



A COMPARISON OF ISLAMIC AND CAPITALIST CONCEPTION OF ECONOMIC JUSTICE

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ABSTRACT

Epistemological and metaphysical foundation of Islam is distinct from that of capitalism. Secular and liberal discourse defines the basis of capitalism rather. Due to this the conception of economic justice in the two discourses is expected to differ substantially. A significant amount of literature on Islamic economics, finance and banking doesn't seem to explicitly highlight this difference. Due to this perhaps the Islamic financial industry is measuring its performance as per the standards of its mainstream financial industry. This study would emphasize and elaborate these differences so that the concerned can appropriately evaluate the outcome of their decisions and practices in the domain of Islamic economics and finance. The paper will compare the theory of justice and economic justice in the two respective discourses. A conceptual analysis which follows provides basis for policy recommendations. The ideals of justice of both ideologies are two poles apart, and no overlap exists between the two at least at conceptual levels due to their contradicting epistemological and metaphysical positions. The study is exclusively normative and discussion from pragmatic perspective is beyond its scope. Such a comparison doesn't exist in literature as per the limited knowledge of author. This study would have implications for policy makers and practitioners while adapting structures, institutions, policies, frameworks, etc. from the western world as they would

have to be altered to an extent to make them compatible to advance Islamic conception of justice in Muslim societies, if that by any means is possible.

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1. INTRODUCTION

There are predictions that size of Islamic financial industry (IFI) will reach US\$5 trillion by the year 2016, if present growth rate of 25% persists (Emirates, 2012), from the current size of US\$1 trillion (Business Recorder, 2011). This excites many as they see it as a revival of Islam during an era where Islam and Muslims have been forced to accept the apologetic position due to a general perception of their religion being a matter of past and a barrier in the material development. Such a perception is being largely proclaimed after the 9/11 incident; analogous growth of IFI is said to have paced up after 9/11 as well which is also exciting for the stakeholders. However in this moment of triumph some are also raising questions and expressing criticism on the overall direction of the Islamic financial industry as many western and materialistic values are increasingly finding their way into Muslim societies, through the channel of Islamic finance.

Mufti Taqi Usmani argues that Islamic financial industry, instead of promoting values and ethos of Islamic economics, is rather following the footsteps of their conventional counterpart. He further explains that Islamic banks have proved to be reluctant to promote PLS (profit and loss sharing) modes like *mushārah* and *muḍārah* and instead are focusing more on debt based financing instruments such as *murābahah* (as they are easier to manage). Due to this Islamic banks are getting away from their actual objective of promoting ethos of Islamic economics and finance, i.e. equitable distribution of wealth and financial inclusion of destitute and poor (Usmani, 2008). Some even criticizes Islamic banking for their fractional reserve nature and capacity to charge a hidden tax on the behalf of the government under the veil of inflation (Meera and Larbani, 2009); whereas some demand Islamic banks to be more concerned about development issues and play a role in advancement of economic justice and equitable distribution of wealth.

Some even go as far as to categorize Islamic financial industry as an imperialist conspiracy against the Muslims, while criticizing the '*ulamā*' (including Usmani, 2008) and scholars to have unknowingly become a tool of imperialist agenda of economically and politically dominating Muslim *ummah* (Ansari, 2004).

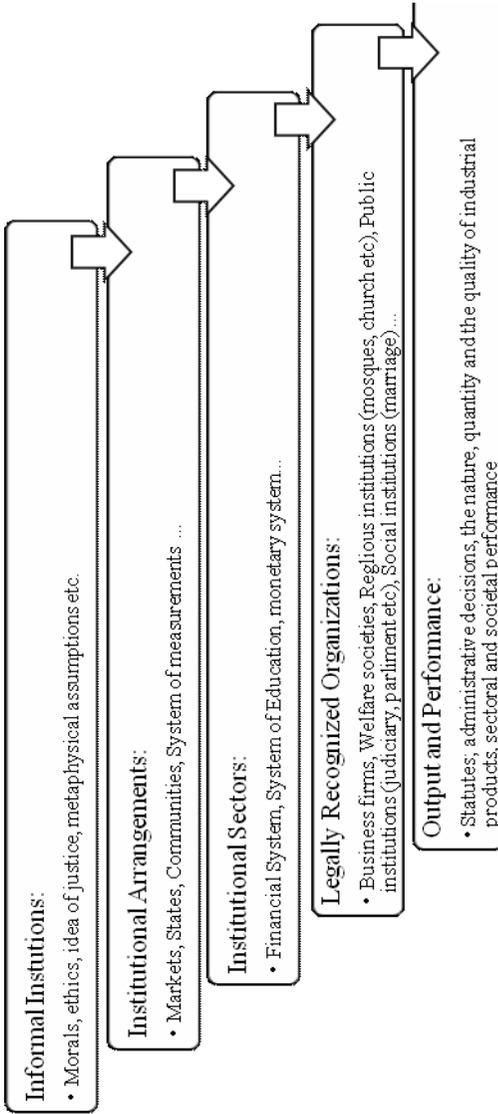
Criticism requires a normative criterion. If the socio-economic impact of Islamic financial industry isn't satisfactory in viewpoint of some then it should be asked that by what standard it is being said so? This is an imperative question because capitalism (with its secular and liberal foundations have given birth to modern financial system) and Islam offers unique set of such standards, both of which are quite contrast to each other, as it will be explained in this paper.

More specifically such standards of evaluating socio-economic impact of a given institution would be derived from the idea of justice which the respective ideology advocates. Simply because if the impact of an institution is 'unjust' by some standard then it would be considered as bad, worthy of criticism, and if it's 'just' then subsequently this impact would be considered as good. Therefore the idea of justice of respective ideologies and their very foundation requires a review.

To contextualize the forthcoming discussion, it is noted here that Institution in a society doesn't exist in isolation; rather they are influenced by the norms, values, ideals or the normative environment prevalent within a society (informal institutions), and within this premise they participate in the enforcement of socioeconomic and political contracts. In view of Hollingsworth "The normative institutional environment of organizations limits the options of what organizations do ... In short, it is the normative environment of organizations which defines within a particular society what is socially acceptable behavior for organizations" (Hollingsworth, 2000). This is the first level in view of Hollingsworth; Figure 1 outlines the next 4 levels which subsequently evolve in compliance with the first one. In this article, the focus is exclusively on the first level only.

The normative environment mentioned above comprise of idea of ethics, morals and idea of justice, which in fact are founded upon the ontological, cosmological, epistemological and metaphysical position taken within a given society. Therefore capitalistic societies (founded upon liberal and secular ideas) and an Islamic society would have their own unique even contrasting concept of morals, ethics and justice. Subsequently their acknowledgement and authorization of public and private institutions would therefore also be unique to each other as well (Thompson, 1995).

FIGURE1
Hollingsworth (2000) Layers of Institutional Analysis



The next section of this paper would briefly review the origins of secular & liberal and Islamic idea of justice. This would be followed by a section which would go into some detail while comparing the key points of the two alternatives, and the final section would conclude the discussion while evaluating the implications.

The discussion in the paper is exclusively on the plane of abstract ideas and only focuses on first level of Hollingsworth framework of institutional analysis; the remaining levels would rather be done separately in other papers. Just to mention again, understanding of these ideas is significant as they influence and provide a basis to gauge the direction of evolution of institution, determine their design, boundaries, priorities, criterion to evaluation of their output or performance etc.

2. BRIEF REVIEW OF TWO ALTERNATIVES

2.1 SECULAR AND LIBERAL IDEA OF ECONOMIC JUSTICE

Secular and liberal traditions, which later gave birth to industrial revolution and capitalism, have a history of a few hundred years in Europe where they emerged and gained mass acceptance gradually. The driving force behind it was the rejection of political dominance of religion in Europe, whose forceful implementation of so called divine laws and violent conflict between Protestant and Catholic sects of Christianity for near about 400 years created a reaction among the masses to reject the dominion of religion over public affairs.

Locke's assertion that "No government should exercise force to promote or prohibit religious beliefs and practices"¹ and "the end [objective] of the law is not the abolish or restrain but preserve and enlarge freedom" (Locke, 1960: 306) and to protect their "actions, possessions, and whole of property" (ibid) speaks volumes about the political and ideological transformation taking place during late 1600s. Kant then took it to a level by suggesting that an individual should be regarded as an end in himself, this ontological transformation brought mankind to become the center of the universe (metaphorically) and rational choices of the autonomous self to be unquestionable by any religious authority. Kant insisted mankind to "... treat humanity, both in your own person and in the person of all others, never as a means only but always as an end" (Kant, 1964: 412), providing a basis to legitimize

personalization of conception of the good or the bad. Later John Stuart Mill introduced hedonism or pleasure seeking to be an individual right and standard to judge the quality of a liberal society such that if the public isn't able to appreciate high quality pleasures then the "... government has the responsibility for having its citizens educated to pursue the higher pleasures in place of the lower pleasures." (Magid, 1963: 789). This in view of Mill was necessary for the cultivation and intellectual growth of the society, and organically essential for freedom of individuals and material progress of society².

These are just a few examples; even less than a drop from the ocean of a vast body of literature produced and became popular in Europe from late 16th to 18th century. This intellectual transformation gain popularity and eventually discredited the political status of church gradually and slowly over the period of around 400 years. Also "There were" suggests Brains' (2000), "other powerful forces at work in Europe: economic ones which were to interact profoundly with these intellectual trends ... it was the wealth brought back from Asia and the Americas which catapulted a new class of merchants into prominence, partially displacing the old aristocracy whose power had been rooted in the ownership of land. These merchants had their own ideas about the sort of world they wanted to inhabit, and they became major agents of change, in the arts, in government, and in the economy." In the very context Reisman strongly asserts:

"It is no accident that the greatest era of capitalist development—the last two centuries—has taken place under the ongoing cultural influence of the philosophy of the Enlightenment. Philosophical convictions pertaining to the reality and primacy of the material world of sensory experience determine the extent to which people are concerned with this world and with improving their lives in it ... When, for example, people's lives were dominated by the idea that the material world is superseded by another, higher world, for which their life in this world is merely a test and a preparation, and in which they will spend eternity, they had little motive to devote much thought and energy to material improvement. It was only when the philosophical conviction grew that the senses are valid and that sensory perception is the only legitimate basis of

knowledge, that they could turn their full thought and attention to this world. This change was an indispensable precondition of the development of the pursuit of material self-interest as a leading force in people's lives." (Reisman, 1998: 19) ... "Man needs wealth without limit if he is to fulfill his limitless potential as a rational being in physical reality" (Reisman, 1998: 43)

The secular and liberal ideas define the conception of justice in a capitalist society. The concept of economic justice is so central here that it cannot be separated from the core idea of justice. This means the individual's right for freedom to pursue self-interest and pleasure requires the right to own & accumulate wealth, capital and property and freely compete in the market place. Justice therefore was and is the availability of such rights to every individual, and injustice being the very opposite. To accomplish this institutional framework in the western world is said to have designed and evolved, which is different from the same in Islamic world.

Furthermore in secular and liberal discourse human rationality replaced religious teachings as a basis to formulate public policy for protection and advancements of these rights; and any idea regarding loss or gain were defined exclusively in worldly plane and concept of hereafter was utterly excluded in this context. The influence of such ideas also cannot be ruled out from the design of institutions in western world. Further details would be discussed during the comparison of the two alternative ideas of justice in the next section.

2.2 ISLAMIC CONCEPTION OF ECONOMIC JUSTICE

Islamic conception of justice in general will be discussed before Islam's position on economic justice is elaborated. This is necessary as, unlike the idea of justice in capitalism, economic justice is a subset of the broader concept of justice in Islam. Therefore to set the context Islam's idea of justice in general will be explained first, before going into details of its economic dimension.

2.2.1 Conception of Justice in Quran and Sunnah

Islamic Law is derived from Quran and sunnah. Therefore it is believed that making policies and decisions as per the Divine Law will ensure justice to mankind in both worlds (Usmani, 1937). Moududi (r.a) has also explained in his commentary of Surah-e-Maida verse 45-47 that those who violates the divine law are categorically been declared in the Holy Quran as unjust and transgressors (Moududi, 1972). Modern thinkers like Khudduri also seem to agree that it is the divine law, enshrined by Quran and Sunnah, abidance to which ensures justice to mankind (Khudduri, 1984: 3).

It can be noted here that the purpose of divine revelations is to enable the rightly guided followers to maintain a just order in the society. Keeping this in perspective with the starting five verses of second chapter of Quran, Sūrah al-Baqarah³, it can be deductively said that the establishing of this just order in the society enables the masses to become successful in the hereafter.

The ‘successful’ as mentioned in the 5th verse of Sūrah al-Baqarah refers to the success in the hereafter, as it is further explained in the verse 185 of Sūrah Āli ‘Imrān in the Holy Quran:

“Everyone shall taste death. And only on the Day of Resurrection shall you be paid your wages in full. And whoever is removed away from the Fire and admitted to Paradise, he indeed is successful. The life of this world is only the enjoyment of deception (a deceiving thing).”

Therefore justice demanded by the Holy Quran is defined in context of success in hereafter. This defines the teleological significance of the concept of justice as upheld by the divine scripture. Hence violation of ‘divine law’ will bring injustice onto mankind, as any violation would take mankind away from their intended place in *jannah* and put them in hellfire (if they aren’t successful in seeking forgiveness from Allah s.w.t); the unjust may also be punished by Allah (s.w.t) in this deceptive world, which is nothing as compare to what he will face in the hereafter.

This makes Islamic form of justice teleological and utilitarian, from philosophical perspective, as the justice demands maximum benefit for the maximum number, though in the hereafter. For injustice it’s vice

versa (Sūrah al-Baqarah, verse 54; Sūrah Āli ‘Imrān, verse 117; Sūrah Hūd, verse 101).

2.2.2 Maqāṣid al-Sharī‘ah

Islam accommodates and recognize all practical domains of life, let it be family, bazaar, politics, battlefield, etc. These domains are believed to be testing places for mankind as each offer a unique scenario of conflicting interests for the parties involved. Our collective and individual wellbeing depends upon how well we respond in these conflicting scenarios, before or after conflict or dispute arises. Quran, aḥādīth and *fiqh* (Islamic jurisprudence) provide guidelines on how to respond to a particular domain before or after the conflict. In this context a saying of Ibn al-Qayyim, also quoted by March (2009), deserves a mention:

“Shariah is based on wisdom and achieving people’s welfare in this life and the afterlife. Shariah is all about justice, mercy, wisdom, and good. Thus, any ruling that replaces justice with injustice, mercy with its opposite, common good with mischief, or wisdom with nonsense, is a ruling that does not belong to Shariah, even if it is claimed to be so according to some interpretation [of Divine Text].”⁴

Ibn al-Qayyim’s words hint toward the possibility of misusing of sacred text, for that matter it would be appropriate to keep the objectives of the divine law or shariah in mind so as to evaluate the consequences which may possibly emerge after the enforcement of the divine law⁵. Likewise Imam al-Ghazali (r.a) and others have categorized the intent of divine law to preserve dīn (religion), life, family, intellect and wealth. This is also known as maqāṣid al-sharī‘ah (objectives of Islamic law). This is so because the importance of the five element decreases from deen to wealth, where deen is the most and wealth being least important. Nyazee also notes the same:

“The inherent strength of the interests secured by Islamic law is reflected in the order in which the maqasid are listed by the jurists. Thus, the preservation and protecting of deen ... has preference over the preservation and protection of

life; life has a higher priority than *nasl* (family); *nasl* is prior to *aql* (intellect); and *aql* is preferred over *mal* (wealth)” (Nyazee, 2002: 245)

This hierarchy suggests that preserving the religious status of people in the society is the utmost importance of Islamic Law, the next priority is given to life so that individuals are able to satisfy their basic sustenance needs, as too much deprivation can also lead one astray of his religious beliefs⁶ i.e. going against the very purpose of his life which is to submit against the will of Allah (s.w.t). Once the individual is spiritually and physically capable the preference is then given to the family system so that transmittance of religious tradition is made possible to the next generation hence the purpose of family is to institutionalize the development of new religious beings; economic resources are meant to serve this end at this level. Once the institution of family is established one needs to be intelligent enough to sustain, manage, steer the direction of the entire family toward its intended purpose and to develop it further. Once this stage is reached economic resources are required to further fulfill various religious obligations, conditional on financial status, like paying *zakat*, perform pilgrimage, doing *infāq* (giving charity) etc. Now if all venues to spend money are exhausted from family, relatives, neighbors, society, etc. now any accumulation in wealth may be justified. Savings intended to serve any of the above needs may also be acceptable depending upon the circumstances. This hierarchy of shariah objectives presented by Imam al-Ghazali (r.a) is believed to be consistent with the mode and essence of shariah (Dusuki and Abuzaid, 2007).

2.2.3 Economic Philosophy in the light of Islamic Idea of Justice

The objective of divine law now provides a context to explain the idea of economics in Islam. In a nutshell economic life of a Muslim will be just if it enables him to achieve the objective of shariah. Material resources are required in order to achieve “preservation and protection” of *deen*, life, family and intellect. In view of Nyazee:

“The economic sub-system within the larger system represented by Muslim Community is required to serve

the interest determined by the first four purposes of the shariah. Thus the economy must be geared to meet the requirements of deen as well as jihad. The second priority goes to life and the means of livelihood. The economic system must ensure that there is no one homeless or hungry within the community. After handling this, the next priority for this sub-system is to provide basic means for pursuing a healthy family life. This will be followed by education and development of intellect. Once these needs have been met, the economy will pursue the goal of increasing wealth itself.” (Nyazee, 2002: 263)

Just to reemphasize, protection of the religious and spiritual status of the mankind is the prime objective of shariah. The remaining objectives are also meant to help toward achieving this bigger goal as discussed already. In this light it can be said that economic activity which help achieving the maqasid, as stated above, at micro or macro level would be termed as ‘just’ and vice versa. Moulana Abdul Bari Nadvi (r.a) asserts:

“It is not vague but vividly clear that whatever purpose of life is asserted within the confines of the material world, they will remain limited to the acquisition of material resources for the sake of preservation and enjoyment of the life in this world. On the contrary if one is aspiring for an unlimited, all rewarding and permanent life, then how worthy are the finite number of breaths left in this momentary world; therefore when economics or politics become an end, life also become meaningless. Islam doesn’t make the worldly life (with all its socio-economic and political constituents) as an end in itself in least of its sense, instead Islam treats it as a means towards an infinitely vast afterlife, how can then we expect it to tolerate the treatment of these ‘means’ like ‘ends’. This is how the paths of both Islamic and non-Islamic social sciences depart away from each other.” (Nadvi, 2005: 26)

This belief makes it pointless for a believer to strive for accumulation of wealth alone just for the sake of it, any restrictions on accumulation either self-imposed or by state wouldn’t be considered as unjust in this context, but not so in a capitalistic world. For the same reason perhaps

it is mentioned in the tradition of Prophet Muhammad (s.a.w) that the believer will be held accountable for how he earned and how he spent instead of how much he earned:

“A person will not be able to move his feet until he has answered the following 5 questions: 1. how did you live your life? 2. How did you spend your time as a youth? 3. Where did you earn your wealth from? 4. Where did you spend it? 5. How far did you act upon the knowledge that you had?”⁷

The belief system enables a believer to focus on his actions in a market place (instead of the material results) that whether they are in compliance with shariah or not. A person who doesn't believe so may possess the tendency to inflict harm on others in the market place, either out of fear of deprivation or greed. In other words feelings of fear of deprivation or lust or greed would render into an harmful or unfair action only when a person do not have a greater fear of accountability in *ākhirah* or believe in the authority of Allah (s.w.t) to provide sustenance to him in a specified quantity. In short, in an Islamic context, unjust or unfair action would be a result of disbelief and lack of knowledge about the teachings of Islam.

Empirical evidence shows that belief in accountability in hereafter prevents the individuals to inflicting harm on others. Muhamad (2009) have studied Muslim students in Malaysia being less tolerant toward unethical business practices if they are more religious, he infers that more students from “religious education stream ... are less tolerant toward unethical business practices”. There are number of papers empirically proving this point for example see (Ali, 1985; Ellis, 1985; Ellis and Peterson, 1996; Gunes, 2003; Stack and Kposowa, 2006)

The belief system also works in a reverse direction in view Moulana Abdul Bari Nadvi (r.a). He has asserted while referring to Moulana Ashraf Ali Thanvi (r.a) that often believers are put in deprivation by Allah (s.w.t) intentionally so that fear or deprivation keeps the subjects seeking the mercy of Allah (s.w.t) and abstain from committing a sin. These people would rather go astray if they were made materially prosperous by Allah (s.w.t) (Nadvi, 2005: 45). This signifies the status of material wealth in ontological and cosmological disposition of Islamic

worldview. Excess or shortage of resources is a means to test mankind or achieve certain spiritual ends. This would rather be considered as extremely absurd or outrageous from a secular and liberal perspective.

2.2.4 An Economy of Abundance and Mutual Cooperation

Islam considers his followers to be free within certain boundaries prescribed by Islamic law which determines his course of action. Ideally the goal isn't to advance the freedom within those boundaries rather to submit ones will in totality against the divine will, even in this requires sacrificing ones self-interest, as mentioned above (see Sūrah al-Tawbah, verse 24). Allah (s.w.t) has though promised to reward such a person in *ākhirah* with pleasures unimaginable in this deceptive world. Limitless desire for wealth is also considered as root of great harm to the society, and mankind has been told that his (or hers) sustenance is in the control of the Allah (s.w.t). Worldly resources comes under the definition of *rizq*, which is provided by Allah (s.w.t) in due quantity as well. However benevolence of Allah (s.w.t) has no limits. If Allah (s.w.t) tests mankind with scarcity then at individual level priority would be on how to manage and administer the available resources (Haque, 2011: 90-1), and strive in the way of Allah for *rizq* by lawful means as mentioned above.

Mutual cooperation with other players in the bazaar therefore becomes preferred and recommended (as see in the light of Sūrah Nisā', verse 36⁸; Sūrah al-Ḥashr, verse 9⁹; Sūrah Ḥujurāt, verse 10¹⁰; Sūrah al-Mā'idah, verse 2¹¹), along with practices which enable all members of the market to be treated fairly as this will bring reward in the hereafter, competing for the sake of wealth will not. Therefore the very idea of living within the means by limiting ones desire and sharing the limited resources with others leads to abundant for everyone.

3. A DETAILED COMPARISON ISLAMIC AND LIBERAL OR CAPITALISTIC CONCEPTION OF JUSTICE

After a brief review this section would draw comparisons between the two perspectives while going into philosophical details of the two

alternatives so that it can be seen how both differs with each other on ontological, cosmological, epistemological and teleological grounds.

3.1 EPISTEMOLOGICAL AND COSMOLOGICAL DIFFERENCES

In Rawls view, or that of his disciples (even the critical ones like Sen, 2009), the conception of justice upheld by any religion based on a divinely revealed source, is not rational. This view on rationality is also clearly explained by Sen (2009). Sen, for example, exemplifies Akbar, the Mughal emperor, for subjecting religious law to rational scrutiny and considering “reason to be supreme” (Sen, 2009: 39).

Here it is necessary to see how rationality demands a modern man to think. Suri (2007) explains the meaning of rationality upheld by the modern, rational man, who “is forced to take up the god-like position of a transcendental nodal point in order to ensure the unity and totality of being and experience”. This implies that man (or women) would determine himself what’s good or bad for him (or her). In view of Rawls, such a rational man would eventually want to have certain “Primary Good”, availability of which would eventually ensures justice for him. He says:

“... Regardless of what an individual’s rational plans are in detail, it is assumed that there are various things which he would prefer more of rather than less. ... The primary social goods, to give them in broad categories, are rights, liberties, opportunities, income and wealth ...” (Rawls, 1999: 79)

In Islam, mankind is a vicegerent of a higher being and has been sent for a definite purpose in this world (which is to be fulfilled while spending one’s life in conformity to Quran and sunnah), fulfillment of which will qualify him for a reward in the hereafter or *ākhirah*, furthermore the divine source of knowledge provides the foundation of morality, ethics and legislation whereas the other world view totally rejects this metaphysical notion and defines the purpose of human beings to materially prosper in physical reality alone as one pleases. Secular and

Liberal tradition rejects the use of concept of judgment day as a basis to formulate their theory of justice, as Rawls (1999) explicitly explains:

“There is no necessity to invoke theological or metaphysical doctrines to support its principles, nor to imagine another world that compensates for and corrects the inequalities which the two principles permit in this one. Conceptions of justice must be justified by the conditions of our life as we know it or not at all.” (ibid: 398)

This wasn't just it, Rawls has unambiguously rejected role of any particular religion what so ever to define what justice should be, in his view there are many religions and there is no basis to determine which one of them is superior over others, and even we somehow chooses any one of them, then doing so is plainly against the ideals of liberalism. He explains:

“... 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. He cannot give up this right to another person or institutional authority. In fact, a man exercises his liberty in deciding to accept another as an authority even when he regards this authority as infallible, since in doing this he in no way abandons his equal liberty of conscience as a matter of constitutional law. For this liberty as secured by justice 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.” (ibid: 191) ... “Thus justice as fairness is a theory of human justice and among its premises are the elementary facts about persons and their place in nature. The freedom of pure intelligences is not subject to these constraints (God and the angels) are outside the range of the theory.” (ibid: 226) ...

This eventually implies that the concept of ultimate good or suffering, the criterion of defining them would be derived from empirical & rational sources and in worldly context. The idea is to make this world a better

place for all to live and have no concern for “irrational” objectives like success in hereafter. Islam obviously stands on the other extreme.

3.2 DIFFERENCE IN ONTOLOGICAL PERSPECTIVES

Khudduri (1984) and Iqbal (2006) have explained the idea of Islamic justice in context of fairness, equality, socioeconomic and political rights, and balance between extremes in the material world. While, Muhammad Chaudhry claims that “according to Islam, justice is ... to ensure the peace and welfare of the people by ensuring respect of law and by punishing the wrong doers ...” (Chaudhry, 1998: 21). Rehman (1996), Ayoub (1996) and El-Sheikh (2011) also seems to have the same position while limiting themselves to the worldly manifestation in terms of equal rights and fairness.

This is not incorrect¹², but discussing the subject without its ontological, cosmological and epistemological premise may confuse the ordinary reader about how Islamic conception of justice differs with the viewpoint of Western philosophers like Rawls and Sen. Both of these western philosophers have used similar terms like ‘fairness’ and ‘equality in rights’ to elaborate the concept of justice in their own ontological and epistemological context. Over and above when Rawls says “Justice as fairness is a deontological theory” and a “non-teleological ones” (1999) then a person unaware of the ontological and metaphysical connotation of Islamic conception of justice wonders that how fairness is also deontological in Islamic sense as well.

Therefore it is not appropriate for Iqbal, to say “Islamic concept [of justice] being ... in total agreement with the Rawlsian liberal welfare concept that all human inequalities are arbitrary from a moral standpoint” (Iqbal, 2006: 116) because of striking contrast among the ontological and epistemological differences which exists in the two concepts as explained above.

For example, if a *Ṣāhib al-Istiṭā‘āt* (well off person) needs to decide an appropriate recipient of zakat among one of the two equally deprived Muslims (both are non-*Sayyid*), one of whom is a very pious person, a preacher of Islam as he remains involved in *tablīgh* on regular

basis and the other one is a habitual alcoholic, gambler and adulterer. The preferred choice would be the pious person, lest it is expected that helping the second person would bring him out of the sins he is indulged in. Similarly in a public discourse, voice of the pious person, an *‘ālim al-dīn* (scholar of Islam) or a *muftī* (Islamic jurist) would be preferred over the ones who are not; importance given to a person’s opinion would be a function of how pious and practicing Muslim a person is. This is enough to counter the point that inequalities are also arbitrary from a moral standpoint in Islamic discourse.

It also needs to be noted that Rawls deontological argument (Rawls, 1999: 64, 284) is about natural inequalities which might be economic or related with one’s ability; more specifically in context of primary goods. On the other hand the inequalities in *taqwā* and different level of belief in *ākhirah* cannot be considered arbitrary from the moral standpoint from Islamic perspective, whereas worldly inequalities are a test for mankind, success in which depends upon how close the response is to the teachings of Quran and sunnah for the inequalities one experiences in this world. Therefore natural inequalities at material level are a problem but a secondary one; an inappropriate response (by those at either end of the equation) toward those inequalities maybe the primary concern for a Muslim. The appropriate response to them would be the one which leads to establishment of justice in the society in Islamic context. For example, appropriate behavior of rich and poor toward each other as per the dictates of Islamic teaching that would ensure them mercy on the judgment day.

Confusion occurs when we use the terms like fairness, equality, moral standpoint etc. while ignoring their established context in mainstream liberal discourse. It is therefore pertinent to explain the Islamic conception of justice with its correct ontological and epistemological basis as otherwise it can be mixed with what contemporary modernist and liberal thinkers are advocating, leading to unrealistic expectations and subsequent disappointments. The terms justice, fairness, equity have very different meanings in different discourses.

4.3 DIFFERENCE IN OBJECTIVES

The objectives of establishment of justice would also vary in the two alternative ideas of justice. For liberal alternative, material prosperity and maximization of freedom & pleasure would be the top priority for rational human beings, protection of family system is unimportant or irrelevant unless it supports in advancement of modern conception of justice (Rawls, 1999: 64, 265 and 447–448). Human life does hold some significance; however protecting the religiosity of individuals also has no place whatsoever in modern equation of justice, as no state level response is to be expected in this regards; the emphasis is however on developing tolerance to accept the right of each individual to choose whenever, whatever religion he may like (as discussed before). Nyazee (2002) has also highlighted this incoherence in Islamic and modern idea of justice and has suggested that the priorities are almost “reversed” in Islamic and western traditions.

To clarify the point, as explained above, the protection of wealth is also an objective of shariah and there are no historical accounts to prove any prohibition from the tradition of hadith that demands Muslims to step away from material prosperity if it may occurs. However there are four even more important things, namely religion, life, family and intellect, which maqāṣid al-sharī‘ah has prioritized over the accumulation of wealth or material prosperity. Material prosperity from Islamic perspective is a test instead, and wealth or *rizq* is given to mankind as per his needs, some are given more and some are given less and this disparity is also to test the piety of the believers. Various verses of the Holy Quran can be cited in this context¹³.

The modernist worldview therefore stands in contrast against Islam, as all socio-economic and political functions are meant to ensure freedom and liberty from manmade (such as theft, fraud) or natural barriers (such natural disabilities or disease) in the process of achieving its very objective of unprecedented wealth creation and accumulation. On the contrary, Islam’s ultimate objective is submission of will (*‘Ibādah*) to divine will and all socioeconomic, political and military functions of a society are meant for this purpose.

4.4 DIFFERENCES IN INDIVIDUAL OR INSTITUTIONAL ASPIRATIONS

In capitalism the law of supply and demand assumes that human beings are driven by self-interest and will strive for accumulation of wealth to maximize freedom & pleasure. From the liberal perspective it would be unjust and irrational if a person or the society doesn't encourage or idealize such ends. In their critical review of microeconomics, Mughal and Ansari, have also noted the same incompatibility between the two world views:

“A person not committed to utility maximization will not follow this general pattern of increasing demand with increasing income. For example, it is possible that Farooq may not wish to improve his standard of living at all as he becomes richer because he and his family have adopted faqr. He will give away all excess income, say, for the cause of Jihad, or he may give khairat (charity) to a madrasah. Despite the fact that Hadrat Usman-e-Ghani (r.a) was quite a wealthy person, he lived a life of faqr and zuhd. His riches did not appear in the form of better housing equipment or clothing; rather they took the form of spending in ghazawat, helping needy and poor Muslims etc. The point to note is that there is no logically necessary relationship between increasing demand for commodities and individuals income. It depends upon the objectives which individuals pursue in their lives.” (Mughal and Ansari, 2011: 63)

Now in a society where law of supply and demand isn't derived by materialistic needs various economic problems such as unemployment and inflation are unlikely to be found. Mughal and Ansari while, citing historical accounts, notes:

“... both unemployment and wage inflation were unknown in Christian Europe and it was the emergence of capitalist economics which made inflation and unemployment a permanent threat to the economic life of modern Europe ... It is only when men are ‘rational’—when they seek profit and utility maximization as ends in themselves—that

inflation and unemployment become permanent threats to society.” (Mughal and Ansari, 2011: 156)

Inflation occurs with price hikes caused by shortage of supplies or excess of demand (even due to shortage or excess of money supply), only when such instances are seen as an opportunity to maximize profits and wealth instead of maximizing reward in hereafter. For instance, when price of raw material rises the profit maximizing producer tends to reduce the wages or reduce the number of overall workforce with the help of technology, causing unemployment. Liberal economists would rather blame the government interventions for these problems. Saving of Prophet Muhammad (s.a.w) however would disagree:

“Two hungry wolves, if let loose amongst a flock of sheep, cause less harm than a man’s eagerness to increase his money and his prestige.”¹⁴

Just to quote some example, billions of dollars of fresh usable food is wasted in UK because transporting it or storing it for the needy, who can’t afford it, isn’t cost effective for the corporations or super markets. BBC correspondent asked in one of its report that “If four million people in the UK can’t afford a healthy diet, why are supermarkets throwing away the surplus food that could make a real difference and stop the homeless going hungry? ... According to some campaigners, it’s not just shocking - it’s completely immoral” (BBC, 2005). It was reported that around £18 billion of food was wasted annually in Britain alone, because it is cheaper to throw it away (ibid). Recent hike in food prices has also been traced to the greed of Wall Street speculators who created artificial demand of food items so as to gamble on the spikes in the price trends. It was recently reported that “the same banks, hedge funds and financiers whose speculation on the global money markets caused the sub-prime mortgage crisis are thought to be causing food prices to yo-yo and inflate. The charge against them is that by taking advantage of the deregulation of global commodity markets they are making billions from speculating on food and causing misery around the world.” (Gaurdian, 2011). The Foreign Policy magazine even went as far as to directly blame Goldman Sachs for the food crises. The magazine further added that the “demand and supply certainly matter.

But there's another reason why food across the world has become so expensive: Wall Street greed." (Foreign Policy, 2011).

As mentioned above love of wealth is the root of great mischief, injustice and evil from Islamic perspective, whereas the modernist view point considered it as an ultimate end of life and considers unprecedented freedom to achieve this end as justified. This subsequently also have immense implications for smooth distribution of wealth through all segments of the society as well.

Greed, lust, excessive love of wealth is condemned, loathed, discouraged and is even sinful from a religious perspective (see *Sūrah al-Takāthur*). Keeping this in view the top priority of Islamic Constitution would be to ensure religious health of Muslim society through education and protection of family system etc., so that their behavior remains constructive and benevolent toward others, instead of destructive and selfish, so that majority is prevented from being thrown into hellfire.

Therefore from Islamic perspective, in a bazaar the focus of traders is supposed to be on how to earn and how to spend instead of how much to earn and how much to spend, i.e. the process one would follow needs to be inspired by the Sunnah of Prophet (s.a.w) and *al-Ṣaḥābah al-Kirām* (r.a), in order to establish an economically just market.

Fear of *ākhirah* and motivation to share your fortune with less fortunate to gain Allah's pleasure is all what's needed to improve the wealth distribution and eradicate economic discrimination from the society. This was very much witnessed during the times of *al-Khulafā' al-Rāshidīn*, particularly *Ḥaḍrat 'Umar bin 'Abd al-'Aziz* (r.a) when no one was left poor enough to receive zakat (Nadvi, 1954).

4.5 VALUATION OF TRADABLE ITEMS

It is central to the idea of justice as under or over valuation of a particular item, say productive labor, would eventually impart injustice toward any of the contracting parties. According to George Reisman the valuation of tradable items is done according to the law of supply and demand, which is based on the concept of utility maximization i.e. limitless accumulation and consumption of wealth, he asserts:

“At the level of the economic system as a whole, the law of demand follows directly from the fact that the need and desire for wealth has no limit and that a fall in the prices of goods and services is all that is necessary to enable any given expenditure of money to purchase a larger quantity of goods and services. ... If more wealth is better than less wealth, it must have more utility, and less wealth must have less utility.” (Reisman, 1998: 156)

Therefore if anything has a high demand and less supply then its price would rise, the traders in a ‘free-market’ would have the legitimate right to increase the prices, irrespective of the financial condition or how desperate the condition of the buyer may be. The trader would rather see it as an opportunity to earn higher profitability and there would be nothing wrong, immoral or unjust while increasing the prices. Secular and liberal discourse also doesn’t provide any moral incentive for the trader to lower the prices of items of necessity so as to bring them into the reach of lower pockets of society. If poor population is suffering due to this then it would be the responsibility of the government to provide subsidies to bring the prices lower and within the reach of the poor population, as Sen (2009: 263) has explained in his capability perspective (poverty also needs to be assessed from the capability perspective in Sen’s viewpoint). The state wouldn’t intervene in the market by putting price ceiling on freely competing market players.

Reaction of market players to the stimulus of supply and demand depends primarily on their beliefs. Therefore it is quite unlikely for a Muslim (the one with fear of *ākhirah* in his heart) manufactures, traders or suppliers would increase the prices in case of high demand like it is unfortunately observed nowadays in the month of *Ramaḍān* or during natural calamity; or he would begin to pay less to the labors when their supply increases due to any reason; or a Muslim consumer would increase his consumption and demand of certain luxurious products when his income increases.

Imam Ghazali (r.a) like other scholars has discussed the intention of market players. This very intention converts into the force behind demand and supply. While quoting traditions of Prophet Muhammad (s.a.w) he has condemned any intention of earning just for the sake of it. He accepts that bazaars are allowed to determine the prices and it is

legitimate for each trader to set his rate according to the norm; however he instructs traders to minimize their profits to the extent possible and termed it as *ihsān* or benevolence on the buyer. Charging higher than the market rate from an innocent buyer is categorically illegitimate or *ḥarām* in the light of a Ḥadīth cited by Al-Ghazali (r.a) which says “Deceiving a person who has put his trust on you is not at all allowed (*ḥarām*)” (Ibid, 136). He then extensively discusses about the spiritual position of the trader and asserts that it is not allowed for a trader to prioritize struggle for his material prosperity over the struggle of salvation in life after death (Ibid, 140-8). When the traders reverse their priorities then prices rises, in periods of high demand and short supplies, to a problematic extent. Mughal and Ansari (2011) states in this context:

“*Ramadan* is a month reserved exclusively for *ibadaah* and earning reward from Allah Almighty. But the devilish economic-man sees it as a potential source of profit-maximization. It is known that a week or two before *Ramadan*, many farm owners withhold the supply of fruits from markets so that when demand for fruits increases during *Ramadan*, they can sell fruits at higher prices. Remember that such a price increase of fruits is not a natural outcome; it is artificially created by the lust of suppliers for more profit. If this evil desire is removed from individuals by *tazkia*, prices will not rise. Economic theory accepts hoarding as natural for it is a capitalistically rational response to anticipated price changes. If economic-man does not hoard as a response to expected price raise he will be behaving irrationally from the point of view of [conventional] economic theory.” (Ibid, 76) ... “It is important to note that the market mechanism is not something impersonal like the gravitational force that can exist without human motives; rather it is guided by the spiritual condition of an individual. Only utility and profit maximizing individuals respond to the market mechanism. Pious Muslims make price decision on the basis of quite different considerations, the most important of which is the desire to serve and obey Allah.” (Ibid, 84) ...

TABLE 1
Summary of the Two Alternative Concepts of Justice

	Islamic Conception of Justice	Modernist Conception of Justice
Epistemological source	Wahi (Revelation)	Rationalism, Empiricism
Ontological Position	Mankind is the vicegerent of Allah: Abid, whose purpose is to submit to the divine will	Mankind is free to pursue any purpose which he wish to be prime as long as he doesn't hurt the freedom of others, he is self-determined
Metaphysical Position	World is a deception hereafter is the real life, testing ground whose accountability will be done in <i>Akhirah</i> .	No empirical proof exists of hereafter, day of judgment; present life is the only life for mankind to cherish.
Teleological Nature	Advancement of justice will ensure success in hereafter	Advancement of justice will ensure a better world; Rawls and Sen differ with each other.
Top Priority	Establishment of religious order	Establishment of secular and liberal order
Lowest Priority	Material prosperity	Welfare of the disabled and poor
Purpose of Justice	Success in hereafter	Success in worldly life

4. CONCLUSION AND IMPLICATIONS

Social and economic institutions in a society are designed to impart justice to the stakeholders, and they evolve endogenously in compliance with the norms, values, ideals of any given society as explained by Hollingsworth (2000). Keeping this in view, ideally any Institution within an Islamic society would be expected abide to the Islamic standards of justice by ensuring that religious and spiritual status of all involved remains intact so that they are saved from the torments of hellfire. This would be only possible when applying Quran and sunnah in their domestic, commercial and political affairs in letter & spirit, nurturing of one's family is prioritized, and lastly the wealth owned by them is not wasted or misappropriated by any means. Institutional framework therefore would be erected to achieve the stated objectives. In this context the institutional structures from the western traditions needs to be scrutinized accordingly before they are allowed to perform with a title of 'Islamic' with their name.

In the introduction criticism of various scholars was quoted, however keeping in view the difference among the normative premise of Islam and capitalism outlined above and how it actually influence the evolutionary process of institution formation (as explained by Hollingsworth, 2000), the criticism against the present structure of Islamic financial institution is like criticizing a tractor for driving too slow after it has been adopted to be used in an ambulance service. If we consider the Hollingsworth process of evolution a journey toward a specific destination, then the path taken by Islam and capitalism would be very different with no intersections. A structure built to walk on a track of capitalism's way of evolution cannot be expected to reach a destination envisioned by Islam. Success in worldly life does not necessarily translate success in *ākhirah*.

In this journey starting from 'Informal Institutions' (or the normative environment of a society) the second level would be the formation of 'Institutional Arrangement' as per Hollingsworth framework (see Figure 1). The concrete structures like banks etc. comes later at fourth level. Having said this academics and researchers needs to first focus and discuss the design of the components of 2nd level like market structure, communities, systems of measurement of market value or medium of

exchange etc., before worrying about components of 3rd or 4th levels. Since Islamic markets etc. have all existed in the past therefore it is not much of mystery of how these ‘Institutional Arrangements’ would look like and what kind of institutional structure would subsequently emerge from there to fulfill the requirement of Islam’s concept of socioeconomic and political justice. Just to show a glimpse, how an Islamic bazaar looked like in the past, Greaber explains:

“Once freed from its ancient scourges of debt and slavery, the local bazaar (in Islamic world) had become, for most, not a place of moral danger, but the very opposite the highest expression of the human freedom and communal solidarity...” (Greaber, 2011: 278-9) “... By abandoning the usurious practices (just to mention one as an example)... they (Muslims) were able to become-alongside religious teachers-the effective leaders of their communities: communities that are still seen as organized, to a large extent, around the twin poles of mosque and bazaar.” (Ibid: 282)

This is just a hint, and in depth review however is needed. This is a task which academics might want to take up in future; once these constituents of ‘institutional arrangements’ (2nd layer in Hollingsworth’s frame, 2000) have been worked out, then the outline of appropriate ‘institutional sectors’ (3rd layer) and ‘organizations’ (4th layer) could be sketched which would be compliant to the Islamic ideals of justice.

If that is not done and capitalistic institutions are imported and Islamized the way they are, then the number of complaints and disappointment might increase. If so then, it would not be wrong to assume, this might even allow the future generation to blame Islam for not being able to bring salvation to mankind in this world as promised in Quran and sunnah or reject the very Institutions labeled as Islamic, because they were originally designed for a very different kind of a normative environment. Therefore the task to align the direction evolution of framework of Islamic financial institutional and its design with normative premise of Islam has never been so crucial as it is today; and the responsibility lies on the academic community to highlight what needs to be done to bring the framework of IFIs to where it originally belongs.

ENDNOTES

1. Locke John, a letter concerning toleration in John Locke on Politics and Education, ed. Harward R. Penniman (New York, Van Norstand Company, 1947) in John Arthur, Social and Political Philosophy (ed.). New York Prentice Hall Englewood cliff, 1992, page 205.

2. References in this paragraph have been taken from the PhD Dissertation of Dr. Wahab Suri, entitled ‘Philosophical Analysis of Rawls Theory of Justice’ with his permission. The soft copy was downloaded from <http://eprints.hec.gov.pk/1318/1/1024.html.htm> on 30th Dec 2012.

3. “[1] Alif Lām Mīm [2] This is the Book about which there is no doubt, a guidance for those conscious of Allah [3] Who believe in the unseen, establish prayer, and spend out of what We have provided for them, [4] And who believe in what has been revealed to you, [O Muhammad], and what was revealed before you, and of the Hereafter they are certain [in faith]. [5] Those are upon [right] guidance from their Lord, and it is those who are the successful.”

4. Taken by March (2009) from *I‘lām al-Muwaqqi‘īn*, vol. 3, p. 3.’

5. For example, Shariah hasn’t put limit to earn profit therefore it would be allowed for a person to earn a say 500% profit over an item, or in a partnership agreement a party with a higher bargaining power demanding 90% share in the profit and a the weaker one agreeing on 10%. However the government might interfere here to protect the wider interest of the public or the weak ones; also because such higher percentage reflects love of wealth, which needs to be condemned before it become trendy in the market.

6. Sunan Abu Dawood, Tr. by Ahmad Hasan, KitabBhavan, New Delhi, India, 1990, Vol. 3, # 5071.

7. Jāmi‘ al-Tirmidhī, Ḥadīth 2424 , V. 4 , p. 188, Dār al-Fikr, Beirut.

8. “Serve Allah and join not any partners with him and do good to parents, kinsfolk, orphans, those in need, neighbors who are near, neighbors who are strangers, the companion by your side, they wayfarer (you meet) and what your right hands possess: for Allah loves not the arrogant, the conceited.”

9. “But those who before them had homes (in Medina) and had adopted the faith, show their affection to such as come to them for refuge, and entertain no desire in their hearts for things given to the (latter), but give them preference over themselves, even though poverty was their (own lot) and those saved from the covetousness of their own souls; they are the ones that achieve prosperity.”

10. “The believers are but a single brotherhood: so make peace and reconciliation between your two (contending) brothers; and fear Allah, that you may receive mercy.”

11. “And help one another in righteousness and piety and do not help one another in evil deeds and enmity”.

12. In fact various verses of Quran on the subject focus rather on local manifestation of justice instead of a holistic one, such as Surah Maida verse 8, which says “O you who believe! stand out firmly for Allah, as witnesses to fair dealing, and let not the hatred of others to you make you swerve to wrong and depart from justice. Be just: that is next to piety: and fear Allah. For Allah is well-acquainted with all that ye do”.

13. Sūrah Saba’, Verse 36; Sūrah al-Ṭalāq, Verse 3; Sūrah al-Anfāl, 28; Sūrah Āli ‘Imrān, 14; Sūrah al-Tawbah, 24.

14. Reported by al-Tirmidhī, # 2373, Aḥmad and others. al-Tirmidhī considered it authentic, as did al-Albānī in *Saḥīḥ al-Jāmi’* # 5620.

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