since being a homosexual is his choice and he is tolerated as long as he does not violate public peace. Here, toleration in this sense is just. In an Islamic sphere, however, he will be corrected, for it is a kind of sin, so that there should be one who corrects him either by power, or by language, or only by attitude.

Also, there is a different basis between Rawls's and Qutb's conceptions of social justice. Rawls bases it on individualism, so that justice is considered as a need to be fulfilled by an individual for himself, whereas Qutb bases it to altruism, which means that justice is serving others. According to Durkheim's identification of religion, Qutb's thought is typical religious thought, for religion always teaches man "of restraining egoism, of inclining man towards sacrifice and disinterestedness." This attitude is in order to "attach man to something other than himself, and make him dependent upon superior powers which symbolize the ideal."¹

Of course that individualism and altruism being discussed here is not exact. Rawls's thought contains the matters of social unity (as explained in the Chapter III on the Principle of Solidarity). But his motivation of justice is individual. It is also in Qutb's thinking. His altruism is not altruism per se, so that an individual should forget his own destiny. Thinking of each own destiny should always be there in every individual. But the motivation of justice is a sympathetic motivation to others, an

¹ Durkheim, "Science positive de la morale," as quoted by Giddens, *op. cit.*, p. 70.

altruistic motivation. Both thinkers, then, are different in their dominant thinking. For they base their thought in their own distinct bases. Rawls bases his thinking on the history of Western philosophy, whereas Qutb bases it on the religion.

Individualism offered by Rawls is only emerged in the modern era. It is admitted by Wundt when saying that “far from individuality being the primitive fact, and society the derived fact, the first only slowly emerges from the second.”¹ Qutb’s standpoint, meanwhile, is coming from the eternality of the religion, the principles of which are for all times. Here, it seems that in the West, ideological matters such as individualism, just like scientific matters, are under the principle that the newest is the truest. Western civilization, then, is more diachronic: following the line of history. Islamic civilization, on the other hand, is more synchronic: the truth is there, and can be applied anywhere and anytime.

This brings us to a discourse on modernity. From the style of his thinking which is abstract, impersonal, institutional, constitutional, etc.² Rawls clearly can be included in modernist thinkers. Qutb also shows that Islam is a modern religion from the very beginning. To Qutb, Islam is not merely a set of “metaphysical speculations on the nature and order of things”,³ but it is also a set of rules of conduct and moral discipline. Yet, Qutb still stresses on personalism. Therefore, whether a society is just or unjust depends upon, for instance, whether the leader is just or unjust. For, Islam emphasizes more the man behind the institution, rather than the institution itself.

There are some remarks, if I may to do so, to Rawls in his theory of social justice:

1. Rawls’s theory is unhistorical, for it is only stipulation of thought. Therefore, we could not see how his theory comes into existence. To this Qutb is more practical, for he offers some historical facts.
2. Rawls’s theory jumps to conclusion hastily, i.e. from natural (original position) to constitutional realm, without political processes.

¹ Wundt, *Ethik* as quoted by Giddens, *op. cit.*, p. 70.

² Turner says that the progress of modern societies is assigned by their associational relations which are more impersonal, fleeting, and contractual. Turner, Bryan S., *Orientalism, Postmodernism and Globalism*, London & New York: Routledge, 1994, p. 79.

³ Wundt on primitive religions. As quoted by Giddens, *loc. cit.*

3. Methodologically, Rawls's original position is actually an elaboration from the concept of sympathy as uttered by Aristotle and Adam Smith. We can see that the difference is too thin between "if we are someone else" (sympathy) and "if we do not know" (original position).
4. Rawls's accentuation is on social institutions, whereas building character of justice in agents is rather ignored.

Also, there are some remarks addressed to Qutb in his theory of social justice:

1. Qutb's conception of justice is too historical. Compared to Rawls, he is less philosophical.
2. Qutb's theory is too doctrinal. Compared to Rawls, his theory is less stipulation of ethics.
3. Qutb's accentuation is too personal. Compared to Rawls, his accentuation is less institutional.

The best thing is to make these two theories into one combination, so that the theory would be historical, philosophical, social, and personal at the same time. But this combination would not be agreed by Rawls and Qutb themselves, for their theories are not open to other concepts of justice.

D. Suggestion

The remarks addressed to such giant thinkers above sign that there is no perfection in this world. There are inadequacies in this thesis, of course. To this effect, the suggestions for further studies are needed.

Firstly, one may see that this study is merely accentuated in searching commonalities between Rawls and Qutb. Consequently, I would like to suggest that further studies should be emphasized more to the differences between the two.

Secondly, one also may see that this study begins with the contexts of Western socio-political philosophy as a kind of 'standard' of universal phenomena, so that places John Rawls's theory of justice as a kind of 'universal standard' of the theory. Accordingly, the suggestion is the further studies should make Islamic context as the

standard of universal phenomena, as a result of which Islamic social justice is defined as a universal standard of justice.

Thirdly, one may see that there are many omissions of definitions in this study. I could only say that this is not an analytical study. Rather, it is a substantive study. Therefore, the focus is not on the concepts whether they are similar or not, but the emphasis is on the conceptions whether they are understood in the same understanding or not. Hence, my suggestion for further studies is that there is a need to study this kind of thing by an analytical study.

Finally, one may see that the standard of comparison in this thesis is the celebrity of contemporary thought on social justice, i.e. John Rawls. To this effect, it looks like that Qutb always follows the themes accentuated by Rawls, although they lived in their own clear and distinct world. The suggestion, then, is that the further studies should make historical precedence as the standard of comparison, so that it will look like that Rawls who follows Qutb, and not the reverse.

E. Closing Remark

This thesis brings us to awareness on the commonalities of human beings. The similarity being picked up by this thesis is the concept of social justice which is needed by whoever lives in a community. To this, there are some principles to be believed by the people and some social institutions to be upheld by the society. And this thesis shows that there are some objective natures of arranging society. For the matter of social justice, for example, something really needed is to give the citizens such negative rights as security and such positive rights as economic rights. This is God's law.¹ And it is not changed.² Hence, whoever gives those two rights, social justice would be created.

Another thing in this thesis is about the utopian idea of social justice. Rawls mentions that his conception of social justice is an ideal conception. Qutb also mentions similar attribution for his conception. Hence, by comparing Rawls and Qutb

¹ See QS. 106: 4.

² See QS. 10: 64.

on social justice, it seems that the ideals may vary between societies but it is always needed. As it is said by Durkheim, “one can be confident that there have never been men who have completely lacked an ideal, however humble it may be; for this corresponds to a need which is deeply rooted in our nature.”¹

Besides, it is not only an ideal theory of justice which is needed; it is also the application of justice which is necessary.² And the application is not only for humans in certain area. The commonalities of humanity and the ideal theory demand us to apply justice universally.

¹ Durkheim, “Science positive de la morale,” as quoted by Giddens, *loc. cit.*

² As Rawls says, “Societies will differ from one another not in having or in failing to have this notion but in the range of cases to which they apply it and in the emphasis which they give to it as compared with other moral concepts.” “Justice as Fairness”, p. 194.

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