

A Constructivist Analysis of Selected Issues in Uṣūl al-Fiqh in Light of John Rawls's Theory

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Abstract

Constructivism is a concept rooted in Kantian interpretations of ethics, which the American philosopher John Rawls further developed and systematized in the foundation of principles of justice and his theory of “Justice as Fairness.” Moral constructivism holds that ethical principles are not independent, preexisting realities, but the product of rational agreement among moral agents within a hypothetical or idealized process. This study seeks, relying on Rawls’s formulation of constructivist theory, to examine the possibility of applying it to the analysis of issues in Islamic legal theory (Uṣūl al-Fiqh). The research employs an analytical–conceptual and comparative approach. The findings indicate that certain foundational issues—such as the theory of approval (taṣwīb), assignment (ijā’), retraction from fatwā, and ijtihād in cases of blockage—can be interpreted constructivistically; that is, in these cases, the legal ruling is not a preexisting entity but depends on the rational process of ijtihād. The ultimate aim of the article is to open new horizons for intercultural dialogue between modern moral philosophy and the Islamic jurisprudential tradition.

Keywords: Constructivism; John Rawls; Uṣūl al-Fiqh; Ijtihad; taṣwīb; Takhti'ah; ijzā.

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Bibliography

- Akhund Khurasani, Muhammad Kazim. *Kifayat al-Usul*. Qom: Al al-Bayt Institute for the Revival of Heritage, [n.d.] [In Arabic]
- Bagnoli, Carla. "Constructivism in Metaethics." In *Stanford Encyclopedia of Philosophy*. 2021, Edition. <https://plato.stanford.edu/entries/constructivism-metaethics/>.
- Baldwin, Thomas. "Constructive Complaints." In *Constructivism in Ethics*, edited by Carla Bagnoli, 201-220. Cambridge: Cambridge University Press, 2013.
- Gensler, Harry J. *Introduction to Modern Moral Philosophy*. Translated by Mahdi Akhavan. Tehran: Scientific and Cultural Publications, 2011. [In Persian]
- Hushangi, Hossein. "Takhti'a and Taswib." In *The Great Islamic Encyclopedia*. Tehran: Center for the Great Islamic Encyclopedia, 2006. [In Persian]
- Joyce, Richard. "Moral Anti-Realism." In *Stanford Encyclopedia of Philosophy*, Edited by Edward N. Zalta, Winter 2016 Edition. <https://plato.stanford.edu/entries/moral-anti-realism/>.
- Khui, Abu al-Qasim. *Ajwad al-Taqrirat (Notes from Mirza Na'ini's Lessons)*. Qom: Mostafavi Bookstore, [n.d.] [In Arabic]
- Makarem Shirazi, Naser. *Anwar al-Usul*, compiled by Ahmad al-Qudsi. Qom: Nasl-e Javan Publications, 1999. [In Arabic]
- Muzaffar, Muhammad Reza. *Usul al-Fiqh*. Qom: Islamic Propagation Office Press, 1995. [In Arabic]
- Nagel, Thomas. "Ethics." In *Encyclopedia of Ethics*, edited by Paul Edwards and Donald M. Borchert. Translated and compiled by Enshaallah Rahmati. Tehran: Sophia Press, 2013. [In Persian]
- Narveson, Jan. "Ethical Egoism." In *Encyclopedia of Ethics*, edited by Paul Edwards and Donald M. Borchert. Translated and compiled by Enshaallah Rahmati. Tehran: Sophia Press, 2013. [In Persian]
- Rawls, John. *A Theory of Justice*. Translated by Seyed Mohammad Kamal Sarourian and Morteza Bahrani, introduction by Reza Davari Ardakani. Tehran: Institute for Cultural, Social and Civilization Studies, 2008. [In Persian]
- Rawls, John. *Collected Papers*. ed. S. Freeman. Cambridge: Harvard University Press, 1999.

- Richardson, Henry S. "Deontological Ethics." In *Encyclopedia of Ethics*, edited by Paul Edwards and Donald M. Borchert. Translated and compiled by Enshaallah Rahmati. Tehran: Sophia Press, 2013. [In Persian]
- Sayre-McCord, Geoff. "Metaethics." In *Stanford Encyclopedia of Philosophy*, Edited by Edward N. Zalta. Spring 2024 Edition. <https://plato.stanford.edu/entries/metaethics/>.
- Sayre-McCord, Geoff. "Moral Realism." In *Stanford Encyclopedia of Philosophy*, Edited by Edward N. Zalta, Summer 2015, Edition. <https://plato.stanford.edu/entries/moral-realism/>.
- Seyyed Murtada, Ali. *Al-Dhari'a ila Usul al-Shari'a*, vol. 1. Beirut: Arab History Foundation, 2011. [In Arabic]
- Subhani, Ja'far. *Irshad al-'Uqul ila Mabahith al-Usul*, by Muhammad Husayn al-Hajj al-'Amili. Qom: Imam al-Sadiq Institute, 2005. [In Arabic]
- Tusi, Muhammad ibn al-Hasan. *Al-'Udda fi Usul al-Fiqh*, edited by Muhammad Reza al-Ansari al-Qummi. Qom: Al-Ba'thah Foundation, 1997. [In Arabic]
- Väyrynen, Pekka. "Moral Realism." In *Encyclopedia of Ethics*, edited by Paul Edwards and Donald M. Borchert. Translated and compiled by Enshaallah Rahmati. Tehran: Sophia Press, 2013. [In Persian]
- West, Henry R. "Consequentialism." In *Encyclopedia of Ethics*, edited by Paul Edwards and Donald M. Borchert. Translated and compiled by Enshaallah Rahmati. Tehran: Sophia Press, 2013. [In Persian]